ENHANCING DOMESTIC RESOURCE MOBILIZATION AND ADDRESSING IFFS DEBACLE:

LINKAGES, POLICY GAPS AND DEVELOPMENT OPPORTUNITIES FOR KENYA.

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Published by:
The National Taxpayers Association | 14 Riverside Dr, Daphton Court, Hse No. A6 | P.O. Box 4037-00506 Nairobi, Kenya | Phone: +254-701-946557 / +254-734-500940 |
E-mail: admin@nta.or.ke

Layout Design: Thrive Print & Design

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CONVENING TO DISCUSS POLICY GAINS AND MISSES ON CURBING ILLICIT FINACIAL FLOWS IN KENYA

ABOUT NTA

The National Taxpayers Association (NTA) is an independent and non-partisan organization dedicated to enhancing government service delivery by fostering a culture of transparency and accountability in the management of taxpayers' funds. The idea of the NTA emerged out of interest among citizens for greater government accountability regarding the use and collection of their taxes. The NTA was mooted based on consultations by and input from various institutions NTA has a Governing Council (Board) made up of 12 founding member organizations. The board has representation from the civil society, private sectors, religious and professional. NTA focuses on educating, advocating and sensitizing the citizenry about their rights and responsibilities as taxpayers.

OUR VISION

A taxpayer responsive government delivering quality services to all

OUR MISSION

To advocate for government accountability in the delivery of services and to influence policy through engagements, partnerships and tax-payer transforming information and research

OUR VALUES

Integrity, Respect, Inclusivity, Passion, Innovation/Innovativeness

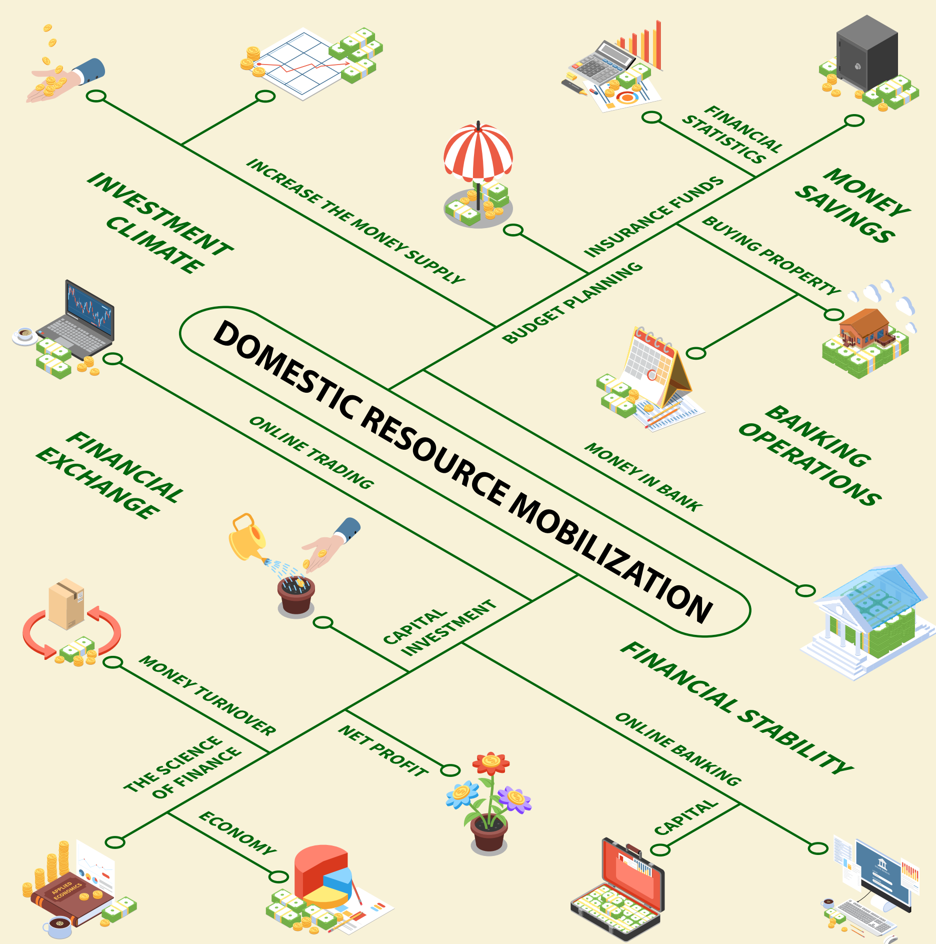
1 Introduction

The purpose of this review is to understand the level of integration of international, regional, and national policy measures aimed at addressing Illicit Financial Flows (IFFs) that are incorporated into the revenue-raising measures such as finance bills and other substantive legislations that have a direct bearing on IFFs in Kenya.

The National Taxpayers Association (NTA) undertook a desk-based review of the Finance Bill 2024 as well as the Finance Act, 2023 and Finance Act, 2022. However, within the period of review, the Finance Act, 2023 was repealed and the finance bill, 2024 deleted. The review interrogated the extent to which they proposed to domesticate the regional and international best practice to address the gaps in Domestic Resource Mobilization (DRM) by curbing the practices that perpetuate IFFs. Expert interviews which were undertaken elicited responses from the academia, legal practitioners, financial advisors, revenue administrators and the Civil Society Organizations (CSOs).

The findings establish that the proposals in the finance bills from financial year 2022 to Financial Year 2024, by a large extent, are a positive step towards domesticating best practices in addressing IFFs. For instance, what can be perceived as a novel front for taxation was the provision for taxing gains from digital assets. Practitioners and CSOs should explore how these proposals will be buttressed and incorporated in the next cycle of revenue raising measures while protecting the youth and other smaller players in the digital space.

By scope, the briefing note largely focused on academia, legal practitioners, financial advisors and revenue administrators to generate findings. Their perspectives are important and integral in enriching future reviews. This briefing importance comes in the wake of contestation in Kenya, where the citizens and the corporates have raised concerns about the level of taxation and progressivity of the tax regime denoted by the introduction of different types of taxes that are deemed to be regressive. On the other hand, the government of Kenya is grappling with a high debt portfolio that has crowded the fiscal space for the realization of the Sustainable Development Goals (SDGs) and the provision of essential services. Therefore, a discourse anchored on domestic resource mobilization is significant in providing an alternative path to expand revenue generation without necessarily imposing taxes on essential consumer commodities or overburdening the taxpayer.

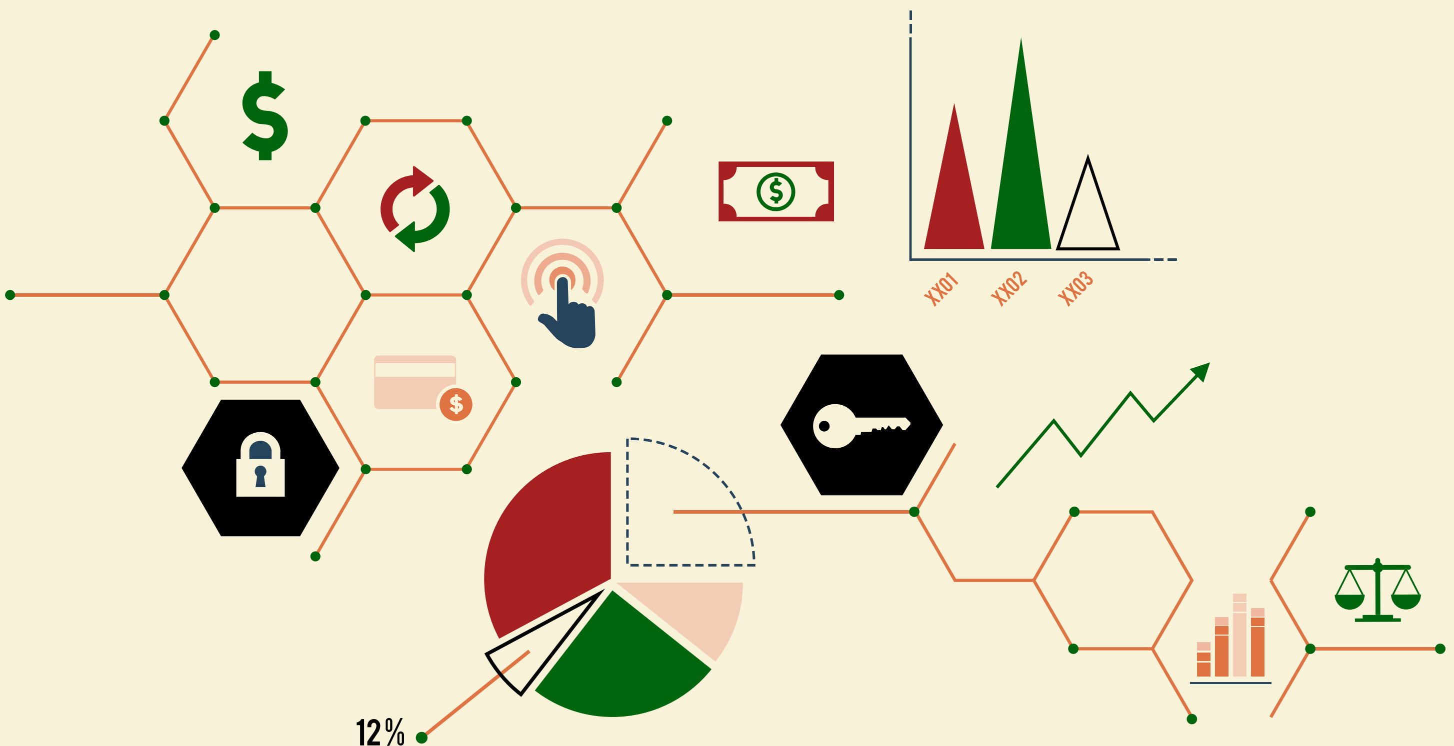


2 Understanding Illicit Financial Flows (IFFs)

The debate about Illicit Financial Flows (IFF) has come a long way, involving different historical, jurisdictional, and contextual paradigm shifts surrounding the cross-border capital flight over an extended period of over two decades. Equally, there has been increased interest about IFF among different players such as policy makers, researchers Civil Society Organizations and think tanks due to the interconnectivity and complexity of its connected issues (Herkenrath, 2014; Kurebwa, 2018). Therefore, global trends have influenced its interpretation and application in multiple ways. This has occasioned the expansion in its scope, conceptualization, relevance, and application in informing different spheres of economic policy. Thus, players agree about the definitive aspects surrounding the IFF debate such as; originality, internationality and cross-border nature, and illegality of activities (Waris, 2017).

In this perspective, the global international jurisdiction provides operative definition of Illicit Financial Flows and links it with macro-economic demographics and domestic resource mobilization particularly with focus on developing countries. Specifically, the United Nations issues a precedent perspective on IFFs as different forms of illegal cross-border financial transactions involving transnational movement of money and capital in violation of the dictates of international law (AUC, 2019; AUC, 2015). Equally, the World Bank regime broadly characterizes Illicit Financial Flows with a host of activities involving cross-border illegal mobility of money or capital. This includes activities such as; drug trade, human trafficking, money laundering, evasion of taxes and customs, corruption activities involving transfer of monies to offshore accounts (mainly) by public officials, and money transfer related terrorism acts (Herkenrath, 2014; AUC, 2015).

Within the continental realm, the African Union Commission jurisdiction views Illicit Financial Flows as a host of activities connected to monies illegally earned, transferred, or utilized and subsequently aiding commercial outflows and thereby exacerbating economic and governance setbacks with far reaching impacts on development, inequality, and poverty eradication (Herkenrath, 2014; Waris, 2017). These can include activities related with drug trade, smuggling of contraband items, human trafficking, illegal firearms dealings, illegal mining, and organized crimes. It also expands its scope to include; corruption activities by influential personalities and high-ranking government officials such as bribery and theft as well as activities related to commercial tax evasion such as abusive transfer pricing and cross-border money laundering (AUC, 2019; Collin, 2020).



3 IFFs as Instruments for Domestic Resource Mobilization

The IFFs debate has a founded intersectionality with the business-related activities with negative impacts on economic chains and revenue mobilization. Therefore, players contend that Illicit Financial Flows have overarching impact on distribution of the public funds meant for critical investments and sustainable development in the least developed countries (AUC, 2019).

This increased internationally illegal and illicit movement of money and other forms of capital has greatly influenced the development agenda particularly in the global south, Sustainable Development Goals, as well as the G7 and the G20 (comprising of 19 states, the African Union, and the European Union) on matters to do with international cooperation and partnerships. Significantly, global initiatives such the Organization for Economic Cooperation and Development (OECD) have established defined perspectives on mitigating economic crimes and related tax evasion. Subsequently, it is this multidimensionality nature of IFF that establishes the foundation for the much need of increased collaboration among diverse sectoral players across different player jurisdictions (Herkenrath, 2014; AUC, 2015).

Illustratively, it has been estimated that Africa lost up to USD 1.8 trillion between 1970 and 2008 (AUC, 2015). According to the Economic Commission for Africa, (ECA), the continent lost an estimated USD 353.5 billion between 2000 and 2010 (AUC, 2019). On average, Africa continues to lose an average of between USD 50 billion and USD 60 billion annually with a turnaround impact on weakening government agencies and accompanying developmental challenges (Waris, 2017; Latif, 2018). In developing countries, studies shows that IFFs on average accounted for between 14.1 percent and 24.0 percent of the total trade, while outflows were estimated at 4.6 percent to 7.2 percent of total trade and inflows between 9.5 percent and 16.8 percent for the period between 2005 and 2014 (Kurebwa, 2018). As a result, there has been need for increased collaboration among different players. Thus, the Union calls for deliberate legal and regulatory frameworks in strengthening states' capacities to repatriate the resources lost through Illicit Financial Flows as an avenue to finance Africa's development agenda (AUC, 2019).

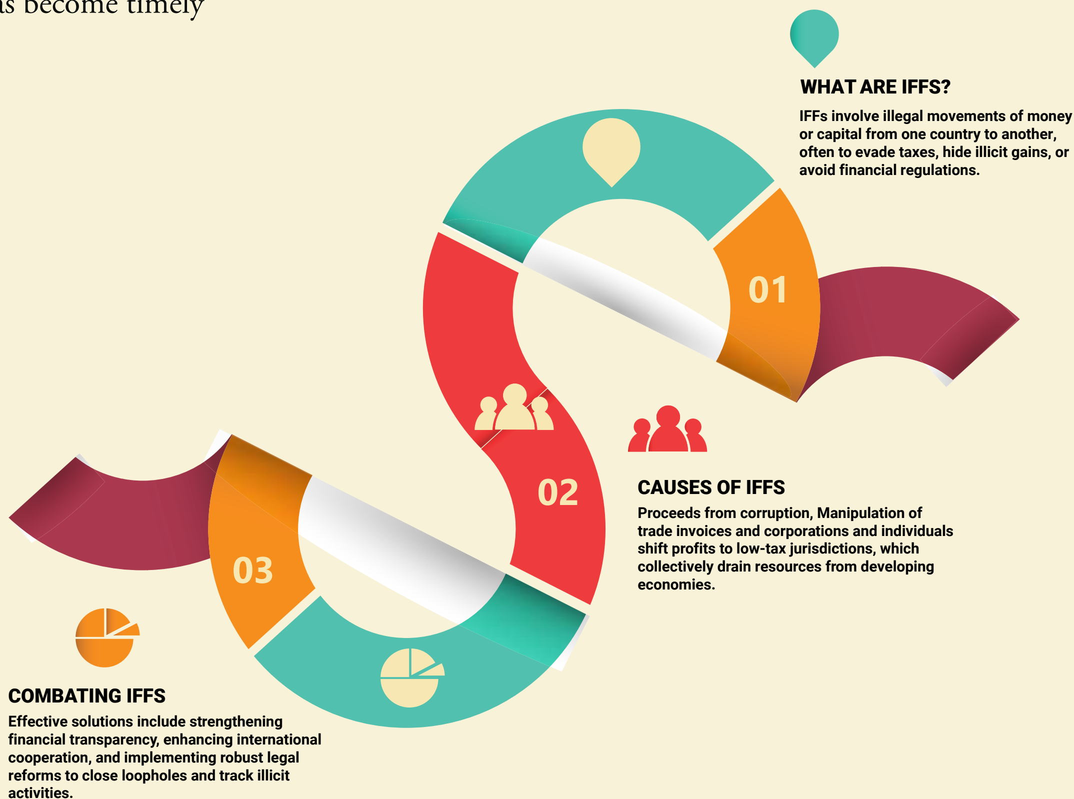
In this spirt, the Kenya's policy on Illicit Financial Flows is informed by its underlying potential as an alternate source of revenue owing to its impact on economic landscape. A decade ago, Kenya maintained a tremendous growth in Gross Domestic Product (GDP) which stood at USD 79.66 billion with an average annual growth rate of 4.8 per cent as at 2012. Despite this notable growth, is estimated that the country lost an approximate of USD 1.51 billion between 2002 and 2012 (AUC, 2015). Subsequently, Kenya has been losing an average of Kes 40 billion annually to illicit financial outflows since 2011. The leading factors which yield IFFs in Kenya include: weak institutional, administrative, legal and policy intervention framework; constrained socio-economic development; budgetary deficits due to reduced revenue raising; and an existence of a weak financial control system. This is characterized with; trade in contraband goods, drug trafficking, corruption activities involving political elites, and multinational corporations through tax mis-invoicing and transfer pricing (AUC, 2019). Leveraging from this information, the debate about IFF as a tool for domestic resource mobilization is therefore imperative.

4 The Rationale for Domestic Resource Mobilization through IFFs Control

Deriving from diverse operational definitions, different jurisdictions have established the basis for international cooperation on IFFs measures. Primarily, the United Nations sets the framework for international standards and cooperation on IFF matters (Barasa, 2018). In extension, it attributes IFFs with the reduction in domestic resources that bear the potential for addressing developmental challenges such as poverty reduction in the developing countries (AUC, 2015). This has influenced international cooperation among different actors in combating. On the other hand, the International Monetary Fund's perspective widens its scope of application. In its domain of providing technical assistance on macro-economic policy, it contextualizes the impact of IFF by advancing practical solutions on macro-economic adversaries related to accumulation of unaccounted wealth and the recovery of illegally acquired assets through enhanced international cooperation among states to inform diverse developmental challenges (AUC, 2019).

The African Union jurisdiction on the other hand recognizes the need to accord the necessary attention to IFFs as an alternative for financing development, in understanding of its impact on domestic resource mobilization (AUC, 2019). Accordingly, it steps in to formulate, operationalize, and domesticate practical policy measures that can effectively combat IFFs at regional and national levels. This is particularly informed by their impact on its extractive industries and the natural resources inter alia needed to finance Africa's development needs (AUC, 2015).

In particular, Kenya is informed by the need for international cooperation in Illicit Financial Flows. As a result, it has established cooperation avenues with strategic global regimes such as the Global Forum on Transparency and Exchange of Information for Tax Purposes, and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Acknowledging the need for domestic resource mobilization informed by IFFs control; Kenya has gradually responded by adopting different responsive policy and institutional interventions to address fraud, border management, revenue administration, and anti-corruption approaches (Barasa, 2018; AUC, 2019). For example, this has been enhanced through the enactment of the finance act in 2022 and the finance act in 2023. However, the withdrawal of the Finance Bill 2024 slowed down the progress that Kenya could have made in gearing up the control of IFFs for revenue raising, pointing out for the much need for policy interventions. Accordingly, the need for Illicit Financial Flows (IFFs) management to harness revenue raising and address diverse development challenges has become timely



5 Perspectives on IFFs Control and Resource Mobilization: Panel Discussion Feedback

5.1 Nixon Omondi - *Digital Economy Tax Office Lead. Kenya Revenue Authority (KRA)*

5.1.1 Combating Illicit Financial Flows and Revenue Collection

The Finance Act 2023 and Finance Bill 2024 in Kenya introduce measures to tackle illicit financial flows (IFFs) and enhance revenue collection. Key proposals included:

1. **Enhanced Reporting:** Stricter financial reporting and disclosure requirements to improve transparency and profit shifting initiative;
2. **Increased Penalties:** Higher fines for non-compliance and fraudulent activities;
3. **Anti-Money Laundering:** Strengthened customer due diligence and abuse of incentives;
4. **Tax Information Exchange:** Expanded agreements for sharing tax information with other countries i.e. Country to country approach; and
5. **Taxation on digital markets:** Better monitoring and taxation of e-commerce and digital transactions.

The measures aimed at closing loopholes, increase transparency, and reduce opportunities for hiding illicit funds.

5.1.2 Impact of IFFs on Tax Base and Budget Planning

Illicit financial flows (IFFs) erode the national tax base, making it difficult to generate sufficient revenue for budget planning. The Finance Bill 2024 introduced two key measures:

i. **Minimum Top-Up Tax:** This tax ensures that multinational corporations pay a minimum level of 15% tax, even if they shift profits to low-tax jurisdictions; and

ii. **Significant Presence Tax:** This tax targets companies with significant economic activities in a country, even if they do not have a physical presence there.

These measures primarily aim to expand the tax base and enhance domestic revenue mobilization (DRM). While they help address tax avoidance linked to IFFs, their primary focus appears to be broadening the tax base rather than specifically targeting IFFs from commercial transactions.

> “*The Finance Bill 2024 aims to close loopholes and enhance transparency to combat illicit financial flows.*
>
> **Nixon Omondi**

5.2 Robert Maina - Member – *The Institute of Certified Public Accountants of Kenya (ICPAK), Public Finance and Tax Committee*

5.2.1 Strengthening Anti-Money Laundering (AML) Measures and Pro-Poor Policies:

Trusts, including family trusts, can be used as vehicles for tax avoidance, particularly when they are structured to shield income or assets from taxation. The Finance Bill 2024's proposal to delete the exemption of income for registered family trusts likely aimed to close loopholes that allowed high-net-worth individuals to avoid paying taxes by shifting wealth into trusts.

This proposal aligns with broader efforts to strengthen anti-money laundering (AML) measures and ensure that wealthier individuals contribute fairly to the tax base. By removing such exemptions, the government likely intended to prevent the misuse of trusts for tax avoidance, promoting greater tax equity and enhancing revenue collection for pro-poor policies.

5.2.2 The Bill proposed a 5% WHIT on new bonds

The proposed 5% withholding tax on new bonds in the Finance Bill 2024 aims to enhance domestic revenue mobilization (DRM) by taxing interest income, including that earned by non-residents. While it might reduce the attractiveness of Kenyan bonds for some investors, particularly those seeking arbitrage opportunities or to "clean" money, it strengthens DRM by ensuring interest income is taxed, potentially discouraging tax avoidance.

5.2.3 International Collaboration and Information Sharing

Illicit financial flows (IFFs) drain resources that could be allocated to social spending and pro-poor programs. The government's proposed changes in the Special Economic Zones (SEZ), particularly the introduction of Capital Gains Tax (CGT) on property transfers within SEZs, aim to curb IFFs by ensuring these transactions are taxed.

However, the effectiveness of this measure in addressing IFFs may be limited if the government continues to create new agreements that override existing regulations. Such agreements can create loopholes or preferential treatments that undermine efforts to tax property transfers and combat IFFs effectively. To truly address IFFs and protect resources for social spending, consistent and transparent enforcement of tax policies across all agreements is crucial.

> *"Proposed measures ensure wealthier individuals contribute fairly, promoting greater tax equity.*
>
> **Robert Maina**

5.3 Catherine Ngina Mutava – *Associate Director of the Strathmore Tax Research Centre*

5.3.1 International best practice on tax breaks and preferential treatment of Special Economic Zones (SEZs) and Economic Processing Zones(EPZs); the tax expenditure dilemma

Preferential Treatment in SEZs/EPZs: Tax breaks in SEZs and EPZs are seen internationally as "tax expenditures," often linked to IFFs like profit shifting. Kenya excludes these from its tax expenditures report, likely viewing them as necessary for economic growth rather than lost revenue. This should be addressed since it facilitates IFFs as well as a big loss to the efforts being made to increase DRM.

5.3.2 The Medium-Term Revenue Strategy (MTRS) states that the V.A.T tax head is a key driver of tax expenditures and aims to reduce this in the next 3 years

The MTRS aims to reduce VAT tax expenditures, focusing on essential goods to keep them affordable for consumers. For multinational corporations(MNCs) and corporations, the approach involves reducing tax incentives and closing loopholes to improve revenue and compliance. This strategy balances protecting vulnerable populations while addressing tax avoidance among larger entities.

Taxation is predominantly a National level function, with limited taxes and levies domiciled at County level

Counties can advocate for addressing IFFs by collaborating with national agencies and participating in intergovernmental discussions. They can highlight the impact of IFFs on local resources and push for reforms without needing direct legal changes, focusing on policy influence and revenue sharing improvements.

5.3.3 Taxation is predominantly a National level function, with limited taxes and levies domiciled at County level

Counties can advocate for addressing IFFs by collaborating with national agencies and participating in intergovernmental discussions. They can highlight the impact of IFFs on local resources and push for reforms without needing direct legal changes, focusing on policy influence and revenue sharing improvements.

> *"Reducing tax incentives and closing loopholes is crucial for increasing revenue and compliance.*
>
> **Ngina Mutava**

5.4 Dennis Moroga – *Lecturer Moi University, Partner Moroga Wangwi Advocates*

5.4.1 The misses and hits in the Finance Act 2022, the Finance Act 2023 with regard to combating IFFs

Section 6A of the Finance Act 2023 introduced significant changes to address illicit financial flows (IFFs): Beneficial Ownership Disclosure: Section 6A requires companies to disclose their beneficial owners. This aims to increase transparency by ensuring that the individuals who ultimately own or control companies are identifiable. This provision helps prevent the misuse of corporate structures for money laundering, tax evasion, and other illicit activities.

Enhanced Reporting: It also tightens reporting requirements for entities involved in financial transactions, ensuring that suspicious activities are reported to authorities. These measures are designed to combat IFFs by making it harder for illicit actors to hide behind complex corporate structures and ensuring more transparency in financial dealings.

5.4.2 The Kenya's context includes Advocates as reporting agents

Advocates as reporting agents aim to improve transparency and combat IFFs by involving more professionals in monitoring financial transactions. However, concerns include potential conflicts with lawyer-client confidentiality and the practical burden on advocates. The provision's success depends on balancing these concerns with effective reporting requirements.

5.4.3 Factors Contributing to Backlash Against New Taxes

- Public opposition to newly introduced taxes often stems from several interconnected issues. One key factor is the method of implementation. Finance Bills, which frequently introduce tax changes, can generate significant backlash if stakeholders perceive the process as rushed or lacking adequate consultation. This abrupt nature of policy changes erodes public trust and fosters resentment.
- Furthermore, a lack of public understanding about emerging business models and their corresponding tax implications exacerbates the issue. When taxpayers are unclear about how new economic activities should be taxed, confusion and resistance are likely to arise. This knowledge gap often leads to accusations of unfairness and inequality.
- Finally, political considerations and lobbying efforts by affected industries can significantly influence the fate of proposed tax measures. To appease powerful interest groups or maintain political support, governments may be compelled to withdraw or modify tax policies, even when they are economically sound. This perception of tax changes being driven by political expediency rather than public interest further fuels public discontent.

In essence, the combination of sudden tax changes, inadequate public understanding, and political maneuvering can drive opposition and legal challenges.

> *"Enhanced reporting and transparency are key to preventing misuse of corporate structures for illicit activities.*
>
> **Dennis Moroga**

6 Recommendations

- Enhanced data sharing to improve detection and tracking of illicit financial flows, foster international collaboration, optimize resource allocation, and strengthen legal frameworks, boosting overall effectiveness in combating financial crimes. For instance, the KRA will be able to track all transactions for suspected individuals;
- Tax expenditures can reduce the tax base, create loopholes for illicit activities, and complicate enforcement, potentially hindering revenue mobilization and efforts to combat illicit financial flows effectively;
- Proper integration and visibility of transactions enhance Kenya's ability to detect and address illicit financial flows, improve tax compliance, and streamline enforcement, thereby boosting revenue mobilization and financial system integrity; and
- The double tax argument can aid revenue mobilization by highlighting gaps in tax agreements that illicit financial flows exploit. Addressing these gaps can enhance transparency and enforcement, thus reducing tax evasion and increasing revenue for Kenya.

7 Conclusion

In this brief it was established that the increased state of corruption and inaction on governance, has made any conversation on taxation unpalatable. This means that the gains accrued from addressing IFFs linked with commercial transactions have been negatively affected and are endangered. Further, a disjointed media information on revenue raising proposals and domestic revenue mobilization measures has been met with mis-information and disinformation. This sets the stage for a guided and balanced discussion on the revenue proposals. Finally, the lack of sufficient regional collaboration an information sharing on IFFs control has negatively impacted on progressive control. This has led to inadequate regional legislative frameworks on revenue raising proposals anchored on IFFs control; which had amounted to revenue flight as a result of illicit commercial transactions.

In this brief, NTA therefore proposes that a deeper study is undertaken to better focus on the proposals spelt out in the successive Finance Acts since 2020 up to 2024. Currently, some of legislations crucial on IFFs control have not yielded as they have either been deleted or rejected, which has yielded unfavorable outcomes on increased DRM. Additionally, NTA proposes to undertake select scoping of substantive laws such as the special economic zone act and use the scoping studies to inform advocacy for their amendments, aimed at alignment with best practice on IFFs. Further, NTA proposes that deliberate action on the fight against corruption through capacity building and strengthened institutions. This will progressively enhance accountability and gradually improve service delivery; hence building tax morale and subsequently promoting domestic resource mobilization. During the three-year periodic review of tax measures in accordance with the National Tax Policy, there is need for evidence-based policy proposals on taxation and different revenue raising related laws informed by research. This should also include enhanced media education on anti-corruption, tax related measures, and revenue raising to enhance the revenue raising discourse during the subsequent financial cycles.

Annex 1: Legislative Amendments on IFFs

Serial	Amended Act	Amendment	Explanation	Effect on IFFs
1	Definition of "digital content monetization	Offering for payment entertainment, social, literal, artistic, educational or any other material electronically through various medium or channels as listed in the Act	This amendment introduced taxation of digital content monetization and to be subjected to WHT at the rate of 5% for residents and 2o% for non-residents without a permanent establishment in Kenya.	Withholding tax being levied on content monetization ensures that content creators, which is a way of life for most people on social media (Influencers), pay their taxes in source countries and reduces chances of moving the money to countries where rates are very low.
	introduced a definition of "related person"	That in the case of two persons where a person who participates directly or indirectly in the management, control or capital of the business of another person	The amendment clarified that related persons include participation directly or indirectly in another business.	This ensures that businesses hiding under the old definition that was only limited to direct control and in specific sections are now covered. This enhances transparency in declarations.
	Restriction of Forex losses where a company is thinly capitalized	The law amended section 4A to introduce the limitation of forex losses using the same formula for section 16(2)(j) which is 30% of EBITDA	This means that where there are forex losses occasioned by a foreign loan borrowed, the losses are limited to 30% of EBITDA based on interest on foreign loans and they are deferred for 5 years.	Interest and forex are mechanisms of perpetuating tax avoidance by claiming excessive expenses, which do not have economic basis. By restricting the forex losses, the IFF mechanism is curbed as it includes repatriation of income to Low Tax Jurisdictions.
	Taxation of Repatriated income	Non-resident companies having a PE in Kenya is now required to pay income tax at a reduced rate of 30% from the current 37.5%. This The amendment was to treat residents and non-residents fairly and To boost foreign direct investment.	While residents pay WHIT when they declare dividends, the PEs will be required to pay WHT on repatriated profits by the PE of the non-resident person to be determined on the basis of a formula provided below;. Repatriated Profit= Net Assets (beginning)+ Net Profit for the year -Tax Payable- Net Assets (end) The WHIT is at 15% "net assets" shall not include revaluation of assets.	Profit shifting to Investment hubs and low tax jurisdictions has been the greatest enabler of commercial IFF. This provision will ensure that any shifted profits to low tax countries is taxed in Kenya in the hands of the PE.
	Non refund of WHIT paid when an audit adjustment is done to the payment subject to WHIT	The amendment is to the effect that any WHIT paid on a deduction disallowed during an audit in cross border trade is not allowable.	This has the effect of avoiding double claims and increased tax avoidance.	The measure is against tax avoidance and repatriating taxes abroad especially where there is no tax or low tax jurisdictions.

Serial	Amended Act	Amendment	Explanation	Effect on IFFs
	Taxation of Digital Assets	The law introduced taxation of exchange of crypto assets	The exchange is required to Withhold the amount so exchanged at 3% and remit to the commissioner.	Kenya is in the top 5 in Africa in trading of Cryptos. Cryptos have also been found to enhance IFF through money laundering and criminal activities. By having this tax, visibility is enhanced of such activities and taxes is collected.
	Use of eTims- Electronic invoicing mechanism	Introduction of non-allowance of any expenditure borne but not supported through the eTims system.	This amendment is to ensure that save for transactions that are exempt, all other have to be passed and authenticated through eTIMS invoice.	Phantom and fictitious invoices are eliminated in this requirement. Tax avoidance is therefore reduced.
	Amending Section 16(2)(j)	The law added exemptions to those subject to thin cap/interest restriction.	The Act, removed interest restriction on local loans, allowed interest expenses on foreign loans in excess of 30% of EBITDA to be claimed within 3 years as opposed to the earlier complete disallowance and also removed the exemption for Manufacturing companies with cumulative investment of at least KShs five billion	This effectively introduced wasteful incentives by still allowing the expenditure to be claimed within 3 years and exempting local loans, which are also subject to IFF when related parties loan one another. The move to delete manufacturing from exemption is to remove wasteful incentives.
	Taxation of income in preferential regimes	The law introduced what proportion of income can enjoy preferential rate of tax in EPZ/SEZ in line with BEPS Action 5.	The law will proportionately limit IP income subject to lower rate of tax based on the formula of research and development expenditures made by the taxpayer and IP income.	The amendment seeks to limit the amount of income of a Multinational Enterprise that can be taxed at a preferential tax rate to that portion of income that is related to actual Research & Development costs contributed. This will Address effects of base erosion and profit shifting.
	Clarification of Country-by-Country Reporting and introduction of new definitions to CBCR.	1. Clarifying who is to file CBCR	CBCR Reports to be filed annually by Kenya and be visible to other countries and Kenya to get CBCR reports from other jurisdictions.	CBCR is key in enhancing tax transparency across jurisdictions in line with BEPS Action 13.
	Taxation of Members' Clubs and trade associations	The removal of election and exemption non-business receipts of Members Clubs and Associations.	Members clubs carry on commercial activities including real Estate, consultancy, restaurants etc. like other persons. While the income of members clubs is income derived from carrying on business, this was previously only taxable where less than three-quarters of the gross income, (excluding gross investment receipts), is Received from the members of the club.	This measure ensures fair treatment of various business formations and reduces instances of non-taxed income being repatriated to low tax jurisdictions.

Serial	Amended Act	Amendment	Explanation	Effect on IFFs
	Exemptions List	The Act added a list of exempted income from tax; 1. Royalties paid to a non-resident person by a company undertaking vaccine manufacture 2. Income earned by a non-resident contractor, subcontractor, consultant or employee involved in the implementation of a project financed through 100% grant under an agreement with GOK and the development partner as spelt out in the agreement. 3. Gains on transfer of property within a special economic zone enterprise, developer or operator 4. Royalties, interest, management fees, professional fees, training, consultancy, agency, contractual paid by a SEZ person in the first 10 years of establishment to anno-resident.	This adds to the list of exemptions and incentives given to various organizations	Exemptions more so to SEZ exacerbates IFFs due to wasteful tax expenditure. SEZ has mobile income that would perpetuate treaty shopping and tax avoidance.
	Clarification for accelerated investment allowance	The law clarified that accelerated allowance 100% and 150% only available for buildings and machinery and hotel buildings.	This has an effect giving an allowance to entities that are involved in manufacturing and capital investment at rates of 100 and 150% provided its accumulated to 2B in 3 years.	Such incentives have been abused to ensure that entities do not pay any tax for a long period coupled with other anti avoidance mechanisms. Profit shifting therefore is encouraged with more that the cost of capital investment allowance.
	Offshore indirect transfer of property	The law was amended to introduce CGT on offshore transfer of property where at least 20% of the transfer value is derived from Kenya.	Key in curbing indirect transfer abroad of property held in Kenya. This aligns to Article 13 of the OECD and UN Model tax Convention as an anti-abuse provision.	This is key in reducing issues around IFFs as many MNEs tend to transfer offshore entities in countries without CGT while the transferred value is derived from countries with CGT.
	Harmonizing VAT on petroleum products with others	The law was amended to increase the VAT rate on petroleum products form 8% to 16%	This is to reduce refund/credit instances since all input of the petroleum traders incur 16% input tax.	Key in ensuring fair and equal treatment and reducing abusive refund regimes.
	Timeline for payment of excise duty and WHT on winnings	This has been moved from 20th to within 24 hours	This timeline was to enable integration and real time payment of the taxes by the betting sector.	Integration has achieved much in enhanced collections and non-residents own reduced tax avoidance given most of the betting companies.
	International Tax agreements	TPA introduces a provision for multilateral mutual agreements on collection of taxes	This is key in Kenya assisting other tax authorities and vice versa in collection of taxes on cross border trade	Articles 27, MAAC and such instruments are effected through this amendment to enable Kenya collect tax claims or recover taxes where a non-resident has not paid the requisite taxes in Kenya. This is a key initiative to reduce IFF.

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Links to Closing Remarks from the Panelists, and Moderators.

- https://youtu.be/3Clo4XH90Zo?feature=shared
- https://youtu.be/OpofAdk1FLY?feature=shared
- https://youtu.be/MJCeoWgGt4c?feature=shared
- https://youtu.be/proLRqoCn-Y?feature=shared
- https://youtu.be/mpeazLlyk1g?feature=shared
- https://youtu.be/Z9wsBqLi1Ik?feature=shared

Photos link:

- https://photos.app.goo.gl/S3NcAJYh9EHdhrYN7

The National Taxpayers Association I 14 Riverside Dr, Daphton Court, Hse No. A6 I P.O. Box 4037-00506 Nairobi, Kenya I Phone: +254-701-946557 / +254-734-500940 I
E-mail: admin@nta.or.ke