ATCR **ISSN** (online) 2664-9535 (print) 2664-9527 https://atcr.kra.go.ke

Increasing Tax Base in Kenya: Challenges and Mitigation

Stephen Larzen Juma[1] Peter Magero[2], Aineah Makanga[2], Robinson Aondo[2]

[1] World Literacy Foundation
[2] Kenya Revenue Authority

E-mail: sjuma271@gmail.com

Received 27 July 2019
Accepted for publication 27 November 2019
Published 01 May 2020

Abstract

Kenyan government has delegated the mandate of collecting revenue to the Kenya Revenue Authority (KRA). The government depends on this revenue to fund its projects and provide invaluable services to its citizens. Every fiscal year, the Ministry of Finance through treasury projects the estimated amount of revenue they expect KRA to collect to supplements its budget. However, each year KRA tax revenue collection has fallen short of the expectations. There is a growing concern about the gap between the number of eligible taxpayers and the actual tax-paying population in Kenya. The (KRA) data indicates that the number of taxpayers who filed the annual income tax returns by June 2019 was about 3.6 million. With a population size of over 47 million Kenyans, representing 7.6 percent of the total population. This research seeks to answer the questions: Why does KRA revenue collection fall short of the projected target? and How can KRA effectively expand its tax base? KRA reports and data, News articles, journals, critical essays, books/book chapters, and newspaper reports were examined to answer the questions. This Research Paper concludes that KRA has been missing out on its targets because of a small tax base, deliberate and abetted tax evasion schemes, and ineffective revenue collection strategies. The Kenya Revenue Authority needs to enhance its taxpayer education program to sensitize Kenyans on their tax compliance obligations and collaborate with other agencies to eliminate tax evasion in Kenya.

Keywords: Kenya Revenue Authority; Tax Base Expansion

1. Introduction

Kenya has governments at the local and national levels. These governments have projects and workers. Taxes fund various projects at all levels and pay workers' salaries. Paying taxes is both a civic duty and a requirement of Kenyan Law. The Income Tax Act is the most important tax used in Kenya. The Act mandates the employer to make sure that the taxes are deducted at source, that employees pay taxes and that they have a personal identification number (PIN) with the KRA. A penalty of $ 22 is imposed on every payment made to an employee who does not have a PIN. Article 209 of the Constitution of Kenya 2010 outlines powers to impose taxes or raise revenue for both the national government and the county government. It's the sole responsibility of the national government to impose an income tax, value-added tax, customs duties, and excise taxes, (Mutua, 2011).

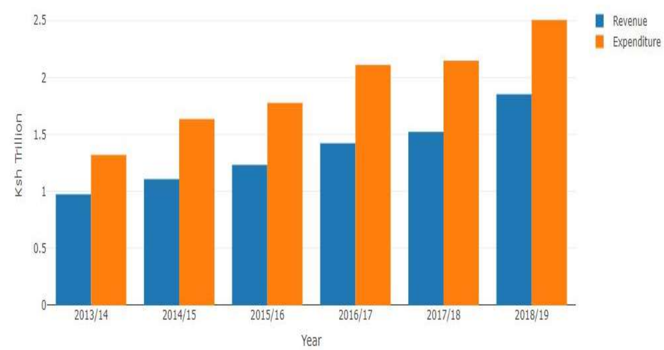
The government must avail services to its citizens, including education, health care, water, security, roads, and social security, etc. Taxes are vital in ensuring that governments can fund these services. Taxes are compulsory payments that do not necessarily bear any relationship to the benefits of government goods and services received (Hyman, 1990). According to Marina et al. (2002) "taxation is the only known practical manner for collecting resources to finance public expenditure for goods and services consumed by any citizenry." Governments also get revenue from other sources apart from collecting taxes such as user-fees and licenses charged for services rendered by ministries, departments, and agencies, as well as income from the sale of government assets and privatization. Donor funds from developed countries have also been used as external revenue to fund projects in developing countries. (Barnett and Grown, 2004). Every country has a taxation system with the objectives to raise revenue to be used to fund government operations, to assist in the redistribution of wealth and income, and for regulation purposes, to encourage or discourage certain activities such as smoking, (Mutua, 2011).

The Kenya Revenue Authority (KRA) is a public parastatal established by an Act of Parliament, Chapter 469 of the laws of Kenya, which became effective on 1st July 1995. KRA is charged with collecting revenue on behalf of the government of Kenya. The core functions of the Authority are: To assess, collect and account for all revenues under the written laws and the specified provisions of the written laws. 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. To perform such other functions concerning revenue as the Minister may direct, (kra.go.ke).

In July 2019, the Business Daily reported that the total tax collections in the 2018/2019 financial year ending in June increased by Sh100.1 billion to Sh1.44 trillion but fell short by Ksh 72.7 billion on the treasury projected target. KRA recorded a 7.47 percent growth compared to Sh1.34 trillion collected in the fiscal year 2017/2018. Treasury had set a target of Sh1.5 trillion which was a second revision from the previous target of Sh1.61 trillion and the original target of Ksh 1.69 set in 2018. Treasury walked back on its targets due to unforeseen circumstances caused by economic growth projections, parliamentary amendments and court rulings that disrupted tax collections. (Business daily, 2019).

The Business daily further revealed that missing revenue targets has been the trend at KRA for the past four fiscal years under the Leadership of Mr. Njiraini who accumulated losses in Ksh 261 billion before he existed office in June 2019. In the fiscal year 2017-2018, he missed targets by Sh95.2 billion, KSh64.5 billion in 2017-2016, and Sh28.6 billion in the 2015-16 fiscal year. Mr. Njiraini alluded the shortcomings to a slowdown in income tax receipts on the back of reduced corporate earnings that hit the creation of new jobs and the prolonged 2017 elections that affected many businesses.

Figure 1: Trends in Budget Deficit for the past six fiscal years.



Source: Quarterly Economic & Budgetary Review, 2nd Quarter, 2018-2019 ending 31st December 2018

Shortfalls in revenue collection have led to a budget deficit and influenced borrowing to meet the government's recurrent and development spending on infrastructure projects. According to a New York-based credit rating agency, Fitch Ratings, weak growth in revenue, largely tax receipts, presented the biggest challenge to the Kenyan budget. The problem arises from agriculture being a large component of the economy and most of the non-export agricultural output coming from un-taxed smallholders, weak tax compliance, expansion of tax exemptions, low level of economic activities, accumulated pending bills, and reduced access to credit for compounding cash flow challenges. (Business daily, 2019).

KRA has intensified the effort to recover lost revenue by ferociously pursuing those who have been evading taxes through means such as failing to fully disclose their income, misstatement of expenses to reduce the taxable income, underpaying import taxes through concealment of goods, false declarations or undervaluation, employers failing to withhold and remit taxes as required by law among other practices. It was also noted that company directors are either irresponsible or accomplices in the tax evasion schemes for their companies. When asked about tax non-compliance, some taxpayers were quick to blame the difficult system of filing for tax returns or paying taxes. Long queues are witnessed on the last day of filing for tax returns everywhere in Kenya. The taxpayers expressed frustration when it comes to dealing with KRA staff or systems and they hoped that the process could be simplified. Even though KRA revenue collection falls short of its target, some of the KRA staff have been abetting tax evasions and poorly managing customs and borders thereby contributing significantly to tax leakages. Insufficient data on the taxpayer's information makes it difficult to manage tax revenue collection and it emerged that the treasury might have been overestimating its projected revenue targets because its data contains more people who are unable to pay tax or are making losses in business. (Wasuna, 2018). Each of these factors has a significant contribution to KRA failing to meet revenue targets collection in a fiscal year and ballooning national public debts due to budget deficits.

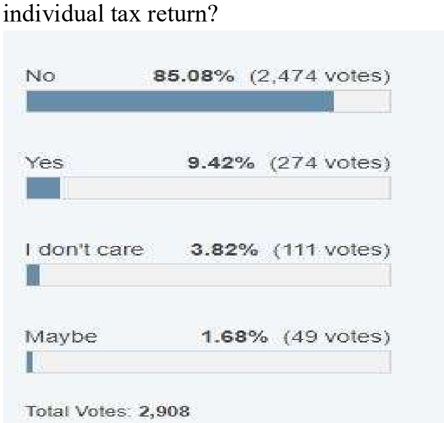
According to Nairobi Reuters, Kenya's government revenues grew 11 percent to 1.58 trillion shillings during the 2018/19 up from 1.435 trillion shillings in 2017/2018, but it still fell below the targeted 1.643 billion shillings. Several factors have interfered with Kenya's steady economic growth like the government struggling to raise tax revenues to fund its budget, missed revenue targets and rising public debt. Data from the Kenya National Bureau of Statistics revealed that Kenya's economy grew 5.6% year-on-year in the first quarter from 6.5% in the same quarter last year. The government forecasts that the economy will expand by 6.3% in 2019, the same rate as in 2018. In the fiscal year 2019/2020, KRA is required to collect 1.938 trillion shillings. In 2019, the finance ministry set a budget deficit of 5.6% of GDP for the 2019/20 fiscal year, targeting to borrow 324 billion shillings from external sources, (Reuters, 2019).

In 2017, the Kenyan government started to push everyone with KRA pin to file for tax returns including nil returns by students to clean the database. A penalty was instituted for anyone who fails to comply with the tax procedures and an accrued cost of up to KSh20,000 on late filing, (Ngina, 2018). This action was deemed right after KRA claimed to have made enough publicity to create awareness for the taxpayers. According to a KRA representative "Late filing of tax returns attracts a penalty of 5% of the tax due or Ksh 20,000 whichever is higher. Late payments of taxes lead to a penalty of 20% of the outstanding tax." When Kenyans through an online poll were asked whether KRA had done enough to create awareness on filing individual tax returns?

Of the total number of 2,908 participants who voted online, 2,474 voted no to the assertion that KRA had created enough public awareness on individual tax returns, 274 voted yes, 111 voters said they didn't care whether KRA created awareness or not, while only were not sure about the publicity.

Figure 2: Online poll results concerning tax awareness.

Has KRA done enough to create awareness on filing an individual tax return?



Source: Crowdsignal online poll.

Also, KRA started to clean the database by deleting inactive PINs to only have active and performing taxpayers. The decision was informed by the fact that there were 10.6 million Kenyans with PINs in the KRA database, but 5.8 million taxpayers were registered on the iTax platform and only 3.94 million Kenyans paid taxes. According to KRA, More than 4.8 million Kenyans risked having their identification numbers (PINs) deactivated over failure to migrate to the iTax platform. The taxpayers whose accounts will be deactivated will not be able to receive services such as eCitizen and NSSF since iTax is linked to the system, (Wanzala, 2017). In compliance with the Tax Procedure Act, 2015, all taxpayers needed to use the iTax platform for PIN registration, filing of returns, payment, and access to other tax-related services.

Tax legislation reforms and streamlining tax procedures have been identified as key factors in expanding tax revenue collection and fostering tax compliance. In a move to mitigate tax evasion, KRA has been raiding both local and foreign companies with the help of the new technology and stringent collection targets set by the National Treasury. KRA has filed legal claims against several large taxpayers seeking to recover over Sh20 billion in unpaid taxes with major cases involving foreign firms. An Indian businessman Parmar Ranchodbhai was charged with evading more than Sh11 billion in income and value-added tax (VAT) in one of the largest claims in KRA's history. Mr. Ranchodbhai was accused of allegedly failing to declare Sh3.4 billion in VAT between 2015 and another Sh8 billion in VAT for 2016. Kevalkumar Navin Maisura and Arti Jagdiesh Bakrania were also accused of registering more than nine business names and making fictitious invoicing in excess of Sh15 billion. A Chinese firm Housemart Company was also accused of evading tax through under-declaring more than Sh3.2 billion in sales, translating to Sh517 million in VAT arrears, (Sunday, 2018).

In an endeavor to expand the tax base, KRA proposed to double the 3.94 million taxpayers to 7 million by bringing more taxpayers onboard and controlling loopholes through which tax revenue is lost. This effort is expected to enable KRA to achieve the 1.938 trillion shillings target for the 2019/2020 financial year.

1.2 The rationale for institutions and regulations

Subsequent failure to meet revenue targets, increasing budget deficit and the bloating Public debt set Kenya's economic growth on a perilous trajectory. It is therefore important that necessary measures be undertaken to raise enough revenue to close the budget deficit. The most viable tool to mitigate this problem is by broadening the tax net. Since the current tax system is not generating enough revenue to sustain the national budget, it is time to make changes that would increase the tax base and create incentives for tax compliance.

1.3 Problem Statement

Kenya census 2019 data revealed that the population stands at 47.6 million. According to the recent data from the Independent Electoral and Boundaries Commission IEBC more than 19 million Kenyans were registered as voters for the 8th August 2017 general election. If all registered voters were taxpayers then it's expected that at least 19 million individual Kenyans would file their annual tax returns, however, there are about 10.6 million Kenyans with PINs in the KRA database, but 5.8 million taxpayers are registered on the iTax platform and only 3.6 million Kenyans filed the annual income tax returns by June 2019 (Khalif, 2019). This low turnout is a clear indication that there is a problem with tax compliance in Kenya that has led to shortfalls in revenue targets. The Nairobi Reuters establishes that although the revenue collections grew to 1.58 trillion shillings during the 2018/2019 fiscal year up from 1.435 trillion shillings in 2017/2018, it still fell below the 1.643 billion targets for 2018/19. The Business daily further revealed that missing revenue targets has been the trend at KRA for the past four fiscal years. About 85 percent of Kenyans do not pay taxes for various reasons, (Taxkenya.com, 2017). Kenya's National Government Debt reached 57.1 USD bn in Jun 2019 and the country's Nominal GDP reached 24.8 USD bn. In 2019, the finance ministry set a budget deficit of 5.6% of GDP for the 2019/20 fiscal year, targeting to borrow 324 billion shillings from external sources, (Reuters, 2019). Anyone permanent or non-permanent resident residing in Kenyan, aged 18 years and above and engaged in any gainful economic venture is eligible to pay some form of tax under the Kenyan tax law. The number of Kenyans who pay taxes represents only a small portion of the potential taxpayers. This disturbing trend can only point to one thing; a small portion of the Kenyan population is burdened with driving the economy and their contribution is not sufficient to fund the national budget. There is a need to expand the tax base to meet Kenya's revenue target.

1.4 Objectives of the Study

To Identify why the Kenya revenue authority has been falling short of the revenue targets
To establish what should be done to cut the problem of revenue deficit
To establish the ways of increasing the tax base in Kenya
To point out policy recommendations that would mitigate the challenges of tax revenue deficit

1.5 Relevance of the Study

First, the study will provide policy recommendations to the Kenya Revenue Authority and the government of Kenya on the available options to mitigate the challenges of increasing the tax base to cut back on the perpetual budget deficits. The policy recommendations would significantly contribute to future planning to ensure that the KRA can achieve its set revenue collection targets. Secondly, the study will inform the agencies involved in revenue collection about various ways in which revenue is lost or missed and how the problem could be addressed to enhance efficiency in revenue collection. Finally, it will offer various suggestions for increasing the tax base in Kenya and the reasons why those are the preferred choices. This study lays a foundation for future research and will benefit policymakers, future researchers, scholars, and academicians who are interested in a similar phenomenon of study or related subjects.

2. Literature Review

2.1 Theoretical Literature Review

According to Irwin Law, the Tax base is the amount on which a tax rate is applied. For instance, in the case of personal or corporate income tax, the tax base is taxable income and in the case of sales taxes, the tax base is the value of items that are subject to tax. Broadening the tax base means including a wider range of goods, services, and income that are subject to tax. (Irwin Law, 2009)

The Kenya Revenue Authority's (KRA) effort to inform Kenyans on both electronic and print media to file their tax returns always fall on deaf ears as long queues are witnessed on the last day of the exercise. In the end, only 3.2 Kenyans filed their tax returns in 2019 which is a fraction of the expected 8.1 million taxpayers with KRA pins, (Khalif, 2019). This low turnout is a clear indication that there is a problem with tax compliance in Kenya which is detrimental to the revenue collection agency. Tax non-compliance is the failure to comply with tax laws. This could be through reporting incorrect income, claiming incorrect deductions, relief and rebates and or paying the incorrect amount of tax, (Mohd et al, .2011). Tax non-compliance is also perceived as the failure of a taxpayer to report (correctly) the actual income, claim deductions and rebates and remit the actual amount of tax payable to the tax authority on time (Kirchler, 2007). Self-employment and income sources not subject to withholding taxes present greater tax non-compliance opportunities.

A study by two professors on the factors that determine citizens' tax-compliance attitude in Kenya, Tanzania, Uganda and South Africa using the 2011/12 Afro barometer survey data found out that tax compliance attitude corresponded positively with the provision of public services in all the four countries. The correlation also depended on the services being provided and was significantly different in each country, (Fjeldstad, O.-H., & Sjursen, I.,2014). Persons fail to comply with tax laws either willingly or unwillingly. These are tax resisters and tax protesters. Tax protesters attempt to evade the payment of taxes using alternative interpretations of the tax law, while tax resisters refuse to pay a tax for honest reasons, (Webley, 2004). Fundamentally taxation is meant to raise revenue and therefore the tax system should be effective and efficient. Policies aimed at streamlining the tax system should encourage tax compliance within the law, (James and Alley, 2004). Legislations are significant in ensuring tax compliance, but the cost of enforcing the legislation could pose compliance and administrative challenges, (Williams and Round, 2009)

2.2 Empirical Literature Review

Existing Empirical evidence suggests that in developing countries there is low compliance with tax laws. There is also a strong correlation between prosperity and tax compliance. Developed countries as said to collect about 33 percent of their GDP in taxes while low-income economies collect only 12 percent. The difference in the collection of taxes between poor and rich economies is based on three interrelated factors. The taxes are termed unfair, burdensome, and non-transparent. (Morisset, & Cunningham, 2016).

In a working paper titled; Do tax structures affect aggregate economic growth? Jens Arnold looks at the relationship between tax structures and economic growth by entering indicators of the tax structure into a set of panel growth regressions for 21 OECD countries. The results of the analysis suggest that income taxes are generally associated with lower economic growth than taxes on consumption and property. Corporate income taxes appear to have the most negative effect on GDP per capita. We learn from the findings that revenue-neutral growth-oriented tax reform would be to shift part of the revenue base towards recurrent property and consumption taxes and away from income taxes, especially corporate taxes. There is also evidence of a negative relationship between the progressivity of personal income taxes and growth. (Arnold,2008)

2.3 Overview of Literature

According to Marina et al. (2002) "taxation is the only known practical manner for collecting resources to finance public expenditure for goods and services consumed by any citizenry." Article 209 of the Constitution of Kenya 2010 outlines powers to impose taxes or raise revenue for both the national government and the county government. It's the sole responsibility of the national government to impose an income tax, value-added tax, customs duties, and excise taxes, (Mutua, 2011). The Nairobi Reuters establishes that Kenya's government made a progress in revenue collection but still failed to hit the target in the 2018/19 fiscal year. Although the revenue collections grew to 1.58 trillion shillings during the fiscal year up from 1.435 trillion shillings in 2017/2018, it still fell below the targeted 1.643 billion shillings for 2018/19, (Reuters, 2019). Shortfalls could be possible because the treasury might have been overestimating its projected revenue targets. After all, its data contains more people who are unable to pay taxes or are making losses in business. (Wasuna, 2018).

The Business Daily reported that KRA increased its tax base with an additional 1.11 million active taxpayers in the year ended June 2019 increasing the total number of taxpayers in Kenya to 5.05 million, (Munda, 2019). The agriculture sector is the largest component of the economy and most of the non-export agricultural output comes from un-taxed smallholders, weak tax compliance, expansion of tax exemptions, low level of economic activities accumulated pending bills, and reduced access to credit for compounding cash flow challenges are reasons for not attaining revenue targets, (Business daily, 2019). A lot of energy is dedicated to increasing tax compliance including a penalty being instituted for anyone who fails to comply with the tax procedures and an accrued cost of up to KSh20,000 on late filing of tax returns, (Ngina, 2018). Tax legislation reforms and streamlining tax procedures have been identified as key factors in expanding tax revenue collection and fostering tax compliance. In a move to mitigate tax evasion, KRA has been raiding both local and foreign companies with the help of the new technology and stringent collection targets set by the National Treasury. KRA has filed legal claims against several large taxpayers seeking to recover over Sh20 billion in unpaid taxes. (Sunday, 2018).

There have been efforts to reform tax legislation to increase efficiency. The Principal objectives of the legislation are to simplify and consolidate tax administration for the government and the taxpayer, broadening the tax base to net in more taxpayers, and preventing tax avoidance schemes which lack commercial substance. (Oraro & Onchwari, 2018). Through the Finance Bill, 2019, Treasury proposed the Income Tax Act amended by introducing a new provision that lists income accruing through a digital marketplace as taxable income, (Kenya Finance Act, 2019). A Senior Digital Development Specialist at the World Bank Group discouraged this approach claiming that while getting taxes from the digital business is expected to expand the tax base, the tax collection from this venture would not be easy for the Kenya Revenue Authority (KRA). KRA also partnered with the Directorate of Criminal Investigations (DCI) and Kenya to crack down on tax evaders in the country, (Aligula, 2019). Kenya, also, signed a pact to the Convention on Mutual Administrative Assistance in Tax Matters CMAATM on 8th February 2016. Kenya became the 12th African country to sign it and the 94th internationally. The Convention includes Income tax, capital gains tax, VAT and excises taxes. (Onchwari, 2018). According to a study on tax evasion and tax avoidance in developing countries published by GIZ in 2010. The reasons for low tax compliance include morale, tax rate and low level of accountability and transparency. The governments should provide quality services, impose reasonable tax rates to bring more people into the tax net, uproot corruption within the tax system and uphold transparency and accountability, (Khalif, 2017).

3. Methodology

This chapter outlines the general methodology used to conduct the study. This research which derives heavily from previous research studies and archived records adopted a Content Analysis approach. Content analysis is defined as "the systematic reading of a body of texts, images, and symbolic matter, not necessarily from an author's or user's perspective" (Krippendorff, 2004). This approach is distinct from other kinds of social science research because it does not require the collection of data from people. The content analysis approach focuses on the study of recorded information or secondary sources. I also used a comparative approach with a secondary data presentation.

3.1 Expert Opinion

Kenya's tax revenue collection is not in correspondence with the GDP growth. This concern was raised by the World Bank after assessing Kenya's tax buoyancy, where a tax system has an elasticity concerning growth in nominal GDP of at least one. The buoyancy of Kenya's main tax categories; income tax and VAT, were found to be weak according to the 2018 World Bank Kenya Economic Update. (Okoth, 2017). The report suggested that Kenya's tax revenue collection needed structural reforms because the current system was inefficient. However, the KPMG's Associate Director for Tax and Regulatory Services Robert Waruiru argued that the biggest GDP growth driver in Kenya is by government spending on infrastructure which has no impact on growth in tax revenues. Also, agriculture has a significant contribution to GDP, but the majority of the people employed by this sector do not significantly contribute to tax revenue. These factors present structural hurdles to tax mobilization. Mr. Waruiru observed that the Finance Act of 2018 with its focus on widening the taxman's streams through indirect taxes marks a step in the right direction as far as addressing this situation is concerned. However, the International Monetary Fund praised the Kenya Revenue Authority for its innovations to boost tax collection in the beverage sector. IMF said KRA's Excisable Goods Management System (EGMS) had improved revenue collection from a sector plagued by counterfeits and evasions. According to the IMF report, receipts of domestic VAT and excise revenues were particularly high, reflecting improvements in revenue administration from i-Tax and EGMS, new excise tax measures, and re-introduction of VAT withholding. Data from the KRA shows that excise revenue grew by 28 percent in 2015-16 compared with the previous period, while domestic excise revenue from products controlled under the EGMS system jumped 43 percent. (Okoth, 2018).

3.2 Comparative Case Studies

According to The EastAfrican newspaper, there has been growing concern in Kenya about debt sustainability. In Kenya, public debt stands at around $50 billion. The worry emanated from the fact that the Kenyan government intended to borrow $5.9 billion from international and domestic markets to fill the budget gap during the 2019/20 financial year, (Asiimwe & Muchira, 2019). Kenya's budget deficit has dropped to 5.6 percent of GDP from FY 2019/2020 6.8 percent for FY 2018/2019 and 7.4 percent in FY 2017/18, but almost 60 percent of revenue is used on servicing debts. The Transparency International Corruption Perception Index 2018 ranked Kenya at position 144 out of 180 countries. Kenya's finance minister in the FY 2018/19, allocated $61.3 million to agencies charged with the fight against corruption because fighting corruption is deemed invaluable in fostering judicious finance management.

The same trend is experienced in Rwanda where the government has been borrowing heavily to fund its economic expansion scheme. The new budget is 11 percent more than the $2.7 billion for the 2018/19 fiscal year. The IMF analysis puts Rwanda at a low debt-risk economy standing at 32.9 percent of GDP against a threshold of 50 percent.

In Tanzania, The finance minister presented a budget of Tsh33.1 trillion ($14.3 billion) budget which was an increase from the previous Tsh32.48 trillion in FY 2018/2019. It is reported that in East Africa, only Tanzania intends to keep the fiscal deficit below 3 percent since President Magufuli has been routing for independence from overreliance on donors. It's also projected that the national debt would rise by Tsh3.4 trillion ($1.48 million) in the coming FY 2019/2020. Tanzania spends 24 percent of the budget ($3.4 billion) on servicing debts, (Asiimwe & Muchira, 2019). Magufuli launched a crackdown on graft and tax evasion when he took office in 2015 and has sacked dozens of senior public officials. President John Magufuli vowed on Thursday to toughen up a crackdown on tax evasion by big businesses including mining companies in a move to increase domestic revenues collection. Magufuli ordered the courts to enforce payment of tax claims worth more than 7.5 trillion Tanzanian shillings from big firms. Magufuli asked Tanzania's judiciary to help stem corruption in the country.

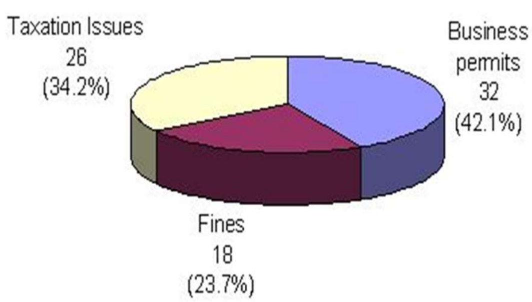
In Burundi, the budget for FY 2019/2020 had a 7.2 percent increase from the 2018/19 budget of $676 million, to $725 million. The government has a plan to fund at least 88 percent of the budget from aggressive tax collection. Burundi suffers from a high budget deficit which is exacerbated by suspended foreign aid. A Ugandan economist Fred Muhumuza predicted that big fiscal deficits are likely to reduce productivity in the private sector, increase unemployment, reduce exports and cause high import bills. While Patrick Ocailap, Deputy Secretary at Uganda's Treasury, hinted that reducing the fiscal deficit in time for the East African Community EAC Monetary Union timelines was difficult because most of the EAC member states are locked in fiscal deficits. (Asiimwe & Muchira., 2019)

4. Institutional and Regulatory Environment in Kenya

According to Dataapex.com, a regulated environment is any controlled environment. Rules state which conditions must be met by a company to produce valid results or goods of a guaranteed level of quality. Compliance with any regulated environment means following the stipulated rules to the later. The rules may be either formulated by a company, government agencies, and institutions or regulatory bodies and other groups with an interest in ensuring compliance. When a company is to produce results or goods for the public which are going to be generally credible or of guaranteed quality, it should abide by the rules set on such processes by the given country's authorities, (Dataapex.com).

Among the developing countries, Kenya has been termed as one where there is a poor legal and regulatory environment that impedes both the growth of Small and Medium Enterprises (SMEs) and macro enterprises. (Wanjohi, 2014). According to a study, Anthony Wanjohi on the challenges facing Small and Medium Enterprises in Nairobi, 84.2 percent of the entrepreneurs said that unfriendly legal and regulatory environment was the most pressing challenge that faced entrepreneurs operating within Nairobi Central Business District (NCBD). Taxation, permits, and fines constitute the hurdles for the entrepreneurs as shown below.

Figure 3: Legal and environmental issues affecting businesses in NCBD



Source: (Wanjohi, 2014).

Business permits emerged as the main challenge facing businessmen and women. According to the respondents, the process of applying for the business permit is cumbersome. The city council does not also provide services that match the required permit/license fee. The city council officials are perceived as corrupt and ruthless to business. Business licensing is an issue for many Kenyan MSEs because of the lengthy formal registration requirement and costs of operations. According to Wanjohi, an unfriendly regulatory environment discourages potential investors and denies the government a source of revenue, (Wanjohi, 2009).

A publication by the World Economic Forum provided some insights into the barrier's businesses have to grapple with. The report revealed that it was difficult to do business in Kenya because of factors such as corruption, depressing tax rates, limited access to financing, inefficient government bureaucracy, etc., (Kenyan WallStreet, 2017). The government in its effort to expand the tax base should also endeavor to create a favorable regulatory environment that will encourage both foreign investors and local entrepreneurs whose business would generate taxable items for the increased tax base.

4.2 Institutional and Regulatory Framework in Wholesale and Retail Trade in Kenya

Wholesale trade involves selling goods to the retailers, industries and other businesses in bulk, at a low price. On the other hand, retail means selling goods in small quantities to the final customer for consumption and not for resale. Retailers purchase goods from wholesalers in bulk, repackage and resell them to the ultimate consumer in small quantities. Normally, the prices of goods at the retail level are relatively high because of other associated costs as the advertisement cost, the rent of premises, and salary to the workers, but the profit margin is high. Wholesale and retail trade forms the basis of marketing channels in trade. (Surbhi, 2018)

The contribution of the Wholesale and Retail Trade to Kenya's' GDP was reported at 170,734.000 KES in Jun 2019, a growth from the previous number of 156,764.000 KES for March 2019. The average contribution from Mar 2009 to Jun 2019 was 106,305.500 KES. The highest score was 190,056.000 KES in Sep 2018 and the lowest recorded data was 45,580.000 KES in Mar 2009, (CEIC, 2019).

According to Global tax alert, Kenya's Finance Act, 2018 assented into law by President Uhuru on 21 September 2018 was meant to provide clear regulations on all procedural aspects and provisions relating to income tax, value-added tax, and excise duty, among other changes. There were revisions to existing provisions in the different tax laws. The Act also modernizes other provisions provided for by the Finance Bill, 2018. (Global tax alert, 2018).

In modernizing and simplifying tax procedures, the Government's objective is to expand its tax base through taxation. The Act expanded the definition of dividends to include any amount paid by a company on behalf of its shareholder or a person related to the shareholder. Such payments deemed as distribution would include a debt owed by the shareholder or its related person that is settled by the company. Transfer pricing adjustments that result in additional income/reduced losses will also be deemed to be dividends. The Act proposed to maintain compensating tax which is payable on the distribution of dividends from untaxed income, the applicable rate has been reduced from the punitive 43% to 30%, to be in line with the current corporation tax rate for resident companies. A presumptive tax was introduced on resident persons with an annual turnover that is below KES5m. The tax will be payable at 15% for the amount payable for a business permit or trade license, (Global tax alert, 2018).

In a bid to reduce the cost of manufacturing in Kenya, the Act has provided that manufacturers will be allowed to claim an additional 30% of their electricity expense in addition to the normal allowance for electricity expense. The Act also introduced the withholding tax rates of 20% and 5% for the demurrage charges and insurance premiums respectively. Under the Personal, all employers and employees will each be required to contribute 1.5% of the employee's gross monthly earnings subject to a maximum limit of KES5k to the NHDF. The VAT Act, 2013 has modified how VAT is levied on mobile cellular transactions from using a tax base of the value of supply exclusive of excise taxes to now include excise duties as part of the taxable value for purposes of applying the standard rate of 16%. The Act changed the tax status of garments and leather footwear manufactured in an Export Processing Zone at the point of importation from exempt to a standard 16% rate. Most agricultural products and services on asset transfers and other transactions related to the transfer of assets were exempted. Food and medicaments were considered zero-rated products. (Global tax alert, 2018).

KRA was mandated to suspend an excise license without notice in certain circumstances comprising tax fraud, using counterfeit stamps, possession of goods affixed with counterfeit stamps or violation of regulations relating to sanitary and phytosanitary standards. The Act increased the penalty for offenses relating to operation or importation of goods requiring an excise stamp without an excise license to a minimum of KES5m. It has also provided that such goods may be forfeited to the Commissioner. (Global tax alert, 2018).

An amendment to section 10 of the Excise Duty Act, 2015 led to increases in the excise duty rate on illuminating kerosene from KES7,205 to KES10,305 per 1,000 liters, 30% on motor vehicles of tariff 8703.24.90 and 8703.33.90, imposed excise duty on telephone and internet data services at a rate of 15% up from 10% rate charged on mobile cellular services, 20% excise duty rate on fees charged on money transfer services by banks and other fees charged by financial institutions, duty on fees charged on money transfer services by cellular mobile phone service providers to 12% up from 10%. and excise duty on sugar confectionery and chocolate products of tariff heading 1704 and tariffs 1806.31.00, 1806.32.00 and 1806.90.00 at a rate of KES20 per kilogram. The Financial Act 2018 introduced an exemption from the railway development levy (RDL) and import declaration fee (IDF) on goods imported for implementation of projects operating in arrangement with the government, (Global tax alert, 2018).

4.3 Comparative Analysis of Regulatory Business Environment in Kenya

In 2019, the World Bank Group released the Doing Business 2019 Report, which assesses the regulations that foster a successful business activity in a certain country and those that inhibit business. The report examines survey results across 190 countries. The report covers regulations affecting 11 areas of the life of a business which include: starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts, resolving insolvency, and labor market regulation, (Cytonn, 2019).

Figure 4: The following was reported about Kenya when it comes to tax procedures.

Paying Taxes		
	2018	**2019**
Paying Taxes (rank)	**92**	**91**
Score for Paying Taxes (0-100)	**72**	**72**
Payments (number per year)	26	25
Time (hours per year)	186	180
Total tax and contribution rate (% of the profit)	37	37
Post filing index (0-100)	62	62

Source: World Bank Doing Business Report 2019.

The report showed that Kenya's ranked at position 91 in 2019 up from position 92 in 2018 72 points in both years. There was no change in the score the World Bank admitted that reforming the tax system in Kenya through merging of all permits into a single unified business permit and by simplifying the value-added tax schedule on the KRA iTax platform was a step towards the right direction.

In Trading Across Borders, Kenya's rank dropped to position 112 from position 106 in 2018 and the score remained 68 points. The report opined that the performance in this metric could be improved through efficiency measures such as automation of customs procedures and the establishment of proper controls to prevent corruption by custom officials.

Figure 5: Trading Across Borders:

Trading Across Borders		
	2018	**2019**
Trading Across Borders (rank)	**106**	**112**
Score for Trading Across Borders (0-100)	**68**	**68**
Time to export		
Documentary compliance (hours)	19	19
Border compliance (hours)	21	16
Cost to export		
Documentary compliance (USD)	191	191
Border compliance (USD)	143	143
Time to import		
Documentary compliance (hours)	60	60
Border compliance (hours)	180	180
Cost to import		
Documentary compliance (USD)	115	115
Border compliance (USD)	833	833

The report also outlined the reforms that have been undertaken by other countries in Sub-Saharan Africa.

Uganda fully implemented the Centralized Document Processing Centre, an electronic processing platform that centralizes all documentary checks. This allows traders in Uganda to use the Uganda Electronic Single Window, which permits for electronic submission of documents as well as for the exchange of information between trade agencies. Rwanda reduced border compliance time to 83 hours from 97 hours by having staff from the Rwanda Revenue Authority and the Tanzania Revenue Authority at the Rusomo one-stop border post, through the implementation of the Single Customs Territory. Mauritius made exporting easier by introducing a risk-based management system which reduced border compliance time by 14 hours. As a result of enhancing customs administration and inspections for exports and imports. (Cytonn, 2019).

5. Increasing the Tax Base in Kenya

5.1 Taxpayers Registration Drive.

To increase the tax base, KRA needs numbers. According to the Business Daily, KRA increased its tax base with an additional 1.11 million active taxpayers in the year ended June 2019. This raised the total number of taxpayers in Kenya to 5.05 million, (Munda, 2019). KRA in 2019 rolled out a tax expansion scheme that would raise at least KSH 60 billion in the current financial year. This plan was targeting to acquire more than 500,000 new taxpayers who have been out of the tax brackets. The KRA Commissioner General Mr. Njiraini said that the program will involve scrutinizing Kenyans involved in a gainful business who are not currently paying taxes by obtaining their information from key databases in both the private and public sectors. The data will then be used to assess the compliance status of the taxpayers identified and suitable legal measures will be taken to enforce compliance, (Wasuna, 2018).

There are about 19 million Kenyans registered as voters, KRA should actively look for more taxpayers since at least 19 million Kenyans are eligible individual taxpayers. However, as indicated by the business daily only 5.05 million Kenyans paid taxes in 2019. According to KRA, income tax is a direct tax that is imposed on income derived from Business, Employment, Rent, Dividends, Interests, Pensions among others. The tax is collected in the following ways: Pay As You Earn (PAYE) Withholding Tax, Installment Tax, Advance Tax, Presumptive Tax. Taxation for Non- Residents Employment Income involves any amount paid to Non-Resident individuals in respect of any employment or services rendered to an employer who is a resident in Kenya or to a permanent establishment in Kenya, (Kenya Revenue Authority,2019). Every Kenyan aged 18 years old and above who is involved in an economic venture either in the informal or formal sector should file their tax returns. KRA should, therefore, carry out a registration drive that would bring on board any Kenyan who qualifies as a voter and a taxpayer by working in partnership with the office of registrar of persons to ensure that every national ID issued is also registered for tax purposes. It is imperative that KRA also works with IEBC to educate Kenyans on their rights as voters and obligations as taxpayers.

5. 2 Investing in Technology.

The use of technology will simplify the tax payment process and improve customer service experiences. Through technology investments, KRA will provide taxpayers with easy mechanisms for tax payment and accessing KRA services. After years of underscoring the tax revenue projected targets, KRA has resorted to smart technological systems to expand the tax base to target seven million taxpayers by June 2021. The following are the IT systems the tax agency has invested in to expand the tax base and increase revenue collection. The iTax, an online tax filing system, which is linked to bank accounts of firms doing business with the government through the public payment platform. The system which is now in its 4th year has eliminated major challenges that taxpayers used to endure while interacting with KRA. The Integrated Financial Management Information System (IFMIS) is designed to: support all financial operations, collect accurate, timely, complete, reliable and consistent information on all public financial events, provide adequate management reporting, support government-wide and agency policy decisions, produce auditable financial statements. The

Integrated Customs Management System (iCMS) for real-time monitoring of goods entering the country through the Mombasa port and airports, and Electronic Cargo Tracking System (ECTS) for transit cargo, (Kenya Revenue Authority,2019).

On October 31, 2018, President Uhuru Kenyatta ordered KRA to use the National Integrated Identity Management System – biometric data listing kit popularly known as Huduma Namba to identify tax defaulters, (Munda, 2019). Furthermore, KRA uses technology to closely monitor the presumptive taxation regime, a simplified tax regime for small and micro enterprises that applies to a resident person with a turnover from business not exceeding Kshs. 5 million during a year of income. The tax is based on the value of a single business permit or a trade license issued or renewed by the County government, (Kenya Revenue authority, 2019). More research should be conducted to identify efficient systems that will better the KRA services.

5.3 Improving Customer Service Experience

Customer service delivery is key for smooth and cohesive operations at KRA. More effort alongside key technological initiatives geared towards improving customer service delivery should be adopted. " The introduction of scanners at the JKIA passenger arrivals terminal and passage baggage scanning at JKIA is an important milestone that will greatly help in addressing customer concerns about previous haphazard stripping of passenger personal effects," said KRA commissioner Mr. Njiraini. The same should be adopted at Moi International Airport in Mombasa and at other key border, entry points such as Namanga, Malaba, and Busia. The introduction of scanner technology at key entries contributes to Customs detection capacity and eliminate inconveniences for arriving passengers, (Wasuna, 2018).

To improve customer care services, KRA deployed an advanced customer relationship management (CRM) solution in the cloud. The project is expected to improve public perception of the tax system by developing a mechanism for listening to social media sentiment and refining the delivery of tax collection services. Since its launch, there has been an enhanced customer service by delivering a coordinated complaints management framework using Oracle RightNow Enterprise Contact Center Dynamic Agent Desktop Cloud Service, driving KRA's customer satisfaction score up to 71.9% from 65% in under 6 months and reducing customer query response time from 1 hour to 15 minutes. There is also improvement of the first-call resolution with the help of a single view of the taxpayer using Oracle Customer Relationship Management Desktop Cloud Service. The service enables KRA service agents to see the taxpayer's full details. Social media response rates improved from 83% to 94% by integrating the monitoring of social media channels such as Facebook, Twitter, and YouTube with Oracle RightNow Knowledgebase Optimization Engagement Service. Citizens can contact KRA through any channel of their choice. The project will increase Kenya's tax revenue by communicating compelling reasons for voluntary tax compliance and improved tracking of customer behavior, (Kenya Revenue Authority,2019).

Adequate staffing. KRA staff is not only inadequate but also disgruntled. According to taxkenya.com, KRA currently has less than 10, 000 cumulative staff against an estimated 8 million potential taxpayers with KRA pins. This makes it difficult when it comes to handling customer queries because the staff assigned for customer services are far less than the customer's queries. In the end, many taxpayers are dissatisfied with the KRA customer experiences when their queries take forever to get a response or never get one at all. Frustrations and disappointments arising from poor customer services due to inadequate staff drive away potential taxpayers, (Taxkenya.com, 2017).

Motivation and incentives. KRA staff lacks incentives to work well. A letter to the KRA authority from its staff highlighted many of the staff's grievances. The harassment and mistreatment following the arrest of some KRA staff on the corruption allegation were devastating. On the ground of remuneration & benefits, the staff is unsatisfied with the benefits and allowances. It's believed that the last time there was a review and increment of basic salary was in 2009 yet the cost of living has steadily gone up, but the salary has stagnated for years. On integrity issues, KRA junior staff feel targeted when it comes to integrity issues yet the top officials themselves do not uphold the integrity that KRA seems to champion as an organization. The process of recruitment of ISO commissioners and the promotion of staff members does not envisage integrity.

Problems with staff recruitment, Career progression & Staff motivation. The recruitment and development of staff have been grounded leading to the death of the Graduate Trainee program that was vital in the recruitment of staff for the revenue departments. Instead of developing staff, the authority has resorted to hiring employees who are inadequately prepared on a contract basis. The staff also feel that the fabric that held the organization has been gradually disintegrating through systemic elimination of communication channels and interactive avenues that fostered cohesion and teamwork, (West, 2019).

As a public entity entrusted with the most confidential information concerning taxpayers and with the mandate to collect revenue to fund the national budget, harmony between the staff and the authority is paramount. KRA has the role it must play to facilitate revenue collection. The management should ensure the staff works under humane conditions, are treated fairly and receive support for personal development for the organization to realize its goal as a whole.

5.4 Tax legislation reforms.

Tax legislation should be enforced to ensure the expected goals are achieved. The government has over the years initiated several programs and it should be committed to enhancing tax compliance and expanding the tax base. One of the key reforms is the passing of appropriate tax legislation aimed at simplifying and modernizing tax laws. In this pursuit, most of the tax statutes have been reviewed, simplified and modernized.

The review of the Income Tax Act was informed by the need to simplify and modernize the Act, expand the tax base as well as incorporate international taxation principles including transfer pricing. The Tax Procedure Act 2015 TPA was enacted with the sole purpose of harmonizing and consolidating procedural rules for the administration of tax laws in Kenya, facilitation of tax compliance by taxpayers, effective and efficient collection of tax, (Tax Procedures Act, 2015). The Principal objectives of the legislation are to simplify and consolidate tax administration for the government and the taxpayer, broadening the tax base to net in more taxpayers, and preventing tax avoidance schemes which lack commercial substance. (Oraro & Onchwari, 2018). Under the Tax Procedure Act of 2015, the following deliberate measures were made to enhance tax revenue collection and accountability. Directors will be held liable for the tax liability of the company if they fail to demonstrate that they did not benefit from the arrangement, opposed the transaction, were unaware of the arrangement or notified Kenya Revenue Authority (KRA) of the same. Taxpayers will be required to retain records for 5 years. The period of submission of tax returns may be extended. This is on condition that the Commissioner General of KRA (the Commissioner) is satisfied with the reasons for the delay.

The Tax provisional Act introduced severe penalties for non-compliance with certain tax law provisions. There will be a 75% penalty on tax shortfall attributable to fraudulent tax filing and another 20% penalty on tax shortfall not attributable to fraud. If an offense is committed by KRA officers or persons required to act on Commissioner Instructions; Fine not exceeding KES 2 million and to imprisonment for a term not exceeding 5 years or both. Concerning fraudulent act of omission or commission concerning a tax period; A fine not exceeding KES 10 million or 200% of the amount of tax evaded whichever is higher or to imprisonment for a term not exceeding 10 years or to both, (Oraro & Onchwari, 2018).

The Kenyan government has resolved to new measures that would increase tax revenue collection while at the same time shielding citizens from financial constraints. According to the Oxfordbuisnesgroup.com, several legislations have been put in place to encourage voluntary tax compliance these include simplified taxation measures for small-scale landlords, tax amnesty period for individuals on rental income to address taxes, penalties and interest in any period before or during the 2013 income year, as well as penalties and interest related to the 2014 and 2015 reporting years. There is also the introduction of a residential rental income tax which is s applicable to resident persons who earn residential rental income in Kenya that is over KSh144,000 ($1410) but does not exceed KSh10m ($97,600) during any year of income. Withholding tax was also introduced on rental income paid to KRA-appointed agents. This is a person appointed as an agent and obliged to withhold 10% of the gross rent payable (excluding value-added tax) due to their landlord and remit it directly to the KRA. There was also a change in the taxable income which was expanded by a factor of 10% effective January 1, 2017. Most importantly, resident individuals' relief was increased by 10%, (Oxford business group, 2017).

5.5 Targeting More taxpayers.

Many persons and businesses are outside the tax bracket and they should be bought onboard The Kenya Revenue Authority (KRA) presented proposals before the Treasury aiming at taxing online businesses transaction to expand the tax base. In the proposal, KRA targets online businesses, service providers, and members of professional organizations that have been evading paying income taxes. (Wanjiku, 2019). Under the VAT Act, all services are subjected to the tax regime. Members of professional organizations will have to acquire a KRA PIN before they can register or renew their membership. Betting companies will be expected to pay 10 percent exercise. The proposal also suggested that tax defaulters will be listed on the Credit Reference Bureau (CRB) so that they will not be able to access any credit and certain duties. (Wanjiku, 2019).

KRA will also be targeting small-scale farmers who do not pay income tax on their earnings. There are about 560,000 tea growers, 150,000 coffee farmers, and 250,000 sugarcane growers. According to KRA, commercial small-scale farmers whose average monthly income is above Sh11,180 will be required to pay taxes similar to those paid by employees in government and the private sector, (Andae, 2016).

6. What are the Problems?

One of the ways proposed by KRA to increase the tax base in Kenya is to tax small business selling and buying goods and services online. Through the Finance Bill, 2019, Treasury proposed the Income Tax Act amended by introducing a new provision that lists income accruing through a digital marketplace as taxable income, (Kenya Finance Act, 2019). However, Casey Turgusson, Senior Digital Development Specialist at the World Bank Group, discouraged this approach claiming that while getting taxes from the digital business is expected to expand the tax base, the tax collection from this venture would not be easy for the Kenya Revenue Authority (KRA). Mr. Turgusson said it was not only difficult to evaluate the value of economic activities online, but the move to impose a tax on the digital market might also discourage the emerging digital economy, (Omondi, 2019). According to Mr. Turgusson, there is no mechanism in place to facilitate online tax revenue collection, "When you have a start-up, the accounting system of looking at that business is quite different from a traditional business. Often you are running a loss for some years to gain market share before you could gain the profits which could be taxed." Mr. Turgusson also noted that tax evasion on the online platform by small and medium enterprises was rampant. The Kenyan Parliament rejected proposals to scrap the tax on digital businesses, while KRA insisted that it will be collecting just a small withholding tax from digital platforms as a means of fostering the businesses into tax compliance. (Omondi, 2019).

6.1 Taxing Farmers.

Many small- and medium-sized businesses do not register voluntarily while those that do often fail to keep adequate records, file tax returns and settle their tax liabilities promptly. The taxman will have to grapple with poor record-keeping among rural farmers in what will likely become a chaotic tax collection campaign because farmers will be expected to keep expenditure and sales records to establish their tax dues. (Andae, 2016).

6.2 Laxity in Surveillance

All individuals with income must submit Income tax returns together with accounts where applicable on or before the end of the 6th month after the end of the accounting period because non-submission of the tax return may result in prosecution. But, many Kenyans either don't file tax returns or under-declare their income for purposes of reducing their tax liability and they get away with it. Under the income tax law, employers are also required to withhold a certain amount of money from employee's income and submit it to KRA, but many companies don't do that. On the other hand, company directors are presumed to be aiding their companies in avoiding paying corporate taxes. The worst scenario yet is where companies operating in Kenya are registered as foreign companies to reduce tax liability and thus denying KRA the right amount of revenue. KRA should be more vigilant in assessing individual income, and businesses and the company's source to avoid losing on the right amount of revenue.

7. Why are we Missing Taxpayers and Targets?

KRA has not been attaining its targeted revenue collection for the past 4 financial years in a row. One way through which tax is through manipulation and fraudulent activities. During shipment, the shipping agents manipulate manifests before uploading them to the Customs Manifest Management System (MMS). This leads to false declarations and consequently, the right amount of taxes is not collected. Collusion between clearing agents, insurance companies and Customs officers facilitates importers and clearing agents to use fake Customs transit bonds to clear transit goods. Many importers/clearing agents make wrong declarations to evade payment of duties or reduce the duties payable. There is smuggling which involves importation or export of goods secretly in violation of the law, especially without payment of duties. Also Fraudulent cancellation of export entries where fraudsters use fake Customs entries as proof of export and thereafter make VAT refund claims. Some people import/export prohibited or restricted goods. Restricted goods are those which must meet certain conditions before clearance through Customs. Examples: ivory, macadamia nuts, etc.

The most used method to avoid tax is nil or non-filing income tax returns and under declaration of income. All individuals with income are required by law to submit Income tax returns together with accounts where applicable. The returns are due on or before the end of the 6th month after the end of the accounting period. Non-submission of the tax return may result in prosecution so many Kenyans file nil tax returns or they simply under-declare their income for purposes of reducing their tax liability. (Kenya Revenue Authority, 2019).

In May 2019, Ernst and Young an international audit and consultancy firm revealed that the National Treasury has been missing out on its targets for many reasons. One of the reasons was based on their projection for a financial year, the treasury estimates its revenue on tax projections based on the number of Kenyans with Personal Identification Numbers (KRA PIN). The problem is that many Kenyans are holding KRA PINs than those who pay taxes. A large portion of college students possess a KRA PIN which is required for the HELB loan purposes, but they do not actually pay taxes and therefore the treasury's projection on tax estimates is somewhat faulty because it is based on the number of KRA PIN holders, (Guguyu, 2019).

Another avenue where tax revenue is lost is in oversea tax havens. Many companies operating in Kenya have been discovered to be using offshore holdings to avoid paying taxes in Kenya. The companies are said to manipulate registration laws that enable them to lower their local tax burden while shelving millions in profit from their operations in Kenya. This move enables this company to pay fewer taxes than they would pay to the KRA. The deliberate move to avoid corporate taxes by the firms in question involves registering their holding companies in countries that have much lower tax rates than Kenya's. For instance, Mauritius has a 15 % corporate tax rate compared to Kenya's 30 % corporate tax. Thus the firms operate in Kenya as foreign companies without paying corporate taxes. The Organization of Economic Cooperation and Development (OECD) revealed that in the 2018-2019 fiscal year, Kenya lost KSh144 billion through tax evasion which amounts to 10 percent of the annual revenue collection, (Wasuna, 2019). It was established that Mauritius and the British Virgin Islands are the preferred tax havens by over more than 400,000 firms worldwide which are allowed to operate from there at cost of only $450 (Sh46,350) a year.

8. What Should be Done

8.1 Restructuring dispute resolution process

To provide transparency in the resolution of disputes, KRA has restructured its dispute resolution processes through the revamped Alternative Dispute Resolution (ADR) Programme. The refurbished ADR framework should provide taxpayers with a credible, transparent and customer-friendly process that removes perception about unfairness and underhand dealings in the resolution of tax disputes. The new framework will also provide standardization in the approach to dispute resolution besides ensuring speedy resolutions. These will hopefully reduce the number of tax disputes finding their way into the judicial system and at the same time resolve at least 80 percent of tax disputes internally, (Wasuna, 2018).

8.2 Partnerships and collaboration

The Ministry of finance and KRA have a partnership that has enhanced the use of technology as a key driver in the improvement of tax administration and collection, (Wasuna, 2018). Kenya joins a few other countries in the world to that investing in an IT ecosystem to ease tax administration while at the same time enable taxpayers to comply. The incorporation of technology has facilitated the collection and assessment of taxpayer data, enabling quick and targeted responses to taxpayers for enhanced compliance.

To stem out tax avoidance and evasion schemes internationally, Kenya in addition to enacting the Tax Procedures Act of 2015 signed a pact to the Convention on Mutual Administrative Assistance in Tax Matters CMAATM on 8th February 2016. Kenya became the 12th African country to sign it and the 94th internationally. The Convention includes Income tax, capital gains tax, VAT and excises taxes. This measure was undertaken to increase enhanced co-operation between countries to counter international tax evasion, tax avoidance and other forms of noncompliance. The move would also foster an exchange of information, assistance in tax recovery, service of documents and joint tax audits by parties to the Convention. All countries under the convention are obliged to exchange any information relevant for the administration or enforcement of their domestic tax legislation upon request, automatic or spontaneous exchange, or through the carrying out of simultaneous tax examinations abroad, (Onchwari, 2018). Signing to be part of the convention will enable Kenya to pursue tax evaders both locally and internationally, enforce tax compliance, and legal structures against money laundering and corruption.

KRA also partnered with the Directorate of Criminal Investigations (DCI) and Kenya to crack down on tax evaders in the country, according to the Business Daily reported on Monday, September 30, 2019. The DCI offered 50 police officers to KRA to help out with the investigations. The DCI has teamed up with the Kenya Revenue Authority to go after wealthy Kenyans and other individuals identified as tax defaulters. KRA estimated about Sh250 billion in taxes owed could be recovered. 100 officials who investigated sources of income and expenditures for rich people and major companies were presented. The team analyzed a group of companies that were doing business with the government and counties confirming that there were tax cheats. President Kenyatta had issued orders for investigations of individuals with lifestyles that did not march what they declared in taxes. (Aligula, 2019)

8.3 Incentives to Encourage Taxpayers.

More incentives should be put in place to encourage more Kenyans to be tax compliant. In 2018, KRA launched a taxpayer's month and an updated website that would provide an interactive customer experience to taxpayers. Dr. Willy Mutunga was also unveiled as the KRA Tax Ambassador. The Taxpayers Month is celebrated by KRA in October to recognize tax compliant taxpayers from all parts of the country. There are various activities carried out during the celebration of the taxpayers as visiting selected taxpayers, corporate social responsibility initiatives, a tax summit and a presidential launch at the end of the month where distinguished taxpayers are awarded. The 2019 theme was Expanding the Tax Base to Enable the Big Four Agenda, (Wasuna, 2018). The government should use collected taxes to provide quality services to the people, impose reasonable tax rates to encourage more business activities and bring more people into the tax net, uproot corruption within the tax system and uphold transparency and accountability. When funds are properly used, the taxpayer's confidence in government increase and they will gladly comply with tax requirements.

9. Conclusion and Policy Recommendation

This study established that in the past 5 consecutive years KRA has failed to hit the Revenue collection target and left treasury with a budget deficit. The deficit has pushed Kenya into both local and foreign debts and most of the country's revenue is used to service the debts. Although the number of registered voters in Kenya has been increasing, the number of taxpayers has remained relatively low. The countries tax base is quite small and with deliberate tax fraud and evasion schemes, KRA is not able to collect enough tax revenue to fund the countries budget.

9.1 Conclusion

With the current lean tax base, KRA has a challenge of working on the poor public perception of the tax system by the citizens, streamlining the customer service, and curb deliberate tax evasion schemes and fraud by businesses and individuals to expand the tax base in Kenya by bringing more taxpayers aboard.

Many measures have been put in place to mitigate these challenges. The use of technology has simplified the tax payment process and improved customer service experiences. Through technology investments, KRA provides taxpayers with easy mechanisms for tax payment and accessing KRA services. The iTax which is an online tax filing system linked to bank accounts of firms doing business with the government through the public payment platform has eliminated major challenges that taxpayers used to endure while interacting with

KRA. The Integrated Financial Management Information System (IFMIS) is designed to: support all financial operations making it easy to track transactions. The Integrated Customs Management System (iCMS) has enabled real-time monitoring of goods entering the country through the Mombasa port and airports, and Electronic Cargo Tracking System (ECTS) for transit cargo to strengthen border protection and eliminate tax evasion schemes.

KRA has also invested in motivating taxpayers to encourage tax compliance among Kenyans through the recently launched a taxpayer's month initiative and also updated its website that would provide an interactive customer experience to taxpayers. The Taxpayers Month is celebrated by KRA in October to recognize tax compliant taxpayers from all parts of the country.

Another way KRA is revamping then the tax system to increase the tax base is through tax legislation. Some legislations have been put in place to encourage voluntary tax compliance. The simplified taxation measures for small-scale landlords, tax amnesty period for individuals on rental income to address taxes, penalties, and interest accrued on late filing of tax returns. Perhaps the greatest measure that was undertaken by KRA to increase the tax base is through a partnership with both local and international agencies to fight schemes persons and companies that have been outside the tax bracket. Kenya enacted the Tax Procedures Act of 2015, the Finance Act 2019 and signed a pact to the Convention on Mutual Administrative Assistance in Tax Matters CMAATM. KRA also partnered with the Directorate of Criminal Investigations (DCI) to crack down on tax evaders in the country with many individuals and businesses sued for owed taxes.

Tax compliance is both a civic duty and responsibility. Kenyans should embrace the call by KRA and make use of the simplified tax systems to register as taxpayers and remit their taxes to facilitate government delivery on its public services.

9.3 Policy Recommendations

1. *Reforming the corporate tax on local and foreign companies.*

We have seen how companies masquerade as foreign companies make huge profits but avoid Kenyan taxation on their profits which denies KRA a substantial amount of revenue. KRA imposes a standard 30 percent of earnings in corporate tax for firms incorporated in Kenya, while the foreign-based firms pay only 20 percent withholding tax subject to on whether Kenya has a tax treaty with the country where they are registered. Furthermore, resident companies are taxable in Kenya on income accrued or derived from Kenya and also on income derived from business activities outside of Kenya. This method discourages upcoming businesses and gives other companies an incentive to register their businesses in foreign countries like Mauritius with the sole objective of avoiding corporate tax in Kenya. The Mauritius government levies only 15 percent corporate tax rate and has zero rates on capital gains tax and withholding tax making the country both conducive for business and attractive for investors. The government of Kenya should reshape the corporate tax system to encourage more businesses to operate locally and attract more investors.

2. *Enforcing tax regulations.* There are serious consequences on the countries inability to raise enough revenue that would fund the national budget. Tax evasion has been a major problem where millions of monies are lost every year leading the country on a borrowing streak hence the need to enforce tax regulations. Some tax legislation has been put in place including the Kenya Finance Act, 2019 that received Presidential assent on 7th November 2019, the Tax Act 2018, the Tax Procedures Act, 2015 effective 19th January 2016 with principal objectives of simplifying and consolidating tax administration, both for the government and the taxpayer while broadening the tax. It's reported that in 2018/2019 the KRA collected at least Sh8.53 billion after taking 222 individuals to court over tax evasion, On July 10, the government also directed Safaricom, Airtel, and Telkom Kenya to withdraw pay bill numbers and SMS codes of betting companies accused owing KRA and a couple of other companies are tussling in court with KRA over owed taxes. The above scenario depicts the hard work undertaken by KRA to raise revenue for the government. It, therefore, follows that while enforcing the tax regulation would yield more revenue, more resources and manpower is needed to adequately equip KRA to carry out this challenging task of enforcing compliance and minimizing tax evasion.

3. *Create more tax items and taxpayers.* Increasing the tax base means adding more taxable items to the list of taxation. Such items could new employees, individual businesses or corporations. There is a need to encourage the manufacturing industry and improved business properties that will create jobs and generate income. Statistics from (KRA) revealed that financial and insurance generated the largest tax revenue at Sh165.8 billion, while the manufacturing industry which has been previously at the top was second at Sh164.3 billion in the fiscal year ended June 2019. The tragic decline in revenue from the manufacturing sector to Kenya's Gross Domestic Product (GDP) is reflected in the government's inability to meet its revenue targets. Manufacturers blame inefficiencies, higher levies, taxes and energy prices for skyrocketing the cost of production, cutting the competitiveness of Kenyan factories by about 12 percent, (Munda, 2019). According to a World Bank Report, the unemployment rate in Kenya is projected to rise to 10.5 percent in 2019 and it is expected that Kenya has to create at least 900,000 jobs annually between 2019 and 2025 to absorb the high number of youths joining the job market. Also in Kenya, only six percent of total employment is in the formal non-agricultural sector, (Amadala,2019)

References

[1]. Asiimwe, D., & Muchira., N. (2019, June 17). Debt, deficit and a monetary union conundrum in EA's expanded. Retrieved December 9, 2019, from https://www.theeastafrican.co.ke/business/Debt-deficit-and-a-monetary-union-conundrum/2560-5158398-kvljvi/index.html.

[2]. Mutua, J. (2011). A citizen's handbook on taxation in Kenya. Retrieved from https://www.ieakenya.or.ke

[3]. Oraro SC, G., & Onchwari, L. (2018, October 29). Even more changes: a look at the new Tax Procedures Act, 2015. Retrieved December 4, 2019, from https://www.oraro.co.ke/2018/08/07/even-more-changes-a-look-at-the-new-tax-procedures-act-2015/.

[4]. Aligula, A. (2019, September 30). DCI Partners With KRA to Track Down Defaulters. Retrieved December 4, 2019, from https://www.kenyans.co.ke/news/44486-dci-kra-team-hunt-sh250-billion-tax-evasion.

[5]. Amboko, J., Guguyu, O., Andae, G., & Njanja, A. (2018, October 14). World Bank decries weak revenue collection in Kenya's latest. Retrieved December 11, 2019, from https://www.businessdailyafrica.com/news/World-Bank-decries-weak-revenue-collection/539546-4805198-acxue0/index.html.

[6]. Andae, G. (2016, June 28). KRA to tax small-scale farmers. Retrieved December 4, 2019, from https://mobile.nation.co.ke/news/Small-scale-farmers-to-start-paying-income-tax/1950946-3270534-ffkhlaz/index.html.

[7]. Business Daily. (2019, July 30). KRA's full-year tax collection hits Sh1.4 trillion ... Retrieved December 5, 2019, from https://www.businessdailyafrica.com/economy/3946234-5216046-1134wr5/index.html.

[8]. CEIC. (2019, June 1). Kenya: GDP: Wholesale and Retail Trade: Economic Indicators: CEIC. Retrieved December 11, 2019, from https://www.ceicdata.com/en/kenya/sna-2008-gdp-by-industry-current-price/gdp-wholesale-and-retail-trade.

[9]. Chris. (2018, November 20). Difference Between Wholesale and Retail (with Comparison Chart). Retrieved December 11, 2019, from https://keydifferences.com/difference-between-wholesale-and-retail.html.

[10]. Cytonn. (2019, November 18). Analysis of Kenya's Doing Business Environment. Retrieved December 10, 2019, from https://www.cytonn.com/topicals/analysis-of-kenyas-doing-business-environment.

[11]. Global tax alert. (2018, September 26). Kenya enacts Finance Act, 2018. Retrieved December 11, 2019, from https://taxinsights.ey.com/archive/archive-news/kenya-enacts-finance-act-2018.aspx.

[12]. Guguyu, O. (2019, May 31). KRA's missed targets explained. Retrieved December 2, 2019, from https://www.standardmedia.co.ke/business/article/2001327858/kra-s-missed-targets-explained.

[13]. ieaKenya. (n.d.). Kenya Government Debt to GDP. Retrieved December 5, 2019, from https://tradingeconomics.com/kenya/government-debt-to-gdp.

[14]. Kenya Finance Act, 2019. (2019, November 13). Retrieved December 2, 2019, from https://www.rsm.global/kenya/insights/tax-insights/kenya-finance-act-2019.

[15]. Kenya Revenue Authority. (n.d.). Individual Income Tax. Retrieved December 4, 2019, from https://kra.go.ke/en/individual/filing-paying/types-of-taxes/individual-income-tax.

[16]. Kenyan WallStreet. (2017, June 6). The 16 Most problematic factors for doing business in Kenya. Retrieved December 10, 2019, from https://kenyanwallstreet.com/16-problematic-factors-business-kenya/.

[17]. Kiplagat, S., Mutua, J., & Okoth, E. (2019, August 5). KRA nets an additional 1.11 million taxpayers. Retrieved December 4, 2019, from https://www.businessdailyafrica.com/economy/KRA-nets-additional-1-11-million-taxpayers/3946234-5224492-20wr31/index.html.

[18]. Laws Of Kenya The Income-Tax Act Chapter 470. (2019, January 1). Retrieved December 4, 2019, from http://www.kpda.or.ke/documents/Policies/CAP 470 - Income Tax Act 2016 with Highlighted Amendments, 10th Feb 2017.pdf.

[19]. Ngina, F. (2018, June 17). A heavy price to pay for Kenyans who fail to file KRA tax returns by 30th June. Retrieved December 3, 2019, from https://www.standardmedia.co.ke/ureport/article/2001282695/heavy-price-to-pay-for-kenyans-who-fail-to-file-kra-tax-returns-by-30th-june.

[20]. Nicole.wasuna@kra.go.ke. (2018, October 12). KRA embarks on tax base expansion programs to raise more revenue. Retrieved December 2, 2019, from https://www.kra.go.ke/en/media-center/news/404-tax-base-expansion-programmes.

[21]. Okoth, E. (2017, March 4). Taxman's bid to boost revenue gets IMF support. Retrieved December 11, 2019, from https://www.businessdailyafrica.com/economy/KRA-bid-boost-revenue-IMF-support/3946234-3837176-whdlak/index.html.

[22]. Omondi, D. (2019, October 31). World Bank faults tax on digital trade. Retrieved December 2, 2019, from

https://www.standardmedia.co.ke/business/article/2001347495/world-bank-faults-tax-on-digital-trade.

[23]. Oxford Business Group. (2017, June 14). Tax chapter of The Report: Kenya 2017. Kenya's government to expand the tax base and keep the cost of living reasonable. Retrieved December 4, 2019, from https://oxfordbusinessgroup.com/analysis/revenue-and-relief-balancing-scales-between-expanded-national-tax-base-and-protecting-citizenry-high.

[24]. Presumptive Tax. (n.d.). Retrieved December 4, 2019, from https://www.kra.go.ke/en/helping-tax-payers/faqs/presumptive-tax.

[25]. Reuters. (2019, August 14). Kenya tax revenue up 11% in 2018/19, short of the government target. Retrieved December 3, 2019, from https://www.cnbc.com/2019/08/14/reuters-america-kenya-tax-revenue-up-11-percent-in-201819-short-of-government-target.html.

[26]. Sunday, F. (2018, December 30). KRA takes on foreign companies evading tax. Retrieved December 3, 2019, from https://www.standardmedia.co.ke/article/2001307797/kra-takes-on-foreign-companies-evading-ta.

[27]. Tax Procedures Act (2015) – The Purpose. (2019, March 13). Retrieved December 2, 2019, from https://www.taxkenya.com/tax-procedures-act-2015-the-purpose/.

[28]. Taxkenya.com. (2017, July 19). Voters and Taxpayers in Kenya. Retrieved December 4, 2019, from https://www.taxkenya.com/voters-and-taxpayers-in-kenya-022-2/.

[29]. Wanjiku, N. (2019, March 14). KRA proposes new avenues of collecting taxes. Retrieved December 4, 2019, from https://parentsafrica.com/2019/03/14/kra-proposes-new-avenues-of-collecting-taxes/.

[30]. Wanjohi, A. (2014, October 3). Legal and Regulatory Environment Issues affecting Businesses in Kenya. Retrieved December 10, 2019, from http://www.kenpro.org/legal-and-regulatory-environment-issues-affecting-businesses-in-kenya/.

[31]. Wanzala, O. (2017, August 4). 4.8m Kenyans risk losing KRA PINs. Retrieved December 3, 2019, from https://www.nation.co.ke/news/4-8m-Kenyans-risk-losing-KRA-PINs/1056-4043986-9w5ge8z/index.html.

[32]. Wasuna, B. (2019, October 4). How clever traders avoid paying taxes. Retrieved December 3, 2019, from https://www.nation.co.ke/news/How-clever-traders-avoid-paying-taxes/1056-5297838-oxwqjw/index.html.

[33]. West, K. (2019, May 30). KRA Employees Are Disgruntled In A Disgruntled Letter To Muthaura After Arrests. Retrieved December 4, 2019, from https://kenyainsights.com/kra-employees-are-disgruntled-in-a-letter/.

[34]. Kenya Revenue Authority Raises Citizen Satisfaction with Oracle Service Cloud. (n.d.). Retrieved December 13, 2019, from https://www.oracle.com/ke/customers/kra-1-crm.html.

[35]. Munda, C. (2019, September 23). Financial services topple manufacturing as a top source of tax. Retrieved December 16, 2019, from https://www.businessdailyafrica.com/datahub/Financial-services-topple-manufacturing/3815418-5283938-11hek8xz/index.html.

[36]. Amadala, V. (2019, July 30). Kenya's unemployment rate to rise– World Bank. Retrieved December 16, 2019, from https://www.the-star.co.ke/business/kenya/2019-07-30-kenyas-unemployment-rate-to-rise-world-bank/.

[37]. Fjeldstad, O.-H., & Sjursen, I. (2014, February 14). Factors affecting tax compliance attitude in Africa: Evidence from Kenya, Tanzania, Uganda, and South Africa. Retrieved December 16, 2019, from https://www.cmi.no/publications/5135-factors-affecting-tax-compliance-attitude-in.

[38]. Williams, C.C. and Round, J. (2009), "Evaluating informal entrepreneurs' motives: evidence from Moscow", International Journal of Entrepreneurial Behavior & Research, Vol. 15 No 1, pp. 94-107.

[39]. James, S., and Alley, C. (2004). Tax Compliance, self-assessment and tax administration. Journal of Finance and Management in Public Services, 2(2), 27-42.

[40]. Webley, P. (2004), "Tax compliance by businesses", in Sjogren, H., and Skogh, G. (Eds), New Perspectives on Economic Crime, Edward Elgar, Cheltenham.

[41]. Hijattulah, A. and Pope, J., (2008), Exploring the relationship between tax compliance costs and compliance issues in Malaysia, Journal of applied law and policy

[42]. Khalif, I. (2017, July 31). KHALIF: Why income tax compliance levels are low in Kenya. Retrieved December 16, 2019, from https://www.businessdailyafrica.com/analysis/Why-income-tax-compliance-levels-low-Kenya-/539548-4039642-ff0uyy/index.html.

[43]. Erich Kirchler, Stephan Muehlbacher, Barbara Kastlunger and Ingrid Wahl (2007); Why Pay Taxes? A Review of Tax Compliance Decisions, International Studies Program Working Paper 07-30.

[44]. Morisset, J., & Cunningham, V. (2016, July 29). Why isn't anyone paying taxes in low-income countries? Retrieved December 16, 2019, from https://www.brookings.edu/blog/future-development/2015/04/30/why-isnt-anyone-paying-taxes-in-low-income-countries/.

[45]. By Jens Arnold Do Tax Structures Affect Aggregate Economic Growth? Empirical Evidence From A Panel Of

Oecd Countries Economics Department Working Papers No. 643
[46]. Karingi, S.N., and Wanjala, B., 2005, 'The Tax Reform Experience of Kenya', Research Paper 2005/67, United Nations University World Institute for Development Economics (UNU WIDER), Finland