BUSINESS DAILY KENYA KENYA

KRA to start collecting new taxes early

WEDNESDAY, FEBRUARY 12, 2020 10:51

Companies and individuals will start paying new taxes at the start of a financial year every July 1 if lawmakers adopt a proposed law that seeks an earlier approval of the Finance Bill to cure delays in collection of duty that has in the past hurt revenue collection targets.

The Business Laws (Amendment) Bill, 2019 requires that Treasury table the Finance Bill in Parliament before April 30 and have it approved by the President as law by June 30. This is a departure from the current trend where the Finance Bill is tabled in Parliament after the third week of June and takes months before it becomes law. The resulting delays have deferred collection of new taxes, which have made it difficult for the Kenya Revenue Authority (KRA) to meet its revenue collection targets, prompting frequent review of to the national Budget to accommodate the lower revenue collection.

President Uhuru Kenyatta signed the Finance Bill for the current financial year on November 7, meaning that by then, KRA had lost four months of collecting new taxes outlined in the Budget.

“The National Assembly shall consider and pass the Finance Bill, with or without amendments, in time for it to be assented to by 30th June each year,” reads the Bill, which seeks to amend Section 39 of PFM Act to correct this anomaly.

The government-backed Bill was tabled in Parliament by Leader of Majority in the National Assembly Aden Duale.

The period between the tabling of the Finance Bill — which spells out the new taxes to fund annual State operations — in Parliament and the proposal becoming law is usually punctuated by back and forth discussions among MPs, the Treasury and State House.

Last year, for instance, the Finance Bill was delayed by late tabling in Parliament and its rejection by Mr Kenyatta after he demanded that lawmakers remove a cap on commercial lending rates contained in the proposed law.

This forced MPs to indirectly endorse the removal of the rate cap by failing to raise votes required to overturn the presidential decision, setting the stage for approval of the Bill on November 7.

The move was the latest in a running dispute over the rates cap, which the government and banking officials say is debilitating to the economy because it stalls lending.

As a result of the exchanges between Parliament and State House, collection of new taxes was late, drawing concerns from KRA, which argued that late approval of the Bill hurt its ability to meet the tax targets.

Implementation of the Finance Act 2018 was expected to yield an additional Sh62.88 billion, but KRA was unable to meet the target due to the delayed onset of several taxes.

“Due to delay in the implementation of these tax policy measures, the impact of these tax policies will overflow to the first three months of 2019/20,” KRA noted in its performance update.

In 2018, KRA was stopped from collecting several key taxes, such as on mobile money transfers, kerosene and bottled water, prior to Parliament’s approval and presidential assent to the Finance Bill, 2018.

High Court judge Winfrida Okwany ruled that a Bill cannot be implemented until it is processed to an Act of Parliament.

She made “a declaration that the Finance Bill, or any other parts or provisions thereof, including on taxation, cannot be implemented before the Bill becomes the Finance Act after it goes through the parliamentary legislative process laid out in the Constitution for approval and adoption by Parliament, and assent by President”.

As a result, her ruling blocked the then Treasury Secretary Henry Rotich from enforcing part of the Finance Bill 2018 through the use of the Provisional Collection of Taxes and Duties Act of 2018 — which provided for earlier collection of taxes.

The proposed law change comes at a time when Kenya has witnessed a decline in tax revenues as a share of gross domestic product, falling to 15 percent in 2018/19 financial year from 16.8 percent in 2013/14 financial year.

Revenues have declined consistently over the last five years in major tax heads. Income tax has shrunk from 8.9 percent of GDP five years ago to 7.4 percent while value added tax has narrowed to 4.4 percent from 4.6 percent.

World Bank’s country economic update on Kenya says the share of GDP for the sectors which have been contributing most of the taxes has been declining.

“The structure of the economy has changed in favour of non-tax revenue rich sectors such as agriculture — which has expanded as a share of GDP from 27.5 percent in 2014 to 34.2 percent in 2018 — and public sector investments,” the bank says.