

A Review of Tax Framework in Kenya

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Tax framework In Kenya

Types of Taxes in Kenya

Direct taxes

- Pay As You Earn (PAYE)
- Corporate Income Tax
- Capital Gains Tax
- Turnover Tax
- Advance Tax
- Stamp Duty
- Digital Service Tax

Types of Taxes in Kenya

Indirect taxes

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

Types of taxes in Kenya...cont'd

PAYE

- Income tax is charged on all the income of a person, whether resident or non-resident, which was accrued in or derived from Kenya. Income from employment includes wages, salary, leave pay, sick pay, payment in lieu of leave, overtime, commission and any other benefit earned or accrued by virtue of employment.
- Any income or benefit that an employee accrues from employment income is chargeable to tax, however, there are some exemptions, including medical insurance provided by the employer to the employee and their dependents; reimbursement of expenses; and non-cash benefits of up to KSh36,000 per annum.
- The deadline for filing and remitting PAYE to KRA is by 9th of every month.

Types of taxes in Kenya...cont'd

Corporate income Tax

- Corporate entities in Kenya are subject to corporate income tax, which is governed by the Income Tax Act, Cap 470 of the Laws of Kenya.
- The corporation tax rate for resident companies is 30%, but this is reduced in certain special cases, such as a newly listed company or a company constructing a prescribed minimum number of housing units in Kenya.
- Non-resident companies with a permanent establishment in Kenya are taxed on the income earned or derived in the country at the rate of 37.5%, with some restrictions on deductible expenses. Non-residents without a permanent establishment are taxed under the withholding tax system in cases where the payments made are eligible to withholding tax.

Types of taxes in Kenya...cont'd

Capital gains Tax

- CGT is chargeable on transfer of property situated in Kenya.
- The tax is levied at the rate of 5% on the net transfer value over adjusted cost. It is a final tax and cannot be offset against other income taxes.
- Despite various controversies, the KRA has been of the view that CGT is a transaction-based tax and should therefore be paid upon the transfer of property, but not later than the 20th day of the month following the completion of the transfer.

Turnover Tax

- Turnover Tax (TOT) is a tax charged on gross sales of a business as per Sec.12 (c) of the Income Tax Act. The tax is payable by resident persons whose gross turnover is more than Ksh 1,000,000 but less than Ksh 50,000,000 in any given year.

Types of taxes in Kenya...cont'd

Turnover Tax

- Turnover Tax is charged at the rate of 1% on gross sales. The due date for filing and paying TOT is on the 20th day of the following month.

Advance Tax

- This is a tax paid in advance before a public service vehicle or commercial vehicle is licensed at the rates applicable.
- For vans, pick-ups, trucks, prime movers, trailers and lorries; Kshs. 1,500 per ton of load capacity subject to a minimum of Kshs. 2,400 per year of income.
- For saloons, station-wagons, mini-buses, buses and coaches; Kshs. 60 per passenger capacity per month subject to a minimum of Kshs. 2,400 per year of income. It is due on 20th of January or before transfer of ownership of the vehicle.

Types of taxes in Kenya...cont'd

Stamp duty

- Stamp Duty is a tax levied on legal instruments such as cheques, receipts, military commissions, marriage licenses, property and land transactions. It is payable in different rates depending on the nature of the instrument.

Customs duty

- It is a tax imposed on goods brought into Kenya. Duties are assessed based on the Customs value of the item and in accordance with the rates provided by East African Community Customs Management Act EACCMA (2004), VAT Act (2013), Excise Act (2015) and any other levies imposed by Government legislation. Customs Valuation is based on the price actually paid or payable for the imported goods.

Types of taxes in Kenya...cont'd

VAT

- VAT is charged on supply of taxable goods or services made or provided in Kenya and on importation of taxable goods or services into Kenya. Any person, individual, company or partnership that has supplied or expect to supply taxable goods worth Kshs. 5,000,000 and above within 12 months; you MUST register for VAT.
- There are 3 types of tax rates;
 - 0% - for Zero rated supplies. Goods listed in the 2nd Schedule to the VAT Act e.g. Exportation of goods/services, goods supplied to EPZ, Privileged persons and Public bodies etc.
 - 8% - Petroleum oils obtained from bituminous, Motor Spirits.
 - 16% - General rate for other Goods and Services.

Types of taxes in Kenya...cont'd

Excise duty

- This is the tax added on the manufacturing of goods.

Types of Excise Duty

a) **Specific Duty Rate:** This is where a specific amount of tax is charged per unit of measure on an excisable product e.g. Kshs. 120 per litre of spirit.

b) **Advalorem Duty Rate:** This is where a percentage rate of duty charged on the value of an excisable product.

- Imports tax is charged on the total Cost, Insurance and Freight (CIF) and;
- Locally manufactured goods advalorem rate is charged on the Ex-factory selling price

Types of taxes in Kenya...cont'd

Digital Services Tax – main changes under the Finance Act 2021

The main changes made vide Finance Act 2021 include:

- **Exclusion of resident persons** – previously DST was applicable to all persons including resident persons. Key to note is that non-resident persons with permanent establishments, though ranking the same from a tax perspective in Kenya, were not excluded from the ambit of DST;
- **Extension of scope** – prior to the amendment, DST was only applicable to income derived or accrued through a digital marketplace. The law was amended to broadly bring within the ambit of DST “business carried out over the internet or an electronic network”;
- **Importation of some aspects of the regulations into the Income Tax Act (ITA), main legislation** – key aspects that were imported include services that are out of scope. This was aimed at ensuring that there is no conflict between the Regulations and the ITA. It is now clear that services that are subject to withholding tax are outside the scope of DST.

Tax Administration & Revenue Mobilization

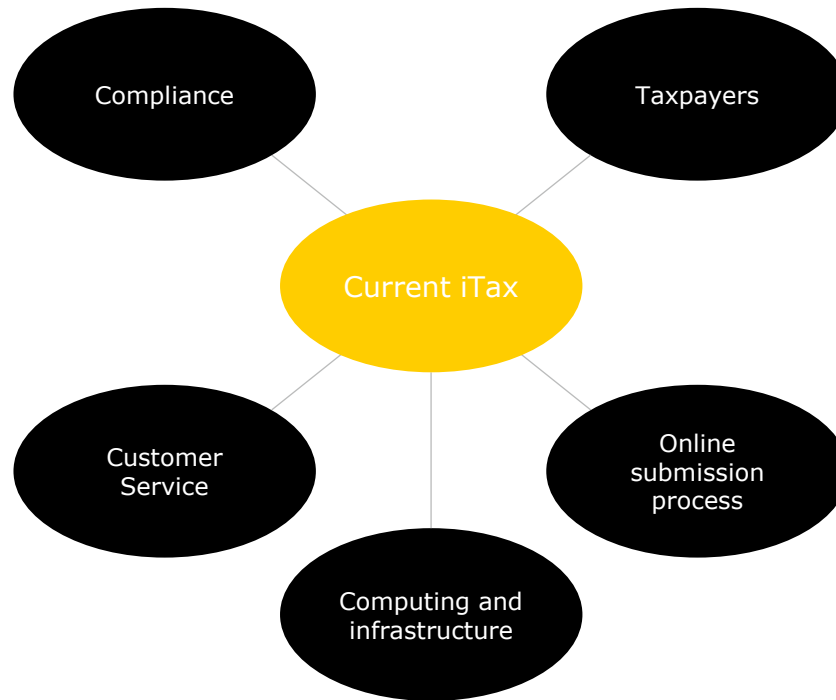
Tax administration

Tax administration in Kenya

- The National Treasury is the parent ministry and deals with policy issues.
- Kenya Revenue Authority (KRA) deals with the tax administration aspect and has various departments.
- For instance, the Domestic taxes department deals with Income Tax, VAT & Excise Duty. The department is further split into Medium and Small Taxpayers Office (MTO) & Large Taxpayers Office (LTO)
- Other departments that cut across all taxes include investigations and Enforcement department.

The Current iTax

Everything is connected via iTax



Effect of Technology on compliance

iTax and Technology

Impact of Technology on revenue collection

- Increased revenue collection due to the ease in filing of returns and improved compliance, blocking of loopholes of revenue loss and wider tax base.
- Detect and curb tax evasion by establishing a database.

Impact of Technology on taxpayers

- Improved service delivery-taxpayers can access iTax ledgers conveniently.
- Timeliness-Short duration to file taxes & objections and generate payment slips.
- Improved transparency-Increases confidence in dealing with the taxman.
- Enhanced accountability-ledgers of taxpayers account and trail of activity.



Enhancing 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.

Challenges of iTax

- Mismatch in assessments e.g., VAT Auto assessments.
- Mismanagement by officers.
- System failures
- Sometimes customer feedback is delayed and inconsistent.

Revenue mobilization

Challenges facing KRA in revenue mobilization

- Non-compliance mainly in the informal sector whereby there is a lot of money in circulation, yet the compliance levels are low.
- Transfer pricing challenges and illicit financial flows
- Low tax morale due the perceived high level of corruption in the country

Revenue mobilization...cont'd

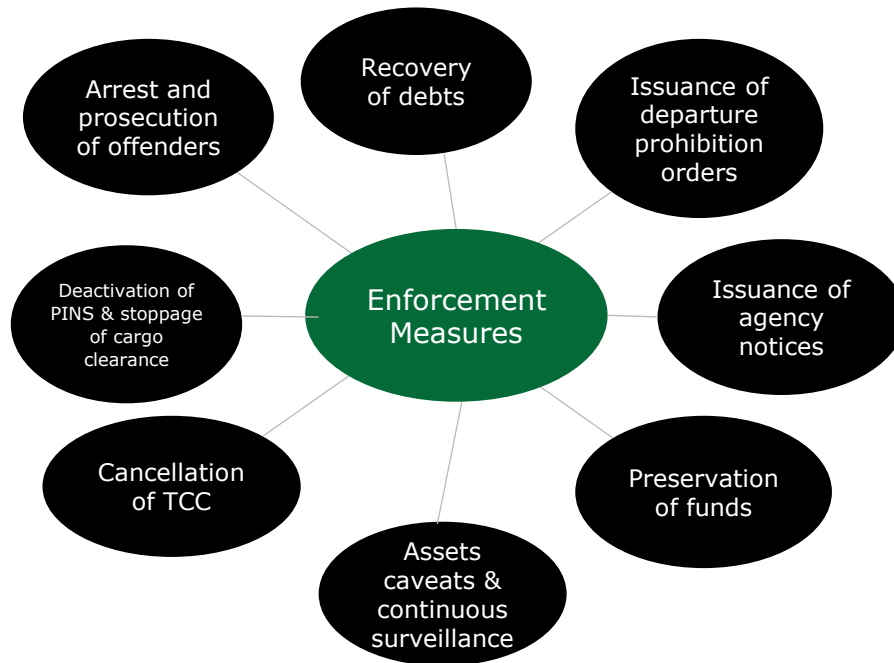
Measures adopted to deal with tax compliance challenges to enhance revenue mobilization

- Increased stakeholder involvement to create trust and openness.
- Having a customer approach in dealing with taxpayers thus building trust.
- Conducting taxpayer education to ensure the taxpayers are knowledgeable.
- Facilitating trade through making it affordable to comply and through paying refunds promptly.
- Adopting technology thus making it cheaper and efficient for taxpayers to file and pay their tax dues with ease.

Enforcement measures

Enforcement measures after investigations

Measures to curb non-compliance



Q & A

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