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Tax Awareness and Fiscal Workarounds in Contemporary Kenya: Reactions Towards New Taxation Laws, and the Need to Renew the Social Contract

Eric Magale and Mario Schmidt

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Eric Magale and Mario Schmidt

Summary

This working paper highlights the awareness and perception of taxes among ordinary Kenyans, with a particular focus on how they situate taxes in their wider universe of obligatory payments. The paper first describes how Kenyans understand the nature, social meaning, and importance of taxes and how these understandings changed during our research, which took place shortly after the enactment of the unpopular Finance Act 2023. The temporal proximity between the period of our data collection and the enactment of this law provided a rare and unique lens for a study of how ordinary citizens view taxes. Apart from exploring how rising taxes on digital financial services influenced economic behaviour among Kenyans occupying different economic classes, the paper also describes how these Kenyans increasingly made use of 'fiscal workarounds' to strategically avoid taxes whereby they clearly positioned themselves against some of the unpopular taxes forced down on them, citing the high cost of living and waning public confidence in the political leadership as their reasons. We conceptualise 'fiscal workarounds' as the idea that citizens do not simply accept or reject taxes but rather engage in practices that redefine, revise (albeit theoretically) and resist taxes depending on how they experience them. Although not novel, these 'fiscal workarounds' were now increasingly justified by citizens who pointed to the political elite's failure to fulfil their part of the social contract. The paper concludes by offering insights for policy adjustments that could help renew the social contract between Kenyan taxpayers and government as their agents.

Keywords: Kenya, M-Pesa, taxation, taxes, tax morale, tax compliance.

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Acronyms

CBK	Central Bank of Kenya
ICTD	International Centre for Tax and Development
KRA	Kenya Revenue Authority
KSh	Kenyan shilling
MNO	Mobile network operator
RSA	Revenue service assistant

1. Introduction

At some point in 2023, the citizens of Kenya nicknamed their newly-elected president, William Ruto, *Zakayo* after the biblical tax collector Zacchaeus. The newly installed government portrayed the introduced tax increases as necessary to reduce government borrowing and debt, thereby paving the way for Kenya to become independent from international aid and loans. The debt burden had been a key issue in Kenya's 2022 general election because the previous regime had taken out massive debt to undertake expensive infrastructure projects, which had necessitated that the parliament raise the debt ceiling twice in just three years to plug the deficit. Yet, the tax proposals contained in the Finance Act 2023 sparked outrage among many *wananchi* (Swahili, 'common people') who felt they had already suffered enough from the inflation and economic turbulences caused by the COVID-19 pandemic, the war in Ukraine, and on-going political protests on the streets of Kenya (Rukanga 2023). Public discontent was further compounded in the following year with the enactment of the Finance Bill 2024 which proposed more harsh tax measures to add to the burden on the common *wananchi*. The Finance Bill was met with nationwide anger and deadly protests. The negative, highly politicised and recently violent responses by the Kenyan public appear to reinforce stereotypes about African citizens being difficult to tax due to their widespread and deep anti-tax sentiments (e.g., Robinson 2023). Numerous studies have sought to understand the perceptions of taxation in Africa. Aiko and Logan (2014), for instance, note that most Africans agree that taxation is key to national development and that they are willing to pay taxes for this purpose (see also Isbell 2017). Other related studies have touched on the question of when citizens feel that the state has the legitimacy to tax them. For example, D'Arcy (2011) shows that the state's legitimacy or right to collect tax is premised on the state treating its citizens fairly and their perception that the state addresses their needs and improves services over time.

The issue of tax morale and tax compliance has also received significant attention in the literature. Borrowing from Luttmer and Singhal (2014), who disaggregate tax morale into five mechanisms through which it operates, namely intrinsic motivation, reciprocity, peer and social influences, long-run cultural norms and loss aversion, we home in on three motivations for tax morale that were prominent in our study. The first was an intrinsic motivation for tax morale which relates to notions of honesty and the fulfilment of a civic duty and an innate willingness to contribute to public goods through the payment of taxes. The second one was reciprocity which bears notions of a social contract where tax payments are made in exchange for services provided by the state. This motivation has a significant bearing on the legitimacy of the state and the individual's relationship with the state, as we will show later. The other less

prominent motivation we encountered, which is also observed by Fjeldstad and Semboja (2001), was peer and social influences, where an individual's morale is influenced by others in their circle. An issue related to tax morale is tax compliance which, for instance, Bodea and Lebas (2016) point out as an essential element of successful tax regimes. Luttmer and Singhal (2014) and Fjeldstad and Semboja (2001) view enforcement as the primary driver of compliance. An instructive World Bank study by Prichard *et al*. (2019) puts forward a framework to understand the motivations behind tax compliance. They assert that increasing tax compliance depends on the right combination of enforcement, facilitation and trust-building measures to strengthen fiscal contracts. In this sense, enforcement, facilitation and trust are complementary, rather than distinct, strategies. Put differently, effective enforcement is critical in raising levels of trust in tax authorities and greater trust likely helps to build quasi-voluntary compliance and to improve enforcement.

Other accounts in the literature link tax compliance to the idea of a fiscal exchange which entails transparency on the part of the state and the provision of public services in sufficient quantity and quality (Cowell and Gordon 1988; Falkinger 1988; Levi 1989). This idea has been developed over time and explored theoretically for the African context (Fjeldstad and Semboja 2001; D'Arcy 2011; Bodea and Lebas 2016; Blimpo *et al*. 2018). Some scholars point out that attitudes toward government or perceptions about the fairness of the tax schedule impact significantly on compliance decisions (Alm and Martinez-Vazquez 2007; Feld and Frey 2002). Bodea and Lebas (2016) and Sheild Johannson (2020b) furthermore show that the type of public goods also matters and that tax compliance may be undermined if individuals can easily substitute public goods with goods that are communally provided. Taken together, there are various interrelated motivations for tax morale and tax compliance. Social context is thus critical for understanding tax compliance and therefore the period of our study provided a good opportunity to understand Kenyans' perceptions of taxation and how they negotiate and present compliance decisions.

Our in-depth ethnographic interviews and focus group discussions, which took place in rural western Kenya and Nairobi, productively relate to this literature as they allow us to excavate a nuanced understanding of how taxation is viewed in Kenya and what the 'social meaning' of taxes consists of (Zelizer 1994; Bak and Van den Boogaard 2023). In a sense, this validated Soumhya Venkatesan's claim that 'discussions and disputations about tax and taxation reveal the ways in which people articulate and evaluate their relations with others, with the state, with "ought" and "is"' (2020: 141). Our working paper thereby exemplifies that 'fiscal systems involve multiple exchange logics and that people may or may not pay tax for quite different reasons, including as a strategy to assert particular kinds of citizenship' (Sheild Johannson 2020b: 20). On the one hand, our empirical data suggests that most Kenyans clearly differentiate taxes from other obligatory

payments in their 'wider transactional universe' (Makovicky and Smith 2023: 7) in terms of their moral binding power, i.e., while many feel morally propelled to pay 'black tax' and tithe, they do not feel that way when it comes to taxes. Yet on the other hand, they, in principle, possess a rather positive view of taxation and assume that taxes are a necessary part of a modern state. Unsurprisingly, Kenyans criticise the taxation system as unequitable. This agrees with Falkinger (1988) and Björklund Larsen (2018) who assert that there is a positive relationship between tax evasion and inequity. In the absence of equity, individuals rely on 'fiscal workarounds' that help to avoid the payment of taxes and engage in scathing critique of the political elite and a failed 'social contract' (Prichard 2019; Timmons 2005).

During the period of our fieldwork, discussions about taxes and taxation dominated public discourse; every Kenyan seemed to be talking about taxation and the government. As our interviews, furthermore, show that citizens did not interpret digital taxes independently but within the context of taxation more generally, we decided to take a step back ethnographically and approach digital financial taxation as part of the wider system of taxes and payments people are asked to make not only by the government but by their church, their family and their friends. We will, for instance, see that ordinary Kenyans relied on and actively propagated and justified various fiscal workarounds to avoid taxes on digital financial services, not because of the digital taxes but because of a broader anti-taxation atmosphere triggered mostly by the other tax increases. Though tax evasion was common before, Kenyans now devised these new 'fiscal workarounds' as a moral and political statement about the failure and mistrust of the political class. The fact that research has shown that 'messages that the average compliance rate is low reduce compliance' (Martin and Prasad 2014: 339) should be taken as a warning sign that the low tax morale might possess self-reinforcing capacities.

After the next section outlines our methodological approach, we describe the changes that the Kenyan government implemented in the Finance Act 2023 in more detail, with a special focus on the taxation of digital financial services. We then present our findings by sharing empirical insights and ethnographic details from our interviews and focus group discussions illustrating that Kenyans, across socio-economic classes, view taxation as a social contract between citizens and the state which, upon violation, allows citizens also not to accept and refuse its terms by different forms of 'fiscal disobedience' (Roitman 2005), that is by propagating and feeling justified to engage in 'fiscal workarounds'; the idea that citizens do not simply accept or reject taxes but rather engage in practices that redefine, revise (albeit theoretically) and resist taxes depending on how they experience them. Comparable to the findings of Castañeda, Doyle and Schwartz (2020: 1175), our data thus illustrates that most Kenyans 'perceive the social contract as an agreement to which they can *opt in* or *opt out*'. In this paper, we

share some observations about various attempts by the Kenyan tax authorities to increase tax compliance before concluding by discussing some policy implications of our results.

2. Methods

This study relies on a variety of primary and secondary data. A vast range of secondary sources were reviewed, including the tax code and related laws, such as the Employment and Companies Act, as well as academic literature, institutional reports and newspaper articles. Primary data for this study was collected through in-depth semi-structured interviews with 42 informants and six focus groups with between six and nine participants conducted in Nairobi and the rural town of Kakamega in western Kenya between September and November 2023. All interviews were done in-person with one or both researchers in English, Swahili and a slang called Sheng (a mix of Swahili, English and other local languages).

The focus group discussions, three of which were conducted in each of our research sites, involved micro-entrepreneurs, taxi drivers, medical and support staff at a local hospital, contract and casual staff in Nairobi, drivers employed in the transport department of a local university and a mix of support staff from the same university. One focus group had men only and one had women only, while the rest had a mix of male and female participants. The individual respondents can be broadly divided into three economic categories, namely low-income (22 respondents), moderate-income (13 respondents) and high-income earners (seven respondents). These categories were chosen deliberately to be able to draw conclusions on how socio-economic status affects an individual's view of taxation.

The category of low-income earners included individuals who are unemployed, casually employed ('day labourers') as well as micro-entrepreneurs, such as owners of tuck shops or street food kiosks, and self-employed people, such as *boda-boda* drivers ('motorcycle taxis'), mechanics, and so forth. The second category of moderate-income people included Kenyans who are formally employed, such as drivers at a local university, secretaries at government offices and subordinate staff at a hospital, as well as professionals doing freelance work. We also interviewed entrepreneurs who had small but thriving businesses. The last category of informants included a senior official of the county government of Kakamega, a successful businesswoman, and five people employed by multinationals and other blue-chip organisations. All categories had both female and male informants aged between 20 and 55. The median age was 33. Twenty-three interviews were conducted in Kakamega town followed by 19 interviews in Nairobi before saturation was achieved.

The interviews were semi-structured in nature and utilised an interview guide comprising open-ended questions that helped elicit detailed responses emerging naturally from the informants' experiences with and perceptions of taxation.

Follow-up interview questions arose from the interviewers' own understanding of and reflection on the responses provided by informants, and for the purposes of clarification. The face-to-face interviews also presented a rare opportunity to read the informants' endorsement of or reservations about taxation through their body language, choice of words or the tone they adopted when giving their responses. Two pilot interviews were conducted for the study in Kakamega town which assisted in structuring the interview questions and refining thoughts on the topic. The 40 most useful interviews – six focus groups and 34 individual interviews – were transcribed and translated. Interview transcripts and field notes were organised into themes and sub-themes after which we analysed them and wrote up the findings of this study. The use of Kakamega town in rural western Kenya and Nairobi City (the capital) as sites for the study was intentional for purposes of comparing the findings of the study and noting no significant differences in the findings, a basis by which we generalise our findings to Kenya. Triangulation was crucial in lending credibility and validity to our findings. It was accomplished in three ways. Firstly, credibility was increased by the use of two investigators who both interviewed informants and were involved in the analysis of the data. This ensured that any possible bias of either investigator was not imposed on the research process. The second way of assuring triangulation was the use of two different methods of collecting primary data, namely interviews with individuals and focus group discussions which were conducted in two sites, which also helps in lending credibility to our findings. In addition, primary data was collected from a fairly wide range of informants as described above. The third way that triangulation for this study was assured was through the use of multiple data sources. The study utilised a variety of primary and secondary data sources that were compared and corroborated with each other throughout the data collection and analysis process, thereby enhancing the quality of our ethnographic and qualitative data that complements the quantitative data on the taxation of digital financial services in Kenya so far collected at the ICTD (Diouf, Carreras and Santoro 2023). In the course of compiling our research report, the Kenyan government tabled the Finance Bill 2024 which was met with even more outrage than the Finance Bill 2023 and followed by deadly nationwide protests in the months of June and July 2024. We both observed these events while working in Nairobi in the period and relate the observations to events from 2023 as well as the fieldwork conducted.

3. Lessons from the Finance Acts 2023 and 2024

Like every other year, a few months prior to the reading of the budget, the Kenyan treasury had drafted the Finance Bill 2023 to set out proposals on how to raise revenue for the annual budget. The Finance Act 2023 was tabled in parliament in May, and radical measures were proposed to increase government revenue, including raising bands for income taxes, a 16 per cent VAT on petroleum products, and an increase of the excise duty on mobile money transaction fees. By far the most controversial of these proposals was mandatory contributions to a national housing fund, which was later amended to a compulsory housing levy that requires both the employee and employer to pay 1.5 per cent of the employee's gross salary to the National Housing Development Fund. The overall logic of the housing fund was to let formally employed and thus perceivably financially more secure actors contribute to the fund, which would then be used to provide decent housing to the poor with the overall goal of making society more equitable, a strategy which both the employed and unemployed viewed as unfair and unsustainable. A majority of our respondents viewed the housing problem as an income issue and confided to us that the government could not be trusted to deliver on the development of houses, terming the new housing fund a slush fund for the political elite.

For example, during our interview with a financial controller who is deeply knowledgeable about Kenya's taxation system, he voiced the opinion that he would be 'perfectly okay' with the housing fund in principle but strongly believes that 'this money probably ... won't be used in the way that it is intended to be used'. The frustration about the housing levy was heightened among formally employed people and their employers, who were the only ones who could make contributions to the fund. Considering that only about ten per cent of Kenya's workforce has permanent full-time jobs, with 28.5 per cent working as casual labourers and roughly 25 per cent depending on others for survival (FSD 2021), it is unsurprising that salaried Kenyans felt that the housing levy would add a burden to their already strained payslips.

Some studies have suggested that the provision of public goods and services can be leveraged to increase taxation in developing countries. For example, Blimpo *et al*. (2018) suggest in a study involving 36 sub-Saharan African countries that the provision of reliable electricity induces a sense of national identity among citizens, thereby incentivising them to contribute, through taxes, towards the functioning of the state. The findings of this study show that while this may be true for social amenities such as roads, electricity and so on which are used by virtually every citizen, housing presents a divergent case according to our interlocutors. This is

firstly because of the waning public trust in institutions to deliver on housing projects: Aiko and Logan (2014), Bratton and Gyimah-Boadi (2016), D'Arcy (2011) and others have all argued that there is a strong relationship between public trust in political institutions on tax compliance. Secondly, housing seems to be an issue of personal taste and preference; many respondents, particularly those who occupied a higher socio-economic class, expressed difficulty in ceding to government the ability to decide where and how they are housed. According to our interlocutors, housing in Kenya is also informed by socio-cultural norms. Many people working in Nairobi, for example, prefer to have a rural home where they would retire, and pay rent in Nairobi, given the prohibitive cost of owning a house in the city.

The Finance Act 2023 was so controversial that many Kenyans took to social media, radio and television stations to express their frustration about the proposals. Issues of taxation that had not been front and centre of Kenyans' minds had been made visible by the unpopular Finance Act, and everyone we talked to as part of our fieldwork readily commented on the topic. The political opposition further enhanced the visibility of the topic by staging demonstrations which they claimed addressed the issue of soaring cost of living and demanded a retraction of the Finance Act. As a consequence of this heightened political atmosphere, we were able to observe a fiesta of ideas in all (social) media during the period of our fieldwork. Probably for the first time, to cite a particularly striking example, one could find Kenyans discussing the Laffer curve[1] with enthusiasm in an attempt to defend their opposition to the new taxes with sound economic theory. After massive public outcry, the Finance Act was slightly amended and was hurriedly passed by parliament and gazetted on the following day. The rather forceful passing of this unpopular act amplified the mistrust that had already formed vis-a-vis the political class. To add to this mistrust, the Kenya Revenue Authority (KRA) had also mobilised roughly 1,400 revenue service assistants (RSAs), who, peculiarly, had even undergone paramilitary training to help the authority enforce compliance, especially among micro and small enterprises.

Of particular interest for our study, however, were taxes on digital financial services in Kenya and their relation to the wider taxation system. Digital financial services were first subject to taxation in 2012 when the Finance Act 2012 introduced a 10 per cent excise duty on financial services, targeting fees or commissions earned from services provided by mobile network operators (MNOs), banks, money transfer agencies and other financial service providers. This tax's imposition must be seen in the context of the rapid growth of the mobile money industry (Kusimba 2021). Industry statistics from the Communications Authority of Kenya (CAK) show that the number of mobile money accounts in

[1] The Laffer Curve suggests that there is an optimum tax rate which maximises total tax revenue. Beyond this level, further tax increases result in lower tax revenues.

Kenya doubled over the last ten years from 19 million in 2012 (CAK 2012) to 38 million in 2023 (CAK 2023). The Finance Act 2012, however, was silent on some modalities surrounding the successful implementation of the new tax, such as the commencement date, the collection and payment of the duty as well as the registration process for taxpayers required to levy the duty. There were a number of legal petitions to the tax tribunal made by various commercial banks that illustrate that there was some organised resistance towards these new taxation laws by financial services providers that perceived the tax as a threat. This observation slightly nuances the argument by Mader, Duvendack and MacDonald (2022) that there was no substantial opposition to digital taxes levied against the government.

While the Finance Act 2018 then increased the excise tax on mobile financial transactions from 10 to 12 per cent, the Finance Act 2022 introduced a 20 per cent tax on all fees – commissions, interest, late fees or penalties, also called rollover fees – charged in respect to a digital loan. Again, this was unsurprising as the digital lending industry in Kenya had grown rapidly and there was a proliferation of new fintech lenders. Just like with the commercial banks, there was some resistance by fintech lenders through the Digital Finance Services Association of Kenya, which filed a legal petition in court to suspend the implementation of the Excise Duty Act, citing the possible higher cost of credit and the fact that it was discriminatory given that airtime advances by MNOs and Safaricom's mobile overdraft facility, Fuliza, were excluded from this law. Finally, and most importantly for our paper, the Finance Act 2023 increased the excise tax on money transfer services and digital payments service providers from 12 to 15 per cent. Because taxes on digital financial services take the form of excise taxes, the costs of which are often pushed to the consumer in the form of higher fees, they are essentially a consumption tax.

In the literature, taxes on digital financial services are hotly debated, with a clear focus on the question of whether increased taxes on digital finance services, such as the Finance Act 2023 increase of the tax on money transfer and digital payment services from 12 to 15 per cent, have detrimental effects on the goals of financial inclusion. A working paper by Diouf *et al*., for instance, suggested that 'even if the excise duty did not significantly decrease overall transaction values and volume in Kenya, it slowed down expansion of transactions that were affected' (2023: 7). Building upon such arguments, our paper suggests that an 'indirect' digital tax, where the tax is subsumed in the MNO charges and therefore becomes 'invisible' to the customer, is indeed in principle a less 'messy and noisy' way to implement digital financial service taxes.

In line with the above observation, we find that users of mobile financial services who occupy a higher socio-economic position hardly notice the changes in mobile transaction fees. Conversely, low-income users of mobile financial services whom we interviewed were more sensitive to transaction charges, which they quickly

noticed. Noah and Tacneng (2024) also observe the same for Cameroonians using mobile money, especially after the introduction of a tax on mobile money transfers and withdrawals. This finding is also consistent with earlier observations by Magale (2024) on the use of digital financial services in Kenya. These accounts part company with McKee, Kaffenberger and Zimmerman (2015), who note that mobile money users in Kenya often do not know the fees they pay for the services. M-Pesa agents consulted similarly revealed that digital taxes certainly matter for most of their customers. For example, they noted that it is commonplace for M-Pesa customers to reduce the amount they are transacting (sending or receiving) because they are short of the amount to pay the transaction fees.

In his defence of the taxation law, the president particularly emphasised the need to reduce government borrowing and lessen national debt, thereby implicitly playing with the trope of Kenya's independence and strength on the international playing field, topics he had politically tried to exploit since being deputy president. The government's justification for increased taxes, however, happened in the context of rising costs of living, a weakening Kenyan Shilling, and political turmoil. It was therefore not unsurprising that many Kenyans saw the Finance Act 2023 as a betrayal of the new regime's pledge to help the common citizen and especially the so-called 'hustler' (Thieme, Ference and van Stapele 2021), mostly young men and women who survive by taking over odd jobs, juggling social alliances, and being on the lookout for small business opportunities (Guma *et al*. 2023; see also Dolan and Gordon 2019). These observations help to give a preliminary answer to the question of why the increase of the excise duty on digital financial services heightened concern in the population immediately after the enactment of the Finance Act 2023.

One of the main takeaways of our research is that the general anti-tax atmosphere and the ongoing public debates about taxation that preoccupied Kenyan media and public opinion throughout the latter half of 2023 and in mid-2024 caused citizens to look for and actively embrace potential fiscal workarounds. They saw these workarounds as a way to not only cope with tax demands, especially those that they do not agree with, but also to show their disagreement with the Finance Bills 2023 and 2024. While increases in income taxes, such as Pay as You Earn (PAYE) tax and VAT are almost impossible to avoid – because PAYE is deducted automatically for most salaried Kenyans and the vast majority of the population cannot consume much less than they already do – digital transactions can still be replaced by cash transfers. Before we discuss several fiscal workarounds, however, the next section looks at how Kenyans from different socio-economic backgrounds understand taxes more generally and why, despite arguments made by anthropologists to move beyond the idea of taxation as a 'social contract', the latter concept still has analytic benefits, namely because most of our interlocutors themselves understand the

exchange of taxes against government services as the core of a functioning government's fiscal policy.

4. Taxation as a social contract: how do Kenyans situate taxes in their wider universe of payments?

Anthropology has recently suggested moving beyond an understanding of taxation as a social contract between citizens and the state, the 'core logic' of which 'involves a reciprocal relationship between states and citizens who are unified in their understanding of the aim of taxes' (Sheild Johansson 2020a). In their edited volume *Beyond the Social Contract. An Anthropology of Tax*, for instance, anthropologists Nicolette Makovicky and Robin Smith argue that taxes 'form part of a much wider conceptual universe of transfers and exchanges' (2023: 3) and that viewing taxation simply as a 'fiscal exchange' between citizens and the state helps to 'naturalise the relationship between taxation, property rights, and political representation' (ibid.: 6), thereby universalising specific Eurocentric understandings of taxation.

Political science literature on taxation, earlier discussed and which we agree with in part, has a rather conceptually monolithic notion of taxation. Some of the arguments posited, however, overlook or even ignore some empirically observed nuances that tax compliance and resistance, can and do take. Our interviews exemplify that Kenyans across the socio-economic classes view paying taxes as every citizen's responsibility in making sure that a modern state can function and understand taxation as being built upon a social contract between the state and its citizens, whereby citizens pay their taxes and expect a level of service delivery in return. In the Kenyan context, such an understanding of taxes as a social contract might further be enhanced by the fact that the government ties service delivery in some instances to the possession of a KRA personal identification number without which one cannot, for instance, register a business, transfer ownership of property or a car and so on. The same is true for some privately offered services such as banking and insurance; taxpayers equally view this as a form of service delivery on the part of government, seemingly because many of these services are licensed or regulated by government agencies.

Often using Western countries as allegedly functioning examples, our respondents, however, highlighted a rather typical view of taxation as based upon a social contract, not to congratulate the Kenyan government on its performance but to criticise the state's failure to properly deliver essential services, such as roads, electricity, and manageable costs of living. Instead of heralding the government as making good use of the money, our respondents invariably took the view that politicians used the taxes for their own benefit. An accountant named Charles, for instance, told us that 'the government of Kenya is not an

entity you can keep very accountable for any funds you contribute', thereby implicitly highlighting a breach of the social contract on the side of the government and exemplifying the observation that 'research from east, central and west Africa indicates that in the face of ongoing poverty and weak governance, taxation has been perceived [...] as a source of oppression rather than accountability' (Meagher 2018: 4), an assessment that aligns with the feelings of many of our respondents, who reported feeling powerless and described their situation as being in a state of total submission in the face of the new tax measures. One of our respondents captured this well when he confided to us that he feels 'powerless like a toothless dog'.

Despite the common understanding of taxation as a social contract, our respondents made it clear that, regardless of the promises of increased participation in political deliberation announced in the new constitution introduced in 2010, they felt that they had no control over tax policy. During our interviews, they markedly used this feature of taxation to single out taxes as well as to compare them with other payments that they make on a regular basis. Here, it is particularly interesting that taxes were clearly distinguished from tithes (see also Kauppinen 2020) and payments to friends and relatives, i.e. the so-called 'black tax' (see Mangoma and Wilson-Prangley 2019), which were seen as somewhat voluntarily made and whose amount was considered as somewhat flexible.

In contrast to tithes and payments to friends and relatives, taxes were sometimes compared with bribes which some government officials and the police demand regularly. The widespread feeling of a lack of influence vis-a-vis the state's tax policy and the fact that Kenyans could not make out a causal relation between increased taxes and better living standards created an atmosphere where many ordinary citizens felt that the only ways to signal their frustrations about these new laws was through political protest, as exemplified by the month-long protest known as *maandamano* (Swahili, 'protest') and by deliberate attempts to avoid taxation, thereby rejecting the Kenyan state's attempt to redefine the 'formal-informal frontier' (Owen 2018: 2) through the changed taxation laws. Thereby what could be, referring to Paul Nugent's classification of different types of social contract in sub-Saharan Africa, described as a 'permissive social contract' according to which 'the governing authority claims its sovereign rights' but 'chooses not to exercise them (or all of them), in return for securing a measure of *de facto* compliance' (Nugent 2010: 44) risks being experienced more and more by ordinary Kenyans as a 'coercive social contract' based on the 'capacity of the rulers to render intolerable the lives of their subjects' (ibid.: 43). In this case, this shift was accomplished by increasing taxes further. Our respondents reacted to this by embracing and emphasising the political nature of fiscal workarounds, the topic of our next section, which focuses on three types of fiscal workarounds: a) the intentional avoidance of digital payment channels, b) coping mechanisms of employers, and c) 'filing nil' in one's tax returns despite having an income. Putting

these different forms of tax avoidance side by side, our paper argues that the idea of increasing tax revenue by increasing taxes on mobile money transfers cannot be successful in an environment characterised by dramatic levels of anti-tax sentiments as long as digital payments can be avoided. When using cash remains an option, in other words, avoiding payment through digital means becomes a prime vehicle for voicing frustrations about taxation more generally.

5. 'Fiscal workarounds' and political critique: reclaiming of agency by Kenyan taxpayers and the response of tax authorities

5.1 Intentional avoidance of digital payment channels

There are three main channels for making digital payments via the M-Pesa platform. The first channel is *Lipa na M-Pesa* ('Pay with M-Pesa' in Swahili), which was launched in 2013 and allows merchants to receive cashless payments from their customers. Through a press release, Safaricom reported that 200,000 businesses had registered for this payment platform as of September 2020. The second payment channel is *M-Pesa Paybill,* which was launched in 2013 and makes use of a unique paybill and account number. The M-Pesa Paybill is a cash collection service that allows organisations of different kinds, such as small businesses or churches, to collect cash through M-Pesa, and is also used for short-term fundraising purposes by foundations, NGOs and even individuals. The third channel is *Pochi la Biashara* ('business wallet' in Swahili), which was launched in 2020 and allows micro-entrepreneurs, such as *boda-boda* taxi operators, food vendors, or market traders, to receive and separate business funds from personal funds on their M-Pesa line. This service was necessitated by the fact that such micro-entrepreneurs typically do not separate their personal funds from those of their small businesses, which could be detrimental to their microenterprises.

Our conversations with multiple small entrepreneurs revealed a growing awareness of the increase in transaction fees for digital financial services, which they now clearly understood was due to increased excise taxes. Many of these small entrepreneurs had resorted to discouraging payments for goods and services through digital channels in favour of cash for two main reasons. The first was to avoid the transaction charges they and their customers would incur. The second was to avoid the watchful eye of the tax authorities, who might demand turnover tax[2] based on the sales made using digital channels. In October 2023, an issue of the *Business Daily* newspaper had a headline that read, 'Tax cheats ditch mobile payments to beat KRA', a title which seems to suggest that reverting back to cash is morally or even legally problematic. In essence, however, KRA's

[2] The Finance Act 2023 required small businesses that have gross annual sales of 1 million Kenyan Shillings (KSh) (roughly US$8,000) and above to pay three per cent turnover tax on gross sales.

frustration with reverting to cash was caused by the fact that the use of cash gives businesses the opportunity to underreport sales and consequently evade taxes.

Instead of seeing the fee increase as a result of a non-governmental decision by Safaricom, some of our interlocutors thus clearly understood the relation between taxation and transaction fees and resorted to discouraging digital payments in their businesses. Another creative way that some micro- and small business owners used to outfox KRA was through the use of M-Pesa money transfer (sending and receiving money) as opposed to the three M-Pesa payment channels described above. Small business owners would, for instance, ask customers who wish to pay via M-Pesa to send the funds to their personal M-Pesa account or withdraw the money from their preferred M-Pesa agent. They would then collect all payments from the agent at the end of the working day. While the transaction would be recorded as a valid M-Pesa withdrawal or transfer, which are for all intents and purposes not typical business transactions since they are not directly linked to the business as the typical M-Pesa payment channels are, it actually is a payment for goods or services.

The behavioural patterns by merchants discussed above mirror those documented by Bernad *et al*. (2023) in their study on digital merchant payments in Rwanda, where digital merchants employed compensating strategies to avoid taxes, observing that even though the merchants report an increase in reported VAT sales and inputs, their final VAT liability remains relatively unchanged. Comparably, Anyidoho *et al*. (2023), who studied public perceptions in Ghana after the passage of the electronic transfer levy (E-levy), observed new patterns of mobile money usage and strategic avoidance of the E-levy which depend on a multiplicity of factors, notably the level of knowledge on the design of the levy and political affiliation (and therefore the likelihood of agreement with the policy. On Ghana see also Abounabhan *et al.* 2024).

5.2 Coping mechanisms by employers

One of the repercussions of the new tax law feared by Kenyan workers we encountered was anxiety about massive job cuts and hiring freezes, fears that were corroborated by the Market Perceptions Survey conducted by the Central Bank of Kenya (CBK) during our fieldwork, which revealed the difficult business environment companies faced, partly caused by the new tax measures. Of the 1,000 chief executive officers surveyed across different sectors, 26.3 per cent planned to reduce their workforce, while 63.5 per cent noted that they were not looking to hire new employees (CBK 2023).

In our interviews and focus group discussions we also found that employers were already finding ways to cope with the harsh taxation policies. One of the most telling ways was by paying employees off the payroll in cash to reduce the

amount of income taxes paid by the company to the tax authorities. We found that employees were willing participants in this tax evasion scheme. In our conversation with a secretary with an established law firm, for instance, she intimated to us that the partners of the firm had a 'candid talk' with a number of support staff during which they proposed cancelling their employment contracts and paying them in cash. The partners suggested that avoiding paying increased statutory deductions, including income tax, would keep the firm afloat and prevent them from losing their jobs. On asking whether this 'candid talk' could have been subtle blackmail by the firm's partners so that they accept a potentially less secure, 'unofficial' job position, she was adamant that it was not and insisted that the conversation was very open, adding that their jobs were practically secure given that a law firm their size will always need secretarial and clerical staff because it handles a lot of paperwork:

> *I know there are [taxes that she is not paying, addition by the authors] … I cannot pay because with the salary I receive, nothing much can be deducted to pay KRA. [laughs]. My salary is paid outside the books and I much prefer it that way.*

The other way that employers are coping with mounting tax demands is, where possible, through the use of contract staff, casual employees and interns as opposed to permanent, full-time employees. With contract employees and interns, companies are not required to provide benefits to their employees such as medical insurance or pension contributions. In some cases, we encountered casual staff who are paid a daily or weekly wage for doing what would ordinarily not be a 'stipend job' as a way for employers to avoid paying income taxes. While this practice is to some extent legal, it is expected that employers use such measures with restraint. However, this is not the case as Kenyan employers are using legal leeway to get the government to loosen their stance on taxation. Notably, the recent tax measures have exacerbated the precarity of employment in Kenya, leaving average workers disillusioned and unsure of their future prospects. The next section focuses on a particularly widespread form of 'fiscal disobedience' (Roitman 2005) among daily labourers as well as small business owners, namely to 'file nil' in their annual tax declarations despite having had income.

5.3 Filing of nil returns

We assembled a focus group in one of Nairobi's high-rise estates called Pipeline, where Schmidt previously conducted fieldwork on the lives of rural-urban migrants from western Kenya (Schmidt 2024). The people we invited represent Nairobi's lower class who eke out a living engaged in day jobs in the industrial area or the nearby international airport, and by selling clothes, food and everything else needed to the inhabitants of Pipeline. One member of the focus

group who gets by doing manual work when available and handouts from local politicians who task him with mobilising crowds, for instance, told us that he thinks that the government should only tax people who earn a high regular income of at least 50,000 KSh and be more lenient on those who earn less, run microenterprises, or rely on irregular work streams, as he does himself. Most members of the focus group agreed with him, noting that their small and erratic incomes are 'not enough' even for the necessities and that they get by far worse than those in formal employment. As a result, it is not surprising that many people we interviewed who belong to a similar socio-economic class reported filing 'nil tax returns' to tax authorities, effectively declaring that they had no income for the year.

A number of studies have sought to understand why individuals would register as taxpayers and intentionally report nil returns, aside from the obvious legal requirement of reporting taxes annually. For example, Mascagni *et al*. (2022) observe that Rwandese taxpayers who consciously file nil returns are generally unaware of their obligations, are not well acquainted with the taxation practices and rules or are avoiding the associated costs of reporting on their incomes. Likewise, Santoro and Mdluli (2019) investigate this phenomenon in Eswatini and note that a vast majority of taxpayers who file nil returns also do not declare VAT returns at all, making it difficult to separate taxpayers with no business income (therefore likely no tax liability) from those who may be intentionally evading taxes.

Those of our salaried respondents belonging to the middle- and higher-income brackets, on the other hand, invariably expressed feelings that KRA should focus more on expanding the tax base, especially by taxing the informal sector, instead of deepening the current tax base by adding new taxes on the formal sector. This, they argued, would ensure that the tax burden is not borne exclusively by those paying income taxes automatically deducted from their salaries, thereby reproducing the stereotype that 'the informal economy is untaxed by definition' (Meagher 2018: 4) despite the fact that the poor and those in the informal sector also pay taxes, such as VAT, as well as different fees and bribes in their daily lives. As an example, we would like to quote the above-mentioned financial controller who remarked:

> *As it is, it [the tax regime, addition by the authors] is not really fair because the formal sector workers pay most of the income taxes while those in the informal sector don't pay any tax, or if they do, it's very minimal. So in that regard, I don't think it's fair but in terms of the PAYE rates I think it's pretty fair because it's a progressive tax regime where the more you earn the more you pay, but generally the country as a whole, it taxes the formal sector more than the informal sector.*

Indeed, many of our salaried respondents also confessed to us that they under-declare their income in their tax returns by concealing income they earn from their so-called ‘side hustles’, such as rental income or consultancy jobs.

5.4 Fighting back: how KRA is trying to deal with non-compliance

Probably foreseeing widespread attempts at fiscal workarounds, the tax authorities implemented several ways to increase tax compliance. Some of these, especially the employment of KRA employees ‘on the ground’, so-called ‘revenue service assistants’, as well as reminders sent via text message or email, are similar to practices used by the municipal government to collect fees as well as those used by mobile money lenders to enforce repayment. In the following section, we describe three different, in parts contradictory, forms of how KRA is trying to increase tax compliance: through 1) the threat of penalties and fines, 2) the employment of RSAs and 3) trying to craft a new understanding of the relationship between taxpayers and KRA through self-branding and clever messaging.

5.4.1 Penalties and fines

One of the ways which is neither new nor unique to Kenya is the imposition of penalties for non-compliance. We encountered numerous people who have been penalised for contravening the tax regulations. The first category of people were ordinary taxpayers who failed to declare their annual income tax returns as required by the tax law. A number of people we encountered noted having received a penalty notification for not submitting their income tax return going as far back as five years. Some blamed this on the fact that they felt that the filing of tax returns was too complex. On the other hand, it is also telling that those who did file their annual returns explained that they generally get numerous reminders to file their taxes from KRA via email and, in some cases, from their employers, who furnish them with ‘P9 forms’[3] which help them to file returns. They also told us that they file returns in time so as to avoid paying penalties.

However, many people we encountered in the informal sector, some of whom had the KRA PIN and others who did not, had never received any notification about being penalised, despite not having filed their annual returns. Typically, KRA tends to notify taxpayers of penalties via email. As many people in the informal sector do not even operate email accounts, they were quite nonchalant about the consequences of not filing annual returns. This finding is corroborated

[3] P9 forms contain a tabulation of employment incomes earned and taxes deducted by the employer and remitted to KRA in the year. Notably, many who comply with tax requirements were indeed employed in the formal sector or generally occupied a higher class position.

by arguments made in the literature on taxation that take up Keith Hart's argument about the existence of an informal economy which is very vibrant but mostly invisible to the state (Hart 1985), thus making it onerous to tax it effectively (see for an overview Joshi, Pritchard and Heady 2014).

Another small but nonetheless interesting category of respondents who experienced penalties from KRA was micro-entrepreneurs and landlords who were fined heavily for not remitting tax on rental income as required by the law.[4] One of our interlocutors, for instance, was fined for not paying business taxes for his business after KRA combed through a record of payments he had received through Lipa na M-Pesa. Several other entrepreneurs narrated similar experiences of KRA fining them and threatening them with closure. We also encountered two landlords who had faced the same fate after failing to pay the required taxes on rental income. Both respondents were unaware that they were supposed to pay a tax on their rental income. This was somewhat understandable given that this tax only applies to a small subset of taxpayers. Moreover, taxes on rental income are supposed to be paid by the landlord after collection, in contrast to typical income taxes which are paid directly to the tax authority by the employer. After probing further, the landlords intimated to us that many other landlords they knew had now become aware of the taxes but were content with flaunting this regulation until such a time as there were consequences for their non-compliance.

5.4.2 Deployment of revenue service assistants

As already highlighted, KRA deployed RSAs to monitor compliance among micro, small and medium enterprises (MSMEs) throughout the country. It is worth underscoring that the use of RSAs to enforce tax compliance is distinguished from monitoring compliance of digital taxation where technology eliminates the need for physical staff monitoring compliance in organisations, market centres, or along busy roads with many small businesses. There is a wide consensus in the literature on tax compliance that the deployment of staff can help low-income countries like Kenya realise more tax revenues. However, Okunogbe and Tourek (2023) insist that this staff must target higher return activities that have the potential to bring in substantial tax revenues at low cost to the already resource-constrained tax authorities. Their findings, therefore, suggest that the situation in Kenya, where enforcement efforts are, more or less, randomly targeted at small traders and low-return enterprises, may not do much to improve tax collections in the long run.

Indeed, many business people we encountered also expressed the frustration of having to conduct their business in fear given that they believed that the RSAs

[4] Since 2016 the tax code requires landlords to pay rental income tax at a rate of ten per cent of the gross rent received. The tax rate was reduced to 7.5 per cent, effective 1 January 2024.

would disguise themselves as customers in plain clothes – a *modus operandi* commonly employed by county council enforcement officers, known as *kanjo,* who inspect business licences. As a consequence of this similarity, KRA's move to send RSAs on the ground was met with suspicion among the small traders we consulted. Some even feared that the RSAs would take away their work equipment and tools or even inflict violence on them in the same way *kanjo* do. The fact that RSAs were compared with *kanjo* also sheds light on the negative perception many of our respondents had on KRA's decision to send RSAs on the ground. A Rwandese refugee working in a nail studio, for instance, told us about his negative experience with *kanjo*, an experience that unavoidably shapes taxpayers' perceptions of other government agents employed to ensure compliance with the (taxation) laws. A recent study by Balán *et al*. (2022) lends some support to KRA's idea of deploying RSAs. The study investigates how local tax collectors (chiefs) in the Democratic Republic of Congo use local information to increase tax compliance and tax revenue more efficiently than state collectors. The study notes that even though the chiefs, akin to Kenya's RSAs or *kanjo* (in some respects), collected more bribes, it does not undermine tax morale or trust in government.

Although most of our respondents had not yet seen KRA officers in their neighbourhoods, our observations thus corroborate the findings of Okunogbe and Tourek (2023) that targeting low-income citizens through the deployment of RSAs might not be beneficial to raise tax compliance. Rather, it has the potential to increase mistrust between tax agencies and citizens as the latter begin to fear being targeted during their day-to-day activities.

5.4.3 Increasing tax compliance through self-branding and social media messages

Apart from the deployment of RSAs, which most of our respondents perceived as negative, KRA also actively crafts its image through advertisements on social media and on billboards throughout the city, trying to replace the widespread negative feelings towards taxation and KRA itself. Due to space constraints, we just want to highlight two examples here, urging scholars to pay more attention to how states craft narratives and images surrounding taxation. On the one hand, KRA uses the motto *Kulipa ushuru ni kujitegemea* (Swahili for 'Paying taxes is self-reliance'), which alludes to notions pegging a functioning tax system to an independent and strong state. In this context, it is worth mentioning that there was a recent public proposal by the previous and current government to rebrand KRA as Kenya Revenue Service (KRS). This proposal aimed to transform KRA's public image and to ostensibly improve tax compliance by making the organisation more customer-centric. Those backing the proposal to rebrand KRA took their cue from the Kenya Police Force, which had rebranded to the National Police Service primarily to change the mindset of the police and the public on

policing and due to the fact that the term 'police force' bore vestiges of colonialism. The proposal to rename KRA has, however, not been actioned to date and while this move could be timely and well-intentioned, we can only speculate whether it will change the perception of taxpayers about taxation and whether it will lead to significant improvement in tax compliance in the long run.

On the other hand, the Finance Act 2023 introduced a tax amnesty programme allowing KRA to waive interest and penalties on self-reported tax debt for a period up to December 2022. The programme ran from September 2023 to June 2024. To popularise it, KRA took to various social media platforms to sensitise taxpayers. For example, KRA took advantage of the week leading up to Valentine's Day to launch viral posts on their Twitter/X channel 'KRA Care' that likened the payment of taxes to situations happening in malfunctioning romantic relationships. If we take the anthropological assumption seriously that taxes are always (re)producing and (re)crafting relationships between citizens and the state, this advertisement strategy offers a window into how KRA itself conceptualises this relationship, namely as an intimate relationship characterised by misunderstandings and reconciliation. One post, for instance, shows a woman who is holding a bouquet of flowers and leaning on the shoulders of what appears to be her male romantic partner. Next to them we find the following statement: *'Ata akikosea, mforgive tu. Whether ni kusahau Valentine's ama kufile returns, everybody deserves a second chance'* which translates to 'Even when he/she makes mistakes, please just forgive her/him. Whether he/she forgot Valentine's or forgot to file tax returns, everybody deserves a second chance.'

This evolving messaging by KRA is ostensibly aimed at reconceptualising the relationship between taxpayers and KRA. Inasmuch as this and similar advertisements seem to suggest an attempt to move away from a citizen-tax authorities relationship characterised by mistrust, it remains to be seen whether they will amount to more than public relation manoeuvres that probably will not be able to replace actual policy changes that increase citizens' involvement in the drafting of tax policies. We turn to this topic in our concluding remarks. What is presently clear, however, is that the message sent out by such social media posts is substantially at odds with the rather confrontational approach of sending in RSAs on the ground, thereby sending mixed messages to the population that might be detrimental to tax compliance.

6. Policy implications and final thoughts

This working paper has explored the lived experiences and perspectives of ordinary Kenyans in relation to digital financial service taxes and taxation more generally. Digital mobile money taxes have been proposed as a way for governments to raise revenue from the thriving digital financial services industry and are discussed controversially in the literature (Bongomin, Yourougou and Munene 2019; Clifford 2020; Diouf *et al*. 2023; Mader *et al*. 2022; Ndung'u 2019). Our interviews, focus group discussions and fieldwork have shown, however, that taxes on digital finance services cannot be looked at independently from other taxes and circulating narratives about taxation that have the potential to create a generalised anti-tax atmosphere. Put differently, any controversial tax increase sparking nationwide debates might increase awareness of digital mobile money taxation hidden as fees and the possibility of circumventing these taxes by reverting back to cash.

We therefore suggest that research on taxes on digital financial services has to take over a more holistic perspective, integrating the wider taxation policies as well as citizens' general perception of the state, an approach we hope our project is an example of. By way of conclusion, we suggest two potential ways to increase tax compliance, namely to, on the one hand, increase citizens' participation in the formulation of tax measures and policies and, on the other, to catalyse the creation of new taxable entities by helping to transition individuals and enterprises from the informal into the formal sector, which would enhance their capacity to pay taxes and make them more identifiable and likely easier to tax.

One potential avenue to counter a general anti-tax sentiment lies in giving actors agency in shaping the taxation laws through deliberations and public participation. Such an approach would take seriously the Kenyan Constitution of 2010, which emphasises the idea of public participation in more or less everything the government proposes to do, from public appointments to all proposed legislation. Due to a lack of a specific law on public participation clarifying the modalities and thresholds of public participation, however, the results of this constitutional principle have been mixed and the idea of public participation has been taken more seriously in some matters than in others. As a matter of priority, we urge that a law on public participation be enacted so as to breathe life into this constitutional requirement, not just to cure deficiencies in taxation matters but in all other policy-making and legislative matters that would benefit from public participation.

Several studies have argued for the need to seek out views from key stakeholders, including the public, when formulating tax policy. For example, Lees and Akol (2021), studying the operationalisation of Uganda's mobile money tax, point out some flaws in the policy-making process for the tax, key among them being that some key stakeholders were excluded in the process which undermined the quality of policy design, resulting in costly policy adjustment. This was certainly the case with the introduction of excise tax on financial services in Kenya, which led to significant confusion among commercial banks about its implementation; it was also the case with the recent housing levy. This not only encountered widespread opposition but also resulted in frustration, especially among employers, some who made deductions for the housing levy but had to subsequently refund employees after the court determined that there was no legal basis for the deduction.

The idea of allowing the public to participate in the discussions about taxation laws is consistent with the idea of 'no taxes without representation' which came about during the era of the American revolution. Simply put, taxpayers must be involved in tax policy-making and those in power or authority should not simply impose taxes on citizens without their collective consent. While many Kenyans have not been involved in public participation, a majority of those who have participated in such sessions report feeling that there was already a set agenda and that the public participation sessions they attended were only held as a formality in order to give an impression of having made some effort to meet the constitutional requirement and to avoid lawsuits. Against this background, this working paper urges that public participation sessions as envisaged in the Kenyan Constitution of 2010 should be taken much more seriously and properly cascaded to the people whenever the tax legislation is supposed to be changed. This proposal, however, recognises that policy-making can be a very interest-driven process. Effective public participation will, therefore, require that the voices of people from different socio-economic backgrounds, genders, and ages be equally heard, which might prove challenging due to existing patriarchal and elitist structures that tend to overvalue the voices of politically and economically powerful individuals.

The second way that the government could increase tax compliance is by bringing people and businesses operating in the informal sector, who are typically invisible to the tax authorities or at least difficult to tax, into the formal economy, thereby broadening the tax base and reducing the negative feelings of those salaried workers paying income taxes who complained about lifting the heaviest burden. We perceive that this would boost the emergence of more sizable, formal enterprises that are easier to tax compared to smaller microenterprises due to several factors, such as the fact that they would tend to have an official business address, employees, auditable books of accounts and so forth. Obviously, there are no simple and straightforward ways to help those in the informal sector to

make this transition. Broadly speaking, however, this can be done by creating market conditions and formulating policies that privilege small businesses and allow for their growth. One of the ways that governments could help small businesses grow is by addressing one of the key challenges for them, namely the constraining factors limiting access to credit. This, we argue, could allow them to scale up sustainably, compete and increase their capacity to pay taxes in a less punitive, more sustainable way. More specifically, this could be done by taking advantage of and at the same time regulating the growing digital credit industry in Kenya, which could help small enterprises.

This mode of lending, however, has recently transcended the private sector. In late 2022, the Kenyan government rolled out the 'Hustler Fund', which was meant to target individuals with the aim of starting a small business as well as micro-entrepreneurs who already have a business and predominantly operate in the informal economy. Similar initiatives have been replicated at the sub-national level across some of Kenya's 47 counties. This includes initiatives such as the Vihiga County Trade and Enterprise Fund by Vihiga County, the Kisumu County Enterprise Fund by Kisumu County, and many others. If such business loans can be carefully targeted at enterprises with potential for growth, then this could make them more identifiable and increase their capacity to pay tax rather than the growing perception that the government is 'reaping where they did not sow', as demonstrated by our examples of fiscal workarounds by small entrepreneurs who refuse to pay increased taxes when their capacities have remained essentially static. Our suggestion is consistent with Okunogbe and Tourek (2023), who argue that low-income countries could collect more taxes by identifying new taxable entities. In contrast, the Kenyan government has predominantly deepened the tax bracket by imposing taxes on those already in the tax net as opposed to expanding the tax bracket. While this might increase tax revenue, it has also caused outrage in some cases, for example when the Finance Act 2023 proposed to tax schools with swimming pools as opposed to those without, or when the government suggested imposing a withholding and presumptive tax on agricultural produce delivered by peasant farmers to cooperatives or other organised groups.

Taken together, these suggestions might have the potential to halt the ongoing vicious cycle of new taxations leading to a negative atmosphere vis-a-vis taxes, that then causes a surge in fiscal disobedience which, in turn, prompts the Kenyan government to introduce new tax increases. In light of the recent events described in this working paper, however, the future of taxation and tax compliance in Kenya remains unclear. Yet, what is obvious is that there needs to be harmony between citizens who pay taxes and the government who make decisions on the use of taxes and formulate taxation policies. In other words, we feel that the recent outrage and protest against the Finance Acts 2023 and 2024 and the emerging anti-taxation atmosphere have illustrated the urgency of

discussing feasible ways to renew the social contract between the Kenyan government and the country's citizens (Magale and Schmidt 2024). This is equally instructional to many countries in Africa and beyond where the taxation social contract stands in breach.

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