

IV. Laws governing tax and tax-like contributions

- 1 Introduction 2
- 2 Main tax categories 3
- 3 Germany 3
 - 3.1 Formulating laws 3
 - 3.2 Taxes on Income, Profits and Capital Gains 4
 - 3.3 Taxation of Wealth 5
 - 3.4 Taxation of turnover, consumption, goods and services 5
 - 3.5 Customs 5
 - 3.6 Social security Contributions..... 6
- 4 Kenya Tax Laws..... 6
 - 4.1 Formulating laws 6
 - 4.2 The Income Tax Act 6
 - 4.3 Wealth Taxation 7
 - 4.4 Taxation of Turnover, Consumption, Goods and Services 7
 - 4.1 Customs and Excise Duty 8
 - 4.2 Social Security contributions 8
- 5 Zambia..... 9
 - 5.1 Formulating Laws 9
 - 5.2 Income Tax 9
 - 5.3 Wealth Taxation 9
 - 5.4 Taxation of Turnover, Consumption, Goods and Services 10
 - 5.4.1 Import VAT 10
 - 5.4.2 Export Duty 10
 - 5.4.3 Other Taxes 10
 - 5.5 Customs and Excise Duty 11
 - 5.6 Social Security Contributions 11
- 6 General Observations on Tax Laws 11
 - 6.1 Germany 11
 - 6.2 Kenya..... 12
 - 6.3 Zambia 12
- 7 Tax Law Lacuna and loopholes 13
 - 7.1 Germany 13
 - 7.2 Kenya..... 14

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| | | |
|------|--|----|
| 7.3 | Zambia | 14 |
| 8 | Informal/Shadow Economy..... | 14 |
| 8.1 | Germany | 14 |
| 8.2 | Kenya and Zambia..... | 16 |
| 9 | Wealth Tax, focus Real Property Tax | 17 |
| 9.1 | Real estate, real property and taxation..... | 17 |
| 9.2 | Transparency in Beneficial Ownership | 17 |
| 9.3 | The problem of valuation | 17 |
| 10 | “Green Taxes” | 19 |
| 10.1 | Germany..... | 19 |
| 10.2 | Kenya & Zambia..... | 19 |
| 11 | Double Taxation Agreements..... | 19 |
| 12 | Combating Crime | 20 |
| 13 | Conclusion..... | 21 |
| | Bibliography..... | 21 |

1 Introduction

Taxation must be understood within the broader context of laws governing society. Tax is therefore, law as it is duly promulgated by a country’s legislature. The violation of taxation laws attracts surcharges, penalties and in some case imprisonment subject to the degree and extent of the violation. In this chapter of the tax study on Poverty and Tax, we shall be considering some key premises of taxation law in Germany, Kenya and Zambia. Most importantly, they build upon the respective countries’ constitution which confers taxation powers on the Ministry of Finance and respective revenue authorities. Beyond that, as is consensus in general taxation theory, they must be anchored on the values of efficiency and equity (see I/V). However, tax laws and taxation policy are influenced by several factors which include among others, the governance system of a country i.e. whether the country is a federal system or unitary, fiscal objectives and economic growth targets, regional affiliations i.e. European Union (EU), Eastern Africa Community (EAC), the Common Market for Eastern and Southern Africa (COMESA), etc.

In all three countries, the following taxes and mandatory tax-like contributions exist:

- **Taxes:** generally understood as payments charged by the government on a product or income. They include, Wage tax, Corporation Income Tax, Customs and Excise, Turnover Tax etc. Since taxes are for financing government expenditure, one has no say on how this money is spent (different from the two other categories)
- **Contributions:** charges levied for the (potential) entitlement of a (later) service, e.g. insurance against sickness or unemployment.
- **Levies and (Excise) Duties:** voluntary or involuntary payments for the reception of some service provided by a public authority, e.g. customs, issuing of passports or certificates.

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While there are a number of attempts to categorize individual taxes under umbrella concepts by international bodies, only the OECD categorization considers both taxation and mandatory social security contributions (SSC). The reason for the OECD to include SSC into the assessment of the overall mandatory burden for citizens is international comparability since social security is financed differently in different regions of the world. In Scandinavia, for example, the share of taxes in financing social security is higher (and, accordingly the taxes paid by citizens) while the Anglo-Saxon tradition encourages private provisions (with a lower tax burden, but mandatory private payments). In KEN and ZAM, those systems are only in their first steps, and there is no comparable situation with Germany. There are overlaps, however, which is why they shall be presented.

2 Main tax categories

In all three countries there are different tax like laws and regulations which share common features. For that reason, the various laws have been grouped under umbrella headings to make comparison easier. Accordingly, this categorization, follows the OECD and its Revenue Statistics which distinguishes the following five main categories:

1. Taxes on income, profits and capital gains
2. Taxes on Property/Wealth
3. Taxes on Goods and Services, including VAT,
4. Customs
5. Social Security Contributions

Since this research is concerned with the Wealth Gap, there is specific interest in taxes aimed at wealth assets. Those taxes are summarized under the “Property Taxes” in the OECD statistics. This category includes sub-categories of inheritance and gift taxes, property and property transfer taxes, recurrent net-wealth taxes etc. For the sake of common knowledge background, however, we stick to the term Wealth Tax rather the OECDs terminology.

3 Germany

3.1 Formulating laws

Taxation in Germany is a shared responsibility of the federal state, the 16 individual states (*Länder*) and the municipalities. The Legal foundation for this are articles 20-37 and 104-108 and other articles of the German Basic Law (BL, *Grundgesetz*). As a rule of thumb can be said: Whereas the legal responsibility of drafting and passing taxation laws is largely done within the federal institutional framework (federal parliament (*Bundestag*) and chamber of states (*Bundesrat*)), the responsibility for the execution of taxation laws lies largely in the responsibility of the *Länder*. While the federal government introduces laws via the *Bundestag*, the *Länder* can initiate laws individually or in groups via the *Bundesrat*. Some taxes and their respective rates can be passed upon the federal, state or even municipal level:

| Federal Level | State Level | Municipal Level |
|---|--|--|
| E.g. Consumption Tax (except Beer Tax), Insurance Tax | E.g. Inheritance Tax, taxation on Beer and levies on Gambling Houses | E.g. Local Business Tax, Real Property Tax |

If collected, revenue arising from those taxes is forwarded completely to the treasuries at the three respective levels of government. Other taxes, include shared taxes

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(*Gemeinschaftsteuern*) which after collection are divided among the federal, state and the municipal level in accordance to individually changing allocation formulae:

| Income Tax (including Wages Tax) | Corporation Tax | Final Withholding Tax on income from capital (<i>Abgeltungsteuer</i>) | Revenue of Turnover Tax (2012) |
|--|------------------------------|--|---|
| Federation 42.5% States 42.5% Municipalities 15% | Federation 50% States 50% | Federation 44% States 44% and Municipalities 12% | Federation 53.4% States 44.6% Municipalities ca. 2% |

The most important legal code regulating this complex system of shared rights, shared tasks, and the relevant procedures alongside is the Fiscal Code of 1st October 2002, which codifies the rules applying to all taxes as a compendium of general tax law' (Federal Ministry of Finance, 2011, p. 4).

3.2 **Taxes on Income, Profits and Capital Gains**

Income Tax (*Einkommensteuer*) taxes all sorts of income. This is commonly income from salaries and wages, but more often than not there is also income from other sources. The law mentions seven categories of income:

1. Income from agriculture and forestry
2. Income from business
3. Income from independent labour (self-employed)
4. Income from dependent labour
5. Income from capital assets (interest, capital gains...)
6. Income from rent and leasing
7. Other income

The sum of income arising from one or more categories is first added before the total "sum of income" is taxed with a progressive tax rate leading up to 45% for top-income. The major exception is income from capital which is taxed at a flat rate of 25%.

Subject to Income Tax are two categories of people: those with permanent or usual residence have unlimited tax liability, which means that they have to pay tax on all categories of income regardless of whether it is generated domestically or abroad. People with residence abroad have limited tax liability on income received in Germany.

There is a special way for collecting tax revenue from dependent labour and from capital. They are collected automatically at "the source", i.e. they are collected by automatic deduction from where they occur. In the case of wages, it is the employer who transfers the tax directly to the tax authority. The obligation of withholding tax on capital falls on the respective banking institution.

Because of its respective importance, there are separate laws regulating specifically the following sub-categories of income-taxation:

Wage Tax (*Lohnsteuer*) is the name for the taxation of income generated from dependent employment and collected directly from the employer.

Local Business Tax (*Gewerbesteuer*) taxes the income generated from a (local) business and is paid to the municipality. Since municipalities determine the leverage relevant to calculate this tax, this tax varies from municipality to municipality

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Corporation Tax (*Körperschaftsteuer*): While income-tax taxes “natural” (real) persons, Corporation Tax applies to ‘legal persons’ such as companies. While for Income Tax, the tax rate applied follows progression, Corporation Tax is a flat tax of 15%.

3.3 **Taxation of Wealth**

Since 1997, there is no proper **Wealth Tax** (*Vermögensteuer*) in Germany because the Federal Constitutional Court asked the government to reform the tax base. But this has not been done yet which is why the tax is suspended. However, there are still important taxes which tax net wealth.

Real Property Tax and Real Property Transfer Tax (*Grundsteuer, Grunderwerbssteuer*) is paid for the possession of land and on income resulting from selling land. Regarding property taxation, there are two categories: One referring to forests and agricultural land, the second to “other land” including (most importantly) land which can be used for building houses and setting up factories. Real property tax is within the responsibility of municipalities and a composite of several factors: the “standard value” of real property which then is multiplied with an index number depending on the use of the land (*Steuermesszahl*, different whether residential house or agriculture/forestry) and/or the local rate of assessment (*Hebesatz*). The latter can vary considerably, which is why the tax varies from municipality to municipality and can be, as the Local Business Tax, an instrument of competition.

Inheritance and Gift Tax (*Erbschaft- und Schenkungsteuer*) is paid on the monetary value of any inheritance and endowment. Tax on inheritance and gifts depends on the amount of assets being transferred and the degree of relationship between the deceased/owner and the heir/recipient. For obvious reasons, direct descendents and close family members pay less tax than distant relatives, and large estates/gifts are taxed higher than smaller ones. This is why the tax rates vary from 7% to 50%. A constantly debated issue is the assessment of the categories making up the tax base, i.e. the value of real estate, of financial assets and business assets. Here, the Constitutional Court also pushed for a market based near assessment of real estate in 2006 (which could be found and implemented) and declared the then-valid form of the law to be unconstitutional in 2014 because of too many exemptions and privileges for business assets.. The present government reformed the law in June 2016 and forwarded it to the proper parliamentary proceedings. When work on this book ended it was not yet decided whether this process finds the required majorities both in the Federal Parliament and the Chamber of States.

3.4 **Taxation of turnover, consumption, goods and services**

The third and last main category of taxation covers indirect taxes. Duties and levies also fall in this category.

1. The most important sub-category here are “**Taxes on Consumption**” and **Turnover Taxes** which is collected in Germany as **Value Added Tax**.
2. The second sub-category contains **taxes on energy and electricity**, followed by
3. “**Other indirect taxes**”, e.g. taxes on tobacco, insurance, cars etc. and – finally –

3.5 **Customs**

For the German country study, the question of Customs and Excise is of indirect importance. They arise from import and export outside the European Union and are not remitted to the treasury of the German government. Instead, it is remitted to the European Union as a direct

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budget support funding for European Union activity implementation. This applies to all customs and Excise revenue of all other 26 EU member states.¹ Since this study is about the links between Tax Justice & Poverty within the national states taking part in this study, the relevance of Customs Revenues in this respect is different between Germany on one hand and Kenya and Zambia on the other.

3.6 ***Social security Contributions***

For Germany, mandatory Social Security Contributions exist for health, unemployment, accident, long-term care and pensions. Because they are mandatory by law, they are exempted from the regular collective bargaining, in which employer federations' and trade unions regularly negotiate future terms of employment. For Germany, low paid jobs or precarious employment are exempt from this obligation (see II/1.3.3). Those employed in this exempted category, if in need of assistance, are supported by the tax-financed social welfare. As has been indicated in III/1.2, special problems arise in the legal low-pay sector regarding the obligations of paying SSCs and deficits in insurance coverage up to the extent that those working there and their dependents lack adequate social security coverage and need to rely on Social Welfare provisions instead.

Mandatory social security contributions, which finance the Germany system of social insurance, is partly divided between the employer and employees. But accident insurance is solely financed by the employer. There is a provision for the wealthy who earn an income above EUR 54,900 (in 2015) to opt out of mandatory social security system for private insurance.

4 **Kenya Tax Laws**

Kenyan Taxation system utilizes three principle pieces of legislation namely; the Income Tax Act, the Customs and Excise Act and the Value Added Tax Act. These pieces of legislation have now been codified and consolidated into The Tax Procedures Act (TPA), No. 29 of 2015.

4.1 ***Formulating laws***

Tax law formulation in Kenya is under the jurisdiction of parliament. However, for tax laws to become binding they require the president's assent. As in the case of the laws mentioned above, the TPA is aimed at addressing also other fragmented tax laws in Kenya through harmonizing and consolidating tax administration. The law became effective on January 19, 2016 and this law principally affects Multinational Corporations operating in Kenya. The following is a detail of principal tax legislation in Kenya.

4.2 ***The Income Tax Act***

The Income Tax Law is contained in the Income Tax Act, chapter 470 of the laws of Kenya, which is the principal legislation with schedules and subsidiary legislations. The Kenya Income Tax Act commenced on 1st January 1974 after the dissolution of the East African Community Management Act. For Kenya, taxes on various types of income fall under this category. The most common type is income tax on formal labour/employment referred to as pay-as-you-earn (PAYE). Simply put, PAYE is a tax charged on income earned in form of a wage/salary. Additionally, other types of income subject to taxation include that which is derived from business, rent, dividends and interest earnings among others. Income tax is paid with a progressive tax rate.

¹ http://ec.europa.eu/budget/explained/budg_system/financing/fin_en.cfm#own_res

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The income tax Act has 14 parts and 133 sections; and 13 schedules. It also contains subsidiary legislation on rules, which govern the operations of the Local Committee, Tribunal, High Court, PAYE e.t.c.

4.3 **Wealth Taxation**

While there is no ‘explicit’ wealth tax per se, Kenya has some duties and taxes which are charged on wealth relevant assets. National taxes are the following:

| Taxes / Duty | Rate |
|--|-------------------|
| Creation or increase of share capital | 1% |
| Transfer of stock or marketable security(except quoted securities, which are exempted) | 1% |
| Registration of debentures, mortgages and charges | 0.1% |
| Transfer of immovable property: Within a municipality | 4% |
| Outside a municipality | 2% |
| Lease: Between 1 and 3 years | 1% of annual rent |
| Over 3 years | 2% of annual rent |

Currently, the capital gains act, which was suspended from 1985 to 2015, is in the process of being reintroduced in Kenya..

Property taxes refer to tax imposed by a county government on registered property within its jurisdiction. According to an official within the Finance department of Nairobi City County, “...property could be land, house or vehicle”.

4.4 **Taxation of Turnover, Consumption, Goods and Services**

As in Germany, the most common type of consumption tax is Value Added Tax (VAT). VAT is applied at any point in the supply chain where value is added to a product which could either be a good or service.

It is established by the Value Added Tax Act, (Cap. 476) of the Laws of Kenya and the regulations stemming from it. VAT is charged on supply of taxable goods or services made or provided in Kenya and on importation of taxable goods or services into Kenya. Taxable goods and services are contained in the various schedules of the VAT Act. All goods and services are taxable except those excluded through the second and third schedules respectively. The first schedule of VAT Act specifies the general rate of tax, which is 16%, and taxable goods at the rate of 12 %. The second schedule exempts some goods (non-taxable goods). This serves to caution the poor. All other goods outside the second schedule are taxable at 0%, 12% or 16%. The third schedule lists exempt services. Services outside this list are taxable at either 0% or 16 %. The fifth schedule shows zero rated supplies, and zero rated goods. These goods and services attract 0%. The seventh schedule details invoices, records and returns to

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be issued or maintained by a registered person. The eighth schedule, lists public bodies, privileged persons and institutions with zero-rated status on imports and purchases. This schedule also lists goods subjected to zero rating and goods and services imported or purchased by persons with diplomatic privileges.

An indirect tax imposed by counties is the Entertainment tax, on consumption of entertainment goods such as beer and / or cigarettes.

4.1 Customs and Excise Duty

Customs is a term that is used to refer to the government taxes that are levied at points of entry of a country on imports and exports. Such taxes include import duty, Excise and VAT on exports. Both private and commercial imports are levied custom tax. For this reason, customs offices are to be found at the country's entry points.

Excise tax is levied on a few items consumed in Kenya. These goods may be manufactured in Kenya or imported. For this reason, this tax is collected alongside import duty at the entry points as well as at the manufacturers' premises when excisable goods are being released to the market. These Excisable goods are: cars, tobacco (and tobacco products), beer and perfumery as well as the bottled water and fruit juices.

Currently, importers are required to clear their goods through a registered clearing and forwarding agent. They generally charge a fee of 0.5% to 1.0% of the value of goods to be cleared. However, motor cars are charged a fee of between Kshs. 10,000 — 15,000. Since these agents are many, it is easy to choose a good one.

Exports do not attract any tax except for the raw hides and skins which attract 20% export duty in order to protect local tanneries. In addition, there are tax incentives for the manufacturers who produce for foreign markets under the EPZ, EPPO arrangements.

4.2 Social Security contributions

There are two major institutions of social security insurance and provisions of relevance for the payment of SSCs

The National Social Security Fund (NSSF) was established in 1965 through an Act of Parliament Cap 258 of the Laws of Kenya.

The main objective of the Cap 258 was to provide basic financial security benefits to Kenyan upon retirement. The Fund was set up as a Provident Fund providing benefits in the form of a lump sum. On 24th December 2013, NSSF Act, No. 45 of 2013 was assented to thus transforming NSSF from a provident fund to a pension scheme. The transformation aims to offer social protection to all Kenyan workers either in the informal or formal sector. It does this by compelling each and every Kenyan with income contributing a percentage of his/her gross earnings alongside the employer. This in turn guarantees a basic compensation in case of any eventuality e.g. disability, death etc. Currently, the fund operates in two sets, the Pension Fund and the Provident Fund.

Next there is the National Hospital Insurance Fund (NHIF), a State Parastatal that was established in 1966 as a department under the Ministry of Health. The original Act of Parliament that set up this Fund in 1966 has over the years been reviewed to accommodate the changing healthcare needs of the Kenyan population, employment and restructuring in the health sector. Currently an NHIF Act No 9 of 1998 governs the Fund.

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The transformation of NHIF from a department of the Ministry of Health to a state of corporation was aimed at improving effectiveness and efficiency. The Fund's core mandate is to provide medical insurance cover to all its members and their declared dependants (spouse and children). The NHIF membership is open to all Kenyans who have attained the age of 18 years and years and have a monthly income of more than Ksh 1000.

5 Zambia

The Zambian tax system broadly comprises income taxes, excise taxes, domestic value added taxes and trade taxes:

| Tax category | Type of tax |
|--------------------------|---|
| Income taxes | <ul style="list-style-type: none">• Company income tax• Pay As You Earn (PAYE)• Withholding tax• Mineral royalty• Property Transfer Tax |
| Excise taxes | <ul style="list-style-type: none">• Carbon Emissions Surtax |
| Trade taxes | <ul style="list-style-type: none">• Customs duty• Export duty |
| Domestic Value Added Tax | <ul style="list-style-type: none">• VAT |
| Informal Sector Taxes | <ul style="list-style-type: none">• Turnover, Base, etc |

5.1 Formulating Laws

The formulation of tax laws in Zambia is the responsibility of the country's legislature. Generally Tax laws in Zambia are proposed by the ministry of Finance with input from the Tax Authority, Civil society and general members of the public. A characteristic feature of Zambian Tax laws is the increasing performance of Civil Society in general advocacy on tax justice in Zambia. Before commencement of any subsequent fiscal year, the executive invites the submission of tax and non-tax proposals. It is at this juncture that the proposals are considered by the executive for onward submission to the legislature together with the fiscal budget for the subsequent year.

5.2 Income Tax

PAYE is tax charged on income from dependent employment. Income from Employment includes earnings on salaries and wages; Overtime and bonuses, Gratuities and allowances, cash benefits and commissions. All cash payments on allowances are taxable under PAYE, such, as education, housing and utility. Some selected payments are not subject to PAYE in the case of the Zambian Tax code. Payments such as labour day awards, funeral grants and medical expenses. However, regarding non-dependent labour such as self-employed individuals income tax is paid through turn-over tax at the rate of 3% on incomes above ZMW 800,000. and is charged under the PAYE rates.

5.3 Wealth Taxation

Although Zambia has no categorical wealth taxes per se, it however has Withholding and Property Transfer Taxes which may be categorised as wealth Taxes for purposes of this study and the norm obtaining in the OECD statistics. Withholding Tax is tax collected at source from some payments which include dividends, interest, rent, commissions, management and

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consultancy fees. Property Transfer Tax is levied on transfer of land and buildings and is paid by the vendor. It is also paid on transfer of shares. Property transfer Tax applies to governments and local authorities. Mwila et al. (2011) observed that, “Income from capital, such as property or shares is not efficiently and effectively taxed.”² Since wealthy individuals derive much of their income from assets rather than from salaries, without an effective system of taxing assets or shares, a heavier tax burden is borne by few low and middle class employees in the formal sector through PAYE tax deductions from salaries.

5.4 Taxation of Turnover, Consumption, Goods and Services

VAT is administered under chapter 331 of the laws of Zambia. Generally, VAT may be defined as a consumption-based tax that is levied in the supply chain at each point where value is added to a good or service. Taxable supplies are taxed at either 16% (standard rate) or 0% (zero-rated). Zero-rated supplies include Exports, Energy Saving appliances, Equipment and machinery, medical supplies and schoolbooks. Exempt supplies are items specifically excluded by law from liability to VAT, (i.e., no VAT is charged) even if supplied by a registered business. Examples of exempt supplies include, educational services from Nursery to secondary school are exempt, therefore, a primary school will not register for VAT and will not claim any input tax. In Zambia, only registered businesses can charge and claim VAT. According to Nhekairo, ‘A registered business charges and collects VAT on its supply of goods and services to customers. VAT so charged is called **output tax**. On the other hand, registered businesses claim the VAT that they pay on purchases of taxable goods and services for their businesses. The tax so claimed is referred to as **input tax**. The net of output and input tax is paid to ZRA or refunded to the taxpayer as the case may be’ (Nhekairo, 2014). There are two types of VAT registrations, namely: Statutory registration – annual taxable turnover in excess of ZMW 800,000 and voluntary registration – where the turnover of a business is below ZMW 800,000 per annum but the business has fulfilled all the requirements for VAT registration. It is important to note that business dealing in exempt supplies such as educational services from nursery (*Head start programmes for children*) to secondary school are VAT exempt, therefore, a primary school may not register for VAT and therefore may not claim any input tax.

5.4.1 Import VAT

Import duty is a tax levied on goods that are in the import tax category. Taxed on imported goods that attracts VAT. Import VAT is charged on the Taxable Value of 16%.

5.4.2 Export Duty

This is a tax charged on exported goods. It is charged on customs value. This is a duty charged on specific exported goods and services. This duty is meant to promote domestic value addition on raw materials and primary goods. In Zambia, goods that attract export duty include Copper concentrates, Scrap Metal and Cottonseed.

5.4.3 Other Taxes

Other Taxes in Zambia include; Mineral Royalty Tax which is tax due to the government as compensation for extracting minerals from the earth; Tax on Individual Minibus and Taxi Operators, on which a predetermined amount is paid by the individual public transport operators; Advance Income Tax (AIT), charged on importers that are either not registered with Zambia Revenue Authority or are registered but are tax delinquent; Base Tax, which is

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applied on small businesses and marketers that are generally difficult to assess on account of absence of business records due to the limited scale of the business scale;

5.5 Customs and Excise Duty

Customs Duty is a tax imposed on all goods imported into the country. Duties are based on the cost, insurance and freight of the product or service otherwise referred to as the CIF value of the product. Excise duty is a tax on a range of selected products whether produced locally or imported. It is generally determined by broader government policy. In Zambia excise duty is imposed on wines, beer and spirits, cigarettes, petroleum products, air credit on telecommunications etc.

5.6 Social Security Contributions

Zambia started the buildup of its system of Social Security with the National Pension Scheme Authority (NAPSA): It is a governmental parastatal obliged to collect mandatory social security contributions from the employers and employees. The NAPSA scheme is financed by both the employer and employee contributions at the rate of 5% each subject to the employee gross earning or ceiling determined annually using nation average earnings. The NAPSA scheme is deducted as follows; 5% of employee's gross earnings for those who earn below the NAPSA set ceiling for each year. For instance, if an employee monthly earning is K5, 000. The NAPSA deduction will be as follows; *Employees Share*: $5/100 \times K5000 = K250$. *Employers Share*: $5/100 \times K5000 = K250$.

6 General Observations on Tax Laws

In regard of tax justice across the three tax jurisdictions in the Study, two principle observations emerge, namely the increased burden of wage tax on labour and gradual and systematic decline of corporation income taxes in nominal and real terms. Country specific observations may shed more light;

6.1 Germany

Over the years, tax rates were reformed which benefited private and corporate wealth holders. Consider the following example. Regarding personal income tax, hardly anybody remembers that once upon a time the tax rates for top income earners were high, even under conservative-liberal coalition governments. The tax rates dropped from 95% in 1946 for high income earners to 48% inclusive of social security in 2005.

In the case of Germany, it has been observed that, even though the tax burden is indeed increasing up to the top percentile, even up to the top 0.01%, it is decreasing for the top 0.001% and 0.0001%. Secondly, they note that due to reforms of the Income Tax laws 1992-2005, the effective tax rate for the economic elite, even liabilities from Local Business Tax included, declined by 23% for the top percentile. The decline for the super-rich was up to 35%!. In other words: Even if the tax burden is comparatively high, it could be much higher under previous rates.

Similarly to the PIT rate, Corporate Income Tax fell. The tax burden for businesses arising from Corporate Income Tax dropped from 40% (2000) to 15% since 2008. However, businesses are not only taxed with CIT, but are also subjected to a Local Business Tax of the municipality where they are resident. Here, too, the tax burden decreased over the past years:

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The combined Corporation Tax plus average Local Business Tax burden dropped from 57.5% (1997) to 29.4% (2009). (Liebert, 2011, p. 62+82f.).

6.2 **Kenya**

There are concerns regarding tax rates for top income earners. One such concern is that, “The current marginal tax rate of 30% for tax band of over Ksh. 38,892 per month is a low progressivity tax system. It seems unfair to charge someone earning over Ksh. 1,000,000 per month at the same rates of 30% marginal tax rate with someone earning Ksh. 38,892” (YUSUF, 2013, p. 13). There has been a modification in 2016/2017 of tax bands to relief low earner and shift the burden towards the more wealthy, but still the tax rate has not been changed, in spite of growing knowledge of high income earner and millionaires.

Personal income tax compounds the effects of inflation on disposable income. An interviewee working a national NGO further added that, “assuming that over time their salary grows at the same rate as the prevailing rate of inflation, means that the person may find themselves paying income tax at a higher rate because the rise in salary may push them partly or fully into the second bracket of Ksh. 10,164 -19,740 to pay tax at a rate of 15% or even to the third bracket, giving an illusion that they are richer and hence paying at a higher rate yet in real terms they are not.” This is a “bracket creep” and is often addressed by indexing or adjusting tax brackets for inflation so that if salaries rise at the same rate as inflation, then the person still pays their income tax at the same marginal tax rate, which is the level of tax threshold that reduces the tax burdens of the poor (Institute of Economic Affairs, 2012, p. 26). Another unfairness is the following. Interviewees further added that, “Taxation discourages citizens from earning more, because the more a person earns, the more s/he is taxed.” This is certainly more strongly felt until income rises so much that the top rate of 30% income tax is losing importance.

Regarding corporations, the issue is that corporate income taxes (CIT) were lowered from 45% in 1989/90 period to the current 30% in order to compete favorably with other countries for investment funds. But even if CIT rates were lowered to make it equal to the top marginal personal income tax rate (30%) for purposes of horizontal equity (Institute of Economic Affairs, 2012, p. 26), the problem is that it violates the principle of equity since the rate payable is fixed and not progressive. That there is a reduction in corporate income tax clearly indicates that there is a decreasing progressive burden when compared to tax on income from labour.

6.3 **Zambia**

The first problem here is that the top rate of 37.5% is applied at an income which is relatively low in comparison to those who also in Zambia earn a lot, i.e. there is no room for taxing really high incomes. In principle, the income tax rate is independent of whether such income arises from formal labour or informal sector labour. The problem of an increasing tax burden on formal labour is threefold; against informal sector labour, because employees are unregistered with tax authorities, against corporate income tax, because the tax rate is fixed... and income from other sources, such as rent because the law is not enforceable in its current state.

The low tax burden on informal labour has been attributed to the fact that they are largely unregistered. In fact, statistics show that while formal labour taxes amounted to 42% of income tax category, the informal sector contributed only 0.52%. Yet several players in the informal sector are prospective tax payers acting under expediency and informality of this sector.

7 Tax Law Lacuna and loopholes

In this chapter we consider glaring ambiguities and inadequacies in taxation laws across the three tax jurisdictions. In this regard we will discuss how companies exploit tax lacunas at the national and international levels. It is important to note that the principle recipe for tax exploitation by corporations and wealth individuals is primarily the inadequacy and weakness in domestic tax legislation.

7.1 Germany

In German law, at first sight there is almost nothing left open und without any definition and precisions – and this is exactly the problem: The overall complexity of Germany tax law opens all required doors to be exploited for relocating property or downscale taxable income.

There are roughly 200 laws and 100,000 (administrative) regulations. Between 1993 and 2005, the Income Law alone has been affected by changes in 97 other laws, some paragraphs of the Income Law itself were changed and revised several time, e.g. paragraph 3 alone 30 times. This in turn influenced paragraph 52 which regulates the application of the Income Law, which therefore needed to be changed 55 times during these 33 years. On May 2013, the relevant Website of the Ministry of Finance had 528 of its interpretative “Ministry of Finance” Letters online. At the same time it was emphasized that ‘the removal of one letter from this website does not mean that their validity has expired.’³ And: there are hundreds and thousands of open cases at the Federal Financial Court awaiting definite and binding interpretation and decision.⁴ Additionally, there are differences in the application of the law in the 16 German states and different interpretations by all sorts of tax relevant courts, up to the Federal Constitutional Court and the European Court of Justice.

Clearly, this complexity can be exploited by those who can afford it. Tax consultants admit that it is their job to interpret and apply the law in the best interest of their clients. As one conversation partner admitted, they ‘go to the limits of that which is legally possible, but never beyond.’ This, however, can be questioned: At a hearing in the British Parliament a PriceWaterhouseCooper executive admitted that tax saving models is considered to be legit even if there is only a 50:50 chance that the proposed construction is legal.⁵ The temptation certainly is considerable to be a little negligent regarding to what side of the 50:50 a tax proposal is. Besides the 50-50 legal proposals, there are “helpful” constructions such as foundations, trusts and shell-companies to be considered

Finally one has to consider the strength of battalions: There is an increasing mismatch between tax lawyers and tax consultants on the one hand, and tax inspectors on the other. Since 2003, the number of tax lawyers increased by 60%, of tax consultants by 30%, while the number of tax inspectors decreased by 5% and will further decrease until 2020 (depending from the Land) by 10-20%. (Wüllenweber, 2013).

Ironically, one reason behind the German legal complexity is an attempt to ensure Tax Justice. This is because simple tax rules cannot do justice to individual situations of private persons or businesses. So, legislators tried to be as fair and adequate as possible. And wherever the legislators did not succeed, courts are there to hear individual complaints which,

³ http://www.bundesfinanzministerium.de/Web/DE/Service/Publikationen/BMF_Schreiben/bmf_schreiben.html

⁴ <http://www.bundesfinanzhof.de/anhaengige-verfahren>

⁵ Obermayer, B./Riedl, K./Risel, M. (2014, November 6) Steuertrickser vom Dienst. In: Süddeutsche Zeitung. Retrieved from <http://sz.de/1.2208497>

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if judged to be justified, might lead to another amendment in the law which, in turn, will provoke another complaint etc. According to, , conversation partners from tax administration, politics and tax consultants, the situation is such that even if there will be a clear and simple tax law one day, because of the means for legal redress via courts and international complexities via globalization, the law will still be as complex as it is today within a short period of time. .

7.2 **Kenya**

For Kenya, unlike Germany and Zambia, the issue is seemingly vagueness within provisions of the law governing enforcement of some taxes. Just one example:

It is important to note that taxation with regards to income tax depends firstly on the source of income. That said, the base of an individual's income tax is what is referred to as income. The problem lies in Section 3 of the Income Tax Act which is the definition section. The seeming vagueness arises from the fact that the section does not define income as such. Due to this vagueness, a dispute may arise as to what merits as income. This may, however, have been intentional by the legislators to accommodate as many sources of income as possible.. But such vagueness can be exploited thereby reducing tax compliance.

7.3 **Zambia**

In Zambia, it seems that corporate income tax (CIT) is particularly prone to loophole exploitation. The collection of tax revenue under CIT has had its own challenges. Largely Company Income Tax (CIT) is profit based. Determination of taxable profits can be challenging especially where taxing Multinational Corporations is concerned. Mainly, MNCs tend to have branches in different countries and this makes it easy for MNCs to shift profits across its branches. For instance, British Associated Foods (ABF) Zambian Subsidiary "*Zambia Sugar*" used an array of transactions to reduce taxable profits. As a result, the Zambian government lost tax revenue of around US\$ 17.7million. (Lewis, 2013)

Moreover, there are different tax rates applicable under Company Income Tax (CIT) across different sectors. This gives room for companies operating in two different sectors to shift costs and prefer to pay under the sector with a low tax rate. For example, Zambia Sugar despite three –quarters of its income and profits being derived from industrial sugar manufacture, enjoyed a low tax regime after winning a court order to reclassify all of its revenues as "*farming income*". This allowed the Company to reduce its tax rate from the 35% paid by most Zambian business to just 15% applicable in the farming sector then.

8 **Informal/Shadow Economy**

8.1 **Germany**

In Germany there is a substantial informal labour market besides the formal labour market, composed of both Germans and legally in Germany living and working Non-Germans (the larger part) and illegally in Germany living and working Non-Germans (the smaller part). A main reason for the engagement of the first and larger group is the attempt on part of employers and employees to lower the cost of labour by saving the payment of taxes and mandatory social security contributions. A main reason for the engagement of the second group is the lack of legal alternatives to work. This indicates that there are illicit/illegal/criminal degrees to it.

There are several layers to and distinctions to observe within, the German Shadow Economy, most importantly regarding the levels of increasing "illegality":

A. Combination of/overlapping between the legal low-income segment and illicit/illegal labour

The first option is to work within the framework provided by the legal low-pay segment, e.g. working with a Mini-job or in an “Internship” or even in regular employment, but working more hours than would be permitted according to German labour laws (e.g. more than 8 hours or at the weekend) and getting paid cash on top of that which has been transferred by the books for the regular work. A similar situation arises for employer to combine a legal workforce with illicitly/illegally employed labour, e.g. by using (fake) Self-Employed Germans or Contract Worker from Eastern Europe or the Balkans, but not letting them do work according to the regulation by the law but employ them de-facto dependently and under the guidance of the German foreman. A number of Germans, finally, are working here since they earn so little in their legal low-payment job that they rather want to “top it up” with undeclared work than going to the Social Welfare Office. Within this dimension and employment constellations, some tax and SSCs are being paid in Germany or the country of origin of Non-German worker, but not to the full extent.

B. Cash only

A number of people work in jobs by being paid cash only, i.e. there is no contract and paperwork, but only verbally agreed arrangements for working on a construction site, in harvesting or the care of old and sick people. Since there are no contracts, those people can be hired and fired and short term notice, are prone to exploitation and are vulnerable to the extent that they could not ask for payment if it is withheld from them since there are no contracts upon which to place a court case. Here, labour and residential laws are broken as well as taxes and SSCs are withdrawn to the full extent.

C. Illegal and criminal exploitation

While employment within the previous categories involves a lot of choice and some freedom on part of the employer and employees, Black Labour within this third segment exploits the material need of people (e.g. the need arising from poverty, the lack of alternative employment) or even seduces people into dependency by presenting illusionary employment visions (work as a hostess or nanny), and then having people end up in slavery like situations involving sexual exploitation or very hard and inhuman work without the provision of protective gear. Here labour, residence and criminal laws are broken as well as taxes and SSCs are not being paid.

One also has to consider sociological and ethical components. A lot of “informality” within the German Shadow Economy takes place within private, social, commercial and criminal networks. The first two rest on the fact that somebody knows somebody and recommends somebody, so there is also some safety net even in illicit or illegal situations because people are not alone. Next there are commercial networks, where labour is mediated via demand and supply. Here it is often in the interest of employer and employee to get along and do a good job since people want to remain in business with each other. Only within criminal networks deception and exploitation clearly defines who is the one profiting and who is the one losing out – but one can safely assume that this segment is by far the smallest of the four mentioned. At the other hand, the qualitative misery to be found here justifies an in depth treatment comparable to the other segments even though they are larger in quantity.

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Nobody working exclusively in the Shadow Economy has any claims to Social Security provisions for the simple reason that they are not registered SSC contributors. IN case something goes wrong, they would depend on state funded social welfare. This, in turn, is an element of unfairness to the general/honest tax payer since they work and earn money without contributing anything to the costs of the community.

8.2 *Kenya and Zambia*

What is clearly manifest in the two tax jurisdictions of Kenya and Zambia is the that taxation authorities face serious challenges in taxing this sector on account of three principle factors, namely; this sector is in incubation and has potential to grow and contribute to employment and national development if nurtured appropriately; second, it is a fertile ground for political expediency by politicians since this sector is politically active and a source of electoral manipulation by politicians who tend to hesitate to any major taxation initiatives targeted at this sector. Third, by the very nature of the informal sector i.e informality, namely existing outside the purview of government supervision and monitoring of transactions makes it difficult to tax. Kabaso and Phiri (2012), observe that, “Assuming zero compliance costs, therefore, had the informal sector been incorporated in the formal sector, tax revenues would have been higher by an average maximum of 7.7% of GDP per annum. As a proportion of total tax revenues, these forgone revenues are as large as 42% per annum. For the year 2010, the total amount of tax foregone due to informality was 6% of GDP, or 34% of the 2010 total tax revenues” (Kabaso, 2012).

The low tax burden on informal labour has been attributed to the fact that they are largely unregistered. In fact, statistics show that while formal labour taxes amounted to 42% of income tax category, the informal sector contributed only 0.52%. There is another way to tax the informal sector, namely via turnover. It operates as follows; PAYE rates apply for turnover over ZMW 800,000.

Accordingly, a discussion of whether, or how, the informal sector can be best taxed so that those working here can contribute to public expenses is still underway and lacks several shortfalls, most importantly are (1) It is focused too much on revenue generation without beholding the larger picture of the informal economy as job engine for African countries and (2.) it is conducted without proper participation of businesses from the informal economy in order to incorporate their experiences and views. Very few proposals are on the table which, according to this research, take the correct approach, for example:

According to Nhekairo (2014), Presumptive taxes are an important alternative for Zambia due to the severe constraint that ZRA faces in terms of resources and skills, and the tradeoff that it has to make between pursuing large taxpayers as opposed to the small ones. Nhekairo contends that there’s however, growing evidence (revenue statistics) to support the notion that presumptive taxes especially base tax and presumptive taxes on motor vehicles are not yielding much revenue as anticipated.⁶ He therefore advocates for a comprehensive study to critically evaluate the current tax legislations that mandate ZRA to administer and levy TOT, base tax and presumptive motor vehicle tax so as to establish the extent to which tax laws, compliance costs and administration issues contribute to their performance.

Employment in Kenya and Zambia is also linked with the access to insurance: Since informal sector is largely unregistered, it goes without saying that there are very few informal sector employees who contribute to social insurance through mandatory social security

⁶ {Nhekairo, 2014 #67}

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contributions. This implies that this category of employees is not only vulnerable to a lack of decent living (since they earn low wages) but will also be worse-off once they are no longer in employment since there is no social insurance.

Kenya is no different for the employees in the huge informal sector. Here, too we find the lack of accessibility to mandatory social security schemes since by definition, they are not registered.

But, as will be shown in the next part, there is more to the Informal Economy than just considering it as a source of revenue.

9 Wealth Tax, focus Real Property Tax

There are a number of wealth related taxes in our countries, aiming at capital and other assets of importance for the creation and accumulation of wealth:

| | Germany | Kenya ⁷ | Zambia |
|----------------------------|-----------------------------|--------------------|--------|
| Wealth Tax | Suspended | None | None |
| Capital Income (interests) | 25% Flat Tax | 10-25% | 25% |
| Capital Income (dividends) | 25% Flat Tax | 5-10% | 15% |
| Capital Gains | 25% Flat Tax | 5% | None |
| Inheritance & Gift Tax | Yes, but riddled with holes | None | None |
| Real Property Taxation | Yes, but undergoing reform | Yes | Yes |
| Real Property Transfer Tax | Yes, but undergoing reform | Yes | Yes |

Given the importance of land both

9.1 *Real estate, real property and taxation*

Taxing real property is attractive and justified for the following reasons:

- It is taxing a source of income for which its owner does not have to work.
- It is not distortive, i.e. if one taxes businesses it may have an impact on jobs. If one taxes real estate, not much might happen
- It cannot be relocated into tax havens.
- It is one of the oldest wealth tax in history and it is absolutely underutilized currently.

9.2 *Transparency in Beneficial Ownership*

The crucial point in taxation efforts of net wealth is the establishment of ownership. Here, a mix of legislative deficits, ambiguities and lack of resources constitutes a severe problem for the countries taking part in this research:

9.3 *The problem of valuation*

Another problem arising is valuation of property. While for Kenya, it seems to be a rather pragmatic issue, however, the main reason in Germany is the respective law and the inability of politics to resolve the deficits arising. In Germany, the problem arises from difficulties determining the tax base. The crucial element is the “standard value”

⁷ The Kenyan tax laws on income from capital and real property are complex and leave room for many exemptions, e.g. depending on source of income, location of business or citizenship.

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(*Einheitswert*) of real property which is the starting point of calculation with the index number (*Steuermesszahl*) and/or the local rate of assessment (*Hebesatz*).

Up to 1965, the Valuation Law (*Bewertungsgesetz*) determined that the standard value was fixed every 6 years and adjusted to changes in market value. In between those 6 years, clear rules applied for fine-tuning, if needed. In 1965, the then-government passed a law saying that from then on adjustment of the standard value will no longer occur automatically, but by a “special law”, which never came. When the new law replaced the old one, the standard value was never increased and adjusted so that for the areas of the old Federal Republic (West Germany) the standard values of 1965 still apply, for the accession areas of the former GDR the standard values of 1935.

Because the standard value differed increasingly from the market value, the Federal Constitutional Court asked the federal government in 1995 to change it in order to bring the real property tax base in line with the tax base for financial and business assets. The federal government did not succeed with the reform, which is why the wealth tax has been suspended since 1997 and real property and real estate in Germany is under-taxed to date.

Similarly the Federal Constitutional Court addressed the topic in 2006 when judging the Inheritance Tax for the same reasons. As to the latter, the federal government implemented a reform, which is, however, extensive and labour intensive although that is justifiable in the case of an individual inheritance or gift, but not for recurrent adjustments. A reform of the system is urgent, but stalls since the 16 German states need unanimity to pass the reform – which may not be possible in the foreseeable future: An attempted compromise in February 2017 was rejected by those two states which are among those hosting the largest number of wealth holder: Bavaria and Hamburg. Due to their blockade, the Constitutional Court will resume its review of the law and may even declare it unconstitutional in its present form.

In Kenya, the Public Finance Bill of 2015 has introduced taxation on rental income. The rational and measure for that is move to both simplify the tax regime for rental income and to expand the tax base by encouraging more taxpayers to comply. Resident tax payers owning residential properties in Kenya that generate income will be taxed at 10% (reduced from 12% contained in the Finance Bill) of the gross rent received where the annual rental income is up to KShs 10 million (Deloitte, Kenya Finance Bill, 2015). The Act further stipulates, resident taxpayers owning other immovable properties (i.e. commercial properties and land) or who own residential properties whose rental income exceeds KShs 10 million will be taxed at 12% of the gross amount received from rental income.

In Kenya, rental income currently is taxable under Section 3 (2) (a) (iii) of the Income Tax Act (ITA), Cap 470 Laws of Kenya. Landlords are expected to prepare a rent schedule for the leased property evidencing: (i) the number of properties; (ii) rent received per property; and (iii) gross rent received and all expenses incurred on each property. Such expenses must be wholly and exclusively incurred in the production of the rental income and must be supported. Tax is then computed on a net basis at the rate of 30%. Notwithstanding these requirements, the KRA has not collected the anticipated revenue from the growing real estate sector (**Ernest Young, Global Tax Alert, 2015**). The Government has introduced measures such as the mapping of all residential areas and establishing a division within the KRA dedicated to collecting rental income in order to bring this important sector into the tax bracket. However, such measures have met with limited success. In light of the challenge in administration and collection of rental income, the KRA has revisited its process for collecting taxes from rent particularly from the largely untapped low-end segment of the market. To this end, the Finance Bill 2015 proposes new measures which the Government

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hopes will boost the revenues earned from this sector. Collection of income from residential property has been hindered by a number of administrative challenges. This measure of taxing rental is aimed at bringing this income into the tax bracket and accelerating collection of tax on rental income.

In Zambia, the challenge is twofold regard originating from failure of the valuation of properties and neglect to register lease agreements with the Ministry of Lands. Only when properties are valued and lease agreement registered with the Ministry of Lands can, can ZRA extract appropriate taxes from this sector. There is potential revenue which has been lost on account of neglect to tap into the vast resource of the real estate sector. Zambia has no choice but enforce provisions relating to taxing the Real property market if it has to improve its fiscal position.

10 “Green Taxes”

Regarding the participating countries in this research, Germany has comprehensive green taxes while Zambia has carbon Tax. However, in contrast other countries in the study Kenya have no green taxes.

10.1 *Germany*

As to Germany, the discussions center are policies intended to finance the shift from the use of atomic and fossil energies towards the use of regenerative energies. Here, a Renewable Energy Levy has been introduced in order to generate revenue with which to finance the reduction of fossil energy and the build capacity for regenerative energy. The way this change has been designed lead in 2015 to a share of taxes and tax-like elements in the overall composition of the price for electricity of 52%, the rest being the costs for producing and delivering electricity. The first problem is that indirect taxes and tax-like contributions burden low and middle income households more than those better off. This is why in Germany there is already a discussion on “Energy Poverty” in regard to households of old people or households of single parents/many children. Even worse: Under the heading “competition”, businesses required a lot of rebates and exemptions from paying this levy so that they are disadvantaged by businesses of other countries whose production costs are not burdened by this levy. Among those businesses are some which use a lot of energy (and would have to pay accordingly a large share of this levy), e.g. smelters. That way, a good idea produces a number of injustices and needs. Therefore, there is need to review it.

10.2 *Kenya & Zambia*

While Kenya has no “Green Tax”, Zambia charges a Carbon Emission Tax on motor vehicles, ranging from 50 ZMW for small vehicles to 150 ZMW for cars above 3000 cubic centimetres;

11 Double Taxation Agreements

One has finally to note that taxation rights are no longer solely within the authority of individual states, but also afflicted by international agreements, most notable Double Taxation Agreements (DTAs). Their goal is to avoid double taxation of foreign investors, their effect within the global Offshore System seems to deprive developing countries of urgently needed

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revenue and create overall a situation of double-non-taxation. This shall be illustrated first samples from Zambia's 22 DTAs:

Tabelle 1 Impact of DTAs on taxing rights of Zambia

| | National rate | Reduced rates in accordance with the DTAs | | | | |
|-----------|---------------|---|---------|---------|-------|-------|
| | Zambia | China | Germany | Ireland | Swiss | Kenya |
| Interest | 25% | 10% | 10% | 0% | 20% | 0% |
| Dividends | 15% | 5% | 10% | 0% | 0% | 0% |
| Royalties | 9% | 5% | 0% | 0% | 0% | 0% |

Source 1 See (Action Aid, 2015, p. 7)

Regarding Kenya, the most recent DTA with Mauritius is under heavy scrutiny and brought to court because the Tax Justice Network argues that it undermines state taxing rights enshrined in the new Kenyan constitution. Similar to Zambia, severe rate reductions are noted, for example bringing down the national rate for Withholding Taxes of 20% down to 10% and also otherwise opening numerous avenues for tax avoidance. (Tax Justice Network Africa, 2016).

Germany and its businesses are at the winning side, which is noted by a research by Action Aid (2016), revealing that the German-Zambian DTA is particularly restrictive and, for Zambia, disadvantageous, which is why it recommends a re-negotiation.

12 Combating Crime

Still, all countries can do a lot of good within their own country or respective region. A closer look reveals differences, explicable by differences in political willingness and/or available resources even in areas where international consensus is quite advanced, e.g. in the cooperation against money laundering and terror financing under the Financial Action Task Forces (FATF) regime. When the Kenyan government brought out its Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) in 2009, the Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism of the Eastern and Southern Africa Anti-Money Laundering Group in 2011 was scathing in its critique: Of the 40+9 recommendations put forward by the Financial Action Task Force, Kenya was found compliant in only one case, largely compliant in another, while partially or non-compliant in all the others.

However, when Zambia was reviewed in 2008, it did perform much better when receiving only four "largely compliant".⁸

But even Germany does not seem to be over-ambitious when it comes to the implementation of FATF recommendations: In its 2010 Mutual Evaluation deficits even in the area of core recommendations were stated, e.g. with activities towards examining the beneficial ownership of that entitlements under "professional secrecy" were too far reaching. The 2010 review resulted in Germany as such being declared to be merely "Largely compliant" and placed under a regular follow-up procedure which lasted up to 2014 (see GER/VII).

⁸ http://www.esaamlg.org/userfiles/Zambia_Mutual_Evaluation_Report.pdf

13 Conclusion

It is apparent that there are clear differences and similarities in tax laws in the three countries where the study was conducted. A marked difference is that whereas Germany and Kenya have a devolved system of government with some semi-autonomous fiscal decentralization features in the taxation system; Zambia in contrast has a unitary system which is highly centralized and concentrated in the executive. Categorical similarities are clearly noticeable in the importance of PAYE as primary tax revenue in all three country reports namely Germany, Kenya and Zambia. This should pose serious questions and reflections on policy makers. Although Germany and Kenya have a much more diversified economy, wage taxes still bear a heavy tax burden similarly to Zambia, which has limited diversity in economic activities.

It can be deduced from the country cases above that tax legislation and tax policy is quite complex on account of being premised on several dynamic factors. Although Tax is one of the tools of tackling income inequality in society by pooling resources towards the common good, it can nevertheless militate the same common good when it serves class and sector interests. This is clearly manifest in cases where the super wealthy and powerful corporations collude by bargaining for favorable tax laws which tend to push the aggregate tax burden on formal sector employees through high PAYE and high indirect taxes. This is the obtaining scenario in the case of Germany, Zambia and Kenya. All the three countries have clear challenges regarding taxation of the super rich and powerful corporations. This can only be attributed to the fact that the super-rich and MNCs do not engage in good corporate citizenship. They enjoy comparative advantage in tax planning and their capital is extremely mobile as opposed to dependent labour which has fixed location and domain. Further, the super-rich and corporations enjoy greater leverage in bargaining power than labour in that the line of argument has always been the provision of employment to communities. And politics being a game of numbers, has usually played to this dice.

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