V. Tax Administration

Inhalt

1 Introduction

The Global picture

The World Bank Group/PwC joint report on, *Paying Taxes 2016* looks at tax regimes in 189 economies and provides global perspective on taxation. The results illustrate both successful reforms and reform challenges. However, the findings of the report provide a platform for governments and businesses to engage in constructive discussion around tax reforms across a broader range of issues. While the global average Total Tax Rate[1] has continued to fall in 2012, 14 economies have significantly increased their rate while 14 have reduced it. According to the report in conjunction with the World Bank and International Finance Corporation (2013) reforms continue around the world. 32 economies have made it easier to pay taxes between June 2012 and June 2013. In the report, Germany, Kenya and Zambia rank 48.8%, 37.1% and 18.6% respectively on the global average Total Tax Rate.

It is apparent from the emerging international investment and business climate that the three countries partaking in the study on Tax Justice and Poverty have to reform their respective tax revenue collection capacities by undertaking comprehensive tax reforms. While the challenges in Germany arise rather in view of demographic and IT development, the deficiencies in Kenya and Zambia are more basic.

While tax law and administrative in Germany are more ongoing, there were major reforms of the taxation systems in Kenya and Zambia in the mid-1990s. However, these reforms have since become moribund as the life cycle of the reforms have been surpassed by the evolving nature of the business climate. Kenya and Zambia are particularly in urgent need of comprehensive tax reforms if they are to meet the resource needs for sustainable development in their respective countries and thwart dependence on donor aid and international lines of credit.

Reform and tax policy options available for effective and efficient domestic resource mobilization in the three tax jurisdictions include in the case of Germany, the reconsideration of wealthy taxes by reviewing and broadening the catchment of the super wealthy. In the case

[1] The Total Tax Rate measures the amount of taxes and mandatory contributions borne by the standard company (as a percentage of the 'commercial profit' or the profit before all of those taxes.

of Kenya, the tax policy options include the stemming of transfer mispricing and mis-invoicing to arrest evasion of payment of corporation tax as well as broadening the tax base through formalization of the small and medium scale industries. Zambia has three policy options to pursue to address deficiencies in domestic revenue mobilization through taxation, namely broader and long term taxation policy consistency on the mining sector coupled with diversification of the economy and a review of the VAT refund modus operandi which indicates that a bulk of it goes to the mines. It is apparent that the current VAT refund regime is perverse with fraudulent claims where shell subsidiary companies are used as a front in tax planning and scheming through inflated importation costs of equipment to claim VAT and capital allowances. Similarly, Zambia must deal with rampant and pervasive mispricing by corporations, and tap into the taxation revenue potential of small and medium enterprises. This will primarily require the formalization of SMEs.

2 Institutional buildup

As has been explained in II/# regarding the German study, a refocusing of the research scope was needed, on account of the fact that tax administration and enforcement in Germany is at the level of the 16 states, of which Bavaria, one of the 16 states provides most of the specific examples.

2.1 Germany

The competence for collecting and administering taxes as well as the enforcement of tax law is mainly concentrated on the level of the 16 German states and their respective State Tax Offices, with some exceptions. The Federal Ministry of Finance explains the German system as follows: ‘The federal revenue administration is largely responsible for customs, excise duties regulated by federal statutes, and motor vehicle, insurance and fire protection tax; the other taxes are administered by the *Länder* acting as agents of the Federation (in case of shared taxes) or in their own right (e.g. in the case of Inheritance Tax)’ (Federal Ministry of Finance, 2011, p. 23). Other federal tasks, e.g. located with the Central Office of Taxes (*Bundeszentralamt für Steuern*) have subsidiary functions for the states, at times even getting assigned personnel from state offices. Similarly, state offices collect ‘certain municipal taxes unless the *Länder* have tasked municipalities with administering the latter’ (Federal Ministry of Finance, 2011, p. 25). Accordingly, the German *Länder* and their tax offices are central elements in administering and enforcing tax laws in Germany: Through their local tax offices, they collect taxes for the federal, state and municipal level and, in a “subsidiary manner” even for the churches (the so-called Church Tax).

There may be differences in the names or structural departmental organization of the 16 state tax administration offices, but the major structure is common to all. Generally, every tax office has General Assessment Departments, Tax Auditor, Turnover Tax or Tax Fraud Investigation Departments. Since the main focus of this study is the state of Bavaria, a more detailed presentation of its tax authority, its head office and branch offices, is now given.

Bavaria’s state tax administration is structured upon three levels: On top is the Bavarian State Ministry of Finance, the middle level is the State Office of Taxes (*Landesamt für Steuern)* with its two offices in Munich and Nuremberg, at the bottom are 76 local *Finanzämter* (Tax Offices) with an additional 25 branch offices.

The State Office of Taxes and its local offices and branches is in charge of all administrative and practical matters related to taxation: the collection of taxes, the enforcement of tax laws and the prosecution of tax evasion and tax fraud. It exists in its present form since 2005, when it was merged from the previous two *Oberfinanzdirektionen* (Superior Directorate of Finance) in Munich and Nuremberg. The State Office is, as the name indicates, a state institution, whereas the previous institutions were part of the Federal Agency of Customs. Overall, around 19 000 civil servants are being employed.

Reforms of tax laws in Germany can be prompted by several factors, e.g. the following;

Election promises: At times, political parties campaign with a tax reform agenda if they are elected into government. If this happens, they are under obligation to do it, if they need a coalition partner, it might be a complex procedure of finding a compromise and/or finding a majority in both chambers of the Federal Parliament and the Chamber of States, where different majorities may complicate procedures (e.g. the 2014 legal minimum wage law). Experiences of inadequacy or other needs to bring laws up to date: If civil servants or public officials notice deficiencies in tax laws, they can initiate reforms via the available and applicable fiscal channels of communication: Civil servants via their ministries, professional groups via their federations and lobby associations (E.g. the package to "modernize tax administration", which was finally passed on 17 June 2016)

Court Verdicts: If there are deficits in existing laws which militate against fundamental human rights enshrined in the constitutions, especially verdicts of the Federal Constitutional Court can mandate the government to reform a given tax law in accordance to its ruling e.g. more recently the Inheritance and Gift Tax reform of June 2016.

Financial criteria: Certain financial/economic situations may call for changes in existing regulation. For example: When it was felt that the cost of German labour (wage & tax & SSC) is too high to be internationally competitive, an increase of VAT from 16% to 19% was passed 2007 to cross-finance reduction in SSCs.

Political promises, international commitments: In order to protect the environment and to stop climate change, complex packages of legislation, including new/increasing existing taxes and levies, were introduced with the goal to increase the share of renewable energy production (e.g. the Renewable Energy Levy).Popular Campaigning: In rare cases also popular movements can initiate legislative reforms upon the government's agenda. In the wake of the 2007 World Financial and Economic Crisis, campaigns in several European states sparked off negotiations among 11 states to introduce a Financial Transaction Tax.

2.2 Kenya

Act of parliament CAP 469 of the laws of Kenya, which established Kenya Revenue Authority (KRA), became effective from 1st July 1995.

The 1995 reform introduced the following changes to the tax system: Reduction in direct taxes through widening of tax brackets, gradual lowering of income tax rates, increased indirect taxes to cover the shortfall in revenue, a shift from taxes on international trade to taxes on domestic goods and services. With reforms, it was expected that KRA would put in place an efficient and administrative effective system to seal the widespread loopholes in the tax system, bring down the vice of tax evasion, and enlist as many eligible taxpayers into the tax net as possible.

Besides, there were other changes which took place prior to the inception of KRA. For instance, after the publication of sessional paper No. 1 of 1986, Kenya embarked on a modernization program which saw the introduction of the Tax Reform Program with the hope that this would, among other things, modernize tax collection, enhance revenue collection, improve tax administration and reduce compliance and collection costs.

ORGANOGRAMS of all three states only in extended version.

In the same line of reforms, there is a debate whether or not to split KRA into two semi-autonomous but inter-dependent agencies: The Inland Revenue Agency and the Customs and Border Protection Agency. According to KRA, given the rapid growth in the economy, an increasing middle class and a rapid Small and Medium Enterprises (SME)-driven economy, KRA is stretched wide but thin having to administer the increasingly complex demands of national tax policy. However, this plan has received resistance from agencies like the World Bank which are of the view that Kenya lacks the capacity to run the two proposed agencies independently(ibid).

2.3 Zambia[2]

In the context of declining governmental revenues from a peak of around 30% of GDP in the late 1970s to just 13% of GDP from tax collections in the early 1990s, the Zambian government launched a tax reform program in 1992. In addition to various tax policy initiatives, this reform program included a major overhaul of revenue administration through the establishment of the Zambia Revenue Authority (ZRA), on April 1, 1994, as a semi-autonomous agency under the ZRA Act, now Chapter 321 of the Laws of Zambia. That culminated in the merging of the former Departments of Income Tax and Customs and Exercise of the then Ministry of Finance to form the Zambia Revenue Authority.

Consequently, at inception, ZRA had two operating divisions named the Direct Taxes Division, and the Customs and Excise Division. A third operating division called the Value Added Tax (VAT) Division was later created to prepare for the introduction of VAT which replaced Sales Tax. The Value Added Tax division became operational following the enactment of the VAT Act in July 1995. This important development along with policy measures on income tax rates and customs tariff reform, as well as the introduction of VAT saw the contribution from tax collections rise to more than 18% of GDP.

The rationale behind tax administration reforms in Zambia was to remove taxes and customs administration from the constraints of normal civil service, thus paving way for the

[2] Retrieved on 27th June 2015 from https://www.zra.org.zm/commonHomePage.htm?viewName=History

hiring and remuneration of staff on a more competitive and market based criteria. It was also envisaged that the reformed body would use more modern management methods leading to increased professionalism and efficiency in tax collection.

3 Inadequate staff numbers versus increasing work burden

3.1 Germany/Bavaria

There is widespread concern that the number of employees in the tax administrations is no longer adequate and sufficient. This view is not only held by trade unionists but also by civil service watchdogs such as the Courts of Auditors or the corresponding Federal Performance Commissioner. The latter's 2006 report highlights for Germany that (most) tax offices are understaffed and overworked, with the result that their standards of efficiency are rather orientated towards the quantitative handling of tax declarations than a qualitative examination (Bundesbeauftragter für Wirtschaftlichkeit in der Verwaltung, 2006, p. 38ff.).

In a sample of 21 (regional/local) tax authorities, the case load varied from 972 tax declarations per employee per year to 2,270 cases, which averages to 1,750 cases per employee. For simple cases, e.g. tax declarations of labourers, the average time employees were able to spend on each case was 16.968 minutes. While new laws created new tasks and responsibilities which needed more than 6,000 civil servants, none of these positions has been filled.[3] At the same time, not only did the number of cases increase but also complexity, e.g. checking transnational linkages of private and corporate wealth holders and businesses.

All this is not mirrored by developments in personnel in tax administration, neither in number nor in adequate staffing of relevant departments.

Regarding Bavaria: How many civil servants are employed? It depends on whom one approaches for statistics: According to the State Office, in 2014 19,036 civil servants are employed (which amounts to 16,261.80 "Employee-Capacities") in its head office and local branch offices (Bayerisches Landesamt für Steuern, 2015, p. 53). For the same year, the Bayerische Finanzgewerkschaft counts 14,793, which is close to the Bayerische Oberste Rechnungshof whose figure for the 1st January 2014 is given with 14,791.[4]

Development of caseload per employee

	2003	2013
Incorporated businesses	426	585
Unincorporated businesses	242	354
General assessment	679	798
Dependently employed	2,227	2,104

[3] For these figures: (Bundesbeauftragter für Wirtschaftlichkeit in der Verwaltung, 2006, p. 13ff.+53) and (Berg, 2004, p. 6)

[4] Produktivität sehr wohl gesteuert. Und wie. In bfg-Informationen 2015/6, p. 1f.; as well as Bayerischer Oberster Rechnungshof, 2014, S. 25f.

In national personnel ranking, Bavaria can in most key categories be found on the last places among Germany's 16 states:

Table 1 Ranking the personnel situation in Bavaria in comparison with other *Länder*

Comparison	Ranking 2009	Ranking 2010	Ranking 2011	Ranking 2012
4 Personnel in relation to population	14	14	14	13
5 Personnel in relation to cases of income and corporation tax	16	16	16	15
6 Tax Auditors in relation to number of businesses	11	16	16	16
7 Turnover Tax Special Investigators in relation to businesses	15	16	16	16
8 Relation between should-be-state and actual state in the area of tax fraud investigation	16	16	15	15

Source 1 (Bayerischer Oberster Rechnungshof, 2014, p. 25)

The situation of staffing is not the same in every department. For example, assignments to the Assessment department are not popular with the public and the electorate because ordinary citizens associate this department with their own tax bill rather than with fraud combating. For the electorate, more staffing in the assessment department means a declaration of tax war against the "ordinary and honest citizen" compared to an assignment to the tax auditing and tax fraud department who are known to go after the big fish only. . This is why none of the 240 available trainees in 2013 were assigned to the general assessment or turnover tax investigation -all were allocated to investigative departments.[5]

Politicians are aware of this public perception and for popularity reasons they tend to act counter-productively, considering the larger picture. For instance, after a media hype surrounding data leaks concerning tax evasion, the Bavarian Finance Minister suddenly announced, under great acclaim, the formation of a Bavarian Tax FBI which would not be staffed by new employees but by re-assignment of already existing employees. . Acting like this is, according to conversation partners, similar to cutting the branch on which one is seated since competent internal service and assessment departments are also basic for business tax inspectors. Effective field tax services require effective internal organisational services as a basis.

3.2 Kenya

There is an acute shortage of staff leading to a high ratio of taxpayers to staff thereby affecting service delivery. This affects, among others, implementation of the 24-hour system

[5] See Bayern ist keine Steueroase. Press Release from 8 July 2013 Retrieved from: http://www.finanzgewerkschaft.de/news/allgemeine-news/bayern-ist-keine-steueroase/

operations. The other challenges have been lack of the right mix of staff with requisite skills and staff rationalization. The total number of staff members at the KRA is currently estimated at 4,700 (including support staff).[6] The KRA has a robust graduate recruitment programme and offers competitive salaries, based on staff performance. KRA officials are well educated and older officials with less training are increasingly becoming a minority. One of the internal control mechanisms adopted by the KRA to ensure the independence of its staff is the rotation of officers within the various departments of the authority (interview with former customs officer, November, 2015). There is also a hierarchy of officials relating to the approval of assessments and the vacation of such assessments or any other settlement. The KRA also has an internal audit division and a hotline.

Day to day management of the Authority is the responsibility of the Commissioner General, assisted by five Commissioners in charge of Customs Services Department (CSD), Domestic Taxes Department (DTD), Large Taxpayer Office (LTO) and Medium and Small Taxpayer (MST), Investigations and Enforcement (I&E) and Support Services Department (SSD). The Commissioner for Support Services also supervises Road Transport Department (RTD). In addition there are seven Headquarter Departments and five Regional Offices.

3.3 Zambia

The Zambia Revenue Authority has in place different relevant departments and divisions to handle matters of taxation. In addition, the research's assessment of the Revenue Agency is that the ZRA has competent personnel in most departments to preside over matters of taxation. While there are all relevant departments, divisions and qualified personnel, the question of adequate personnel or staff to effectively implement departmental functions cannot be overlooked.

- In 2012, the ZRA had a total staff complement at 1,355 out of the approved 1,482 staff needed. This shows a deficit of 127 staff.
- In 2013, there were 1,450 staff against the approved staff complement of 1,482 representing a deficit of 32 staff.

Robert Liebenthal the former Millennium Challenge Account Zambia (MCA) Director and Former International Growth Centre (IGC) Country Coordinator argues that, "collecting more tax revenue in Zambia especially from the mining sector will require the ZRA to employ more staff with experience". R. Liebenthal (Personal Communication, November 21, 2014). In terms of the ratio, per 1,000 taxpayers there are only 2 ZRA staff.

[6] **PWC**. Europe Aid –Implementing the Tax and Development policy agenda. *Transfer Pricing and Developing Countries*- Kenya. P 14 http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/trpr_dev_count_app_d.pdf

4 Recruitment, training, staff turnover & private sector competition

4.1 Germany/Bavaria

For Germany, there is another critical concern with regards to recruitment of new personnel. Given recent inverted pyramid demographic trend, the number of the young is decreasing and the likelihood of them consciously and actively choosing a career in main stream taxation profession is quite slim.

All this is fatal as far as the need to recruit new personnel is concerned: Given demographic developments, the number of young is decreasing and the likelihood of them to choose a job with such a bad image, pay and work satisfaction rates is slim. Tax expert Stefan Flamm of the Auditing Department of TNCs laments: ‘Were in earlier times good legal experts attracted to tax administration and spent a lot of thoughts on how a balanced taxation could protect both interests of the state and business nowadays man tax experts are experts in tax avoidance. The good and very good legal graduates are attracted by the internationally operating tax lawyer companies where they earn the tenfold paid in tax administration.’ (ZEIT-Dossier, 2014)

There is already a lack of personnel, as long as no remedial action is undertaken through replacement of separated employees on account of retirement, there won’t be young people being inducted which hence lead to revenue and services deteriorating further.

For these reasons the situation in public service is a ticking time bomb: [7] Currently there is a deficit of 100,000 civil servants , over the next 20 years about 56% of the presently employed (ca. 700,000) will be separated on account of retirement. This will impact on tax justice. Already customs cannot enforce around 1 million administrative orders, forfeiting EUR 1.5 billion –which could be used for investing in human resource requirements and hence stem the increasing manpower deficits. All this comes in addition to experienced tax officials who change side from tax administration to the (better paying) private sector and trainees for a job in tax administration who change into private sector after completing their training (see GER/VII#). All of those need replacement as well

4.2 Kenya

An interviewee working with an international NGO noted that investment in skills and knowledge by the KRA is average. There is inadequate training occasioned by budgetary constraints. This means that even though reforms are initiated, there is inadequate training for staff in technical areas such as SIMBA system,[8] because refresher courses do not adequately cover all the technical knowledge necessary to run operations.

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[7] For the following: Stahl, St. (2014, March 31) Tarifkonflikt: Das Stiefkind Öffentlicher Dienst. In: *Augsburger Allgemeine*. Retrieved from http://www.augsburger-allgemeine.de/politik/Tarifkonflikt-Das-Stiefkind-Oeffentlicher-Dienst-id29373802.html

[8] SIMBA system is an online programme used by KRA to offer online services such as tax payer registration and tax return filings.

There is another problem of good reforms but poor execution. As one respondent noted, "....The direction taken has been well. However, the strategies adopted have never been sustainable. Take an example of the SIMBA system, or KRA working 24- hours at the Port of Mombasa. These routes have never been adhered to." The shortcomings could be as a result of understaffing, high staff turnover, and low morale from staff. Further, low government investment in making SIMBA system a reality is one of the problems identified.

Moreover, experienced tax officers have been retiring with a wealth of knowledge on revenue administration yet there has not been a mechanism to transfer their knowledge through induction to the young. There is no succession policy regarding officers being separated from the institution.

4.3 Zambia

Besides the shortage of personnel, ZRA is also faced with the problem of high staff turnover. In 2012, 71 employees separated from ZRA while in 2013, 74 employees separated from the ZRA. Resignations remain the main reason for separations. An analysis of exit interviews done indicated that resignations are mainly as a result of career progression and better conditions of service elsewhere. It is imperative that the ZRA should offer competitive conditions of service in order to retain key experienced and qualified staff.

As with Germany and Kenya, there is need for more training of tax administration staff to enhance their use of latest information technology. A key informant for this study who worked for ZRA for 8 years in middle management argues "ZRA staff are competent and professionals however there is need to enhance utilization of informatics. ZRA staff need more training in utilization and application of latest Information Communication Technology (ICTs)."

5 IT related issues

Issues to do with computerization of tax administration arise on several fronts: citizens, staff and reliability of the systems.

5.1 Germany/Bavaria

Computerization was done due to a number of reasons: First of all, it is an unavoidable development in globalization used by citizens and Transnational Corporations alike and tax administration has to follow suit. Second, it makes business and individual lives more efficient and convenient. But computerization can also be used (abused!) in tax payment dodging and cheating schemes. Moreover, Tax administrations have to make up for staff deficits, reduce the burden of labour per tax official, hoped to speed up the processing of tax declarations and prepare the way for more savings in the field of personnel both by hiring less civil servants and by using people on a lower pay grade to execute more tasks.[9].

[9] A lot of work can be done by less qualified personnel which leaves the expensive civil servants to focus on that which duly requires their qualification**Invalid source specified.**. However, as informants say, the opposite may be true as well: More computerization requires higher qualification and therefore higher paygrades.

Even though computerization is meant to make tax declarations more easy, there is reluctance on the part of the citizenry to voluntarily use the offered electronic forms for transmitting their data to tax authorities:

In 2005, only 12% of Germanys' (then) 30 Million Income Tax Declarations were submitted electronically and required a lot of work for checking and processing by the tax authorities (Bundesbeauftragter für Wirtschaftlichkeit in der Verwaltung, 2006, p. 92f.). In 2015, the share of electronically submitted Income Tax Declarations surpassed 20 million, i.e. 69% of those being due . (Bayerisches Landesamt für Steuern, 2016, p. 136).

Regarding reliability of computerized tax assessments, a point of reference, is from 2007 and refers to the processing of the simplest category of tax declarations, namely that of dependently employed. Here it was said that computerized tax assessment is adequate and correct in 25% -30% of all cases, while an additional 15% -20% can be worked upon in a fast track procedure by the tax inspector. The remaining cases would still require a detailed treatment.[10] Conversation partners are far more sceptical. According to a conversation partner from the assessment department, merely about 10% of all tax declarations can be processed without query or further probing, while all others raise alarm of some sort or the other and need follow up. Here the effort varies from 5 minutes reviews for simple issues to two weeks for much complex issues. . All this, however, is even more optimistic than the head of the Bavarian Finance Trade Union, Wipijewski, states publicly in 2015 when he asserts that 95% of all processed declarations require follow ups (see GER/VI/4.3.2.5).

Given tax secrecy constraints, there is only one satisfactory test and comparison between computer-generated results and "experiential Insights", conducted at the tax administration of Lower Saxony. Among others, the question was whether computerized processes, criteria based on departmental selection or the "gut feeling" of experienced civil servants is more successful in identifying and dealing with high-risk tax cases. The result is very clear: In all categories of examination and evaluation, the 'gut feeling' of tax inspectors prevailed, exceeding by far results obtained via the other two approaches (Schöbel, 2008, p. 244). The data-base is quite old, but when the researcher wanted to verify his findings, putting it on a more reliable foundation he was prevented from doing on grounds of privacy and tax secrecy. But there is more to it arising from the federal structure of Germany, especially regarding the difference in IT systems employed by the German states, see 3.11.1

5.2 Kenya

Whereas computerization in Germany both for tax subject and for tax administration is an element of growing importance, computerization in Kenya and Zambia is only starting to evolve. However, there, too, with the unstoppable development in computerization of tax , problems seem to be comparable.

On the taxpayers' part, it is agreed among 21 interviewees that, "tedious filing process and tracking due dates and filing schedules" reduces compliance. In the same breathe, "Asking a

[10] Weigel, W. Vom Alltag eines DUNAN Liberos. In: *Der Wecker* 2007/4. Retrieved from http://www.verdi-finanzamt.de/wecker.html

taxpayer, who is in formal employment to file their tax returns is ludicrous, makes no sense at all since the Authority has the tax data already through PAYE from the employers. KRA should find ways of ensuring what is taxed on my workers' income is also what is actually remitted, as well as the frequent breakdown of the KRA I.T systems and long queues." Taxpayer's illiteracy level and ignorance on online return filing have led to unnecessary debts due to wrong data entries. This means that though ICT reforms are initiated, there is inadequate training for the relevant staff in the technical areas such as ITMS, SIMBA system, ECTS and refresher courses do not adequately cover all the technical staff that run operations.

5.3 Zambia

Regarding Zambia, the problem is that in principle online procedures are valued. On the other hand, they can only be fully used when people are sensitized. In the mini-survey among SMEs, the Zambian researcher found out the following: 80% of the respondents agree that the TaxOnline and the Education and Advisory services have made tax payment simple. Of the 20% who disagree, the following are their main arguments: There is little sensitization on the TaxOnline and it is very slow. Regarding education and information, results indicate that 12% of the taxpayers agree that the TaxOnline and the Taxpayer Education and Advisory Services are very good, while 55% of the respondents agree that they are good. For the 4% who claimed that the two facilities are bad, the following main arguments were cited: ZRA education activities are limited to TV and Radio. In addition, sensitization programmes are limited to towns (urban areas). The call centre, when contacted, does not give proper advice.

As already pointed out, ZRA staff also need training regarding the tax agency's online facilities and services. A key informant, having worked for ZRA middle management, emphasised that the competence and professionalism of ZRA should be supplemented with enhanced utilization of informatics.

6 Deficits in enforcements: Businesses

A first question of importance when it comes to the taxation of businesses is the question whether there is "special treatment" available and negotiable for MNEs. This question is disputed between researchers and tax administrations for Germany,[11] but not in doubt regarding Kenya and Zambia, where numerous concessions are offered up to "fiscal stability contracts" giving MNEs assurance that the tax burden will not change over a specific period of time.

6.1 Germany/Bavaria

In the Mid-1990s, the federation and the *Länder* agreed that the frequency of checks should be as follows: Large businesses every 4 years, medium sized businesses every 10 years, small businesses every 20 years (Dettmer & Reiermann, 2013). But this is nowhere near the case. The de facto frequency of business checks is as follows:

Table 2 Frequency of average checks of businesses in Germany

[11] See GER/VI/4.1.1

Category	Large business	Medium business	Small business	Smallest business
Frequency in years	4.63	15.21	30.54	101.71

Source 2 (Bundesministerium der Finanzen, 2013b)

At each check, the inspector checks on average the last 3.3 years at large businesses, and the last 2.9 years at smallest businesses. This timeframe and the frequency of checks results in the overall "density" of checks (*Prüfungsdichte*), i.e. the percentage of years which are checked on average within each category of businesses.

Table 3 Density of average checks of businesses in Germany

Category	**Checked**	**Not checked**
Large businesses	72%	28%
Medium business	19.8%	80.2%
Small businesses	9.7%	90.3%
Smallest businesses	2.9%	97.1%

Source 3 (Bundesministerium der Finanzen, 2013b)

This table indicates, that even within the largest and best checked category of businesses, on average 28% of business years are not checked at all. This is important because the prosecution of most offences is status-barred (*verjährt*) after a period between 4-10 years. This means: Both the frequency and density of checks for small and medium enterprises is such that, if there is cheating, the likelihood that this will neither be discovered nor prosecuted at all, is very high.

In Bavaria, the situation is worse and the frequency of checks is deteriorating and even getting worse.

Table 4 Frequency of inspections (in year)

Tax Payer Category	**2009**	**2010**	**2011**	**2012**	**2013**	**Target**
Large businesses	4.5	5.0	4.9	5.12	5.12	4
Medium businesses	15.1	16.1	9.9	22.19	22.19	8.4-10.5
Small businesses	29.9	37.1	40.8	40.26	47.4	14.4-20

Source 4 (Bayerischer Oberster Rechnungshof, 2013, p. 84) (Bavarian Parliament Drs. 17/2380, 2014)

The Tax assessment table above highlights the challenges that the Bavarian tax administration is facing in undertaking timely tax audits on account of the high ratio of tax auditor to tax clients.

More problems arise if international issues enter the checks, which is frequently the case, given the extensive involvement of Bavarian industries in international trade (see I/#). On that background it surprises that the department in charge of assisting tax auditors in international business checks only executed 20 Joint Audits with tax auditors in other countries – even though even heads of tax departments in TNCs agree that this would be the best way to discover tax trickery under the given legal and administrative frameworks. Very few, if any at all, of those Joint Audits are towards business connections extending into Africa since effors and (potential) benefits are judged to be not in a justifiable proportion.

6.2 Kenya

Similar to Germany, Kenya also has a challenge in collecting tax revenue from businesses. In support of this perception, interviewees added that “the tax regime focuses only on salaried people and consumption. Most of the income that should be taxed however is in big businesses, and stock exchanges. KRA is either inefficient or lethargic to tax audit more businesses.” This is because of understaffing, high staff turnover etc. After completing training, some staff move to organizations and sectors offering competitive wages than KRA.

Interviewees further added that, “Taxation discourages citizens from earning more, because the more a person earns, the more s/he is taxed.” In general, there is a feeling that Kenya's tax system, like those of other East African democracies, is still unfair in the sense that it does not tax businesses but burdens the poor.

On a similar note, there is an enforcement deficiency when it comes to assessing profit margins for MNCs in order to determine the appropriate tax rate. The officer with KRA said, “There is a belief that MNCs under-report their profits in order to pay less tax. Some go a step further in the name of Corporate Social responsibility and advertise their brands. For example building a school and branding it. All this is to reduce profit that is reported and in turn tax paid to the government”.

For taxes which are within the competence of county governments, there are enforcement challenges which result into county budget deficits. According to the Constitution of Kenya 2010 chapter 12, a county government may impose only two forms of taxes namely; property rates and entertainment taxes.

Property tax refers to a tax imposed by the county government on registered property within its jurisdiction. According to an official within the Finance department of Nairobi City County, “...property could be land, house or vehicle”.

Entertainment Tax on the other hand refers to the tax imposed by the county government on entertainment consumption goods like beer, cigarettes, hotel rooms and anything that is considered as an entertainment and not a necessity. According to an interviewee working with an international organisation doing budget monitoring in Kenya “Some of the fees aren’t even enforceable, the counties just do not have the resources to send someone around collecting ‘chicken’ fees.” As such they propose that county governments should not only focus on taxing everything they can get their hands on but what will help benefit the local people more. One interviewer summed it up, “They need to balance raising revenue to develop their counties.”

6.3 Zambia

Zambia, like Germany and Kenya, is not spared from tax enforcement deficiencies in as far as businesses are concerned. Consider the case of MNCs. There is a growing concern that some Multinational Corporations (MNCs) especially mining firms are not paying the correct amounts of tax. In fact, Zambia's Finance Minister observed that only two mining companies were paying taxes under Company Income Tax (CIT) and the rest were not largely on account of tax planning schemes such as transfer pricing, hedging and trading through "shell" companies which are not directly linked to the core business.[12] For instance, an audit done by the government into the country's second largest copper mine, Mopani Copper Mines showed that the company inflated costs and evaded taxes.[13] Despite government commitment to addressing tax lacunas in the mining sector, very little has been achieved to collect more tax revenue from MNCs.

An interesting case is enforcement deficit with regards to parastatal firms. It has been observed that some parastatal corporations have not been paying tax. The Chairperson of the Expanded Parliamentary Committee on Estimates observed that, two government media houses, Times of Zambia and Zambia Daily Mail owe the Zambia Revenue Authority tax liabilities and as a result, the two newspapers deny the people of Zambia the much needed taxes.[14]

7 Deficits in enforcement: private wealth, example real property

7.1 Germany/Bavaria

Due to the absence of more detailed information regarding Kenya and Zambia, some aspects from the Germany/Bavarian context are considered, which, probably, are not too different in Kenya and Zambia. In Germany, there are also indications that it would be worthwhile to undertake a detailed check on private wealth holders. Here, the tax auditing department is also in charge of checking "persons with considerable income", i.e. people earning more than EUR 500,000.[15] The 2012 statistics on the tax auditing department above (3.2.1) revealed that in Germany as a whole, 13% of all wealthy households have been

[12] Lusakatimes.com (2015, February 26). *Only Two Mining Companies Were Paying Tax Under the Previous Tax Regime-Chikwanda*. Retrieved April 21, 2015 from http://www.lusakatimes.com/2015/02/26/two-mining-companies-paying-tax-previous-tax-regime-chikwanda/

[13] Lusakatimes.com (2011, February 28). *Mopani Copper Mine Accountants under Investigation for "Flawed" Tax Submission*. Retrieved April 21, 2015 from http://www.lusakatimes.com/2011/02/28/mopani-copper-accountants-investigation-flawed-tax-submission/

[14] Lusakatimes.com (2015, March 9). *Run only one Viable Newspaper – Hamududu Tips Government*. Retrieved April 28, 2015 from http://www.lusakatimes.com/2015/03/09/run-one-viable-newspaper-hamudud-tips-government/

[15] This refers back to times where income and wealth were measures in Deutschmark (DM) – after introduction of the Euro, one million Deutschmark had the value of 500,000 Euro due to the exchange rate of 2:1.

checked. In its 2006 report, [16] the Court of Auditors acknowledges that given a national average of 15% checks, there are differences among the *Länder* who are in charge of these visits: In some *Länder* 60% of millionaires are inspected annually, in others only 10%, in some years checks occur almost annually, in others every 30 years. A more coherent and consequential control of the tax declarations made by millionaires would be an important contribution to tax justice as pointed out by the Federal Court of Auditors. The Court argues that inspectors discovered faults in 80% of all cases checked. This is why each visit results on average in a surplus of tax revenue of EUR 135,000. In principle, there should be "generally" and "regularly" visits by tax officials: Because a lot of income for the wealthy originates not only in a salary from work but also in from capital or rent, only a thorough examination of books, bills and accounts would enable an adequate assessment of tax liabilities by the authorities. This is time consuming, especially since there is no sufficient and adequate obligation on private wealth holders to collect and keep proper documentation.

This leads to another point, building upon that which has been said in III/6: There is often no knowledge on part of tax inspectors on who should be counted among wealthy persons and checked accordingly. For some of the super wealthy and rich, there exists no transparency regarding their sources of income as there is for civil servants or dependent workers. Most millionaires (more accurately: their tax consultants and lawyers) submit a tax declaration to the tax administration, which the tax administration may or may not accept. Whether the declaration covers objective tax incidents can only be found out through a detailed tax inspection and audit. Accordingly, conversation partners report, sometimes "Commissioner's random Chance" assists in detecting income and possessions when checking a business or related area that there are assets which would necessitate the tax payer to be considered under a higher or different tax bracket.

One problem known in Germany was the netting between income and expenses, i.e. income could be netted against expense, for example a real property owner would inflate maintenance and improvement costs of the property in order to reduce the taxable income. Here, for example, the study of (Bach, Corneo, & Steiner, 2011) demonstrated that this issue was, rampant especially in the 1990s, and it is one of the reasons for the increase of wealth due to special provisions for investors in East Germany after reunification.

As a rule of thumb, it is valid to hold that: The more property one owns to let and lease, the higher the profits over the expenses: While in most cases of tax payer having just one object to let, expenses are higher than profits. The case is somewhat different when a tax payer has, say more than eight objects:

Table 5 Netting Profits and expenses

Number of objects	Number of tax subjects	Average income with objects owned	Average expenses with objects owned

[16] (Bundesrechnungshof, 2006, p. 38+213ff.) and Aloys Altmann in (ZEIT-Dossier, 2014)

1	2 357 574	7 665	20 338
2	525 608	19 256	19 919
3	164 196	34 232	33 874
4	64 423	51 135	54 880
5	29 186	71 341	68 158
6	15 110	89 279	89 481
7	9 804	111 600	105 352
8 und mehr	13 028	125 841	113 379
Insgesamt	3 178 929	13 612	23 079

Source 5 (Federal Statistical Office, 2014a, p. 20)

A second problematic area, when assessing real property for the payment of the Inheritance Tax, is the difference between privately used and owned real estate/real property and real estate/real property used and owned by businesses. The former is taxed at a higher rate than the latter on account of the economic view that tax privileges towards businesses are justified because businesses create employment. This does present opportunities for tax planning by corporations by declaring some assets as business assets when infact not. . For the tax administration to prove the contrary, it is laborious and time consuming.

A third issue regarding the valuation of assets is the rapidly changing market especially in prime locations such as Munich which invariably affects market prices. Because of such dynamics, taxation may be distortionary because tax rates are lagging behind and not moving in tandem with shifts in the market. Since the value of real estate and real property is constantly increasing, this area of taxation urgently needs reform. The taxation economic value of the real estate industry has not yet been maximized by all the three countries in the case study.

7.2 Kenya

As explained in II/#, rented houses are a common form of wealth in Kenya. Ideally, non-residents earning rental incomes from real properties are subject to a withholding tax at a rate of 30% on gross rental income received. This is supposed to apply even to residents but the KRA is finding it difficult to tax rental income since the values or incomes are not documented. In view of this, the government is considering asking tenants to volunteer information on the rent they pay. But this is challenging since tenants may fear victimization by proprietors of rented property.

Investors in real estate hardly ever pay taxes, even when their tenants in formal employment are taxed heavily. This is because the government has not done mapping or documentation of the real estate to make taxing the real estate a reality. Given the overstretching of KRA staff, the tendency is to go for the easy catch in the formal sector.

In connection to property, Stamp duty is levied on property transfers at varying rates, depending on the location of the property. Stamp duty is levied at a flat rate of 4% on properties located in municipalities, and at a flat rate of 2% on properties located outside municipalities. The problem here is valuation of property (Global Property Guide , 2014).

7.3 Zambia

There have been challenges collection tax revenue from rent. Given challenges in revenue from rent thus far, law on withholding tax on rent should be framed differently so that it does not solely depend on the goodwill of the taxpayer. Currently, a tenant is expected to withhold 10% of total payable rent which should then be remitted to Zambia Revenue Authority.

In Zambia, like in Kenya, rented houses are a common form of wealth. According to Withholding Tax (WHT) on rent, the tenant is obliged to withhold 10% of the gross rental income for remittance to ZRA. But enforcement of rental income taxation has been a challenge due to lack of adequate data or information on rented properties especially residential houses.

The successful administration of this tax currently depends on the goodwill of the tenant to remit WHT tax to ZRA. Without sufficient information on rented properties, it is difficult to administer this tax. With the booming construction sector, it is clear that the number of rented properties has risen. However, without adequate information on rented properties and limited checks by the ZRA, less rental tax revenue is likely to be collected.

In Zambia the problem is that raising taxes, levies and fees from property is given to municipalities who lack capacity to start a comprehensive assessment and rating procedure in the first place. This applies to real property within the municipality and even more for areas surrounding municipalities. Another problem is the high amount of non-payment, among others linked to the inability of citizens to see for what purpose the raised money is used for (i.e. providing services to the residents). Here a solution might be to increase citizen participation in the process, which so far is not secured.

At council level, there are also enforcement deficits with regards to real property. Many reasons could explain this deficit. First, few would dispute that councils and local authorities lack financial innovations and hence have challenges in service provision to their respective communities. Second, there is observed ‘resistance’ by some residents to pay various fees and rates. This is due to not only poor performance of local councils but also lac of community participation in local council governance matters such as determination of levies, fees and rates.

8 Deficits in enforcement: Informal Economy

8.1 Germany

The main force in charge of investigating and combating the Shadow Economy is a department located at the Federal Customs Authority, namely the Finanzkontrolle Schwarzarbeit (Financial Control of Black Labour) – the name implying that they are interested in the financial dimension of losses arising from Black Labour. In theory, the law gives them a wide range of powers: Given the fact that the main “benefit” for those working in the Shadow Economy is the saving of taxes and SSC payments for both employer and employees it should be noted that, if there is an “initial suspicion” of illegal labour even the tax secrecy provision can be repealed and the books of the employer can be scrutinized. First, however, the officers have to get to this “initial suspicion”.

Their main activity is doing on-site checks in labour intensive employment segments, i.e. those segments which are known to employ the highest number of illegal employment constellations, e.g. construction, agriculture, transportation & storage, private care. Getting, e.g., at a construction side they check identity documents and permits of labour and residence of all encountered on the spot (some may be able to run away on time or hide) and comparing provided with databases at police, registration offices, social security insurer, labour office etc. That way they can find out, e.g., whether a German receives social welfare and at the same time does undeclared work, or whether a German offends against Minijob regulations, or whether a Non-German does have a residence permit, but no labour permit (or the other way round in the case of, e.g., expired visa) etc. They also attempt to establish in their interviews the de-facto organization of labour so that they can see whether Self-Employed or Non Germans are being employed in accordance to the regulations of the law or whether the de-facto employment offends against other regulations.

The problem in these investigations and controls is that both those commissioning the job at hand (e.g. the person wanting to build the house), those employing and those being employed (those building the house) are not willing to cooperate since those informal arrangements work to their favour and only damage the state, i.e. there is a joint complicity which makes it difficult to construct a case which could be brought to court. Here the officers cannot simply establish the case that some laws and regulations were broken. What is required is that they establish clearly which person and what business broke what laws and regulations for how long etc., which is difficult to do.

Another huge area of the Shadow Economy is the private care of the old and sick, but: This segment is very decentralized and involves the highly protected privacy of private homes – therefore conversation partners admit that they do not check on those occurrences even if neighbours call in their office and denounce that there might be a case of illegal employment and Black Labour.

8.2 Kenya and Zambia

Since no laws are in place and policy discussion ongoing, no taxation done????

9 Tax Debt Collection

A problem common in all three countries is the challenge of collecting tax arrears or tax debt.. The challenge is posed at two fronts; namely the winding up of corporations whose tax liabilities is in excess of their assets i.e. involuntary and voluntary insolvency. Secondly, the problem of tax liabilities accrued by parastatals and the sequestering of their assets by the tax authorities would militate against the interests of the state. A country by country consideration of tax debt serves to highlight the extent of the problem.

9.1 Germany/Bavaria

The 2014 yearbook of the Bavarian State Office of Taxes details that in 2013 (Bayerisches Landesamt für Steuern, 2014, p. 92ff.):

- Taxpayers were in arrears (late) with EUR 846 million, two thirds of which was due to large taxpayers, owing more than EUR 50,000.
- 27,989 applications were handed in for waiving, 70,081 for deferment.
- In the case of EUR 534 million, deferment was granted, EUR 160 million were waved.
- For those where it came to final enforcement, EUR 942 million could be collected.

Looking at these considerable amounts of money, conversation partners warn of too much enthusiasm regarding "surplus-revenue statistics": There are cases, where private persons and businesses are financially "tight" and are not able to pay what is due, which makes the "surplus-revenue statistics" look impressive, but not realistic.

It does not make economic sense in insisting on tax payment if it is clear and apparent that a business will wind when the tax burden is excessive. If such a (justified) situation is apparent, normally a careful balancing of utility is called for e.g., some leniency is called for so that both business and jobs remain in operation. Conversation partner insist, of course, that such a case-to-case assessment with individual "settlements" tax subject and/or tax authority is very different from an exceptional "tax ruling" in favour of a business, as practiced in other states.

9.2 Kenya

KRA faces a backlog of debts that are more than seven years old and it has been difficult to trace some taxpayers and companies as some have since closed down. In addition, taxpayer's illiteracy level and ignorance on online return filing has led to unnecessary debts due to wrong data entries. In Kenya, financial fraud or willful omissions in a return attracts penalties amounting to double the amount of tax underpaid will a possible fine not exceeding Shs. 200,000 or indeed imprisonment not exceeding 2 years.

9.3 Zambia

Although Zambia Revenue Authority has a fully-fledged Debt Collection Unit to collect tax debt owed, Zambia still has a high rate of deferment of taxes.

A trend analysis of tax debt shows an increase in company, PAYE and VAT tax debt. The table here-below serves to demonstrate the gravity of tax debt in Zambia.

Trend in Domestic Debt Accumulation in Millions

Tax type	**2009**	**2010**	**2011**	**2012**
Company tax	1182	717	969.4	3319
Back Duty	8.0	170	-	-
Self employed	16	123	11	-

PAYE	819	490	1786	1605
Domestic VAT	1298	1167	2107	2049
Mineral Royalty		0.7	53	0.04
Total	**3192**	**3455**	**4849**	**5611**

(Source : Wisdom Nhekairo : Pp 29)

According to Nhekairo (2014), tax debt is "increasing from ZMW 1,182 million in 2009 to ZMW 3,319 million in 2012. Increases have also been recorded in PAYE and Domestic VAT. A comparison of the performance of these tax types, with the exception of PAYE, shows them under performing against targets during the same period under review." (Nhekairo, 2014)

10 Challenges when investigating aggressive tax avoidance and tax evasion

This sub-chapter continues issues raised III/5.3 ("Vagueness and loopholes in legislation") by illustrating how, why and where tax administrations are struggling with the attempts of tax subjects to hide or "downsize" their taxable income and wealth.

In all three countries problems arising are a combination of both options available nationally and internationally and being used legally, illegally and illicitly. First of all, there is a tax avoidance which is both legal and substantial, but complex to assess when looking at it from a tax justice perspective, namely gifts, trusts and foundations. Both in the area or private and corporate wealth there are ample quotations and admissions that among the motivations for using options offered here are tax reasons. There are good intentions on part of legislators (e.g. offering an option for private and corporate wealth to pay less tax and contribute to the common good via putting the money thus saved into investment for jobs or a charitable foundation). In other words, here is still a good and legitimate intention at work.

In this chapter, the focus is on aggressive tax avoidance and tax evasion. Aggressive tax avoidance exists to gradual degrees in the huge grey area between legal and illegal practices. It is judged to be illicit, if it perhaps not offends against the letter, but rather the spirit of the law or the intention of the legislator (see I/IV/6.1). Tax evasion is of particular importance, since it is a clear offence against the law.

Tax evasion in Germany is a crime, not just a trivial offence (*Kavaliersdelikt*) or administrative offence (*Ordnungswidrigkeit*). Its criminal nature is stated in paras 369 and 370 of the Fiscal Code. More provisions, also including tax fraud, can be found in anti-money laundering legislation.

In Kenya tax fraud and evasion is a serious offence. The penalties for tax evasion in Kenya included a double payment of the evaded tax and in some cases imprisonment.

Zambia too has legal instruments for dealing with Tax evasion. Regulations for dealing with tax evasion and avoidance are provided for in Part IX of the Income Tax Act. This legal code focuses on stemming transfer pricing and thin capitalisation. Accordingly, Part X of the Act prescribes penalties for default in the payment of taxes. Further, the VAT Act has additional clauses aimed at addressing tax evasion. A key operational feature of the Zambia Revenue Authority aimed at addressing Tax Evasion and tax fraud is the establishment of an Investigation Department which probes and prosecutes cases of tax evasion.

10.1 Germany

Finding out about aggressive tax avoidance and tax evasion is the task of all tax officials having to do with the processing of tax declaration and relevant tax data (e.g. Turnover Tax department). If there arises some “initial suspicion” (Anfangsverdacht) they haeve to pass on the case under examination to the specialist Tax Fraud Investigating department. There is widespread agreement that their best method is physical accounting records and other paperwork than computer-analysis: By browsing through pages with entries and exists of money they get a feeling of what is coherent and what is not, a “Gut feeling” similar to the police instinct which cannot be explained at times. This “gut feeling” has more of a random chance of finding leads when browsing through papers than when looking at consolidating figures, netting already individual posts. Here comes again the problem of time: A tax auditor is not always able to follow up who eventually receives any proceeds going into funds, trusts or foundations. First of all, he has legal constraints due to the banking secrecy law which enables him to see the balance sheets, but not the movements of funds. Next, there are time constraints for thorough checks, outside their capacity. In all that, tax secrecy and privacy issues are highly valued and protected in Germany law, and the best, perhaps only, way to suspend them is the arising of an “initial suspicion”, which would justify calling for the tax fraud investigators who, with their police-like competence, then take suspicious entries apart for a careful examination. To get an “initial suspicion” as such is easy, but it is not easy to draw any consequences since for suspending all sorts of rights an auditor, tax fraud investor or even prosecutor needs not just a “fishy smell”, but a founded suspicion as to what the cause is and what course an investigation has to take.

There are also cases where IT based controls such as Data Mining, Business Intelligence and Big Data programs can assist in detecting tax avoidance, tax evasion and fraud. These cases, according to conversation partners, are comparatively rare – a position which confirms the limits presented above (3.4.1) when comparing the “success rate” between computerized findings and “gut feeling” of experienced inspectors.

10.2 Kenya

Tax evasion and tax avoidance in Kenya seem to exist at both business and personal levels. At the level of businesses, the officer with KRA already alluded to, noted the wide spread view that MNCs under report profits. He said, “There is a belief that MNCs underreport on profits in order to pay less tax. Some go a step further in the name of Corporate Social responsibility and advertise their brands. For example building a school and branding it. All this is to reduce profit that is reported and in turn tax paid to the government". To capture the personal level, he further added that, "Filing tax returns[17] is a problem**.** Some people and enterprises cheat when they fill their tax returns. Most small enterprises usually report nil returns (tax declaration) to KRA yet the business is running and making profits. This leaves the burden of tax to the few who make accurate tax returns filling."

It is cross cutting opinion among the respondents that due to heavy taxation, many people evade paying taxes and "Since supporting documents do not need to be sent to the KRA," they can manipulate the figure in the tax returns. There is need to redefine the Taxpayer Education and Recruitment Programmes and strategies on the best way of targeting the taxpayers e.g. sector wide taxpayer education. Officers are not facilitated with IT based resources thus the process of recruitment and registration is not completed while in the field.

In December 2015, the President of Kenya assented to the Tax Procedure Act (The TPA Act), an additional tax law legislation that seeks to consolidate tax administration in Kenya. Under the TPA, a tax avoidance penalty will be double the amount of avoided tax. Further, the penalty for willfully making a false declaration leading to underpayment of taxes due will be 75% of the tax underpayment. In addition 20% will be charged on the tax shortfall in some instances. However, for purposes of increasing voluntary disclosure the penalty is reduced by 10% when taxpayers voluntarily disclose under declarations.

Kenya research also observes the tendency of tax crime and tax fraud making increasing use of IT systems, adding to the tax evasion and avoidance already present: The tax on turnover (ToT) compliance is low thereby failing to achieve the revenue targets. Fraud has shifted from manual to the automated environment making it harder to detect and resulting in high amount of revenue leakage. The automated environment has also exposed the KRA automated systems to hacking and other system abuse from both within and without.

10.3 Zambia

The Global Financial Integrity reports that Zambia lost about K40 trillion (unrebased) over 10 years due to financial related crimes, corruption and tax evasion.[18] This raise questions about ZRA capacity to address or combat tax evasion.

Although ZRA has been exceeding targets on revenue collection, there is a growing concern whether or not some Multinational Corporations (MNCs) especially mining firms are paying the correct amounts of tax. The problem of tax evasion in Zambia is to some extent engrossed in abusive transfer pricing and trade mispricing schemes, among others.Some of the schemes used by mining companies according to Zambia's minister of finance include trading through 'shell' companies, transfer pricing and hedging.

[17] Filling returns means reporting the tax status of the business/tax declaration.

[18] Zambia Daily Mail (2012, December 19). *Zambia Loses K40 Trillion*. Retrieved from: Zambia Daily Mail.

As reported already yin 7.1.3, an audit done by the government into the second largest copper mine, Mopani Copper Mines confirmed those practices. Despite government commitment to addressing tax lacunas in the mining sector, very little has been done by the government other than pronouncements.

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