REPUBLIC OF KENYA
THE NATIONAL TREASURY

Draft National Policy to Support

Enhancement of County Governments' Own-Source Revenue

August 2017

Foreword

To be prepared.

List of Tables:

LIST OF FIGURES:

LIST OF BOXES:

ANNEXES:

Acronyms and abbreviations

AFAT	Area Fixed Asset Tax
A-i-A	Appropriation-in-Aid
AVM	Automated Valuation Model
BCLB	Betting Control and Licencing Board
CAMA	Computer Aided Mass Valuation
CARPS	Capacity Assessment and Rationalization of the Public Service
C-BROP	County Budget Review and Outlook Paper
CEC(M)	County Executive Committee (Member)
C-FSP	County Fiscal Strategy Paper
CILOR	Contributions in Lieu of Rates
CoB	Controller of Budget
CoG	Council of (County) Governors
CPST	Center for Parliamentary Studies and Training
CRA	Commission on Revenue Allocation
CRF	County Revenue Fund *(account at the Central Bank of Kenya)*
ERP	Enterprise Resource Planning
GCCN	Government Common Core Network
GFS	Government Finance Statistics
IAWC	Interagency Working Committee on Enhancement of County Governments' OSR
IBEC	Intergovernmental Budget and Economic Council
ICPAK	Institute of Certified Public Accountants of Kenya
IFMIS	Integrated Financial Management Information System
IGRTC	Intergovernmental Relations Technical Committee
KeNHA	Kenya National Highways Authority
KLGRP	Kenya Local Government Reform Programme
KNBS	Kenya National Bureau of Statistics
KRA	Kenya Revenue Authority
KSRA	Kenya School of Revenue Administration
LAIFOMS	Local Authority Integrated Financial Operation Management System
LAs	Local Authorities *(Defunct)*
LATF	Local Authority Transfer Fund
LSK	Law Society of Kenya
MDAs	Ministries, Departments and Agencies
MoDP	Ministry of Devolution and Planning
MoLG	Ministry of Local Government
MoLPP	Ministry of Land and Physical Planning
NACADA	National Authority for the Campaign Against Alcohol and Drug Abuse
NLC	National Land Commission
OSR	Own-Source Revenue
SBP	Single Business Permit
SCoA	Standard Chart of Accounts
SRC	Salaries and Remuneration Commission
TA	Transition Authority *(Defunct)*
TCC	Tax Compliance Certificate
UACA	Urban Areas and Cities Act *(2011)*
USV	Unimproved Site Value

CHAPTER 1: INTRODUCTION

1.1 Background

The need for County Governments to have reliable revenue is a key principle of Kenya's devolution. This is contained in Article 175(b) of the Constitution of Kenya, 2010. The devolution arrangements also feature political and administrative devolution, as well as fiscal decentralization. The 47 County Governments budget for devolved functions and generate revenue from local sources. The Constitution defines County Governments' funding sources to include:

a) Equitable share of at least 15 percent of most-recently audited revenue raised nationally (Article 202(1) and 203(2));
b) Additional conditional and unconditional grants from the National Government's share of revenue (Article 202(2));
c) Equalization Fund based on half of one percent of revenue raised nationally (Article 204);
d) Local revenues in form of taxes, charges and fees; and,
e) Loans and grants.

Local revenue or Own-Source Revenue (OSR) is the main focus of this Policy. The Constitution allows Counties to impose:

a) Property rates;
b) Entertainment taxes;
c) Charges for services they provide; and,
d) Any other tax or licensing fee authorized by an Act of Parliament.

Box 1: Revenue definitions

- **Tax:** A compulsory government levy for which nothing is received directly in return[1]. A tax does not necessarily involve the use or derivation of direct benefits from services, regulation or goods. Rather, a tax is an unrequited transfer intended primarily to generate revenue for the government. Examples are property rates and entertainment tax.
- **User fee/charge:** Payment for publicly-provided services, or charge for using a public facility such as vehicle parking lot, market, health facility or park. User fees/charges may correspond to usage of services provided, or may be for the bulk or time-limited use of services such as water. The main economic rationale of user fees/charges is not to produce revenue but to promote economic efficiency[2]. Well-designed user fees/charges achieve this goal by: i) providing different information to public-sector suppliers e.g. how much clients are willing to pay for particular services, the type of services to be supplied, the quantity and quality, and to whom; and, ii) ensuring that what the public sector supplies is valued at least at (marginal) cost by citizens.
- **License:** A charge in respect of authorization granted to an entity to undertake a certain action and is mainly issued for regulatory purposes. Examples include business and outdoor advertising licenses.

---

[1] James and Nobes (1997)
[2] Bird (2001)

Own-source revenue contributed 13 percent of County Governments' total receipts in the first three years of devolution, while transfers from the National Government accounted for more than 84 percent. *(Table 1)*. During this period overall OSR increased, but the growth rate dropped from 18.8 percent between FY 2013/14 and 2014/15 to 3.1 percent between FY 2014/15 and 2015/16. In 2015/16, about 10 imposts (or revenue streams) employed by the Counties -- out of tens of other user fees and charges -- were responsible for nearly 70 percent of collections. **(*Table 2).*** The biggest imposts are: property-related income (15 percent); administrative fees and charges (12 percent); and, business licenses (11 percent). The relative importance of each impost and growth pattern varies across Counties.

Table 1: County Governments' revenue sources

Source of revenue *(Figures in Kshs millions unless indicated otherwise)*	**2013/14**	**2014/15**	**2015/16**
Own source revenue	30,533	36,532	37,629
Transfers from National Treasury	187,239	225,650	260,709
Transfers from other government agencies	3,137	1,009	10,278
Proceeds from domestic borrowings	1,856	298	862
Proceeds from domestic & foreign grants	8	256	269
Reimbursements & refunds	7	994	118
Grants received from other levels of government	0	36	100
Social security contributions	0	26	42
Proceeds from foreign borrowings	0	12	-
Proceeds from sale of assets	7	11	-
Grand Total	**222,788**	**264,825**	**310,008**
OSR as % of total revenue	*13.7%*	*13.7%*	*12.1%*

Source of data: National Treasury

Note: *In FY 2013/14, gaps in social security contributions and grants from other levels government do not imply that County Governments did not receive funds with respect to these streams. It is possible that these revenue streams are erroneously reported under other revenue sources.*

Table 2: County Governments' own-source revenue categories

OSR category	**2013/14**		**2014/15**		**2015/16**	
	Kshs M	*%*	*Kshs M*	*%*	*Kshs M*	*%*
Property-related revenue	3,805	12.5%	5,292	14.5%	5,587	14.9%
Administrative fees & charges	19,718	64.6%	6,250	17.2%	4,646	12.4%
Business permits	364	1.2%	3,517	9.7%	4,056	10.8%
Vehicle parking fees	303	1.0%	2,983	8.2%	3,570	9.5%
Natural resources, exploitation & conservancy	1,526	5.0%	1,922	5.3%	1,998	5.3%
Public health services	36	0.1%	705	1.9%	1,540	4.1%
Markets, trade services & slaughter houses	1,059	3.5%	1,048	2.9%	1,407	3.8%
Public health & sanitation services	162	0.5%	1,056	2.9%	1,116	3.0%

OSR category	2013/14		2014/15		2015/16	
	Kshs M	*%*	*Kshs M*	*%*	*Kshs M*	*%*
Cess	77	0.3%	976	2.7%	967	2.6%
Water & sewerage services	0	0.0%	229	0.6%	8	0.0%
All other revenue	3,485	11.4%	12,420	34.1%	12,594	33.6%
Grand Total	**30,533**	**100.0%**	**36,397**	**100.0%**	**37,490**	**100.0%**

Source of data: National Treasury

Notes:

1. ***Property-related revenue:*** *Poll rates and plot rents*
2. ***Administrative fees and charges:*** *Payments for various County administrative services including payments received as Appropriation-in-Aid (A-in-A)*
3. ***Natural resources, exploitation and conservancy:*** *Receipts from natural resources, exploitation and conservancy activities. Narok County is responsible for 70 percent of the Kshs. 2 billion collected in 2015/16.*
4. ***All other revenue:*** *This covers more than 50 different imposts majority of which are "miscellaneous" and "unclassified" fees and charges, but also collections from liquor licenses, advertisement, betting control, etc. A full list of Counties' revenue streams is contained in* ***Annex 1****.*

1.2 Rationale for a policy on Counties' own-source revenue

This Policy has been triggered by five concerns. The concerns are: i) the smallness of Counties' OSR and its diminishing share vis-à-vis total resources; ii) the manner in which Counties plan and budget for local revenue; iii) legal questions relating to some revenue-raising measures; iv) the short- and long-term fiscal and macroeconomic ramifications of the measures; and, v) utilization of collections as well as reporting and accounting procedures. Underlying these concerns is the question about how each County can optimize its OSR within the existing rules of Public Finance Management (PFM).

The Policy seeks to enhance efficiency in collection and administration of County Governments' OSR by:

1. *Strengthening legal and institutional frameworks for County OSR*: The Policy aims to recommend standard legal frameworks for County Governments' tax and non-tax revenue raising measures. The Policy assesses impacts of local taxation on the national economy in hope that this will guide future devolution reforms, with a view to strengthening legal and institutional frameworks for local taxation.

2. *Identifying opportunities for optimizing Counties' OSR potential:* Since their establishment in 2013, County Governments rely almost entirely on the equitable share transfer to finance their budgets. In the first three post-devolution years, the equitable share transfer comprised 73.3 percent of counties' aggregate budgets. In reality, the equitable share financed 92.1 percent of counties' actual spending in FY 2015/16, up from 89.5 percent in FY 2014/15. During this period, counties' equitable share transfer grew from Kshs. 196 billion in FY 2013/14 to Kshs.

280 billion in FY 2016/17, and Kshs. 302 billion in FY 2017/18. It appears that this growth has accompanied Counties' increasing transfer dependency. The belief is that OSR has a higher potential. This Policy forms a basis for a comprehensive assessment of Counties OSR potential, specifically an examination of possibilities of increasing efficiency and expanding the base for imposition of assigned taxes, fees and charges.

3. *Clarifying assignment of revenue-raising powers between the two levels of Government and among Counties:* County Governments are entrusted with fiscal powers to raise revenue to finance their functions, but there are overlaps and duplications between the two levels of Government. Disputes have arisen between the two levels of Government, and among the Counties regarding who should collect certain type of revenue (e.g. for outdoor advertising and cess) and how revenue should be shared, where a revenue base sits between two or more Counties.

4. *Improving Counties' capacities for revenue collection and administration:* The Policy assesses Counties' existing capacity as a basis for identifying areas which need improvements.

1.3 Objectives of the Policy

This Policy proposes a standardized institutional, policy and legal framework own source revenue raising measures and enforcement that would be applicable to all County Governments. The Policy also proposes measures to broaden the Counties' revenue bases and enhance revenue administrative capacity.

1.4 Scope of the Policy

The Policy focuses on eight key themes:

i. Legal and institutional framework for OSR collection
ii. Different categories of taxes levied by County Governments (property taxes/rates, land rates, land rent, entertainment tax)
iii. User charges and fees (including single business permit, parking fees, market fees, liquor licence fees, among others)
iv. Introduction of new tax / review of existing tax, user charges and fees, which will include guidelines on standardization on taxes and user charges, variation of taxes and user charges and stakeholder engagement and public participation in the process of variation of taxes and levies
v. Technological change and innovation, including a review of existing ICT infrastructure for revenue administration and management; integration of county revenue administration and management information systems; regulation and standardization of ICT systems for revenue management and administration and; capacity building among staff of the Counties

vi. Revenue administration and human resource systems, including revenue administration institutional set up model; partnerships between the National and the County Governments (Outsourcing of revenue collection and data sharing); revenue analysis and forecasting; revenue measurement and reward system; data recording, management, and sharing and; capacity building and staff development

vii. Tax assignment, administration and sharing

viii. Governance, accountability and oversight.

CHAPTER 2: SITUATION ANALYSIS

2.1 Pre-devolution context

At Independence, Kenya inherited a system of Local Authorities (LAs), whose basis was the Local Government Act (Cap. 265) rather than the Constitution. LAs derived their revenue-raising powers from a variety of legal instruments including:

a) the Local Government Act (Cap 265, sections 216 and 217) which empowered LAs to establish and maintain a General Rate Fund;
b) the Valuation for Rating Act (Cap 266) and the Rating Act (Cap 267): The Rating Act provided for imposition and collection of property rates by rating authorities while the Valuation for Rating Act (Cap 266) provided for valuation of properties for the purpose of levying rates. The latter also laid out procedures to be followed in preparing a valuation roll, which is a legal document consisting of information on all rateable properties within a specific jurisdiction (***See Box 2***);
c) the Trade Licensing Act (Cap 497) which empowered LAs to impose business license fees; and,
d) the Local Government Act (section 222) which empowered LAs to borrow, including through issuance of stocks or bonds, although this facility was rarely used.

A series of political reforms and Constitutional amendments between 1969 and 1989 led to removal of LAs' powers to Central Government ministries and departments. For example, through the Transfer of Functions Act (1969), functions such as primary health and health services were removed from LAs, except in the seven major municipalities. As a consequence, the LAs' revenue base was considerably eroded, leading to a decline in income. Most notably, the Transfer of Functions Act (1969) removed the right of municipalities to levy their most important source of revenue, the Graduated Personal Tax (GPT). The GPT was replaced with a grants system covering certain services. In 1989, the specific grants were replaced with a service charge levied on business premises and employees in formal and informal sector. A County Council grant system then in existence was also removed. In 1998, the service charge was itself abolished following introduction of the Local Authorities Transfer Fund (LATF). By the end of this period, LAs were only permitted a narrow range of local taxes, fees and charges, which left the Authorities with poor OSR potential and caused wide variations in this potential between rural and urban authorities. Under the LAs, administration of OSR was undertaken by Finance Departments headed by Town Treasurers. The Treasurers reported to Town Clerks, who were accountable to Finance Committees comprising elected councilors or ward representatives.

Subsequently, LAs experienced persistent shortfalls in OSR collection, which caused deficits, in turn generating demand for borrowing and leading to mounting debt. Introduction of the LATF was designed to forestall a financial crisis among the Authorities, most of which ended up depending almost entirely on the Fund. LATF's objectives included assisting LAs to reduce their debt. The goal was to eliminate all debt arrears by 2009/10, but this was never attained. Until their dissolution in 2013, many Authorities were unable to remunerate their councilors and effectively finance service delivery. Outstanding debt repayment by the LAs remained significant, causing incoming County Governments to inherit considerable liabilities[3]. A major impediment to OSR enhancement by the defunct LAs was their laxity in enforcing legislation requiring citizens to pay rates, user fees and other charges. For instance, LAs ineffectively utilized powers under section 17(2) of the Rating Act to enforce rates payments.

2.2 County own-source revenue after devolution

Following the 2013 elections, County Governments inherited all revenue streams previously being administered by the defunct LAs. The Counties also inherited structures including revenue administration procedures and guidelines, as well as revenue collection personnel. In the process, many inefficiencies were also transferred such as weaknesses in the regulatory framework for OSR management -- billing, laxity among revenue collectors and poor setting of annual revenue targets. While some County Governments have made progress in resolving these problems, others still struggle with issues such as technology and implementation of administrative guidelines on the payment of fees and charges.

County Governments have maintained the upward trajectory in aggregate OSR growth achieved by defunct LAs, but the pace is slower. (***Figure 1***). What is unclear is whether the growth reflects the possibility frontier for OSR, and how efficiently the Counties are collecting the revenue. In some instances, growth was achieved through increase in rates and introduction of new imposts. For this reason, credible revenue potential estimates are required to develop a better understanding of the extent to which County Governments have enhanced post-devolution collections.

[3] An exercise to determine and audit liabilities (as well as assets) inherited by County Governments from the defunct LAs is still ongoing, under the Intergovernmental Relations Technical Committee (IGRTC).

Figure 1: Local revenue in Kenya before and after devolution
Kshs. billions

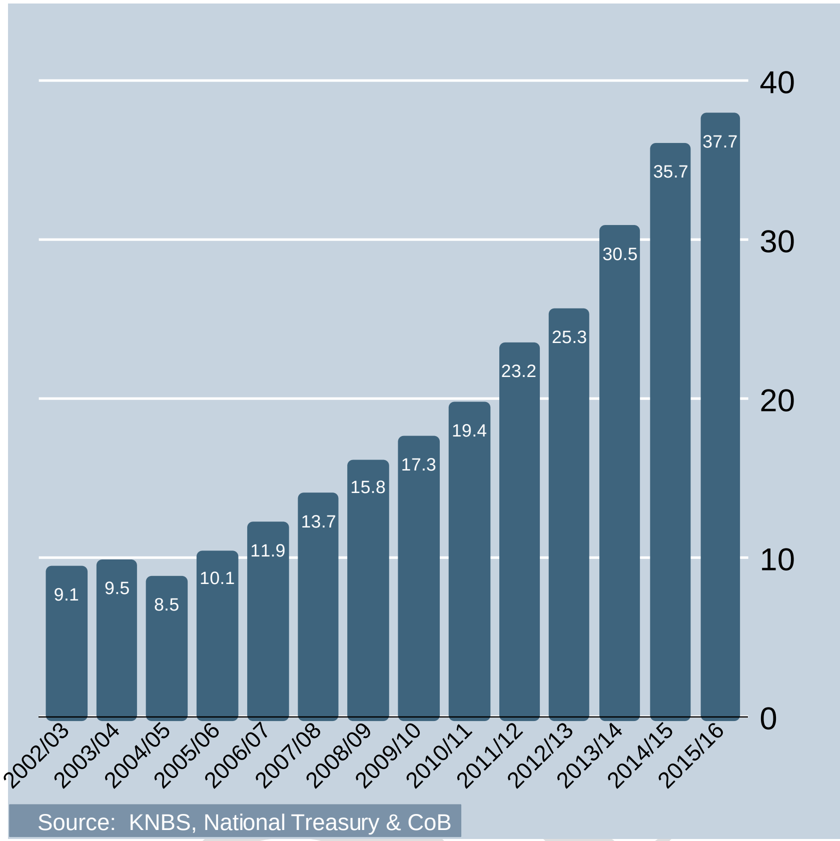


Figure 1: Local revenue in Kenya before and after devolution *(Kshs. billions)*

2.2.1 Property related revenue

Property rates

Property rates is a tax based on the value of property (including land) and is usually assessed by a rating authority with help from a valuer. In Kenya, property rates is levied under the Valuation for Rating Act (Cap 266) of 1956 and the Rating Act (Cap 267) of 1963. The former guides preparation of the valuation roll ***(See Box 2)***. The latter provides for imposition of rates and forms of rating that are applicable. To give effect to Article 209(3) of the Constitution, County Governments are required to enact property rating and valuation legislation. Less than ten County Governments have done so. Counties that have not enacted new legislation still rely on Cap 266 and Cap 267, which are not aligned to the Constitution. However, two important laws are in place that have implications for property taxation. These are:

a) *The Land Act (2012):* This gives effect to Article 68 of the Constitution, to revise, consolidate and rationalize land laws; to provide for the sustainable administration and management of land and land based resources; and,
b) *The Land Registration Act (2012):* This deals with registration of titles to land, to give effect to the principles and objects of devolved government.

Box 2: What is a valuation roll?

A valuation roll is list of rateable properties showing the rateable owner(s) and their addresses, locations of land, tenure, acreage of property and assigned value in jurisdiction of the rating authority. The valuation roll forms the basis for assessment of property rates payable. The value assigned to a property determines the amount of rates to be paid by the owner. Rates are fixed by individual rating authorities (LA or County Government) and can vary depending on land use e.g. agricultural, residential, commercial and industrial use. Rating authorities can use a combination of valuation rolls and other forms of rates such as graduated or flat rates.

County Governments are operating multiple valuation rolls -- one for each former LA -- which are running concurrently with different tax rates assigned to them. This means that residents within a County could be subject to different rates (***See Annex 2***). In most cases Counties are using expired rolls, in contravention of sections 3 and 4 of the Valuation for Rating Act. Where Counties have updated their valuation rolls, much information is missing from the rateable properties database. Where the valuation rolls are in use (e.g. in urban developed areas) there is insufficient planning of market/trading centres and development plans are outdated. Like the defunct LAs, County Governments rely on the Ministry of Lands and Physical Planning (MoLPP) for valuation services. However, because the Ministry is short of experienced valuers, there have been delays in delivery of the service. Where private valuers have been engaged, concerns have emerged on quality of the rolls; according to MoLPP, some valuation rolls prepared by the private sector are faulty and cannot be implemented. Procurement of valuation services outside the public sector remains unregulated and apart from quality issues, there are concerns about evaluation during tendering and prohibitive fees charged by independent practitioners, which leads to wastage of public funds.

Valuation rolls should be prepared or updated every 10 years, but this has never been achieved. Supplementary valuation rolls may be prepared more regularly e.g. in case of significant changes in ownership and land use. Nairobi County's valuation roll was last updated in 1982, Machakos in 1983 and Mombasa in 1991. Some Counties have recently updated their valuation rolls e.g. Kisumu (2008); Nyeri (2009); and Kiambu (2014). Widespread lack of updated valuation rolls is mainly due to the high cost involved in their preparation and implementation. The failure to update valuation rolls and enact property legislation means that Counties have no legal rating system within their jurisdictions. Most are operating under the rating systems inherited from LAs.

Most County Governments use unimproved site value (USV) form of rating for urban and developed areas and flat rates or graduated rates for rural public land and gazetted forests. For agricultural freehold land located outside urban areas -- which constitutes the bulk of potentially rateable land -- flat rates or annual agricultural rental value rates are applicable. For gazetted forests, flat or graduated rates are used. Community land is typically not rated due to the subsistence nature of its usage and the low value structures found within such land.

Majority of Kenya's land is communally owned and therefore unregistered, which complicates property taxation. Only a few Counties notably Kiambu, Murang'a, Nyeri and Nairobi have had their land adjudicated and registered. Nearly 75 percent of Kenya's unregistered land is concentrated in ten Counties (i.e. Mandera, Wajir, Garissa, Kilifi, Tana River, Taita Taveta, Kwale, Samburu and Turkana). Such land ownership patterns have adverse implications for levying of property rates and land-based revenue. As land ownership cannot be assigned to specific individuals, assigning tax responsibility is impossible. This Policy includes recommendations for the improvement of land registration and adjudication.

Where property rates is concerned, noncompliance is rampant and County Governments have not exploited legal provisions relating to enforcement. Enforcement is complicated by costly and lengthy litigation processes and sending of notices by post office, an outdated and impractical billing method considering the numerous vacant properties and absent owners. Furthermore, the Counties lack suitably-qualified personnel to successfully enforce compliance, as is done at the national level by the Kenya Revenue Authority (KRA).

The above factors have led to weak and inconsistent performance of property tax revenues. With the onset of devolution, property revenue -- poll rates and plot rents -- dropped sharply in 2013/14 before increasing in 2014/15 to a level not realized before. (***Figure 2).*** As a proportion of total OSR, property revenue is half of its pre-devolution level, which might be attributed to an expanded revenue base as well as increase in rates. This is the case in Nairobi County. Such deterioration of revenue collection may be explained in part, by transition issues. This underscores the importance of clear policy and legal frameworks as well as administrative structures. Kenya's property tax revenue in 2004-2010 averaged 0.15 percent of GDP, a poor comparison with the average for middle-income countries of 0.76 percent of GDP (IMF, 2015).

Figure 2(a): Property-related revenue
Kshs billions

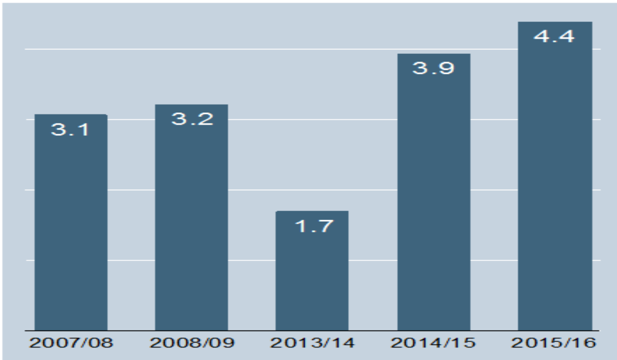
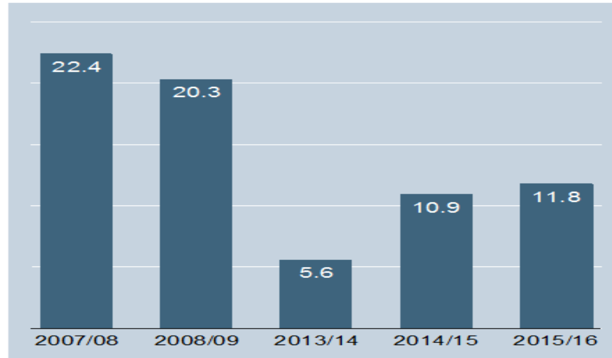


Figure 2(b): Property-related revenue as proportion of total OSR *(Percent)*



Source of data: LATF reports for 2007/2008 and 2008/2009 FY; and, National Treasury

Contribution in Lieu of Rates (CILOR)

Contribution in Lieu of Rates (CILOR) refers to annual payments by the Government to rating authorities in respect of Government land. CILOR's legal underpinnings are found in section 23(1) of the Rating Act (Cap 267) and the Valuation for Rating Act (Cap 266), which defines the basis for assessment of Government land for rates. The basis for CILOR's calculation is found in Rule No. 17 of the Valuation for Rating (Public Land) Rules. The same tax rate (or rate struck) that is used for private land is applied to public land -- although for un-alienated public land in rural areas and gazzetted forests, flat rates or graduated rates may be applied. Payments are on such date(s) and in such instalments as may be determined by the Minister.

CILOR is charged on the basis of a public land valuation roll comprising public land within the area of a local authority which would, if it were not public land, be rateable property. Accordingly, the payment covers: i) gazetted forests; ii) un-alienated Government land i.e. where letters of allotment have been issued but no titles within townships; iii) rural public land including Chief's offices and other administration centres; and, iv) other public land that is valued and used by the Government. According to the *Public Land Rules*, the public land valuation roll shall include land belonging to Kenya Railways, Kenya Posts and Telecommunication, Kenya Airways, Kenya Ports Authority and Kenya Airports Authority. The roll excludes land under museums, botanical gardens and arboreta, veterinary quarantine areas, state houses/presidential lodges, aerodromes, railway tracks, wharves/piers, roads/streets used by the public for vehicular traffic and parks.

The defunct local authorities received CILOR from Central Government agencies for public land within their jurisdiction. Every calendar year, LAs presented CILOR claims to Ministry of Lands, accompanied with copies of valuation rolls relating to the Government land, relevant maps indicating the valued property and a letter from the Ministry of Natural Resources (in the case of gazetted forest land). If satisfied, the Lands Secretary through the Chief Valuer's office audited the CILOR claims before advising the Ministry of Local Government (MoLG) to authorize the Ministry of Finance (National Treasury) to effect payments. It was not the practice for Government to pay accrued interest on outstanding CILOR, except when MoLG published an annual notice under the Valuation for Rating Act (Public Land) Rule No. 17, declaring the payments. The rule was however seldom invoked.

Since devolution, no County Government has received CILOR payments from the National Government. This may be explained by a number of factors. First, the legal basis for making CILOR claims is undermined by the widespread lack of up-to-date valuation rolls and legislation to support imposition of property rates. Secondly, administrative guidelines on post-devolution CILOR claims processes have not been clarified and County administrations are unfamiliar with payment procedures. Attempts to lodge claims directly with Ministries, Departments and Agencies (MDAs) have not succeeded. Thirdly, claims by some Counties for CILOR arrears include accrued interest and yet, following the pre-devolution practice, this can only be done after invocation of Rule No. 17 as described above. This rule has not been invoked for a number of years and all payments made so far are made on account.

Land rent

Land rent is collected on land owned by County Government in various markets and trading centres. Land rent is charged on annual basis. Most County Governments have not been able to optimize land rent, which has not been revised over time. Moreover, there remains lack of clarity concerning collection of land rent for County Governments. Whereas NLC under section 28(1) of the Land Act (2012) is mandated to collect land rent on rental properties and all payments on behalf of the County Governments, the County Governments are still collecting the same. Therefore, this Policy seeks to address issues of land rent by affirming the need for each level of Government to collect land rent due to it either directly or through appointed Receivers of Revenue.

2.2.2 Entertainment tax

Regulation of entertainment is a concurrent function. The Constitution assigns to County Governments powers to impose entertainment taxes (***Article 209(3)(b)***) and regulate public entertainment, including betting, casinos and other forms of gambling, as well as cinemas and video shows and hiring, among others activities (***Fourth Schedule; Part 2; 4***). The Constitution also assigns to the National Government powers to regulate national betting, casinos and other forms of gambling. (***Fourth Schedule; Part 1; 34***). National-level enabling legislation includes:

a) *Entertainments Tax Act (Cap. 479) of 1950*: This provides for the imposition of a tax in respect of all payments for admission into an entertainment -- an exhibition, performance or amusement. This encompasses theaters, movies, cultural and sporting events, nightclubs, casinos and racetracks.
b) *Betting, Lotteries and Gaming Act (Cap 131) of 1966:* This provides for the control and licensing of betting and gaming premises, imposition of taxes on betting, lotteries, gaming

and prize competitions. It also establishes the Betting Control and Licensing Board (BCLB), which has considerable regulatory powers including issuance of licenses and permits

However, administration of entertainment taxes in the devolved context is complicated by ambiguous unbundling of functions and licensing responsibilities between the two levels of Government. The complication is best illustrated by the case of Nairobi County Government which, in 2014, enacted a Betting, Lotteries and Gaming Act establishing a Betting License and Regulation Board to license *all* gaming operators within the County. Gaming operators challenged the County legislation in court, arguing that they were already licensed by the national BCLB, and that the County legislation was in breach of the Constitution and in conflict with national legislation. Suspending the County legislation, the court referred the matter to the defunct Transition Authority (TA) for mediated resolution within 90 days, and subsequent refiling in court.

Following mediation, stakeholders within the sector agreed on a framework for unbundling of functions (*Table 3*). The mediation took place under an interagency technical committee comprising the defunct Transition Authority (TA), County Government representatives under the Council of Governors (CoG), the Kenya Revenue Authority (KRA), National Treasury, the Commission on Revenue Allocation (CRA), the Ministry of Devolution and Planning (MoDP), the Ministry of Interior and Coordination of National Government, and the Association of Gaming Operators of Kenya. There were initial concerns by the National Government that licensing of betting and gambling should not be decentralized, owing to potential risks of money laundering and insecurity. To address these concerns, stakeholders agreed that the National Government remains in charge of licensing of public gaming activities while the County Governments take responsibility for licensing of gaming premises.

Table 3: Agreed unbundling of functions relating to licensing of gaming activities

	National Government	County Governments
1	• Policy formulation, legislation and development of standards and norms • Regulation of the gaming industry • Capacity building and technical assistance	• Implementation of policy, standards and norms • Periodic monitoring and evaluation of betting, lotteries and gaming • Development and implementation of county legislation on betting and other forms of gambling
2	Licensing of public gaming (i.e. casinos)	• Licensing of public gaming (casino) premises • Enforcement of compliance (spot checks, daily supervision of casinos)
3	Vetting, security checks and due diligence	N/A
4	Licensing of prize competitions cross-cutting several Counties (on promotion of products and services)	Licensing and supervision of prize competitions for promotions confined to the Counties
5	N/A	Licensing of amusement machines

	National Government	County Governments
6	Licensing of national lotteries	Licensing and supervision of county lotteries confined to the Counties
7	• Licensing of on-course totalisators[4] • Licensing of off-course totalisators	Licensing of premises for totalisators
8	N/A	Licensing and issuance of pool table permits within the Counties
9	Licensing of bookmakers	Licensing of betting premises
10	Online gaming	N/A
11	Handling of complaints and arbitration	Handling of complaints and arbitration

Source: Transition Authority

The agreed framework is pending implementation because it has not been re-submitted in court or ingrained in legislation. Taxes on gambling are potentially the largest component of Counties' OSR from regulation of entertainment. Finalization of the agreed framework will help to unlock this potential. More broadly, there is need for proper and careful regulation of the industry, in light of the industry's heavy implications for both levels of Government.

2.2.3 Business licensing

Business licensing is undertaken through the Single Business Permit, issued in respect of a class of business activities in lieu of separate licenses which could otherwise require to be issued in respect of each activity. SBP was introduced in 1998 by the Ministry of Local Government as part of revenue mobilization reforms under Kenya Local Government Reform Programme. The introduction was by a Local Government Act amendment through the 1998/99 Finance Act. The amendment enabled LAs to issue business permits to allow the conduct of business or trade within their jurisdictions. Introduction of the SBP consolidated local government revenue raising instruments pertaining to licensing and regulation of commercial enterprises. The regulatory framework for SBP is contained in the Local Government (Single Business Permit) Rules, 2008.

The Single Business Permit has five objectives: To:

a) simplify the local regulatory environment to encourage greater economic growth and employment;
b) reduce administration and compliance costs of regulating private sector activities;
c) generate consistent business related data for local level planning, regulatory and service delivery purposes;
d) enhance local government revenues so that local authorities can provide local service delivery; and,
e) establish a stronger link between local government and the business community in order to improve government transparency, accountability and responsiveness.

[4] Totalisators are computerized systems which run pari-mutuel betting, calculating payoff odds, displaying them and producing tickets based on incoming bets.

Administration of the Single Business Permit is encountering a number of challenges. Most Counties have not enacted trade licensing legislation that should underpin the SBP; some have focused on amending SBP fee schedules to enhance collections, thereby escalating the cost of doing business. Kenya's business environment and investment climate is still uncompetitive[5]. This is worsened by unstructured engagement between County officials and business enterprises, and licensing overlaps caused by ineffective coordination between national business regulatory agencies (e.g. those imposing hotel license, music copyright, bed levy and other fees) and County departments enforcing SBP obligations. It is common for Counties to charge fire protection and other fees in addition to the SBP.

Implementation of the Single Business Permit is further hampered by incomprehensive information on eligible enterprises. In some cases, partial registers have been extracted from the Local Authority Integrated Financial Operations Management System (LAIFOMS) but these are now outdated[6]. This constrains Counties' ability to determine SBP compliance levels and set realistic revenue targets. In addition, an appropriate balance has not been achieved between SBP's regulatory and revenue objectives. The latter objective requires that license fees be pegged at cost recovery levels, and application and approval processes be simplified. In general, a clear link is missing between SBP license payments and the quality of services provided by County Governments.

Complexities within the Single Business Permit fee structure present administration and compliance challenges. Some SBP fee categories have become redundant due to inactivity of economic subsectors whose importance has declined. Only a few Counties have revised segmentation within fee structure sub-categories to make them understood by businesses. Being a premises-based license, SBP is challenging for businesses with many outlets in one Country. A pharmacy with six outlets maintains a similar number of SBPs, which complicates compliance especially in Counties with poor automation. Compliance is also difficult for centrally-managed businesses with a national branch network, because of different tariffs across Counties. In this case, a business has to source all SBP-related invoices from different Counties in which it operates and forward these to its head office for processing and payment. This is administratively burdensome and complex.

Litigation from professional organizations is subverting enforcement of the Single Business Permit. SBP is intended to license all business or trade including professions and occupations

---

[5] See: World Bank (2015) *Doing Business Report*; and, World Economic Forum (2015). *Global Competitiveness Report*, 2015-2016.

[6] Local Authority Integrated Financial Operation Management Systems (LAIFOMS) constituted the core platform underpinning pre-devolved SBP management. While many counties are still operating LAIFOMS, an increasing number are implementing new transactional business licensing platforms.

within an authority's jurisdiction (***see section 163A of the Local Government Act***). The license applies to firms and/or individuals offering services (e.g. legal, financial, management, engineering, architecture, surveying, etc.) as well as private institutions (e.g. schools, health clinics, consulting offices of doctors, etc.). This was the case until in 2007, when the Law Society of Kenya (LSK) challenged the license in court, on the argument that imposition of the business permit amounts to regulation of legal practitioners who are already licensed by the professional organization. The High Court restrained the City Council of Nairobi from "demanding, seeking or receiving applications for SBP" from the legal profession, advocates and LSK members[7]. In implementing the ruling, MoLG stopped all other LAs from levying the SBP to LSK members. It also excluded professional engineers from the business license[8]. Recently, the Institute of Certified Public Accountants of Kenya (ICPAK) has discouraged its members doing business within County Government jurisdictions from complying with the licensing requirement[9].

2.2.4 Liquor licensing fee

Until 2010, the legal basis for regulating the sale and supply of liquor was the 1957 Liquor licensing Act (Cap 121). Through the Act, the Minister of State for Provincial Administration and Internal Security had powers to declare specified areas as licensing areas, which determined liquor fee payable in the area. Provinces or districts were gazetted as licensing areas. For instance Nairobi was Nairobi licensing area, while Nyanza Province was gazetted as Siaya, Kisumu, South Nyanza and Kisii licensing areas.

In 2010, the Liquor Licensing Act was replaced with the Alcoholics Drinks Control Act No. 4, although this does not give to County Governments powers of enforcement. This Act established in each district an Alcoholic Drinks Regulation Committee, responsible for issuance of licenses for brewing, wholesale and retail of alcoholic drinks. The Act established the: i) National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) as the public body or department responsible for matters relating to alcoholic drinks; and, ii) Alcoholic Drinks Control Fund, consisting of such license and other fees as may be payable under the Act. License categories and fees applicable under each category were defined in the Alcoholic Drinks Control (Licensing) Regulations, 2010. Under the Act, enforcement of non-compliance with liquor licensing regulations is not controlled by County Governments which are constitutionally responsible for the function.

County Governments are expected to develop relevant liquor licensing legislation, but many have not done so. The legislation should provide for the licensing and control of production, distribution, sale and consumption of alcoholics drinks, as well as control of outdoor

[7] See: In the High Court of Kenya at Nairobi; Judicial Review Division; JR Case No. 53 of 2007
[8] See Circular No. 35/2011 Ref: MLG/919(20) of 15th February, 2011
[9] See ICPAK letter dated 4th May, 2017 Re: Payment of Single Business Permit by Practicing Accountants

advertisements of alcoholic drinks and promotion of primary healthcare. Not all Counties have enacted required legislation. To guide this legislation process, the National Government through NACADA has developed a Model County Alcoholic Drinks Control Bill. The authority is also providing training and technical assistance to County officials in enforcement matters.

2.2.5 Agriculture produce cess

Cess is a levy on tradable agricultural produce imposed previously by Local Authorities on the basis of the Agriculture Act (Cap 318) and the Local Governments Act (Cap 265). Section 192(a) of the Agriculture Act empowered LAs to impose a cess on any kind of agricultural produce after consultation with the Ministers responsible for Local Government and Agriculture. The Act also enabled LAs to enact by laws requiring any person -- whether within or outside the area of jurisdiction of the authorities -- who buys or markets on behalf of a producer of agricultural produce on which cess is payable, and on which no cess has been paid, to deduct from the money payable to the seller an amount equal to cess payable on the produce, and to remit the amount to the authority to whom the cess is payable.

Cess was intended as an earmarked levy to support improvement of production and distribution of taxed agricultural produce. 80 percent of all cess collections was used in maintaining roads and other services related to sectors in which it was levied**.** The remaining 20 percent was credited to LAs' general account. In respect of tea and coffee sectors, 80 percent of cess collections was transmitted to the Kenya Roads Board (KRB) Fund.

Implementation of cess before devolution was supported by its incorporation in agricultural sector policies and legislation. The Kenya National Livestock Policy (2008) included provisions for LAs to plough back cess revenue towards development of livestock marketing infrastructure in order to improve local livestock market. Additional provisions were contained in the Kenya Meat Commission (Amendment) Act (1966), such as rates payable for livestock cess, payment and collection procedures and processes for recovery of cess as a civil debt due from persons liable to pay.

In the post-devolution period, cess collection is not guided by any clear policy, legal and regulatory frameworks. The constitution does not explicitly define cess among main tax categories that County Governments may impose. In addition, the Agriculture Act on which basis cess was previously imposed has been repealed by the Agriculture Fisheries and Food Authority (AFFA) Act (2013), which consolidates laws on regulation and promotion of agriculture. Moreover, the High Court has prohibited County Governments from levying agricultural produce cess or related tax until they enact appropriate revenue laws[10]. In the period

[10] See: In the High Court of Kenya at Nairobi; Constitutional and Human Rights Division; Petition No. 385 of 2013: *Cereal Growers Association & Hugo Wood v. County Government of Narok, County Government of Nairobi, County Government of Nyeri & 8 Others*.

before devolution, some LAs were similarly restrained from imposing cess, mainly for want of necessary legislation[11].

Numerous challenges and ambiguities surround administration of cess by County Governments. These include: i) the indiscriminate list of commodities for which cess payment is now required, including manufactured goods in transit through and/or across County boundaries; ii) collection of cess both at source (e.g. at farm gate in the case of agricultural produce and at production point in the case of manufactured goods) and at point of exit from the County; and, iii) levying of cess on natural products and/or extractives (e.g. sand, building stones and timber) that should ideally be charged under legal provisions for royalties. Apart from these problems, it is not clear how the Counties compute payable cess, identify commodities to be levied or determine where collections are to be made. Under LAs, the practice was to levy cess on volume or value traded. In either case, a flat, proportionate or graduated rate was applied at the LA's discretion. While this is still the practice today, there is no clarity on how different Counties determine applicable cess rates.

The 'barrier' method of cess administration disrupts free flow of goods between Counties, and may also contribute to high administration and overall economic costs. The practice by Counties -- like the defunct LAs -- of stationing revenue clerks on barricades along transportation routes leads to unnecessary delays. Farmers and produce transporters are held up at the roadblocks negotiating and seeking clearance. Not only does this practice lead to multiple cess levies along trading routes; it also presents an opportunity for rent seeking behavior from County officials. In addition, the barrier method is likely to escalate administration and enforcement costs as opposed to if the Counties adopted automated solutions to collect the cess at source. In general, the methods by which Counties are administering cess are likely to offend Article 209(5) of the Constitution, which requires that County fees and charges should not disrupt economic activities. In particular, cess collection across County borders means that final consumers are likely to suffer higher commodity prices, despite the fact that producers are the ones liable to make payments. The average produce cess is higher than other market charges, and has a significant positive effect on distribution costs -- a one percent increase in cess raises average distribution costs by 0.8 percent[12].

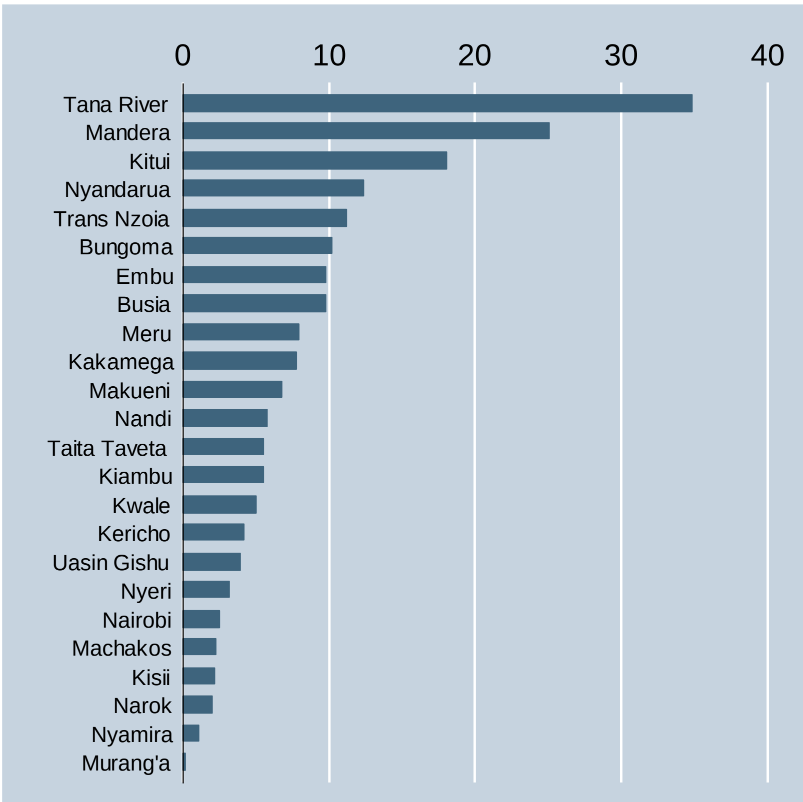
Cess accounts for a small proportion of County Governments' own-source revenue. In FY 2015/16, collections by Counties amounted to Kshs. 967 million, equivalent to 2.6 percent of aggregate OSR. (***Figure 3***). An additional Kshs. 106.8 million in coffee cess collected by the Kenya Roads Board in the same year has been released to 30 Counties from which it was generated. Low cess collections may be indicative of leakages or poor compliance, especially

---

[11] See for instance: In the Court of Appeal; Civil Appeal No. 68 of 2012 involving the County Councils of Wajir and Mandera in a matter relating to miraa cess.
[12] KMT (2016)

given the levy's weak connection with specific services. It also signifies negative yields resulting from high administration costs. When levying cess, Counties often make the case for infrastructure improvement around locations with productive and extractive activities, mainly in agriculture and mining (including extraction of sand and titanium). Thus, it is not clear the extent to which the low cess collections can support infrastructure development.

Figure 3: Cess collections vs. total OSR for selected Counties in 2015/16 *(Percent)*



Source of data: National Treasury

Note: *These 29 Counties are the only ones for which disaggregated cess collection data are available*

2.2.6 Other user fees and charges

County Governments are imposing user fees and charges primarily to raise revenue, without necessary anchorage to policy and legislation or links with service provision. The fees and charges are entrenched in Counties' legal systems through annual Finance Acts passed by respective County Assemblies. Lack of clear policies and legislation is a disincentive to compliance by citizens. Compliance is also a problem where fees and charges are not commensurate with services, like where water charges are levied without guarantee of uninterrupted supply of clean water; or parking fees in the absence of clearly designated or secure parking spaces. As mentioned earlier, the main rationale for user fees and charges is not to generate revenue but encourage efficient use of resources. Properly designed user charges and fees also provide information on citizens' willingness to pay for services.

There is concern that administration costs of some fees may surpass revenues, and that other charges exceed service provision costs. Fiscal policy aims to minimize administration costs so as to ensure positive yields. County Governments inherited more than 32,000 employees from defunct LAs, many of them attached to the revenue function[13]. Subsequently, Counties have recruited additional revenue staff. Based on consultations as part of preparation of this Policy, only a few Counties understand the recurrent cost implications of administering their fees and charges. Such an understanding can inform OSR revenue strategies, such as whether it makes economic sense to introduce new fees (or carry on with existing ones) if projected receipts do not balance underlying costs. The exception would be regulatory fees such as liquor licensing, or imperative charges like for building plan approvals. Other concerns are County charges which exceed service provision costs, or the imposition of fees where no services are provided.

Levies by some County Governments are inhibiting international protocols and agreements, particularly those intended to ease international trade. Mombasa County Government has proposed to impose a transport infrastructure development levy per container (ranging from USD 40–90) on shipping lines[14]. By raising the operational cost of cargo transport, this levy will affect trade at Mombasa port and along the northern corridor as exporters and importers seek alternative routes. The levy will jeopardize Kenya's trading position and erode the country's competitiveness. Moreover, the levy amounts to usurpation of the National Government's function in relation to regulation of international and national shipping. A number of frontier Counties including Busia and Migori are charging transit trucks a parking levy at the gates leading to respective one-stop border posts customs control zones. Like the port levy above, such charges will discourage international traders from Kenyan transport corridors.

No County Government has developed a Tariffs and Pricing Policy to guide imposition of fees and charges. A legal requirement under section 120 of the County Governments Act, 2012, the Tariffs and Pricing Policy should articulate the rationale for application of tariffs, fees, levies or charges by a County Government and how these are linked with service provision. (***See section 3.3.1 for more details***). Absence of a Tariffs and Pricing Policy may imply that determination by Counties of fees and charges -- including the amount paid by different categories of citizen groups -- has been done without objective considerations. Setting rates using objective criteria will improve predictability and stability of the rates across all Counties, in addition to enhancing efficiency in revenue administration.

[13] See: Transition Authority (2016). *Transition to Devolved System of Government in Kenya (2012-2016); The End-Term Report*

[14] See: i) Mombasa County Port Authority Bill, 2014; ii) Mombasa County Finance Bill, 2016.

2.2.7 Tourism-sector levies

Tourism sector operators are experiencing an escalation of fees and charges by both the National and the County Governments, often with poor coordination. According to the Tourism Act (2011), operators within the sector are charged a levy, which is paid into the Tourism Fund. Previously known as the Catering and Tourism Development Levy (CTDL), the Fund is intended to finance development of tourism products and services, marketing of Kenya abroad and research. Counties have introduced various parallel levies targeting hotels, lodges and restaurants. Examples are Mombasa County's bed levy (which is chargeable regardless of occupancy) and Kisumu County's pool levy (which is chargeable on hotels with swimming facilities). If not well structured, such levies are likely to have negative incentives, both for large rated hotels (which already pay higher income and property taxes) and smaller operators (whose sustainability is threatened).

Multiple tourism-related fees and charges by the two levels of Government are a sign of institutional overlaps and policy incoherence. Tourism policy development is assigned to the National Government, and trade development and regulation to County Governments. However, in terms of institutional mandates overlaps still exist, which be attributed to slow progress in harmonizing sector-wide legal and institutional frameworks. Apart from the Ministry of Tourism and the Board of Trustees of the Tourism Fund -- a creation of the Tourism Act -- there are currently more than ten institutions within the sector. These include: Kenya Association of Hotelkeepers and Caterers (KAHC); Kenya Tourist Development Corporation (KTDC); Kenya Association of Travel Agents (KATA); Kenya Utalii College; Kenya Association of Tour Operators (KATO); Hotel and Restaurants Authority (HRA); Kenya Wildlife Services (KWS); Wildlife Clubs of Kenya (WCK); and, Eco-Tourism in Kenya. Compounding the institutional overlaps is the fact that some County policies and practices are misaligned with the National Tourism Strategy 2013-2018. The Strategy underpins regional cooperation and common approaches for tourism development, marketing and regulation. It also establishes measures necessary to ensure equitable sharing of benefits in the sector.

2.2.8 Licensing of outdoor advertising

Outdoor advertising contributes significantly to the creation of vibrant industries and a competitive economy. However, outdoor advertising requirements of industry should be balanced against the need to protect public spaces and enhance their character and appearance, and ensure that public safety is not prejudiced. This is the rationale for outdoor advertising controls, which is achieved primarily through licensing.

Before devolution, the defunct LAs had significant regulatory powers over control of outdoor advertising. The LAs had powers to regulate: i) the display of adverts and advertising; ii) use and passage of advertising vans, sandwich boards, lanterns, flags, screens or other moveable advertising devices; iii) distribution of handbills in or along public place; and, iv) street decorations. Underpinning the regulatory powers was the Local Government Act, Cap. 265 (section 162). Currently, the power to control outdoor advertising is assigned to County Governments in accordance with the Forth Schedule of the Constitution. A legislative framework proposed by the Senate (i.e. the County Outdoor Advertising Control Act, 2015) has not yet been enacted. Only Nairobi County Government has prepared a policy on outdoor advertising and signage, covering licensing objectives, framework for regulations and standards, general design considerations and guidelines for license application and approvals.

Licensing of outdoor advertising in Kenya is contentious, and sometimes without clear policy direction. Before devolution, many licenses imposed by LAs (e.g. branding, banners, signage on bus shelters and company premises as well as billboards) were perceived by private sector to be "burdensome", "annoying" and having "extremely high impact" on trade. The perception is not any different today. In 2007, a review of business licenses and fees recommended the immediate elimination of all LA advertising licenses (with the exception of billboard licenses) and their replacement with "standards to achieve law and order contained in a business licensing code under the Local Government Act"[15]. The review proposed that LAs be prohibited from publishing any outdoor advertisement-related bylaws outside the recommended code. This proposal differs with that from an earlier review, in 2006, that LAs should continue charging for outdoor advertisement among other fees and charges for services consumed directly by traders as long as the fees and charges are "not tethered" to the Single Business Permit (SBP)[16].

There is contention between the two levels of Government over who should control outdoor advertising and how. In 2014, attempts by the Kenya National Highways Authority (KeNHA) to charge owners of billboards erected along national roads culminated in a legal challenge by Nairobi County Government[17]. KeNHA argued that lack of proper management of billboard placement may lead to them being poorly erected and their collapse, which could cause accidents and highway closures; hence the need for National Government's intervention through imposition of a road reserve space rent or lease charge. The County Government argued that KeNHA's intervention would violate the Constitution, cause confusion in the industry and undermine the county's outdoor advertising licensing revenue.

---

[15] Final Report of the Working Committee on Regulatory Reforms for Business Activity in Kenya. *Submitted to the Minister for Finance and the Minister for Trade & Industry on March 5th, 2007.*

[16] Final Report of the Policy Review of the Single Business Permit. *Submitted by Pinnacle Development Consultants to the Ministry of Local Government in May 2006.*

[17] See: i) In the High Court of Kenya at Nairobi; Judicial Review Division; JR. Case No. 246 of 2012; and, ii) In the High Court of Kenya at Nairobi; Constitutional and Human Rights Division. Petition No. 513 of 2013.

2.3 Challenges of revenue administration and management

2.3.1 Absence of revenue policies and legislation

Most County Governments are yet to enact or operationalize required legislation to underpin revenue-raising measures. Many Counties maintain fees and charges by the defunct LAs, which were regulated through by-laws that are no longer relevant. Others are mobilizing revenue using outdated policies and guidelines developed by the LAs. Through annual Finance Acts, some Counties have promulgated fee regimes inherited from LAs. These are indications that majority of Counties lack principle legal frameworks to support revenue collection and management. The laws are required to support revenue administration, property rating, trade licensing and public participation. County Executives are expected to initiate draft revenue laws and forward them to County Assemblies for consideration and legislation. Upon assent by the Governor, the bills become law. Stakeholder engagement and public participation are important steps in this process.

The practice by the National Government offers guidance on how County Governments should deal with revenue legislation. At the National level, the Finance Act does not impose taxes, fees and charges. The Finance Act merely alters the amount or rate of a tax or fee by amending the clause in the principal law that dictates the rate. Thus, the National Finance Act operates like an annual Statute Amendment (Miscellaneous) Bill. This approach is consistent with accepted revenue-raising practice, whereby sector-specific legislation imposes taxes, fees and charges and provides for easier financial regulation of each sector.

Lack of clear policy and legal frameworks is undermining revenue optimization by County Governments. There is currently no overarching law at the national level that guides the Counties in their imposition of property rates. Outdated property legislation and valuation rolls imply low coverage and base of properties, which undermines property-related revenue. As already mentioned, less than 10 Counties have enacted Rating and Valuation Acts or updated their valuation rolls. Further, the absence of an integrated database among Counties and between the two levels of Governments means that sharing of information is not possible, which compromises enforcement.

2.3.2 Illegal issuance of waivers and variations

To encourage voluntary compliance, County Governments are offering waivers to ratepayers, but most of these have no legal basis. According to Article 210 of the Constitution, no tax or licensing fee may be imposed, waived or varied except as provided by legislation. This refers also to waivers on penalties, interest and fines. Even where legislation permits the waiver of a tax or licensing fee, the constitution requires: i) maintenance of a public record of each waiver together with reasons; and, ii) a report to the Auditor-General. Moreover, State including County officials are not supposed to benefit from tax or fee waivers. To remedy this, some of the

County Governments have inserted waiver clauses in their Rating and Valuation Acts, but this does not meet the constitutional requirement.

2.3.3 Multiplicity of County fees and charges

Citizens and businesses are adversely affected by the haphazard manner in which County Governments are levying user fees and charges. The Counties have created multiple regulations, which they use as “tax handles”, compelling citizens and businesses to pay for numerous licenses and permits. Transportation of agricultural produce and minerals by road attracts multiple cess charges across County boundaries to market points. There have been numerous complaints about such practices, some ending up in court. Multiple fees and charges are caused by lack of clarity in the process relating to introduction of levies, limited consultation and public participation, and the continuing duplication of functions between the two levels of Government. By charging multiple fees and charges, County Governments are in contravention of Article 209(5) of the Constitution. The practice also undermines the notion of reducing the cost of doing business besides causing a high tax burden on both the public and businesses.

2.3.4 Weak understanding of County revenue administration costs

There is no clear understanding of County Governments’ revenue collection costs, or the efficiency of their revenue administration systems. As previously mentioned, such an understanding would help Counties to ascertain the economic rationale of their revenue collection activities and improve efficiency of administration. (***See section 2.2.6***). Attempts by the National Treasury to develop this understanding are so far unsuccessful, because of limitations in financial reporting formats. Efforts to obtain updated information on personnel numbers within County revenue departments are equally unsuccessful. In general, Counties should be concerned about the sustainability of some of their revenue streams vis-à-vis the collection and administration costs.

2.3.5 Challenges related to financing of urban areas and cities

To defray service provision costs, urban areas are expected to retain revenue from rates, fees and charges, but no County Government has implemented this requirement. The PFM Act (2012) anticipates that urban areas and cities shall be allocated funds in proportion to the relative per capita revenue generated from the built-up locations, but this has not been achieved. Moreover, no County has operationalized provisions in the Urban Areas and Cities Act (2011) requiring establishment of municipal boards and town committees. Instead, most Counties distribute budgetary resources among sub-county structures (or wards) using formulas which ignore the fact that majority of OSR is generated from urban areas and cities. Consequently, insufficient resources are being re-invested in the towns, whose future potential to generate more revenue is likely to be undermined.

2.3.6 Human resources capacity and enforcement issues

Majority of County Government revenue administrators lack basic skills for the function, a key factor behind poor enforcement strategies. As mentioned earlier, majority of County revenue personnel were inherited from defunct LAs, and many lower cadre revenue clerks and collectors were ancillary personnel under the authorities. These personnel have scant knowledge of revenue laws. This skills and knowledge deficit comes to bear in all revenue-related operations, but most dramatically where collection and enforcement are concerned. Efforts to collect County revenue and enforce provisions of Finance Acts are often confrontational, involving brute force, arrests, street chases and riots. Some Counties have tried to mitigate these weaknesses through redeployment, additional recruitments or outsourcing revenue administration. However, these efforts are impeded by institutional constraints such as:

- slow integration of staff inherited from the LAs and those from devolved former ministries;
- disparities in earnings between the different personnel cadres (in general, defunct LA personnel earn more);
- inadequate incentives to attract professionals with required competencies;
- widespread accountability challenges as reflected in the Auditor-General's reports; and,
- ambiguity of roles and responsibilities within County revenue departments and lack of clarity in reporting structures.

2.3.7 Low automation and integration of revenue administration

Adoption by Counties of ICT systems is below par, and manual revenue collection is prevalent with its inherent risks of abuse and rent seeking. Generally, progress has been slow towards automation and integration. Even Counties with more advanced ICT systems have not fully deployed them towards revenue collection and management. Unstable internet connectivity and power supply interruptions are key challenges. Network infrastructure is critical for effective deployment of Integrated Revenue Management Information System (IRMIS). To address the power challenge, the National Government has made significant progress in rolling out electricity connection through the national grid to most parts of the country.

Revenue collection and management systems currently in use by County Governments can be clustered into four categories. The categories are:

a) A number of Counties are using ICT infrastructures handed to them by defunct LAs, predominantly the Local Authorities Integrated Financial and Operations Management System (LAIFOMS).
b) A few are using the Integrated Financial Management Information System (IFMIS) revenue module, which is yet to be fully rolled out mainly because major customization is needed to align it to Counties' OSR collection and management needs.
c) Many Counties have developed (or are developing) customized revenue management systems through private developers. For the most part, these systems are not based on the Standard Charts of Accounts (SCoAs) and are incompatible with IFMIS.

d) Some Counties are procuring stand-alone receipting systems instead of investing in complete Enterprise Resource Planning (ERP) solutions.

Efforts to standardize revenue collection systems across all Counties -- a desirable outcome with numerous benefits -- have been unsuccessful. For effective revenue management across the Counties, there is need to integrate the different systems for revenue collection and management. However, the current systems in use in the Counties as described above, face a number of challenges that limit achievement of this objective. The challenges include:

a) With regard to IFMIS, the fees payable for the use of the system are based on the number of users, which means that use of the system for revenue collection (a user-extensive process) would require numerous licenses, and hence higher fees.
b) IFMIS is designed to support only cash-based operations, which is currently used throughout Government of Kenya (GoK) accounts and financial reporting. Revenue management needs to use an accrual basis of accounting to facilitate tracking and follow up of revenue arrears due to Counties. In these circumstances, the IFMIS is not be an ideal system for revenue collection.
c) The effectiveness of IFMIS is affected by Internet connectivity issues, especially at the sub-County level. Effective collection of revenues like market fees requires a system reaching beyond the County headquarters and head office to rural market centers. This requires Internet connectivity, which is problematic in some locations.
d) Most Counties do not have Wide Area Network (WAN) which is necessary to connect all revenue collection points, including in sub-Counties. It should be noted that LAIFOMS, which the Counties are currently using, can only operate as a standalone system. The system is therefore not effective in a WAN setting.

2.3.8 Inappropriate institutional arrangements

Some revenue collection structures adopted by County Governments have undermined control by the Treasury, leading to poor coordination of the function. While some Counties use revenue units located within their Treasury departments, others have outsourced collection of specific revenue streams to private firms. In Narok County, entry fees to the Maasai Mara are collected by KAPS Ltd., while in Nairobi County, collection of parking fees is undertaken by JamboPay Ltd. Revenue collection in some Counties has been decentralized to respective departments (e.g. where the health department is directly responsible for collection of health facility user fees) with little reporting to the County Executive Committee Member for Finance. In other Counties, the revenue function falls not under the Treasury, but in other departments such as the office of the County Secretary contrary to provisions of the PFM Act (2012). The impact of such arrangements has been loss of control by County Treasuries of the revenue collection function. The approach has also led to weak coordination of revenue collection thereby creating room for spending of revenue at source, in contravention of the PFM Act (2012).

County Governments are permitted four administrative arrangements for revenue collection and management, but there are no guidelines on how to select the most suitable. According to the PFM Act (2012), the four options are: i) internal revenue administration, which is currently in use by most Counties; ii) establishment of an autonomous revenue authority (or County corporation); iii) contracting the KRA; or, iv) contracting a private firm or other agent. Each option has its strengths, and the Counties have a responsibility to identify the administrative arrangement through which revenue can be enhanced. (***Table 4).*** The PFM Act also authorizes the CEC Member of Finance to: i) mobilize resources for funding the County's budgetary requirements and put in place mechanisms to raise revenue and resources (Section 104(d)); and, ii) designate Receivers of Revenue (Section 157). There are however no guidelines to the Counties on how to determine the most appropriate administrative arrangement for revenue collection and management, given their context.

Table 4: Legal administrative options for County OSR collection and management

Option	Pros	Cons
Internal revenue administration departments	• Does not require enactment of any enabling legislation • Enables County Governments to remain fully in control of the revenue function, and thus retain fiscal autonomy	• If not well implemented, this option is prone to interference and capture by politicians • Unless standard formats are prescribed, this option presents a risk of losing uniformity in reporting, which can complicate cross County comparisons
Autonomous County Revenue Authority / Corporation	• Autonomy allows for greater focus on revenue administration • Benefits from available guidelines in the PFM Act and the PFM (County Government) Regulations on establishment of County corporations • If well structured, can eliminate conflict of interest between revenue policy formulation and implementation	• Considering the fact that an authority or corporation comes with fixed costs, this option may disadvantage smaller Counties with low OSR potential – if fixed costs are high, Counties may be forced to recover the expenses e.g. by increasing taxes, fees and charges • Requires enactment of a County enabling legislation
Contracting KRA	• County benefits from KRA's expertise and systems • Can enhance compliance since KRA is better equipped legally and financially to undertake enforcement • Allows specialization of personnel, and may permit more sophisticated technology • Permits information exchange as well as opportunities for capacity building from KRA	• Conceals responsibility for tax being levied
Contracting private firms and other agents	• County could potentially benefit from specialization and expertise of contracted firms • County may avoid major new investments in revenue administration infrastructure	• Could potentially be expensive to Counties • The third party risks become County risks • Difficult to justify economically, as projected benefits would need to significantly exceed potential costs

Option	Pros	Cons
	• County officials may enjoy reduced span of control especially staff and also dealing with employees relations	• This option presupposes weak internal County capacity, but it requires strong managerial systems (to supervise the private agent) and procurement systems (to ensure value for money)

Source: Interagency Working Committee on County Own-Source Revenue Enhancement

2.3.9 Weak capacity for revenue forecasting and analysis

County Governments are not meeting their revenue targets, in part because the targets are unrealistic. According to the Controller of Budget (CoB), Counties locally raised Kshs. 35 billion in FY 2015/16, which was 69.3 per cent of the aggregate target of KShs.50.5 billion. Thirteen Counties realized less than 50 percent of their target; 23 realized between 50 and 80 percent. Such underperformance of revenue collection can be attributed to lack of capacity to prepare credible revenue projections. Since revenue projections form part of Counties' expected resources, failure to realize the projections implies budget deficits. Most County Governments do not include detailed revenue forecasts in their County Budget Review and Outlook Papers (CBROP) in line with section 118 of the PFM Act, 2012.

2.3.10 Expenditure of local revenue at source

The practice by County Governments of operating multiple revenue collection accounts is a major cause of leakage, including collections being spent at source. Article 207(1) of the Constitution provides that there shall be established a Revenue Fund for each County Government, into which shall be paid all money raised or received by or on behalf of the County Government, except money reasonably excluded by an Act of Parliament. Section 109(1) of the PFM Act provides guidance on the operations of this account. The aim is to ensure that any withdrawals from this account are done in compliance with the Constitution. Both the Auditor-General and the CoB have reported on Counties failing to disclose all their commercial bank accounts, and spending collected revenue at source, primarily due to lack of supervision and oversight into operations of the accounts. This challenge is also well documented in the *2015 County Revenue Baseline Study*.

2.3.11 Lack of effective internal controls and audit mechanisms

Lack of effective internal controls and audit mechanisms by County Governments contributes to loss of revenue. Examples of gaps in internal controls and audit processes include: postponed banking of collected revenues; late bank reconciliations; non-rotation of staff in revenue departments as well as allocation of duties among staff in ways that do not enable checks and balances; and, production by revenue officers of duplicate accountable documents such as receipt books. These gaps undermine Counties' revenue enhancement efforts. Many of these issues arise due to unqualified personnel and lack of integrity. There is also lack of effective internal audit as per section 155 of PFM Act; most Counties have internal audit departments but lack the oversight having not fully functional internal audit committees. Some Counties do not have independent audit committees.

2.3.12 Cash handling

Nearly 80 percent of revenue collectors are being paid in cash on a daily basis, a situation which presents obvious risks in terms of accountability. This is according to the *2015 County Revenue Baseline Study*. Revenue most likely to be collected in cash includes parking fees and market charges. According to a 2016 study by the IAWC, fees paid by public service vehicles as well as rent in Mombasa County are collected in cash. Whereas some of the activities forming the basis for these collections may warrant the need for daily cash collections, this model of revenue management is risky and prone to leakage.

2.3.13 Invalidation of sharing of revenue from court fines

A pre-devolution arrangement with the Judiciary whereby Local Authorities received a share of revenue from court fines is no longer constitutional. Section 157 of the Local Government Act, Cap 265, permitted LAs to enter into agreements with the Judiciary whereby Municipalities and City Councils could -- subject to the consent of the Minister -- erect and maintain courthouses and employ court staff, while the Judiciary supplied magistrates. Based on the agreements, the LAs reimbursed the Government magistrates' employment costs in exchange for a share of fines imposed on by-law violators appearing before the Courts. Offenses and penalties arising out of violations of the various by-laws were defined in the Local Government Act. This arrangement was nullified in November 2014, when the Chief Justice recalled all judicial staff previously assigned to Municipal and City Courts. According to the Chief Justice, the repeal of the Local Government Act, Cap 265 by the County Government Act, 2012 invalidated these courts. Moreover, the current legal regime requires that all revenues collected by the Judiciary are deposited into the Consolidated Fund.

CHAPTER 3: POLICY GUIDELINES FOR COUNTY REVENUE ENHANCEMENT

3.1 Guiding principles

This chapter presents policy guidelines aimed to support enhancement of own-source revenue collection by County Governments. The guidelines are based on provisions of the Constitution of Kenya (2010), the County Governments Act (2012), the Public Finance Management Act (2012) and the Public Finance Management (County Governments) Regulations (2015). The guidelines follow the following principles:

- *Simplicity and enforceability*: County Governments' taxes, fees and charges should be easily understood by rate payers, as this will facilitate compliance and enforcement. This Policy aims to eliminate ambiguities in the imposition of taxes, fees and charges by County Governments.
- *Efficiency and effectiveness*: Administration of County Governments' revenue measures should be done at minimal cost, which is a fiscal policy objective.
- *Equity*: County Governments' revenue-raising measures should not create fiscal imbalances between the two levels of Government or amongst the Counties. Neither should the measure disadvantage particular groups.
- *Good governance*: Necessary internal controls should be put in place to achieve transparency and accountability. This includes sound financial reporting.
- *Buoyancy*: As a measure of efficiency, taxes, fees and charges imposed by County Governments should be responsive to local economic developments. Ideally, the revenue should increase more than proportionately as a result of improvements in economic performance.

3.2 National Framework Legislation

3.2.1 Regulating introduction of taxes, fees and charges including waivers and variations

Regulating the introduction of taxes, fees and charges by County Governments, including waivers and variations, will improve policy coordination countrywide. The regulatory process prescribed here aims to address challenges related to County Governments' revenue-raising measures including multiplicity of fees and charges and inefficient revenue administration. The regulatory process is guided by the following principles:

a) County revenue raising measures should be aligned to the national tax policy/strategy;
b) Neither the National nor the County Governments may impose a tax, fee or charge on activities falling under the jurisdiction of another level of (County) Government;
c) County taxes, fees and charges should be levied at the source or destination of transportation of goods in question (including within the same County);

d) In introducing any new taxes, fees or charges, a County Government shall consider its internal administrative capacity in order to ensure effective and efficient collection, and guard against introduction of disguised taxes in the form of user charges; and,
e) A request for assignment/imposition of new fees may be initiated by the National Government or a County Government[18].

New taxes, fees and charges by County Governments shall be introduced after review and ratification through a process to be prescribed in law. Where a County proposes to introduce a new tax, fee or charge which has not previously been imposed, the following legal process shall be applicable:

a) The County shall submit to the National Treasury any tax, fee, charge proposals ten months prior to commencement of the financial year;
b) The proposed tax measure should have been included as a policy strategy in the most-recent County Fiscal Strategy Paper (CFSP);
c) The proposal shall include reasons for the new revenue measure; tax base or economic activity or income subject to the new tax, fee or charge; the statutory taxpayer; the rate structure; and, tax relief measures and exemptions to protect certain classes of taxpayers;
d) The proposal shall indicate procedures for collection and administration, including the collection agency, person or entity responsible for remitting the tax and timing of payments; costs and methods for administration and enforcing compliance; proposed penalty provisions; an assessment of taxpayers' compliance burden; and, procedures for taxpayer assistance and resolving taxpayer complaints;
e) Estimated revenue collection per quarter and per annum;
f) Indication of the likely economic impact and tax burden on residents and businesses as well as risk of tax burden shifting;
g) Proof that other Counties were consulted in respect of fiscal competition; and,
h) Timelines for review, submission and approval of the county proposal in order to guard against undue delay.

Issuance by County Governments of waivers and variations of taxes, fees and charges shall be in accordance with a process to be prescribed in law. Regulation of waivers and variations is pursuant to section 159 of the PFM Act (2012), which expects the CEC member responsible for finance to develop a known and predictable criteria to guide issuance of waivers and variations of taxes, fees and charges, including penalties and interest. The prescribed process shall include a proposal submitted by the CEC Member for Finance containing the request for waiver or variation and indicating: i) reasons or policy objectives of such a waiver/variation; ii) category of tax payers to benefit from such waiver/variation; iii) impact of the waiver/variation

[18] According to Article 209 of the Constitution, Parliament can authorize County Governments to impose an additional tax, which means that a new County tax can be initiated by the National Government (i.e. as well as through County legislation).

on revenue collection; and, iv) likely economic impact of the waiver/variation as well as potential shifts in tax burden and benefits as per section 132 (3)(c,e) of the PFM Act (2012). In order not to discourage compliance, the Counties shall not issue waivers and variations to the same category of rate payers in a financial year following a similar waiver in the preceding year.

3.2.2 Regulating property taxation, CILOR and land rent

There will be new national legislation on property taxation to replace the outdated Valuation Act and the Valuation for Rating Act. Below are reasons for enacting this legislation at the national level:

- It is time consuming and cumbersome for each County Government to prepare and enact valuation and rating legislation, especially considering that the small pool of experts is already overstretched. Development of this legal framework at the national level will ensure that within a reasonable timeframe, all Counties have necessary legal authority to impose and collect property rates;
- A national legislation will ensure uniformity in underlying property valuation and rating with respect to the tax base, waivers, exemptions, deductions, and payment periods, without taking away County Governments' ability to determine their own rates; and,
- Legislation at the national level will enable the National Treasury to put in place regulations to ensure that Article 209(5) of the Constitution is not offended with respect to protecting national economic policies and economic activities across County boundaries. This will be achieved by defining boundaries on the basis of valuation and providing mechanisms for effective engagement of stakeholders, some of who reside outside the County.

The national legislation will contain all integral property rates elements but not administrative ones. The national legislation shall set the legal foundation of a reformed rating and valuation system with inbuilt key policy decisions. The legislation shall contain elements on property discovery and tax base coverage, valuation and assessment and establishment of appropriate tax rates. Under the proposed legislation, it is recommended that provisionally, Kenya retains unimproved site value (USV) form of rating for large urban areas and/or a quantum capital value based on amount of development at a specified price. In the medium to long term, the Counties should move progressively towards capital value form of rating. Rural land should be valued according to a simplified area based approach. This will ensure an element of buoyancy in revenue from property rates. It is also recommended that the total area of County Governments be declared as rating areas, and that maximum and minimum property rates be prescribed so as to ensure that property taxation does not prejudice national economic policies contrary to Article 209(5) of the Constitution. In future, self-declaration of property value should be considered as an option for capital improved value. Administrative procedures such as billing, collection, enforcement and remedies will not be contained in the national level legislation; they will instead be anchored in County-specific legislation.

To provide a road map and timelines for preparation of County valuation rolls, a national valuation plan shall be developed. The plan is to be developed by MoLPP jointly with the National Land Commission (NLC) and County Governments. To deal with the high cost of updating the valuation rolls, Counties may zone rural and urban areas within their respective jurisdictions, and charge a flat rate for each zone as a short term measure.

A framework is to be developed outlining processes and procedures for payment of Contribution in Lieu of Rates. As part of this framework, it is recommended that outstanding CILOR before March 4th, 2013 be addressed within the IGRTC framework that deals with identification, verification and validation of assets and liabilities of the defunct LAs. As a basis for payment of CILOR, the Counties should update valuation rolls and invoice respective MDAs, who should provide budgetary allocation for the payments. Advice will be sought from MoLPP to determine appropriate budgetary allocations. In case of undetermined public land the NLC in consultation with the MoLPP shall determine payment modalities. Details on CILOR exemptions shall be provided for in the national legislation on property rates.

3.2.3 Regulating entertainment

It is recommended that the unbundling of functions agreed upon by entertainment industry stakeholders be gazetted to clarify roles between the two levels of Government. As mentioned earlier, progress has been made in unbundling functions for each level of Government where betting, casinos and other forms of gambling are concerned. Consensus was reached on exclusive and concurrent mandates of the National and the County Governments in regulation of activities related to betting and gaming. (***Table 3***). In taxing entertainment, National Government has a role under the Fourth Schedule for regulating and licensing betting, casinos and other forms of gambling. The scope for County Governments in entertainment taxation is restricted to County casinos and lotteries. The IGRTC needs to gazette the unbundled functions, as this will assist both levels of Government to effectively undertake their mandates, while also enhancing revenue. In addition, the Entertainment Tax Act (Cap 479) needs to be aligned with the Constitution.

3.3 County Government Legislation

County Governments are required to develop principal revenue legislation and policies on which to anchor their taxes, fees and charges. This is in line with Article 210(1) of the Constitution and section 132 of the PFM Act (2012). The County legislation should cover property rates, revenue administration, business and trade licensing and entertainment. The Commission on Revenue Allocation (CRA) in conjunction with the Kenya Law Reform Commission (KLRC) and the Council of Governors (CoG) have developed a County Model Revenue Legislation Handbook containing model laws on property rates, trade licenses, revenue administration and finance law. As part of this Policy's implementation plan (***see chapter 5***), technical assistance will be provided to Counties needing assistance in developing or customizing their revenue legislation.

3.3.1 Tariffs and Pricing Policy

Each County Government is required to develop a Tariffs and Pricing Policy within 12 months of this Policy's effectiveness, justifying the rationale of levying fees and charges. As mentioned earlier, section 120 of the County Governments Act 2010 provides that a County Government or any agency delivering services in the county shall adopt and implement a Tariffs and Pricing Policy for provision of public services. Moreover, section 107 (2)(g) of the PFM Act requires that there should be reasonable predictability with respect to County tax rates. The Tariffs and Pricing Policy provides a rationale for levying fees and charges, as well as a basis for setting fee/charge levels. It also provides citizens with information in understanding and interpreting the taxes, fees and charges they pay and the services that they should expect from the County in return. By developing a Tariffs and Pricing Policy, a County will ensure that:

- its taxes, fees and charges comply with all prevailing legislation;
- public services are financially sustainable, affordable and equitable;
- the needs of economically vulnerable groups – the poor, aged and people living with disabilities – are taken into consideration; and,
- there is consistency in how tariffs are applied throughout the County.

General principles

Guiding principles for development of Tariffs and Pricing Policies are contained in section 120 of the County Governments Act, 2012. A County's Tariffs and Pricing Policy shall define a minimum amount of basic services including water, sewerage and sanitation and refuse collection. Consumption below this amount shall not attract any user fee or charge. Consumption of services above the defined minimum level shall be subject to payment using a stepped structure in which charges increase progressively with consumption levels. The Tariffs and Pricing Policy should contain:

a) measures to keep tariffs affordable;
b) how tariffs will be determined and reviewed, including mechanisms for public consultations;
c) the need to ensure that tariffs for services are sufficient to cover initial capital expenditure of the service as well as operation and maintenance, including externalities; and,
d) the need to promote local and economic competitiveness and development.

It is recommended that Counties should develop their Tariffs and Pricing Policies so as to achieve equity, proportionality and financial sustainability. Sustainability also means that fees and charges must be collected, and Counties should adopt efficient credit control and debt collection systems to ensure full recovery of fees and charges. It is expected that these principles will guide County revenue administrators (in determining equity or reasonableness of user fees and charges), courts (in cases of arbitration) and service delivery agencies such as Municipal Boards (in settling and implementing rates and debt collection policies).

The tariff determination process

Counties may set their tariffs to recover the full (or part of the) cost of services being provided, or bring about a surplus that can be utilized to subsidize other services. This calls for an annual review of tariffs i.e. during budget preparation. Proposed tariffs will be presented to the public for consultations and resolution, which will be publicly displayed in a notice by the County Secretary. A proposed tariff will only take effect if no objection is lodged within the period stated in the notice. Otherwise, the County Government will be required to consider every objection before confirming, amending, or withdrawing the proposal, followed by a fresh notice as prescribed in the County Governments Act 2012. As mentioned earlier, the Counties are expected to identify all costs involved in providing a service, such as bulk purchase costs (in the case of water); cost of distribution including losses attributed to wastage (e.g. in the case of water); depreciation expenses (in case of assets); and, maintenance of infrastructure and other fixed asset costs. The cost of free services offered to the poor as well as essential services will also be determined, alongside administration and service costs, including:

a) service charges levied by other departments such as finance, human resources and legal services;
b) reasonable general overheads such as costs associated with the office of the county manager;
c) adequate contributions to the provisions for debts and obsolescence of stock; and,
d) all other ordinary operating expenses associated with the service concerned including, in the case of an electricity service, the cost of providing street lighting in a county area.

3.4 Improving revenue administration

3.4.1 Efficiency and effectiveness of human resources

County Governments should take deliberate measures to improve efficiency and effectiveness of personnel involved in the revenue function. Each County's revenue department shall review and evaluate its workload and competency needs, before assessing existing staff involved in revenue collection and administration to identify gaps in skills, numbers and training needs. Based on this, an appropriate training programme shall be designed and delivered. Where recruitment is necessary, new personnel should be trained on core revenue management aspects such as planning, collection, inspection, accounting, reporting and legal enforcement. Further, each County shall develop: i) a Scheme of Service for the revenue function, indicating qualifications to be possessed by all personnel; and, ii) a competitive salary and incentive system to retain staff. For purposes of continuous training, Counties are encouraged to partner with the Kenya School of Revenue Administration (KSRA). The large numbers of under-qualified casual employees currently involved in County revenue collection should be absorbed within or without the department and allocated duties that fit their qualifications.

3.4.2 Improving revenue forecasts and incentivizing fiscal effort

The National Government will support County Governments in enhancing their capacity to prepare credible revenue forecasts. This support will focus on: i) revenue forecasting and analysis as well as impact and tax burden assessment for purposes of introducing or waiving taxes; and, ii) generating comprehensive data that is needed to support more accurate revenue forecasting. County Governments' annual Estimates of Revenue (accompanying the budget) shall be supplemented with a statement explaining the basis for the estimates. The statement shall provide for each category of tax, fee or charge: i) the previous years' collection; ii) a description of the base; iii) the applicable rate; iv) total projected collections; v) assumptions made; and, vi) reasons for previous year's performance for major revenue streams. In addition, details of revenue projections by stream shall be included in County Budget Review and Outlook Papers (CBROPs). In an effort to incentivize fiscal effort, the CRA will proceed with full implementation of the fiscal responsibility criteria contained in the second-generation revenue sharing formula. This approach, which captures improvements in Counties' OSR per capita, is consistent with Article 203(e) of the Constitution according to which determination of equitable shares should consider Counties' fiscal capacity and efficiency, and incentivize optimization of local revenue raising.

3.4.3 The role of ICT and automation in enhancing revenue administration

The National Treasury shall design and prescribe a standardized revenue collection and management system for use by County Governments. This is pursuant to: i) Article 190(2) of the Constitution, which requires County Governments to use financial management systems that comply with any requirements prescribed by a national legislation; and, ii) section 12(1)(e) of the PFM Act (2012), which requires the National Treasury to design and prescribe an efficient financial management system for both levels of Government. These requirements connote standardization of ICT-based systems used by the Counties, which involves integration and automation. Integration aims to facilitate monitoring, financial control and oversight by the National Treasury including by enabling comparison across Counties. Automation aims to eliminate handling of cash by County officials, which contributes to revenue leakages. As already explained, a standardized revenue collection and management systems will ensure uniformity in reporting by Counties, besides saving them costs associated with purchase of independent systems. For these reasons, the National Treasury shall develop a revenue collection and management system that meets the prescribed standards for use by the Counties.

The prescribed standardized revenue collection and management system for use by County Governments shall permit seamless integration with the IFMIS. This means that the design and structure of the system will be based on the Government Standard Chart of Accounts (SCOAs). It also means that a standard revenue reporting template will need to be developed for use by all the Counties, to enable comparative analysis. In general, the prescribed standardized system must at the minimum support the following 12 core processes:

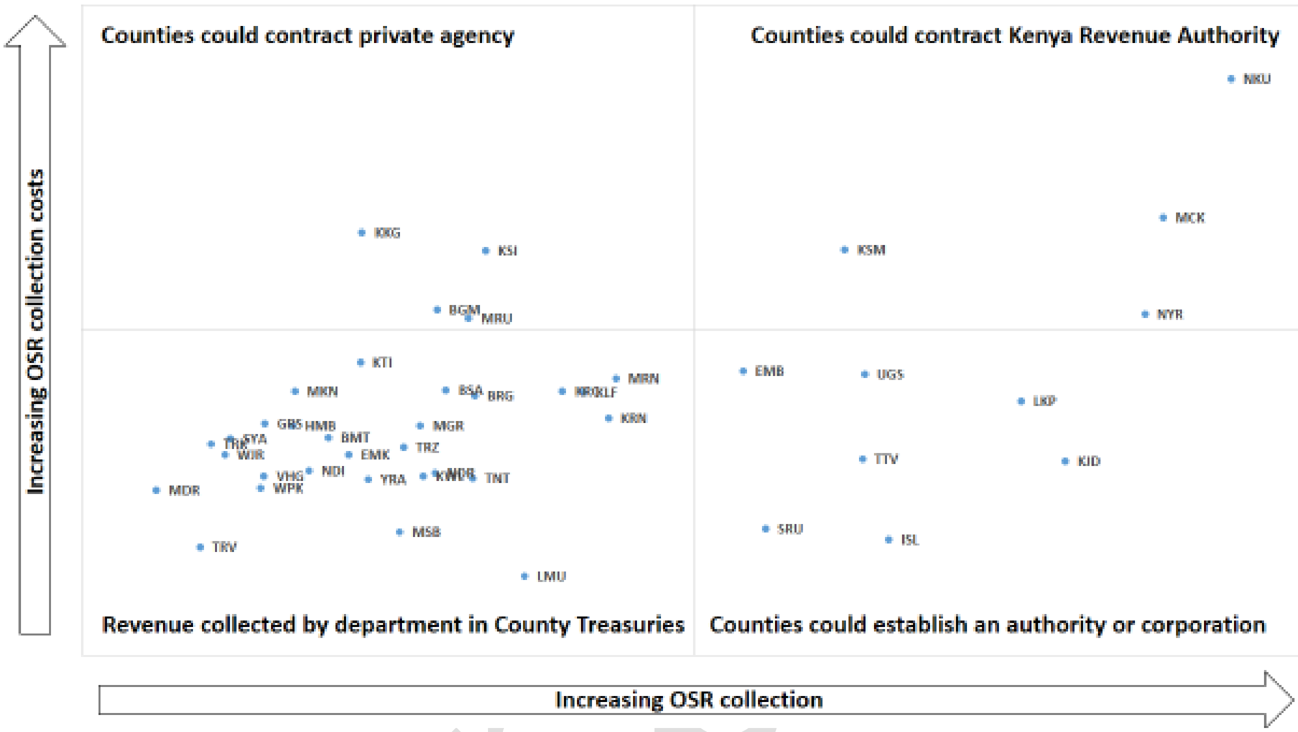
a) Revenue sources management, which includes identification of revenue sources, classification of revenue sources, and segmentation and optimization of revenue sources;
b) Revenue forecasting;
c) Requesting for disbursements from National Government;
d) Revenue collection, which includes invoicing (or billing) and receipting;
e) Receiving and processing payments through multiple e-payments including mobile money, direct bank debits, credit and debit card and e-wallet;
f) Cash and bank reconciliation, including monitoring cash position;
g) Credit control and debt management;
h) Management of revenue collectors by registering internal collection staff and external collection agents against revenue sources;
i) Customer management or the clustering of customers into unique segments based on predefined parameters;
j) Work flow management;
k) Reporting and auditing (as per County and National requirements); and,
l) Integration with IFMIS and other existing technologies

The success of the system designed will depend on its ability to overcome connectivity challenges. In this context, the Counties are encouraged to diversify service delivery channels for example through use of mobile digital technology. The Government through the ICT Authority in collaboration with private Internet Service Providers (ISPs) proposes to extend connectivity to sub-county and ward levels, especially in geographically expansive Counties such as Marsabit, Isiolo, Turkana, Wajir, Mandera, Tana River, Lamu, Makueni and Garissa.

3.4.4 Determining an appropriate structure for revenue administration

Guidance is hereby provided to County Governments that might assist decision making on the most appropriate organizational structure for revenue collection and management. As mentioned earlier, the existing legal framework permits only four structures for revenue collection and management at the County level, namely: i) establishment of internal revenue administration departments; ii) establishment of autonomous County revenue authorities/corporation; iii) contracting the KRA; or, iv) contracting private firms and other agents. However, no guidance has previously been provided to the Counties on how they might determine the most appropriate structure. To address this gap, an effort is made here to categorize the 47 Counties using two currently available metrics: i) per capita OSR collection in FY 2014/15 (mainly property rates, land rent and single business permit); and, ii) personnel emoluments as a rudimentary proxy for cost of revenue collection. Accordingly, each County is mapped to a quadrant synonymous with one of the legally permitted revenue collection and management structures. (***Figure 4 and Table 5***). It must be emphasized that the guidance provided here is not binding, and individual Counties are encouraged to undertake more detailed analysis using current data so as to arrive at the most suitable structure.

Figure 4: Guidance for determining an appropriate revenue administration structure



Source: *Computations by the IAWC on Enhancement of County Governments' Own Source Revenue*
Note: *The above scatter plot does not show four outlier Counties (i.e. Nairobi, Mombasa, Kiambu and Narok), which fall in the top-right quadrant.*

Table 5: Proposed mapping of Counties to revenue administration structures

Structure	County Governments	Rationale
Establishment of internal revenue administration departments	Tana River, Lamu, West Pokot, Mandera, Nandi, Kitui, Siaya, Garissa, Bomet, Wajir, Homa Bay, Migori, Nyamira, Kirinyaga, Marsabit, Makueni, Nyandarua, Elgeyo Marakwet, Trans Nzoia, Kilifi, Vihiga, Turkana, Kwale, Kericho, Baringo, Busia	• Where revenue is still relatively low (probably with no predominant revenue streams) and where economic justification is low for investment in advanced and costly revenue administration systems • This is the structure currently being used in most County Governments
Establishment of autonomous County revenue authorities / corporation	Embu, Uasin Gishu, Laikipia, Kajiado, Isiolo, Samburu, Taita Taveta	• Counties with potentially significant revenue, requiring only modestly complex administration (including, due to narrow concentration of the most important revenue streams e.g. park entry fees). Annual expenses of such authorities / corporations should not exceed 2% of estimated revenue in each financial year • Laikipia County has already established a County Revenue Board, which is responsible for collecting and receiving all revenue, administration and enforcement, assessment and accounting, provision of advice to the CEC on all revenue matters, preparation of annual reports, and payment of all revenue into CRF. The Board's funds and assets consist of not more than 2% of estimated revenue to be collected each financial year
Contracting the Kenya Revenue Authority (KRA)	Nairobi, Mombasa, Kiambu, Narok, Nakuru, Kisumu, Machakos, Nyeri	• It would be easier for KRA to collect revenue from more urbanized Counties with large formal sectors; this would allow KRA to fully apply its professional skills, personnel and technical resources • Counties with relatively high revenue (including future capacity) but in which revenue collection is potentially both costly and complex (including, due to several important revenue streams) • For a brief period, KRA collected local revenue for the defunct City Council of Nairobi, but the arrangement was prematurely terminated • Kiambu County already has an MoU with KRA to collect property rates, land rent and SBP • Park entry fees, the largest revenue stream in Narok County is currently being collected by KAPS, a private firm
Contracting private firms and other agents	Kakamega, Kisii, Bungoma, Meru	• By contracting private firms, these Counties could benefit from professionalized revenue administration and reduced costs, although with progressively enhanced revenue collection, contracting KRA could also be a medium-term option

Source: Interagency Working Committee on County Own-Source Revenue Enhancement

3.4.5 Recommendations for enhancement of specific County revenue streams

Below are specific policy recommendations for the enhancement of different County revenue streams:

Revenue stream	Specific policy recommendations
Property-related revenue	• Develop a national integrated land registry that links the 58 County land registries • Digitize land titles and register untitled parcels • Develop a comprehensive national cadaster, to be regularly updated to include buildings and physical improvements • Introduce incentives that encourage registration of properties including agricultural land by reducing registration, survey and legal fees. Consideration could be given to make registration compulsory irrespective of the legal status (including informal settlements) • Introduce measures to audit new valuation rolls prepared by County Governments with oversight by the NLC in consultation with MoLPP • Ensure that all titled land is rateable in any form of rating that is appropriate for local economic status • Agricultural rental value form of rating needs to be updated and provision made for reviews and/or indexing in response to evolving use of rural land e.g. for tourism and ecotourism and conservancy • Regularly update development plans as well as base map cadastral plans so as to ensure all rateable properties are captured • Trading centre/market centres need to planned, surveyed and registered as a matter of urgency so as to have them rated • MoLPP and the procurement authority should develop standard evaluation criteria for use by County Governments in engaging professionals to prepare valuation rolls, as this will assist in quality assurance purposes • Oversight role by MoLPP should be anchored in law as a measure to ensure quality assurance through an appointed committee • Development of an appropriate fiscal cadaster based on the land cadaster (LAIS) but supplemented with detailed technical data on buildings, value zones, property values, and taxation records • Issuance of a valuation manual with detailed instructions for: single market valuation; using mass valuation instruments; defining value zones, and guiding revaluation of Area Fixed Asset Tax (AFAT) unit taxes. Additionally, migrating land subject to rent (leaseholds) to either AFAT or

Revenue stream	Specific policy recommendations
	value fixed tax (to mitigate low tax collection on leases which are charged per m^2 with no charge for improvements). • Adoption of Computer Aided Mass Valuation system (CAMA) or Automated Valuation Models (AVMs), which centralizes procedures and utilizes modern instruments like the digitized land records and the GIS mapping, supplemented with technical details from owners. CAMA models are well regulated and can handle information from computerized land cadasters and the GIS. CAMAs use the same information as single property valuation and can handle and combine various valuation methodologies, including market value, cost-based, and income-based valuations. CAMA system stores cadastral records, increases analytical capabilities, makes routine calculations, and produces reports including property records, assessment rolls, assessment notices, and tax bills. • Section 28 of the Land Act should be amended so that land rent is collected directly by County Governments, not the NLC. This will increase efficiency in revenue administration as all the revenues due to CG would be collected in one stop shop. There is also need to revise land rents to increase the revenue collected.
Business licensing	• **The Single Business Permit shall be maintained as the primary instrument for regulating and licensing businesses including professional services.** This requirement shall be anchored in an Act of Parliament. In addition, the SBP shall be anchored in County-specific trade licensing legislation and policy. In the event of any exception to this requirement (e.g. where a County intends to introduce a business license outside the SBP regime) then the procedure provided above for introduction of new taxes, fees or charges shall apply. Business permits regulate safety, structure and appearance of the business community. Implementation of the SBP, including licensing of professional services, shall be as set out in the Schedule, which County Governments are required to comply with. The Cabinet Secretary/National Treasury shall, in consultation with all relevant stakeholders, amend the Schedule through a gazette notice. The SBP is distinct from the liquor license.
Agricultural produce cess	• **County Governments wishing to impose cess should develop supportive legislative frameworks.** The legislative frameworks should clearly indicate that cess is meant for infrastructure development, and the percentage of cess collections to be ploughed back into sector(s) from which it is generated. In

Revenue stream	Specific policy recommendations
	general, this Policy discourages the imposition of cess except where its imposition: i) is applicable only to agricultural produce (including livestock and fisheries); ii) is done at source; and, iii) projected revenues exceed administration costs.
Tourism-related charges	• **Existing laws affecting the tourism sector need to be urgently aligned with the Constitution, especially those with implications for institutional mandates where imposition of levies are concerned.** Among County Governments, better harmonization is needed in terms of tourism-related fees and charges as this will reduce multiplicity of levies.
Outdoor advertising	• **Fees and charges levied by the Counties should not contravene Article 209(5) of the Constitution especially in mobile advertising.** There is need to differentiate between branding and mobile advertising. For instance, branded vehicles should not be charged advertising fees in more than one county for delivery. This should be treated differently with a trader doing business in more than one county with a branded vehicle. This would ensure that there is no multiplicity and duplication of charges.
Revenue from court fines	• **The Judiciary is in consultation with County Governments to formulate guidelines on how revenue from court fines will be handled in future.** It is expected that the guidelines will be in line with current legal regime.

CHAPTER 4: GOVERNANCE, ACCOUNTABILITY AND OVERSIGHT

4.1 Principles of good governance

The process of County revenue collection and management should reflect transparency, public participation, accountability and good governance. The Constitution lays down national values and principles of governance under Article 10(2), which include the rule of law, public participation, good governance, transparency, inclusiveness, accountability, integrity and sustainable development. The Constitution also requires all State organs as well as State and public officers to observe national values and principles in the formulation and implementation of public policy decisions. These national values and principles are also underscored in the PFM Act (2012), which establishes relevant institutions and assigns them responsibilities. Adherence to these values will result in:

- better understanding of revenue raising measures by ratepayers;
- reduced revenue leakages;
- improved control through better recording and reporting and voluntary compliance leading to increased OSR collection by Counties; and,
- more resources to the Counties to fund their priority projects and programmes.

To attain good governance, the roles of both levels of Government should be clearly defined, including offices mandated with revenue collection and management. Clarity of roles will help to eliminate multiplicity of fees and charges by both levels of Government as well as duplication of effort in County departments involved in revenue collection and administration. Further, clarification of roles will deter arbitrary application of revenue policies and abuse of executive powers. Where clarity is lacking, unbundling of the function in question should be undertaken, and where concurrence exists, a mechanism should be developed through an intergovernmental forum to assign regulatory and revenue raising responsibilities.

To promote accountability, County Governments should develop and issue guidelines on enforcement measures for revenue collection that are consistent with existing legal frameworks. Whenever there is a breach of these guidelines by offices mandated with revenue collection and management responsibility, County Governments should impose administrative sanctions. In cases of serious and persistent breach of these guidelines, including failure to comply with Article 207 of the Constitution and section 109 of the PFM Act, the relevant State and public officers shall notify the National Treasury and provisions of Article 225 shall apply. Further, County Governments shall seek to educate and inform taxpayers of their tax obligation to enhance compliance.

To achieve transparency, County Governments are required to involve the public in planning and oversight of revenue collection and management. Counties are also required to provide adequate feedback mechanisms once members of the public raise issues of concern. Information should be provided to the public in easily accessible media and through multiple channels. Further, Counties are required to disclose information and hold specific offices responsible for reporting within set timeliness to achieve transparency.

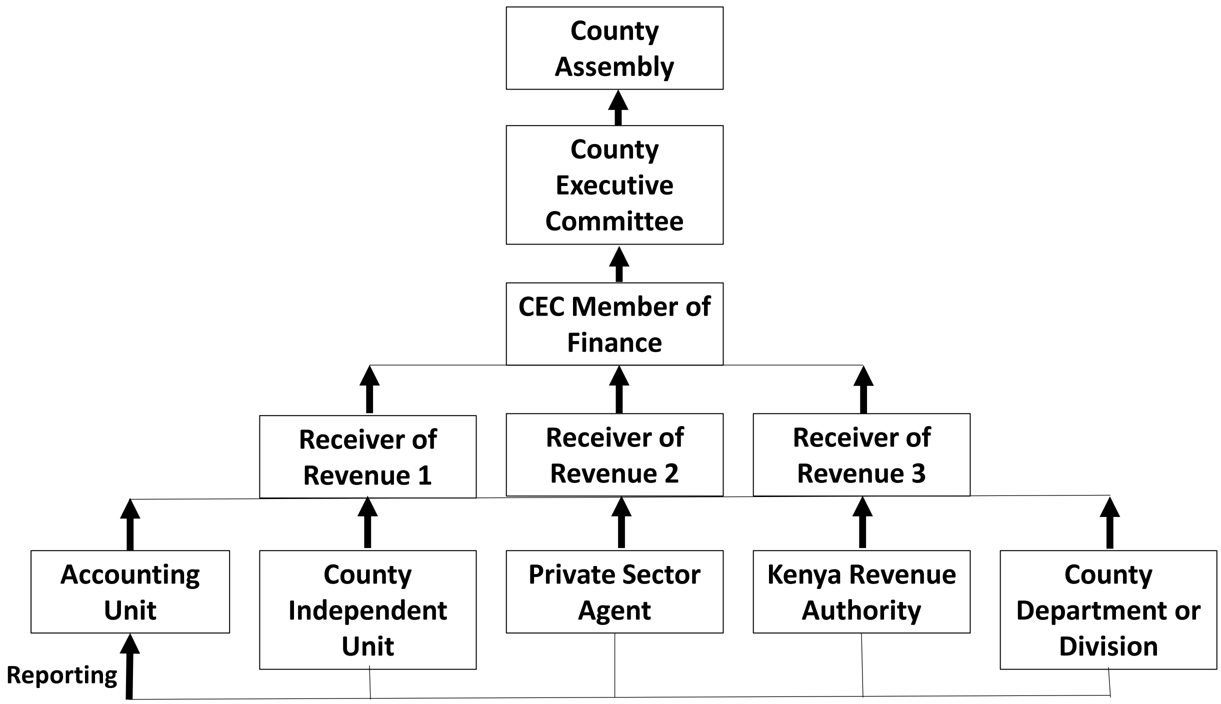
4.2 Strategies to improve governance in revenue administration

County Governments are required to designate Receivers of Revenue who shall be accountable to County Assemblies to ensure effective and efficient revenue collection and management. Section 104(d) of the PFM Act authorises County Treasuries to mobilise resources for funding the Counties' budgetary requirements, and to institute mechanisms to raise the necessary resources. Further, section 157 of the Act authorises the CEC Member for Finance to designate Receivers of County Revenue. A Receiver of Revenue may be responsible for more than one revenue stream. In order to achieve uniformity, the National Treasury in consultation with the CRA and the CoB shall issue guidelines on duties of Receivers of Revenue. Each County shall determine revenue streams to be administered under Article 209(3) of the Constitution. In addition, each revenue stream shall be supported by a primary County legislation, which should be aligned to the national policy and legislation. For every revenue stream, the CEC Member for Finance shall give revenue targets, which will be included in the annual Estimates of Revenue. The revenue targets will be developed using an objective forecasting criteria referred to earlier (***See section 3.4.2***).

For efficient functioning, the designated Receiver of Revenue is expected to have a fully-fledged accounting unit according to guidelines issued by the National Treasury. Responsibilities of the accounting unit will include preparation of monthly, quarterly and annual accounts. The Receiver of Revenue will also have a cash office to oversee day-to-day revenue collection, transmission of collections to the CRF, bank reconciliation and support other related functions. The Receiver of Revenue may appoint collectors of revenue, who will also report to the accounting unit. (***Figure 5***).

County Governments' revenue collection and management procedures and systems shall be regularly reviewed by internal audit departments and audit committees. This is in accordance with provisions of PFM Act 2012. The Auditor-General shall audit all County Government revenues. In addition, the CRA shall, when appropriate, define and enhance the revenue sources of the County Governments in accordance with Article 216(3)(b) of the Constitution.

Figure 5: County Governments' revenue administration structures



Source: Interagency Working Committee on County Own-Source Revenue Enhancement

In resolving revenue-related conflict, County Governments should take advantage of intergovernmental bodies and institutions as a first priority before resorting to the courts. In the event of disputes or lack of clarity on matters touching on revenue collection and management, the Counties are particularly encouraged to consult the Intergovernmental Budget and Economic Council (IBEC) on the basis of section 187 of the PFM Act. The Council of Governors (CoG), which is established under section 19 of the Intergovernmental Relations Act (2012) could also mediate on trade and revenue-related matters affecting two or more Counties.

County Governments are required to establish Municipal Boards and Town Committees where urban areas and cities meet thresholds provided for in the Urban Areas and Cities Act. As already discussed, urban areas and cities are economic growth centres, and if not adequately financed, achievement of national economic policy objectives may be jeopardized. An Act of Parliament shall compel the creation of the required urban and city structures. The Act of Parliament will also require County Governments to adequately resource the urban areas and cities through the financing framework provided for in the PFM Act (2012). Further, to incentivize better revenue collection and management by urban areas and cities, the National Government may provide a conditional or unconditional grant to the Counties.

4.3 Recommendations for enhancing compliance and enforcement

Below are recommended strategies to be followed by County Governments in enhancing compliance by rate payers, and addressing enforcement challenges:

a) To complement sanctions-based compliance mechanisms, **incentivize ratepayers by providing information** on 'easy-to-pay-options' such as mobile money, credit and debit cards, revenue collection agents and bank transfers. In addition, the 'easy-to-pay-options' shall provide ratepayers with information on clear payment due dates along with adequate time within which to pay and the possibility of paying in instalments.

b) Use of **alternative arbitration mechanisms to resolve tax-related disputes** between tax collection authorities and taxpayers. Alternative arbitration mechansims will ensure that the powers of the tax collection authority to enforce compliance are applied fairly to facilitate the collection of outstanding dues.

c) Entrench in law measures that require **twinning of tax compliance with certain County Government services**. Examples include tying issuance of the SBP to production by a business entity of a valid Tax Compliance Certificate (TCC); or, awarding procurement tenders only to firms with valid TCCs.

d) Integrate the National Government and the County Governments' tax revenue databases to enhance compliance and also monitor State officials enforcing revenue raising measures. Further to Article 189 of the Constitution, specific mechanisms shall be put in place to enable **cooperation between the two levels of Government on enforcement** of revenue raising measures is contemplated.

e) Regular accounting by County Governments to rate payers especially to **demonstrate linkage between revenue collected and public services delivered** to the lowest level of administration. Improvement in service delivery would act as an incentive to the taxpayers to comply.

f) Inclusion in County Governments' performance management contracts of aspects of compliance with existing OSR legislation. In addition, the Counties could put in place **appraisal performance systems with incentives to revenue administrators** for good performance.

g) Enhancement of the fiscal responsibility parameter within the **revenue sharing formula that incentivizes improved OSR performance** -- collection and management -- by County Governments.

h) Implementation by the National Government of **conditional or unconditional allocations intended to incentivize good OSR collection and management practices** by County Governments. This is consistent with Article 202(2) of the Constitution.

i) A mechanism shall be developed for **sharing fines collected by the Judiciary between the National and the County Governments**, as this will incentivize County officials to enforce collection of such revenue.

j) All revenue raising legislation should contain enforcement clauses empowering the Counties to charge and collect fines and penalties.

4.4 Effective public participation

The County Government shall develop a clear mechanism for receiving feedback from the public and providing information on the cycle of preparation of revenue raising measures. As already discussed, provision of information to the public will enable their active and effective participation in the formulation and monitoring of County revenue-raising measures. For this to happen, the Counties are required to provide structures for public participation in the preparation of revenue raising measure under existing legislation. A formal County public participation structure should be inclusive to allow equal opportunity to different citizen groups to participate. Moreover, public participation in County revenue-raising activities will help create awareness, enhance ownership and minimise resistance to imposition of taxes, fees and user charges. In turn, this will improve compliance.

4.5 Measures to promote transparency

Below are recommended strategies for enhancing transparency where County Governments' own-source revenue is concerned:

a) County Treasuries shall **continuously review the performance of revenue collection vis-à-vis targets** and shall include a status report in the Quarterly and Annual reports which shall be published in various media.
b) The standardised ICT-based system to be prescribed shall **provide real time revenue information** in a consistent manner to enable consolidation and analysis, as well as periodic reports for use by the National Treasury, the CoB, the CRA and the Office of the Auditor General, and also easily accessible by the general public.
c) County Governments shall **report on OSR in accordance with section 163 and 166 of the PFM Act (2012) and the PFM (County Governments) Regulations (2015)**. As mentioned earlier, the National Treasury shall issue guidelines on application of the Standard Charts of Accounts (SCoA) to ensure all Counties comply with financial reporting standards prescribed by Public Sector Accounting Standards Board (PSASB).
d) County Treasuries shall also **prepare consolidated annual revenue accounts and submit them to the Auditor-General** for audit in accordance with the PFM Act and the Public Audit Act; and,
e) The National Treasury shall **build capacity of both County Treasuries and revenue collecting departments**, so as to harmonize operations of the two units.

4.6 The oversight role of County Assemblies

County Assemblies have an important oversight role on matters to do with revenue collection and management, in addition to their legislative mandate. A number of Counties have not been able to enact crucial laws on revenue collection and administration. This has been mostly attributed to lack of a clear understanding of complementarity roles of the County Executive and the County Assembly. There are also instances where County Assemblies have developed and passed revenue-related legislative proposals with no inputs from County Executives; or, where County Executives initially prepared revenue forecasts which are later raised by County Assemblies. These situations have generated challenges and conflicts including delayed enactment of necessary revenue legislation. It is important for the both arms of Government at the County level to clearly understand the complementary nature of their distinct roles where matters of OSR are concerned. In general, County Executives are responsible for execution, while County Assemblies are responsible for legislating and providing oversight. County Assemblies are also required to develop clear rules of procedures on reviewing audited accounts on revenue for follow up on issues raised by the audit. County Assemblies shall establish clear rules of procedures on the receiving, considering and determining petitions by stakeholders and members of the public on revenue collection and management. Parliament through the Center for Parliamentary Studies and Training (CPST) shall provide capacity building to County Assemblies to strengthen their oversight role.

CHAPTER 5: IMPLEMENTATION PLAN FOR THE POLICY

5.1 Framework for Monitoring and Evaluation

This chapter contains a Monitoring and Evaluation (M&E) framework intended to measure the progress in implementation of this Policy. The framework (***Table 6***) reflects the Policy's two overarching objectives -- broadening County Governments' tax bases, and enhancing revenue administration capacity -- as well as objectively verifiable indicators (OVIs), means of verification and assumptions. It also shows the two intended outcomes against each objective together with planned activities (***Table 7***) which will help to realize the 7 outputs. It should be noted that the Policy's broader impact on the overall economy is to be monitored within the context of the National Integrated Monitoring and Evaluation System (NIMES).

5.2 Progress reports

The National Treasury shall prepare quarterly and annual M&E reports on implementation of the Policy. The Treasury shall also commission a midterm evaluation, to be conducted by an independent agency to measure outcomes and impacts of the Policy and inform its review. M&E studies are to be undertaken jointly with relevant stakeholders.

5.3 Feedback mechanisms and stakeholder consultation

The National Treasury shall hold a County own source revenue conference every two years. The purpose of the conference is to monitor progress in implementation of the Policy and receive feedback from County Governments and other stakeholders.

5.4 Timelines for reviewing the Policy

The Policy shall be operational for a period of ten years and shall be subjected to a midterm review after five years.

Table 6: Framework for Monitoring and Evaluation

Objective	Objectively Verifiable Indicators	Means of Verification	Assumptions
Goal: To support enhancement of County Governments' own source revenue	**G1:** Percentage increase in County Governments' OSR collection *(20% in 2 years; 35% in 5 years)*	**G1:** County Governments' quarterly and annual reports	Policy to support enhancement of own source revenue is adopted by National and County Governments
	G2: Percentage increase in Counties' fiscal effort (i.e. the proportion of revenue collected against fiscal capacity)	**G2:** Survey data by KNBS / NT	
Broadening County Governments' Tax Bases			
Outcome 1: County tax bases broadened	**1a:** % of new tax payers captured in the County's revenue collection system *(30% in 2 years; 50% in 5 years)*	**1a:** County Governments' quarterly and annual reports	The political and security situation remains stable allowing County-level activities to be carried out; and, no disruption due to political regime change at the Counties
	1b: % of County Governments that have mapped and assessed all key OSR streams *(in 3 years)*	**1b:** Survey data by KNBS / NT	
Output 1.1: National Framework Legislation to guide imposition of County taxes, fees and charges is in place	**1.1a:** A National Framework law is enacted by Parliament to regulate the process of introduction of taxes, fees and charges, as well as issuance of waivers and variations *(within 2 years).*	**1.1:** Parliamentary reports	Local political leaders support implementation of policy and related laws
	1.1b: A National law for property taxation is enacted (*within 2 years*).		
	1.1c: A National Framework law is enacted to define entertainment tax and regulate the gaming industry, including casinos (*within 2 years*).		
Output 1.2:County Governments enact principal laws to anchor their revenue measures in line with Article 210 of the Constitution	**1.2:** No of laws enacted by County Governments to guide property rates, entertainment, revenue administration and trade licensing; *(within 5 years)*	**1.2:** County Assemblies' reports	
Output 1.3: County Governments have approved a Tariffs and Pricing Policy as required under Section 120(1) of the County Governments Act of 2012.	**1.3:** No of County Governments with a pricing and tariff policy.	**1.3a:** Survey data by KNBS / NT	
		1.3b: County Assemblies' reports	
Output 1.4: Communities' awareness of their role as well	**1.4a:** % of people in communities have participated and contributed in discussions on revenue matters. *(50% within 2 years; 100% by year 5).*	**1.4:** Focus group discussions / survey data	

Objective	Objectively Verifiable Indicators	Means of Verification	Assumptions
as opportunities to hold Government to account on revenue matters	**1.4b:** % of County Governments that have fully complied with the public participation guidelines issued by the National Government	*(Annually; by National Treasury & KNBS)*	
Enhancing County Governments' Revenue Administrative Capacity			
Outcome 2: The capacity of County Governments to collect and manage revenue is enhanced	**1a:** % of County Governments using the prescribed automated OSR collection and management system *(50% within 2 years, 80% within 3 years and 100% within 5 years)*	**1a:** Reports of the Controller of Budget and the Auditor General	The political and security situation remains stable allowing County-level activities to be carried out
	1b: % of County Governments with an appropriate organisational structure as well as staff numbers and skills mix based on guidelines issued by respective CPSBs *(50% within 2 years and 80% within 4 years and 100% within 5 years)*	**1b:** Survey by KNBS / MoDP / NT	No disruption due to political regime change at the Counties
Output 2.1: County Governments' revenue potential is determined	**2.1:** % of County Governments whose revenue potential has been determined	**2.1:** Revenue potential study report	
Output 2.2: County Governments have established appropriate revenue forecasting mechanisms / tools	**2.2:** % of County Governments with appropriate revenue forecasting tools *(50% within year 2 and 100% in year 3)*	**2.2:** Survey data by KNBS / NT	
Output 2.3: County Governments have established appropriate institutional arrangement for revenue collection and management and staffed with adequate and skilled personnel	**2.3a:** % of County Governments with an organisational structure for collection and management of revenue that meets the prescribed standards *(within 2 years)*	**2.3:** Survey data by KNBS / NT / MoDP	
	2.3b: % of County Governments with adequate staff in terms of numbers and skill mix in line with the standards prescribed.		
	2.3c: % of County registries that are linked to the national land registry		
Output 2.4: County Governments have adopted a standardised ICT based system of collecting and managing revenue	**2.4a:** Guidelines on the standards of ICT based revenue collection and management system for use by County Governments are gazetted. *(Within year 1)*	**2.4:** Survey data by KNBS / NT	
	2.4b: % of County Governments using a standardised ICT based system for collecting and managing revenue		
	2.4c: % of land titles that are digitized		

Table 7: Planned activities to support realization of Policy outputs and outcomes

Output	Activities
Output 1.1: National Framework Legislation to guide imposition of County taxes, fees and charges is in place	**1.1.1** Constitute an interagency committee to draft the national framework law to guide process of introducing taxes, fees and charges
	1.1.2 Research and drafting of the law
	1.1.3 Conduct expert and peer review of the law
	1.1.4 Cabinet approval of the law
	1.1.5 Submission of the draft law to Parliament for approval
Output 1.2: County Governments enact principal laws to anchor their revenue measures in line with Article 210 of the Constitution	**1.2.1** Recruit TA to support Counties in the development of principal laws to anchor their revenue measures
	1.2.2 Research and drafting of the law
	1.2.3 Conduct expert and peer review of the law
	1.2.4 Approval by County Executive Committees and County Assemblies
Output 1.3: County Governments have approved a Tariffs and Pricing Policy as required under Section 120(1) of the County Governments Act of 2012	**1.3.1** Recruit TA to support Counties in the development of Tariffs and Pricing Policy
	1.3.2 County Governments prepare draft Tariffs and Pricing Policy
	1.3.3 Draft Tariffs and Pricing Policy is subjected to expert and public consultation
	1.3.4 Policy is approved by CEC
	1.3.5 Policy is submitted to County Assembly for approval.
Output 1.4: Communities' awareness of their role as well as opportunities to hold government to account on revenue matters	**1.4.1** Recruit TA to develop programmes and material for civic engagement
	1.4.2 Mount civic engagement forums (through public fora and media)
Output 2.1: Revenue potential of Counties has been established	**2.1.1** Recruit TA to collect and collate data to facilitate the computation of revenue potential.
Output 2.2: County Governments have established appropriate revenue forecasting mechanisms / tools	**2.2.1** Recruit TA to carry macroeconomic modelling with a view to establishing county revenue potential
	2.2.2 Conduct expert and peer review of the model
	2.2.3 Publish the revenue potential arising from the simulation in model
	2.2.4 Recruit TA to support Counties in the forecasting of revenue
	2.2.5 Training of County officials
Output 2.3: County Governments have established appropriate institutional arrangement for revenue collection and management and staffed with adequate and skilled personnel	**2.3.1** Recruit TA to develop guidelines on the organisational structure for collection and management of revenue
	2.3.2 Issue guidelines on the organizational structure for revenue collection and management of revenue
	2.3.3 County Executives develop organisational structures for revenue collection and management
	2.3.4 Subject the organisational structure to stakeholder validation
	2.3.5 County Public Service Boards approve the organisational structure
	2.3.6 Conduct capacity building of Counties in revenue collection and management, including policy on County OSR and related legislation
Output 2.4: County Governments have adopted a standardised ICT based system of collecting and managing revenue	**2.4.1** Recruit TA to develop guidelines on the County standardized ICT-based system for revenue collection and management
	2.4.2 Issuance of guidelines by the National Treasury
	2.4.3 Capacity building on use of the system

Annex 1: List of County Governments' Revenue Streams

A. <u>OWN-SOURCE REVENUE STREAMS</u>

1. Administrative services fees & charges
2. Advertisement fees
3. Agriculture
4. Application fees
5. Betting control
6. Business permits
7. Cesses
8. Natural resources, exploitation, environment & conservancy
9. Cultural & social services
10. AIA from devolved ministries
11. Donations
12. Extension of users
13. External services fees
14. Feeding program
15. Fines, penalties & forfeitures
16. Fund raising events
17. Housing
18. Impounding fees
19. Income from County entities
20. Infrastructure assets
21. Interest received
22. Lease / rental of County properties
23. Liquor licence fee
24. Livestock
25. Market & trade centre fee
26. Other education-related revenues
27. Other health & sanitation fees
28. Other local levies
29. Other miscellaneous revenues
30. Other property income
31. Other receipts not classified elsewhere
32. Other revenues from financial assets
33. Plan approval fees
34. Plot rents, rents & poll rates
35. Profits & dividends
36. Public health facility operations & services
37. Public works and roads
38. Receipts from incidental sales by non-market establishments
39. Receipts from mortgage account
40. Receipts from sale of incidental goods
41. Receipts from sales by non-market establishments
42. Receipts from voluntary transfers other than grants
43. Sale of tender documents
44. Sales of agricultural goods
45. Sales of County assets
46. Sales of market establishments
47. School fees
48. Sewerage administration
49. Slaughter houses administration
50. Social premises use charges
51. Sub County veterinary services
52. System required revenue accounts
53. Technical services fees
54. Trade & industry
55. Transfers from County entities
56. Transfers from reserve funds
57. Vehicle parking fees
58. Water supply administration
59. Weight & measures

B. <u>PROCEEDS FROM SALE OF ASSETS</u>

60. Disposal and sales of non-produced assets
61. Receipts from sale of: i) certified seeds and breeding stock; ii) buildings and inventories; iii) stocks and commodities; iv) strategic reserves stocks; v) vehicles and transport equipment; vi) plant machinery and equipment
62. Reimbursements (e.g. from insurance companies)

Source: Consolidated Financial Statements of County Governments

Annex 2: Status of County Governments' valuation rolls and rating legislation

County	No of valuation rolls	Form of rating used	Validity of valuation roll(s)	Rating Act passed?
Baringo	4	USV (*Unimproved Site Value i.e. valuation roll, except for gazetted forest and rural public land)*	Expired	Yes
Bomet	3	USV	Expired	
Bungoma	5	USV	Expired	Yes
Busia	4	USV	Expired	
Elgeyo Marakwet	3	USV	All valuation rolls have expired except Iten-Tambach, which expires in 2023	
Embu	3	USV except in Embu County Council, where flat rate is used	All valuation rolls have expired except Runyenjes Municipal Council, which expires in 2018	
Garissa	2	No valuation roll	Flat rates (No valuation roll)	
Homa Bay	3	USV	Expired	
Isiolo	1	USV	Expired	
Kajiado	1	USV	Expired	
Kakamega	4	USV	All valuation rolls have expired except Kakamega Municipal Council, which expires in 2017	
Kericho	5	USV	Expired	
Kiambu	8	USV	Expired	Yes
Kilifi	5	USV	All valuation rolls have expired except Town Council of Kilifi, which expires in 2020	Yes
Kirinyaga	3	USV	All valuation rolls have expired except Sagana Town Council, which expires in 2018	
Kisii	4	USV	Expired	
Kisumu	5	USV	Expired	
Kitui	3	USV except in Kitui County Council, where flat rate used	Expired	
Kwale	2	USV	Expired	
Laikipia	4	USV	Expired	
Lamu	1	USV	Expired	Yes
Machakos	3	USV except in Masaku County Council, where flat rate used	Expired	Yes
Makueni	2	Flat rate in both Makueni County Council & Mtito Andei Town Council	Flat rates (No valuation roll)	
Mandera	1	USV	Expired	
Marsabit	2	USV	Expired	
Meru	4	USV	All valuation rolls have expired except Meru and Maua Municipal Councils, which expire respectively, in 2020 and 2021	
Migori	2	USV	Expired	
Mombasa	1	USV	Expired	
Murang'a	3	USV	Expired	
Nairobi	1	USV	Earlier valuation rolls, which commenced in 1982 and 1992, went through various extensions, but are now expired since 2016	Yes
Nakuru	4	USV	Expired	Yes
Nandi	3	USV	Expired	

County	No of valuation rolls	Form of rating used	Validity of valuation roll(s)	Rating Act passed?
Narok	1	USV	Expired	
Nyamira	1	Flat rate	Flat rates (No valuation roll)	
Nyandarua	2	Flat rate	Flat rates (No valuation roll)	
Nyeri	4	USV	All valuation rolls have expired except Nyeri Municipal Council, which expires in 2022	
Samburu	1	USV	Expired	
Siaya	5	USV	Ukwala Town Council did not have a valuation roll. All others have expired.	
Taita Taveta	4	USV	Valuation roll for Taveta Town Council expires in 2019. All others have expired.	
Tana River	1	USV	Expired	
Tharaka Nithi	4	USV except in Chogoria Municipal Council, where flat rate is used	Expired	
Trans Nzoia	2	USV	Valuation roll for Kitale Municipal Council expires in 2017. The one for County Council of Nzoia has expired	
Turkana	1	USV	Expired	
Uasin Gishu	3	USV	Valuation roll for Wareng County Council expires in 2017. All others have expired.	
Vihiga	2	USV	Expired	
Wajir	1	USV	Expired	
West Pokot	2	USV	Expired	
Total	**133**			

Source of data: Ministry of Lands and Physical Planning

Notes:

1. *This table reflects status based on information available as at May 2017*
2. *Number of valuation rolls coincides with number of former LAs under each present-day County Government*
3. *The valuation rolls inherited from the defunct LAs expiry dates vary widely, with the oldest having expired in 1990*
4. *In cases where flat rates are applied, they are still valid and only subject to assessment in variation rates*

Annex 3: Schedule for Single Business Permit (SBP)

BRIMS CODE	CATEGORIES OF BUSINESS		1	2	3	4	5	6	7	8	9	10
100	**GENERAL TRADE, WHOLESALE, RETAIL, STORES, SHOPS, PERSONAL SERVICES** Such as: Distributors, traders, wholesalers, hypermarkets, department stores, supermarkets, show rooms, boutiques, retail shops & stores, chemists, take-away butcheries, personal service providers, kiosks	***Base value***	**250**	**300**	**350**	**400**	**500**	**600**	**700**	**850**	**1,000**	**1,200**
103	Mega store, hypermarket: Large multi-department store, hypermarket over 100 employees or premises over 3,000 square meters in prime location	60	15,000	18,000	21,000	24,000	30,000	36,000	42,000	51,000	60,000	72,000
105	Large trader, shop, retail store or personal service: From 21 to 100 employees and / or premises from 300 to 3,000 square meters in fair location	20	5,000	6,000	7,000	8,000	10,000	12,000	14,000	17,000	20,000	24,000
110	Medium trader, shop or retail service: From 5 to 20 employees and / or premises from 50 to 300 square meters. Fair location	10	2,500	3,000	3,500	4,000	5,000	6,000	7,000	8,500	10,000	12,000
115	Small trader, shop or retail service: Up to 4 employees and / or premises less than 50 square meters in faraway location.	5	1,250	1,500	1,750	2,000	2,500	3,000	3,500	4,250	5,000	6,000
120	Kiosk light or temporary construction: Less than 5 square meters	4	1,000	1,200	1,400	1,600	2,000	2,400	2,800	3,400	4,000	4,800
195	Other wholesale-retail traders, stores, shops and services	4	1,000	1,200	1,400	1,600	2,000	2,400	2,800	3,400	4,000	4,800
200	**INFORMAL SECTOR** Including: Hawkers, street vendors & small traders and service providers operating on the street, verandah or temporary building		**250**	**300**	**350**	**400**	**500**	**600**	**700**	**850**	**1,000**	**1,200**
205	Hawker with motor vehicle: 1 person with motor vehicle.	5	1,250	1,500	1,750	2,000	2,500	3,000	3,500	4,250	5,000	6,000
210	Hawker without motor vehicle: 1 person without motor vehicle.	4	1,000	1,200	1,400	1,600	2,000	2,400	2,800	3,400	4,000	4,800
215	Small informal sector trader / service provider: Shoeshine, shoe repair, street vendor (newspapers, sweets, soda, cigarettes).	2	500	600	700	800	1,000	1,200	1,400	1,700	2,000	2,400
220	Semi-permanent informal sector trader: Up to 2 persons operating in verandah or temporary building	3	750	900	1,050	1,200	1,500	1,800	2,100	2,550	3,000	3,600
295	Other informal sector operation	2	500	600	700	800	1,000	1,200	1,400	1,700	2,000	2,400
300	**TRANSPORT, STORAGE & COMMUNICATIONS** Such as: Maritime & air lines, international carriers, transportation cooperating taxis-matatus-buses-lorries-planes-boats. Driving schools, tour / safari operators. Petrol stations, storage facilities, cold storage facilities; publishing co., newspapers, books, texts – Telephone Co, radio / TV broadcaster, Internet provider	***Base value***	**250**	**300**	**350**	**400**	**500**	**600**	**700**	**850**	**1,000**	**1,200**
305	Large transportation company: Over 30 vehicles	80	20,000	24,000	28,000	32,000	40,000	48,000	56,000	68,000	80,000	96,000
310	Medium transport company: From 6 to 30 vehicles	30	7,500	9,000	10,500	12,000	15,000	18,000	21,000	25,500	30,000	36,000
315	Small transport company: From 2 to 5 vehicles	10	2,500	3,000	3,500	4,000	5,000	6,000	7,000	8,500	10,000	12,000
320	Independent transport operator: 1 vehicle	5	1,250	1,500	1,750	2,000	2,500	3,000	3,500	4,250	5,000	6,000
325	Large petrol filling station: Over 6 pumps or with garage-workshop & retail shop	20	5,000	6,000	7,000	8,000	10,000	12,000	14,000	17,000	20,000	24,000
330	Medium petrol filling station: From 4 to 6 pumps or with garage-workshop or retail shop	10	2,500	3,000	3,500	4,000	5,000	6,000	7,000	8,500	10,000	12,000
335	Small petrol filling station: Up to 3 pumps and without garage-workshop or retail shop	7	1,750	2,100	2,450	2,800	3,500	4,200	4,900	5,950	7,000	8,400
340	Large cold storage facility: Over 1,000 square meters, insulated walls, cold production equipment	55	13,750	16,500	19,250	22,000	27,500	33,000	38,500	46,750	55,000	66,000
345	Medium cold storage facility: Between 100-1,000 square meters	25	6,250	7,500	8,750	10,000	12,500	15,000	17,500	21,250	25,000	30,000

350	Small cold storage facility: Up to 100 square meters	12	3,000	3,600	4,200	4,800	6,000	7,200	8,400	10,200	12,000	14,400
355	Large storage facility: Over 5,000 square meters. Go-down, warehouse. Liquid storage tanks complex	50	12,500	15,000	17,500	20,000	25,000	30,000	35,000	42,500	50,000	60,000
360	Medium storage facility: From 1,000 to 5,000 square meters	20	5,000	6,000	7,000	8,000	10,000	12,000	14,000	17,000	20,000	24,000
365	Small Storage Facility: Up to 1,000 square meters	10	2,500	3,000	3,500	4,000	5,000	6,000	7,000	8,500	10,000	12,000
370	Large communications Co.: Over 100 employees and / or premises over 5,000 square meters	90	22,500	27,000	31,500	36,000	45,000	54,000	63,000	76,500	90,000	108,000
375	Medium communications Co.: From 16 to 100 employees and / or premises from 1,500 to 5,000 square meters	55	13,750	16,500	19,250	22,000	27,500	33,000	38,500	46,750	55,000	66,000
380	Small Communications Co.: Up to 15 employees and / or premises up to 1,500 square meters	30	7,500	9,000	10,500	12,000	15,000	18,000	21,000	25,500	30,000	36,000
395	Other transport, storage, and communications	7	1,750	2,100	2,450	2,800	3,500	4,200	4,900	5,950	7,000	8,400
400	**AGRICULTURE, FORESTRY & EXPLOITATION OF NATURAL RESOURCES** Such as: Production of coffee, tea, fruits, flowers, cereals, vegetables and horticultural products. Grain storage and processing, mills & posho mills, bakeries; forestry and timber production, sawmills, coal production; animal breeding, dairy products processing, slaughter houses. Mining and other natural resources extraction activities	***Base value***	**250**	**300**	**350**	**400**	**500**	**600**	**700**	**850**	**1,000**	**1,200**
405	Large agricultural producer / process or / dealer / exporter: Over 50 employees	65	16,250	19,500	22,750	26,000	32,500	39,000	45,500	55,250	65,000	78,000
410	Medium agricultural producer / process or / dealer / exporter: From 11 to 50 employees	25	6,250	7,500	8,750	10,000	12,500	15,000	17,500	21,250	25,000	30,000
415	Small agricultural producer/processor/dealer: Up to 10 employees	8	2,000	2,400	2,800	3,200	4,000	4,800	5,600	6,800	8,000	9,600
420	Large mining or natural resources extraction operation: Over 50 employees	80	20,000	24,000	28,000	32,000	40,000	48,000	56,000	68,000	80,000	96,000
425	Medium mining or natural resources extraction operation: From 4 to 50 employees.	45	11,250	13,500	15,750	18,000	22,500	27,000	31,500	38,250	45,000	54,000
430	Small mining or natural resources extraction operation: Up to 3 employees. Includes quarries & small mining operations	25	6,250	7,500	8,750	10,000	12,500	15,000	17,500	21,250	25,000	30,000
495	Other agricultural, forestry, and natural resources	8	2,000	2,400	2,800	3,200	4,000	4,800	5,600	6,800	8,000	9,600
500	**ACCOMODATION AND CATERING** Such as: International hotels, tourist camps, lodging houses, restaurants, bars, eating houses, tea & coffee houses. Butcheries with meat roasting &/or soup kitchen facilities. Membership clubs, night clubs & casinos	***Base value***	**250**	**300**	**350**	**400**	**500**	**600**	**700**	**850**	**1,000**	**1,200**
503	Large-high standard lodging house/hotel D class: Over 100 rooms	100	25,000	30,000	35,000	40,000	50,000	60,000	70,000	85,000	100,000	120,000
506	Medium-high standard lodging house / Hotel D class: From 41 to 100 rooms	70	17,500	21,000	24,500	28,000	35,000	42,000	49,000	59,500	70,000	84,000
509	Small-high standard lodging house/hotel D class: Up to 40 rooms	50	12,500	15,000	17,500	20,000	25,000	30,000	35,000	42,500	50,000	60,000
512	Large lodging house with restaurant and/ or bar B / C class: Basic standard over 15 rooms	45	11,250	13,500	15,750	18,000	22,500	27,000	31,500	38,250	45,000	54,000
515	Medium lodging house with restaurant and/ or bar B / C class: Basic standard from 6 to 15 rooms	35	8,750	10,500	12,250	14,000	17,500	21,000	24,500	29,750	35,000	42,000
518	Small lodging house with restaurant and/ or bar B / C class: Basic standard up to 5 rooms	25	6,250	7,500	8,750	10,000	12,500	15,000	17,500	21,250	25,000	30,000
521	Large lodging house B / C class: Basic standard over 15 rooms	40	10,000	12,000	14,000	16,000	20,000	24,000	28,000	34,000	40,000	48,000
524	Medium lodging house B / C class: Basic standard from 6 to 15 rooms	25	6,250	7,500	8,750	10,000	12,500	15,000	17,500	21,250	25,000	30,000
527	Small lodging house B/C Class: Basic standard up to 5 rooms	15	3,750	4,500	5,250	6,000	7,500	9,000	10,500	12,750	15,000	18,000
540	Large restaurant with bar/membership club: Capacity over 30 customers/members	30	7,500	9,000	10,500	12,000	15,000	18,000	21,000	25,500	30,000	36,000
543	Medium restaurant with bar/membership club: Capacity from 11 to 30 customers/members	15	3,750	4,500	5,250	6,000	7,500	9,000	10,500	12,750	15,000	18,000
546	Small restaurant with bar Up to 10 customers	10	2,500	3,000	3,500	4,000	5,000	6,000	7,000	8,500	10,000	12,000
549	Large eating house; snack bar; tea house "hotel": No lodging and no alcohol served with capacity over 20 customers	15	3,750	4,500	5,250	6,000	7,500	9,000	10,500	12,750	15,000	18,000

552	Medium eating house; snack bar; tea house "hotel": No lodging and no alcohol served with capacity from 6 to 20 customers	10	2,500	3,000	3,500	4,000	5,000	6,000	7,000	8,500	10,000	12,000
555	Small eating house; snack bar; tea house "hotel": No lodging and no alcohol served with capacity up to 5 customers	7	1,750	2,100	2,450	2,800	3,500	4,200	4,900	5,950	7,000	8,400
558	Butchery with roasted meat and / or soup kitchen: Any size	10	2,500	3,000	3,500	4,000	5,000	6,000	7,000	8,500	10,000	12,000
561	Large Bar/Traditional beer seller: Capacity over 50 customers	15	3,750	4,500	5,250	6,000	7,500	9,000	10,500	12,750	15,000	18,000
564	Medium bar/traditional beer seller: Capacity from 16 to 50 customers	12	3,000	3,600	4,200	4,800	6,000	7,200	8,400	10,200	12,000	14,400
567	Medium bar/traditional beer seller: Capacity up to 15 customers	8	2,000	2,400	2,800	3,200	4,000	4,800	5,600	6,800	8,000	9,600
571	Large night club / casino: Over 500 square meters	50	12,500	15,000	17,500	20,000	25,000	30,000	35,000	42,500	50,000	60,000
574	Medium night club/casino: From 101 to 500 square meters	30	7,500	9,000	10,500	12,000	15,000	18,000	21,000	25,500	30,000	36,000
577	Small night club/casino: Up to 100 square meters	20	5,000	6,000	7,000	8,000	10,000	12,000	14,000	17,000	20,000	24,000
595	Other catering and accommodation	7	1,750	2,100	2,450	2,800	3,500	4,200	4,900	5,950	7,000	8,400
600	**PROFESSIONAL AND TECHNICAL SERVICES** Such as: Firms and/or individual offering services on legal issues, financial, management, engineering, architecture, valuing, surveying, accountancy, secretarial support, data processing, etc.; stock & insurance brokering, security-protection, clearing-forwarding goods, book making, Kenya Sweepstakes Charity included. Banks, forex bureau money lenders; hire-purchase company; insurance company; real estate developing-financing company large profession.	***Base value***	**250**	**300**	**350**	**400**	**500**	**600**	**700**	**850**	**1,000**	**1,200**
605	Large professional services Firm: Over 10 practitioners and/or international affiliation	90	22,500	27,000	31,500	36,000	45,000	54,000	63,000	76,500	90,000	108,000
610	Medium professional services firm: From 3 to 10 practitioners	45	11,250	13,500	15,750	18,000	22,500	27,000	31,500	38,250	45,000	54,000
615	Small professional services firm: Up to 2 practitioners	20	5,000	6,000	7,000	8,000	10,000	12,000	14,000	17,000	20,000	24,000
620	Independent technical operator: One person acting individually (typist, accountant, bookkeeper, etc.)	7	1,750	2,100	2,450	2,800	3,500	4,200	4,900	5,950	7,000	8,400
625	Large financial services: Over 25 employees or premises over 300 square meters	95	23,750	28,500	33,250	38,000	47,500	57,000	66,500	80,750	95,000	114,000
630	Medium financial services: From 6 to 25 employees	65	16,250	19,500	22,750	26,000	32,500	39,000	45,500	55,250	65,000	78,000
635	Small financial services: Up to 5 employees	45	11,250	13,500	15,750	18,000	22,500	27,000	31,500	38,250	45,000	54,000
695	Other professional & technical services	7	1,750	2,100	2,450	2,800	3,500	4,200	4,900	5,950	7,000	8,400
700	**PRIVATE EDUCATION, HEALTH & ENTERTAINMENT SERVICES** Such as: Private education institutions, including universities, museums, nurseries, primary and secondary schools, professional training centers / polytechnic institutes. Private health clinics and doctor's surgeries; consulting offices of doctors, dentists, Physiotherapists, Psychologists & other health professionals. Herbalists and traditional medicine practitioners, funeral homes entertainment facilities including cinema, theatre, video show/amusement arcade, juke box arcade, games machines arcade/sports club, gym	***Base value***	**250**	**300**	**350**	**400**	**500**	**600**	**700**	**850**	**1,000**	**1,200**
705	Private higher education institution: Any type of private university, college or higher education institution	45	11,250	13,500	15,750	18,000	22,500	27,000	31,500	38,250	45,000	54,000
710	Large private education institution: Over 100 pupils or fees over KSh. 50,000 per year	30	7,500	9,000	10,500	12,000	15,000	18,000	21,000	25,500	30,000	36,000
715	Medium private education institution: From 31 to 100 pupils or fees from KSH 30,001 to KSh 50,000 per year.	15	3,750	4,500	5,250	6,000	7,500	9,000	10,500	12,750	15,000	18,000
720	Small private educational facility: Up to 30 pupils or fees up to KSh 30,000 per year.	10	2,500	3,000	3,500	4,000	5,000	6,000	7,000	8,500	10,000	12,000
725	Large private health facility: Hospital, clinic, nursing home (providing overnight accommodation with capacity over 30 beds), funeral home.	70	17,500	21,000	24,500	28,000	35,000	42,000	49,000	59,500	70,000	84,000
730	Medium private health facility: Providing overnight accommodation with capacity from 11 to 30 beds.	45	11,250	13,500	15,750	18,000	22,500	27,000	31,500	38,250	45,000	54,000

735	Small private health facility: Providing overnight accommodation with capacity up to 10 beds.	30	7,500	9,000	10,500	12,000	15,000	18,000	21,000	25,500	30,000	36,000
740	Health clinic/doctor's surgery: Doctor-dentist-physiotherapist-psychologist-etc. consult office with no overnight accommodation available.	10	2,500	3,000	3,500	4,000	5,000	6,000	7,000	8,500	10,000	12,000
745	Traditional health services, herbalist, traditional healer, etc.	8	2,000	2,400	2,800	3,200	4,000	4,800	5,600	6,800	8,000	9,600
750	Large entertainment facility: Cinema-theatre-video show (over 100 seats), amusement-juke box-games machines arcades (over 10 machines), sports club-gym (over 50 members).	45	11,250	13,500	15,750	18,000	22,500	27,000	31,500	38,250	45,000	54,000
755	Medium entertainment facility: From 50 to 100 seats; from 4 to 10 machines; from 16 to 50 members.	25	6,250	7,500	8,750	10,000	12,500	15,000	17,500	21,250	25,000	30,000
760	Small entertainment facility: Up to 50 seats; up to 3 machines; up to 15 members.	15	3,750	4,500	5,250	6,000	7,500	9,000	10,500	12,750	15,000	18,000
795	Other education, health, and entertainment services	8	2,000	2,400	2,800	3,200	4,000	4,800	5,600	6,800	8,000	9,600
800	**INDUSTRIAL PLANTS, FACTORIES, WORKSHOPS, CONTRACTORS** Such as: Manufacture, process and assembly of products, vehicles, machinery and equipment, and workshops servicing and repairing products, vehicles, machinery and equipment; contractors of new building construction and old buildings, restoration, and service-repair.	***Base value***	**250**	**300**	**350**	**400**	**500**	**600**	**700**	**850**	**1,000**	**1,200**
805	Large industrial plant: Over 75 employees or premises over 2,500 square meters.	100	25,000	30,000	35,000	40,000	50,000	60,000	70,000	85,000	100,000	120,000
810	Medium industrial plant: From 16 to 75 employees or premises from 100 square meters to 2,500 square meters.	70	17,500	21,000	24,500	28,000	35,000	42,000	49,000	59,500	70,000	84,000
815	Small industrial plant: Up to 15 employees or premises up to 100 square meters.	40	10,000	12,000	14,000	16,000	20,000	24,000	28,000	34,000	40,000	48,000
820	Large workshop/service-repair contractor: Over 20 employees or premises over 500 square meters.	50	12,500	15,000	17,500	20,000	25,000	30,000	35,000	42,500	50,000	60,000
825	Medium workshop / service-repair contractor: From 6 to 20 employees or premises from 5 square meters to 500 square meters.	20	5,000	6,000	7,000	8,000	10,000	12,000	14,000	17,000	20,000	24,000
830	Small workshop / service-repair contractor: Up to 5 employees or premises up to 25 square meters.	7	1,750	2,100	2,450	2,800	3,500	4,200	4,900	5,950	7,000	8,400
895	Other manufacturer, workshop, factory, contractor	7	1,750	2,100	2,450	2,800	3,500	4,200	4,900	5,950	7,000	8,400

Source: Local Government Act, Cap 265 (Revised 2010)

References

Bird, Richard M. 2001. "User Charges in Local Government Finance." *The Challenge of Urban Government*, 171–182.

International Monetary Fund (IMF). 2015. *Improving Property Rates within the Unfolding Fiscal Decentralization Framework in Kenya.* Fiscal Affairs Department (FAD). Report of the Technical Assistance Mission of August 18th – 31st, 2015.

International Monetary Fund (IMF). 2016. *Review of Draft National Policy and Legislation on Counties' Own Revenues*. Fiscal Affairs Department (FAD). Technical Assistance Report. December, 2016.

James, Simon, and Christopher Nobes. 1998. *The Economics of Taxation: Principles, Policy, and Practice. 1997/98*. 6th ed. London: Prentice Hall Europe.

Kenya Markets Trust (KMT), 2016. *Produce Cess and Other Market Charges in Kenya Agriculture*. Final Report Prepared by Bayesian Consulting Group Ltd.

Office of the Controller of Budget (CoB), 2015. *County Revenue Baseline Study, 2015*.

Transition Authority (TA), 2016. *Transition to Devolved System of Government in Kenya (2012 – 2016)*. The End-Term Report.