REPUBLIC OF KENYA

NATIONAL TAX POLICY

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Foreword

The National Tax Policy is a step in realizing the country's dream of having an efficient and fair tax system that promote equity in tax administration and predictable tax environment for business to operate. It provides broad principles of tax administration and revenue collection in Kenya and sets parameters on tax policy and other tax related matters. Further, the policy sets out guidelines for tax reforms and forms the basis for tax legislation and review. It is an essential instrument for facilitating delivery of government's development Agenda, in an equitable manner as well as acting as a tool for revenue mobilization to finance social and economic development priorities.

The Policy has been developed through stakeholders' participation in line with the Constitution requirement with the aim building consensus on the polices on each tax head and making recommendations to address challenges identified in the tax policy which is in contained in various laws. The policy has also benefited from input of international community including our development partners and experts.

The policy objective is to expand tax base so as to enhance fairness and equity in tax system as well as embracing the international best practice in tax administration. It is also aimed at creating certainty predictability of tax rates and tax bases, enhance tax compliance, reduce tax expenditure, among others. This National Tax Policy provides policy recommendations to address the challenges currently facing the taxation regime in the country such as huge informal sector that is hard to tax, unpredictability of tax policies, huge tax expenditure poor compliance among others. Finally, the Policy outlines the implementation and coordination framework and the roles and responsibilities of various actors in implementation of the Policy.

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Acknowledgement

The National Tax Policy sets out broad parameters on tax strategies in Kenya. It articulates the principles governing tax administration and revenue collection in Kenya. Thus, it provides a set of guidelines that regulate taxation and forms the basis for enactment tax legislation, review, development and administration. It is a vital tool for revenue mobilization to facilitate social and economic development.

We are operating in the dispensation of drastic shortfalls and decline of revenue over the years. In order to cure the revenue gap, a robust domestic resource mobilization agenda is critical. In this regard, the development of this Policy is necessitated by the need to grow the tax revenue, provide legal framework for introducing tax incentives, provide guidance, ensure certainty, establish coherence in light of any future amendments to national tax law and many others.

This Policy was developed in a consultative and participatory manner in line with the constitutional requirements of public participation and stakeholder engagement. I sincerely thank everyone who contributed to its development and subsequent finalization. In particular, I would like to thank the Tax Policy Working Group comprising of Officers from the National Treasury and Kenya Revenue Authority who have been part of the process from the beginning and developed the initial draft.

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List of Abbreviations

COMESA	Common Market for Eastern and Southern Africa
DTAs	Double Taxation Agreements
EAC	East African Community
EACCET	East African Community Common External Tariff
EACCMA	East Africa Community Customs Management Act
EPZ	Export Processing Zone
FY	Financial Year
GDP	Gross Domestic Product
IDF	Import Declaration Fee
KRA	Kenya Revenue Authority
MAC	Multilateral Convention on Mutual Administrative Assistance in Tax Maters
MDAs	Ministries, Departments and Agencies
MNEs	Multinational Enterprises
PIN	Personal Identification Number
PFMA	Public Finance Management Act
RDL	Railway Development Levy
RML	Road Maintenance Levy
SEZ	Special Economic Zone
TAT	Tax Appeals Tribunal
VAT	Value Added Tax
WCO	World Customs Organization
WTO	World Trade Organization

Executive Summary

The National Tax Policy is providing the framework within which tax related laws, regulations and rules are formulated and implemented. In realization of the need to rebuild the economy and the demands of the changing business environment the tax policy has become a necessary tool. Unique challenges such as expanding the taxation to the hard-to-tax sectors (agriculture and informal sector), increased online businesses and globalization requires a framework to guide the process.

This document provides broader perspectives of taxation in Kenya; existing legal and regulatory framework, challenges and policy guidelines. It articulates the principles governing tax administration and revenue collection in Kenya. Thus, it provides guidelines for tax legislation, review, development and tax administration. Specifically, the document provides in-depth understanding of the income tax, Value Added Tax, Excise Tax, Import Duty and customs related taxes.

The Kenya’s tax system suffers numerous challenges leading to underperformance in revenue collection. For instance, Kenya’s revenue yield is still below the desired East African Community target of 25 percent of GDP required for EAC Monetary Union despite the heavy investment by the Government to transform the tax system. In particular, ordinary revenue as a percentage of GDP has generally been declining over the last ten years from a high of 18.2 percent in the FY 2013/14 to 13.8 percent in the FY 2020/21. This trend highlights the underlying issues affecting the tax system.

Issues identified to significantly affect the tax collection include: a growing tax expenditure estimated 2.9% of the GDP as of 2020; complexities in taxation of emerging economies such as online businesses, international tax disputes and dispute resolutions; and low tax compliance among taxpayers. The Policy provides specific recommendation to address each of the identified challenges. To address unpredictability of tax rates, the Policy recommends that the tax law shall be reviewed once every five years. Further, there shall be guidelines for identification, implementation and administration of tax incentives. To address international taxation and treaties, the policy recommends to put in place mechanisms to facilitate smooth exchange of information while also putting in place rules to deter profit shifting and base erosion. The Policy also provides policy recommendation based on specific issues affecting specific tax heads, which include income tax, VAT, Excise, and customs duties.

Further, the tax policy provides and implementation matrix and a monitoring evaluation framework. Key stakeholders identified in the implementation include The National Treasury, the National Assembly, the Judiciary, the Attorney General, County Government and MDAs (Ministry, Departments and Agencies). The policy will also be monitored and evaluated based on a broad list of indicators to measure the success of the policy.

Chapter One: Introduction

1.1 Introduction

This Policy sets out broad parameters on tax policy and other tax related matters. It articulates the principles governing tax administration and revenue collection in Kenya. Thus, it provides a set of guidelines that regulate taxation and forms the basis for tax legislation, review, development and administration. It is a vital tool for revenue mobilization to facilitate social and economic development.

1.2 Background

Kenya's pre-independence tax system was characterized by a narrow tax base comprising of taxes such as hut tax, land tax and poll tax which were regressive in nature. After independence, the Government embarked on modernization of the tax system through enactment of modern tax laws such as income tax, sales tax, excise duty and customs duty. In the 1960s and early 1970s, tax policies and laws were common across the East African Community (EAC), which consisted of Kenya, Uganda and Tanzania. After the disintegration of the Community in 1977, each Partner State continued to use the same tax laws which they modified with time to reflect their unique situations.

1.2.1 Income Tax Act

The Income Tax Act was first enacted by the colonial administration in the year 1921 as an Income Tax Ordinance with major revisions in 1954. The current Income Tax Act, was enacted in 1973 and came into effect in January 1974. The Act has been amended severally to align with the changing operating environment and international best practice.

1.2.2 Sales Tax

Due to the need to generate more revenue locally to finance the Budget, Kenya introduced sales tax in 1973 by enacting the Sales Tax Act in 1973. The general rate of the tax was at 10% and was applicable on goods manufactured in Kenya by registered manufacturers or goods imported into Kenya. The manufacturers of the goods that were subject to the sales tax were required to be registered by the Commissioner. In addition to the general rate of tax, some few goods were subject to specific rate of tax.

The tax base of the sales tax was narrow as it was charged at the manufacturers level or at the point of importation only. The tax had a huge negative impact on the local manufacturing since the manufacturers of the goods that were subject to the sales tax were not allowed to deduct the input tax, hence increasing the cost of goods.

1.2.3 Transition from Sales Tax to Value Added Tax

The sales tax was replaced by the Value Added Tax (VAT) in 1990. The transition from sales tax to VAT was informed by the fact that the former legislation was retrogressive and had negative impact on businesses because it did not provide for deduction of input tax, unlike VAT where the supplies of vatable goods or services deduct the tax paid on input supplies from the tax paid on out supplies and pay the net to the Kenya Revenue Authority, (KRA). In addition, sales tax was being charged on goods only, whether locally manufactured or imported while VAT widened the scope by including services. At the time of enactment, VAT was considered a progressive tax and major source of revenue for the Government. It was anticipated that the revenue collected from this tax would surpass revenues from other tax heads such as income tax, excise duty and import duty. However, as a proportion of the Gross Domestic Product (GDP), VAT has continued to yield less revenue than income tax.

The VAT Act (Cap. 476) underwent a major review in 2013 leading to a new structural design. The rationale for the new VAT Act was to modernize the law, rationalize/reduce zero-rating and exemption of goods which had increased over time. The review was aimed at increasing the revenue raised from the VAT through minimizing tax expenditure as well as aligning it with international best practices. However, following the enactment, some goods and services that were removed from the exemption Schedule and zero-rated Schedules started to be re-introduced progressively thereby creating uncertainty in terms tax policy.

1.2.4 Excise Duty

Prior to Kenya joining the East African Community Customs Union in 2004, Customs and Excise Duties were administered under one law, the Customs and Excise Act, Cap. 472. The East African Community Customs Management Act (EACCMA), 2004 was enacted by the East African Community Legislative Assembly to provide a legal framework to administer customs matters. However, excise matters continued to be administered under the Customs and Excise Act on transitional basis until 2015 when the Excise Duty Act, 2015 came into force.

Therefore, the main objective of enacting an Excise Duty Act was to have separate provisions on excise duty matters from Customs since Customs matters were taken care of by enactment of the East African Community Customs Management Act, 2004. In addition, there was need to modernize the Excise Duty provisions.

1.3 Objectives of the National Tax Policy

The overall objective of this Policy is to guide the progressive development and administration of Kenya's tax system. The specific objectives include:

i. To offer policy guidance on the collection, enforcement and administration of taxes;

ii. Provide the basis for review and development of tax laws;

iii. Provide guidelines to stakeholders including investors on tax policy matters;

iv. Provide guiding principles for the Kenyan tax system; and

v. Provide a legal framework for granting tax incentives and concessions to various sectors of the economy.

1.4 Rationale of the National Tax Policy

To achieve the country's development agenda, a robust domestic resource mobilization agenda is critical. In this regard, the development of this Policy is necessitated by the need to:

i. **Grow the tax revenue.** In an environment characterized with increased spending pressures and disproportionate growth in revenue as a ratio of GDP, there is need to undertake tax reforms within the confines of a National Tax Policy. This will protect and enhance domestic resource mobilization required to finance the Government development agenda and reduce the country's fiscal deficit.

ii. **Provide legal framework for introducing tax incentives.** Over the years the Government has provided tax incentives and exemptions to support government programs and projects**.** Although the tax expenditures through tax incentives amounted to 2.96 percent of GDP in 2020, which is comparable to the average of 2.9 percent for African countries, there is need to have an effective tool for monitoring and evaluating the effectiveness of incentive regimes. This Policy is critical in guiding the management and monitoring of the tax incentives to safeguard the tax base and ensure value for money.

iii. **Provide guidance, ensure certainty and establish coherence in light of any future amendments to national tax law.** Kenya's tax policies are spread across various tax laws, which are amended every year during the national budget process. Frequent changes in tax laws cause unpredictability and inefficiency in tax administration. This creates distortions, which impose additional costs to taxpayers and the Revenue Administration.

iv. **Enhance structures for information gathering and sharing.** Comprehensive information is important for tax collection, tax compliance and mitigation against tax avoidance and evasion. This policy provides guidelines for enhancing information gathering and sharing to support revenue mobilization and protect the tax base.

v. **Efficiently manage tax refunds.** The tax refunds process is lengthy and constrained by inadequate information. The unpaid refunds withhold the working capital of the taxpayers thus imposing liquidity constraints on businesses. This policy provides guidelines for enhancing timely processing of tax refunds.

vi. **Address complexities in tax legislation and administration.** There are complexities relating to tax administration and legislation which include; computation of tax liabilities, filing of tax returns and interpretation of tax laws. These complexities affect the ease of doing business in the country. This policy provides guidelines to address complexities in tax legislation and administration.

1.5 Guiding Principles

This Policy is anchored on the following principles:

i. **Equity and fairness:** everyone should pay a fair share of taxes. Equity can be categorized into two; horizontal equity where taxpayers in a similar financial condition pay equal amount in taxes and vertical equity where taxpayers who earn higher income pay a greater share.

ii. **Simplicity, certainty and clarity:** tax laws and administrative processes shall be simple, clear and easy to comprehend and interpret.

iii. **Administrative efficiency:** the cost of compliance by taxpayers and the administration cost to the Revenue Authority, shall be kept at a minimum level as much as possible.

iv. **Flexibility:** the tax system shall be dynamic and responsive to changing circumstances in the economy.

v. **Sustainability:** the tax system shall attract minimal changes over time, be coherent with other Government policies and support sustainable economic development.

vi. **Economic growth and efficiency:** the tax system shall mitigate against distortions and expand the productive capacity of the economy.

vii. **Transparency and accountability:** the tax system shall enhance disclosure of information on revenues collected and expenditures.

viii. **Neutrality:** the tax system shall minimize discrimination in favour of, or against, any particular economic choice.

Chapter Two: Situational Analysis

2.1 Legal and Regulatory Framework

Taxation in Kenya is anchored in Article 209 of the Constitution which empowers the National Government to impose Income Tax, Value-Added Tax, Excise Duty, Customs Duties and other duties on imports and exports, as well as any other tax which may be provided for through an Act of Parliament or County Assembly. The Article also empowers the County Governments to charge property rates, entertainment taxes and any other tax authorised by an Act of Parliament. Additionally, both the National and County Governments are allowed to impose charges for the services they provide.

Article 210 of the Constitution provides that taxes can only be imposed, waived or varied through an Act of Parliament. Further, Article 201 of the Constitution provides that the burden of taxation shall be shared fairly and the revenue raised nationally shall be shared equitably among National and County Governments.

Further, Article 201 of the Constitution sets out the principles of public finance which tax laws, administrative processes and procedures are expected to be adhered to. In addition, the Public Finance Management Act, 2012 prescribes the fiscal responsibility principles including a requirement for a reasonable degree of predictability with respect to the level of tax rates and tax base.

Besides the Constitution and the Public Finance Management Act, 2012, (PFMA) there are tax laws and tax administration laws administered by the National Government. These include:

a) *The Income Tax Act, (Cap. 470):* provides for ascertainment, assessment and collection of tax on income. This Act was enacted in 1973 and came into effect in January 1974.

b) *The Value Added Tax Act, 2013:* provides for the imposition of value added tax on goods and services made in, or imported into Kenya.

c) *The Excise Duty Act, 2015:* provides for the charge, assessment and collection of Excise Duty on excisable goods and services.

d) *The Tax Procedures Act, 2015:* provides for harmonization and consolidation of procedural rules for the administration of tax laws in Kenya.

e) *The East African Community Customs Management Act, 2004:* provides for the management and administration of Customs related matters in the EAC region.

f) *The Miscellaneous Fees and Levies Act, 2016:* provides for the imposition of fees and levies on goods imported into the country for consumption in Kenya and export duties to encourage value addition on exports.

g) *Tax Appeals Tribunal Act, 2013:* provides for establishment of a tribunal for the management and administration of tax appeals.

h) *Kenya Revenue Authority Act, (Cap. 469):* provides for establishment of the Kenya Revenue Authority which is a central body for assessment and collection of revenue, for the administration and enforcement of the laws relating to revenue and to provide for connected purposes.

2.2 Tax Administration

The role of tax administration includes management, direction and supervision of the implementation and application of tax laws and tax conventions to which Kenya is a party. Tax administration includes assessment, collection, enforcement, litigation, publication and statistical gathering functions under the various tax laws or conventions.

2.2.1 Key Players in Tax Administration

Tax administration involves KRA, the National Treasury, the National Assembly, the Judiciary and the Tax Appeals Tribunal.

(a) Kenya Revenue Authority

KRA was established by Kenya Revenue Authority Act, Cap. 469 of the laws of Kenya, which became effective on 1st July 1995. The core functions of KRA are:

i. To assess, collect and account for all revenues in accordance with the written laws and the specified provisions of the written laws;

ii. To advise on matters relating to the administration of, and collection of revenue under the written laws or the specified provisions of the written laws;

iii. To administer revenue aspects of the Acts listed in the First and Second Schedules of the KRA Act (Cap 469) and collects levies for various Government Agencies under the provision of various Acts; and

iv. To perform such other functions in relation to revenue as the Cabinet Secretary responsible for matters relating to finance may direct.

Whereas KRA is the principal agency mandated to collect government revenue, County Governments and other national government agencies also collect various fees and levies.

(b) The National Treasury

The National Treasury is responsible for national tax policy and overseeing tax collection and accounting of the tax collected by KRA. To achieve this mandate, the National Treasury proposes policy changes to tax laws to the National Assembly in form of Bills for enactment from time to time.

(c) National Assembly

The National Assembly enacts and oversees the administration of tax laws.

(d) Judiciary

The Judiciary facilitates settlement of tax disputes between KRA and the taxpayers.

(e) Tax Appeals Tribunal

The Tax Appeals Tribunal (TAT) hears and determines tax disputes between the Commissioner and taxpayers.

2.2.3 Key Issues in Tax Administration

i) Registration of Taxable Persons:

Taxpayers are registered and issued with a unique Personal Identification Number (PIN) to facilitate enforcement of tax laws.

ii) Tax Compliance

Ensuring tax compliance in areas of taxpayer registration, filing of returns, payment of taxes and reporting. The filing and payment compliance stood respectively at 68 percent and 88 percent, in the FY 2020/21.

iii) Staffing and Capacity Development

Ensuring there is continuous training and acquisition of new skills, equipment and technology by the revenue administration officers to enable them cope with emerging issues in tax administration.

iv) Tax refunds

Ensuring the tax refund process is clearly understood by revenue officers and is documented including lodgement of the refund claim, assessment, approval and payment. This is to minimise revenue leakage.

v) Collaboration with other Government Agencies and County Governments

Ensuring there is effective and efficient collaboration with different Government agencies including National Government, County Governments and Ministries, Departments and Agencies (MDAs) that facilitates collection of tax revenues, fees and levies at various levels.

vi) Cost of Collection

Ensuring there is administrative efficiency in collection of revenue so that the cost of revenue collection is kept at a minimum level. In order to maintain the cost of revenue collection at low levels, the Government has continued to invest in information communication technology.

vii) Dispute Resolution

Ensuring tax disputes are handled effectively and prudently and dispute resolution services are accessible by all taxpayers. Kenya has a graduated tax dispute resolution mechanism that is accessible to all taxpayers. The stages comprise of;

i. Objections

ii. Tax Appeals Tribunal

iii. Appeals to the High Court

iv. Appeals to the Court of Appeal

v. Appeals to the Supreme Court

When an appeal is before the TAT or the courts, the taxpayer or Commissioner may voluntarily request for the dispute to be handled through an out of court or out of the Tax Appeals Tribunal as an alternative method of handling tax disputes.

The Tax Procedures Act, 2015 provides that under the out of court settlement or out of Tax Appeals Tribunal, disputes should be resolved within 90 days. The average time taken to resolve cases reduced from 89 days in FY 2019/20 to 42 days in the FY 2020/21. In addition, 552 cases were resolved through the out of court which yielded Ksh. 31.4 billion in revenue.

2.3 International Tax and Treaties

Taxation of profits earned by Multinational Enterprises (MNEs) is complex as the entities operate in several tax jurisdiction around the world. Different tax jurisdictions impose different rules, but international standards have been developed to create consistency through bilateral or multilateral treaties. The treaties largely adopt international best principles and guidelines.

As at 2021, Kenya had entered into fifteen Agreements on Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to taxes on income and capital gains (DTA) with various countries. The agreements are help to eliminate double taxation, allocate taxing rights between the parties and reduce incidences of tax evasion through exchange of information. In addition, there are other agreements that have been concluded but are not in force yet.

Kenya is a member of the Global Forum on Transparency and Exchange of Information for tax purposes which works on the implementation of global transparency and exchange of information standards around the world. In addition, Kenya is party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC) which provides for all possible forms of administrative co-operation between states in the assessment and collection of taxes including exchange of information and the recovery of foreign tax claims.

2.4 Tax Structure

Taxes are categorized into direct and indirect taxes, and customs duties. Direct taxes are taxes on income of a person and the burden of the tax falls on the person who earns the income. On the other hand, indirect taxes are taxes on consumption of goods and services and the burden of the tax falls on the consumer. Customs duties are charges made on imported or exported goods. Direct taxes are currently the major sources of revenue to the Government followed by indirect taxes and customs duties.

2.4.1 Direct Taxes

Income Tax

Income tax is an annual tax charged on income of a person and corporate bodies whether resident or non-resident, which is accrued in or was derived from Kenya. Under the Kenyan income tax system as stipulated in the Income Tax Act (Cap. 470), income includes; business income, dividends and interests, employment income, royalties, rental income, pension income, income from a digital marketplace; natural resource income, leases, capital gains or income deemed to be income of a person among others.

Income tax is classified into two major categories depending on whether it is from companies or individuals. These are:

i. Corporate Income Tax

This is a form of income tax that is levied on corporate bodies such as limited companies, trusts, and co-operatives, on their annual income. Companies registered outside Kenya but operate or with branches in Kenya are subject to corporation income tax on income accrued in Kenya. Such entities are referred to as permanent establishments. Corporate income tax is paid in instalments on the 20^{th} of the 4^{th}, 6^{th}, 9^{th} and 12^{th} month of a company's financial year. Any balance of tax at the end of the year must be paid within four months of the financial year end.

ii. Personal Income Tax

Personal Income Tax (PIT) is levied on the wages, salaries, dividends, interest, and other income earned by a person in gainful employment. Tax on wages and salaries is collected through pay as you earn. Companies, partnerships and individuals with liable employees are required to deduct tax in accordance with the prevailing tax rates from their employees' salaries or wages on each payday for a month and remit the same to KRA on or before the 9th of the following month. Self-employed individuals (partnerships and sole proprietorships) are required to account and pay taxes on the income derived or accrued in Kenya.

2.4.2 Indirect Taxes

a) Value Added Tax (VAT)

VAT is a consumption tax charged under the Value Added Tax Act, 2013 on supply of goods and services. The supplies are categorised into either zero-rated supplies, exempt supplies or standard rated supplies. The tax is charged on the value added at different stages of production and at different levels of the distribution of goods or services.

The VAT Act requires that a person who in the course of business makes taxable supplies or expects to make taxable supplies whose value is five (5) million shillings or more within a period of twelve (12) months or is about to commence making taxable supplies whose value is expected to exceed five million shillings within a period of twelve months, shall be liable for registration and apply to the commissioner for registration.

Taxpayers are required to account for the tax at the time of supply and file and make payment not later than the 20th day of the following month in which the supply occurred. However, for imported goods, tax is collected at the point of importation by the Commissioner of Customs and Border Control.

VAT in Kenya is based on destination principle and therefore allows for zero rating of exports. Generally, all goods and services are vatable unless expressly provided for under the Act as exempt supplies. The objective of exempting certain supplies is to lower the costs of essential goods and services or to promote certain investments.

b) Excise Duty

Excise duty is a consumption tax charged on excisable goods manufactured in Kenya by a licensed manufacturer, or excisable services supplied in Kenya, or on excisable goods imported into Kenya. Besides generating revenue, excise duties are also designed to address negative externalities associated with consumption of certain goods and services. However, exemption from excise duty applies to goods and services exported from Kenya or those specifically provided for in the Excise Duty Act.

Excise duty is charged based on either specific rates or ad valorem rates to a narrow or selective base of goods and services. The tax period for which the excise duty must be reported and paid is the calendar month and the prescribed due date as provided for in the Excise Duty Act, 2015.

However, for imported goods, excise duty is collected at the point of importation by the Commissioner of Customs Services.

2.4.3 Customs Duty

Customs Duty is a tax levied on either the importation or exportation of goods across international borders. Kenya as a member of the East Africa Customs Union, administers the EAC Customs Management Act, 2004, EAC Common External Tariff (EACCET) and the EAC Rules of Origin.

For collection of custom duties, the rules of international trade by way of Treaties, Conventions and Instruments of World Trade Organisation (WTO) and World Customs Organisation (WCO) to which Kenya is a signatory are considered. Kenya being a member of the EAC and COMESA, accord any goods confirmed to be imported from member countries of either entity preferential rates of import duty.

Import duties are either computed as a percentage of the value of imports (ad valorem) or at a specific duty rate. The import duty rate structure is based on the general categorization of goods where raw materials and capital goods attract no duty, intermediate goods which attract a higher rate of duty and the finished goods which attract the highest rate of duty so as to discourage importation of such goods. There are some categories of goods which are categorised as sensitive. These goods attract higher rate than other goods. These goods are produced in the region hence the need to protect them from competition from imported goods.

In order to address shortage of foreign exchange which was resulting from reduced exports, the Government in 1993, introduced an Export Processing Zones (EPZ), to promote exports. The EPZ provides tax incentives for firms to produce goods for export. The incentives include a ten-year corporate tax holiday and a corporate of 25 percent thereafter, a ten-year withholding tax holiday on dividend, duty, excise duty, VAT, fees and levies are exemption on all goods imported into the EPZ, except motor vehicles. The firms operating in the EPZ also enjoyed favourable business regulatory procedures.

Other schemes that were implemented for promotion exports include Manufacturing Under Bond (MUB). Raw materials imported under this scheme are not subject to import duty, VAT, excise duty, fees and levies. The latest scheme on promotion of exports is Special Economic Zones (SEZ) which provide for lower corporation tax rate, in addition to VAT, import duty, excise duty, fees and levies exemption on raw materials and inputs imported into the SEZ. The common factor on these Schemes is that goods produced from these Schemes when sold into the domestic market, are subject all taxes, fees and levies just like any goods imported from a foreign territory.

2.4.4 Other Charges on Imported Goods

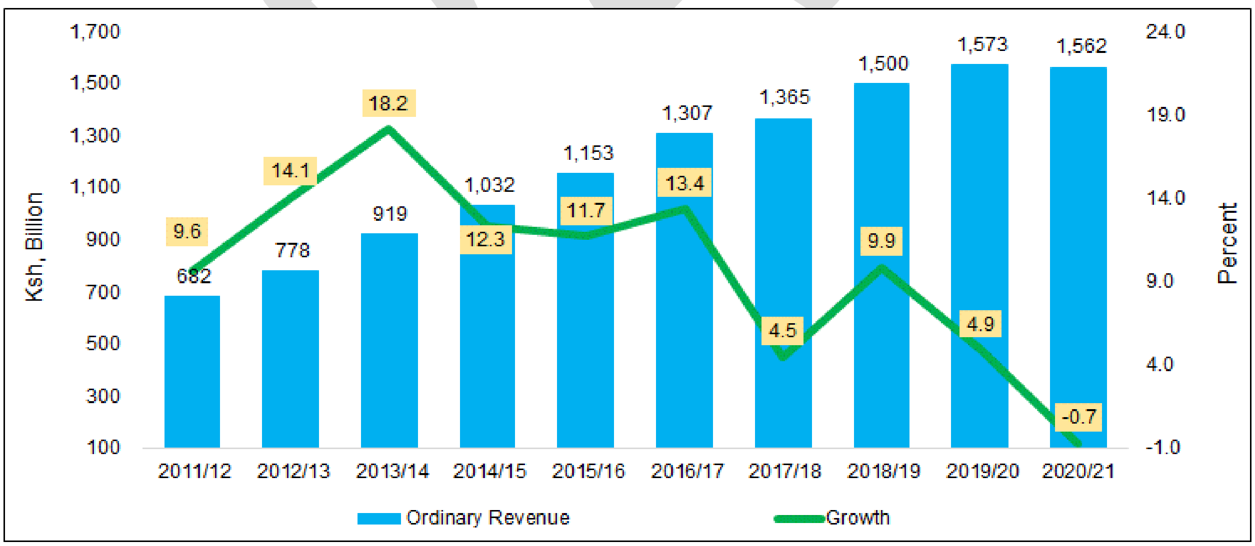
In addition to customs duty, imported goods may also attract fees or levies such as Railway Development Levy (RDL), Import Declaration Fee (IDF) among others. IDF and RDL are charged on all goods imported for home use.

2.5 Revenue Performance

i. Growth in Absolute Ordinary Revenue

The Government has invested heavily in the transformation of the tax system through modernization of tax laws and automation of tax administration with a view to improving productivity of the tax regimes. This has led to a gradual rise in ordinary revenue, in absolute terms, from Ksh 682 billion in FY 2011/12 to Ksh 1.56 5 trillion in FY 2020/21. Despite the growth in absolute terms, the annual growth rate has been declining **(Figure 1).**

Figure 1: Growth in Absolute Ordinary Revenue (Ksh Billion & Percentage)



Income tax and Value Added Tax, which are the biggest contributors to the ordinary revenue grew from Ksh 312 billion and Ksh 176 billion to Ksh 694.1 billion and Ksh 410.8 billion respectively, over the same period **(Table 1).**

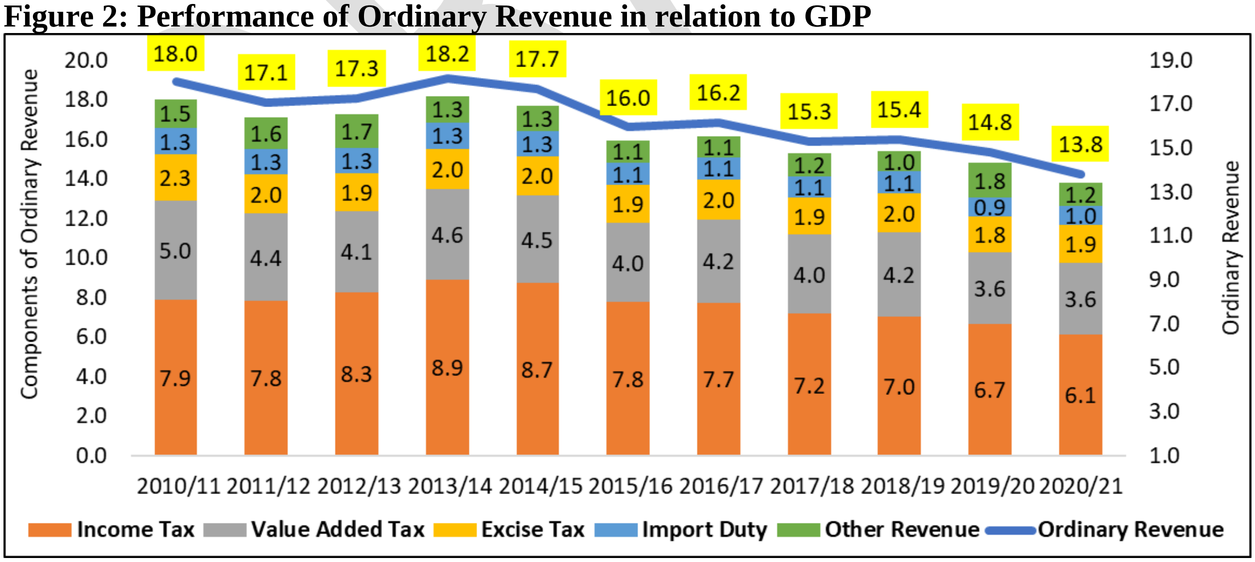
Table 1: Performance of Ordinary Revenue and its components (Ksh Million and Percentage)

	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Average
Ksh Million											
Ordinary Revenue	681,766	777,784	918,990	1,031,819	1,152,544	1,306,568	1,365,063	1,499,757	1,573,418	1,562,015	1,186,972
Income Tax	312,463	372,886	449,590	508,581	560,762	625,050	640,546	685,330	706,936	694,053	555,620
Value Added Tax	176,386	184,916	232,630	259,685	289,213	339,034	357,129	414,143	383,713	410,758	304,761
Excise Tax	78,884	85,660	102,029	115,872	140,212	165,474	167,753	194,310	195,270	216,325	146,179
Import Duty	51,712	57,650	67,555	74,048	79,638	89,943	93,685	106,875	98,022	108,375	82,750
Other Revenue	62,320	76,671	67,185	73,633	82,719	87,067	105,950	99,099	189,477	132,504	97,663
Share of Ordinary Revenue (%)											
	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Average
Income Tax	45.8	47.9	48.9	49.3	48.7	47.8	46.9	45.7	44.9	44.4	47.0
Value Added Tax	25.9	23.8	25.3	25.2	25.1	25.9	26.2	27.6	24.4	26.3	25.6
Excise Tax	11.6	11.0	11.1	11.2	12.2	12.7	12.3	13.0	12.4	13.8	12.1
Import Duty	7.6	7.4	7.4	7.2	6.9	6.9	6.9	7.1	6.2	6.9	7.0
Other Revenue	9.1	9.9	7.3	7.1	7.2	6.7	7.8	6.6	12.0	8.5	8.2
Growth (%)											
	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Average
Ordinary Revenue	9.6	14.1	18.2	12.3	11.7	13.4	4.5	9.9	4.9	-0.7	9.8
Income Tax	14.7	19.3	20.6	13.1	10.3	11.5	2.5	7.0	3.2	-1.8	10.0
Value Added Tax	2.6	4.8	25.8	11.6	11.4	17.2	5.3	16.0	-7.3	7.0	9.4
Excise Tax	-2.1	8.6	19.1	13.6	21.0	18.0	1.4	15.8	0.5	10.8	10.7
Import Duty	12.2	11.5	17.2	9.6	7.5	12.9	4.2	14.1	-8.3	10.6	9.2
Other Revenue	22.5	23.0	-12.4	9.6	12.3	5.3	21.7	-6.5	91.2	-30.1	13.7

ii. Growth in Ordinary Revenue in Relation to Nominal GDP

Despite the heavy investments by the Government to transform the tax system, Kenya's revenue yield is still below the desired East African Community target of 25 percent of GDP. In particular, ordinary revenue as a percentage of GDP has generally been declining over the last ten years from a high of 18.2 percent in the FY 2013/14 to 13.8 percent in the FY 2020/21 **(Figure 2).**

Figure 2: Performance of Ordinary Revenue in relation to GDP



The declining trend in ordinary revenue to GDP ratio is as a result of a decline in specific tax heads with income tax declining from 7.9 percent of GDP in FY 2010/11 to 6.1 percent in FY 2020/21; Value Added Tax from 5.0 percent to 3.6 percent and Excise Duty from 2.3 percent to 1.9 percent of GDP over the same period. On the other hand, Import Duty averaged at around 1.2 percent of GDP over the 10-year period **(Figure 2).**

The average ordinary revenue as a percentage of GDP over the period FY 2010/11 to FY 2020/21 for Kenya was 16.4 percent **(Table 2).** Although this is higher than that of the other East African countries (Rwanda, Tanzania, Uganda and Burundi), which stands at 13.7 percent, it is below the desired target of 25 percent. South Africa on average performed better than Kenya over the same period at 25.8 percent of GDP.

Table 2: Ordinary Revenue-to-GDP Ratio for Some Selected Countries

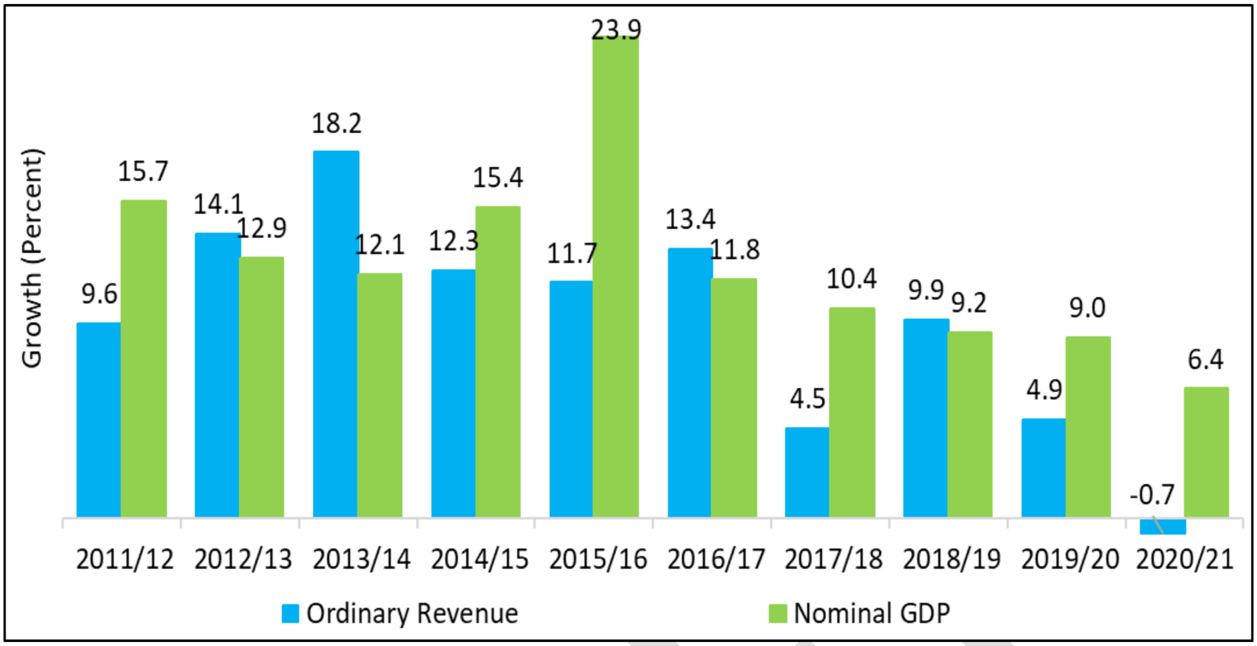
Country	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Average
Kenya	17.4	16.8	16.9	18.3	17.6	16.9	16.6	15.7	15.8	14.8	13.8	16.4
Rwanda	13.6	13.9	14.5	14.9	15.1	16.1	15.2	15.6	16.3	15.9	16.6	15.2
Tanzania	11.1	11.4	11.8	12.6	11.7	13.3	13.2	13.4	11.4	12.2	11.4	12.1
Uganda	13.2	12.7	11.1	11.3	12.3	12.8	14.1	14.2	15.4	12.1	13.0	12.9
Burundi	14.1	16.3	15.1	13.6	13.7	13.0	13.4	13.6	14.1	15.8	16.5	14.5
South Africa	24.6	25.0	25.3	26.1	25.7	26.2	26.0	25.8	26.2	26.4	26.0	25.8
EAC Excluding Kenya	13.0	13.6	13.1	13.1	13.2	13.8	14.0	14.2	14.3	14.0	14.4	13.7

Source: EAC Comparative Revenue Data

iii. Tax Buoyancy

Over the years, Kenya's tax system has not been buoyant. In principle, annual growth in tax revenue should be more than the growth in nominal GDP. In some years, the growth in ordinary revenue has been lower than the growth in nominal GDP **(See Figure 3 below)**, implying that revenue growth has not been consistently responsive to growth in nominal GDP.

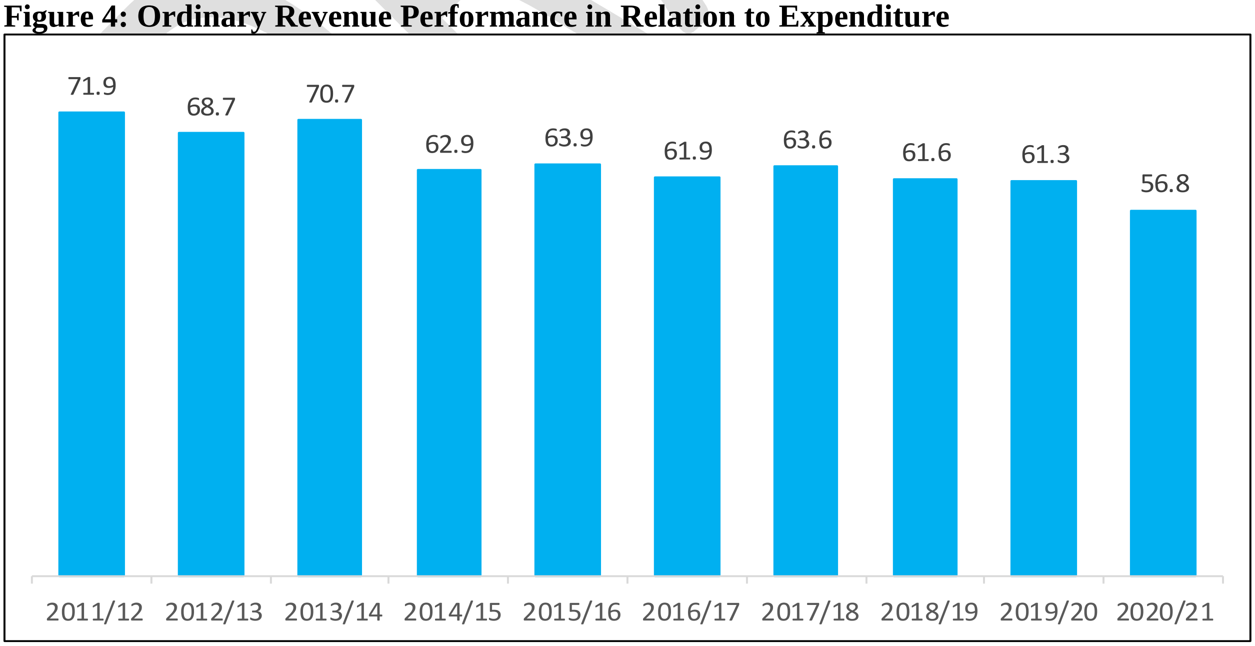
Figure 3: Ordinary Revenue and Nominal GDP Percentage Growth



iv. Ordinary Revenue in Relation to Government Expenditure

The ratio of ordinary revenue to total Government expenditure declined from 71.9 percent in FY 2011/12 to 56.8 percent in FY 2020/21 **(Figure 4 below)**. Over the same period, the ratio of ordinary revenue to total Government expenditure averaged at 64.3 percent. This implies that over 35 percent of the total Government expenditure was financed through loans, grants and ministerial Appropriations-in-Aid.

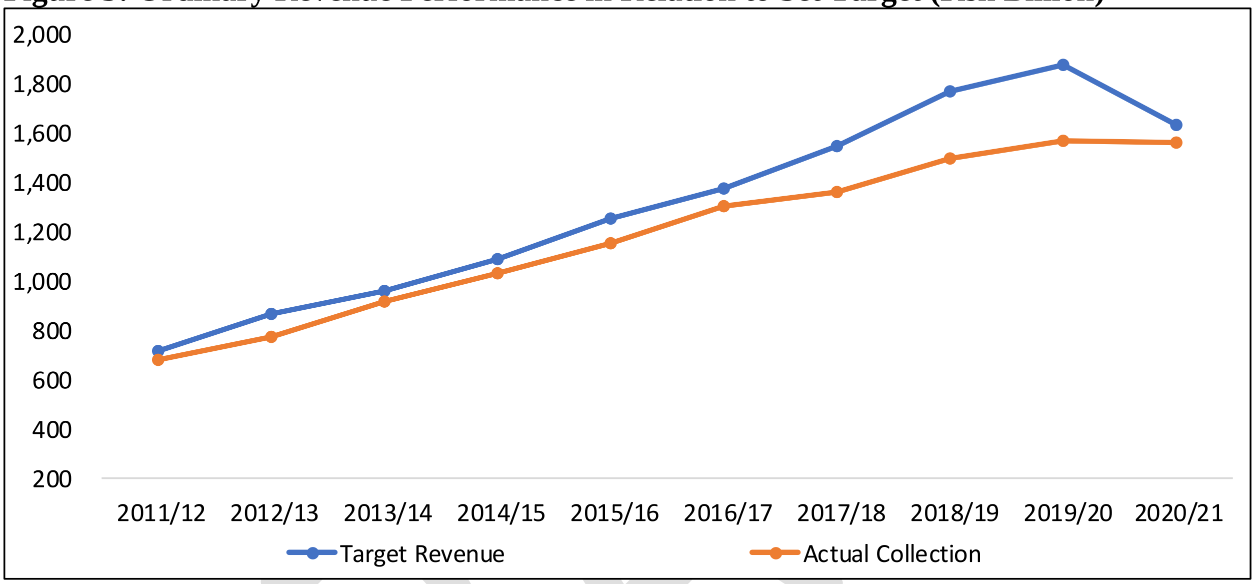
Figure 4: Ordinary Revenue Performance in Relation to Expenditure



v. Ordinary Revenue Performance in Relation to Set Targets

Revenue collection has generally fallen short of the set targets (Figure 5). The deviation of actual revenue collection from the set targets increased over the 10-year period to FY 2020/21, hence the need for Government to borrow both internally and externally.

Figure 5: Ordinary Revenue Performance in Relation to Set Target (Ksh Billion)



2.6 Challenges of Kenya's Tax System

Significant progress has been made in transforming the tax system, however, there still exists challenges which impact on revenue performance. These challenges include:

i. Existence of hard to tax sectors

The Kenyan economy is dominated by subsistence agriculture and a large informal sector, which are difficult and uneconomical to tax. Whereas the informal sector is expanding, its contribution to revenues remains low as it is largely cash based and characterised by poor record keeping. This has led to overreliance on the formal sector for tax revenue.

ii. Tax incentives

The tax laws provide for various tax incentives. These include; tax exemptions, tax deductions, allowances, tax deferral and concessional tax rates or timing rules, such as accelerated depreciation of capital assets. Although, the incentives are aimed at promoting investments and providing relief to the low-income earners and vulnerable groups in the society, they erode the tax base and cause the Government to forego tax revenue estimated at 2.96 percent of GDP as of 2020 compared to 2.9 percent average for African countries. This impacts negatively on revenue mobilisation and implementation of the national development programmes

iii) Low tax compliance

The tax compliance in terms of filing tax returns and payment of tax, respectively stood at 68 percent and 88 percent, in the FY 2020/21. The levels of compliance are mainly attributed to the technical and complex nature of tax laws and procedures, taxpayer apathy, high compliance cost, inadequate sharing of taxpayer information among National and County Government agencies, lack of physical presence of KRA offices in some places, and inadequate taxpayer education program. These factors make it difficult for taxpayers to file returns and pay taxes due.

iii. Complexity in taxing emerging digital economy

The tax system is not fully equipped to deal with emerging technological business models. This has led to some business activities being left out of the tax net and especially the activities carried out through internet on a digital platform. These business activities can be carried out in a tax jurisdiction without having physical presence in that jurisdiction.

iv. VAT

i. High tax expenditure – VAT tax expenditure is relatively high compared to the overall VAT collected. It is estimated at 2.2 percent of GDP in the year 2020.

ii. Multiple rates – In the year 2020 there are two general rates of VAT: 8 percent for petroleum products,16 percent for other goods/services and 0 percent for exported goods. The rate on petroleum goods creates undue advantages over other goods.

a. Excise duty

High rates of excise duty: The rate of excise duty in Kenya is high compared with that of EAC Partner States which is considered to be contributing to increase in illicit trade through smuggling.

v. Customs Administration

Dynamics in international trade including, emerging business models, new trading partners, increased security threats, organized crimes and increasing number of regional free trade areas that

Kenya is a member, present challenges in Customs administration. Specifically, Customs administration faces the following main challenges;

a) Inadequate modern technological equipment for use at entry/exit border points to address mis-declaration and misclassification of goods.;
b) Inadequate customs border posts which encourage infiltration of counterfeits, smuggling and diversion of goods;
c) Inadequate staff capacity and training;
d) Inadequate cooperation, coordination and collaboration amongst Government agencies on customs and border management matters; and
e) Inadequate customs-to-customs regional cooperation to curb abuse of rules of origin.

vi. Tax administration

i. Only a small number of persons issued with PIN pay taxes.
ii. High number of unregistered taxpayers.
iii. Low tax morale due to inadequate tax-payer education and information;
iv. Inadequate preparedness to deal with emerging challenges;
v. Limited collaboration and information sharing between the National and County Governments on tax matters;

vii. Dispute resolution

Lack of independence of the (TAT) and out of Court or Tribunal tax dispute resolution processes. Facilitators of dispute resolution in cases to be settled out of Court or Tribunal are appointed by the Commissioner who is party to the dispute.

viii. International Taxation and Tax Treaties

There is significant presence of MNEs that derive income from Kenya and constitute a significant source of revenue for the Government. Increasing globalization has created opportunities for MNEs to engage in tax planning including arrangement of businesses to minimize global tax liabilities, often by shifting profits to low-tax jurisdictions and manipulation of tax residence status.

Most of the treaties that have been negotiated do not have provisions to address Base Erosion and Profit Shifting. Specifically, tax treaties and international taxation are faced with the following main challenges:

i. Lack of policy on avoidance of double taxation and fiscal evasion to guide negotiations between Kenya and other tax jurisdictions;
ii. Some DTAs inforce were concluded many years ago and hence not in line with the recent international best practice;
iii. Abuse of tax treaties by multinationals;
iv. Inadequate mechanism to address base erosion and profit shifting by MNEs;
v. Insufficient technical capacity on international taxation; and
vi. Emerging and evolving business models that cannot be adequately addressed by existing taxation frameworks.

Chapter Three: Policy Guidelines

This chapter provide policy guidelines to address the challenges identifies in Chapter Two. The guidelines are as follows:

3.1 Predictable Tax rates and tax bases

To provide reasonable degree of predictability on tax rates and tax bases, the Government will:

i. Undertake comprehensive review of tax laws every five years to align with other Government policies.

ii. Undertake stakeholder engagement before undertaking any amendment of the tax laws. The analysis should consider the impact of the proposed changes on tax revenue, development, investment, employment and economic growth.

3.2 Hard to tax sectors such as agriculture and informal sectors

To progressively increase tax yields from hard to tax sectors, the Government will:

i. Explore ways of enhancing taxation in the agricultural sector and the informal sector including use of presumptive tax;

ii. Roll out education programmes to farmers and informal sector groups on taxation and business including registering with respective sub-sector associations and co-operative societies;

iii. Enhance collaborations and exchange of information on taxpayers between the National Government and County Governments.

3.3 Tax incentives

The Government will:

i. Develop a criterion for granting tax incentives taking into consideration the costs and benefits of the incentives and maintain a public record of all tax expenditures;

ii. Develop and regularly review guidelines on administration of tax incentives;

iii. Regularly review tax incentives to align with the Government's development agenda;

iv. Tax incentives provided to specific sectors should have a sunset where possible; and

v. Develop and implement a centralized monitoring and evaluation framework for tax incentives.

3.4 Increase in tax compliance level

To progressively increase tax compliance levels, the Government will:

i. Continuously review the mechanism of detecting, deterring and sanctioning incidences of integrity in tax administration;

ii. Continuously upscale the use of modern information technology in tax administration services and maintain accurate taxpayer data;

iii. Regularly issue guidelines to the public to clarify any issues that may arise in the administration of tax laws;

iv. Regularly review tax administrative procedures to address gaps and emerging issues;

v. Enhance implementation and monitoring of a structured and tailor-made engagement program for stakeholders;

vi. Strengthen the mechanism of educating different segment of taxpayers on changes to the tax laws and procedures;

vii. Enhance taxation awareness in the Kenyan education system;

viii. Pursue a flexible customized approach in dealing with taxpayer's behaviour;

ix. Put in place a mechanism to penalize non-compliance and incentivize compliance;

x. Enhance the visibility of the tax administration across the country;

xi. Put in place measures that promote sharing of taxpayer information across Government Agencies and County Governments;

xii. Put in place taxpayer risk-based verification programs for detecting and deterring non-compliance;

xiii. Integrate revenue administration systems internally and externally with other third-party systems;

xiv. Enhance collaboration between the tax authority and other government agencies;

xv. Enhance multilateral exchange of information through Automatic Exchange of Information (AEOI) under Base Erosion and Profit Shifting (BEPS), among other arrangements;

xvi. Enhance public awareness on revenue collection and utilization for improved service delivery.

3.5 Taxation of Emerging Digital Economy

To progressively increase tax yields from emerging digital economy, the Government shall:

i. Leverage on technology to deal with emerging business transactions and digital or electronic platforms;

ii. Put in place mechanisms to optimize revenue collection from the digital economy;

iii. Invest in continuous training of tax administrators in emerging technologies;

iv. Continuously review tax laws to align with emerging technologies; and

v. Develop policies and strategies to facilitate sharing of information with other tax jurisdictions.

3.6 International taxation and tax treaties

To progressively address tax malpractices related to cross border transactions, the Government shall:

i. Develop rules to address base erosion and profit shifting risks;

ii. Enhance measures to detect and deter illicit trade (smuggling and counterfeiting);

iii. Enhance capacity of tax administration in dealing with cross border transactions and transfer pricing schemes;

iv. Establish partnerships with other tax jurisdictions to deal with cross border transactions;

v. Develop a policy to guide negotiation on avoidance of double taxation and fiscal evasion agreement in line with international best practice;

vi. Develop a criterion for determining potential tax treaty partners;

vii. Periodically review avoidance of double taxation and fiscal evasion agreements to align with international best practice;

viii. Engage in bilateral and multilateral initiatives with international parties in building an international consensus on developing new and innovative international taxation tools;

ix. Establish an International tax unit under KRA whose mandate shall include development of skills on international taxation and implementing various international agreements on taxation of cross border transactions, transfer pricing rules, audit MNE and monitoring of policies on international taxation; and

x. Develop appropriate infrastructure and laws to enable Automatic Exchange of Information and country-by-country reporting.

3.7 Income Tax

i. All income derived from or accrued in Kenya shall be subject to income tax unless exempted under international agreements to which Kenya is party to or is in public interest as may be determined by the Cabinet Secretary.

   Public interest for purposes of this policy, shall constitute any activity carried on by a person or entity for the benefit of protecting, promoting and benefitting citizens at large. Also, the income of such institution or person shall not be used to confer any benefit to one person or group of persons (promoters) or trustee of such an entity;

ii. Maximum tax bands for personal income tax shall be five to ensure progressivity;

iii. The top personal income tax rate should be equal to the corporate tax rate to avoid re-characterization of income;

iv. There shall be a standard rate of corporate tax and where a preferential rate is granted, it shall not be lower 50 percent of the standard rate;

v. Tax incentives may be granted in support of Government's objectives in line with the developed agenda which shall be stipulated in various policy documents;

vi. All exemptions from income tax shall be provided in the Income Tax Act;

vii. Any exemption from income tax not provided under the Income Tax Act shall be null and void;

viii. Repatriated profits for non-residents operating in Kenya through permanent establishment shall be subjected to tax at a rate equivalent to that charged to dividends paid to non-residents;

ix. There shall be taxation of gains from sale of property. The gain shall be taxed at the time of transfer of ownership of the property;

x. There shall be simplified method of taxation of income in cases of inherent difficulty in collection and tax administration on some sectors;

xi. There shall be a withholding tax on payment for some services and some income such as dividends, royalties and interests' payment;

xii. In the computation of taxable income from a business, deductions allowed shall be on expenditure wholly and exclusively used in the production of that income;

xiii. The capital deductions allowable shall not exceed 100 percent of the actual cost of the investment or asset;

xiv. Capital deductions allowable shall be spread over a number of years specified in the Act;

xv. The method of calculating the capital deductions allowable shall be the straight-line method; and

xvi. Income earned outside the ordinary business activity shall be taxed separately from the business income.

3.8 Value Added Tax

i. All goods and services consumed in Kenya shall be subject to VAT unless exempted by the VAT Act;

ii. The imposition of VAT shall be based on the destination principle;

iii. There shall be a single general rate for VAT and where a preferential rate is granted, it shall not be lower than 25 percent of the general rate;

iv. VAT exemptions shall be restricted to the following general categories and their specific items/services shall be provided in the Act:

a) projects financed by development partners only where financing agreements provide for such exemptions;

b) persons with privileges and immunities in accordance with international agreements and conventions;

c) supplies to armed security forces;

d) raw farm produce that has not undergone any processing or value addition excluding cut flowers;

e) live animals, fish and poultry;

f) medicaments;

g) financial services, educational services and social services supplied by Government or non-government organizations; and

h) goods imported by persons living with disability.

v. All VAT exemptions shall be provided within the VAT Act;

vi. VAT zero rating shall be limited to exported goods except transportation of passengers and supply of taxable services by carriers on international voyage or transportation of goods by land for destination terminating outside Kenya; and

vii. There shall be a threshold value of taxable supplies that person shall supply to qualify for registration for VAT which shall be specified in the VAT Act. The threshold shall be reviewed from time to time to align it with the international best practice.

3.9 Excise duty:

i. The imposition of Excise Duty shall be based on the destination principle;

ii. Excise duty shall be charged on goods and services:

a) to discourage consumption due to their harmful nature and negative impact to the health of consumers and the social evils that are caused by excess consumption of such goods; and

b) to achieve other Government objectives.

iii. The general categories of goods that shall be subject to excise duty include.

a) tobacco products;

b) alcoholic beverages;

c) non-alcoholic beverages;

d) fuel;

e) communication services; and

f) spirits.

The Government may from time to time review the categories subject to excise duty;

iv. The rate of excise duty shall be either ad valorem, specific or both;

v. In determining whether to impose specific or ad valorem rate of excise duty, consideration shall be made to ensure no undue advantage is conferred to any category of goods;

vi. Specific rates of excise duty shall be subject to periodic adjustments to take into account inflation;

vii. Excise duty paid on inputs used in the manufacture of excisable products shall be offset against the excise duty payable on the finished goods;

viii. Excise duty shall not apply to any of the following:

a. persons with privileges and immunities in accordance with international agreements and conventions;

b. supplies to armed security forces;

c. one motor vehicle imported or purchased locally by a person living with disability for his or her own use;

d. one motor vehicles imported by a returning resident; and

e. locally assembled motor vehicles and motorcycles.

ix. All excise duty exemptions shall be provided within the Excise Duty Act;

x. Manufacturing, importation or supply of excisable goods and services shall be undertaken by a licensed/registered person;

xi. The Government shall put in place a system to facilitate enforcement of compliance with the excise duty law.

3.10 Tax administration

i. The tax administration shall enhance registration of potential taxpayers;

ii. The revenue administration shall leverage on technology to facilitate registration and categorization of registered persons as per obligation and segmentation of sectors for ease of administration;

iii. There shall be continuous capacity development in revenue administration through training staff, acquisition of equipment and technology to deal with emerging tax issues;

iv. Review guidelines on tax refund processes with a view of making the process effective and efficient;

v. Enhance automation of tax refund process including integration of iTax and iCMS or any other tax administration systems;

vi. Adopt the *'de minimis'*[1] rules in law for tax refunds;

vii. Progressively adopt a unified system for collection of taxes, fees and levies for the National and County Governments;

viii. Enhance collaboration in revenue mobilization and information sharing between the National Government, County Governments and MDAs;

ix. Improve efficiency in revenue administration so as minimise the cost of collection while adhering to the principles of taxation;

x. Review the dispute resolution process to reduce the cost and time for disputes resolution;

xi. Provide for autonomy of the out of court process or out of Tax Appeals Tribunal process of dispute resolution by delinking the process from the KRA; and

xii. Establish a specialized tax court.

3.11 Customs administration

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[1] For this case, the minimum value for which tax refunds shall apply

i. Enhance measures to detect and deter illicit trade;

ii. Adopt an intelligence-based risk management and post-clearance audit in customs administration process.;

iii. Enhance use of modern technology in automation of customs procedures and processes;

iv. Establish a professional, knowledge-based service culture;

v. Increase the number of border posts;

vi. Pursue a policy of cooperation with neighboring countries for establishment of more one-stop border posts;

vii. Enhance customs-to-customs cooperation to ensure seamless and real-time flow of information and mutual recognition of Customs controls and trade facilitations.

Chapter Four: Implementation Framework

This chapter outlines the implementation and coordination framework and the roles and responsibilities of various actors in implementation of this Policy. The Government will ensure effective coordination of all key players and stakeholders for the attainment of the policy objectives.

Different aspects of the Policy will be implemented and used by various actors including National and County Government, Departments and Agencies. The table below specifies some of the key institutions identified in the various sectors and their specific roles.

Institution	**Roles and Responsibilities in implementation of the Policy**
The National Treasury	• Take lead in implementation of this policy. • Take lead in streamlining existing and future tax laws for coordinated implementation. • Monitor policy compliance and review the Policy every 5 years and make appropriate recommendations. • Work with the Legislature to ensure that the requisite changes to tax laws are enacted. • Submit annual report to the Cabinet on the Policy implementation. • Take lead in sensitization of stakeholders on the provisions of the Policy. • Propose establishment of a special tax court as an independent body to adjudicate in tax matters.
The Kenya Revenue Authority	• Administration of tax laws in line with the provisions of the Policy. • Ensure automation of tax administration processes to enhance administration efficiency and compliance with the Policy. • Conduct taxpayer education and awareness on tax matters. • Establish a robust system for prevention, detection, and deterrence of tax malpractices. • Liaise with bilateral and multilateral institutions on tax matters.

	• Advising Government on all matters relating to taxation. • Ensure requisite capacity for effective tax administration. • Sensitization of relevant government agencies on tax matters.
County Governments	• Comply with the tax policy and tax laws. • Enact county laws aimed at improving efficiency in own-source revenue generation and collection. • Collaboration with National Government on tax matters.
Ministries, Departments and Agencies	• Comply with the tax policy and tax laws. • Collaboration with KRA on tax matters. • Collaboration with the National Treasury on review of tax laws. • In collaboration with KRA, build capacity of staff on tax matters.
Legislature	• Enactment of tax Laws and Regulations to support the implementation of the Policy. • Provide oversight in the implementation of the Policy.
Judiciary	• Resolution of tax disputes between KRA and tax payers. • Establishment of a special tax court. • Facilitate out of court dispute resolutions.
Office of the Attorney General	• Facilitate review of tax laws. • Facilitate the approval of the tax policies. • Provide legal advice on tax matters.
Professional Bodies	• Provide tax advice to taxpayers within the jurisdiction of tax laws. • Comply with the tax policy and laws. • Act in accordance with professional code of conduct and ethics. • Sensitize their members and clients on tax policy and legislative changes. • Provide inputs in the review of tax policies and laws.

Media	• Facilitate tax education and awareness in accordance with their professional code of conduct and ethics.
Non-State Actors	• Promote tax education and awareness. • Organize and mobilize community stakeholders. • Provide inputs on the review of tax policies and laws.
Private Sector	• Promote taxpayer education. • Provide inputs on the review of tax policies and laws.
Taxpayers	• Comply with the Policy and laws. • Provide feedback on tax administration services. • Provide inputs in the review of tax policies and laws

Chapter Five: Monitoring and Evaluation

The implementation of this Policy will be tracked using set financial and non-financial indicators. Annex I provide indicators, the respective base line information and the targets by FY 2023/24. The National Treasury shall prepare an implementation matrix of the National Tax Policy. The activities will be implemented and monitored through annual work plans of the implementing agencies.

The National Treasury will track implementation of the Policy, prepare progress reports, and shall submit an annual report to the Cabinet.

The Policy will be reviewed after every 5 years or any other period as may be determined by the National Treasury.

Annex 1: Key Indicators

No.	Indicator	Base Year	Baseline	Target 2023/24
1.	Tax to GDP (%)	2020/21	14.9%	15.3%
2.	Tax Revenue to Total Exchequer Revenue	2020/21	92.5%	93.6%
3.	Tax Revenue to Government Budget	2020/21	55.%	72%
4.	KRA budget allocation on recurrent expenditure total tax revenue (%)	2020/21	1.49%	1.5%
5.	Number of Out of Court or Out of Tax Appeals Tribunal Mechanism cases	2020/21	552	
6.	Proportion of Out of Court or Out of Tax Appeals Tribunal Mechanism cases resolved out of suitable disputes	2020/21	64%	80%
7.	Revenue realized from Out of Court or Out of Tax Appeals Tribunal Mechanism	2020/21	Ksh 31.4 billion	
8.	Tax Expenditure to GDP (%)	2020	3.4%	
9.	Tax Expenditure	2020	Kshs 361.6 billion	
10.	VAT Tax Expenditure	2020	Kshs 239.8 billion	
11.	Income Tax Expenditure	2020	Kshs 102.3 billion	
12.	Excise Tax Expenditure	2020	Kshs 652 million	
13.	VAT Compliance Gap	2020/21	43%	35%
14.	Number of Active Taxpayers	2020/21	6.1 million	8.2 million
15.	Average refunds processing and payment time	2020/21	102 days	60 days
16.	Customer satisfaction index	2020/21	72.2	77

Tax Revenue Collections (Ksh million)

The exchequer revenue collection has been increasing over the past 10 years with the exception of FY 2020/21, attributed to the COVID-19 pandemic (Table A3).

Table A3: Tax Revenue Collections (Ksh Million)

Actual Collections (Kshs million)											
Tax Head	**2010/11**	**2011/12**	**2012/13**	**2013/14**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**	**2019/20**	**2020/21**
Corporate Income Tax	86,352	94,643	10,626	135,971	126,541	152,407	180,162	160,059	168,783	175,843	182,387
PAYE	143,785	175,141	211,061	252,974	358,424	386,002	443,524	470,068	525,338	510,630	624,776
VAT Domestic	103,300	93,371	101,446	123,068	143,922	174,051	206,545	219,499	244,748	228,515	217,687
VAT Imports	1,395	94,352	94,685	125,177	135,637	131,473	143,491	151,678	179,179	167,914	211,072
Import Duty	46,023	52,153	58,137	66,896	74,033	81,266	87,161	93,917	105,413	98,342	108,607
Excise Duty Imports	45,876	41,743	45,855	53,968	60,262	72,108	81,698	85,927	89,176	89,434	106,457
Excise Duty Domestic	28,573	30,878	33,260	35,855	38,246	48,986	55,499	53,011	59,509	55,721	62,405
Others	64,883	88,817	104,441	125,073	84,908	90,539	74,979	106,088	104,826	183,352	30,777
Total	**600,187**	**671,098**	**759,511**	**918,982**	**1,021,974**	**1,136,833**	**1,273,060**	**1,340,248**	**1,476,972**	**1,509,751**	**1,544,168**
Share of Exchequer Revenue (%)											
Corporate Income Tax	14.4	14.1	14.6	14.8	12.4	13.4	14.2	11.9	11.4	11.6	11.8
PAYE	24.0	26.1	27.8	27.5	35.1	34.0	34.8	35.1	35.6	33.8	40.5
VAT Domestic	17.2	13.9	13.4	13.4	14.1	15.3	16.2	16.4	16.6	15.1	14.1
VAT Imports	13.6	14.1	12.5	13.6	13.3	11.6	11.3	11.3	12.1	11.1	13.7
Import Duty	7.7	7.8	7.7	7.3	7.2	7.1	6.8	7.0	7.1	6.5	7.0
Excise Duty Imports	7.6	6.2	6.0	5.9	5.9	6.3	6.4	6.4	6.0	5.9	6.9

Excise Duty Domestic	4.8	4.6	4.4	3.9	3.7	4.3	4.4	4.0	4.0	3.7	4.0
Others	10.8	13.2	13.8	13.6	8.3	8.0	5.9	7.9	7.1	12.1	2.0
Growth (%)											
Corporate Income Tax	27.6	9.6	16.9	22.9	-6.9	20.4	18.2	-11.2	5.5	4.2	3.7
PAYE	19.2	21.8	20.5	19.9	41.7	7.7	14.9	6.0	11.8	-2.8	22.4
VAT Domestic	12.0	-9.6	8.6	21.3	16.9	20.9	18.7	6.3	11.5	-6.6	-4.7
VAT Imports	29.3	15.9	0.4	32.2	8.4	-3.1	9.1	5.7	18.1	-6.3	25.7
Import Duty	11.1	13.3	11.5	15.1	10.7	9.8	7.3	7.8	12.2	-6.7	10.4
Excise Duty Imports	1.6	-9.0	9.9	17.7	11.7	19.7	13.3	5.2	3.8	0.3	19.0
Excise Duty Domestic	20.3	8.1	7.7	7.8	6.7	28.1	13.3	-4.5	12.3	-6.4	12.0
Others	37.4	36.9	17.6	19.8	-32.1	6.6	-17.2	41.5	-1.2	74.9	-83.2

Source: KRA Revenue Data

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