



ANDERSEN TAX[®]





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WHAT IS TAXATION & TYPES OF TAXES

CANONS OF TAXATION

TAX LANDSCAPE & TAX ADMINISTRATION

TAX PLANNING & TAX MORALITY



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WHAT IS TAXATION & TYPES OF TAXES

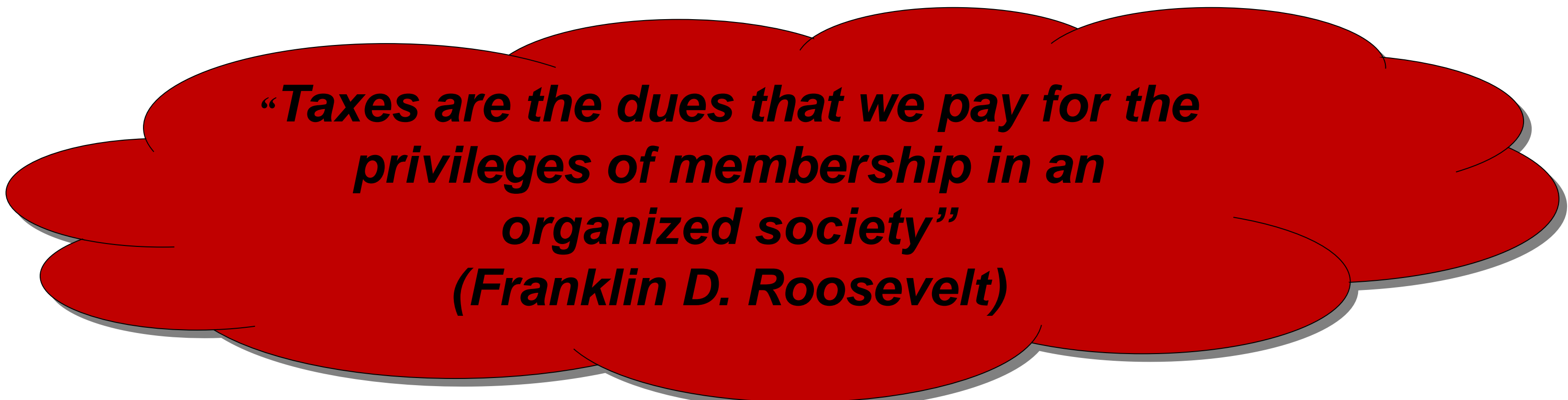
CANONS OF TAXATION

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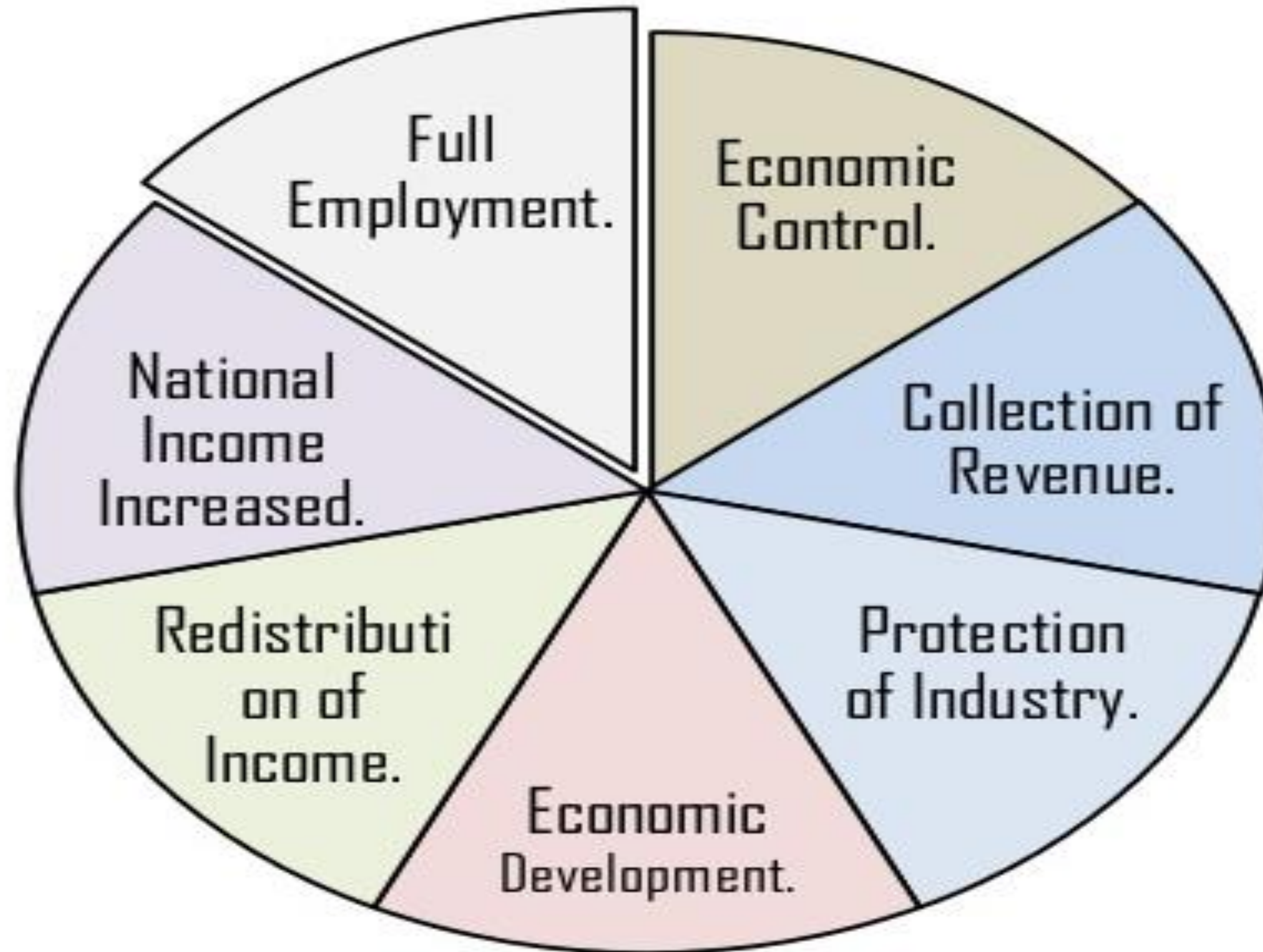
What is taxation?

- Inherent power by which the sovereign state imposes financial burden upon persons and property as a means of raising revenues in order to defray the necessary expenses of the government
- The imposition of financial charges or other levies, upon a taxpayer by a state such that failure to pay is punishable by law.



***“Taxes are the dues that we pay for the
privileges of membership in an
organized society”
(Franklin D. Roosevelt)***

Objectives of taxation



Types of taxes in Kenya



Types of taxes in Kenya

Direct taxes

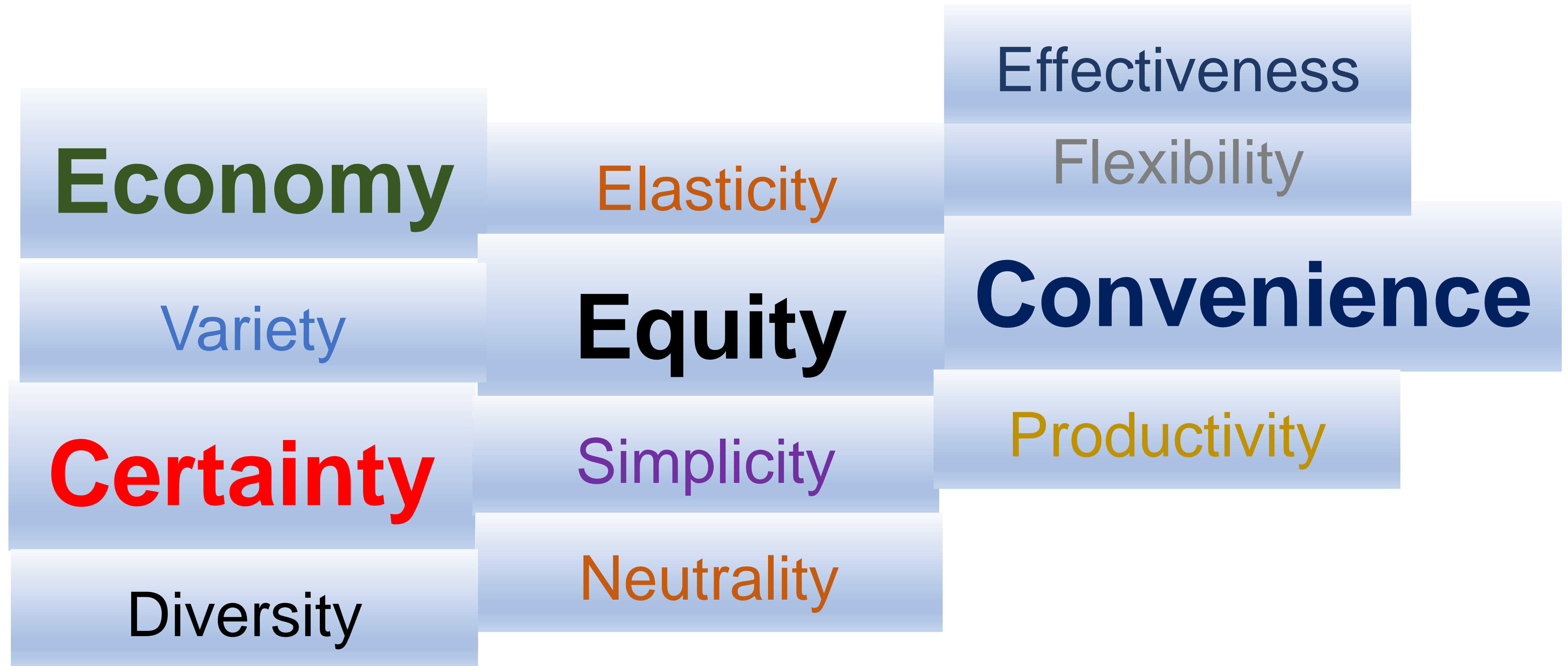
- PAYE
- Corporate income tax
- CGT
- Turnover tax
- Advance Tax
- Minimum Tax
- Stamp duty



Indirect taxes

- Customs duty
- VAT
- Excise Duty
- Others - levies

Canons of taxation



Equity

- Most important
- Justice – Equality – Sacrifice
- Every individual is supposed to pay according to his or her abilities
- Equity can be either **vertical** or **horizontal**.
- **Horizontal** - Addresses questions of arbitrary distinctions among taxpayers, or distinctions based on irrelevant criteria. Example - Shopping through the internet vs in a shop.
- **Vertical** - Addresses questions of taxing people at different income levels. Higher income, higher taxes.

Certainty

- Simple
- For individuals and businesses to **understand their obligations and entitlements.**
- **How much - What – When – Why – Where**
- Enhances proper planning and fair assessment
- Reduces corruption tendencies within the system
- Complexity favours aggressive tax planning

Economy

- Low administration cost of collecting tax - for both the taxpayer and the authority
- To the tax authority - not more than 5% of the tax?
- To the taxpayer, low compliance costs - and remain with enough disposable income

Convenience

- Cause as little inconvenience as possible - to taxpayer
- What to pay, how much, and where - should all be convenient
- Time and manner - should be convenient

Simplicity

- Easy to be understood - by taxpayers and administrators.
- Taxpayer - Understand who is responsible for collection and where to pay tax.

Flexibility

- Can be changed to meet the revenue requirements of the government; and
- To help in management of business

Diversity

- Have as many taxes as possible - To raise adequate revenue.
- Also upholds EQUITY. Taxpayers not to be strenuously taxed

Efficiency and Effectiveness

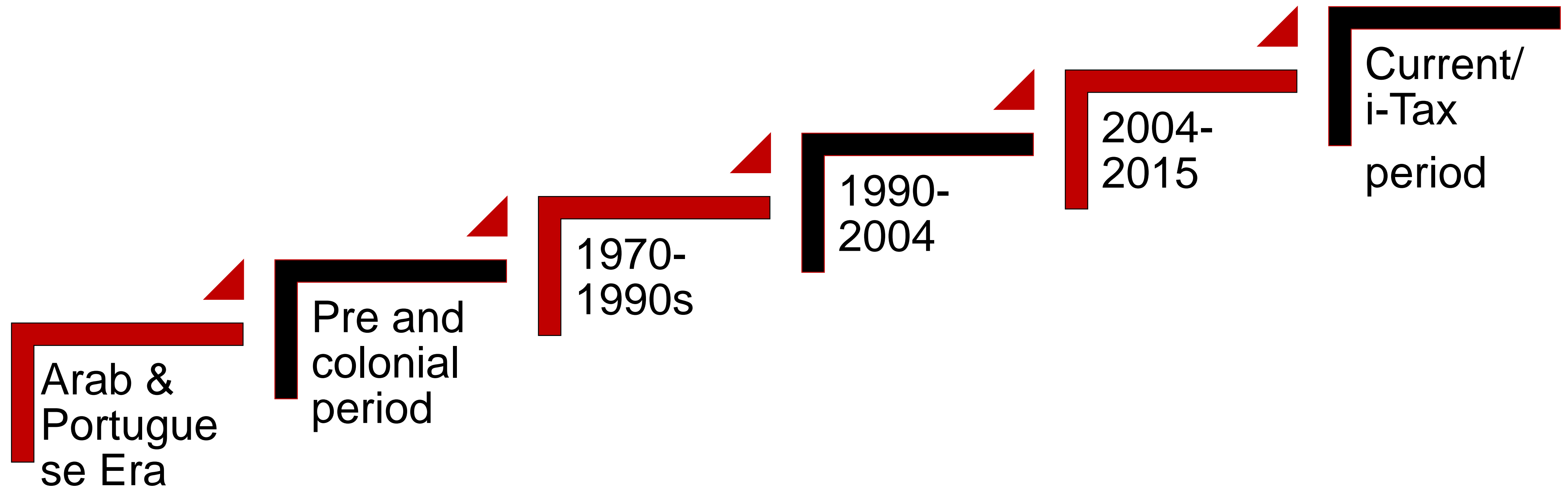
- Collection and compliance costs are low.
- Meets its objectives

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The stages



History

- 1500 – Arab Sultans imposed levies and harbor fees on traders
 - ✓ Zakat - 2.5% of savings and idle cash assets
 - ✓ On cloves, ivory and slaves
- 18th Century - Portuguese arrived and imposed taxes - to maintain their rulers
- Colonial period - British introduced new regime

Colonial era (1900s)

To prop up local economy and avail funds to rule the region:

➤ Hut tax

- ✓ Introduced around 1900
- ✓ Tax base was the hut
- ✓ 1 rupee per hut

➤ Poll tax

- ✓ Introduced in 1910
- ✓ Tax base was the person (men)
- ✓ In addition to hut tax

Colonial era (1900s)

Proposed Crown Land Bill 1908

- Proposed a graduated land tax on individual holdings
- 6 cents for every 75 cents for leases of more than KShs 180
- Holder of more than 50,000 acres - Four times the land tax

1915 Crown Land Ordinance

- Enacted after the Bill was rejected
- The Bill helped shape our current land policy and mortgaging

Colonial era (1900s)

Income Tax Regulations

- Simplified form of the United Kingdom Income Tax Act of 1920
- Tax rates were graduated - According to the income

The Income Tax Ordinance 1937

- Had worked very well in India and South Africa
- Tax base - Business profits, salaries and wages, rent and income from agriculture

Colonial era (1900s)

The East African Tax Department – 1948

- Formed by the three governors of East Africa
- Found it unnecessary to run taxes individually
- Formalized by the East Africa Income Tax (Management) Act in 1952

Independence era

Sessional Paper no:10 of 1965

➤ Proposed:

- i. Exempting from direct taxes people making extremely low incomes
- ii. Retaining the progressive income tax
- iii. Adopting progressive inheritance taxes
- iv. Making any capital gains tax progressive
- v. Exempting basic necessities from sales and excise taxes.
- vi. Taxing luxury items heavily

Independence era

The Income Tax Act of 1973

- Commenced on 1st January 1974
- Codified as Chapter 470 of the laws of Kenya
- Creation of Income Tax Department within Treasury - to charge, assess collect Income Tax

Early 90's

- Major reorganizations and strengthening of fiscal and tax management function in Treasury
- Led to the introduction of Personal Identification Numbers (PINs)
- Government declared a tax amnesty
- Fiscal policy anchored on direct taxes

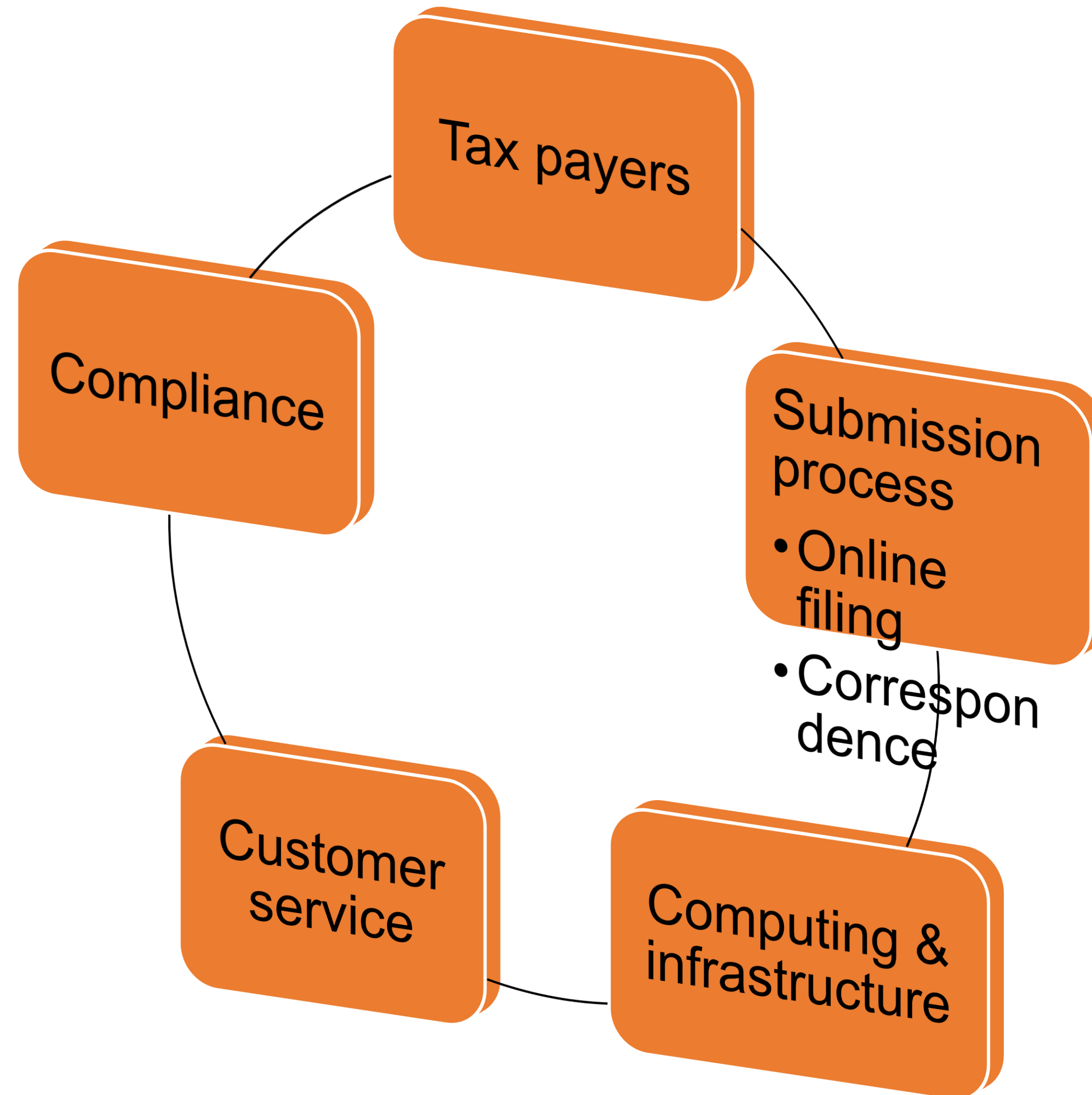
Kenya Revenue Authority

- Established by an Act of Parliament – w.e.f 1st July 1995
- Responsibility of collecting revenue on behalf of the government
- Culmination of reforms and reorganizations

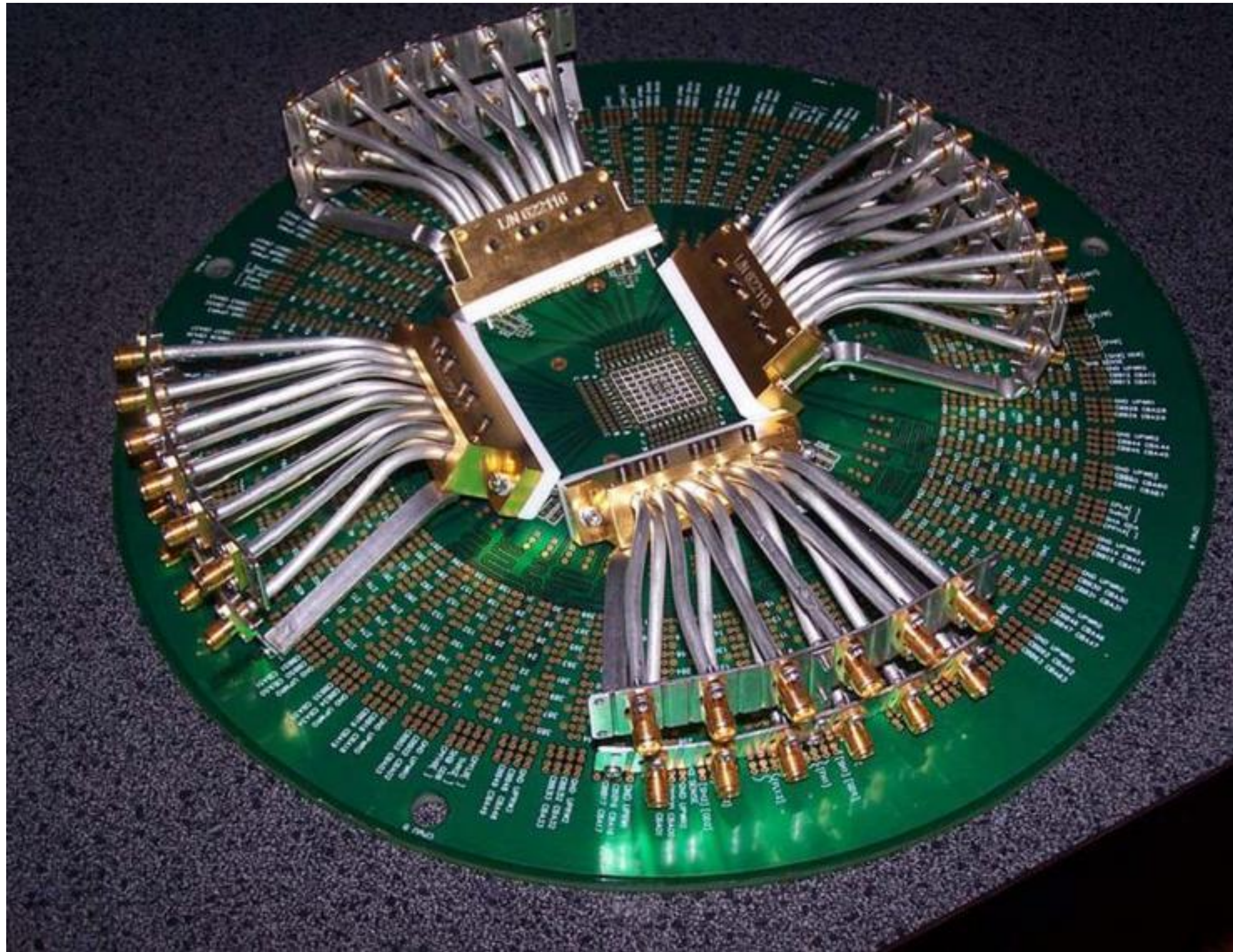
2004 Onwards

- Manual tax system posed various administrative challenges
- KRA drafted its 2nd Corporate Plan – Reforms
- Revenue Administration Reform and Modernization Programme (RARMP) in 2004/05.
- Advocated for:
 - ✓ Integrated Tax Management Systems (ITMS)
 - ✓ Electronic Tax Registers (ETR's) – VAT
 - ✓ 2005 Simba System

Current - iTax



iTax – Every thing is connected



- Registrar of Motor Vehicles
- Commissioner of Lands
- Registrar of Companies
- County Government – building approval
- Department of immigration
- Registrar of Births

Technology - Impact on revenue collection

- Increased revenue collection in the latter years attributable to
 - ✓ Ease in filling and improved compliance
 - ✓ Blocking of loopholes of revenue loss
 - ✓ Wider tax base
- Detect and curb tax evasion by establishing a database
- Improved accountability of revenue collected

Technology - Impact on taxpayers

- **Service delivery** - Taxpayers can access tax ledgers conveniently
- **Timeliness** – Short duration to file taxes & objections and generate payment slips
- **Effectiveness** - Easier and faster to follow up and address tax challenges
- **Enhanced accountability** - Ledgers of taxpayers account and trail of activity
- **Improved transparency** - Increases confidence in dealing with the taxman

Technology and Compliance

➤ Compliance management via iTax

- ✓ File amended tax records
- ✓ Online advisory

➤ Debt and Enforcement

- ✓ Assessment and notification of tax liability via emails
- ✓ Improved consistency on follow-up of debts
- ✓ Eased applications for waiver and tax amnesty

➤ Acting as tax policy advisor

- ✓ Tax statutes, FAQ, support videos

Challenges

- Mismatch in assessments
 - ✓ VAT Auto Assessments
- Tax base
 - ✓ Comparing population statistics versus registered taxpayers – Variance
 - ✓ Is Equity enhanced?
- Mismanagement by officers
- System failures
 - ✓ Time outs and bugs
- Customer feedback
 - ✓ At times is delayed and inconsistent

Tax Administration

Effective Tax Administration

- **Flexible** – Changes in rates whenever necessary
- **Transparent** – Know what they are paying for, and obtain the service
- **Fiscal policy** – Used to achieve stability and economic growth
- **Fair** – Distribution of tax burden

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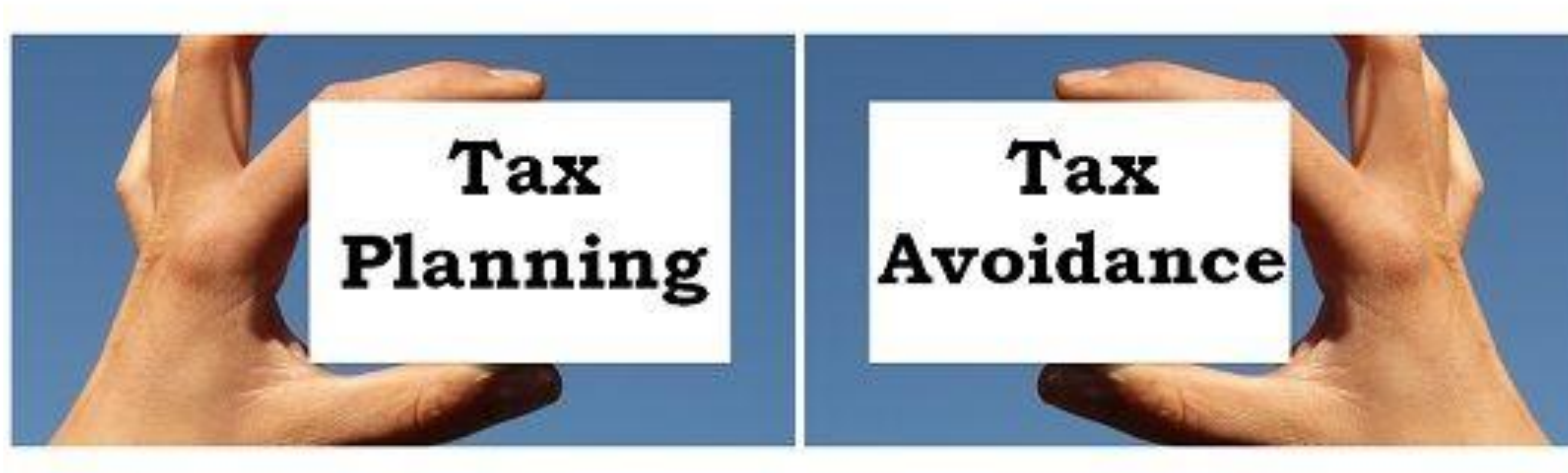
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Tax planning vs Tax avoidance

- Reduce tax liability through use of provisions of the law..
- Reduce tax liability through loopholes in tax law.
- Government **expects taxpayer** to do...
- Government **did not expect** from taxpayer...



Where it all began...

The Westminster Principle

In the Duke of Westminster's case (1936) AC 1, Lord Tomlin proclaimed:

Every man is entitled, if he can, to order his affairs so that the tax attaching under the appropriate Acts is less than it otherwise would be. If he succeeds in ordering them so as to secure this result, then, however unappreciative the Commissioners of Inland Revenue or his fellow taxpayers may be of his ingenuity, he cannot be compelled to pay an increased tax.

Planning

Debt in Capital Structure

- Interest on corporate debt is tax deductible
- Determining the optimum amount of debt
- Thin capitalization?



Planning

Lease versus Purchase

- Lease payments are tax deductible
- Rather than outright purchase – Delayed deductibility
- Asset for the generation of income



Planning

Capital investment allowances

- Allowances on capital expenditure.
- These allowances include;
 - ✓ Wear and tear allowance
 - ✓ Investment allowance on machinery/ buildings for manufacturing
 - ✓ Commercial building allowance on commercial buildings
 - ✓ Farmworks allowance

Planning

Write-off bad debts

- Bad debts proved to satisfaction of the Commissioner to be uncollectable
 - ✓ Company has realized the security & debt is still due;
 - ✓ No form of security is realizable;
 - ✓ Company loses the right to the debt through a court order;
 - ✓ The debtor is adjudged insolvent or bankrupt by a court;
 - ✓ The costs of recovering the debt exceed the debt.

Planning

Procure business inputs from well selected sources

- Source purchases/ supplies from well registered suppliers – Output reduced by input
- If importing, source from tax advantaged countries/ blocs – Lower duty
- Export Processing Zones



Creating One African Market

Planning

Tax education

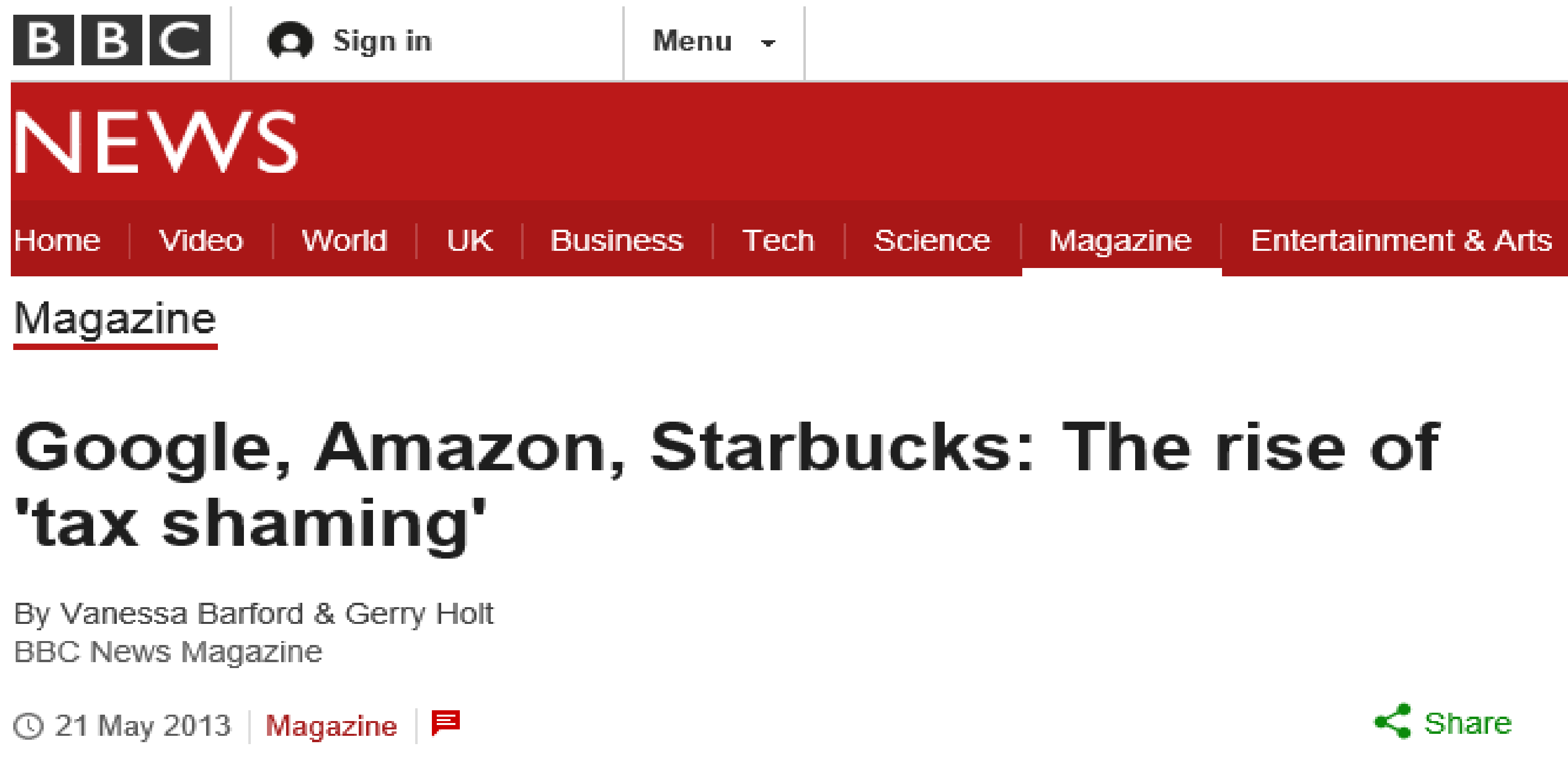
- Be informed
- Take advantage
- Attending tax seminars
- Read tax material
- Engage tax consultants

Inhouse

- Keep complete and accurate records
- Get timely, competent advice
- Challenge tax assessments properly
- Compliance

The Morality debate

- Between perfectly reasonable and being morally wrong
- Is it completely Subjective or Objective?
- Or is it a scheme to increase government revenue by instigating public outcry?



The image is a screenshot of a BBC News Magazine article. At the top, the BBC logo is on the left, followed by a 'Sign in' button and a 'Menu' dropdown. Below this is a red navigation bar with the word 'NEWS' in large white letters. Underneath the red bar is a white navigation bar with links to 'Home', 'Video', 'World', 'UK', 'Business', 'Tech', 'Science', 'Magazine', and 'Entertainment & Arts'. The 'Magazine' link is underlined. The main headline is 'Google, Amazon, Starbucks: The rise of 'tax shaming'' in large black font. Below the headline, it says 'By Vanessa Barford & Gerry Holt' and 'BBC News Magazine'. At the bottom left, there is a timestamp '21 May 2013', the word 'Magazine', and a comment icon. At the bottom right, there is a green 'Share' button with a share icon.

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Magazine

Google, Amazon, Starbucks: The rise of 'tax shaming'

By Vanessa Barford & Gerry Holt
BBC News Magazine

🕒 21 May 2013 | Magazine | 💬

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Starbucks, google and amazon before the PAC in UK -

https://www.youtube.com/watch?v=VcZF_DxQ5cU



Thank you for listening

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