



Tax Simplification and Digitisation for Economic Transformation 5th Annual Tax Summit

**Conference Report
Kenyatta International Convention Centre (KICC),
Nairobi, Kenya
16th – 17th October, 2019**



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Acronyms

ADR	Alternative Dispute Resolution
EOI	Exchange of Information
KRA	Kenya Revenue Authority
AI	Artificial Intelligence
CRM	Customer Relations Management
EGMS	Excisable Goods Management System
FDIs	Foreign Direct Investments
GDP	Gross Domestic Product
iCMS	Integrated Customs Management System
NSSF	National Social Security Fund
RECTS	Regional Electronic Cargo Tracking System
OECD	Organisation for Economic Cooperation & Development



Introduction

This report summarises the proceedings of the 5th Annual Tax Summit (the Summit) themed Tax Simplification and Digitisation for Economic Transformation convened by Kenya Revenue Authority (KRA) and held in Nairobi, Kenya on the 16th to 17th October, 2019.

Background and rationale:

The Kenya Revenue Authority (KRA) is undergoing a series of transformation both through Technology, people and processes in support of KRA's vision which is "To facilitate Kenya's transformation through innovative, Professional and Customer – Focused Tax Administration".

The focus of the Authority in its three year seventh strategic plan period (2018/19 – 2020/21), is on key priorities of the country's development agenda as spelt out in the Kenya Vision 2030, the Third Medium Term Plan (MTP 2018-2022), the Budget Policy Statements and the Big Four Agenda. The plan also takes into account the country's commitments under the Sustainable Development Goals (SDGs) especially relating to revenue mobilization and a customer centred public organisation.

Based on KRA's role in meeting national policy objectives and its internal goals, four strategic thrusts that guide the 7th Plan have been determined to drive the authorities focus as follows:

- Enhanced Revenue through Tax Compliance,
- Improved business climate and competitiveness,
- Enhanced operational efficiency,
- Building Public Trust through the integrity, professionalism and service orientation of staff.

The Annual Tax Summit seeks to feed into these goals by driving public and international participation in discussions geared towards providing solutions for enhancing and supporting KRA's role in Tax and Customs Administration.

Conference objectives:

This was the 5th Annual Tax Summit. The objectives of the conference were to:

- Provide a platform for discussion about taxation of the digital economy, the impact of technological innovations in simplification of tax processes, improvement of service delivery in customs for efficiency in cross-border & international trade & enhancement of market access, stimulating economic growth through prevention of tax disputes and provision of avenues for negotiation to resolve tax disputes as well as the role of exchange of information in combating tax crimes to spur economic transformation in Africa.
- To review and learn from the good practices found within these areas in order to become equipped with this knowledge and generate ideas for the next steps.

Participation and structure of the Summit:

The Summit brought together over 700 participants (keynote speakers, panellists, moderators and delegates) from more than 10 countries, representing government agencies, civil society, academia and the private sector. (The list of keynote speakers, panellists, moderators are available in Appendix 1). It was held over a two-day period comprising the opening session, five plenary sessions and the closing ceremony.



1. Opening ceremony

Remarks by Dr. Mohamed Omar, Commissioner, Strategy, Innovation & Risk Management, KRA.



In Kenya, **3 sectors namely; Manufacturing, Information & Communication Technology** and the **Financial sector** give us 54% of the tax revenue, yet they constitute only **16% of the GDP**. So then, how do we tweak our policies to support the ideal structure of the economy?

"It is estimated that illicit financial flows in Africa in terms of value is about 50 billion dollars annually, while in Kenya it is about 1.5 billion dollars".

In his opening remarks, Commissioner Omar stated that this year's summit focused on taxation of the digital economy, dispute resolution, trade facilitation, and combating tax crimes which are all fundamental to the achievement of the authority's goals. He noted that taxation of the digital economy is a discussion item that is being held globally under **OECD-Africa and all other regions** since the nature of economic transactions have progressed towards the increase in the use of online platforms both in Kenya and globally. He highlighted that in Kenya, the use of mobile platforms was a key driver in e-commerce and m-commerce for all categories of businesses whether small or multinational. He further noted that the Summit came at a very important time as KRA is seeking to simplify tax processes to ease compliance in order to support the Government's agenda in relation to domestic resource mobilization.

He confirmed that KRA has already implemented a number of initiatives following recommendations during previous tax summits as highlighted below:

- Ongoing customs processes improvement through implementation of modern technological solutions such as integrated Customs Management Systems (iCMS), Regional Electronic Cargo Tracking System (RECTS), integrated scanner command centre among others.
- iTax has undergone several enhancements to address the changing customer needs
- Implementation of a tax base expansion programme aimed at bringing into the tax net traditionally non-taxed sectors such as the micro small and medium enterprises.
- Implementation of a technological solution for taxation of the digital economy as provided for in the finance Bill, 2019.

Welcome Remarks by Mrs. Elizabeth Meyo, Commissioner Domestic Taxes Department representing Mr. Githii Mburu, Commissioner General, KRA.



“Simple tax methods have numerous benefits; they can reduce taxpayers cost of compliance with the tax laws in terms of time and money hence increase the probability and productivity of enhancing revenue. It is for this reason that KRA has supported tax simplification expected to enable taxpayers to conveniently pay their fair pay of taxes, **not a shilling more or less**”.



Commissioner Meyo in her speech, acknowledged the importance of tax in the development of any country and the need to simplify and demystify tax. She highlighted the fact that KRA understands that simpler taxes have numerous benefits including increasing taxpayers' ability to comply with tax laws by saving time and money hence increasing the probability of enhancing revenue. It is for this reason, that KRA has supported tax simplification expected to enable tax payers to conveniently pay the fair share of *taxes* **'Not a shilling more, Not a shilling less'**.

These measures will enable additional business entry and expansions as well as boost mass entrepreneurship, which in turn will lead to tax base expansion and enhance revenue collection. Simplification of tax measures also entails providing small entrepreneurs with a conducive commercial environment, which allows them to explore their capabilities. Reduced tax compliance costs can encourage and increase small SME creation and compliance with the tax system.

She highlighted the measures KRA has put in place to simplify payment of taxes, which include:

- Establishment of the iTax system which has eliminated major bottlenecks that tax payers used to endure while interacting with KRA and allows taxpayers to access all service at the comfort of their homes.
- Commissioning of scanners at the points of entry which are a major milestone in the fight against illegal importation and exportation of restricted and prohibited goods as well as sealing revenue leakages.
- Installation of smart gate technology at the points of entry that automate the capturing of container and vehicle registration marks and numbers thereby enhancing the integrity of cargo release records.

She also highlighted that KRA is currently working towards increasing the distance to frontier

(DtF) expected to improve ease of doing business ranking from position 45 globally by 2020 cycle through integration with other partner agencies such as NSSF.

Opening Remarks by Mr. Nelson Gaichuhie, Chief Administrative Secretary, National Treasury and Planning representing Hon (Amb). Ukur Yatani, EGH, Ag. Cabinet Secretary, National Treasury.



“The government had implemented various online platforms such as itax, Integrated Customs Management Systems (ICMS), Customer Relations Management System (CRM), Cargo Scanning Management Solutions and Excisable Goods Management System (EGMS) amongst others as strategic instruments to simplify taxation and minimize operational costs”.



“Kenya has embraced innovation in technology and digitization; developments such as block chain, artificial intelligence, unique processing power and word spread connectivity through mobile devices that has created a myriad of opportunities for innovation, employment and empowerment that were previously not available”.

y and digitization; developments such as block chain, artificial intelligence, unique processing power and word spread connectivity through mobile devices that has created a myriad of opportunities for innovation, employment and empowerment that were previously not available.



Mr. Nelson Gaichuhie appreciated KRA for bringing together the various participants of the 5th Annual Tax Summit whose theme was: ‘Tax simplification and digitization for economic transformation.’ He noted that Kenya has embraced innovation in technology and digitization; developments such as block chain, artificial intelligence, unique processing power and word spread connectivity through mobile devices that has created a myriad of opportunities for innovation, employment and empowerment that were previously not available. The expansion of Kenya’s telecommunication infrastructure capable of efficient and affordable information communication services is recognized as a critical requirement for the country’s growth. He noted that the availability of such infrastructure is a great step towards development of the global market. It was in this regard the government has automated most of its operations leading to enhanced accessibility to the public and improved service delivery. For example, the introduction of systems such E-citizen has brought faster and easier access to government services. He further noted that the government had implemented various online platforms such as iTAX, Integrated Customs Management Systems (ICMS), Customer Relations Management System (CRM), Cargo Scanning Management Solutions and Excisable Goods Management System (EGMS) amongst others as strategic instruments to simplify taxation and minimize operational costs. KRA’s automation of processes has also led to notable success in filing returns, remitting payments, applying tax refunds, lodging tax obligations, application of tax waivers, and requesting tax compliance certificates, among others. Following the implementation of online services there has been increased levels of compliance, which have steadily improved over the years. Digitization therefore, allows the government to operate with greater transparency and efficiency.

Plenary session one: Setting the stage: **A policy Perspective to Taxation of the Digital Economy**



The conference began with a discussion about taxation of the digital economy and what policies need to be in place to enable this. The speakers were high-level experts in the region, and a summary of their main points is provided below:

Keynote Speaker:

Dr. Alexander Ezenagu, Senior Fellow Tax Equity, International Budget Partnership, Washington, D.C.

Moderator: FCPA Philip Muema, Founder and Managing Partner, Anderson Tax, Kenya.

Panellists:

1. CPA Maurice Oray, Deputy Commissioner, Corporate Tax Policy, KRA
2. Eng. Daniel Obam, Communication Secretary, Ministry of ICT
3. Dr. Katherine Getao EBS, CEO, ICT Authority
4. Ms. Mary Ndegwa, Regional Head of Policy Public Policy, Facebook
5. Dr. Titus Mukora Partner PWC

The Big Picture

- There is need for a policy framework to guide on taxation of the digital economy taking cognizance of the emerging trends, challenges and opportunities in the digital market space.
- Digitization is the only way to go. KRA has been doing it, and should leverage on technological interventions and stakeholder collaboration to exploit opportunities in the digital market space.
- African nations need to renegotiate treaties and apply best practice in taxation of the digital transactions to mitigate revenue loss.
- Will local laws on digitization be viable internationally? We need experts to tell us.





Plenary one panelists keening following the proceedings of the Tax Summit

Keynote Address and Panel Discussion

The keynote speaker addressed the issue of international tax laws. He observed that international tax laws are not drafted to favour Africa. Thus, in inter-border / intercontinental trade, the tax terms differ.

He noted that the majority of African states have an ineffective income allocation method (Arm's length law) that does not focus on the holistic aspects leading to loss of tax revenue from the trading of multinational firms.

Tax havens hinder the results of transfer pricing and therefore Africa nations need to expand their treaty network to ensure or minimize loss of tax revenue. To fully address the issue of transfer mispricing (manipulations/ shifting profits for tax minimization) profit allocation rules should be implemented.

Tax administration practices in Africa as a continent have to conform to tax regimes that will neither be discriminatory nor stringent to stifle the sector. The adopted regimes should result in reducing the cost of compliance, disputes and promote Foreign Direct Investments (FDIs).

The panellists emphasized on the need to align domestic tax rules with international tax rules (taxation of permanent establishment). The existing tax laws in Kenya do not exempt taxation of digital transactions as provided in the Income Tax Act and the VAT Act.

The cyber space presents major business opportunities, however, it also provides an avenue for tax avoidance and/or evasion due to the complex nature of enforcing domestic laws on transactions conducted virtually. In an effort to bridge the gap,

Kenya under the Tax Procedures Act, 2015 requires firms not registered in Kenya to appoint tax representatives in order to operate in the country. This has however, not yielded much due to lack of workable mechanisms to implement, monitor and enforce the requirement. The East African Community in its quest to harmonize domestic rules with international rules, has formed the East African Technical Forum on Digital Taxation to steer this.

Recommendations

- KRA should focus on capacity building to increase the number of experts in transfer pricing, expert knowledge to build symmetry between revenue authority and tax payers.
- The government should expand, renegotiate and ratify existing bilateral and multilateral treaties and agreements.
- KRA should propose unitary taxation and formulary apportionment to deal with tax shifting; and create equity in taxation.
- KRA should explore a corporate alternative minimum tax applied on revenue at a lower rate which would be less distortive for the players in the digital market place.
- Kenya to enforce digital tax through the payment gateway.

Plenary session two: Effective optimization of technology to enhance and simplify tax administration



The Summit provided an excellent opportunity for experts and practitioners in the digital sector to share experiences and promising practices. A summary of their main points of discussion are highlighted below:

Key Note Speakers:

Industry representative: Mr. Stephen Chege, Chief Corporate Affairs Officer, Safaricom PLC

KRA representative: Mrs. Elizabeth Meyo, Commissioner, Domestic Taxes, KRA

Moderator: Prof. Bitange Ndemo, Professor of Entrepreneurship, University of Nairobi and Chairman Distributed Ledgers and Artificial Intelligence Taskforce



Panelists

1. Ms. Jane Karuku, Managing Director, Kenya Breweries Limited (KBL)
2. Mr. Isaac Awuondo, Chairman, NCBA Bank Kenya PLC
3. Mr. Kamal Budhabbati, CEO, Craft Silicon
4. Ms. Beatrice Gichohi, Deputy Commissioner, Corporate Data Office, KRA

The Big Picture

- Impact of technological innovations in simplification of tax processes.
- Optimization of technology through use of Apps to simplify taxation and promote ease of doing business.
- Utilization of Big data and emerging technologies in tax administration.



Plenary two panelists keening following the proceedings of the Tax Summit

Keynote Address and Panel Discussions

The Keynote speaker noted that in the current dynamic environment, technology has had both positive and negative impact on taxation. One such negative effect is the erosion of the tax base that has been made possible by the invisible nature of online transactions. Despite the technological boom, the economy remains largely cash based and unless the Government encourages digitization, it will remain an impossible task to widen the tax net. Access to and sharing of data remains a challenge brought about by legal constraints, this presents an opportunity for KRA to push for policy changes that will not impede efforts of data acquisition.

On a holistic perspective the government should put in place structures and frameworks to regulate the online market space to ensure timeliness of transaction visibility hence on time declaration and payments. Whereas a global consensus needs to be arrived at, short-term solutions can be explored such as having a view of transactions on crypto-currency and other online transactions which include IOT (Internet Of Things) & AI (Artificial Intelligence) that are not regulated.

KRA has been lauded for its automation efforts. Some of the initiatives that KRA is



implementing in the short to medium term include; Mobile applications to make it simpler to register, file and pay taxes to be launched at the end of the financial year 2019/2020 and System integrations for real time access to transactions for instance twinning of capital gain tax and stamp duty.

Common misconceptions around the digital economy are that current tax laws do not apply to online trading and that taxing the sector will make its uncompetitive.

Recommendations

- KRA should leverage on technology through stakeholder engagements and partnerships to enhance efficiency in tax administration and drive compliance through simplification of tax processes.
- The Kenyan Government and KRA should take up Public Private Partnership (PPP) projects to mobilise resources to enable investment in the right technology to achieve single view of citizens and transactions across government agencies.
- KRA should increase the uptake of Artificial Intelligence (AI) to enable better utilization of data for decision making and address existing gaps in the tax register.
- KRA should leverage on big data in registration, filing, full disclosure, information sharing & compliance management.
- KRA should work towards putting in place structures and frameworks that will ensure visibility of all online transactions.
- Have a dedicated innovation team that works outside pressure of meeting revenue targets
- KRA should have targeted taxpayer education programmes to achieve increased levels of literacy on tax laws, procedures, obligations and processes.

Plenary session three: Modernizing Customs Administration to Promote Trade Efficiency.



The session focused on driving discussions for improvement of service delivery in customs for efficiency in the cross border and international trade and enhancement market access and comprised local and regional industry experts.



Keynote Speakers

Industry perspective: Mr. Jaswinder Bedi, Chairman, Kenya Export Promotion and Branding Agency (KEPROBA) and managing Director, Bedi Investments Limited.

KRA perspective: Ms. Susan Wanjohi, Deputy Commissioner, Revenue and Regional Coordination, Customs and Border Control, KRA

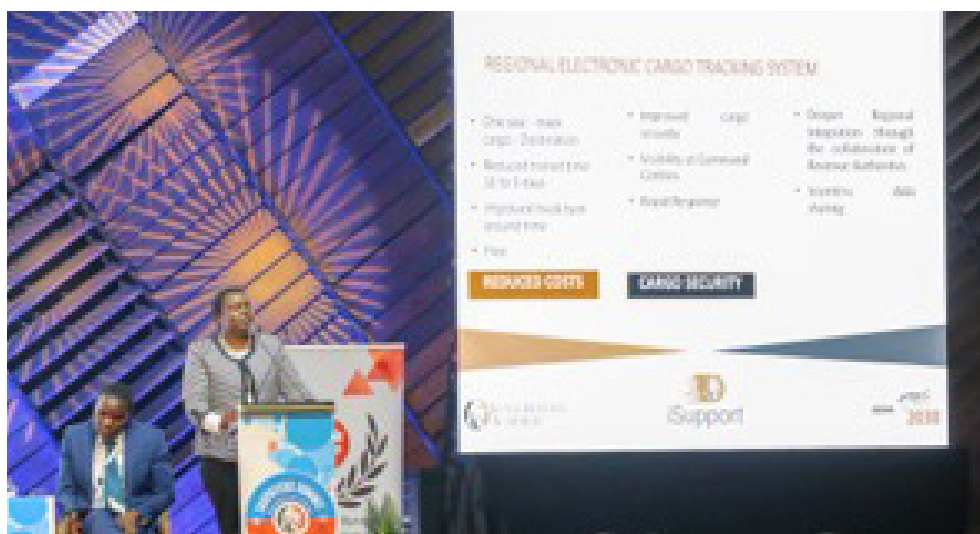
Moderator: Mr. Larry Liza, Regional Director, World Customs Organization (WCO), ESAROCB

Panellists:

1. Mr. Alban Odhiambo, TradeMark East Africa (TMEA)
2. Mr. Mads Skov-Hansen, Area Managing Director, Eastern Africa, Maersk
3. Mr. Amos Wangora, CEO, KENTRADE
4. Ms. Caroline Mukiira, Head of Tradelens, Tradelens- IBM Blockchain for Middle East & Africa.

The Big Picture

- There is need to add value to Kenya's exports for the country to realize favourable balance of payments.
- Poor trade practices and taxation has hampered the production of Kenya's 3 key export products, namely; tea, horticulture and petroleum products.
- Kenya should develop an ecosystem for data exchange by leveraging technology like blockchain and data that can be trusted.
- KRA must continually embrace and upgrade exponential technology to manage customs risks and facilitate trade.



Ms. Susan Wanjohi, Deputy Commissioner, Revenue and Regional Coordination, Customs and Border Control, KRA giving a keynote address on KRA's Perspective on Modernizing Customs Administration to Promote Trade Efficiency.

Keynote Address and Panel Discussions

The role of Customs Administrations is to facilitate trade, control borders for safety



and, protection of society through enforcement of prohibitions and restrictions, compilation of trade statistics, revenue collection and accounting.

There is need for Customs Administrations worldwide to adopt harmonized practices that allow goods to be cleared more efficiently. KRA has leveraged on technology through systems such as the Regional Electronic Cargo Tracking System (RECTS), Scanner Management System (iSCAN), Single Window and the Integrated Customs Management System (iCMS). Together with the Single Customs Territory Program and One Stop Border Posts under the EAC and the Northern Corridor, these initiatives have gone a long way in eliminating duplication of manual procedures, thus simplifying, hastening, securing and reducing costs associated with cargo clearance.

The cost of doing business in developing countries is estimated to be 1.8 times higher than in developed countries. In Kenya for example, one of the contributors to increased cost in the clearance of goods are the multiple processes managed by different statutory agencies. An attempt has been made to synchronize the functions of the different agencies through the introduction of an online single window system which gives an importer an opportunity to make declarations to all the agencies through a single portal.

However, most of the customs administrations within the region do not conform to the needs of a globalised supply chain system; the expansion of just-in-time manufacturing and the growth of e-commerce. There is need for overall and industry review of what constitutes Kenya trade competitiveness and its competitive advantage by interrogating how we treat investors in the various industries.

There is also a great need for additional training for all officers in the trade facilitation process to acquaint themselves with the modern international best practice.

To facilitate trade, there is need for a paradigm shift in the way KRA operates. First by understanding that with increased trade facilitation, revenue will automatically come, hence the need to treat taxpayers as shareholders not stakeholders, think of taxpayers' profitability, rethink the VAT refunds model to increase cash flow, promotion of exports to take advantage of the opportunity offered by the Africa Continental Free trade Area (AfCFTA).

There is also a great need for additional training for all officers in the trade facilitation process to acquaint themselves with the modern international best practice.

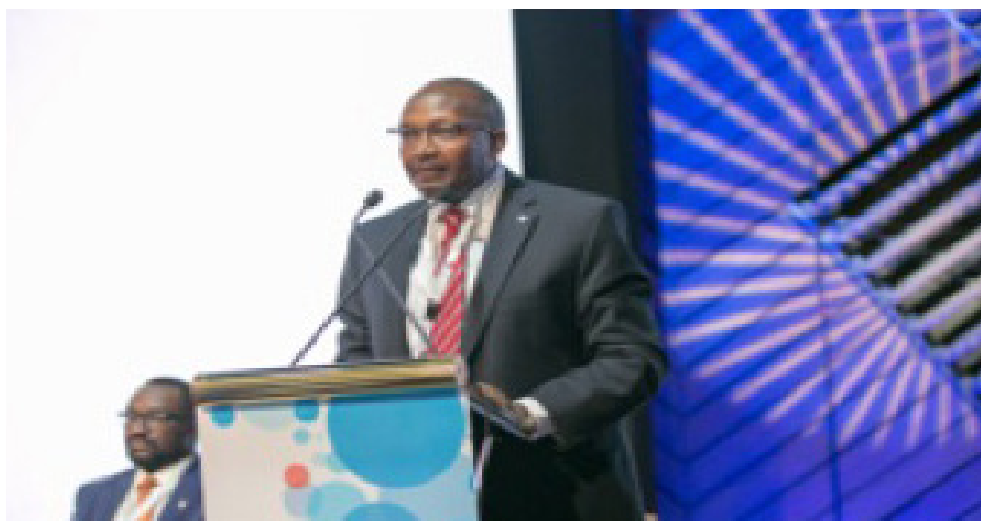
Recommendations

- KRA should recognize each taxpayer as shareholder as opposed to a stakeholder to build them and their businesses in order to realise more revenue.
- KRA should develop a multiagency framework for consolidators to facilitate small traders' businesses.
- There is need to revise the Kenyan laws as they frustrate trade as opposed to promoting it which contradicts the spirit of trade facilitation and other key policy areas such as investment promotion and export promotion.
- Kenya should take advantage of the Free Trade Zones provided, such as AGOA to increase and promote its exports in the world trade market.
- KRA to encourage traders to digitize all the trade transactions in the entire supply chain.
- The tax regimes should be harmonized and predictable.



- The government to embark on aggressive promotion of exports to take advantage of the opportunity offered by the Africa Continental Free Trade Area (AfCFTA).

Plenary 4: Stimulating economic growth through efficient tax dispute prevention and resolution



Keynote Speakers:

Industry perspective: Hon Justice Kathurima M' Minoti, Judiciary Training Institute

KRA perspective: Mr. Paul Matuku, Commissioner, Legal Board Coordination, KRA

Moderator: Mr Christopher Kirathe Partner, Ernst and young.

Panellists:

1. Mr. Wilfred Mutubwa FGI Arb, Vice chairman, Chartered Institute of Arbitration (CIARB)
2. Mr. Ashif Kassam, Executive Chairman, RSM Eastern Africa LLP
3. Ms. Harriet Chiggai, Vice President, Law Society of Kenya
4. Mr. George Kiondo, Chief Executive Officer, Kenya National Chamber of Commerce and Industry (KNCCI)

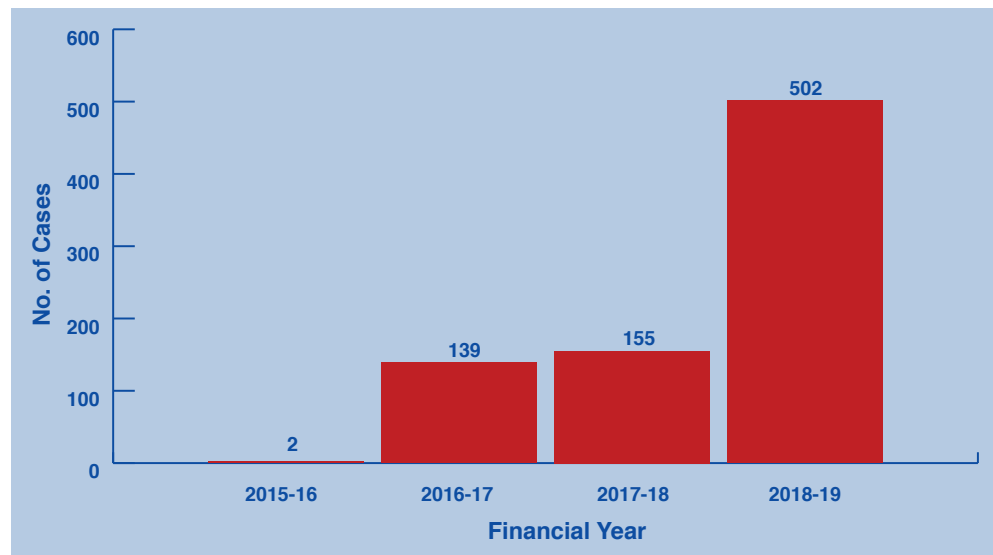
The Big Picture

- Alternative tax dispute resolutions mechanisms are not commonly embraced in the country.
- There is low public awareness of the existence and purpose of ADR mechanisms.
- Mediation and Arbitration processes are meant to complement the judicial courts and not to compete.
- The legal provision of the ADR mechanisms is anchored under section 55 of the TPA 2015.
- There are delays in resolution of tax disputes in court and the Tax Appeals Tribunal.
- Arbitration process is legal and is registered under the Chartered Institute of Arbitration

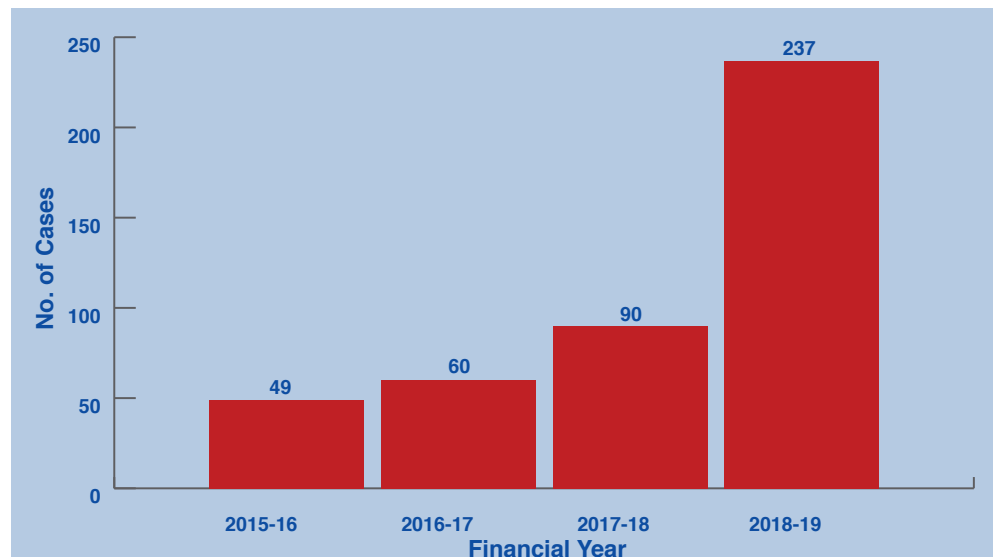
Background of Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) for tax related disputes was formed in the year 2015 with only 2 ADR applications being made in the same year. ADR is gaining momentum as a method of dispute resolution with 502 applications being received in the financial year 2018/2019. Of these applications, 237 cases were resolved and KShs. 8.2 Billion worth of taxes released for collection.

Tax disputes received in ADR for the FY 2018/19



Tax disputes received in ADR for the FY 2018/19



This milestone can be attributed to stakeholder engagements on the existence of ADR within the Authority and acceptance of the ADR framework by taxpayers. ADR endeavours to resolve all tax disputes with the exception of cases that need interpretation of law and those with criminal elements.



In addition to ADR, Independent Review of Objections (IRO) as proposed by TADAT has also been introduced as one of the mechanisms in place to deal with review of objections in situations where a taxpayer objects to an assessment raised by the respective Commissioner.

KRA through the Kenya School of Revenue Administration (KESRA) offers training to taxpayers on ADR to build capacity and knowledge in the area. In addition to this, KRA through KESRA partners with the judiciary, ICPAK and LSK to gain support and improve service delivery.



Plenary four panelists keening following the proceedings of the Tax Summit

Key note addresses and Panel discussions

The keynote speakers observed that tax disputes are inevitable either as a result of differences of interpretation of the law, application of tax rates or the assessments issued by the authorities. Where disputes arise, the judicial court may be used to resolve disputes, though court process are generally costly and lengthy leading to delays in release of revenue. It is therefore recommended that parties in dispute resort to regular courts as a last option and only when other available alternative avenues of dispute resolution have failed.

Further, judicial courts should only admit matters for hearing in instances where the tribunal has not been constituted. The judicial court should therefore be an avenue of appeal. The panelists also noted that challenges experienced with judicial courts can be avoided and costs saved if parties opted for ADR. The ADR process is simple, informal, less costly, faster and ensures confidentiality, fairness and accessibility. ADR targets a win-win outcome within a timeframe of 90 days.

The constitution of Kenya gives provision for the creation of Tribunals under the Judiciary to guide the resolution of disputes, therefore, Judiciary has a role to play in promoting alternative mechanisms in resolving tax disputes. The law currently stipulates that parties in dispute should seek leave to settle their tax dispute outside tax tribunal and on the event that either party still feel aggrieved by the outcome of the tribunal can appeal to high court within 30 days.

It was noted that people with disabilities and those in the informal sector are not fully catered for in the functions of KRA and in courts. There is need to improve



mainstreaming in these areas and enhance arbitration and mediation procedures so that they can effectively cater for minority groups who also contribute to the economy. This can be achieved by availing translators and other services that are not provided in courts.

Recommendations

- Technicality of tax issues: KRA to invest in capacity building to deal with technical issues within ADR to foster a fast resolution of disputes and also create an enabling environment for the SMEs to have a working structure that will increase productivity.
- ADR Awareness: KRA to create awareness of the existence of ADR mechanisms through conducting adequate sensitization and Taxpayer education in different sectors of the economy.
- Reducing cost of dispute resolution: KRA to invest in stakeholder engagement to improve uptake of the ADR mechanism to reduce cost in dispute resolutions.
- Specialization and institutionalization of the Tribunals: KRA to create a commercial team that complements the tribunal and also create regulations that support the institution. Tax Appeals Tribunal Act should be expanded to create a special division in the High Court handling tax disputes.
- Terms of service for TAT Members: Due to the gap that exist when the contracts of the TAT members lapses, KRA should consider hiring tax tribunal members on permanent basis as opposed to part time. This will reduce the high number of cases that remain unresolved awaiting the appointment of the members.
- Creation of ADR legislation: KRA to propose legislations that will require parties to explore ADR before proceeding to judicial courts.
- Accessibility of the ADR mechanisms: KRA to ensure that arbitration courts and other alternative dispute mechanisms are available in different parts of the country.

In conclusion, most of the stakeholders were not aware of dispute resolution processes more specifically for SMEs. KRA should embark on educating Taxpayers to make sure that Tax disputes only go to court as a last resort and Taxpayer to make use of the Tax Appeal Tribunals and ADR Mechanisms.



Plenary 5: The Role of Exchange of Information in Combating Tax Crimes to Spur Economic Transformation in Africa.



Keynote Speaker

Mr. Ervice Tchouata, Tax Policy Advisor, OECD Centre for Tax Policy and Administration

Moderator

Ms. Sameera Khan, Manager, Technical Assistance, Africa Tax Administration Forum

Panelists

1. Dr. Terra Saidimu, Ag. Commissioner, Intelligence and Strategic Operations, KRA.
2. Mr. Patrick Mukiibi, Commissioner, Tax Investigation, Uganda Revenue Authority.
3. Mr. Robert Ssuna, Policy Lead, Tax and International Financial Architecture, Tax Justice Network Africa.
4. Ms. Catherine Ngina Mutava, Associate Director, Strathmore Tax Research Centre
5. Dr. Habil Olaka, CEO, Kenya Bankers Association

The Big Picture

- There is no Exchange of Information (EOI) without international instruments.
- The EOI Triangle consists of:
 - i. Availability of Information,
 - ii. Access to Information and
 - iii. Effective Exchange.

Keynote speech and panel discussions

Mr. Tchouata pointed out the need for countries to collaborate through Exchange of Information to avoid international money laundering and curb tax cheats. Unfortunately, this does not always happen because cases of tax evasion are sometimes not solved for lack of information from foreign jurisprudences. Kenya and other African countries need to create new strategies of information sharing. It was noted that the world is now increasingly being more transparent and the country should therefore embrace compliance as a new way of life.

He further highlighted that only 19 African countries have access of information due to strict information laws and that there are instances where a country can access information from one of them but still face hindrances accessing information from other entities. This is further exuberated by differences in the application and interpretation of the law as evidenced in the Banking sector where EOI is achieved better than with mobile provider(s).

According to Boston consulting Group, an international taxation organization, in its 2016 report 2 trillion dollars of Africa and Middle East's wealth is kept outside. 25% of Africa's wealth is stashed outside the continent. That means, in simple terms, that is it not being taxed.

He highlighted that strengthening of inter-country jurisprudence ties should be a priority to enable information sharing. He noted that KRA has an EOI ratification rule, which is pending ratification by the board and other relevant government authorities. This will go a long way in getting relevant information on tax payers and will increase revenue generation.

Recommendations

- Kenya to ratify taxation laws to oblige entities to supply information to KRA.
- Kenya to enter agreements with other nations to provide for free flow of information on tax payers when necessary.
- KRA board to urgently ratify the exchange of information (EOI) proposal.
- International tax offenders to be handed over to aggrieved countries.



Plenary five panelists pose for a group photo



Closing ceremony

Vote of Thanks by Dr. Fred Mugambi, Commissioner, Kenya School of Revenue Administration



Commissioner Mugambi acknowledged the presence and participation of Hon. Nelson Gachuhie, representing the Government, the Judiciary, Uganda Revenue Authority, the Summit sponsors, Safaricom and EABL, the Speakers and Panellists, the KRA Board led by the Chairman Amb. Francis Muthaura, the Commissioner General and Kenya Revenue Authority senior management and staff, Kenya Ports Authority, Kenya Bureau of Standards, Trademark East Africa, African Tax Administrators and the media for covering the event.

He highlighted that the proceedings of the Summit can be summarised into four key points as follows:

- i. KRA is on a journey to more sophisticated technologies such as Artificial intelligence, robotics, block chain and chart box that have capacity to enhance efficiency in tax and customs administrations.
- ii. 'Your country is your motherland and you have a responsibility to support it. You have a solemn duty to support Kenya's growth by not only paying your fair share of tax but by also ensuring your neighbour pays.'
- iii. There is need to rapidly grow and also align various tax and customs administrations including aspects such as technology, data intelligence structures, people, skills and policies to create a more enabling tax and customs administration process, not just in Kenya but across the region.
- iv. A lot more cooperation is needed across national agencies, and tax and customs administrations to support and enhance tax collection, compliance minimize tax leakages, protect our borders, markets and generally facilitate business.

Remarks by Amb. Francis Muthaura, KRA Board Chairman



In his remarks Amb. Muthaura appreciated all the panellists and participants for their feedback and contributions, which will empower KRA on its way forward. He reiterated that KRA would use the new knowledge to improve facilitation in tax collection.

He emphasized on the summit recommendation made by the panellists on KRA being a facilitator of business.

Closing Remarks by Mr. Githii Mburu, Commissioner General, KRA



The Commissioner General began his closing remarks by thanking all the participants of the Summit for the rich discussions held during the two day deliberations. He highlighted key discussion items from the session as below:

1. There was emphasis on the importance of use of technology to improve ease and efficiency of tax administration. He noted that KRA has invested in technology



and shall continue using technology to make it easier for taxpayers to pay their taxes.

2. On the use of mobile applications to pay taxes, he noted that KRA would make it easy to pay taxes in a similar manner that taxpayers are able to pay other utility bills such as electricity. He emphasized that would continue to enhance tax collection through deployment of technology.
3. Those operating in the digital space must pay the rightful amount. KRA collects all taxes for all the transactions happening in the digital space. KRA assured the audience that it is engaging with various stakeholders to ensure that all the transactions with tax implications are collected and paid for.
4. KRA has invested in modern technology such as Integrated Customs Management System (ICMS), the Regional Electronic Cargo Tracking System (RECTS) and Scanners among others in a bid to facilitate trade and improve the business environment while recognizing businesses as shareholders as opposed to stakeholders. KRA will continue to engage its partners such as TMEA and KENTRADE to improve and modernize customs processes.
5. On Dispute Resolution, KRA has improved in terms of resolving its disputes. It has brought independence in review of objections by bringing in a new team. The courts also have a better understanding of tax laws and ensure that taxpayers don't abuse the court process. KRA commits to enrich the process by ensuring it deploys the right skills, capacity and the right attitude to resolve the disputes.
6. Exchange of Information is possible where there exist legal instruments properly signed and ratified. Kenya is looking forward to the ratification of the multilateral convention that will make Exchange of Information easier and faster.

In his final remarks, the Commissioner General thanked all the participants for their contributions and committed to review and implement the recommendations made to make payment of taxes easy and better.



Appendix 1 - List of Keynote speakers, Moderators and Panellists



Appendix 2 - Key Recommendations from 2019 for Action

1. Align existing laws with international laws and policies on digital taxation. KRA to adopt a simple model, aligned with the global market, consider alternative taxation methods like the Unitary Taxation Formula and Alternative Corporate Minimum Tax.
2. KRA needs to consider adopting exponential technologies like Artificial Intelligence (AI), Robotics, Block chain technology (Internet of Things), not only to manage risks associated with tax fraud, safety and security but also to enhance its efficiency, thus promoting a globalized ecosystem for trade facilitation.
3. KRA needs to create partnerships with stakeholders to access Research and Development into emerging trends will help in understanding change in business models and behaviour, thus assist in developing a simplified and relevant taxation regime for the digital economy.
4. KRA needs to create a dedicated innovations team mandated with coming up with innovative ideas on emerging business trends.
5. KRA must continually embrace and upgrade exponential technology, including considering signing up to a digital platform with global secure exchange of data to encourage faster clearance of goods.
6. KRA needs to engage and push Parliament to enact specific timelines within which cases should be resolved to avoid delay in resolution of tax cases in court.
7. There is also need to have separate judicial courts to deal with tax cases, or make TAT a fulltime arbitration court.
8. KRA needs to push ratification of international instruments such as the Multilateral Convention on the Mutual Administrative Assistance in Tax Matters (MAC) to enable the Authority access cross-border information especially on illicit financial flows.
9. KRA needs to have a law in place to protect the information shared as the current law is not specific to Exchange of Information (EOI).



Appendix 3 - Outcomes of previous summit recommendations

Year	Focus Area	Recommendations	Status
2015	<i>Fighting illicit trade and counterfeits.</i>	<ul style="list-style-type: none"> The need of KRA to actively protect genuine businesses from illicit trade and influx of counterfeits. 	<ul style="list-style-type: none"> KRA has implemented the Regional Electronic Cargo Tracking System (RECTS), a web-based integrated system used to monitor transit cargo under Customs control in Kenya, Rwanda and Uganda. Kenya Revenue Authority (KRA) is part of an multi-agency taskforce that was tasked with crackdown of illicit trade. Implementation of Excisable Goods Management system in protecting genuine businesses. We have enhanced controls through proposed amendments to the excise duty act and new excise regulations.
	<i>Predictability of the tax environment.</i>	<ul style="list-style-type: none"> KRA needs to unlock tax administration challenges through building up tax policies that will improve predictability of taxes. 	<ul style="list-style-type: none"> Income Tax Act overhaul is in the process of finalisation. One of the guiding principles of the review is predictability and stability of Kenya's tax policy to facilitate long-term investment decisions. The review is expected to provide a conducive tax regime for informal sector. Continuous strategic partnership for tax law based on empirical data and benchmarks.



Year	Focus Area	Recommendations	Status
2016	<i>Tax Policy Processes and procedures</i>	<ul style="list-style-type: none"> Education curriculum should inculcate tax awareness starting at the basic education with an emphasis on creating awareness on tax. 	<ul style="list-style-type: none"> KRA has collaborated and launched a KRA and Kenya Institute of Curriculum Development in mainstreaming tax education in competency –based curriculum. The Kenya School of Revenue Administration has also opened up training programmes to the public to facilitate understanding of tax & customs.
	<i>Uptake of Technological innovations</i>	<ul style="list-style-type: none"> Need to widen the scope of utilization of ICT, which includes the incorporation of mobile phone applications as a means of simplifying and easing the process of filing returns and payment of tax. 	<ul style="list-style-type: none"> The Authority is has installed a Customer Relationship Management System. KRA has put in place a USSD code *572# to facilitate mobile tax transactions. The Authority is in the process of developing an Mservice platform to cater for the needs of all segments of taxpayers. This is part of KRA's service delivery model redesigning that places the customer at the forefront.
		<ul style="list-style-type: none"> KRA should explore connecting ETRs to KRA systems for real time communication and roll out a modern ETR system that can interact seamlessly with its system. 	<ul style="list-style-type: none"> Tax Invoice Management System (TIMS), which is an enhancement of the current ETR Programme is been implemented. TIMS will enable automatic reporting of tax invoice transactions.
	<i>On facilitating MSME's</i>	<ul style="list-style-type: none"> KRA should continue its efforts in the MSE strategy to address the concerns of SMEs such as the burden of filing returns and enhancing compliance through considering propositions such as provision for presumptive tax based on defined criteria. 	<ul style="list-style-type: none"> Discussions with various partners underway both government and private sector in MSME development and formalization. Developed an SME support framework Scheduled outreach awareness forums for MSME's Advanced corporate discussions on service channels/ innovative solutions in supporting the MSME's. Introduction of presumptive tax in 2018.



Year	Focus Area	Recommendations	Status
2017	<i>Enhancing Customs Systems for Efficiency in Trade Facilitation</i>	<ul style="list-style-type: none"> The Integrated Customs Management System (iCMS) should be integrated to iTax for seamless accessibility and to obtain information on non-compliant taxpayers. 	<ul style="list-style-type: none"> Integration has been done in three parts; Part 1 – Where iCMS receives taxpayer information (individual and company) from iTax. iCMS uses iTax as the single source of truth for individual and company details . Part 2 –Integration between iCMS and iTax enables sharing of VAT and Excise duty details. Part 3 – integration for mining non-compliant data. Business processes are being analyzed to facilitate integration. Part 4 – Integration between iCMS and EGMS to share excisable goods data. This integration is at requirements definition stage.
Year	Focus Area	Recommendations	Status
2018	<i>The Role of Professional Bodies in Enhancing Domestic Revenue Mobilization</i>	<ul style="list-style-type: none"> KRA should leverage on Professional Bodies in Enhancing Domestic Revenue Mobilization 	<ul style="list-style-type: none"> The Authority is partnering with professional bodies including ICPAK, LSK,KMA ,KMPDU, BORAQS etc. and reaching out to others to educate their members through structured quarterly sessions.
	<i>Strategic partnerships</i>	<ul style="list-style-type: none"> KRA to collaborate with the Central Bank of Kenya (CBK) on M-Commerce and E-Commerce. CBK will play a key role as they oversee all financial transactions 	<ul style="list-style-type: none"> Several engagements have been held with sector players, PGA's including CBK in provision of solutions in taxation of the digital economy. Currently the Authority is seeking to acquire a Digital Tax Collection Service to enhance monitoring, collection and remittance of taxes in the digital market place.





Year	Focus Area	Recommendations	Status
	<i>Tax base expansion and taxation of the informal sector</i>	<ul style="list-style-type: none"> KRA to institutionalize engagements with informal sector 	<ul style="list-style-type: none"> Discussions with various partners underway both government and private sector in MSME development and formalization. Developed an SME support framework Scheduled outreach awareness forums for MSME's Advanced corporate discussions on service channels/ innovative solutions in supporting the MSME's.
	<i>Accelerating the growth and competitiveness of manufacturing sector in Kenya.</i>	<ul style="list-style-type: none"> KRA should review the VAT refunds framework to ensure efficiency in refunds for competitiveness of the industries. 	<ul style="list-style-type: none"> Expected Legislative changes The Finance Bill 2019 has reduced VAT withholding from 6% to 2%. The Bill has also reviewed the VAT Refunds formula as provided for under VAT Regulations 2017 to create equity in allocating input tax between local sales and exports. This means therefore that claimants will get a fair portion of the input tax relating to exports. The Miscellaneous amendment Bill 2019 has provided for Credit Utilisation where taxpayer will be able to utilise credits relating to VAT Withholding to settle tax liability in other tax heads <i>Status of VAT refunds</i> Developed "Green Channel" framework for low risk refund claims to fast track processing, payment, and post audit after. Undertaking comprehensive Business Process Reengineering (BPR) in refund management. Undertake system enhancements on identified key BPR aspects to enhance efficiency A total of Kshs 21.3B has been paid for during the period, July 2018-Sep 2019.



Acknowledgements

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- Mr. Githii Mburu, Commissioner General, Kenya Revenue Authority
- Dr. Mohamed Omar, Commissioner, Strategy, Innovation & Risk Management, KRA
- Dr. Fred Mugambi, Commissioner, Kenya School of Revenue Administration, KESRA
- Ms. Grace Wandera, Deputy Commissioner, Marketing & Communication, KRA

Exhibitors

As part of the Summit activities, KRA hosted a 2-day exhibition with the sponsors and the public and private sector given an opportunity to showcase their products. There were a total of **12 exhibitors** during the summit as listed below:

- Kenya Revenue Authority: KESRA, DTD, Customs & M-Service.
- Safaricom PLC
- East African Breweries Limited
- Institute of Certified Public Accountants of Kenya
- Huduma Kenya – NHIF, Nairobi Water
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