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KENYA BUDGET

Newsletter 01/2022

HIGHLIGHTS OF THE KENYA BUDGET 2022 – 2023

INSIDE

—

ECONOMIC POLICY

This newsletter highlights the economic policies in the 2022/2023 budget

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SECTORAL REFORMS

Key reforms to be implemented throughout the various sectors of the economy

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TAX POLICY MEASURES

Highlights of the major tax reforms proposed in the budget

BUDGET THEME: ACCELERATING ECONOMIC RECOVERY FOR IMPROVED LIVELIHOOD

This newsletter provides the key budget highlights as presented by the Cabinet Secretary for the National Treasury and Planning, Honorable Ukur Yatani delivered to the National Assembly on 7th April 2022. This year's budget was delivered 2 months earlier than usual owning to the forthcoming elections in August 2022 to allow the government sufficient time to pass the relevant policies before the eventual change in leadership.

TABLE OF CONTENTS

INTRODUCTION

The current budget of fiscal year 2022/2023 is being presented as the country grapples with various social, economic, and environmental challenges. The key concerns of the Kenyans remain:

- The high cost of living in the country
- The high level of unemployment among the youth
- Income inequality between the different strata of the Kenyan Society; and
- The huge public debt burden

Taking the above challenges into account, the policies outlined in this year's budget are geared towards returning the economy back on a more sustainable growth path for improved livelihood.

The budget is being prepared against a moderate global growth of 4.4% from a recovery of 5.9% in 2021.

Furthermore, there has been a significant decline in the level of tax expenditure from 5.17 percent of GDP in 2017 to 2.96 percent of GDP in 2020. To boost tax revenues, the government will thus have to continue to review existing tax expenditures.

The revenue projection including Appropriate-in-Aid and grants for the fiscal year 2022/2023 is KES 2.4 trillion equivalent to 17.5 percent of GDP.

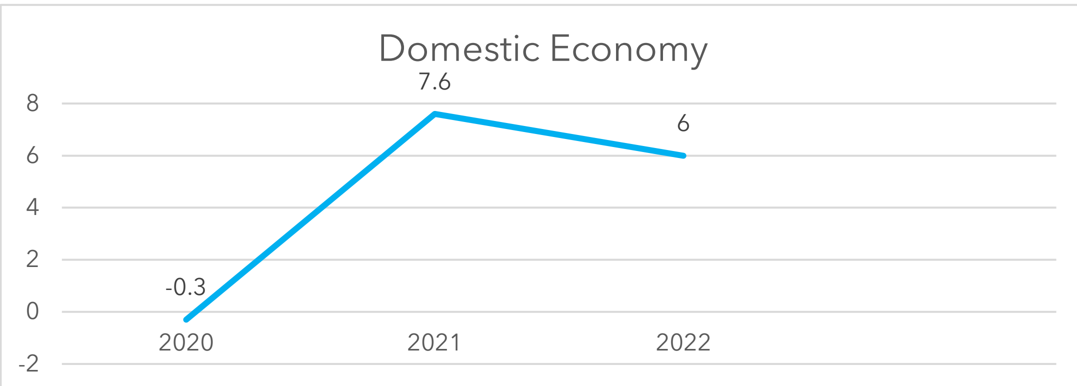
The total expenditure in the fiscal year 2022/2023 is projected at KES 3.3 trillion equivalent to 23.9 percent of GDP.

The fiscal deficit is thus projected to be KES 862.5 billion equivalent to 6.2 percent of GDP.

ECONOMIC POLICY

Domestic Economy

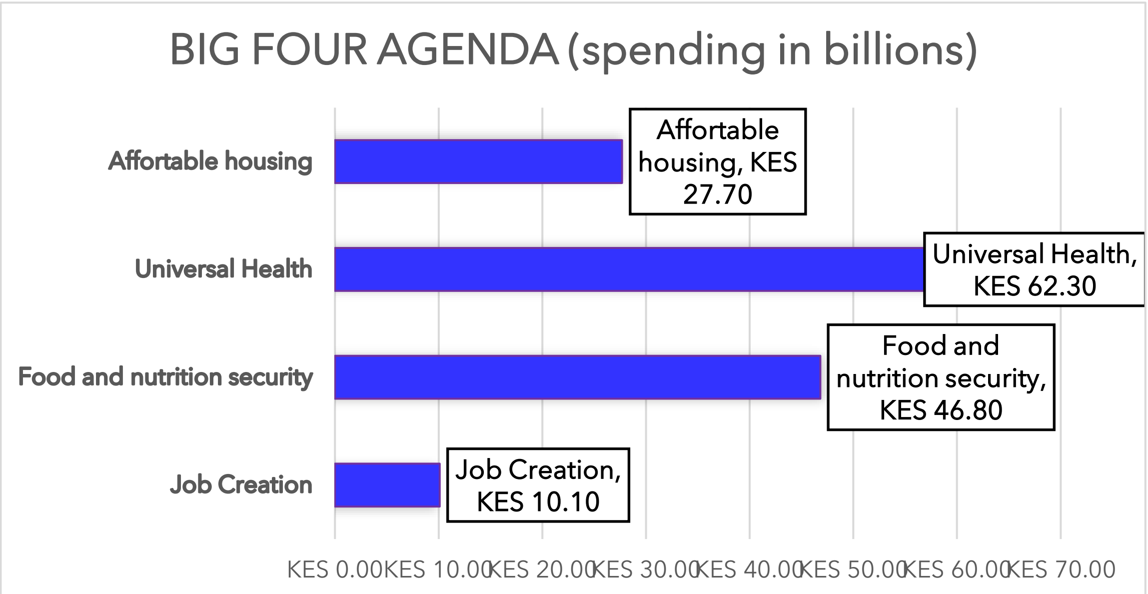
Kenya's economy demonstrated remarkable resilience to the Covid-19 pandemic as such the economy is estimated to have expanded by 7.6% in 2021, a much stronger level from the contraction of 0.3% in 2020, while in 2022 the economy is projected to stabilize at 6% supported by recovery in agriculture, industry, and services sectors.



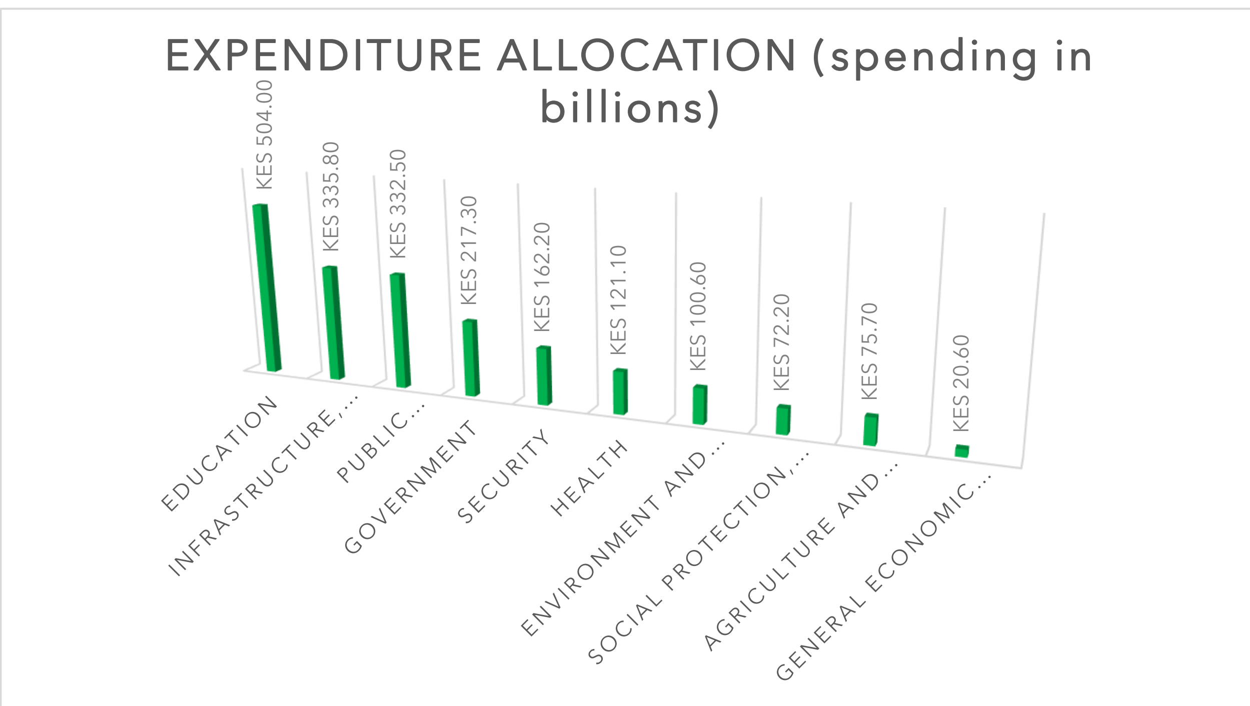
The economic outlook is projected to be affected by the re-emergence of Covid-19 variants, adverse weather conditions and the ongoing conflict in Eastern Europe which could reverse the projected economic recovery and affect global economic outlook through disruption of supply chains, rising global oil prices and increased inflationary pressures.

The government has projected the fiscal deficit to fall from the current KES 1.02 trillion to KES 862 million in financial year 2022/2023. The government will thus need to restrict additional recurrent spending at the same time increase efforts on revenue collection.

The government has allocated its budget to the below items to achieve its big four agenda:



Furthermore, the overall budget has been allocated as per below:



SECTORAL REFORMS

Procurement Reforms

- The government intents to purchase an end-to-end e-government procurement system whose pilot phase will commence in July 2022 with a target date for full role out to all ministries, Departments and Agencies in January 2023.
- The enactment of the Public Procurement and Asset (Amendment) Bill which provides for multiple awards where several bidders can be awarded the same contract. Once enacted it will hasten the delivery of services and support local firms particularly in specialized areas like pharmaceuticals, supply of foodstuffs and commodity markets.
- Re-engineering the Access to Government Procurement Opportunities (AGPO) portal to enable real-time registration and monitoring and linkage to government institutions to facilitate faster verification and reporting thereby empowering SMEs owned by women, youths and persons with disabilities

State Corporation Reforms

- Comprehensive assessment of vulnerabilities in state-owned enterprises (SOE) through enhancement of the operational and financial efficiencies of SOE's by implementing a blueprint on governance reforms, fast track of Government Investment Management Information Systems (GIMIS) and extend coverage of financial evaluations to other SOE's to anticipate, quantify, monitor, manage and mitigate fiscal risks.
- Restructuring of Kenya Airways to adapt to the challenges facing the aviation industry by requiring the corporation to:
  - Trim its network
  - Rationalize frequencies of flights
  - Operate a smaller fleet; and
  - Rationalize its staff complement
- Support Kenya Power and Lighting Company Limited (KPLC) to increase its efficiency while sustaining systematic reduction in tariff to electricity users.

Credit Support to Micro, Small and Medium Enterprises

- The government will bring in additional participating financial intermediaries to enhance coverage of the Credit Guarantee Scheme and seek support from development partners to increase the scheme's capital from the current KES 4 billion to KES 10 Billion over the medium term.

Capital Markets Developments

- The Cabinet Secretary has proposed to amend the Capital Markets Act to expand the spectrum of persons who can act as investment advisors. This will allow single director companies and partnerships to be licensed as investment advisors.

Pension Reforms

- The national treasury will roll out the re-engineered pension management system to offer end-to-end Enterprise Resource Planning solutions in the management and processing of pension benefits.

- The Cabinet Secretary has proposed to amend the Retirements Benefits Investment Guidelines to include unlisted Real Estate Investments Trusts incorporated in Kenya that are approved by the Capital Markets Authority.

Insurance Reforms

- The Cabinet Secretary has proposed to amend the Insurance Regulations to require motorcycles and three wheelers used by fare paying passengers to take insurance for their passengers to cater for any treatment in case of injuries and compensation in case of death or any other damages caused by an accident involving motorcycles and three wheelers.

Unclaimed Financial Assets

- The Cabinet Secretary has proposed to amend the Unclaimed Financial Assets Act to provide for waiver of penalties, fines, and audit fees in justifiable circumstances as well as to cap accumulation of penalties and interest to the value of the asset. Furthermore, he has proposed to introduce 12-month voluntary disclosure program to grant reliefs of penalties on the unclaimed financial assets declared and delivered in the next 12 months under the program to encourage reporting and recovery of identified assets by the Unclaimed Financial Assets Authority.

Enhancement of County Governments' Own Revenue

- The National Treasury has submitted the County Governments (Revenue Raising Process) Bill to regulate the way Counties introduce or vary fees and charges to address the problem of multiplicity of fees and charges within and across counties in line with Article 209 (5) of the constitution.
- Development of the National Rating Bill 2022 by the National Treasury in collaboration with the Ministry of Lands and Physical Planning, Council of Governors, and other stakeholders to replace the outdated Valuation for Rating Act (Cap 266) and Rating Act (Cap 267) to improve the County Government Own Source Revenue Policy.

TAX POLICY MEASURES

The Cabinet Secretary introduced the below tax policy measures for the fiscal year 2022/2023 which will be contained in the Finance Bill, 2022. The proposed measures are expected to generate an additional revenue of KES 50.4 billion to the exchequer for the 2022/2023 budget.

Value Added Tax (VAT)

The Cabinet Secretary has proposed the following amendment under the Value Added Tax (VAT) Act:

- Plant and Machinery for use by manufacturers of pharmaceutical products to be exempt from VAT.
- Medical oxygen supplied to registered hospitals, urine bags, adult diapers, artificial breasts and colostomy or ileostomy bags for medical use to be exempt from VAT
- Inputs and Raw materials used in the manufacture of passengers motor vehicles to be exempt from VAT
- Locally manufactured passenger motor vehicles to be exempt from VAT

Income Tax Act (ITA)

The Cabinet Secretary has proposed the following amendment under the Income Tax Act:

- Donations made by all entities to all registered and unregistered charitable organizations to be deductible from their taxable income
- Gains from transactions made on financial derivatives in Kenya by non-residents to be taxed on the non-residents.
- Exemption of Microfinance institutions licensed under the Microfinance Act from the interest restrictions rule of the ITA based on ratio of earning before interest, taxes and depreciation and amortization.
- Requirement of Multinational enterprises which have operations in Kenya to report their activities within Kenya and in other jurisdictions to the Commissioner General, KRA to facilitate Kenya to exchange information on tax matters with tax jurisdictions that are members of the Global Forum on Transparency and Exchange of Information on Tax Matters. Kenya became a member of the forum after it ratified and deposited the Multilateral Convention for Mutual Administrative Assistance in Tax Matter (MAC) to the forum in July 2020.

Excise Duties Act

The Cabinet Secretary has proposed the following amendment under the Excise Duty Act:

- The Commissioner General (CG) to be empowered to exclude certain products from the excise duty adjustment keeping in mind the potential adverse impact of inflationary adjustments on these products.
- Exemption of eggs for hatching imported by licensed hatcheries upon recommendation by the responsible Cabinet Secretary from excise duty
- Exemption of neutral spirit used by registered pharmaceutical manufacturers upon approval by the Commissioner General of KRA from excise duty
- Exemption of locally manufactured passenger motor vehicles from excise duty
- Introduction of excise duty of 15% on fees charged by all television stations, print media, billboards, and radio stations for advertisement of gambling, gaming, betting, and alcoholic beverages.
- Change in charge of excise duty from the current shillings per Kg to an excise duty of KES 70 per milliliter of liquid nicotine.
- 10 percent increase in Excise duty for several products excluding petroleum products

Miscellaneous Fees And Levies Act

The Cabinet Secretary has proposed the following amendment under the Miscellaneous Fees and Levies Act:

- Exemption from Import Declaration Fees and Railway Development Levy for inputs and raw materials imported by manufacturers of pharmaceutical products.
- Reduction of export levy on the raw hides and skins from 80 percent or USD 0.5 per Kilogram to 50 percent or USD 0.32 Per Kilogram.

Kenya Revenue Authority Act

- The Cabinet Secretary proposed to amend the Kenya Revenue Authority Act to change the name of the Authority from ‘Kenya Revenue Authority’ to ‘Kenya Revenue Service’ to rebrand the Authority and transform its public image thus enhance tax compliance through improved public relations and maintenance of a clear focus on taxpayers’ needs.

Tax Appeals Tribunal (TAT) Act

- The Cabinet Secretary proposed to amend the Tax Appeals Tribunal Act, 2013 to require a deposit of 50 percent of the disputed tax revenue in a special account at the Central Bank of Kenya when the Tribunal makes a ruling in favor of the Commissioner General KRA as the taxpayer proceeds to appeal the decision. In case the taxpayer receives a judgement in his or her favor on final determination of the matter, the deposit shall be refunded to the taxpayer within 30 days after the final determination of the matter by the Courts.

Tax Procedures Act

- Adding to the already existing law in the Act that empowers the Commissioner General of KRA to issue direction to the Land Registrar to put a caveat on land or restriction on transaction for taxpayers with tax arrears, the Cabinet Secretary proposed to amend the Tax Procedures Act to require registrars of ships, aircrafts, motor vehicles and any other properties that may be used as security for unpaid taxes to restrict disposal or transaction of these assets upon receipt of direction from the Commissioner.
- The Cabinet Secretary further proposes to amend the Act to require the Commissioner to issue a decision on objection by a taxpayer within one cycle of 60 days from the date of receiving a valid objection by a taxpayer

Statutory Instruments Act

- The Cabinet Secretary proposed to amend the Statutory Instruments Act to exempt tax related regulations under various tax laws from automatic expiry after 10 years from the date of their publication

Custom Duties

- The government has evaluated various proposals which it intends to submit for consideration during the EAC Pre-budget consultations, by the EAC Ministers For Finance, which will be held later in May this year.
- The measures are generally meant to promote manufacturing sector and enhance our exports by making inputs and raw materials used in the manufacture of goods more affordable, hence lowering cost of production.
- These measures will enhance competitiveness of locally manufactured goods through protection from unfair competition by imported goods.
- The measures that will be agreed upon will be communicated through the EAC Gazette and implemented from 1st July this year.

DISCLAIMER

Our newsletter highlights the main aspects of The Kenya Budget 2022/2023 that was presented on 7th April 2022 to the National Assembly (Parliament). The information contained in this review has been compiled from the budget and while all reasonable attempts have been made to ensure that the information contained herein is accurate, Moore JVB LLP accepts no responsibility for any errors or omissions it contains whether caused by negligence or otherwise. The review contains general information only and it is neither intended to be a comprehensive publication nor provides specific advice. This review should not be relied on solely, and we advise you seek appropriate professional advice before making any decision.