Policy Forum's Tax Justice Working Group 2022/23 Pre-Budget Position Statement

Given the rapid increase of the population in developing countries like Tanzania, there is an urgency to improve the mobilisation of domestic resources for vital service delivery.

Improved mobilization of domestic resources is core towards the realisation of the Sustainable Development Goals (SDGs) and is recognised as crucial in enabling developing countries to graduate from aid.

The need to raise more tax and strengthen revenue mobilization in most countries is therefore an important component in the process of realizing the SDGs as well as our national development agenda.

We, the members of the Tax Justice Working Group, under the umbrella of Policy Forum have been pioneers of a reliable, just and transparent tax system in Tanzania. Thus, we would like to acknowledge the existing initiatives by the government to mobilise adequate resources domestically with the intention of improving its capacity to finance its own development projects.

Some of these initiatives have included but are not limited to; digitalisation of the tax systems, enhancing the capacity of tax administrators and improved taxpayers' education.

While cognizant of the importance of revenue collection, we are equally concerned about the revenue loss and mismanagement of public funds by various public entities as reflected in the 2020/21 report by the Controller and Auditor General (CAG).

Like the previous report (2019/20), the CAG has continued to show trends of embezzlement within the Government that certainly affects the effective realisation of public goods and reliable social services as well as basic infrastructure for national development.

We believe that the integral principles of good governance such as integrity transparency, accountability, People's participation, Rule of Law and Democracy must be observed to avoid revenue loss in order to maintain public service delivery if we are to attain our strategic objectives.

Henceforth, with the emphasis on good governance in mind, this statement provides our views on the current trend in domestic revenue mobilisation and suggests alternative options that could be adopted to further reduce donor dependency through effective mobilisation and management of domestic resources.

1. A narrow tax base which places a burden on few taxpayers.
Tanzania is currently estimated to have a population of 60 million people. According to the Tax Statistics Report of Tanzania Mainland of 2017/18 by the National Bureau of Statistics, only 2.7 million people were registered taxpayers by 2017/18 (latest), representing less than 4.5% of the population.

While corporate taxes contributed about 30% of all direct taxes, Pay As You Earn (PAYE) contributed over 44% of all direct taxes in 2017/18. It is widely known that the taxes have been a burden to workers in the country as they are high and the number of those taxed is small carrying the burden of the many that are outside the formal tax payment structure.

All this is because not all businesses that operate in the country are taxed i.e. small scale mining companies. As a result, those that are on the tax net are heavily taxed.

Recommendations: Consider expanding the tax base such that the TRA should target to identify and register about 7.5 million taxpayers which are equivalent to 50% of the potential taxpayers and this will be possible by considering the following measures:

i. Hiring more staff so that they will be able to reach out to more informal sectors in various regions.
ii. Equip our revenue authority/administrations with appropriate knowledge and tools to raise revenues in hard-to-tax sectors and keep reducing the size of the informal sector/economy. This can be done through the issuance of EFDs machines and also increase human capital at TRA to be able to close at the regional level and will be able to identify such informal businesses that deserved to be formalised.
iii. Attain a fully integrated domestic tax system and enhance the business intelligence unit by expanding the staffing and with modern equipment, with appropriate capacity building on data analytics skills for staff in business intelligence unit.
iv. Assess the trainings that are provided to the informal sector and ascertain if they assist to convert them to the formal sector or discourage them.

Benefits of the recommendation: This is expected to bring in more revenue while also reducing the burden on those who are heavily taxed and thus ensuring fairness in taxation.

2. Promote the use of Electronic Fiscal Devices (EFDs)
Non-profit organisations (NGOs) (and other businesses) which conduct any economic activity and have a turnover of TZS 11 million and above are required to acquire and use EFD machines. NGOs are also required to issue and demand an electronic receipt for every transaction made. (Refer Sec. 36 and 86 of TAA Act, 2015).

However, NGOs when purchasing items from the rural service/good providers, and also from some of the urban service/good providers, they don't get electronic receipts. This creates an administrative burden to taxpayers, as the TRA most of the times, they don't allow deductibility of these non-fiscal receipts regardless of the circumstances. Another impact is for small service providers in rural parts of our country have been denied an opportunity to grow their businesses following the fact that CSOs and other entities are forced to find larger suppliers with EFDs.

Recommendation: The TRA/ Government should consider the following measures:

i. Provide the EFD machines for free as this will enable taxpayers to have access to these machines and hence will increase the compliance level to taxpayers, hence more revenue to the Government; and
ii. Compensate the cost as the business operates when filing its returns.

Benefits of the Recommendation: More revenue will be generated.

3. Low level of Voluntary Compliance
Most taxpayers complain about the high total tax burden. Equally important to taxpayers is the question on how their taxes are spent. Mismanagement of financial resources as evidenced in the reports by the Controller and Auditor General surely demoralises taxpayer and lowers their level of voluntary compliance.

Recommendation: We propose the following measures:

i. Tax education should also be reformed within government tax bodies to emphasize that we are trying to tax the informal sector to help them grow, not just to eat away from their profits.
ii. There should be an assessment of the impact of training to identify gaps, as such assessment will be key to promoting voluntary tax compliance as well as improving efficient revenue collection, especially from the informal sector.
iii. There is a need for a holistic, just tax policy that considers taxpayers' total burden and their ability to pay.
iv. Tax knowledge should be a cultural shift – this means introducing the importance of paying tax into our education system (from primary school national curriculum)
v. There is a need to utilize the existing structure i.e. legal department/legal officers and business officers at the local government level that links with TRA to conduct a certification for business and listen to taxpayers' feedbacks on TRA conduct to business and how to provide solutions with the view to build a solid relationship between taxpayers and TRA.
vi. Improve budget transparency to show what taxpayers are getting in return for their taxes paid.
vii. Tax laws and regulations need to be publicly announced (promulgated) so that

taxpayers know the rules before they engage with the tax authority.

Benefits of the recommendation: Promote voluntary compliance among taxpayers. This will make the tax collection process more efficient and increase revenue collection.

4. Harmful Double Taxation Agreements (DTAs)

Our DTAs are long overdue for review, renegotiating and or termination for the benefit of the country in boosting revenue collection. All are based on tax laws which were developed in an era very different from our own benefitting residence countries at the expense of source countries. DTAs are made up of a list of articles. Articles that deal with general/specific definitions of permanent establishment need to be reviewed and amended. Currently, the existing DTAs define permanent establishment as "an enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business."

However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he would not be deemed an agent of an independent status within the meaning of this paragraph. This is equivalent to saying, "Tax me when I do business with Tanzanians, but not when I do business with Tanzanians." Studies have suggested that such clauses/provisions exclude types of income earned in the source country (Tanzania) by residents of the other signatory from taxation there. For instance, the lower rates in the treaty with Zambia potentially cause a loss of $34,560 a year due to this treaty provision. Source: Sealing the Gap (Action Aid TZ, 2020) & Lifting the Veil: African Perspectives on International Taxation and Capital Flight (Tax Justice Network et al, 2017).

Recommendation: We propose the following measures:

i. The existing nine active DTAs should be renegotiated
ii. Some tax treaties should be reviewed and exited.

Benefits of the recommendation: This proposed change will narrow treaty network that leads to loss of tax revenue through tax planning by various Multinational companies (MNCs). But also, it will boost tax revenue because if renegotiated, these treaties will have the potential to include particular types of income earned in the source country (Tanzania) by residents of the other signatories.

5. Limited transparency and accountability in the extractive sector including non-disclosure/publication of tax exemptions and contracts/agreements.

Publication of Legal Agreements: We welcome improved transparency and accountability in the extractives industry brought by the Finance Act, 2020. The Act introduced commendable changes in the Companies Act, the Trustees Incorporations Act, the Anti-Money Laundering Act and the Income Tax Act by establishing Beneficial Ownership (BO) rules which came concurrently with the publication of Transfer Pricing guidelines issued by TRA aimed at issuing formal guidance on how to apply Regulation 16 of the Tax Administration (Transfer Pricing) Regulations 2018. However, we are of the view that the Government should place more emphasis to ensure that all legal agreements related to the mineral sector are publicly disclosed and made available online and Tax laws re-viewed to include Production Sharing Agreements (PSAs) and other taxes, duties, levies or other lawful impositions in the extractive sector. The limited transparency in the mining sector has led to the government's failure to effectively mobilise revenue from the extractives sector.

Recommendation: All contracts relating to the extractive industry should be made public to allow Parliamentary oversight and terms to enhance openness in the mining sector's administration. This will also promote public participation through Members of Parliament as representatives of the people. Also, there is a need to renegotiate all contracts that the Government has already signed to remove suspicious/disturbing clauses that have tax negative impacts.

Benefits of the recommendation: Increased revenue from the extractive sector.

6. Mobile Money Transfer Levy

In a move to bridge the revenue gap, the FA2021/22 amended the Electronic and Postal Communications Act and National Payment Systems Act by imposing a levy on airtime at a rate ranging from TZS 5 to TZS 222.70 and on mobile money transfer transactions at a rate ranging from TZS 10 to TZS 10,000. The Minister of Finance and planning subsequently made regulations, with the aim of collecting revenue estimated at Tshs 1.060 trillion. As of 31st March 2022, the mobile money levy revenue collected was estimated to be Tshs. 888.953 billion cumulatively, but the actual collection was Tshs 279.610 billion which is equivalent to just 31.5 per cent of the cumulative target. Revenue estimates were too ambitious without considering the detrimental effect of imposing a mobile money levy on the telecommunication sector. The levy has proved to discourage the use of mobile phones in transacting and thus reversing the progress made in discouraging the cash system. Also, a good number of youths were engaged in this business and therefore its downfall will add up to the already existing problem of unemployment in the country. The taxing of mobile money transactions undermines the financial inclusion of the informal economy and a widening of the tax base. Significant taxes on the sector have a negative impact on financial inclusion and hence the effort to formalize through digital channels. Generally, financial sector development should become a long-term strategy to promote the formalisation of Tanzania's economy and domestic revenue collection.

Recommendations: We propose the following tax measures:

i. Reduce the rate by 50% and align the application of levy across all Financial Services Transfer and withdrawal transactions.
ii. We also propose the continuous review of the mobile money transfer levy and assessment of the detrimental effect on the citizens and businesses.

Benefits of the recommendations: Increase in the use of mobile money services also implies more revenue to mobile companies which in turn pay taxes and more income to those engaged in the business, especially the youth. The government is therefore going to gain both directly and indirectly if it adopts this recommendation.

7. Tax on Casinos, Gaming or Betting

Betting can become addictive. First-timers are confident in their ability to control their betting spending. Peer pressure and the get-rich-quick appeal, on the other hand, are proven psychological ingredients in serious addiction. Africa is one of the world's fastest-growing online betting markets.

It comes as no surprise, therefore, that top betting sites have now accessed the markets of countries such as Tanzania. About 30 betting sites now operate in Tanzania and many youths seem to be attracted to the business which is likely to turn the country a haven for gamblers and thereby putting many professional careers at risk.

In 2021, Geopoll, an international research firm conducted a survey evaluating betting-related activities in 3,879 young people aged 17 and 35 in Uganda, Kenya, Tanzania, Ghana, Nigeria, and South Africa.

Their study found that: 72% of the respondents answered in the affirmative when asked if they have participated in betting or gambling. Close to two thirds (63) of Tanzanians answered in the affirmative. Kenya had the highest percentage of people betting once to several times a day (34%), followed by Tanzania (31%) and Nigeria (30%). This signifies growing exposure to problem gambling.
The issue to be addressed:

Tanzanian betting laws have significant gaps when compared to those of other countries. Recent restrictions, such as the Proposed Advertising Code of Practice for Gaming Activities in Tanzania, 2021, are more focused on mainstream media, with few strategies for mitigating negative effects associated with difficult-to-regulate digital media.

Countries do not appear to agree on the importance of gambling regulation based on their policies (even though research shows high necessity).

This is also reflected in their gambling tax rates ranging from a low of 0-rated in Russia to 25% in Italy, 51% in the state of New York, to 90% in Germany) NB: Tax is % of Gross Gambling Revenues (GGR).

What is clear is that while keeping tax rates low will result in greater economic returns in the short-run, in the long-run, the economic impact (lower productivity) accumulated from a large population of problem gamblers will be too big of a burden for the country to bear.

A higher tax rate, in the mid-range, will certainly be the best in ensuring the country does not fall in the bracket of those that have overregulated or those that have under regulated through taxes.

The 15% charged on winnings is low and cannot effectively discourage young people from engaging in betting. (For example, in 2017, Kenya upped their tax percentage rate to 35% with hopes of helping young people pursue career choices other than gambling.)

Recommendation: Amend Gaming Tax Act, Cap 41 by increasing Winning Tax on all Sports Betting from 15% to the original rate (30%) or at least between 20% - 25%.

Benefits of the recommendation: This will allow the government to generate more revenue in the long run while discouraging young people from betting.