

WEBINAR | TAX OUTLOOK 2025

29 January 2025



AN OVERVIEW OF OUR LAW FIRM

We are a top, independent, African business law firm based in South Africa and in Kenya through Kieti Law LLP. We are actively cultivating relationships with other top independent firms around the world. At Cliffe Dekker Hofmeyr (CDH) we believe the right partnership can lead to great things.



Brent Williams
Chief Executive Officer



Tim Fletcher
Chairperson

Clients attest to this firm's proficient approach:
"Professional, terrific turnaround times, quality advice and out-of-the-box solutions."

CHAMBERS GLOBAL

CDH is *"extremely commercial, client-centric and efficient, while also providing sound advice which is always in our best interest."*

CHAMBERS GLOBAL



Full service law firm.

One of the largest business law firms in South Africa.



more than **300 lawyers**



track record spanning **169 years**



Deal**Makers**



BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

Agenda

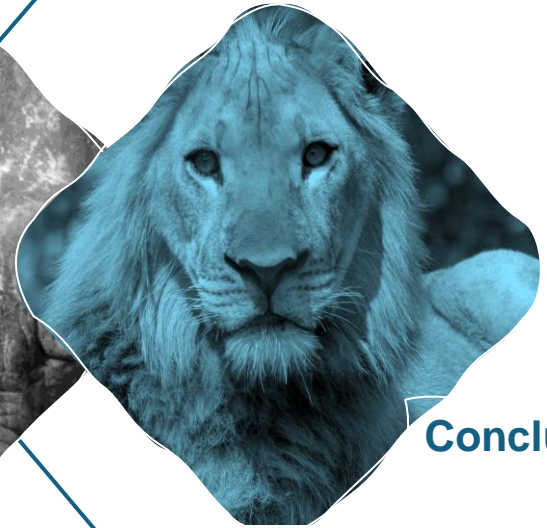
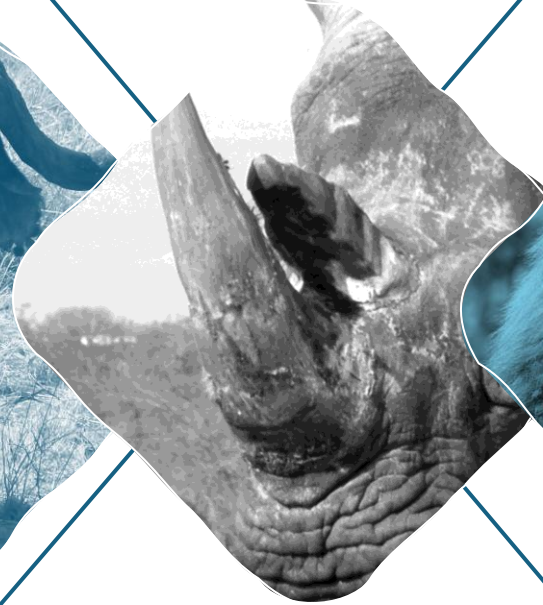
Global Trends



Local Challenges



Other Matters

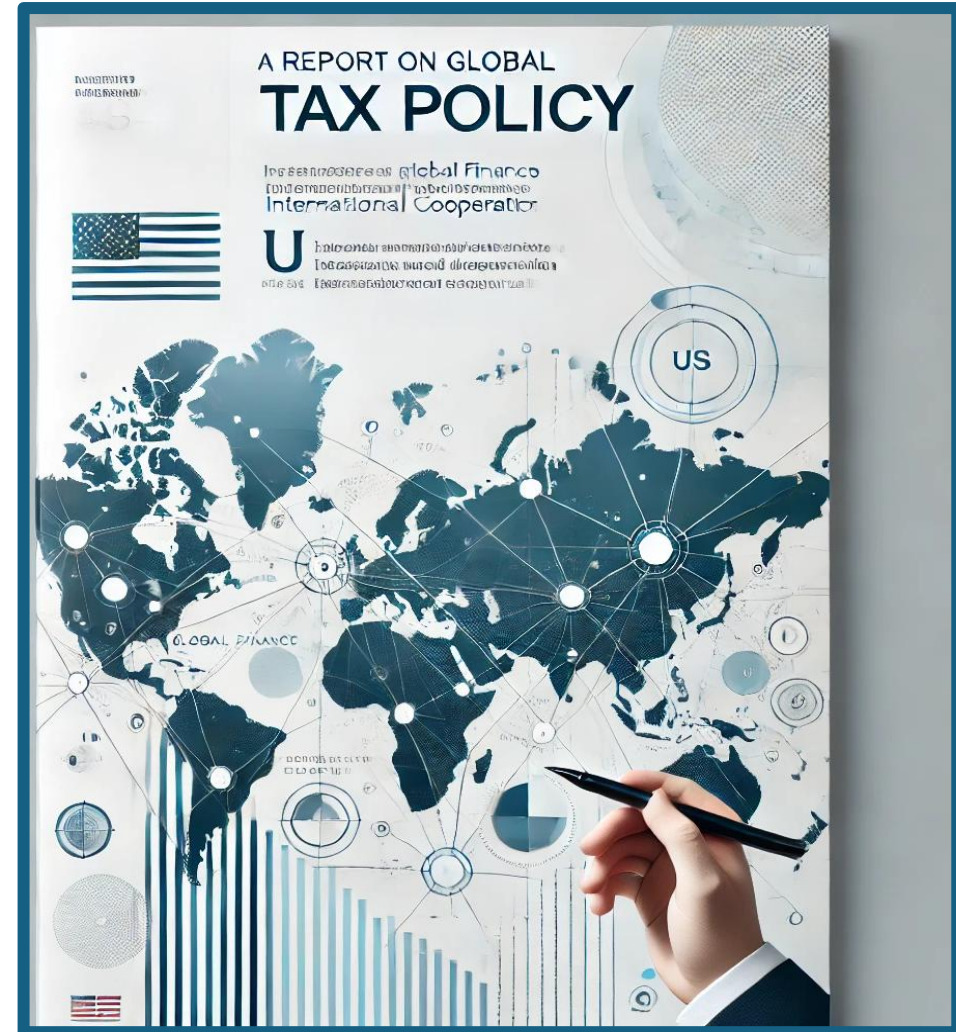


Conclusion

**What's in
store for
Kenya in 2025**

US Challenges OECD Global Tax Deal

- On 20 January 2025, US President Trump issued an Executive Order declaring the OECD Global Tax Deal as having no force in the US. The Treasury Secretary was instructed to investigate foreign tax rules affecting US businesses.
- An Executive Order was issued addressing extraterritorial taxation, potentially doubling US tax rates on entities from non-compliant countries.
- **What does this mean for KRA and taxpayers?**
- Taxes like SEP would be deemed extraterritorial leading to the imposition of double taxation on Kenyan entities with operations in the US.
- The orders may deter US-based companies from investing in Kenya, impacting FDI inflows.



Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI)

On January 8, 2025, Kenya deposited its instrument of ratification with the OECD in respect of the BEPS multilateral instrument (BEPS MLI).

For Kenya, the BEPS Convention will enter into force on 1 May 2025.

Kenya already has 11 matched agreements, including treaties with countries like the UK, India, and South Africa.

What does this mean for Kenya?

Kenya will revise its existing treaty terms with new provisions from the MLI such as those with Germany, Iran, and Norway etc.

For treaties still awaiting ratification, like the Kenya-Italy agreement, the MLI's provisions will be applied once finalized.

Economic impact of the Russia and Ukraine War



Decline in Foreign Aid- US suspended new aid and ongoing projects. NGO's rely on US grants to operate



Potential global recession- Driven by geopolitical tensions, high inflation, and tightening monetary policies in major economies

Local Issues



Rising debt levels & High debt service obligations.



High government expenditure: recurrent expenditure



Rejected Finance Bill- Taxpayer apathy

Rising political temperatures



Impact of drought- Exacerbated food insecurity and increased reliance on imports



Falling forex reserves

Implementation of new tax laws



Introduction of Significant Economic Presence Tax at 3% on gross turnover



Introduction of Minimum Top-up Tax at 15%



Introduction of reverse invoicing provisions



Taxing income from Digital Platforms

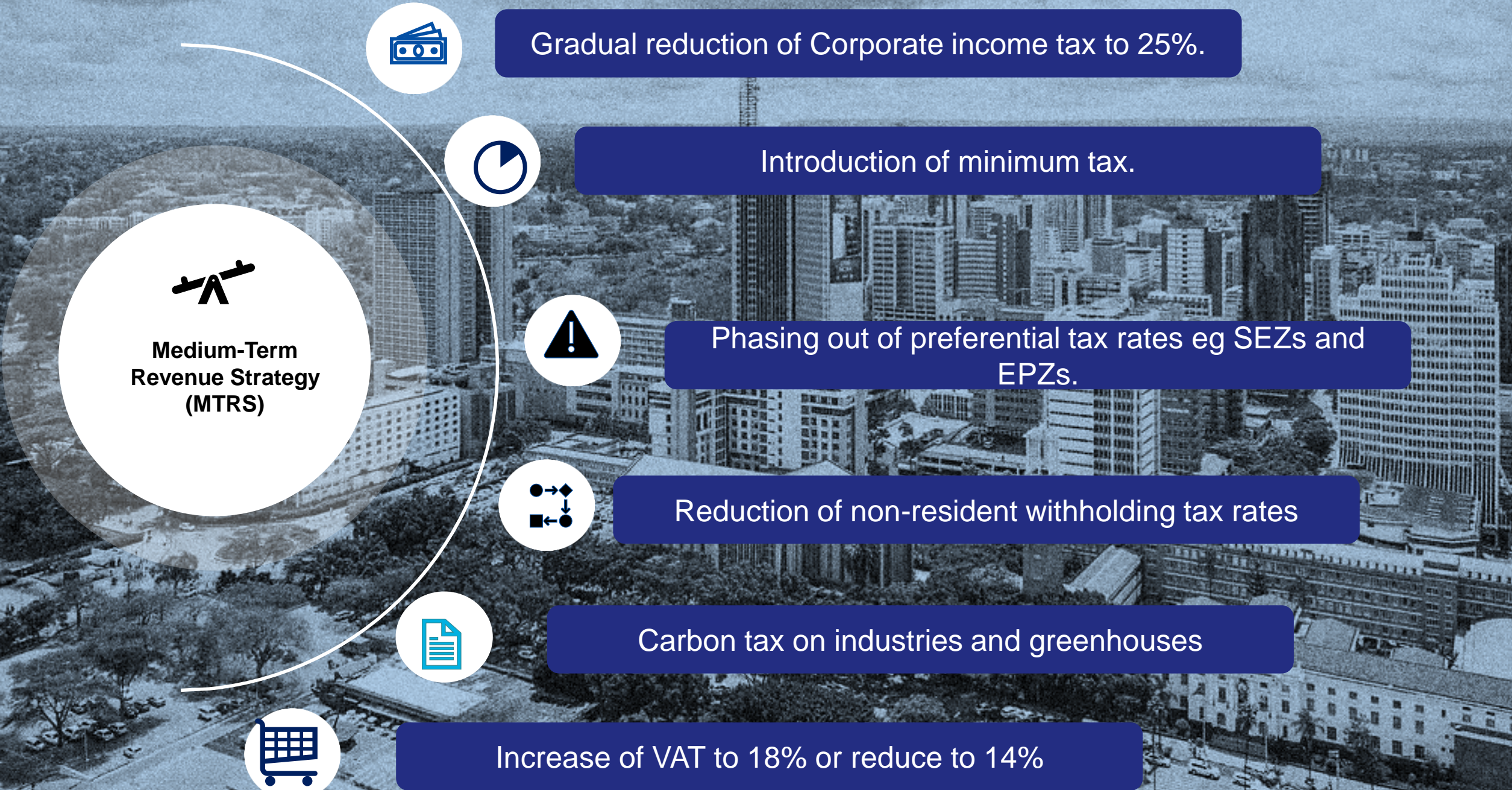


Reinstatement of the power to abandon unpaid tax due to doubt or difficulty in recovery



Tax amnesty extension to July 2025

Implementation of Medium-Term Revenue Strategy (MTRS)



**Medium-Term
Revenue Strategy
(MTRS)**



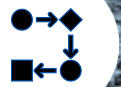
Gradual reduction of Corporate income tax to 25%.



Introduction of minimum tax.



Phasing out of preferential tax rates eg SEZs and EPZs.



Reduction of non-resident withholding tax rates



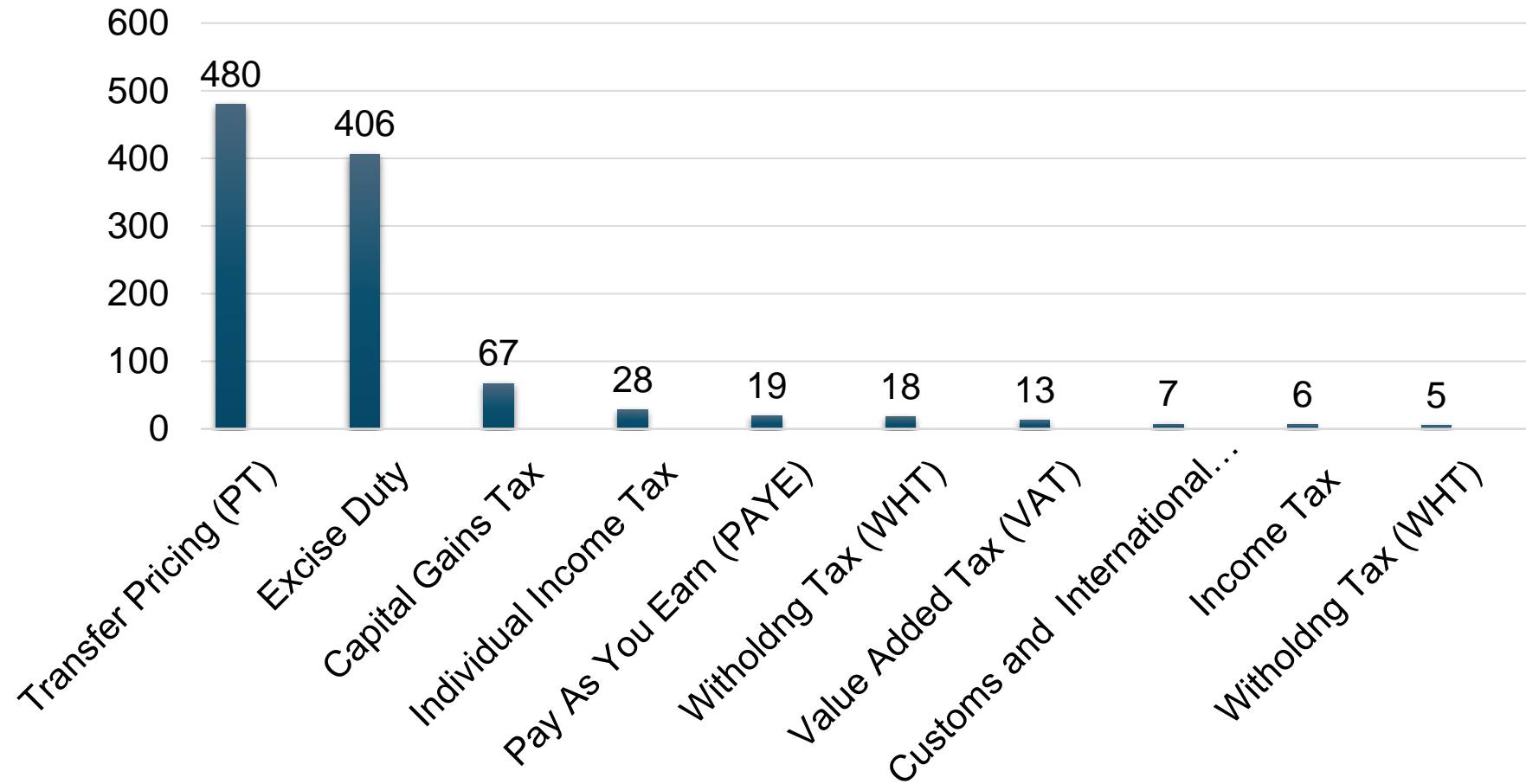
Carbon tax on industries and greenhouses



Increase of VAT to 18% or reduce to 14%

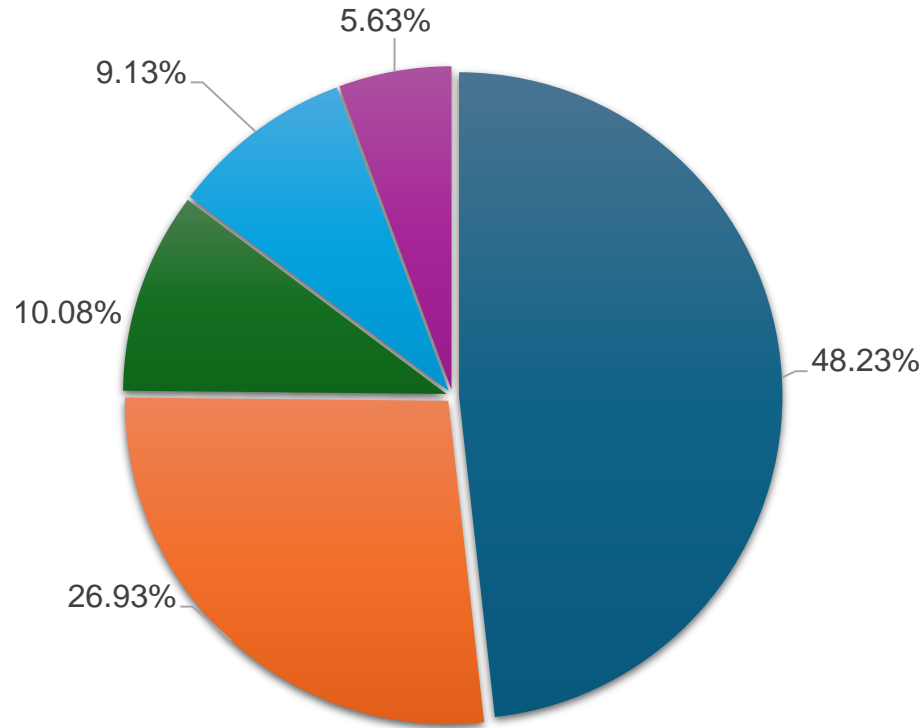
Increase in Tax Disputes

Median assessment values by tax head (millions)



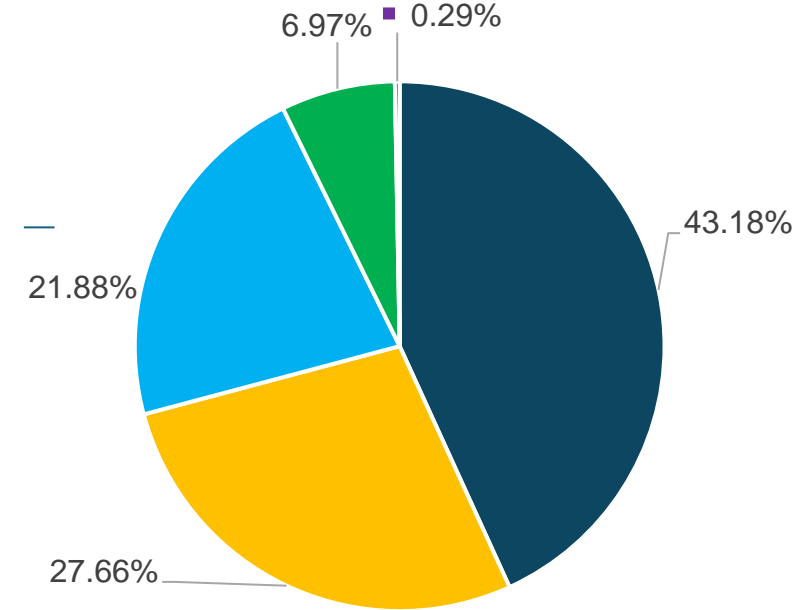
Statistics on Tax Disputes

Litigated Tax Heads



- Value Added Tax (VAT)
- Corporate Income Tax (CIT)
- Withholding Tax (WHT)
- Customs and International Trade Tax
- Paye As You Earn (PAYE)

Most common reasons for case dismissal in the TAT



- Matters of Substance
- Statutory Timelines
- Burden of Proof Matters
- Others
- Procedure and Regulatory Issues

Migration of Legacy Balances

KRA have now migrated the legacy system balances to the iTax system to enhance automation and accuracy in tax administration.

KRA has made it clear that the legacy balances are not a tax assessment, but failure to comply may result in a formal assessment.

What does this mean to taxpayers?

Taxpayers are being urged to resolve discrepancies related to legacy VAT and Income Tax balances .



Increased adoption of Technology

VAT Pre-populated return system

KRA has rolled out the VAT Pre-Populated Return System starting November 2024.

What does this mean to taxpayers?

Taxpayers to ensure that their suppliers issue TIMS/eTIMS compliant invoices otherwise they will not be eligible to claim the input VAT.

For imports, any input VAT claim not validated against existing customs import declarations will not be eligible.

Draft Income Tax Rules

- On November 2024, the Commissioner General, on behalf of the CS for National Treasury and Economic Planning, developed and published draft income tax rules being:
 - Draft Income Tax (Pay As You Earn) Rules, 2024
 - Draft Income Tax (Advance Tax) Rules, 2024
 - Draft Income Tax (Withholding Tax) Rules, 2024
 - Draft Income Tax (Guidelines on Allowability of Bad Debts Guidelines), 2024
 - Draft Income Tax (Retirement Benefit) Rules, 2024
 - Draft Income Tax (National Social Security Fund) (Exemption) Rules, 2024
 - Draft Tax Procedures (Distraint) Rules 2024
 - Draft Income Tax (Leasing) Rules, 2024
 - Draft Income Tax (Registered Collective Investment Schemes) Rules, 2024
 - Draft Income Tax - Declarations of Crops
 - Draft Income Tax - Prescribed Limit of Medical Benefit.

What does this mean to taxpayers if passed?

- *WHT Rules: Specific penalty of KES 1 million has been removed and replaced with the penalties as per the TPA.*
- *Lease Rules: New requirement for WHT upon lease payment to a resident lessor, previously was only applicable to non-resident lessors.*
- *CIS Rules: New requirement for a CIS to have been in operation for at least 12 months and submit financials to be registered by the Commissioner*






Implementation of NSSF rates

Pensionable income upper limit increased from KES 36,000 to KES 72,000 effective from February 2025

The minimum contribution towards NSSF is set to increase from Kshs 420 to Kshs 480;

Maximum contribution will increase to Kshs 4,320 from Kshs 2,160.

Tightening the noose on Transfer Pricing

				
<p>In September 2023, KRA introduced draft Income Tax (Transfer Pricing) Rules, expanding the scope of transactions</p>	<p>Increase in transfer pricing (TP) audits and cases recently.</p>	<p>Enforcement of CbCR obligations to MNEs that have met the threshold</p>	<p>Preparation of a transfer pricing database by KRA</p>	<p>The OECD in Feb 2024 published the final report on Pillar 1 Amount B .</p> <p>Jurisdictions can choose to apply the Amount B approach for fiscal years starting on or after 1 January 2025.</p>

Q&A





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