



Dispute Resolution across African Jurisdictions

2025 KPMG Africa Tax Summit

Agenda

01	Southern Africa	03
02	East Africa	06
03	West Africa	15

Southern Africa



Tax controversy landscape | Southern Africa insights & strategies

- **General tax environment and predictions**
 - Collection targets e.g., failed attempt to increase VAT and subsequent pressure to fill the hole
 - Use of technology and professional firms to form specialised units to identify risk areas and taxpayers
 - Third party notices
 - Cross-border collaboration
- **New legislation**
 - Preference shares
 - Interest limitation rules
 - Legislation of “error” which limits the application of mitigating provisions
- **Dispute resolution strategies**
 - Tax opinions
 - Prescription
 - Document retention
 - Verifications
 - Rule 56

Tax controversy landscape | Southern Africa insights & strategies (cont'd)

- **Court cases and controversies**
 - Stock obsolescence
 - Transfer pricing
 - Correcting a mistake: Before and after verification
 - Assessed losses and capital losses
 - In duplum rule considerations
 - Understatement penalties and SARS' onus of proof



East Africa





Country budgets and domestic revenue contribution

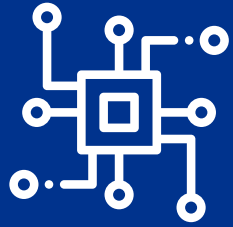


Country & revenue authority budgets FY 25/26

Country	Budget in Bn (USD)	Delta from FY 24/25	Tax contribution in Bn (USD)
Kenya	33.03	9%	25.75
Uganda	20.1	0.3%	10.55
Tanzania	21.6	13.4%	16.33
Rwanda	4.9	21%	2.9

Modus operandi

Tax audits and assessments



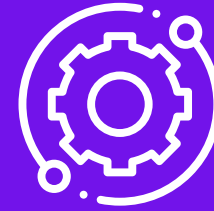
Types of audits

- Compliance audit
- Comprehensive audit
- Refunds audit
- Investigative audit



Audit process

- Notice of Intention to audit and review of documents
- Issuing of tax audit findings
- Tax assessment
- Objections to tax assessments
- Tax enforcement



Types of assessment

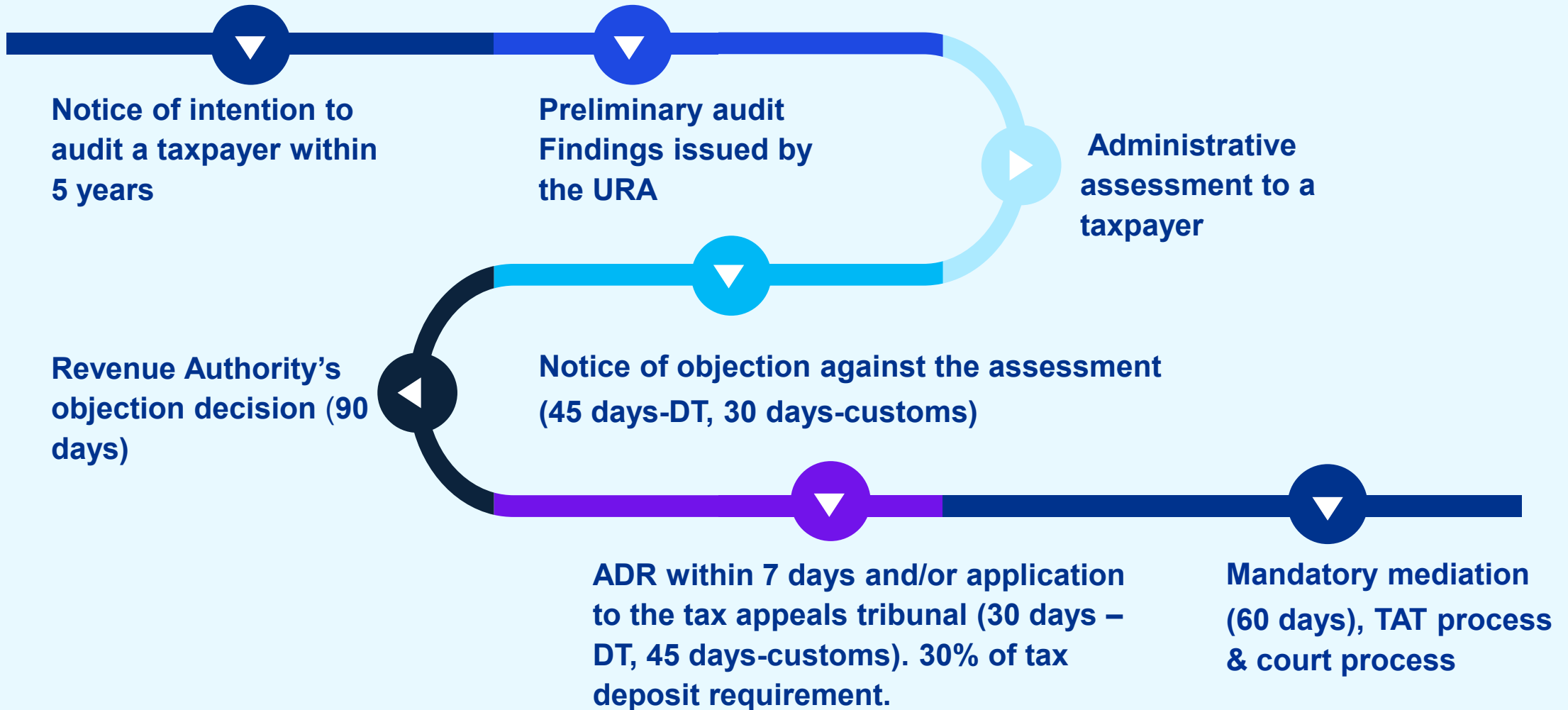
- Self-assessment
- Additional assessment
- Default assessment
- Advance assessment

03

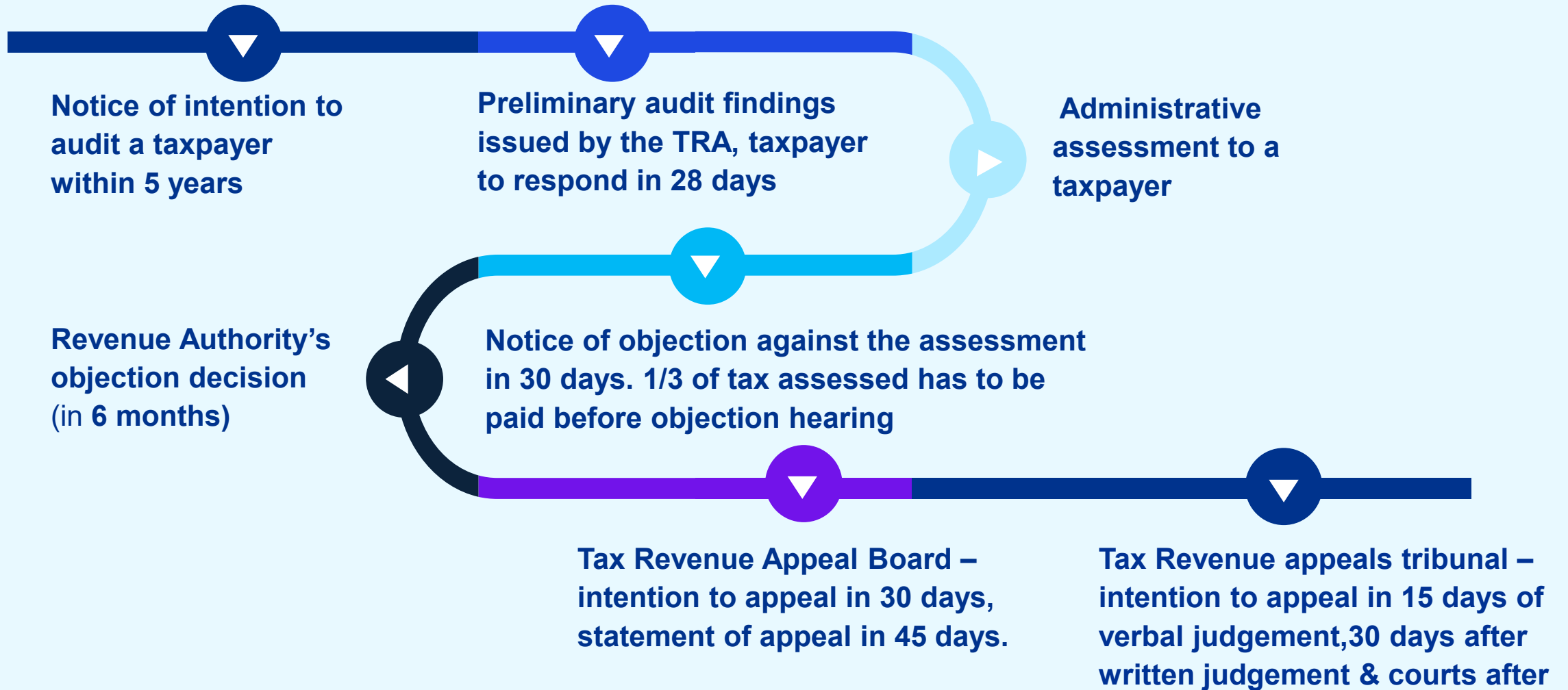
Tax dispute resolution



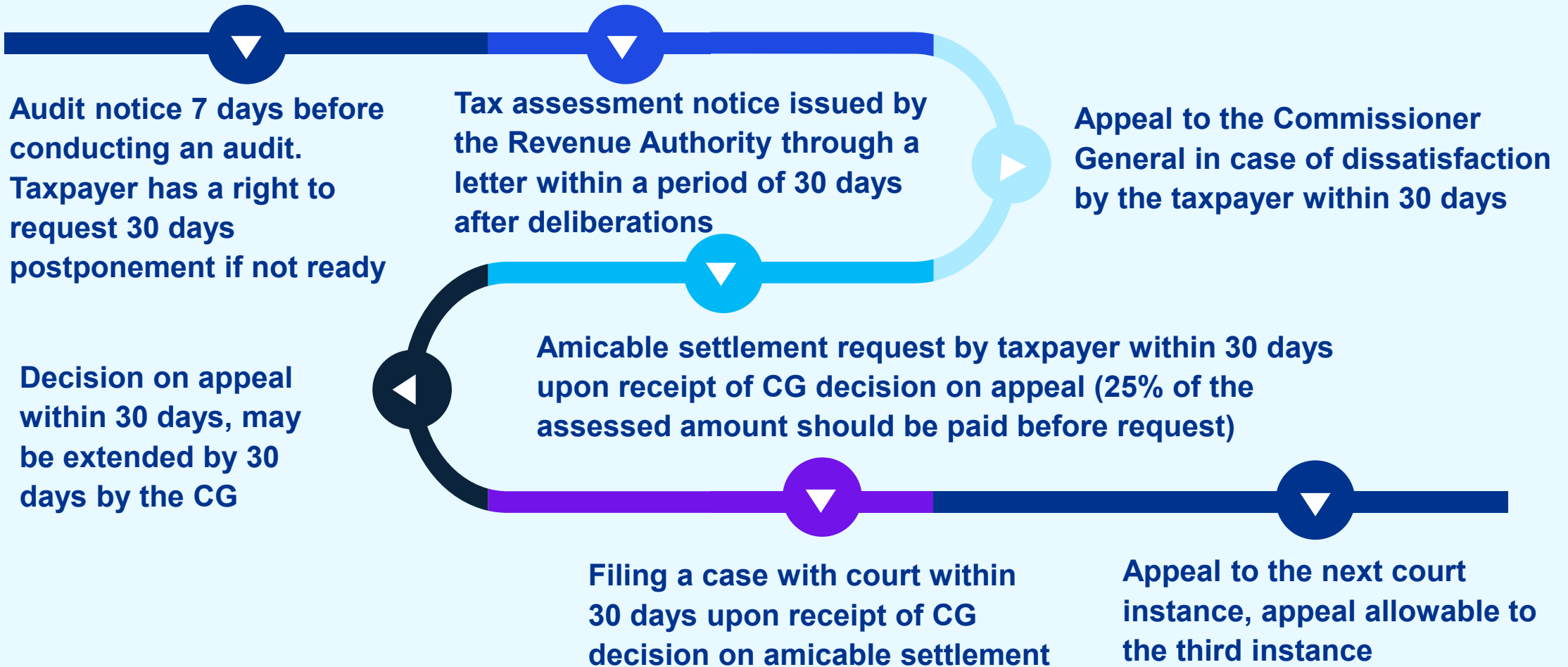
Dispute resolution cycle - Uganda



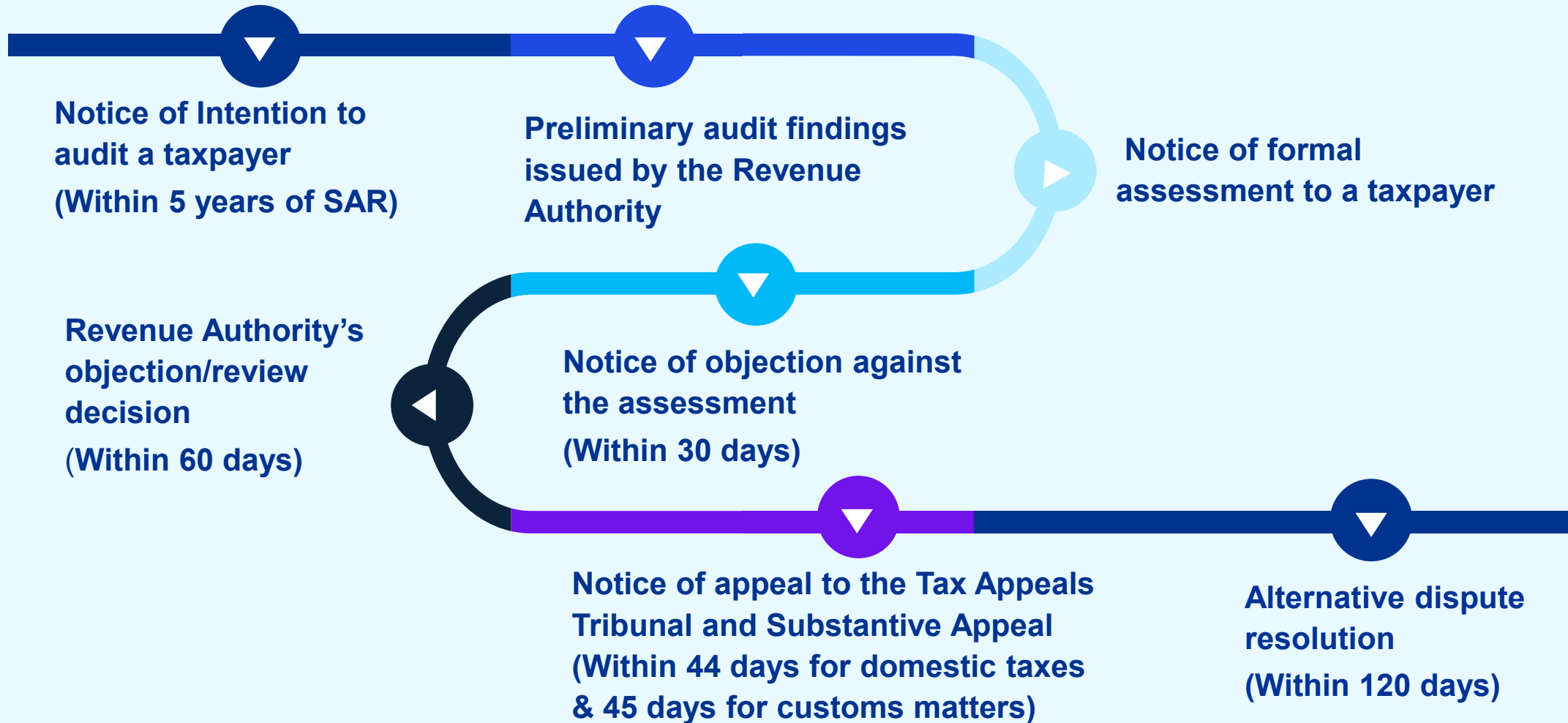
Dispute resolution cycle - Tanzania



Dispute resolution cycle - Rwanda



Dispute resolution cycle - Kenya



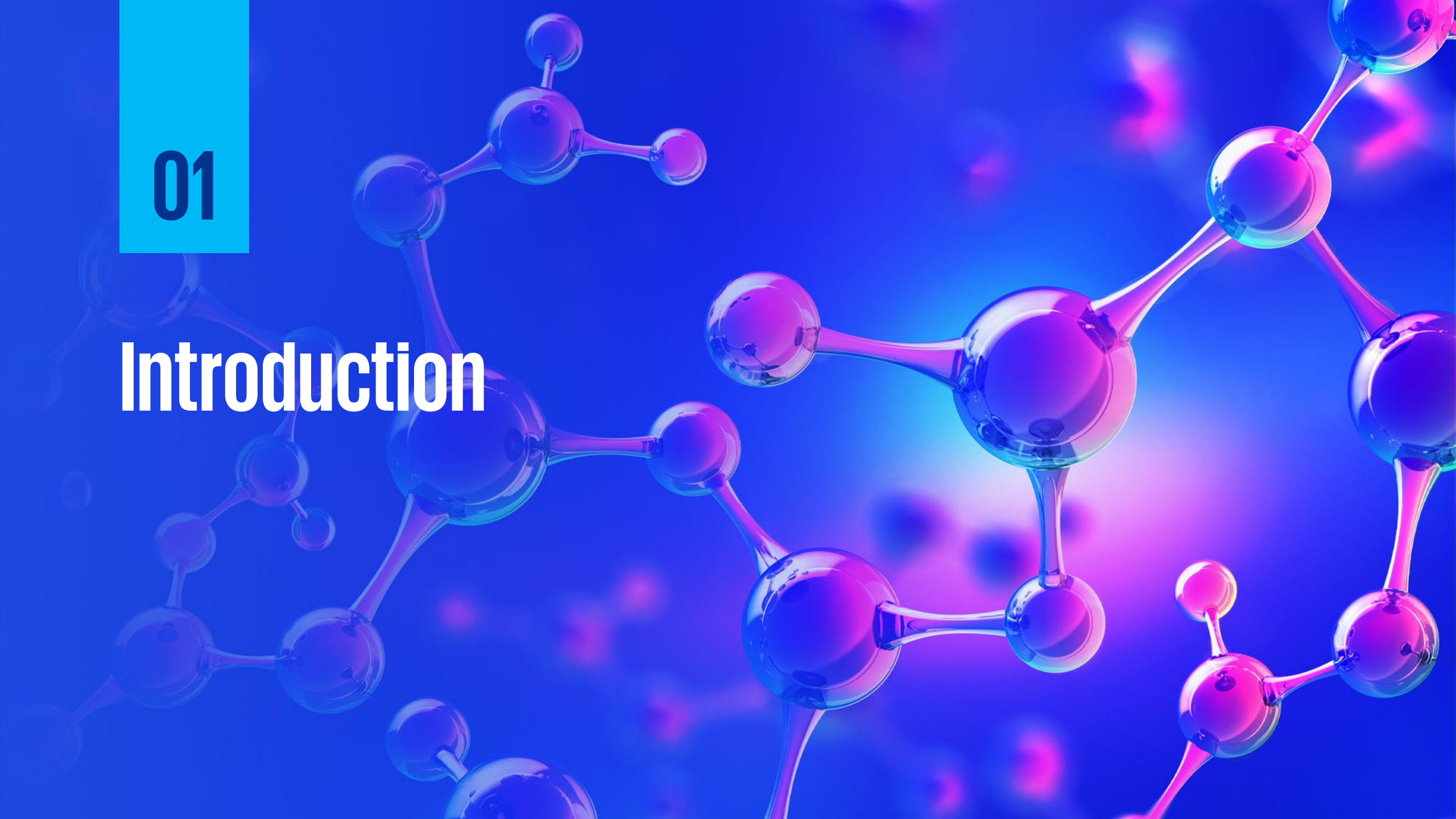
West Africa

Agenda

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01

Introduction



Introduction

As Africa continues to evolve as a dynamic economic region, the role of taxation in shaping sustainable development, driving investment, and fostering transparency has never been more critical.

As tax professionals, it is therefore our duty to ensure we support our client to optimize the evolution and be more tax compliant.



The hardest thing in the world to understand is the income tax

Albert Einstein

During this discussion, we will delve into the macroeconomic indicators, key regulatory updates, emerging trends in tax technology & legislations, and strategic approaches to compliance and tax risk management—drawing from both Nigeria and Ghana tax best practices.

In the meantime, do you agree with Einstein and Goldwater in the sayings below?



The income tax created more criminals than any other single Act of government

Barry Goldwater



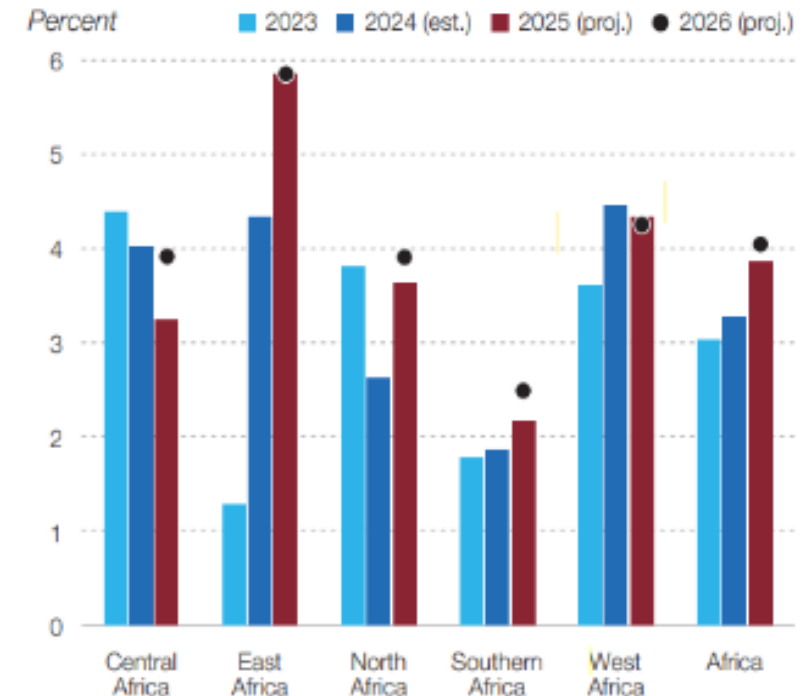
02

Macro-economic indicators, tax and general operating/ business environment

West Africa economic outlook- Nigeria & Ghana

- ❖ West Africa's economic trajectory mirrors cycles of growth and volatility. The regional GDP, estimated at 4.5% in 2024, is projected to slow slightly to 4.3% in 2025. With the exception of Ghana, Sierra Leone, and Nigeria, most countries are expected to grow above 5%, driven by the launch of oil and gas production in Senegal and Niger and stronger value addition in agriculture across Côte d'Ivoire, Gambia, Mali, and Togo.
- ❖ Nigeria, the region's largest economy, faces the sharpest decline, with growth now projected at 3.2% in 2025 and 3.1% in 2026 lower than earlier forecasts due to weaker demand from major trading partners (notably the US and China), global supply chain disruptions, and heightened financial market volatility
- ❖ Alongside these pressures, governments across the region are tightening tax collection and introducing new fiscal reforms to boost revenue, while businesses continue to grapple with high inflation, foreign exchange constraints, and regulatory uncertainties.
- ❖ These factors shape both the tax outlook and the broader business environment in the sub-region.

FIGURE 1.11 GDP Growth in Africa, by region, 2023–26



Source: African Development Bank statistics.

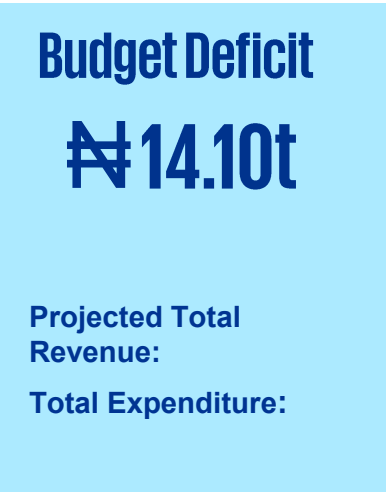
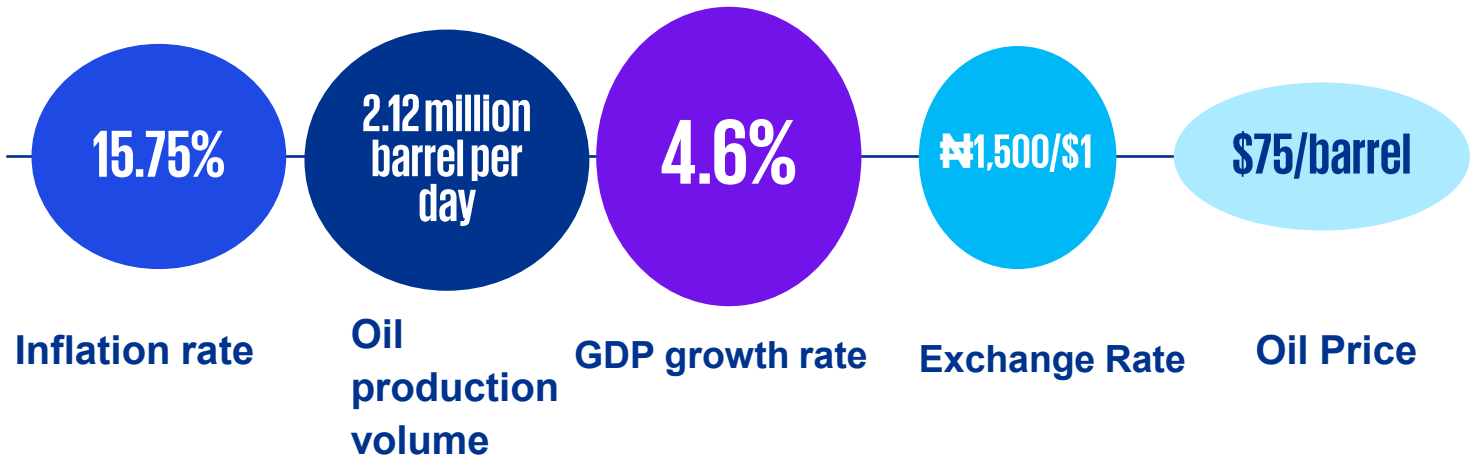
Macroeconomic indicators- Nigeria & Ghana

Key Metrics	Nigeria	Ghana
Population	+200 million	+34 million
2025 GDP growth rate (year-on-year)	3.40%	5.30%
Inflation (as at June 2025)	21.8%	13.7%
Monetary policy	27.5%	27%
Exchange rate	₦1,500/\$1	GHS 15.19/\$1

Tax and general business environment-Nigeria

Macroeconomic indices are crucial for understanding the overall economic health of a country, and in Nigeria, these indices play a significant role in shaping economic policy, guiding investment decisions, and measuring progress towards national development goals.

Excerpts of 2025 Budget – “Budget of Restoration”



Tax and general business environment-Nigeria (cont'd)

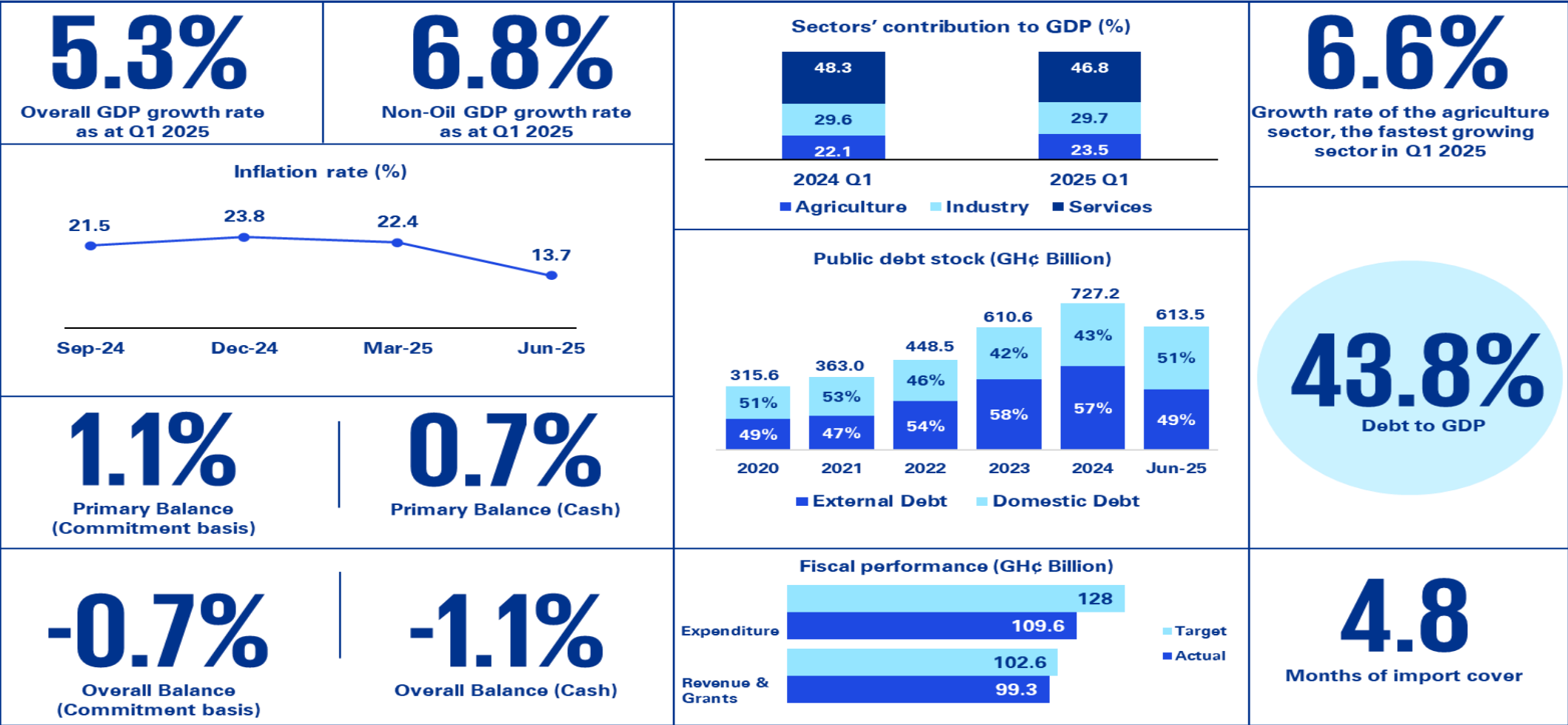
Tax reform objective

Given the above Macros and current deficit in the 2025 Budget, tax revenues will be critical to reducing the funding gap and the Tax Reform presents an opportunity to grow tax revenues and address current reform objectives:

- ✓ Harmonized and efficient Revenue Administration
- ✓ Provision of tax incentives
- ✓ Promoting the ease of doing business
- ✓ Increase tax-to-GDP ratio to 18% by 2025

Macro-economic indicators - Ghana

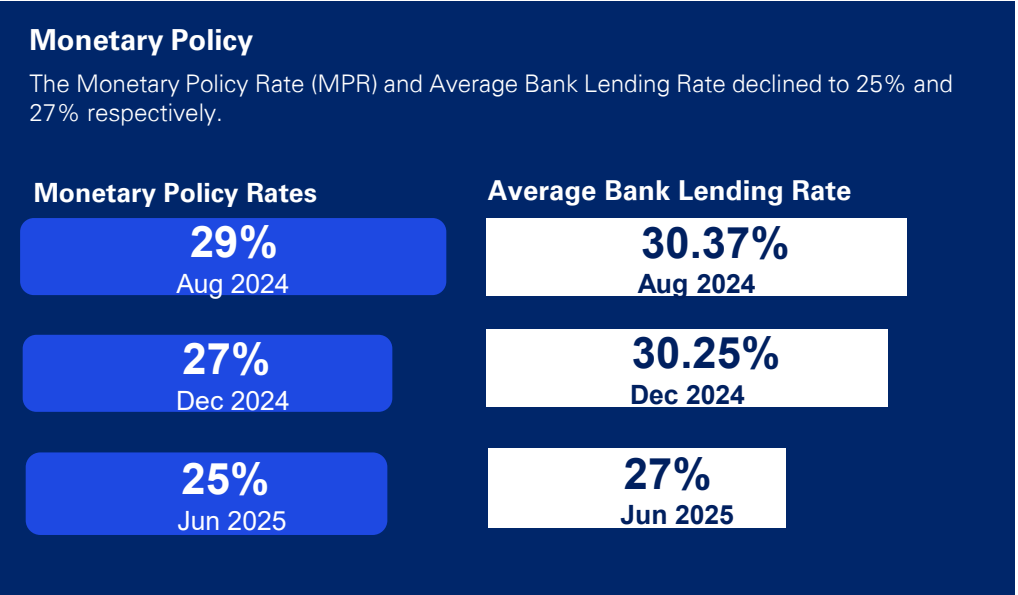
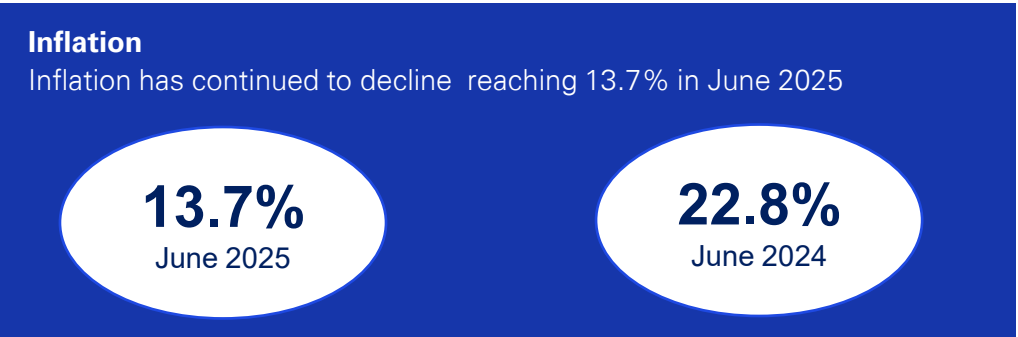
The macro-economic indicators as at June 2025 is as shown below:



Source: 2025 Mid-Year Budget Review, GSS, IMF

Tax and General Business Environment-Ghana

The summary of the fiscal developments in Ghana for the first half of 2025 is shown below:





03

Overview of legal structure, judicial system & revenue authorities

Overview of the legal tax framework in Nigeria (Current Regime)

The 1999 Constitution of the Federal Republic of Nigeria (as amended) provides the foundation of the Nigeria tax system and allocates taxing powers to the three tiers of government Federal, State, and Local Governments.

Federal Inland Revenue Service (FIRS)

The FIRS administers the federal taxes on behalf of the Federal Government. These include:

- Company Income Tax (CIT)
- Petroleum Profit Tax (PPT)
- Withholding Tax (WHT)
- Value Added Tax (VAT)
- Capital Gains Tax (CGT)
- Stamp Duties (SD) for companies in Nigeria

State Internal Revenue Service (SIRS)

The SIRS collects taxes such as:

- PIT
- CGT
- Stamp duties on individuals on behalf of the 36 State Governments and the Federal Capital Territory (FCT).

Local Government Revenue Committee (LGRC)

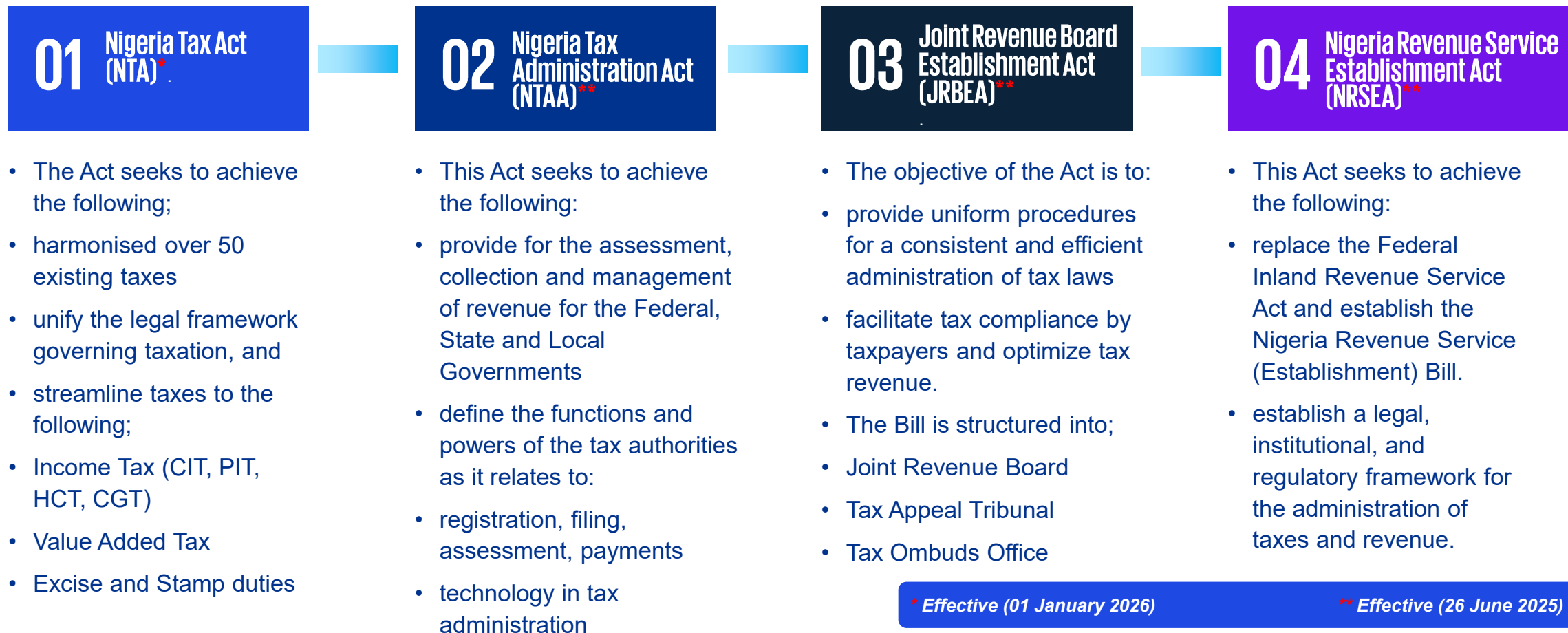
The LGRC collects taxes on behalf of the Local Governments, including;

- land use charge
- market tolls and other related levies.

NB: The current tax regime in Nigeria has been repealed and replaced with new set of compressed and harmonised laws which have been detailed in the next slide

Overview of the legal tax framework in Nigeria (New tax regime)

The reform is aimed to redesign the tax system to support growth by addressing current challenges such as multiplicity of taxes, ambiguous and obsolete provisions, reduce the tax burden on individuals and businesses while promoting the ease of doing business to facilitate sustainable economic growth and deliver shared prosperity for Nigerians.



Nigeria tax judicial framework

Nigeria's tax judicial framework ensures lawful resolution of tax disputes through specialized bodies like the Tax Appeal Tribunal (TAT) and formal courts such as the Federal High Court. It provides taxpayers with structured avenues to challenge assessments, enforce rights, and uphold compliance with tax laws.



Court jurisdiction over tax matters

- ❑ **Federal High Court:** Federal tax matters.
- ❑ **State High Courts:** State taxes unless assigned federally.
- ❑ **Magistrate/Customary Courts:** Minor/local tax cases.



Joint Revenue Board (JRB)

- ❑ Formerly known as Joint Tax Board (JTB)
- ❑ resolve disputes between different tax authorities
- ❑ Advise government on tax policies
- ❑ Promote tax harmonization and mitigation of double taxation



Tax Appeal Tribunal (TAT)

- ❑ The TAT is an administrative tribunal for tax dispute resolution before court action.
- ❑ Appeals must be filed within 30 days of receiving an assessment or decision



Office of the Tax Ombudsman

- ❑ This was introduced by the new tax law - JRBEA
- ❑ The office is to serve as an independent and impartial arbiter between taxpayers and authorities

Overview of the legal judicial tax framework in Ghana

1

Legal system

Customary law: Indigenous practices and norms.

English Common Law: Introduced during colonial rule.

Statutory law: Enacted by Parliament.

Constitutional law: Based on the 1992 Constitution

2

Judicial system

Mandate: Interpret and apply laws, justice delivery, safeguard constitutional rights, among others

1. Supreme Courts

2. Lower Courts

3. Alternative Dispute Resolution

3

Revenue authority structure

Mandate: Tax collection, customs administration, trade facilitation, and revenue mobilization.

A. Domestic Tax Revenue Division (DTRD)

B. Customs Division (CD)

C. Support Services Division (SDD)

04

Tax authorities & tax audits

Categories of tax audits- Nigeria

Tax audits in Nigeria are conducted to ensure compliance and verify accuracy of taxpayer returns. The FIRS and SIRS undertake various types of audits, including desk reviews, monitoring exercise, tax audits/ tax Investigations, and other compliance reviews.

Desk reviews/monitoring exercises

- A preliminary assessment of tax returns and supporting documents, often conducted offsite.
- The objective is to identify discrepancies, or inconsistencies, and ensure tax compliance.
- The review covers all form of taxes

Tax audits/investigations

- A comprehensive, on-site review of the taxpayer's financial records, accounting systems, and business operations.
- Tax investigations are a deeper form, usually conducted where fraud, wilful neglect or tax evasion is suspected.
- The audit covers all forms of taxes

Specialized audits & other compliance reviews

- A focused check on a taxpayer's adherence to tax obligations such as Transfer Pricing, VAT, Withholding Tax (WHT), PAYE, and other employee related levies audit.
- Recently this audit also include Stamp duty and EMTL Audit.

Categories of Tax Audits- Ghana



05

Tax assessments, tax enforcements & dispute resolution process



Tax assessment in Nigeria

In West Africa, tax authorities are increasingly focused on improving compliance, strengthening revenue mobilization, and ensuring a fair business environment. In Nigeria, the Federal Inland Revenue Service (FIRS) and State Boards of Internal Revenue have adopted structured approaches to tax assessment and enforcement;

01

Self assessment

- ✓ Tax assessment begins with the self-assessment system, where taxpayers calculate and submit their own tax returns
- ✓ Returns are typically filed online via TaxPro Max, Etax or other platforms made available by RTA

02

Additional assessment

- ✓ Where the tax authority discovers that a taxpayer has been under-assessed or not assessed at all, it may issue an additional assessment up to six years
- ✓ Taxpayers have procedural rights for notice, objection, and appeal.

03

Administrative assessment

- ✓ In addition to the two former assessment, the NTAA has now officially introduced administrative assessment, also known as the Best of judgement (BOJ) assessment where the RTA applies its judgement to assess taxpayer to liability especially where returns are not submitted

Assessments become final and conclusive where no valid objection or appeal is logged within 30 days or the liability has been agreed

Tax assessment in Ghana

❑ Self-assessment

- ✓ Where taxpayers self-assess their tax liabilities and file returns accordingly.
- ✓ GRA provides online platforms like the Taxpayers Portal for tax return filing and payments.

❑ GRA – Assessed taxes

- ✓ In cases where taxpayers fail to file or underreport, GRA may issue a default assessment based on available data or estimates.

❑ Audit- based assessment

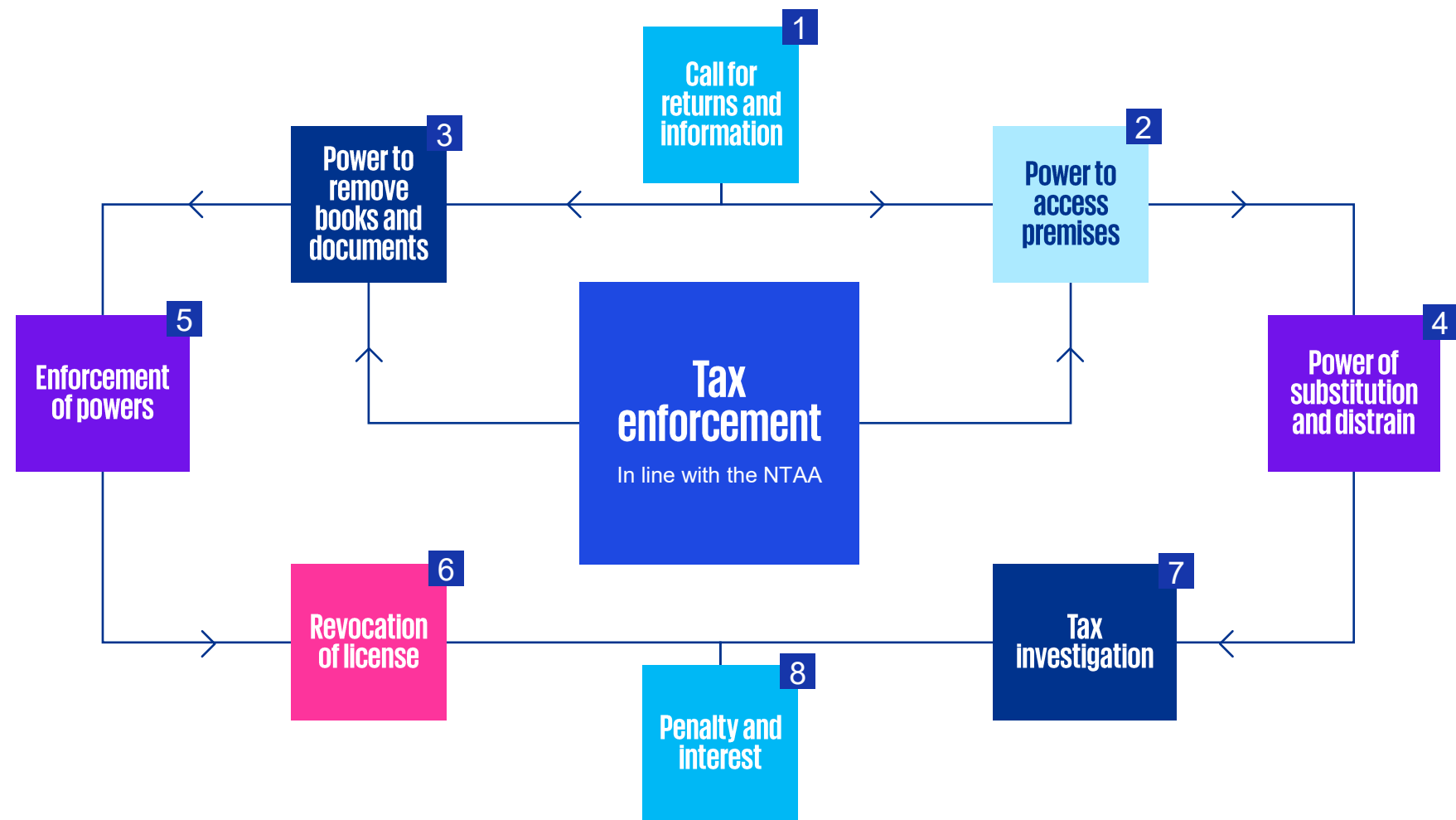
- ✓ GRA conducts desk and field audits to verify taxpayer self-assessed declarations.
- ✓ Adjustments are made based on audit findings, and revised assessments are issued.

Tax assessment procedures

Assessment of tax is done in two major ways:

1. Self Assessment : Where a person is obliged to file a tax return
2. Commissioner General's (C G) Assessment

Tax enforcement mechanisms- Nigeria



Tax enforcement mechanisms

Key legal instruments

- The Nigeria Tax Administration Act

Tax enforcement mechanisms- Ghana

❑ Penalties and offences

- ✓ Administrative Penalties: Late filing, late payments, false statements, failure to maintain records among others
- ✓ Criminal Penalties: Imprisonment and fines for tax evasion, fraud, impediment of tax administration & violence against tax officers

❑ Objection and appeals

- ✓ Taxpayers may file an objection within 30 days of receiving an assessment.
- ✓ If unresolved after 60 days, may appeal to the Independent Tax Appeals Board or proceed to court

❑ Payment requirements for tax objections

- ✓ Customs/ Imports Duties: Payment of 100% of amount in dispute
- ✓ Other taxes: Payment of 30% of amount in dispute

Tax enforcement mechanisms

Key legal instruments

- Revenue Administration Act, 2016 (Act 915)
- Revenue Administration Amendment Act, 2020 (Act 1029)
- Income Tax Act, 2015 (Act 896)
- Fines (Penalty Units) Act, 2000 (Act 572)

Tax enforcement mechanisms- Ghana

❑ Other enforcement tools

- ✓ Asset forfeiture
- ✓ Interest charges
- ✓ Prosecution

Tax enforcement mechanisms

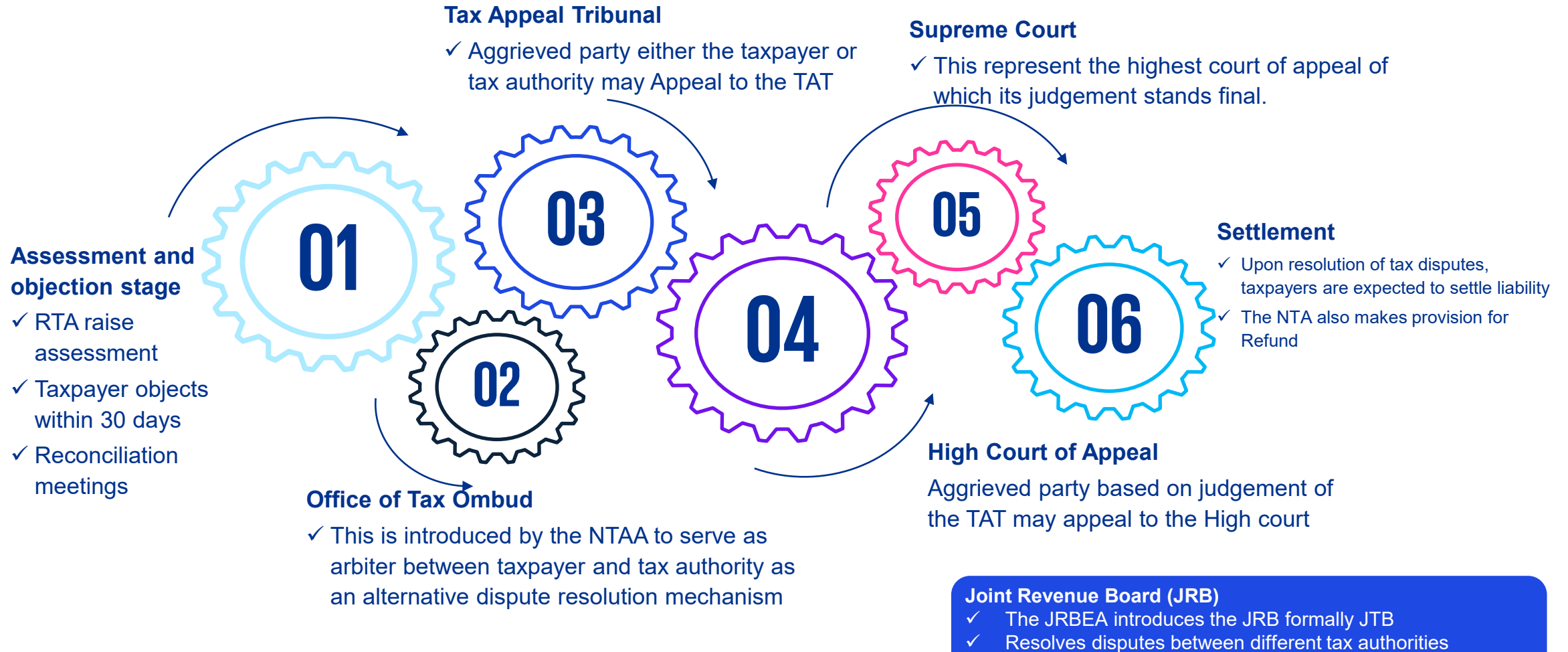
Key legal instruments

- Revenue Administration Act, 2016 (Act 915)
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- Income Tax Act, 2015 (Act 896)
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Dispute resolution

Dispute resolution process- Nigeria

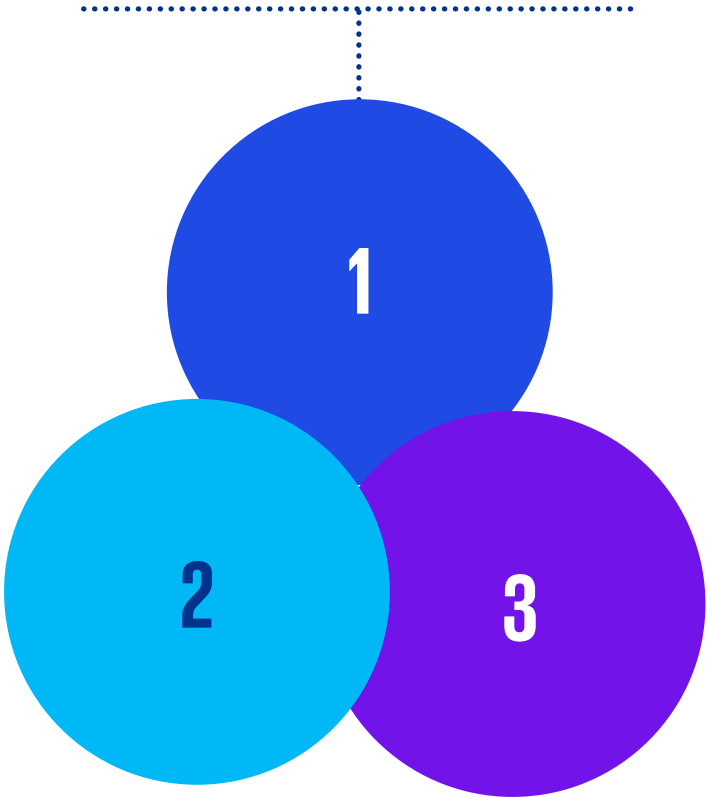
Nigeria's tax dispute resolution framework is anchored in the Federal Inland Revenue Service (Establishment) Act, 2007, which created the Tax Appeal Tribunal (TAT) as a specialized forum for resolving tax disputes.



Dispute resolution process- Ghana

Ghana’s tax dispute resolution procedures, based on the Revenue Administration Act, 2016 (Act 915) and recent institutional developments

Administrative dispute resolution process



Independent tax appeals board

Judicial review

Dispute resolution process- Ghana (Cont'd)

❑ Administrative dispute resolution process

- ✓ Tax decision notification by GRA
- ✓ Objection to Commissioner-General within 30 days (if taxpayer is dissatisfied)
- ✓ Review objection by GRA to:
 - *Amend,*
 - *Uphold original decision or*
 - *Request further information*
- ✓ Appeal to Independent Tax Appeal Board if dissatisfied*
- ✓ Escalate to Court of Appeal and Supreme Court if dissatisfied*

Legal basis

1. Revenue Administration Act, 2016 (Act 915)
2. High Court (Civil Procedure) Rules, 2004 (CI 47)
3. Recent Supreme Court rulings affirming the need to exhaust administrative remedies before litigation

Dispute resolution process- Ghana (Cont'd)

❑ Independent Tax Appeals Board (ITAB)

- ✓ Filing an appeal
- ✓ Pre-hearing requirements
- ✓ Composition and panels
- ✓ Representation
- ✓ Evidence and proceedings
- ✓ Decision and outcome
- ✓ Notification and records
- ✓ Further adjustments

Key notes

1. Taxpayers only appeal to ITAB if they dissatisfied with the response of the C-G on the objection decision
2. 30% of the amount in dispute is to be settled before ITAB considers the appeal
3. Appeals are heard in camera (private sessions)

Dispute resolution process- Ghana (Cont'd)

❑ Judicial review (litigation)

- ✓ Appeal to the High Court if taxpayer is dissatisfied with administrative remedies
- ✓ Escalation to the Court of Appeal if taxpayer is dissatisfied with High Court's decision
- ✓ Escalation to Supreme Court if taxpayer is dissatisfied with High Court's decision
 - ❖ The decision of the Supreme Court is final.

Key Notes

1. Judicial review is the last resort If a taxpayer is still dissatisfied after exhausting administrative remedies.
2. The court will only hear the case if the taxpayer followed all due process

Emerging trends

Emerging trends from tax environment- Nigeria

- ❑ Tax authorities are increasingly leveraging technology
 - ✓ such as tax-promax
 - ✓ e-invoicing systems, and
 - ✓ blockchain solutions to simplify tax processes, enhance transparency, monitor compliance in real time
- ❑ Increased Use of global reporting framework such CRS, FATCA and Country-by-Country Reporting (CbCR) to access offshore financial data through annual information exchanges
- ❑ Evolutions of Nigeria tax
 - ✓ Finance Acts
 - ✓ Nigeria tax Act
- ❑ RTA are increasingly improving stakeholder's sensitisation through
 - ✓ Workshops
 - ✓ Webinars
 - ✓ Public notices and circulars publications

Emerging tax trends

- Digitalization Of Tax Administration system
- Cross boarder information sharing
- Policy & legislative reforms
- Enhanced interactive sessions and webinars

Emerging trends from tax environment- Nigeria

- ❑ There is a growing drive to tax non-resident entities to ensure they contribute more fairly to the tax net. Non-resident share disposal that leads to indirect transfer of ownership of a Nigerian company is now taxable under the new Tax Act.
- ❑ The Nigeria Tax Act 2025 introduces several provisions targeting the taxation of multinational enterprises (MNEs), including a minimum effective tax rate (ETR) of 15%.
- ❑ A key section of the Act provides that any company that is either a constituent entity of a MNE group or has an aggregate turnover of ₦20 billion or more in a year of assessment must recompute and remit additional tax if its effective tax rate falls below 15%, which is in line with the OECD pillar two framework

Emerging tax trends

- Expanded tax framework for Non-residents
- Alignment with the OECD pillar two framework

Emerging trends from tax environment- Ghana

Proposed tax measures per recent 2025 budget reading

- ❑ *Withdrawal of Tax Exemption on Marine Gas Oil (MGO)*
- ❑ *Comprehensive Value Added Tax (VAT) Reforms*
- ❑ *Reinforcement of Modified Taxation System (MTS)*
- ❑ *Introduction of technology to track crypto currency accounts*

Emerging tax trends

From the 2025 mid year budget reading, numerous tax proposals were raised to seek parliamentary approvals. These proposals aimed towards widening tax net and efficiently mobilizing tax revenues

Emerging trends from tax environment- Ghana

Assented laws in the tax environment

- ❑ *Extension of Special Import Levy (Amendment)*
 - *To extend the imposition of the Special Import Levy on imported goods at the point of entry until 31 December 2028.*
- ❑ *Repealing of Electronic Transfer Levy*
 - *Effectively abolishing the 1% charge on all electronic transfers.*
- ❑ *Repealing of Emission Levy*
 - *Effectively abolishing the 1% charge on all electronic transfers*
- ❑ *Amendment of Revenue Administration Act*
 - *To reduce the allocation to the Ghana Revenue Authority General Refund Account from six percent (6%) to four percent (4%) of total revenue*

Emerging tax trends

Under the theme:

“Resetting Ghana for the Economy We Want.”

the President assented and repealed these legislative tax enactments

Emerging trends from tax environment- Ghana

Assented Laws in the tax environment

- ❑ *Amendment of growth & sustainability Levy (GSL) Act*
 - *To extend GSL until 2028.*
 - *To increase the levy rate for gold mining companies from 1% to 3% of gross production*
- ❑ *Value added Tax amendments*
 - *To exempt motor vehicle insurance from Value Added Tax (VAT).*
- ❑ *Income Tax Act amendments*
 - *To exclude winnings from lottery from Investment Income and eliminate the 10% withholding tax previously applied*
 - *To remove the 1.5% withholding tax on unprocessed gold.*

Emerging tax trends

Under the theme:

“Resetting Ghana for the Economy We Want.”

the President assented and repealed these legislative tax enactments

06

Status of technology adoption by tax authorities



Status of technology adoption by tax authority- Nigeria

Overview

- ❑ E-Invoicing is a national initiative launched to automate tax administration processes and track key macroeconomic indicators.
- ❑ It is designed to be an end-to end electronic invoicing system and replace the manual preparation and distribution of invoices by taxpayers
- ❑ An electronic invoice is a structured document issued, transmitted, and received digitally, complying with FIRS specifications for real-time validation and tracking.
- ❑ Penalty for failure to comply with the EFS initiative:
- ❑ Penalty for not granting access is ₦1million for the first day of default ₦10,000 for each subsequent day of non-compliance
- ❑ 100% of the tax due plus ₦200,000 as additional liability, plus interest at the prevailing Central Bank of Nigeria's Monetary Policy Rate per annum

Status of technology adoption by tax authority- Nigeria



Some technology initiatives implemented by the tax authorities include:

- ❑ Tax Pro-Max portal
 - The portal allows taxpayers to file tax returns
 - Settle tax liability
 - Access their tax records online.
- ❑ E- Services portal
 - Apply & obtain tax clearance certificate
 - Generate tax receipts e.g. VAT, WHT etc.

While the FIRS has taken the lead with robust platforms, adoption across state revenue services remains uneven, with many still relying partly on manual processes. Nonetheless, these initiatives have improved taxpayer convenience, simplified compliance, and boosted revenue. However, challenges such as system downtimes, low digital literacy, and infrastructure gaps persists.

Status of technology adoption by tax authority- Ghana



The GRA since 2020, has been actively working on digitizing its tax administration processes to improve efficiency and make tax compliance easier for taxpayers.



Some technology initiatives implemented by the tax authorities include:

- ☐ Automated filing & payment
 - GRA taxpayers portal – Filing of tax returns
 - Ghana gov portal – Generating tax invoices for remittance
- ☐ E-invoicing system
 - Real time invoice validation
 - QR codes and digital stamps

Status of technology adoption by tax authority- Ghana

“

To establish a synergy and efficiency between Customs and Domestic Tax, the tax authorities have implemented various technological initiatives to achieve this objective

”

Some technology initiatives implemented by the tax authorities include:

- ❑ E-commerce taxation
 - Non-resident digital service providers – web hosting, streaming, online gaming, distance learning, among others.
- ❑ Digitization of Customs processes
 - Integrated Customs Management System (ICUMS)
 - ✓ Integrates customs clearance, valuation, and duty payment
 - ✓ Faster document processing and reduced human intervention.
 - Daily authorization tokens

07

Relevant decided tax cases



Relevant decided cases- Nigeria

BJ Pumping Services v Federal Inland Revenue Service

- ❑ **BJ umping Services SA Panama case:** BJ Pumping Services challenged the basis used by FIRS to assess its tax liability, arguing that the FIRS should justify the specific percentage of turnover applied in computing tax on its Nigerian operations.
- ❑ **Court's decision:** The Federal High Court (FHC), Lagos Judicial Division, ruled in favour of the FIRS , holding that Nigerian tax laws do not require the FIRS to provide reasons for the adoption of any particular percentage of turnover in taxing foreign companies.
- ❑ **Implications:** The decision affirms the broad discretionary powers of the FIRS when applying deemed profit methods to foreign entities. It also reinforces the authority of tax adjudicatory bodies to draw reasonable inferences and consider the broader context of a case even beyond the specific arguments advanced by the tax authorities.

Background

BJ Pumping Services SA Panama, a foreign company operating in Nigeria, was assessed by the Federal Inland Revenue Service (FIRS) using a percentage of its turnover to compute its tax liability. The company challenged this assessment, insisting that FIRS should justify the specific turnover percentage applied.

Relevant decided cases- Nigeria

Check Point Software Technologies B.V. Nigeria Ltd v Federal Inland Revenue Service

- ❑ **Company's case:** The legality of Nigeria's 2018 Country-by-Country Reporting (CbCR) Regulations was challenged after the Federal Inland Revenue Service (FIRS) applied them to Check Point Software Technologies, a multinational company operating in Nigeria.
- ❑ **Court's decision:** The Federal High Court upheld the 2023 Tax Appeal Tribunal ruling in favor of the taxpayer, declaring the 2018 CbCR Regulations illegal and unenforceable. The court found that the FIRS lacked the authority to unilaterally issue the regulations without proper legislative backing.
- ❑ **Implications:** This judgment sets a precedent for regulatory clarity and reaffirms that tax rules must be grounded in law. It also strengthens taxpayer protection by ensuring that procedural fairness and due process are upheld in tax administration.

Background

Check Point Software Technologies, a multinational cybersecurity company, challenged the legality of the Country-by-Country Reporting (CbCR) Regulations, 2018, after the Federal Inland Revenue Service (FIRS) attempted to enforce compliance under the framework. The dispute arose from FIRS's attempt to apply these regulations without express legislative backing.

Relevant decided cases- Nigeria

Rand Merchant Bank Nigeria Limited v Federal Inland Revenue Service

- ❑ **Company's case:** The Company challenged the FIRS's decision to deem undistributed profits as distributed for withholding tax (WHT) purposes, arguing that such deeming should only apply if FIRS proves the lack of distribution was intended to avoid WHT payment.
- ❑ **Court's decision:** The Tax Appeal Tribunal ruled that FIRS's discretionary powers under Section 21 of the Companies Income Tax Act (as amended) cannot be challenged, thereby upholding the FIRS's position to levy WHT, penalties, and interest on the deemed dividend.
- ❑ **Implications:** This ruling affirms the wide discretionary powers of FIRS in tax administration and serves as a precedent that companies cannot easily dispute the declaration of deemed dividends for tax purposes, emphasizing the authority of tax regulators.

Background

Rand Merchant Bank Nigeria Limited had undistributed profits which the Federal Inland Revenue Service (FIRS) deemed as distributed for withholding tax purposes. The bank disputed this deeming of profits, arguing that such classification should only apply if there was evidence that the lack of distribution was intended to avoid tax payments.

Relevant decided cases- Ghana

Blue Skies v Commissioner General

- ❑ **Blue skies case:** The company argued it qualified for the lower rate under the Income Tax Act, while the GRA insisted it should pay 15% as a free zones enterprise post-concession.
- ❑ **Court's decision:** The Court of Appeal upheld the GRA's position, ruling that Blue Skies must pay the 15% rate under the law governing free zones companies after their exemption period.
- ❑ **Implications:** The ruling reinforces that free zones companies must adhere strictly to the tax regime outlined for them post-concession and cannot selectively adopt more favorable provisions meant for other entities.

Background

Blue sky products, a free zones agro-processing company, had enjoyed a 10-year tax exemption. After this period, the company assessed its own income tax liability at 8%

Relevant decided cases- Ghana

Maersk Drillship IV Singapore v Commissioner-General of the Ghana Revenue Authority

- ❑ **Maersk's case:** Maersk claimed that the PA's stabilization clause and specific tax provisions shielded it from additional taxes like Corporate Income Tax and Branch Profit Tax imposed under general tax laws (Act 592 and Act 896) 2.
- ❑ **Court's decision:** The Supreme Court overturned lower court rulings and held that Maersk's income from PA-defined petroleum operations was exempt from further taxation beyond the 5% withholding tax, affirming the PA's primacy over general tax laws 1.
- ❑ **Implications:** The ruling reinforces the binding nature of ratified Petroleum Agreements and their fiscal stability clauses, limiting the GRA's ability to impose additional taxes on subcontractors operating under such agreements.

Background

Maersk, subcontracted by ENI under a Petroleum Agreement (PA), was assessed by the GRA for over \$28 million in taxes, which it contested, arguing its income was only subject to a 5% final withholding tax under the PA and PNDCL 188

Relevant decided cases- Ghana

Richard Amo-Hene v GRA & Attorney-General

- ❑ **Company's case:** Amo-Hene argued that these provisions violate the 1992 Constitution, particularly the presumption of innocence, access to justice, and participation in the administration of justice. He claimed that requiring upfront payment implies partial guilt and creates a financial barrier to constitutional litigation and fair hearing
- ❑ **Court's ruling:** The Supreme Court, in a 6–1 majority decision, upheld the constitutionality of both provisions. It ruled that the “pay now, argue later” rule does not violate constitutional rights and serves a legitimate purpose of ensuring efficient tax collection and preventing abuse of the appeals process.
- ❑ **Implications:** The ruling affirms the GRA's authority to enforce pre-payment conditions for tax objections and appeals, reinforcing the legitimacy of fiscal enforcement mechanisms under Ghana's tax laws.

Background

Richard Amo-Hene filed a constitutional challenge which require taxpayers to pay 30% or 25% of disputed tax before an objection or appeal can be entertained

08

KPMG's rxperience- Based best practices & future outlook

KPMG best practices & future outlook - Nigeria

KPMG experienced-based best practice

- ❑ Maintaining open communication with the FIRS and SIRS, including seeking clarifications on grey areas, fosters trust and reduces disputes.
- ❑ Maintaining organized and accessible financial and tax records ensures smooth engagement during audits or compliance reviews.
- ❑ Equipping internal teams with continuous training on evolving tax laws and digital reporting tools helps ensure long-term compliance

Predictions of future outlook

- ❑ A single, integrated platform for filing, invoicing, payments, and dispute resolution across FIRS and State Revenue Services.
- ❑ Increased alignment with global standards (e.g., OECD's CARF for crypto assets, OECD pillar two system, Country-by-country reporting etc)
- ❑ Adoption of mobile-friendly platforms, self-service portals, and chatbots for taxpayer support

KPMG best practices & future outlook - Ghana

KPMG experience-based best practice

- ❑ Understand and Respect Stabilization Clauses (ENR)
- ❑ Document Transfer Pricing and Related Party Transactions Thoroughly
- ❑ Engage Early with the GRA During Audits
- ❑ Monitor Legislative and Judicial Developments

Predictions of future outlook

- ❑ Increased Focus on Tax Compliance and Enforcement
- ❑ Operationalization of the Independent Tax Appeals Board
- ❑ Reform of the VAT Regime
- ❑ Expansion of Digital Service Taxation



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Document Classification: Public