INCLUSIVE GROWTH THROUGH EQUITABLE TAXATION

AN ANALYSIS OF MOMBASA COUNTY'S POLICIES AND BUDGETS 2020/21 TO 2022/23

JOSEPHINE NYAMAI WARUNGE

FORWARD

The Mombasa County government's tax policies and legal framework play a crucial role in shaping the county's fiscal landscape and its ability to foster inclusive economic growth. This comprehensive analysis of Mombasa County's tax policies, as reflected through its legislative framework, has been made possible through the support of the Institute of Economic Affairs Kenya and The William & Flora Hewlett Foundation under the Wajibika Project, implemented by Kwacha Afrika.

Kwacha Afrika's zeal and pro-activeness in advocating for evidence-based tax reforms in Mombasa County have been instrumental in bringing this important issue to the forefront. The analysis presented in this report has been further enriched by the valuable insights and expertise provided **by Ms Josephine Nyamai Warunge,** a public finance and devolved governance expert, the lead coordinator, of the Coast regional Budget Hub, and the co-founder of Budget Talk Global (BTG), an initiative working towards inclusive public budgets through tech-driven and innovative solutions for sustainable livelihoods.

The findings of this report reveal a complex narrative about Mombasa County's approach to taxation and fiscal management. While the county's legislative efforts aim to establish a robust mechanism for revenue generation and economic development, the analysis uncovers several challenges affecting the coherence, equity, and effectiveness of the tax policy framework.

The recommendations outlined in this report provide a roadmap for Mombasa County to enhance the alignment and synergy among its various tax-related statutes, administrative procedures, and enforcement mechanisms. By addressing the identified gaps and implementing the proposed measures, the county can work towards a more coherent, equitable, and effective fiscal environment that supports sustainable economic growth and the delivery of essential services to its residents.

The support of the Institute of Economic Affairs Kenya, The William & Flora Hewlett Foundation, and the dedication of Kwacha Afrika have been instrumental in shaping this comprehensive analysis. We are grateful for their commitment to advocating for evidence-based tax reforms and their contribution to strengthening Mombasa County's fiscal governance.

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INCLUSIVE GROWTH THROUGH EQUITABLE TAXATION: AN ANALYSIS OF MOMBASA COUNTY'S TAX POLICIES AND BUDGETS 2020/21 TO 2022/23.

1.0. Introduction

In the intricate tapestry of Kenya's constitutional framework, the importance of counties having a reliable and autonomous funding source is a linchpin for effective governance. Article 175 of the Constitution of Kenya (2010) underscores the pivotal role of financial sustenance in empowering counties to discharge their constitutionally assigned functions and provide essential services to their constituents.

As delineated in Schedule IV of the Constitution of Kenya, 2010, the allocation of responsibilities between county and national governments forms a cornerstone in defining the functions each level of governance is entrusted with. For counties to execute these functions seamlessly and sustain their day-to-day operations, an adequate and predictable source of resources becomes paramount. Article 202 of the Constitution further solidifies the financial landscape, earmarking a share of nationally raised revenue for counties. Complemented by conditional grants, this allocation represents a commitment to equitably distribute resources, acknowledging the diverse needs of the various counties.

Moreover, the constitutional provisions within Article 209 (3), (4), and (5) empower counties with the authority to generate revenue autonomously. Through mechanisms such as property rates, entertainment taxes, and service fees, counties have the means to augment their fiscal base. However, this autonomy comes with a crucial caveat — counties must navigate these revenue-raising avenues judiciously, ensuring alignment with national policies and avoiding any contradiction that might impede broader economic strategies. This intricate balance, as enshrined in the constitutional fabric of Kenya, seeks to empower counties with financial autonomy while ensuring coherence with national fiscal objectives.

Against the above backdrop, Kwacha Africa initiated a comprehensive study examining Mombasa County's tax policies. This study evaluates the county's local revenue to pinpoint inconsistencies and gaps within Mombasa County's tax system. A comprehensive analysis of Mombasa County budgets and tax policies over the past three financial years (2020/2021, 2021/2022, 2022/2023) will focus on identifying key gaps and inconsistencies within the county's taxation systems. This examination aims to provide a detailed understanding of the fiscal landscape and potential areas for improvement. Further, the study aims to assess the extent to which the current tax policies are inclusive and equitable.

1.1. The objectives of the study

The overall objective of the study was to conduct a comprehensive evaluation of Mombasa County's local revenue systems by analyzing tax policies and budget allocations for the fiscal years 2020/2021, 2021/2022, and 2022/2023. The analysis aimed to identify and address inconsistencies and gaps within the county's tax system, with a particular focus on understanding the fiscal landscape, improving revenue management practices, and assessing the inclusivity and equity of current tax policies. In particular, the study addressed the following objectives:

1. Conduct a review and analysis of Mombasa County tax policies and identify and analyze key inconsistencies and gaps in the current tax system that may hinder equity and inclusiveness, among women, PWDs and youths.
2. Analyse Mombasa County Expenditure and revenues between 2020/21 and 2022/23, with a keen focus on the source of revenue.
3. Develop targeted recommendations to reform the tax policies and practices that prioritize fairness, inclusivity, and the socio-economic well-being of all county residents, with a focus on youth, women and PWDs.

2.0. Methodology

This study utilized a comprehensive desktop research methodology to explore the intricacies of tax policies within Mombasa County, and their implications for equitable and inclusive growth. The research was designed to understand the legislative and fiscal frameworks guiding the county's tax system, focusing on the equity of tax distribution and its impact on various demographic groups, including women, persons with disabilities (PWDs), and the youth. In particular, the existing tax policies and laws, such as *the Mombasa County Revenue Administration Act, 2013, The County Trade Licensing Act, 2014, The Mombasa County Outdoor Advertising Act, 2016, The Mombasa County Water and Sewage Services Act, 2016, The Mombasa County Liquor Licensing Act, 2014, The Mombasa County Rating Act, 2014, and other relevant laws.* To analyse the Mombasa County Budget expenditure and revenues, the study analyzed the County Budget Review and Outlook Paper, 2021, 2022 and 2023, the controller of Budget Implementation Reports, 2020/21, 2021/22 and 2022/23 and other relevant documents.

3.0. Findings

3.1. Policy And Legal Framework on Taxation in Mombasa County

Mombasa County's tax system is guided by key statutes overseeing fiscal matters. Enacted by the county government, these laws aim to implement Article 209(3) and (4) of the Kenyan Constitution of 2010, with many adapted from pre-devolution laws such as Local Government Authority Cap 265, sections 216 and 217, Valuation for Rating Act (Cap 266), and the Rating Act (Cap 267) of 1963. The following section explores legislation introduced by the county government of Mombasa post-devolution.

While these provisions grant significant autonomy, they also necessitate a balance to ensure alignment with national economic policies and the promotion of equitable growth. This section of the study will evaluate the existing legal and policy frameworks for Mombasa County. The findings in this session helped provide recommendations for refining the tax policies to better foster inclusivity and equitable development across Mombasa County, ensuring that tax policies do not disproportionately impact vulnerable populations.

3.1.1. The Mombasa County Revenue Administration Act (2013)

The Act is a foundational piece of legislation designed for the general administration of specific taxation laws and other revenue-raising statutes. However, the Act does not explicitly delineate the specific taxation laws under its authority.[1]

The Mombasa County Revenue Administration Act categorizes revenue laws as those stipulated by the Act itself, the Mombasa County Rating Transition Act of 2013, the Mombasa County Trade License Transition Act of 2013, any legislation addressing the county's annual finances, acts imposing entertainment taxes, any tax payable to the County Government of Mombasa, or any other law or act defining payments of fees or charges to the county government. Part 2 of the Act addresses the administration of revenue laws, delineating revenue collectors' roles, powers, and responsibilities. Meanwhile, Part 3 outlines the provisions for maintaining records and information about revenue payers within the county. The review identified as critical its lack of specificity regarding the taxation laws under its jurisdiction, leading to potential ambiguities in tax administration and enforcement.

3.1.2. The Mombasa County Rating Act (2014)

The Act establishes the legal basis for imposing rates on land and buildings within the county. Property rates are a tax determined by property value, encompassing the land and structures. Typically, a rating authority, with assistance from a valuer, assesses and establishes these rates.[2] The Rating Act borrows a lot from the Valuation for Rating Act (Cap266) and the Rating Act (Cap 267) of 1963 thus a higher chance that even the weaknesses in the pre-devolution era were carried forward.

The Rating Act (Cap 266) and Valuation for Rating Act (Cap 267), according to the report on Lands Committee on National Rating Bill, 2022, lacked adequate legislation to implement procedures in remission, waivers, discounts, and exemptions. Further, the committee report found out that the Rating and valuation laws that existed pre-devolution provided only for an Unimproved Site Value rating.2

The Auditor General's Reports for 2018/19 and 2019/20 highlight that the county utilized outdated valuation rolls based on the new subdivision, resulting in the inability to identify 4,000 plot owners. The utilization of outdated valuation rolls, as highlighted by the Auditor General's Reports, results in inequitable tax burdens and the inability to accurately identify property owners for tax purposes. A valuation roll is a record of properties subject to taxation, indicating the property owners, their addresses, land details, tenure, acreage, and assigned values within the authority of the rating authority. This role is the foundation for calculating property rates, with the given property value influencing the owner's payable rates. Further to the challenge of using outdated valuation rolls, communal land ownership and unregistered properties add complexity to the rating process, indicating a necessity for regulatory adjustments to align with current standards.[3]

3.1.3. The Mombasa County Trade Act (2014)

The Act is centered on the issuance of trade licenses and the regulation of diverse business activities. The act defines "business" as any profession, trade, or occupation. Challenges arise in the potential for double taxation due to the Local Government Act, Cap 265, which consolidates business permits for a class of activities. This highlights the need to define and operationalize the term "single permit" to mitigate the risk of double taxation. Furthermore, the act does not explicitly distinguish between single and consolidated business permits.

Mombasa County has faced litigation from professional organizations, such as the Kenya Association of Private Hospitals (KAPH), challenging the imposition of single and business trade licenses to private hospitals in Mombasa.[4]

3.1.4. The Mombasa County Tax Waiver and Variation Act (2017)

The Mombasa County Tax Waiver and Variation Act, 2017 takes a focused approach, regulating the process of granting waivers and variations of taxes. Aligned with the Constitution of Kenya, 2010, and the Public Finance Management Act (PFMA), 2012, this Act defines a tax waiver, encompassing forbearance of tax collection, remission, spreading out payments, and variations in amounts due to the County Government. Regulating the granting of tax waivers and variations, this Act lacks transparent criteria for decision-making, which could lead to inconsistencies and perceived unfairness in the tax relief process.

3.1.5. Mombasa County Outdoor Advertisement Act (2016)

Before devolution, Local Authorities (LAs) were empowered to regulate the display, use, movement, and distribution of advertising materials as outlined in the Local Government Act (LGA), Cap 265, section 162. Post-devolution, the Constitution of Kenya, Schedule IV, Part 2 designates counties with the responsibility to control outdoor advertising.

To this end, the Mombasa County Outdoor Advertisement Act, 2016 is dedicated to the regulation and management of outdoor advertising within the county. Its comprehensive definition of "advertisement device" encompasses various elements, including boards, screens, signs, banners, digital displays, and vehicles. There remains a clear distinction between the national government and counties over who should regulate advertisement and how. There's a need for clearer regulatory roles between the national government and counties, as well as alignment with changes in national laws or constitutional provisions.

3.1.6. Finance Acts

Sections 132 and 133 of the Public Finance Management Act, 2012 provide information on revenue-raising measures through the Finance Bill/Act. Annually, the County Executive member for finance, with the County Executive Committee's approval, is required to announce revenue-raising measures for the county government. Simultaneously, on the same date of the announcement, the County Executive Committee member for finance must submit the County

Finance Bill detailing the revenue-raising measures and provide a policy statement explaining these measures to the County Assembly.[5] The Finance Act ideally serves as a tool to help a county identify new revenue streams and enhance existing revenue laws. It should provide a framework for creating a robust and adaptable fiscal environment, facilitating the identification of innovative revenue sources while fortifying the legal infrastructure governing revenue generation.

According to the PFM Act,2012, section 132 (3), any recommendations made by the relevant committee on revenue matters, ought to consider the following:

(a) ***Alignment with Fiscal Framework:*** *Ensure that the total revenue generated is per the approved fiscal framework and the County Allocation of Revenue Act. This ensures financial consistency and adherence to established guidelines.*

(b) ***Principles of Equity, Certainty, and Ease of Collection****: Incorporate principles of equity to promote fairness, certainty for predictability, and ease of collection to facilitate efficient revenue collection processes.*

(c) ***Assessment of Tax Composition:*** *Evaluate the impact of proposed changes on the composition of tax revenue. Consider both direct and indirect taxes, maintaining a balanced and sustainable mix to meet the diverse needs of the community.*

(d) ***Monitoring Tax Trends****: Consider domestic, regional, and international tax trends. Staying informed about evolving tax landscapes helps to craft relevant and competitive measures.*

(e) ***Economic Impact Assessment****: Consider the broader implications on development, investment, employment, and economic growth. Revenue-raising measures should be conducive to fostering positive economic outcomes and sustainable development.*

(f) ***Compliance with Agreements:*** *Factor in taxation and tariff agreements and obligations that Kenya has ratified. This includes considerations under the East African Community Treaty and other international commitments. Ensuring compliance with agreements contributes to a harmonized and cooperative economic environment.*

The Mombasa County Finance Act of 2020, 2021, and 2022 establishes fees, charges, levies, taxes, and penalties within the jurisdiction of the county government of Mombasa. The Acts serve to amend relevant county legislation and address related matters.

The Acts define business as trade, commerce or manufacture, profession, vocation, or occupation, or any other activity carried on by a person continuously or regularly, whether for gain /profit and which involves in part or in whole the supply of Goods or services for consideration. Whereas the Finance Acts for the respective years are meant to modify the existing legislation, gaps still exist as some of the policies enacted were carried forward from the previous defunct local administration, which also had some gaps.

There were no justifications found to have informed the criterion for the rates, levies, and charges imposed from one Finance Act to the other. Section 107 (3) (g) of the Public Finance Management Act, 2012, requires that there should be reasonable predictability to the county tax rates, including the rationale for levying charges. Importantly, Section 120 of the County Government Act, 2012, requires the County or the entity delivering services in the county to adopt and implement a tariffs and pricing policy for the provision of public services. The tariffs and pricing policies provide the rationale for levying fees as well as the basis for setting fees and charge levels.

3.2.0. The overall findings on the coherence of the tax policies and laws

The comprehensive analysis of Mombasa County's tax policies, as reflected through its legislative framework including the Mombasa County Revenue Administration Act (2013), the Mombasa County Rating Act (2014), the Mombasa County Trade Act (2014), the Mombasa County Tax Waiver and Variation Act (2017), the Mombasa County Outdoor Advertisement Act (2016), and the Finance Acts, 2020, 2021 and 2022, reveals a complex narrative about the county's approach to taxation and fiscal management. The analysis, while underpinned by a desire to establish a robust mechanism for revenue generation and economic development, uncovers several challenges affecting the coherence, equity, and effectiveness of the tax policy framework. The following are some of the overall findings on the existing Mombasa County Tax policies and laws:

1. Lack of Specificity and Clarity: Across the board, there is a recurring theme of vagueness regarding the jurisdiction and specificity of laws. For instance, the Revenue Administration Act does not delineate the specific taxation laws under its purview, leading to ambiguity and potential inconsistencies in tax administration and enforcement.

2. Outdated Valuation Rolls: The Rating Act's reliance on outdated valuation rolls for property rates significantly impacts the equity of tax burden distribution. This not only affects the fairness of property taxes but also indicates a broader issue of data and infrastructure lagging current market realities.

3. Potential for Double Taxation: The Trade Act highlights concerns regarding double taxation due to overlapping jurisdictions and the absence of clear definitions for single and consolidated business permits. This not only complicates compliance for businesses but also suggests a lack of integration and coherence between different pieces of tax legislation.

4. Inadequate Tax Relief Criteria: The Tax Waiver and Variation Act, while providing a framework for tax relief, lacks transparent criteria for the granting of waivers and variations. This can lead to perceptions of unfairness and arbitrariness, undermining trust in the tax system.

5. Regulatory Overlaps and Gaps: The Outdoor Advertisement Act and the Finance Acts reveal instances of regulatory overlap and gaps, particularly in terms of alignment with broader national laws and economic conditions. This indicates a need for regular review and adjustment of tax policies to ensure they are responsive to current economic, social, and technological trends.

3.2.0. Mombasa County Expenditure and Budget Financing Between 2020/21 To 2022/23.

3.2.1. Expenditure

The findings reveal a comprehensive financial overview of Mombasa County's budgetary allocations and expenditures from 2020/21 to 2022/23. The substantial total budget of Kshs.41.73 billion was strategically divided between recurrent and development expenditures. Notably, recurrent expenses received a significant allocation of Kshs 29.66 billion, indicating a focus on sustaining ongoing operations.

However, with Ksh.12.07 billion, the development budget demonstrated a lower absorption rate at 41.34%. This suggests that a notable portion of the development funds remained unutilized or was spent at a slower pace compared to recurrent expenditures. Further analysis and investigation into the factors influencing the absorption rates could provide insights into the efficiency of resource utilization and potential areas for improvement in the county's financial management.

Further, the unutilized portion of the development budget signifies lost opportunities for public investment and financing of development projects. Efficient and timely investment in development projects not only enhances service delivery but also stimulates economic activity, creates jobs, and can attract further investment, both domestic and foreign.

Figure 1: Allocation versus expenditure in billion shillings 2020/21-2022/23 in billion shillings.

FY	Allocation			Expenditure			Absorption Rate		
	Recurrent	Development	Total	Recurrent	Development	Total	Rec	Development	Total
2020/21	9.67	4.06	13.73	8.71	2.18	10.89	90.07%	53.69%	79.32%
2021/22	10.12	3.88	14	8.4	1.19	9.59	83.00%	30.67%	68.50%
2022/23	9.87	4.13	14	10.87	1.62	12.49	110.13%	39.23%	89.21%
TOTAL	29.66	12.07	41.73	27.98	4.99	32.97	94.34%	41.34%	79.01%

Sources: CBROPs 2020,2021, 2023

3.2.2. Budget Financing (Revenues)

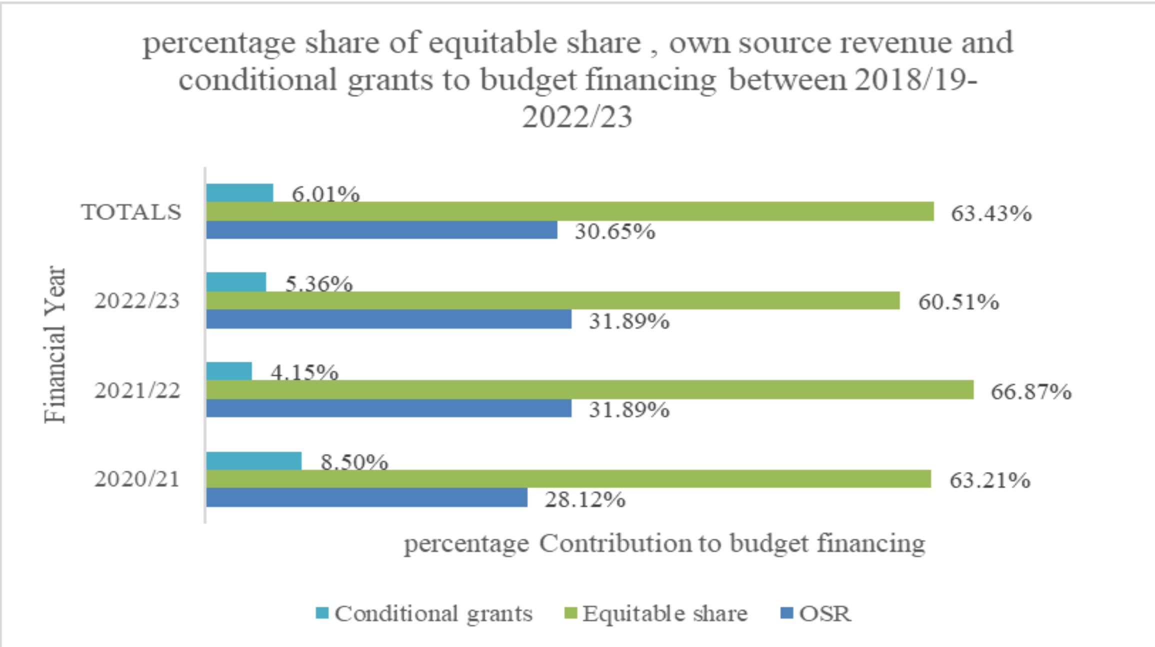
Mombasa County relies on equitable share, conditional grants, and local revenue to finance its operations and deliver services to residents. This segment will examine spending trends and the associated budget funding from 2020/21 to 2022/23.

3.2.2.1. Equitable share and conditional grants

From 2020/21 to 2022/23, the Mombasa County budget was funded with 63.43% from equitable share, 30.65% from own source revenue, and 6.01% from conditional grants, as indicated in figure 2 below. For Mombasa, a significant dependency on equitable share underscores the county's reliance on the national government to fulfil a substantial portion of its financial needs.

While this provides a critical lifeline ensuring that Mombasa can meet basic service delivery mandates, it also exposes the county to vulnerabilities. Changes in national revenue collection, adjustments in allocation formulas, or shifts in political priorities can directly impact the funds available to the county, potentially affecting its ability to provide consistent services. Thus, while the equitable share is crucial, over-reliance on it could hinder fiscal autonomy and resilience.

Figure 2: The percentage share of equitable share, Conditional grants, and own source revenue in budget financing for delivery of services between 2020/21 and 2022/23.

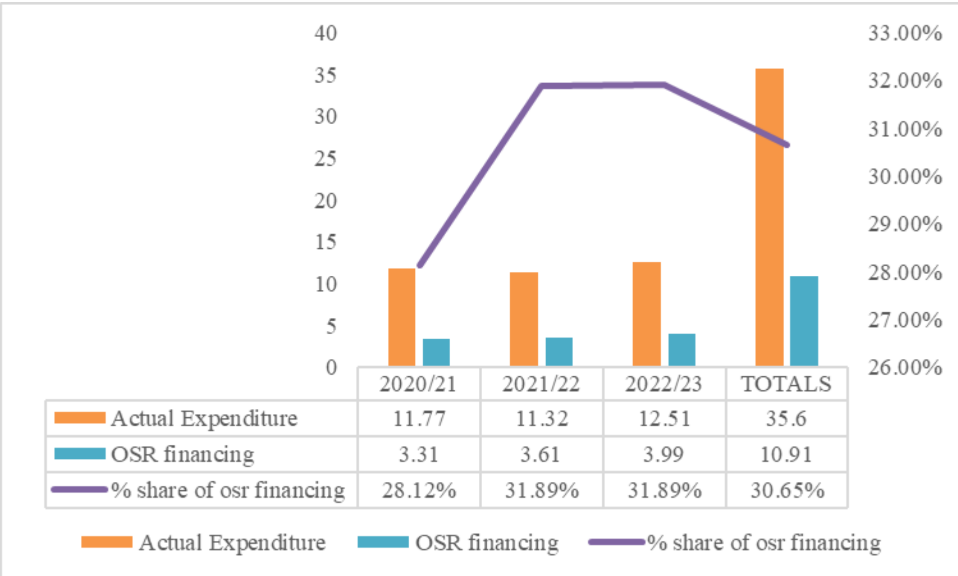


3.2.2.2. Own source Revenue

In Mombasa County, local revenue is the second most crucial funding source for the budget. From 2020/21 to 2022/23, own source revenue, on average, constituted 30.6 per cent of the county's budget financing.

The ability to generate substantial own source revenue is indicative of a robust local economy and effective tax policies. However, maximizing this potential requires innovative tax policy design, efficient collection mechanisms, and taxpayer compliance strategies. Moreover, there's a delicate balance to strike between optimizing revenue collection and fostering a conducive environment for economic growth. Excessive or poorly designed local taxes could deter investment and strain businesses, particularly small and medium enterprises (SMEs) that form the backbone of local economies. On the bright side, Local revenue generation by Mombasa County presents an opportunity to design tax policies that are equitable and tailored to the local context. It allows the county to directly address the needs of marginalized and low-income populations by adjusting tax rates, exemptions, and reliefs accordingly, through the County Finance Acts.

Figure 3: The contribution of own source revenue generated by the county through charges, levies, and taxes in financing the overall budget between 2020/21 and 2022/23.



	2020/21	2021/22	2022/23	TOTALS
Actual Expenditure	11.77	11.32	12.51	35.6
OSR financing	3.31	3.61	3.99	10.91
% share of osr financing	28.12%	31.89%	31.89%	30.65%

Own Source Revenue Projections versus Actual Realized between 2020/21 to 2022/23

The Mombasa County government faced consistent challenges in meeting its own source revenue targets during the specified period. In the fiscal year 2020/21, the projected source revenue was Ksh. 6.50 billion, but the actual realized revenue was Ksh 3.31 billion, representing an achievement of 50.98%. In the subsequent fiscal year 2021/22, the county achieved 73.28% of the projected Kshs. 4.94 billion. Moving to 2022/23, the total realized revenue stood at 83.05%. This indicates a trend of improving revenue performance over the years under review, with the county gradually approaching its revenue targets.

The fiscal performance of Mombasa County, characterized by the gradual improvement in meeting its own source revenue targets from the fiscal year 2020/21 through 2022/23, has significant implications for service delivery, particularly affecting youths, women, and persons with disabilities (PWDs). The ability of the county government to generate revenue directly influences its capacity to fund and deliver essential services, implement development projects, and support social programs targeting these vulnerable groups, approved in the budget estimates.

Figure 4: Own source projections versus actual realized in million shillings between 2020/21 and 2022/23 in million shillings.

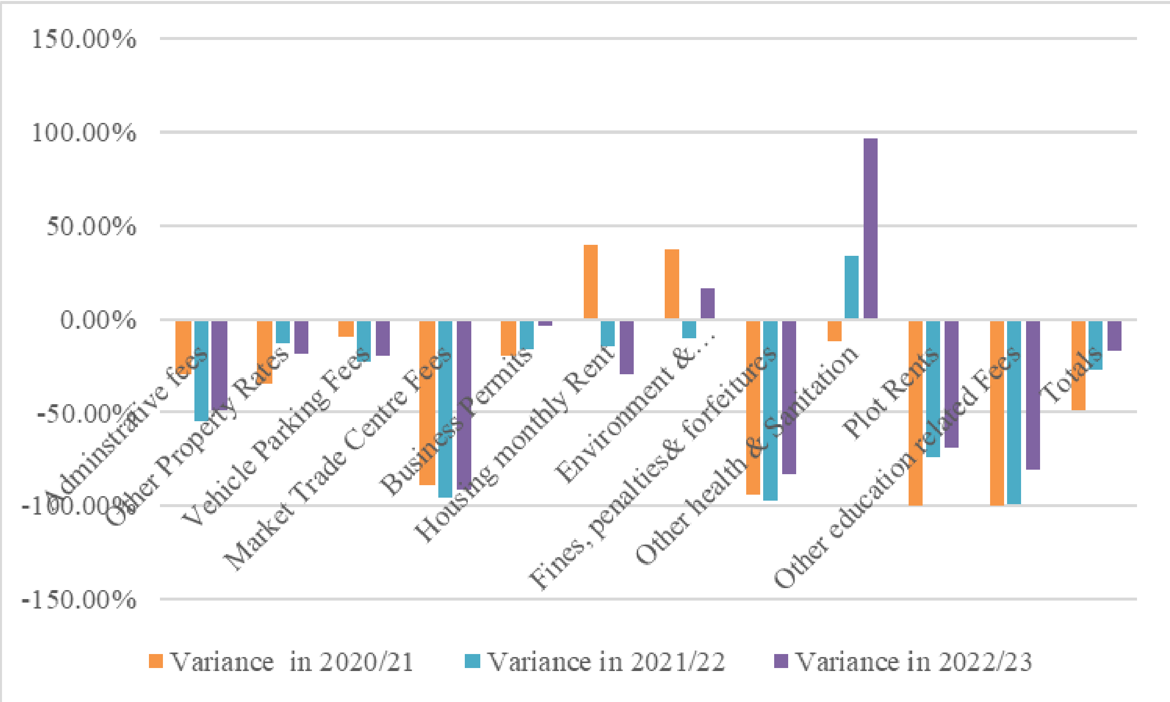
Revenue Streams	2020/21			2021/2022			2022/23		
	Projected	Actual	Percentage of revenue collected	Projected	Actual	Percentage of revenue collected compared to projected	Projected	Actual	Percentage of revenue collected compared to projected
TOTALS	**6,501.35**	**3,314.28**	**50.98%**	4939.34	3619.62	**73.28%**	4814.51	3,998.63	**83.05%**
Administrative fees	735.27	515.48	**70.11%**	1,242.51	559.37	**45.02%**	1,242.51	630.89	**50.78%**
Business Permits	**875.44**	**702.45**	**80.24%**	592.47	498.72	**84.18%**	592.47	569.35	**96.10%**
Environment & Conservancy Fees	88.23	121.13	**137.29%**	124.47	111.53	**89.60%**	124.47	144.8	**116.33%**
Fines, penalties& forfeitures	34.85	2.22	**6.37%**	30.18	0.9	**2.98%**	30.18	5.09	**16.87%**
Housing Monthly Rent	29.21	40.83	**139.78%**	29.21	25.03	**85.69%**	29.21	20.55	**70.35%**
Market Trade Centre Fees	312.43	33.86	**10.84%**	475.04	19.12	**4.02%**	475.04	38.45	**8.09%**
Other education-related Fees	9.56	**0**	**0.00%**	9.56	0.12	**1.26%**	9.56	1.87	**19.56%**
Other health and sanitation	668.00	587.09	**87.89%**	780.3	1,042.37	**133.59%**	628.47	1,236.99	**196.83%**
Other Property Rates	**1,331.50**	**868.65**	**65.24%**	936.33	818.64	**87.43%**	963.33	780.41	**81.01%**
Plot Rents	1,935.86	6.50	**0.34%**	19.36	4.98	**25.72%**	19.36	6.03	**31.15%**
Vehicle Parking Fees	*481.00*	*436.07*	***90.66%***	*699.91*	*538.84*	***76.99%***	*699.91*	*564.2*	***80.61%***

Source: Mombasa County Budget Review & Outlook Paper (CBROP), 2021, 2022 and 2023

Percentage variance between the projected own source revenue and actual realized revenue

In the fiscal year 2020/21, a detailed analysis reveals that apart from Housing monthly rent and environment and conservancy fees, all other revenue streams fell short of their projected targets. However, a notable shift occurred in the subsequent years 2021/22 and 2022/23. Specifically, other health and sanitation fees and environmental conservancy fees exceeded the set targets. In contrast, all the remaining revenue streams failed to meet their respective targets during those periods. This suggests a dynamic pattern in the performance of individual revenue streams over the reviewed years.

Figure 5: Variation between the projected and actual realized revenue per revenue stream



4.0. Recommendations.

Based on the thorough findings in the preceding analysis, this section introduces a series of structured recommendations aimed at rectifying the identified shortcomings and leveraging the opportunities within Mombasa County's tax system. The analysis, grounded in a critical examination of the county's fiscal policies, budgetary practices, and taxation mechanisms, has unveiled areas necessitating immediate attention and strategic intervention to promote a more equitable, inclusive, transparent, and effective fiscal environment.

The recommendations presented herein are organized into distinct thematic categories, each addressing a pivotal aspect of the county's fiscal governance and operational efficacy. These categories include:

4.1. Recommendations on Taxation policies and legal framework

- **Property valuation roll updates-** the County Government of Mombasa needs to initiate a compressive review and update the valuation rolls for the property rates to reflect the current market values. This can be done in collaboration with the National Treasury, which is working on a National Rating Bill, 2023, that seeks to regulate the imposition of property rates by the county government. Addressing outdated valuation rolls, as highlighted by the Auditor General's Reports, is crucial for ensuring property rates are fair and reflect current market values. This directly impacts equity in tax burden distribution by ensuring property owners are taxed based on accurate and up-to-date property valuations.
- Address the potential for double taxation by explicitly defining and operationalizing the term "single permit" within the Act. Clearly distinguish it from consolidated permits and establish guidelines to ensure businesses are not subjected to unnecessary duplication of taxation. This can help mitigate confusion and legal challenges arising from ambiguous definitions.
- **Legislative alignment and regular updates by** both the county executive and the county assembly– there is a need to monitor the changes in national tax policies and ensure county tax laws align accordingly. This will ensure no multiplicity of taxes and establish a protocol for the timely adoption of legislative changes to maintain compliance.
- **Aligning Finance Acts with budget estimates,** including updating any changes in the fees, levies, and charges in a traceable way. The Finance Acts present an opportunity to modify the previous Acts, thus allowing the County Government of Mombasa to address any gaps and establish transparent justifications for changes in the rates, levies, and charges.
- **Transparent Justifications and Criteria for Tax Rates**: Amend the Finance Acts to include clear justifications for the imposition of rates, levies, and charges. This should involve a transparent, documented rationale that explains the basis for any changes or introduction of new fees, ensuring that stakeholders understand the reasons behind tax rate adjustments. This approach not only enhances transparency but also aids in maintaining public trust in the tax system.
- **Adoption and Implementation of Tariffs and Pricing Policies**: In line with Section 120 of the County Government Act, 2012, Mombasa County should adopt and rigorously implement tariffs and pricing policies that provide a clear rationale for levying fees. These policies should detail the basis for setting fee and charge levels, ensuring they are fair, equitable, and reflective of the services provided. Additionally, these policies should be regularly reviewed and updated to remain aligned with the county's economic conditions and service delivery needs.

4.2. Effective revenue forecasting and analysis

- ***Enhanced revenue projection accuracy***- The County should thoroughly analyze the factors influencing revenue generation. Collaborating with experts and refining the methodologies used for projecting revenue is crucial. This involves considering historical trends and economic indicators. Furthermore, the county should establish a mechanism for regular review and projection adjustments, ensuring they align closely with achievable targets based on the ever-changing economic landscape.

- ***Strategic Revenue Diversification***- Recognizing the positive trend in revenue performance, Mombasa County should focus on identifying and prioritizing sectors with untapped revenue potential. Developing targeted initiatives to diversify revenue streams is imperative, reducing dependence on specific sources. Through strategic partnerships, incentives, and policy implementation, the County can stimulate growth in key sectors, fostering a more resilient and diverse revenue base.

4.3. On optimizing resource allocation and improving service delivery

- There is a need by the county departments to link budget allocations to performance outcomes, ensuring that funds are directed towards programs and projects that deliver the highest impact on citizens' well-being and economic development.
- **Prioritize Development Expenditures**: Increase the absorption rate of development funds by prioritizing project implementation and addressing bottlenecks in procurement and project execution. This may require capacity building for project managers and adopting more flexible procurement regulations that allow for timely project initiation and completion.

4.4. On ensuring fairness and certainty of taxes

- ***Specialized Tax Policies and Waivers*** -Develop and implement specialized tax policies specifically tailored to the economic circumstances of youths and PWDs. This may involve introducing tax incentives, reduced rates, or exemptions for businesses owned by these groups, fostering economic participation and entrepreneurship. However, the county must adhere to waiver and variation policies at the county level.
- ***Inclusive Consultation and Feedback***- Establish an inclusive decision-making process by involving representatives from youth and PWD advocacy groups. Regularly engage in consultations to gather feedback, address concerns, and ensure that the tax system reflects the diverse needs and perspectives of these groups. This can effectively be conducted during the development and consultation of the Finance Bill.
- ***Transparent Tax Education and Support Programs-*** Conduct targeted and transparent tax education programs for youths and PWDs, outlining their rights, obligations, and available benefits. Implement capacity-building programs to enhance financial literacy, offering mentorship and training to empower these groups to manage their financial affairs and meet tax obligations.

4.5. Revenue management and administration

- ***Technological Integration and Revenue Automation***- Embrace modern technology by investing in robust revenue management systems and online payment platforms. Leverage data analytics tools to identify and mitigate patterns of revenue leakage, ensuring a more efficient and secure collection process.
- ***Strengthened Internal Controls***- Establish stringent internal controls within the revenue administration to prevent fraud and mismanagement. Conduct regular internal

audits to identify and address potential weaknesses. Implement a segregation of duties framework to enhance transparency and accountability.

- ***Capacity Building and Ethical Culture***-Prioritize ongoing capacity-building programs for revenue administration staff, enhancing their skills in modern tax collection methods, fraud detection, and customer service. Foster a culture of compliance and ethics within the team to prevent internal leakage.
- ***Adaptive Tax Policies-*** Periodically review and update tax policies to align with changing economic conditions. Conduct a comprehensive review of fees, levies, and charges to ensure they accurately reflect the cost of services provided. This promotes fairness and adaptability in the taxation system.
- ***Public Awareness and Communication***- Launch public awareness campaigns to educate citizens and businesses about the importance of timely and accurate tax payments. Transparent communication on how tax revenue contributes to community development fosters a sense of responsibility among taxpayers, promoting voluntary compliance.

5.0. Conclusion

Mombasa County's tax policy and legal framework reveal a critical need for enhanced alignment and synergy among various tax-related statutes, administrative procedures, and enforcement mechanisms. While the county's legislative efforts aim to establish a comprehensive and robust tax system, there is a discernible lack of cohesion that hampers the effectiveness and fairness of tax administration and compliance. This lack of coherence not only complicates the tax compliance process for individuals and businesses, leading to inefficiencies and potential inequities, but also undermines the overall fiscal health and economic development goals of the county.

To address these challenges and foster a more coherent tax system, Mombasa County would benefit from a concerted effort to streamline and harmonize its tax policies, ensuring that all pieces of legislation, from property valuation to business licensing and tax relief measures, are consistently aligned with the county's broader economic and social objectives. Such an integrated approach would not only simplify the tax system for taxpayers but also enhance revenue collection efficiency, promote fairness, and support sustainable economic growth.

Regarding taxation policies and the legal framework, initiating a thorough review and update of the property valuation roll is essential. Collaborating with the National Treasury on the National Rating Bill, 2023 offers a strategic opportunity to regulate property rates at the county level in harmony with national standards. Additionally, maintaining legislative alignment and regular updates becomes imperative to prevent the proliferation of taxes and ensure the timely adoption of legislative changes in compliance with national standards.

On revenue forecasting and analysis, the county must prioritize enhanced accuracy in revenue projections. Collaboration with experts, the refinement of methodologies, and regular reviews are crucial to ensuring that revenue projections remain closely aligned with achievable targets, adapting to the dynamic economic landscape. Simultaneously, strategic revenue diversification, achieved through targeted initiatives and partnerships, is essential in mitigating dependence on specific revenue sources, fostering resilience, and cultivating a diverse revenue base.

Ensuring fairness and certainty of taxes demands the implementation of specialized tax policies and waivers for youths and persons with disabilities (PWDs). While fostering economic participation, this approach must also adhere rigorously to waiver and variation policies at the county level to maintain fairness and consistency. Furthermore, embracing an inclusive decision-making process, particularly during Finance Bill development, allows representatives from youth and PWD advocacy groups to contribute actively, ensuring that the tax system reflects diverse needs and perspectives. Transparent tax education and support programs delineate the rights, obligations, and available benefits for youths and PWDs, enhance financial literacy and promote compliance with tax obligations.

In embracing and implementing these recommendations, Mombasa County could forge a more robust, inclusive, and fair taxation system. This approach aligns with national legislation and fosters sustainable economic development, ensuring that the positive trends observed in recent fiscal years continue to shape the county's financial landscape positively.

6.0. References

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