



KENYA BUDGET NEWSLETTER

2022 – 2023

CONTENTS

INTRODUCTION.....	3
ECONOMIC PERFORMANCE.....	3
BUDGET OVERVIEW	6
POLICY ISSUES	11
THE INCOME TAX ACT	11
INDIRECT TAXES.....	12
TAX PROCEDURES ACT, 2015.....	14
TAX APPEALS TRIBUNAL ACT, 2013.....	14
MISCELLANEOUS AMENDMENTS	15

INTRODUCTION

The Budget Statement 2022–23 was presented to the Parliament on 7th April 2022. The reason for reading the Budget early, is due to the upcoming elections and to ensure that the Finance Act is assented to by the President by 30th June 2022.

ECONOMIC PERFORMANCE

GLOBAL ECONOMIC HIGHLIGHTS

- The global growth is expected to reduce from 5.9% in 2021 to 4.4% in 2022 (IMF World Economic Outlook, January 2022). Higher inflation is expected due to the supply chain shortages and high energy prices which are expected to persist in 2022. The forecasted growth is projected at 3.8% in 2023, which is 0.2% higher than that initially forecasted due to the impact of uptake of COVID-19 vaccination. (Refer to Table 1).
- China's share of global Gross Domestic Product (GDP) has been on the rise from 2010 growing from 13.68% to 18.33%. This was previously projected to rise further to 20.19% by 2026, but may be lower due to the effects of COVID-19 pandemic.
- The war in Ukraine and economic sanctions on Russia have put global energy supplies at risk. Russia supplies around 10% of the world's energy (including 17% of natural gas and 12% of oil). The leap in oil and gas prices will add to industry costs and reduce consumers' real incomes. Outright shortages and energy rationing are possible in Europe if there is an abrupt halt to Russian supply.
- The Russia-Ukraine conflict will affect countries and regions in four main ways:
 - Firstly, geopolitical tensions have risen substantially, with a major interstate war taking place on the EU's (and NATO's) border, setting Russia-West relations back by several decades.
 - Secondly, the surge in energy and other commodity prices (such as wheat and other cereals) will lead to greater anti-incumbent sentiment in many countries. This could prompt many governments to cushion the impact on consumers and voters through higher public spending widening their fiscal deficits. Central Banks may be forced to raise rates higher or faster than expected, with the risk of over-tightening and triggering slowdowns or even recessions.
 - Thirdly, the momentum for economic reforms will wane, as governments will need to address immediate concerns about their citizens' livelihoods and similar issues.
 - Fourthly, countries that rely on Russia as an economic or security anchor could become destabilised.
- As the pandemic eases its grip, higher inflation is expected to decline as supply chain disruptions ease, monetary policies tighten and the rapid increase in fuel prices also expected to moderate during 2022–2023. Oil prices are expected to increase by 12% and natural gas by 58% (both considerably lower than seen in 2021) and food prices by 4.5% in 2022.



TABLE 1

REAL GDP GROWTH (%)	2017	2018	2019	2020	2021e	2022*	2023*
Advanced economies	2.5	2.3	1.6	-4.5	5.0	3.9	2.6
Japan	1.7	0.6	0.3	-4.6	1.6	3.3	1.8
UK	1.7	1.3	1.4	-9.8	7.2	4.7	2.3
USA	2.3	3.0	2.2	-3.4	5.6	4.0	2.6
Euro Area	2.6	1.9	1.3	-6.3	5.2	3.9	2.5
Emerging and developing areas	6.6	6.4	5.3	-2.0	6.5	3.5	2.9
China	6.9	6.7	5.8	2.3	8.1	4.8	5.2
India	6.8	6.5	4.0	-7.3	9.0	9.0	7.1

*Forecast

Source: IMF

e – Estimate

SUB-SAHARAN ECONOMIC HIGHLIGHTS

- According to IMF, growth in the sub-Saharan African region is projected to be 3.6% in 2022 and 3.8% in 2023. Refer to Table 2.
- The World Bank predicts elevated commodity prices are expected to support near-term recovery across the region, with higher oil prices and the gradual easing of OPEC production cuts benefiting Nigeria and Angola. Growth in Nigeria is expected to exceed 2.5% in 2022 and 2.8% in 2023, while Angola's economy is projected to grow by 3% on average in 2022–23. Growth in South Africa is forecast to moderate to its pre-pandemic trend, being held back by structural impediments and elevated levels of public debt.
- High prices for food commodities like coffee and cotton will benefit agricultural exporters (Ethiopia, Kenya, and Tanzania), however, this will also contribute to higher inflation within the countries. The IMF states that for some countries, expansion of agricultural activities will be constrained by a variety of uncertainties, including droughts and lower than average rainfall as well as intensifying conflict within the region.
- 2022 will embrace the DRC joining the East African Community which will greatly influence trade and bloc bargaining power within the region as DRC includes a consumer market of approximately 90 million people and is an economy rich in all kinds of natural resources including diamonds, gold, copper and cobalt.
- The services, tourism and manufacturing sector have been adversely affected by the pandemic. with sustained losses to income and employment as well as elevated inflation, have held back recovery in consumer spending. This has led to increasing insecurity, civil conflicts and retrained investment spending. With only around 8% of Africa's 1.4bn population fully vaccinated poses a threat of renewed and more severe outbreaks, which could trigger recurrent disruption to activity. A prolonged pandemic could amplify past development and health challenges, derail structural and fiscal reforms, and result in lasting human capital losses.
- The IMF lists the top five economies to grow in Africa to be Seychelles, Rwanda, Mauritius, Niger and Benin, which all look set to hit above 6% growth.



TABLE 2

REAL GDP GROWTH (%)	2017	2018	2019	2020	2021e	2022*	2023*
Sub-Saharan Africa	3.1	3.2	3.2	-1.7	4.0	3.7	4.0
Nigeria	0.8	1.9	2.2	-1.8	3.0	2.7	2.7
South Africa	1.4	0.8	0.2	-6.4	4.6	1.9	1.4
Kenya	4.8	6.3	5.4	-0.3	5.0	4.7	5.1
Tanzania	6.8	7.0	7.0	2.0	4.3	5.4	5.9
Ethiopia	10.2	7.7	9.0	6.1	2.4	4.3	6.5
Uganda	7.3	6.0	8.0	3.0	3.4	3.7	5.5

*Forecast

Source: IMF & World bank.

e – Estimate. As per the Budget Statement, the Kenyan economy is expected to have grown by 7.6% in 2021 and stabilise at 6% in 2022.

KENYA ECONOMIC HIGHLIGHTS

- Kenya's economy has demonstrated resilience to the COVID-19 pandemic as GDP grew by 7.6% in 2021 and stabilising at 6% in 2022.
- Inflation is projected to remain within the CBK target range of 2.5% to 7.5%. There are some downside risks to this outlook which could arise from delays in full reopening of the economy, failure to secure external financing to execute the budget, a slowdown in global growth and disruptive social condition during the run-up to the 2022 elections.
- As international tourism faces protracted recovery, other sub-sectors such as education have bounced back stronger. The anticipated further recovery of hotels and restaurants, trade, transport, and other services, depends on substantial vaccination progress to help minimise new wave of infections and reduce the need for associated containment measures.
- Another key domestic risk sprouts from the drought conditions which are affecting parts of the country and causing severe distress. If these were to persist, it will weigh down the economic outlook for 2022. External risks include weak global growth, tighter financing conditions and higher than anticipated energy prices.
- The Government's medium term fiscal framework targets that the fiscal deficit narrows to 4.4% of GDP by FY2023/24, as non-priority expenditures are contained, and revenues increase on the back of the economic recovery, and both policy and administrative measures.

	2018	2019	2020	2021e	2022f	2023f
	Annual percentage change					
Real GDP growth at constant market price	5.6	5.0	-0.3	5.0	4.7	5.1
Private Consumption	4.7	4.9	-2.7	5.2	5.0	5.8
Government Consumption	7.0	7.0	4.3	3.5	3.0	2.5
Gross Fixed Capital Investment	-0.4	3.8	3.4	4.0	3.6	5.3
Export, Goods and Services	6.8	-3.2	-8.2	8.0	5.0	6.5
Imports, Goods and Services	1.4	1.8	-8.5	5.0	4.0	7.0
Real GDP growth, at constant factor prices	5.5	5.2	0.3	5.0	4.7	5.1
Agriculture	5.7	2.6	4.8	-0.1	4.0	3.0
Industry	3.8	3.4	4.0	5.2	3.6	4.3
Services	6.0	6.7	-2.2	6.7	5.2	6.0
Inflation (consumer price index)	4.7	5.2	5.3	6.0	5.0	5.0
Current account balance	-5.4	-5.3	-4.6	-5.3	-5.4	-5.5
Foreign direct investment	1.6	0.9	0.5	0.5	0.7	1.4
Fiscal balance/	-7.0	-7.3	-7.5	-8.2	-7.4	-5.7
Public debt/	56.5	59.6	63.0	68.2	69.8	68.6
Primary balance/	-3.4	-3.4	-3.4	-3.8	-2.9	-0.9

- The return to pre-pandemic VAT and corporate income tax rates, rationalization of exemptions and zero-rated goods, introduction of a digital tax, and strengthened tax administration aimed at expanding the tax base and improving compliance, are expected to enhance revenue from 15.3% of GDP in FY2022/23 to 16.1% of GDP in FY2023/24.

BUDGET OVERVIEW

2022/2023 Budget Theme – *“Accelerating Economic Recovery for Improved Livelihood.”*

KEY ACHIEVEMENTS SINCE 2013

- The minimum per capita income has grown by 92.1% from a level of KShs 127,065 in 2013 to an estimated per capita income of KShs 244,099 in 2021.
- The economy has grown by 155% from the value of KShs 5.3 trillion in 2013 to KShs 13.5 trillion in 2022.
- Cumulatively, 5.1 million new jobs in both formal and informal sectors were created.
- The average annual inflation rate declined from 7.2% in 2013 to 5.7% in 2021.
- Commercial banks' lending to the private sector doubled from KShs 1.5 trillion in 2013 to KShs 3.1 trillion in 2021.
- The foreign exchange market has remained stable with the official foreign exchange reserves increasing from USD 6.5 billion in 2013 to USD 9.5 billion in 2021.
- The current account deficit improved by dropping from 7.7% of GDP in 2013 to 4.9% of GDP in 2021, effectively supporting the stability of the foreign exchange market.
- Annual Diaspora remittances grew by close to 300% from KShs 112.3 billion in 2013 to the current KShs 436.8 billion in 2022.
- Ordinary revenue collection has more than doubled from KShs 0.8 trillion in the financial year 2012/13 to KShs 1.8 trillion in the financial year 2020/21 and further to KShs 2.0 trillion in the financial year 2021/22.
- The poverty prevalence rate declined from 36.1% in 2013 to 33.6% in 2019.
- The on-going police reforms aimed at protecting lives and enhancing general security of the citizens have significantly improved the ratio of police to citizen from one policeman to 1,000 citizens in 2012 to the current one policeman to 462 citizens.
- With regard to infrastructure, the Government has constructed an additional 10,500 Kms 20 of tarmacked roads spread across the 47 Counties facilitating efficient movement of people and goods, thereby rapidly stimulating economic activities.
- The completion of the Standard Gauge Railway (SGR) has led to transportation of over 17.6 million tons of cargo between 2018 to 2021. During this period, over 6.5 million passengers have used the SGR.
- The Government tripled power generation from 1,300 megawatts to the current 3,900 megawatts. Of this, 73% is from green sources, thus consolidating Kenya's lead in generation of green energy in Africa and significantly increasing the number of households connected to electricity to more than 8.3 million today compared to 2.3 million in 2013.

BIG FOUR AGENDA STATUS FROM 2018

INITIAL TARGETS

Manufacturing – growing the manufacturing sector from 9.2% of GDP to 20% by FY2020

- Five BPO players creating 10,000 jobs
- Fish feed mill investment creating 20,000 jobs
- Improving doing business ranking from 80 to 50
- 50,000 new jobs in industrial parks and zones with an investment of USD 3.5 billion
- Focus on SMEs – supporting 10,000 SMEs on export standards
- Growing exports by 20% annually
- Tightening import rules for finished goods (priority sectors “lockdown”)
- Domestic PVOC program for motor vehicles

Food and nutrition – 100% food and nutrition security over the next five years

- Enhance large scale production by bringing in 700,000 acres through PPP (maize, potatoes, rice, cotton, aqua culture and feeds production)
- Forming an agriculture and irrigation section work group to enhance irrigated agriculture
- Use of local blended fertilizer on a 50/50 basis
- Reducing post-harvest losses from 20% to 15%
- Driving small holder productivity
- Reducing cost of food through creation of strategic food reserves and re-designing subsidy model

Health – 100% universal healthcare by scaling up NHIF health uptake

- Increasing coverage from 16.5 million to 25.74 million people and having a tiered benefit system

Affordable housing – 1,000,000 homes program

- Subsequently reduced to 500,000 affordable houses
- Increasing the contribution of real estate and construction sector from 7% to 14%

KEY CHALLENGES IDENTIFIED FROM CONSULTATIONS IN FORMULATION OF THE 2022/23 BUDGET

- High cost of living
- High level of unemployment among the youths
- Income inequality
- Public debt burden

GOVERNMENT REVENUE AND EXPENDITURE

- For FY2022/2023, the projected total revenue is **KShs 2.4 trillion** (including Appropriation-in-Aid and grants), equivalent to 17.5% of GDP. This is a 14% growth in projected revenue compared to FY2021/2022 (KShs 2.04 trillion – projected). The projected ordinary revenue is KShs 2.14 trillion, equivalent to 15.3% of GDP. This is a 20% growth in projected ordinary revenue compared to FY2021/2022 (KShs 1.78 trillion – projected).
- The expenditure projections for the FY2022/2023 is projected at **KShs 3.3 trillion**, equivalent to 23.9% of GDP. This is a 9% increase from the FY2021/2022 budget (KShs 3.03 trillion – projected). Of the projected total expenditure, the estimated recurrent expenditure amounts to KShs 2.2 trillion, equivalent to 15.7% of the GDP. The recurrent expenditure has grown by 10% compared to FY2021/2022 (KShs 2 trillion – projected).
- From the projected revenue and expenditure, the projected fiscal deficit for the FY2022/2023 is **KShs 862.5 billion**, which is equivalent to 6.2% of GDP. The projected deficit is lower compared to the fiscal deficit of FY 2021/2022, which was KShs 929.7 billion (8.7% of GDP of 2021/2022). The deficit is expected to be financed through external borrowing of KShs 280.7 billion (2 % of GDP) and domestic borrowing of KShs 581.7 billion (4.2% of GDP).



The two-year long-term fiscal policy is to reduce the fiscal deficit of KShs 862.5 billion to KShs 634.1 billion by FY2025/2026.

FOCUS OF THE FY 2022/2023 BUDGET

The budget aims to

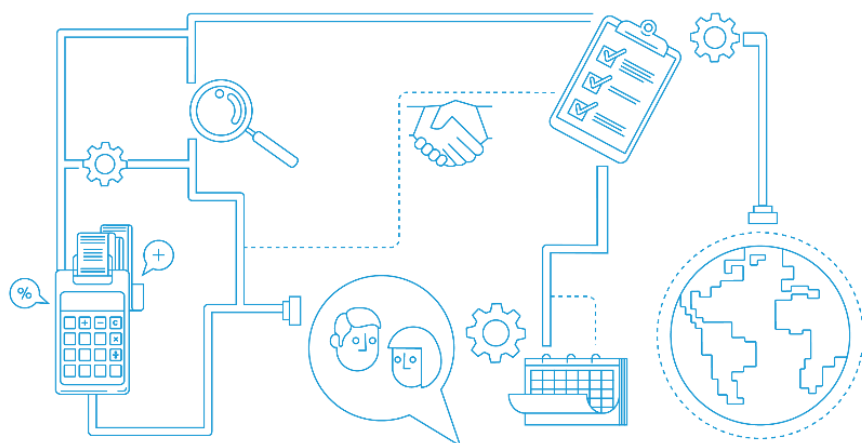
- Enhance security for the citizens and their properties and businesses;
- Scale up development of critical infrastructure in roads, rail, energy and water sectors;
- To boost key economic sectors such as tourism, manufacturing and agriculture for broad-based sustainable recovery;
- Expand access to quality social services in health and education to the vulnerable population;
- Ensure quality social services are extended to the vulnerable population;
- Ensure Government funded empowerment programs support the youth, women and persons living with disabilities;
- Enhance quality service delivery to strengthen County Government systems by continuously supporting the devolved system of Government; and
- Sustain implementation of various reforms targeted at enhancing efficiency in the delivery of public services.

OBJECTIVES OF IMF IN SUPPORT OF THE ECONOMIC PROGRAMME

- Scaling up the COVID-19 response by supporting health and other sectors most impacted by the pandemic;
- Reducing debt vulnerabilities by pursuing a revenue-driven fiscal consolidation plan that targets to stabilize the debt to GDP ratio and subsequently put it on a downward level;
- Supporting structural and governance reforms while addressing weaknesses in state-owned enterprises with a view to enhancing efficiency in the management of economic and fiscal affairs; and,
- Implementing specific measures to strengthen the monetary policy framework and support financial stability.

KEY ANNOUNCEMENTS

- The Government proposed further allocation of **KShs 2.7 billion** in the FY 2022/23 to cushion the farmers to sustain food production.
- Proposed amendment to the Unclaimed Financial Assets Act to provide for waiver of penalties, fines and audit fees in justifiable circumstances as well as to cap accumulation of penalties and interests to the value of the asset in order to encourage reporting and recovery of identified assets by the Unclaimed Financial Assets Authority.
- Proposed 12-month Voluntary Disclosure Program to grant relief of penalties on the unclaimed financial assets declared and delivered in the next 12 months under the program.
- The Government is installing a new Central Securities Depository System at the Central Bank of Kenya to support planned reforms in secondary trading of government bonds.
- Proposed amendment of the Capital Markets Act (CMA) to expand the spectrum of persons who can act as investment advisors to allow single director companies and partnerships to be licensed as investment advisors.



- The Government proposed further allocation of KShs 21.7 billion in the year 2022/2023 to IEBC.
- Proposed amendment to the Retirement Benefits Investment Guidelines to include the unlisted Real Estates Investment Trusts incorporated in Kenya that are approved by the Capital Markets Authority.
- Government backed pension scheme for informal sector workers; Kenya National Entrepreneurs Savings Trust (KNEST) targeting over 15 million

marginalized informal sector workers has now been registered. To operationalize the scheme, the Government is restructuring the M-Akiba bond platform for safe and secure investment for the unique heterogeneous informal workers. The National Treasury is working with stakeholders in the financial sector to roll out this scheme across the 47 counties in this financial year.

- Proposed amendment to the Insurance Regulations to require motorcycles and three wheelers used by fare paying passengers to take insurance for their passengers.
- The Government proposed to allocate KShs 6.1 billion to implement the "Financing Locally-Led Climate Action Program (FLLoCA)" – a 10-year financing program aimed at mobilizing climate finances to support local communities build their resilience and adapt to the impacts of climate change in 47 Counties in the FY2022/23.
- The Government has finalized the Long-Term Low Emission Strategy to guide a low carbon-climate resilient development path. To address the financing challenge of climate change actions, the Government will develop a Climate Finance Mobilization Strategy.
- The Government is committed to expand the country's tree cover from the current 7.2% to 10% with a proposal to allocate **KShs 10.2 billion** to support conservation of forests and water towers.

MAJOR FY 2022/2023 BUDGET ALLOCATIONS

<p><u>Enhancing quality and relevant education (KShs 544.4 Billion)</u></p> <ul style="list-style-type: none"> • KShs 12 Billion to cater for free primary education; • KShs 2.5 Billion for recruitment of teachers; • KShs 64.4 Billion for free day secondary education; • KShs 5 Billion for examination fees waiver for grade 6, class 8 and form 4 candidates; • KShs 1.96 Billion for the school feeding program; • KShs 294.7 Billion to Teacher’s Service Commission; • KShs 91.2 Billion for university education; • KShs 15.8 Billion to the Higher Education Loan Board (HELB); • KShs 6.8 Billion for Kenya Secondary Education quality improvement project; • KShs 5.2 Billion for capitalisation of TVET student program; • KShs 527 million for TVET and entrepreneurship; • KShs 971 million for promotion of youth employment and vocational training; and • KShs 323 million for national research fund. 	<p><u>Enhancing security (KShs 317.8 Billion)</u></p> <ul style="list-style-type: none"> • KShs 128.4 Billion for defence; • KShs 46.1 Billion for the National Intelligence Service; • KShs 122.2 Billion for police and prison services; • KShs 10.7 Billion for leasing of police motor vehicles; • KShs 1 Billion for police modernisation program; • KShs 1 Billion for national communication and surveillance system; • KShs 4.8 Billion for medical insurance for the national police service and prisons; and • KShs 2.3 Billion for the group personal insurance for national police service and prisons.
<p><u>Investing in Infrastructure (KShs 212.5 Billion)</u></p> <ul style="list-style-type: none"> • KShs 18.5 Billion for development of the standard gauge railway; • KShs 1.1 Billion for railways metro line; • KShs 439 million for rehabilitation of locomotives; • KShs 264 million for development of ERP system; • KShs 6.2 Billion for transmission and distribution of power; • KShs 18.5 billion for development of geothermal energy; • KShs 9.3 Billion for electrification of public facilities; and • KShs 2 Billion for development of nuclear energy as well as exploration and mining of coal. 	<p><u>Universal Health coverage (KShs. 146.8 Billion)</u></p> <ul style="list-style-type: none"> • KShs 7 Billion for purchase of Covid-19 vaccines and related expenditure; • KShs 4.1 Billion for free maternity healthcare; • KShs 5.2 Billion for Managed Equipment services; • KShs 1.8 Billion to provide medical cover for the elderly and severely disabled persons; • KShs 16.2 Billion for HIV/AIDS, malaria and Tuberculosis; and • KShs 5.2 Billion for enhanced vaccine and immunisation programs.
<p><u>Enhancing Food and Nutrition Security (KShs 46.7 Billion)</u></p> <ul style="list-style-type: none"> • KShs 4.2 Billion will go to the National Agricultural and Rural Inclusivity Project; • KShs 1.7 Billion for the Kenya Cereal Enhancement Program; • KShs 1.9 Billion for the Emergency Locust Response; • KShs 1.5 Billion for the National Value Chain Program; • KShs 1.1 Billion for the Agricultural Sector Development Program II; • KShs 1.5 Billion for the Small Scale Irrigation and Value Addition Project; • KShs. 690 Million for food security and crop diversification project; • KShs. 2.7 Billion for fertiliser subsidy to cushion farmers during the short rains from October to December 2022; • KShs. 500 Million for free disease holding in Lamu; • KShs 1.7 Billion for the Kenya Livestock Commercialisation Program; • KShs 121 Million for livestock production (The Big Four Initiative); • KShs 1.9 Billion for Aqua-culture business Development Project; • KShs 2.8 Billion for Kenya Marine Fisheries and Social Economic Development Project; • KShs 1.3 Billion for exploitation of living resources under the Blue economy; • KShs 1 Billion for construction of a fish processing plant in Lamu; • KShs 270 Million for coastal fisheries infrastructure development; and • KShs 210 Million for rehabilitation of fish landing sites in Lake Victoria. 	<p><u>Affordable Housing and Urban Development (KShs 27.7 Billion)</u></p> <ul style="list-style-type: none"> • KShs 4.6 Billion to Kenya Mortgage Refinance Company (KMRC) for enhancement of the company’s capital as well as for own lending to primary mortgage lenders; • KShs 8.7 Billion for construction of affordable housing units; • KShs 1.2 Billion for construction of social housing units; • KShs 5.9 Billion for the Kenya informal settlement project phase II; • KShs 1.1 Billion for the construction of housing units for the national police and Kenyan prison; and • KShs. 1.2 Billion to support the Nairobi Bus Rapid Transport Project (BRT).

Manufacturing for job creation (KShs 10.1 Billion)

- KShs 1 Billion for the credit guarantee scheme to enhance access to affordable credit for MSME's in the manufacturing sector;
- KShs 626 Million for provision of finances to MSMEs through the Kenya Industrial Estate;
- KShs 2.6 Billion for Dongo Kundu Special Economic Zone;
- KShs 295 Million for the development of the SEZ Textile Park in Naivasha, Kinanie Leather Industrial Park and Athi River Textile Hub;
- KShs 3 Billion for supporting access to finance and enterprise recovery;
- KShs 1.3 Billion for the Kenya Industry and Entrepreneurship Project; and
- KShs 2.2 Billion for the Kenya Youth Employment and Opportunities Project.

GOVERNMENT FISCAL OPERATIONS

ESTIMATES OF GOVERNMENT FISCAL OPERATIONS (KSHS. BILLION)	ESTIMATES 2018 / 2019	ESTIMATES 2019 / 2020	ESTIMATES 2020 / 2021	ESTIMATES 2021 / 2022	ESTIMATES 2022 / 2023	ESTIMATES 2023 / 2024	ESTIMATES 2024 / 2025
Ordinary revenue	1,499.80	1,573.40	1,594.00	1,775.60	2,141.60	2,516.30	2,807.40
Ministerial appropriation in aid	204.60	163.60	255.20	257.90	237.70	279.60	291.90
	1,704.40	1,737.00	1,849.20	2,033.50	2,379.30	2,795.90	3,099.30
Recurrent expenditure							
Interest payments	375.70	437.20	458.70	560.60	644.00	695.60	713.80
Pensions and other CFS	70.80	89.60	115.30	137.00	150.40	167.90	192.60
Net issues/net expenditure	936.80	1,011.50	1,082.60	1,093.60	1,152.90	1,250.30	1,388.30
Development and net lending	541.90	594.90	638.50	609.10	670.50	760.00	834.40
County transfers	360.70	325.30	383.00	409.80	406.50	412.30	417.50
Others	147.80	106.90	186.40	199.80	175.10	208.80	216.40
	2,433.70	2,565.40	2,864.50	3,009.90	3,199.40	3,494.90	3,763.00
Fiscal balance (commitment basis excl. grants)	(729.30)	(828.40)	(1,015.30)	(976.40)	(820.10)	(699.00)	(663.70)
Grants	19.70	19.80	48.70	46.10	33.30	48.10	49.30
Adjustment to cash basis	-	11.80	-	-	-	-	-
Fiscal balance (cash basis incl. grants)	(709.60)	(796.80)	(966.60)	(930.30)	(786.80)	(650.90)	(614.40)
Financing							
Net foreign financing	414.50	340.40	426.50	267.30	280.70	235.70	154.30
Net domestic financing	306.50	450.40	540.10	663.10	581.70	415.90	460.00
Total financing	721.00	790.80	966.60	930.40	862.40	651.60	614.30
Memo Items (Appendix)							
Gross debt (stock)	5,808.60	6,693.30	7,659.90	8,593.80	9,369.20	10,020.30	10,634.10
External debt	3,023.10	3,515.80	3,942.30	4,209.00	4,472.20	4,646.00	4,800.20
Domestic debt (gross)	2,785.50	3,177.50	3,717.60	4,384.80	4,897.00	5,374.30	5,833.90
Nominal GDP	9,303.10	10,175.20	11,168.50	12,393.10	13,759.90	15,373.10	17,128.40
Gross debt as a % of nominal GDP	62.44%	65.78%	68.58%	69.34%	68.09%	65.18%	62.08%
<i>Source: National Treasury BPS 2021 (November 2021) (Some numbers may be different from those announced in the FY2022/23 Budget)</i>							

POLICY ISSUES

NATIONAL TAX POLICY

- In order to achieve the objective of reducing debt vulnerabilities by pursuing a revenue-driven consolidation, the Government has developed a draft National Tax Policy to guide tax administration which will be subject to input from stakeholders and public participation in due course.

SHARING OF MINERAL ROYALTIES REVENUE

- Mineral royalties, currently being received from 15 Counties, totaling KShs 1.4 billion annually.
- To enhance equity, the National Treasury has developed a draft Framework which provides mechanisms for sharing of revenue from mineral royalties among the National Government, County Governments and Communities in line with Section 183 of the Mining Act, 2016.
- Section 183 of the Mining Act, 2016 currently provides that the royalties payable shall be distributed 70% to National Government, 20% to the County Governments and 10% to the Communities where the mining operations are taking place.
- The Framework will be subject to stakeholder consultation.

REVIEW OF VARIOUS ACTS

- The Cabinet Secretary had indicated at the last budget that the draft Income Tax Bill which has been work-in-progress, will be shared for public comments.
- The Cabinet Secretary had also indicated there will be a comprehensive review of the East African Community Common External Tariff Code.
- No status has been provided on where these projects are.

THE INCOME TAX ACT

PROPOSED AMENDMENTS TO VARIOUS SECTIONS OF THE INCOME TAX ACT

EXCLUSION OF MICRO FINANCE ENTITIES FROM THIN CAPITALISATION PROVISIONS

- The Finance Act, 2021 introduced the revised thin capitalisation provisions (effective 1st January 2022) to restrict the total interest claimable in a year of income to 30% of earnings before interest, taxes, depreciation and amortization ("EBITDA"); provided in the calculation of EBITDA, any income that is exempt from tax is to be excluded. This is applicable both to locally and foreign controlled companies.
- The interest restriction applies to:
 - interest on all loans;
 - payments that are economically equivalent to interest; and
 - expenses incurred in connection with raising of finance.
- Currently, the thin capitalization provisions do not apply to:
 - Banks or financial institutions licensed under the Banking Act; and
 - Micro and small enterprises registered under the Micro and Small Enterprises Act, 2012.
- The proposal is to also exclude Microfinance institutions licensed under the Microfinance Act from the thin capitalization provisions.
- Section 2 of the Microfinance Act, 2006 defines "institution" as a deposit-taking microfinance institution licensed under this Act.
- This change does not still cushion various non-deposit taking microfinance institutions which rely significantly on debt to finance lending.

CHARITABLE DONATIONS

- Currently, Section 15(w) of the Income Tax Act provides for deduction from taxable income any cash donations to a charitable organisation registered under or exempt under the Societies Act or the Non-Governmental Organisations Coordination Act.
- The new proposal seeks to allow as a tax deductible expense, any cash donations to all charitable organisations which may be registered under the Companies Act, 2015, or as Trusts or under other applicable legislation where these entities are exempt from tax under Paragraph 10 of the First Schedule of the Income Tax Act.

TAXATION OF GAINS ACCRUING TO NON-RESIDENTS FROM FINANCIAL DERIVATIVES

- The proposal seeks to amend the Income Tax Act to provide for taxation of gains accruing to non-residents from transactions involving financial derivatives such as hedging, futures and options.
- This proposal is aimed at ensuring equity and fairness.

EXCHANGE OF INFORMATION ON TAX MATTERS

- The Finance Act 2021 introduced the provision where an ultimate parent entity of a multinational enterprise group is required to submit to the Commissioner a return describing the group's financial activities in Kenya.
- The proposal seeks to amend the Income Tax Act to require multinational enterprises that have operations in Kenya to report their activities within Kenya and in other jurisdictions to the Commissioner

INDIRECT TAXES

VALUE ADDED TAX ACT

HEALTH SECTOR RELIEF MEASURES

The budget proposes to provide additional Covid-19 relief measures to ease the burden on the health care sector by introducing various exemptions.

VARIABLE SUPPLIES PROPOSED TO BE EXEMPT

Supplies	New Rate	Old Rate
Plant and machinery for use by manufacturers of pharmaceutical products	Exempt	16%
Medical oxygen supplied to registered hospitals	Exempt	16%
Urine bags	Exempt	16%
Adult diapers	Exempt	16%
Artificial breasts	Exempt	16%
Colostomy or ileostomy bags for medical use	Exempt	16%

The Finance Act, 2021 had already exempted urine bags under tariff heading 3926. It therefore remains unclear why this proposal has been re-introduced.

AUTOMOTIVE SECTOR INCENTIVES

To encourage local manufacturers to assemble passenger motor vehicles, the Government proposes the various exemptions below:

VARIABLE SUPPLIES PROPOSED TO BE EXEMPT

Supplies	New Rate	Old Rate
Inputs and raw materials used in the manufacture of passenger motor vehicles	Exempt	16%
Locally manufactured passenger motor vehicles	Exempt	16%

It should be noted that when items are exempt, the full benefit does not pass to the consumer as input VAT becomes part of the ultimate cost charged to the consumers.

EXCISE DUTY ACT

PROPOSED CHANGES ON ANNUAL INFLATIONARY ADJUSTMENT OF EXCISE DUTY RATES

- The new proposal seeks to empower the Commissioner to exempt from this requirement certain products depending on the prevailing economic circumstances.
- Inflation adjustment on specific rates of excisable goods was introduced by Section 10 the Excise Tax Act, 2015.
- Currently, Section 10 of the Excise Duty Act as amended by the Finance Act 2020, provides that:
Despite Section 8, the Commissioner may, with the approval of the Cabinet Secretary, by notice in the Gazette, adjust the specific rate of excise duty once every year to take into account inflation in accordance with the formula specified in Part 1 of the First Schedule.
- The proposed amendment if passed, will be a welcome addition, as it will cushion against price increases of certain products that the Commissioner may exempt from inflationary adjustments of excise duty.

EXCISE DUTY ON IMPORTED EGGS

- The new proposal seeks to exempt from excise duty on eggs for hatching imported by licensed hatcheries.
- Currently, the Excise Duty Act, 2015 as amended by the Finance Act, 2021 provided excise duty at 25% on all imported eggs of tariff 04.07.
- If passed, the proposal will be a welcome addition to license hatcheries who will be cushioned against increased importation costs.

EXCISE DUTY EXEMPTION ON NEUTRAL SPIRIT USED FOR MANUFACTURE OF PHARMACEUTICAL PRODUCTS

- The new proposal seeks to exempt from excise duty spirits of undenatured ethyl alcohol (neutral spirit) used in manufacture of pharmaceutical products.
- Currently, the spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 6% are subject to excise duty at Ksh 253 per litre.

EXCISE DUTY EXEMPTION ON LOCALLY MANUFACTURED PASSENGER MOTOR VEHICLES

- The new proposal seeks to exempt from excise duty locally manufactured passenger motor vehicles.
- Currently, Motor vehicles of tariff heading 87.02, 87.03 and 87.04 excluding—
 - i. locally assembled motor vehicles;
 - ii. school buses for use by public schools;
 - iii. motor vehicles of tariff no. 8703 .24 .90 and 8703 .33 .90; and
 - iv. imported motor vehicles of cylinder capacity exceeding 1500cc.
are subject to excise duty at 20%
- This move will promote investment in local assembly and manufacture of passenger motor vehicles.

INTRODUCTION OF EXCISE DUTY ON FEES CHARGED ON ADVERTISING OF ALCOHOL, GAMBLING AND GAMING ACTIVITIES

- The new proposal seeks to charge 15% excise duty on fees charged on promotion of alcohol, gambling and gaming activities.
- Currently, no excise duty is chargeable on advertising and media fees relating to promotion of alcohol, gambling and gaming activities.
- This is a sin tax with a motive of making it expensive to advertise these products.

EXCISE DUTY CHARGEABLE ON LIQUID NICOTINE

- The new proposal seeks to change the current taxation regime specifically for liquid nicotine by charging KShs 70 per milliliter.
- Currently, products containing nicotine or nicotine substitutes intended for inhalation without combustion or oral application but excluding medicinal products approved by the Cabinet Secretary responsible for matters relating to health and other manufactured tobacco and manufactured tobacco substitutes that have been homogenized and reconstituted tobacco, tobacco extracts and essences are subject to an excise duty of 1,200 per kg.
- The proposal if passed will see an increase in prices of liquid nicotine products.

TAX PROCEDURES ACT, 2015

INCREASED SCOPE ON SECURITY ON PROPERTY FOR UNPAID TAX

- The proposal seeks to empower the Commissioner to require registrars of ships, aircrafts, motor vehicles and any other properties to hold these as security for unpaid taxes by restricting their disposal or transactions.
- Currently, the Tax Procedures Act empowers the Commissioner to issue direction to the Land Registrar to put a caveat on land or restriction on transactions for taxpayers with tax arrears.
- The proposed change will expand the scope of property on which the Commissioner can put a caveat or restriction on transfer to secure unpaid tax revenue.

PROPOSED LIMITATION FOR THE COMMISSIONER'S OBJECTION DECISION PERIOD

- The proposal seeks to limit the requirement for the Commissioner to issue an objection decision within 60 days from the date of receipt of a valid objection by a taxpayer.
- The Tax Procedures Act empowers the Commissioner to request for additional information from the taxpayers in order to facilitate determination of an objection on assessed tax.
- Currently, the Act does not specify the number of times that the Commissioner can request for such information on a particular case. This prolongs the determination of tax disputes as additional information can be requested severally and any request for additional information provides the Commissioner with an additional 60 days to make a decision. This has led to unreasonable delay in rendering objection decisions.
- Under this proposed Provision, the Commissioner shall only have 1 cycle of sixty days to render an objection decision from the time the first request of information is made.

TAX APPEALS TRIBUNAL ACT, 2013

REQUIREMENT FOR DEPOSIT OF 50% OF THE DISPUTED TAX

- Under the proposal, taxpayers will be required to deposit 50% of the disputed tax that is appealed by a taxpayer from a decision of the Tax Appeals Tribunal to the High Court. This will be deposited in a special account with the Central Bank of Kenya in favor of the Commissioner.
- Where a taxpayer receives judgement in his or her favor on final determination of the matter, the deposit shall be refunded to the taxpayer within 30 days after the final determination of the matter by the Courts.
- This provision undermines the right of a taxpayer under the Constitution as it reduces the powers of the taxpayer to appeal on matters that may be upheld by the higher Courts.
- It does not also address cases which go in the favor of the taxpayer at the High Court level and are subsequently appealed by the KRA.

MISCELLANEOUS AMENDMENTS

CAPITAL MARKETS AUTHORITY ACT

EXPANSION OF PERSONS WHO CAN ACT AS INVESTMENT ADVISORS

- Proposed amendment to expand the spectrum of persons who can act as investment advisors to include single director companies and partnerships to be licensed as investment advisors.
- Currently, there is a restriction on a bona fide officer, director, trustee, member of an advisory board and an employee of a company.
- This amendment seeks to allow more investment advisors to offer investment advisory services and hence spur economic growth.

INSURANCE ACT

AMENDMENT TO INSURANCE REGULATIONS

- Proposal to amend the Insurance Regulations to require motorcycles and three-wheelers used by fare paying passengers to take insurance for their passengers.
- This seeks to introduce insurance cover to cater for any treatment in case of injuries or compensation in case of death or any damage caused by an accident involving motorcycles and three-wheelers.

UNCLAIMED FINANCIAL ASSETS ACT

INTRODUCTION OF WAIVER AND VOLUNTARY DISCLOSURE PROGRAM

- Proposed amendment to provide for waiver of penalties, fines and audit fees in justifiable circumstances as well as to cap accumulation of penalties and interest to the value of the asset.
- Further, the amendment proposes a 12-month Voluntary Disclosure Program to grant relief of penalties on the unclaimed financial assets declared and delivered in the next 12 months under the program.

RETIREMENT BENEFITS ACT

AMENDMENT TO RETIREMENT BENEFITS INVESTMENT GUIDELINES

- There is a proposed amendment to include the unlisted real estate investment trusts incorporated in Kenya, which are approved by the Capital Markets Authority in the category where pension schemes can invest their funds.
- This will widen the scope of investments where pension schemes can invest their funds.

STATUTORY INSTRUMENTS ACT

PROPOSAL TO EXEMPT TAX RELATED TAX LAWS FROM AUTOMATIC EXPIRY

- Proposal to amend Statutory Instruments Act to exempt tax related regulations under various tax laws from automatic expiry.
- The Act currently provides for automatic expiry of statutory instruments after ten years from the date of their publication. The amendment will therefore prevent any negative effect on tax administration and revenue collection that would arise upon expiry of the instruments.

KENYA REVENUE AUTHORITY ACT

CHANGE OF NAME

- There is a proposed amendment to change the name of the revenue collecting authority from Kenya Revenue Authority ("KRA") to Kenya Revenue Services ("KRS")

Caveat

This newsletter has been prepared for general guidance, and does not constitute professional advice. Accordingly, RSM (Eastern Africa) Consulting Ltd, its associates and its employees and agents accept no liability for the consequences of anyone acting, or refraining from acting, in reliance on the information contained herein or for any decision based on it. No part of the newsletter may be reproduced or published without prior written consent. RSM (Eastern Africa) Consulting Ltd is a member firm of RSM, a worldwide network of accounting and consulting firms. RSM does not offer professional services in its own name and each member firm of RSM is a legally separate and independent national firm.

NAIROBI

1st Floor, Pacis Centre,
Slip Road, off Waiyaki Way, Westlands
P.O. Box 349, 00606
Nairobi, Kenya

Tel: +254 20 3614000/4451747/8/9
Mobile: +254 706 347950/772 786111
Email: info@ke.rsm-ea.com
Website: www.rsm.global/kenya
Contact: Ashif Kassam (Executive Chairman)

MOMBASA

3rd Floor, Bayview Place,
Moi Avenue
P.O. Box 87227, 80100
Mombasa, Kenya

Tel: +254 41 2311778/2312640/2224116
Mobile: +254 707 613329
Email: infomsa@ke.rsm-ea.com
Website: www.rsm.global/kenya
Contact: Nihla Mazrui (Partner)

DAR ES SALAAM

1st Floor, Plot No. 1040,
Haile Selassie Road, Masaki
P.O. Box 79586
Dar es Salaam, Tanzania

Tel: +255 22 2602714 / 2602774
Email: info@tz.rsm-ea.co.tz
Website: www.rsm.global/tanzania
Contact: Lina Ratansi (Group Chief Executive)

KAMPALA

6th Floor, DTB Centre,
Plot 17/19, Kampala Road
P.O. Box 31704,
Kampala, Uganda

Tel: +256 414 342780
Email: info@ug.rsm-ea.com
Website: www.rsm.global/uganda
Contact: John Walabyeki (Managing Partner)

Follow us for news and more updates on:



[/company/RSMEasternAfrica](https://www.linkedin.com/company/RSMEasternAfrica)



[@RSMEasternAfrica](https://www.instagram.com/RSMEasternAfrica)



[/RSMEasternAfrica](https://www.facebook.com/RSMEasternAfrica)



[/RSMEasternAfrica](https://www.youtube.com/RSMEasternAfrica)

RSM Eastern Africa LLP & RSM (Eastern Africa) Consulting Ltd are members of the RSM network and trade as RSM. RSM is the trading name used by the members of the RSM network. Each member of the RSM network is an independent accounting and consulting firm, each of which practises in its own right. The RSM network is not itself a separate legal entity of any description in any jurisdiction. The RSM network is administered by RSM International Limited, a company registered in England and Wales (company number 4040598) whose registered office is at 50 Cannon Street, London, EC4N 6JJ. The brand and trademark RSM and other intellectual property rights used by members of the network are owned by RSM International Association, an association governed by article 60 et seq of the Civil Code of Switzerland whose seat is in Zug.

© RSM International Association, 2022