ICPAK 37TH ANNUAL SEMINAR

SUB-THEME: *Relooking at the State of the Economy pre and post the pandemic*

Government Revenue Collection and the key changes in Tax Laws

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Presentation Outline

01. Background

02. Domestic Revenue Mobilization

03. Revenue Collections

04. Tax to GDP

05. Tax Challenges

06. Tax policy Changes

07. Admnistrative strategies

08. Recent Tax Laws Changes

09. Conclusion

Background

A typical developing economy collects just 15% of GDP in taxes, compared with the 40% collected by a typical advanced economy.

More than ever, the collection of taxes and duties is a key development priority.

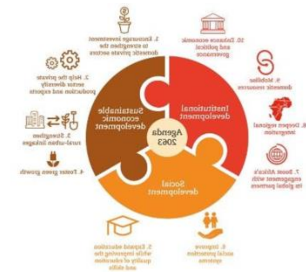
Taxes matter - We all know we need taxes to pay for public services.

The Government Tax Policies have to balance goals such as:

- increased revenue mobilization;
- sustainable growth;
- reduced compliance costs; and
- ensuring that the tax system is fair and equitable.

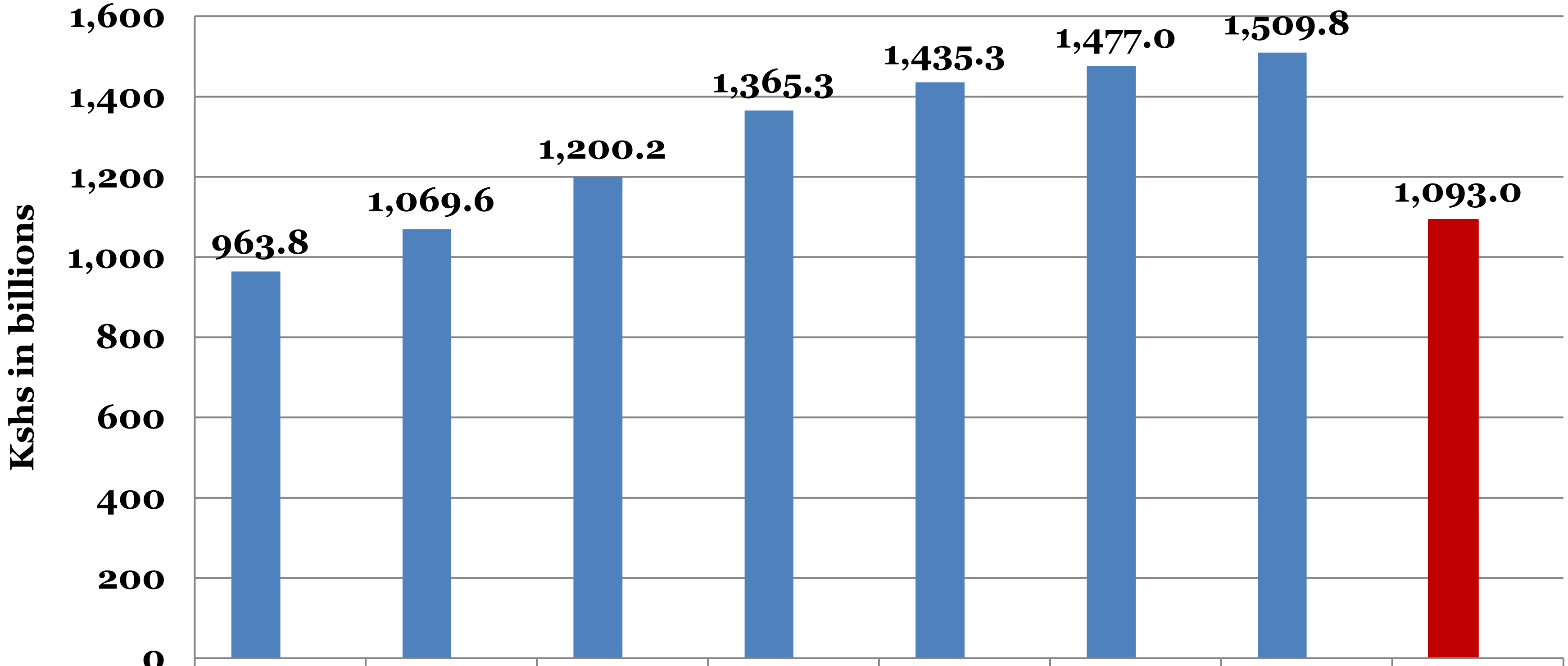
Domestic Revenue Mobilization

- **African Union Agenda 2063**
  - ➢ *Addis Tax Initiative Accord* - Efforts to mobilize domestic resources, tax reforms and modernization of tax systems and administrations.
  - ➢ Sufficient tax revenues and a tax mix that promotes inclusive growth are critical to support better spending and higher investment to ensure productive transformation.



- **SDG 17**
  - ➢ Target 17.1: Improve domestic capacity for tax and other revenue collection
  - ➢ Target 17.18: Enhance capacity-building support to developing countries to increase significantly the availability of high-quality, timely and reliable data
- **Vision 2030**
  - ➢ raise resources to finance government programmes.

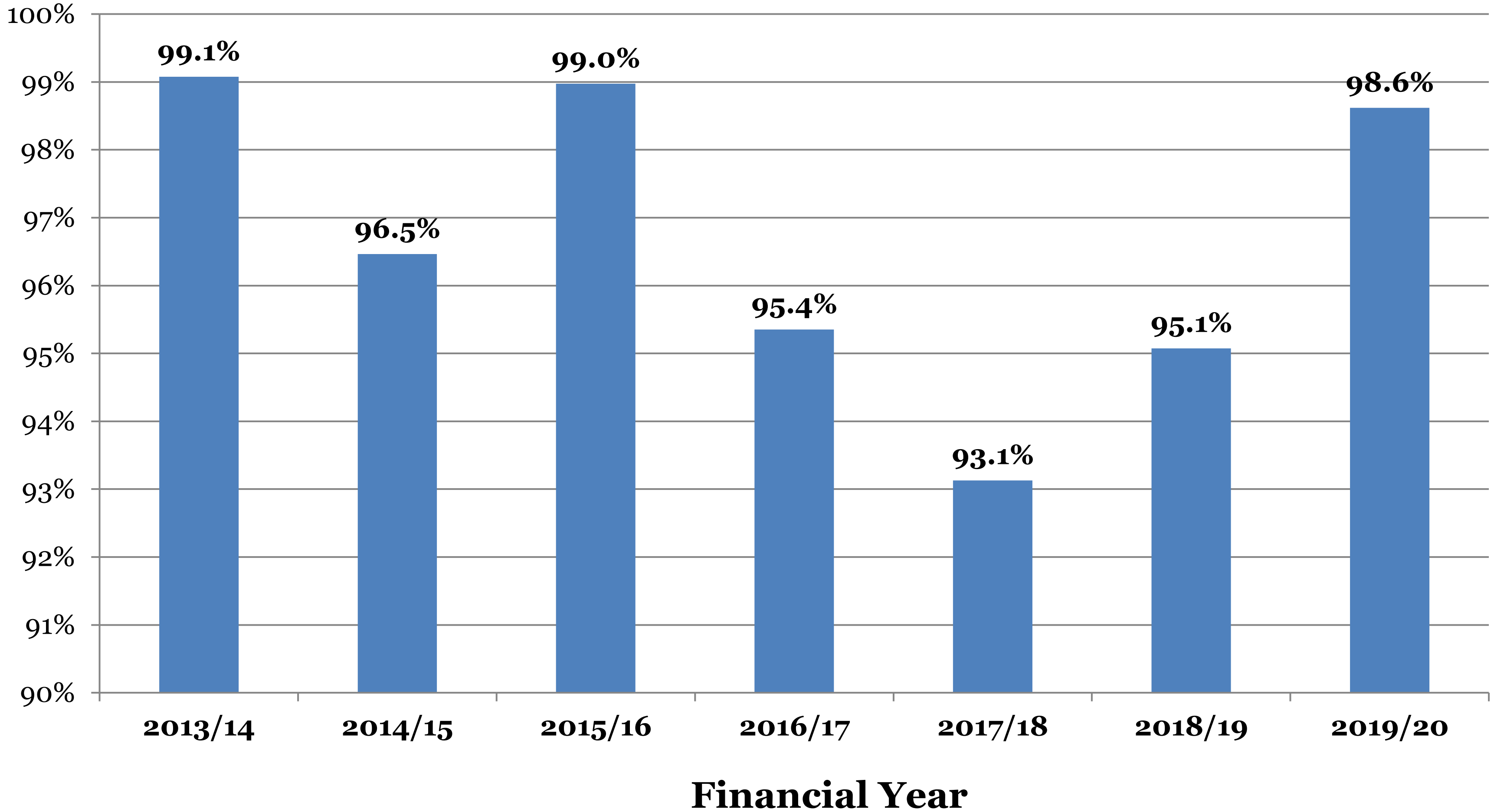
Exchequer Revenue Collections over the years



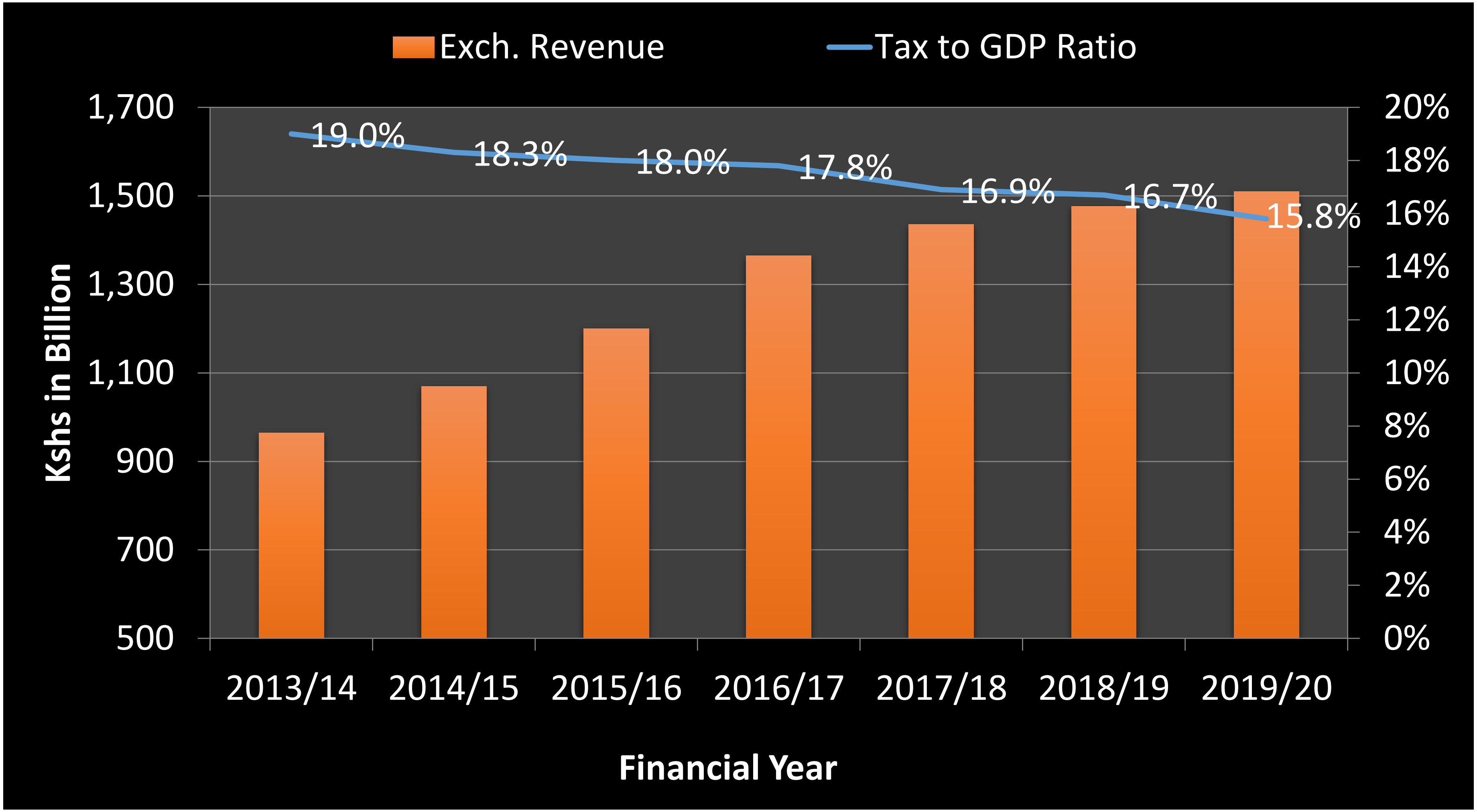
	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Actual	963.8	1,069.	1,200.	1,365.	1,435.	1,477.	1,509.	1,093.
Growth	20.4%	11.0%	12.2%	13.8%	5.1%	2.9%	2.2%	

- FY 2020/21 – the revenue is up to end of March 2021.
- Revenue performance has remarkably grown in the last 7 years - revenue grew by 57% (from Kshs 963.8 billion to Kshs 1,509.8 billion).

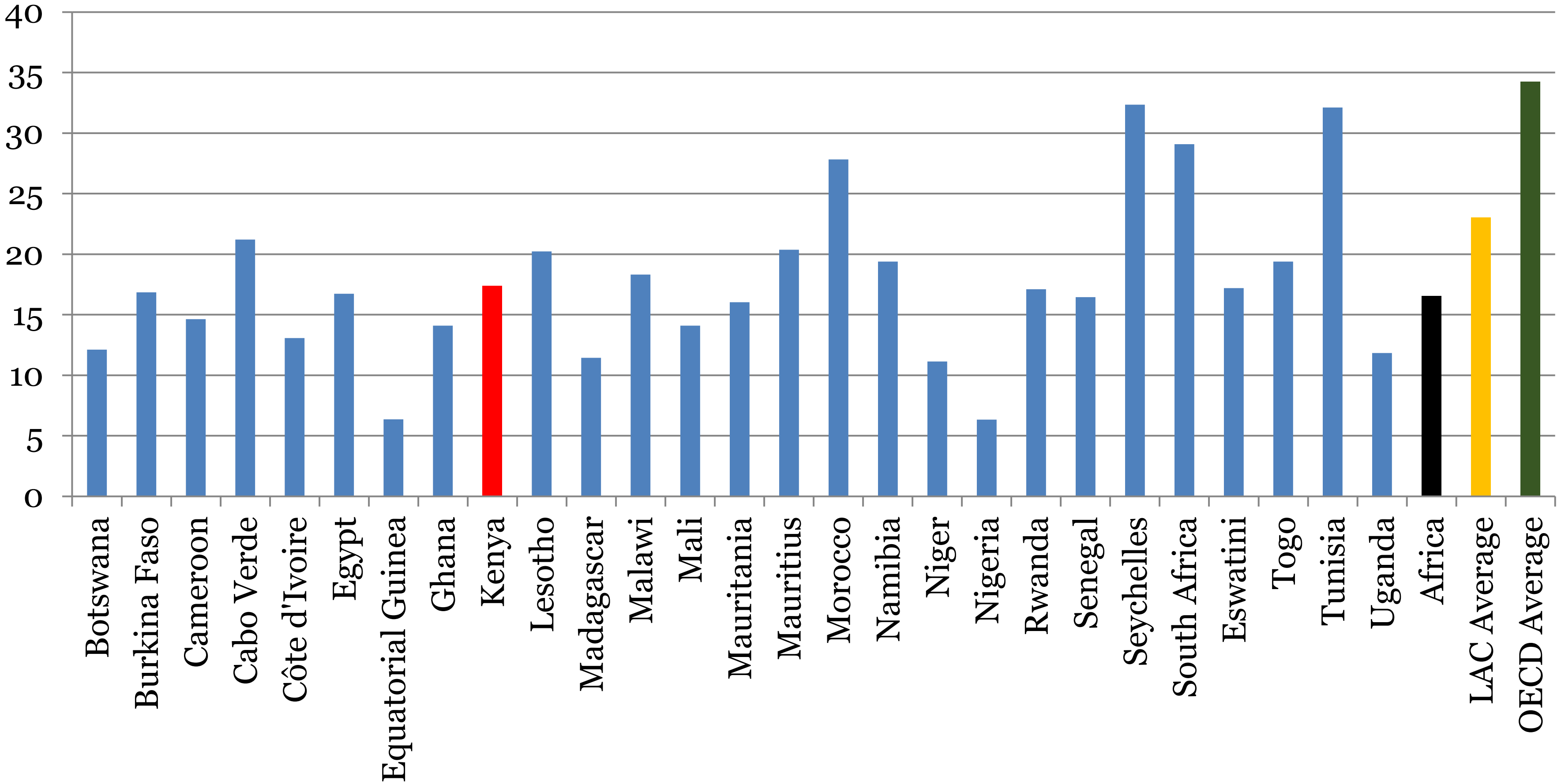
Performance of Exchequer Revenue Collections over the years against the NT targets



Trend of Tax to GDP Ratio



Tax-to-GDP ratios and total tax revenue (excluding social security contributions) as a percentage of GDP, 2018



Source: OECD/AUC/ATAF (2020), Revenue Statistics in Africa 2020, OECD Publishing, Paris, https://doi.org/10.1787/14e1edb1-en-fr

Tax Challenges in Kenya

Taxation is the largest source of government revenue in Kenya.

The pressure on governments to collect additional tax revenues to implement the Government agenda.

Kenya is walking in a tight rope as she strives to mobilize adequate domestic revenue to fund its development agenda.

The country faces challenges in domestic resource mobilization:

- a narrow tax base;
- Structure of the economy;
- limited natural resource endowment and
- significantly low compliance levels.

Tax Challenges in Kenya cont'd…

Evolving business models –

- Digitization where the market has moved from a physical location to a virtual space.
- Tax avoidance & evasion continue to be a challenge.

The capacity of the tax administration.

The tax incentives framework-Calls for the need for strategies to revolutionize the tax legislation.

The need for a raft of new strategic fiscal policy measures

Administrative reform path & its impact

1995

- Customs & Excise Department
- Income Tax Department
- VAT Department

1996-1997

- Operations in BOFFIN (Customs Entry Processes)
- Formation of Large Taxpayer Unit
- Revenue Collection

KES 133.1Billion

1999-2000

- Large Taxpayers Unit Transforms to Large Taxpayers Office
- Times Towers Opened
- 1st Corporate plan launched
- ISO Journey begins

2003

- RRAMP Programme begins: Simba, ITMS etc
- Regional Offices Opened
- 1st Taxpayers Week Held

2006-2007

- KRA becomes ISO 9001:2000 Certified
- DPC introduced
- Re-establishment of the Marine Unit

2013-2016

- Culture & Change Programme begins
- Change of Corporate Policy
- Revenue Collection
- Improved Simba system
- Intoduction of iTax

KES 1.2 Trillion

2016-2020

- Launch of the 7th Corporate Plan
- Launch of technological systems e.g. iCMS, RECTS
- Launch of OSBPS i.e. Namanga, Busia, Taveta
- Introduction of TSO's
- Revenue Collection
- Automation of Exemptions process.

KES 1.58 Trillion

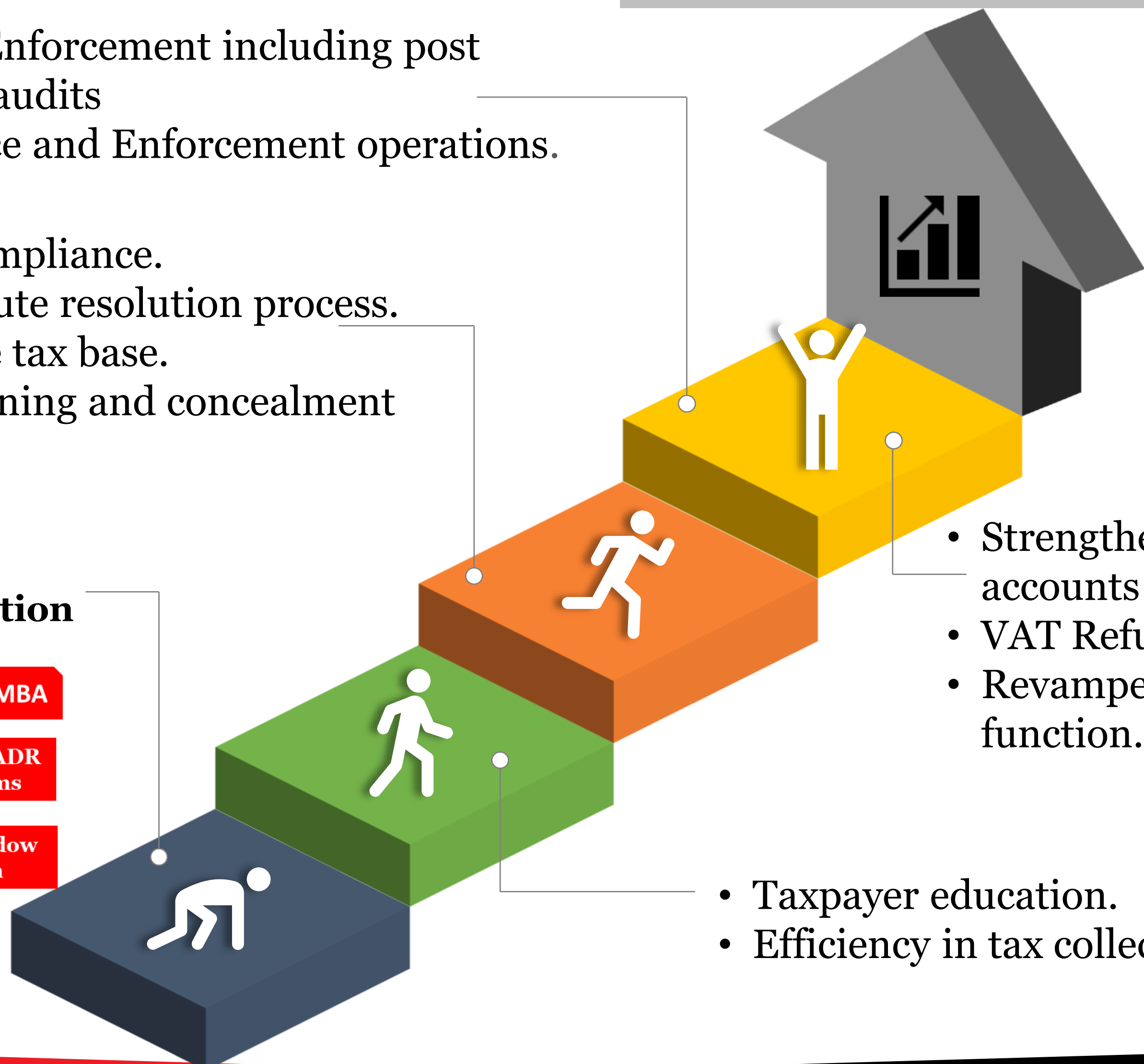
Our Journey...

Administrative interventions and strategies

Revenue collections.

- Customs Enforcement including post clearance audits
- Intelligence and Enforcement operations.

- Data driven compliance.
- Enhanced dispute resolution process.
- Broadening the tax base.
- Enhanced scanning and concealment of cargo.



- Strengthening debt and accounts management.
- VAT Refunds Strategy.
- Revamped audit function.

Automation

iTax Simple, Swift, Secure

RECTS

SIMBA

Digitalised ADR mechanisms

EGMS

Single Window Platform

iCMS Trade Made Easy

- Taxpayer education.
- Efficiency in tax collection.

Tax Policy Changes

Fiscal policy paradigm is important in giving direction on the salient issues behind unlocking the revenue potential of the country

Fiscal policy trend helps in appreciating the underlying external and internal environment that prevailed over time.

Need for tax reforms to simplify and rationalize the tax structure

Kenya and those in transition are at present confronting unsustainable fiscal deficits.

Goals envisioned in the Vison 2030 require massive resources and hence the need for expanding the tax base

Need for strategies for domestic and external financial resource mobilization through tax and non-tax instruments that are fair, equitable and create minimal disincentives for economic efficiency

Key recent policy changes

- Kenya Government implemented tax-related policies to assist businesses and other taxpayers during the crisis.
- These included a holistic approach to tax relief measures that will help stabilise the economy
- The Government introduced these changes in tax rates through the Tax Laws Amendment Act No. 1, 2020.
- However, most of these incentives were reversed under Tax Laws Amendment Act No. 2. of 2020 which was published on 24th December 2020

Key Policy measures

- Reduction of the Value-Added Tax (VAT) rate from 16% to 14% - reverted to 16%
- Refund of verified VAT refunds.

Tax Laws Amendment Act No. 1 of 2020	Tax Laws Amendment Act No. 2 of 2020
100% tax relief for gross income of up to KES 24,000 per month.	Retained
Highest PAYE bracket reduced from 30% to 25%.	Reversed and the individual income tax bands and applicable rates, which took effect from April 2020, were also revised.
Reduction of the Corporation Income Tax (CIT) rate for resident companies from 30% to 25%.	Reversed
Reduction of Turnover Tax (TOT) rate from 3% to 1% - the upper threshold expanded from KES 5 million to 50 Million and lower threshold set at Ksh 1 million.	Retained

Key Policy measures

Tax Laws Amendment Act No. 1 of 2020

- Reduction of tax Incentives - The law reviewed the tax incentives under the Value Added Tax Act, 2013; Income Tax Act; Excise Duty Act, 2015 and Miscellaneous Fees and Levies Act, 2016.

Tax Laws Amendment Act No. 2 of 2020

- Minimum tax – Exclusion of persons
  - ✓ whose retail price is controlled by government.
  - ✓ insurance business
- New individual tax bands and rates – reducing from 4 to 3 bands.
- Claim of input tax by manufacturer with respect to taxable supplies made to an official aid projects.

Key Policy measures – Finance Act 2020

- **Introduction of minimum Tax**
- **Introduction of Digital Service Tax**
- **Reduction of VAT Exempt items** - streamlining the VAT exemptions to ensure that only essential goods and services enjoy exemptions (some effective on 30th June 2020 and others 1st July 2021)
- **Voluntary Disclosure Programme (VDP)**
- **Reduction of tax expenditures** - Various tax exemptions in the Income Tax Act; VAT Act, 2013; Excise Duty Act, 2015; and the Miscellaneous Fees and Levies Act, 2016

Highlights of the Finance Bill, 2021

A. Proposed Amendments to the Income Tax Act

Definitions	• Control • Infrastructure bond • Permanent establishment
Digital Market Place	• Definition and its scope
Digital service tax (DST)	• DST will be applicable to income of non-resident persons only. • submit a return and pay the tax due on or before the 20th day of the following month. • Digital Service Tax shall not apply to income chargeable under section 9(2) and section 35 of the Act.
Carrying forward of losses	• Delete the provision limiting the period
Interest restriction rule	• Introduce EBITDA at 30%
Country-by-Country Reporting	• New provisions
Insurance relief	• Extend the relief to individuals who pay premiums for health insurance to NHIF

A. Proposed Amendments to the Income Tax Act

Set-off tax rebate for apprenticeship.

Special arrangements for relief from double taxation.

Allow claims of investment allowance to be on a straight line method.

Definition of "manufacture" - to expand the scope of electricity generation and distribution qualifying for investment allowance.

Definition of the term "civil works" - to be used for purposes of Investment Allowance.

Depreciation for machinery under a prospecting right – 50% first year of use.

Withholding Tax on Service Fees and Management and Professional Fees – 10%.

B. Proposed Amendments to the VAT Act, 2013

Definition of the term "Supply of imported services" and align the provisions on imported services

Prohibition of claim of input tax - where the vehicles are leased or hired.

Delete the provision on tabling of draft Regulations before Parliament for approval

Additional exempt goods majority of which require approval of the Cabinet Secretary in charge of health

Proposed exemption of:

- the exportation of taxable services;
- the transfer of assets and other transactions related to the transfer of Assets into REITs and asset-backed securities;
- Supply of ordinary bread.

C. Proposed Amendments to the Excise Duty Act, 2015

Definitions of: possession and compound

Relief of excise duty on bulk data

Re-introducing excise duty on locally manufactured sugar confectionaries and on white chocolate.

Removing excise duty on imported glass bottles.

Amending the rate of excise duty on motorcycles from a specific rate of Ksh 11,608.23 to an *ad valorem* rate of 15%.

Introduction of excise duty on jewellery made of precious metals at 10%.

Introduction of excise duty on products containing nicotine or nicotine substitutes at Kshs 5,000 per kg.

Re-introduction of excise duty on betting services - 20%

Amend the definition of "Other Fees" - proposes to delete the exclusion from excise duty granted on fees or commissions earned in respect of a loan.

D. Proposed Amendments to the Tax Procedures Act, 2015

Inclusion of Miscellaneous Fess and Levies Act, 2016 as a tax law.

Automatic Exchange of Information (AEOI)

Common reporting standard obligations and penalties for noncompliance with common reporting standard obligations.

Record keeping – proposed to be amended to 7 years.

Increase the time within which an assessment may be issued from 5 years to 7 years.

Unit of currency in respect of a non-resident person carrying on business through a digital marketplace.

D. Proposed Amendments to the Tax Procedures Act, 2015

Appointment of Value Added Tax withholding agent – in case of continuous credit position for a period of not less than 24 months.

Interest & penalty on overpaid tax– the proposed amendments :

- shall not accrue on the amount applied to the payment of the outstanding tax from the date of the notification – after ascertainment.
- any outstanding tax after such application to accrue interest and penalties in accordance with the Act.

Admissibility of evidence in court.

Due date for a person who submits a notice of objection in electronic form shall be as specified in the relevant tax law.

Introduce a provision to allow commissioner to seek intervention from relevant authorities in regards to collection of taxes over the digital market place.

Provide for concurrent civil and criminal proceedings.

Transactions for which a PIN is required - selling goods and services over a digital marketplace

E. Proposed Amendments to the Miscellaneous Fees and Levies Act

The provisions of section 47 of the TPA shall apply for the purposes of:-

- application for refunds, ascertainment and repayment of fees and levies overpaid or paid in error;
- determination by the Commissioner of penalties and interests on fees that remain unpaid.

Exemption from IDF and RDL:

- such other goods of which the Cabinet Secretary may determine is in the public interest, or to promote investment and the value of which shall not be less than 5 billion shillings.

Conclusion

Continued engagement & partnership is key to the success of tax policies in Kenya.

Tax Base Expansion should remain a constant pillar in the Government's strategy to ensure equity, fairness and sustainable funding of Government expenditure.

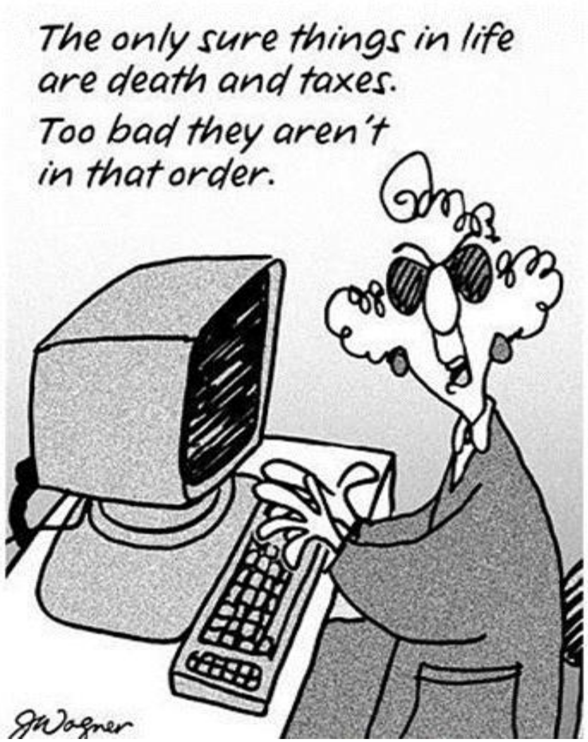
Automation and information exchange remain key factors in dealing with tax challenges of the 21st Century.

Management of tax expenditure should be a major Government priority to ensure that incentives are not only well targeted but measurable.

Taxes are an alternative of taking loans which are not only expensive but have unintended consequences that may hurt the economy.

Taxes are the cheapest way of funding Governments

In 1691, England taxed the number of windows on houses. Thus, houses began to be built with very few windows. The tax was repealed in 1851 when people began to fall ill from lack of ventilation..



Thank you