Aggressive Tax Planning and Performance by Kenya Revenue Authority

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ABSTRACT

Taxation is a vital fiscal tool that can be utilized to augment the economic wellbeing of a nation. Taxation is not only vital for revenue generation purposes; it can also be used to control the behavior of taxpayers such as raising taxes on commodities that are deemed to be toxic to the society, if over consumed. In Kenya, from Financial Year 2010/11 to Financial Year 2020/21 has recorded a deficit budget. A deficit budget implies that the economy's leverage is weak. The country`s debt ceiling has now become a major issue, since the increase in national debt has surpassed the stipulated threshold necessitating adjustment of debt ceiling. Aggressive tax planning is vital with regards to revenue performance by Kenya Revenue Authority. This paper reviews the conceptual, theoretical and empirical literature and raises a variety of issues that necessitates a proposed theoretical model for the purpose of understanding aggressive tax planning and performance by Kenya Revenue Authority. This study aims at assessing the effects of debt shifting, location of intellectual property rights, bilateral tax treaty and performance by Kenya Revenue Authority. This research will be anchored on Social Learning Theory and Tax Competition Theory. This research study reviewed on the previous studies undertaken on the area of interest. This study focused on the study findings and the methodology. The conclusions regarding the relationship that exist between the independent variables and dependent for this study were derived from the findings of the past studies. Recommendations in this study were made based on the previous study findings and conclusions. This study found that Multinational corporations tend to exploit all the available loopholes within the tax laws in order for them to decrease their tax liability to tax administration. Due to multinational corporations adopting aggressive tax planning, the dire repercussions include tax revenues being collected by the tax administration tend to reduce significantly. This leads to tax administration not meeting their tax revenues collection targets. This study recommends KRA to continuously review any existing loopholes in the tax laws. Sealing the respective loopholes in the tax laws tend to enhance tax revenues collection targets. Further, multinational corporations need to observe ethics in their business practices.

Key Words: *Aggressive Tax Planning, Bilateral Tax Treaty, Debt Shifting, Location of Intellectual Property Rights, Tax Revenue Performance*

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1.0 Introduction

1.1 Background

Taxation is a crucial fiscal tool that can be used to augment sustainable economic development. A typical lower income country generates about 15% of their GDP from taxes, in comparison with 40% raised in a typical developed economy. The capability of an economy to fund social services such as infrastructure, health, education, security and other social amenities is contingent on the country's tax collection capacity. In the context of dire needs experienced in lower income economies, lower level of tax collection put at risk economic development of these countries. This is because the biggest portion of taxes generated is allocated to current expenditure rather than capital expenditure (Akitoby, 2018).

According to Hanlon and Heitzman (2010) aggressive tax planning is a reduction of direct tax: a continuum tax planning ploys with tax avoidance on one side whereas tax evasion, noncompliance and at on the other end. Alm (2013) argued that aggressive tax planning is the nuance that exists in between legal tax avoidance and illegal tax evasion. Aggressive tax planning is a sophisticated scheme which employs subtle mechanisms. The rationale behind conducting aggressive tax planning is generally limited, nonetheless its objectives include reducing the effective tax rates by exploiting all available loopholes in tax laws. According to OECD (2011) aggressive tax planning involves devising a scheme that tend to lower the effective tax rate of a certain kind of income to a level below that which has been stipulated by the fiscal policy regarding such particular source of income.

Alm (2014) argued that uncertain tax system encourages aggressive tax planning. Taxpayers tend to be influenced by narrowly defined financial factors based on tax penalty rates, tax and audit which are classified as individual motivations. Moreover, taxpayers tend to be motivated by other factors beyond self-interest referred to as group motivations. Factors under group motivation include: morality, altruism, social norms and fairness. Uncertainties in tax system tend to encourage use of aggressive tax planning, particularly when both individual and group motivation are put into consideration.

Bodrova *et al* (2023) stated that it the desire of a rational taxpayer to reduce the onerous tax liability whereas the government desires reduce tax avoidance loopholes. Countering aggressive tax planning has become a major pressing task for the Russian Federation and the world. Optimization tax payment by an organization is deemed an efficient method to augment the economic entity in both Russian and global practices, however there is a high risk of an aggressive tax policy. Creation of organization mechanism necessitates a competent scientific approach to the issue. Organization mechanism tend to enhance the countermeasure against aggressive tax planning

Udezo and Onuora (2021) studied on the effect of tax reforms on revenue performance in Nigeria. Tax reforms were measured by reform in petroleum profit tax, reform in corporate income tax, reform in Value Added Tax and reform in personal income tax. The study established that reforms in petroleum profit tax, Value Added Tax and personal income tax had a positive significant effect on revenue performance. Reforms in corporate income tax had a positive insignificant effect on revenue performance in Nigeria. That study suggests that tax reforms have a significant effect on revenue performance in Nigeria.

Johansson *et al*. (2017) suggested that multinational corporations operating in a variety of countries tend to engage in more intensive tax planning than multinational corporations operating in few countries. Operating in various countries increases the wider access to potential mismatching of tax systems and bilateral tax treaties. Intangible assets tend to ameliorate tax planning. Multinational corporations that patent tend to have higher profit shifting intensity in comparison with non-patenting multinational corporations hence benefiting more from the mismatches in tax systems and preferential tax treatment. The international tax planning tends to decrease the effective tax rate of large multinational corporations on an average of (4-8 ½) percentage points in comparison with domestic firms. Small multinational corporations decrease in effective tax rate (1½-3½) percentage points in comparison with domestic firms.

1.2 Research Problem

According to KRA (2023) in FY 2022/2023 recorded a revenue collection of KES 2.166 trillion compared to KES 2.031 trillion in FY 2021/2022. The revenue collected in FY 2022/2023 signifies a performance rate of 95.3% against the targeted revenue. Domestic taxes registered an increase of 8.5% with a collection of KES 1.407 trillion against a target of KES 1.481 trillion. Domestic taxes performed at 95% against targeted revenue. Corporation tax performed at 94.2% recording a collection of KES 263.819 billion. The current study will seek to establish the effect of aggressive tax planning on tax performance by Kenya Revenue Authority KRA.

According to World Bank (2023) total revenue and grants increased by 10.6% in nominal terms in the first nine months of FY2022/23, lower than 21.9 percent in the previous years. Broad based growth across major classification with Value added tax and income tax registering 77.4% of the total tax revenues, albeit that tax performance being below the targeted tax revenue. The fiscal deficit for FY 2022/2023 was 5.7 percent of GDP, lower in comparison with 6.3 % in FY 2021/2022. The current research study will seek to ascertain the effect of aggressive tax planning on tax performance by KRA.

According to OECD (2022) the tax to GDP ratio dwindled by1.1 percentage points, from 16.4% in FY 2019/2020 to 15.3% in FY2020/2021. In contrast with an average decline of 0.2 percentage points for 31 African countries within the same period. Since FY 2010/2011 the average tax to GDP ratio for 31 African Countries has climbed by 1.6 percentage points, registered 16% in FY 2020/2021 from 14.4% in FY 2010/2011. Conversely, the tax-to-GDP ratio in Kenya plummeted by 0.4 percentage points, registering 15.3% in FY 2020/2021 from 15.7% in FY 2010/2011. Tax-to-GDP ratio in Kenya for FY 2020/2021(15.3%) was lower than the average of the 31 African countries (16%) by 0.6 percentage points. The current study will seek to establish the effect of aggressive tax planning on tax performance by KRA.

1.3 Objectives of the Study

The general objective of this paper will be to review the literature of aggressive tax planning with the aim of highlighting knowledge gaps that are deemed fit to form the basis for future research.

1.4 Specific Objective

1. To review the extent of conceptual and theoretical literature on the concept of aggressive tax planning and revenue performance by Kenya Revenue Authority.
2. To review the relevant empirical literature on the construct of aggressive tax planning and revenue performance by Kenya Revenue Authority.
3. To identify emerging conceptual, theoretical and empirical gaps from relevant literature on aggressive tax planning and revenue performance by Kenya Revenue Authority.
4. To propose a suitable theoretical framework in response to the gaps to be identified for guiding future research on aggressive tax planning and revenue performance by Kenya Revenue Authority.

2.0 Literature Review

2.1 Theoretical Review

Theoretical review assesses previous related literature done on related studies and focused on thematic areas highlighted in the objective. Theories enable one to understand the problem and make it known what other scholars from a holistic approach. Various theories have been formulated to explain aggressive tax planning methods. This includes Tax Competition Theory and Social Learning Theory.

2.1.1 Tax Competition Theory

Tax competition theory was developed by Tiebout (1956). Oates (1972), Zodrow and Mierzkowski (1986) and Wildasin (1988) later refined the theory in their respective seminal papers. Tax competition theory posits that there is shift of tax liability from mobile to immobile tax bases, particularly for economies that are open and small. Whereas most theoretical literature on tax competition has been carried out on mobile real capital, some empirical evidence suggest that multinational firms do exploit tax differences by shifting profits in different tax jurisdiction. Hong and Smart (2010) posited that high tax countries may benefit from profit shifting; this is because it enables them to come up with a differentiated corporate tax system that allows mobile multinational firms to have a lower effective tax rate in comparison with immobile domestic firms. Korneychuk (2017) found that the equilibrium tax rates are higher in economies with higher rates of savings, greater level of openness besides small size of the population.

Clausing *et. al* (2021) posited that international mobility of capital has intensified tax competition among economies. Governments tend to lower their corporate taxes with the aim of wooing investors at the expense of other economies. The shift of tax base tends to be onerous to the taxpayers since labour share of income generated by capital reduces and income inequality gap widens. Multinational corporations with low effective tax rates in foreign countries charging lower tax rates would pay more in their respective home countries. Shift of tax base is not only inequitable but also hinders achieving a well administered and efficient tax system. The current study seeks to ascertain the effect of debt shifting by multinational corporations on performance by KRA. Further, the study is focused on assessing the effect of bilateral tax treaty on revenue performance by KRA. This will be measured using: Double Taxation Agreement, Mutual Agreement Procedure on dispute resolution and exchange of information.

Mahamat (2021) carried a research on tax competition and macroeconomic performance in Sub-Saharan Africa. The findings of that study depicted not only presence of both horizontal tax competition and vertical completion but also portrayed that the tax competitions had negative effect on macroeconomic performance in Sub-Saharan Africa. That study suggests that the negative effect on macroeconomic performance have been attributed by nature of tax competition models that are congruent with monopolistic competition markets besides the inefficiency of aid to eradicate poverty. The current study is aimed at examining whether strategic location of intellectual property rights affects performance by KRA.

Nasibu (2021) studied on the relationship between foreign direct investment and tax revenue in Kenya. That study was anchored on tax competition theory. The findings depicted that FDI stock had a negative impact on aggregate tax revenues in short run but no impact in the long run. Further, that study found that FDI inflow had no impact on aggregate tax revenue in short run whereas it had a negative impact in long run. The current study seeks to assess the effect of aggressive tax planning and performance by KRA.

This study aims at ascertaining the effect of bilateral tax treaty on performance by KRA. In this study bilateral tax treaty will be measured using: Double Taxation Agreement, Mutual Agreement Procedure on dispute resolution and exchange of information. Tax competition theory is crucial for this study since the model has been utilized in previous studies relating to profit shifting by multinational corporations such as Hong and Smart (2010).

2.1.2 Social Learning Theory

According to social learning theory, an individual can learn via observation and direct experience. The process of social learning involves: attention, retention, motoric reproduction process and reinforcement process. The attention process entails an individual learning through others or familiar model and paying attention to the other individuals or entities. Retention process entails considering the action of a model when the model is no longer readily available. Motor reproduction process involve transforming the observation into action. While the process of strengthening, the process by which individuals are provided a positive or punishment stimulus for behaving according to the model (Bandura, 1977).

According to Jatmiko (2006) social learning theory is relevant in explaining the behavior of taxpayers in meeting their tax obligations. A taxpayer will adhere to his tax obligation on time, if they believe based on past observations that the government levied taxes will contribute substantially to the development of their region. An individual will be compliant with their tax obligation, if they've been paying attention to the system of taxation services. Related to the process of reinforcement, whereby individuals are provided a positive or negative stimulus for their respective conduct relating to the model.

Kurniawan (2020) studied on the effects of tax education on tax knowledge and its effect on personal tax compliance. That study posited that there is a positive significant relation between tax knowledge and tax compliance. The environment tends to influence an individual behavior via cognitive enhancement. The environment tends to augment taxpayers' behavior and influence their respective behaviors. The current study seeks to assess the effect of debt shifting on the revenue performance by KRA. Further, the study seeks to examine the effect of bilateral tax treaty on performance by KRA.

Kabaka (2019) conducted a study on impact of itax system on tax compliance by large taxpayers in Kenya. The study was anchored on social learning theory. That study posited that tax compliance in Kenya is influenced by taxpayer verification, taxpayer, reporting, taxpayer registration and enforcement on the taxpayer. The current study seeks to assess the relation between debt shifting, location of intellectual property rights and bilateral tax treaty on performance by KRA. It is upon this theory that the objective of this study will be based.

2.2 Empirical Review

This empirical review covers related studies carried out by other researchers.

2.2.1 Debt Shifting and Revenue Performance

Reiter *et al* (2021) Carried a study to ascertain how multinational banks use internal debts to shift profits to low-taxed subsidiaries. The study utilized regulatory data on multinational banks headquartered in Germany. The study found that multinational banks tend to utilize this tax avoidance channel more aggressively than the non-financial multinationals do. Further the study established that a ten percentage points higher corporate tax rate increases the internal net debt ratio by 5.7 percentage points, corresponding to a 20% increment of the mean. The current study seeks to ascertain the effect of debt shifting by multinational corporations both in financial and non-financial sector on revenue collection performance by KRA. The study will use primary data to assess the effect of debt shifting by multinational corporations on revenue collection performance by KRA. Further the current study is focused on multinational corporations that are based in Kenya.

Bilicka *et al* (2020) studied on how multinational corporations reallocate debt and real operations across their affiliates in response to the 2010 UK worldwide debt cap that limits interest deductibility. That study established that multinationals affected by the reform reduced the amount of debt held in UK and increased the debt held abroad. Those reforms enabled UK tax authority to increase their tax revenues from affected UK headquartered multinationals and did not affect the worldwide effective tax rates. That study used the quasi natural experiment. The current study will adopt a survey research design. The current study seeks to ascertain the effect of debt shifting by multinational corporations on revenue performance by KRA. Further the current study is focused on multinational corporations that are based in Kenya.

Barrios and d`Andria (2020) carried a study based on profit shifting and industrial heterogeneity. That study used worldwide company level data for year 2004 to year 2013. That study found that sectors carrying out more profit shifting tend to lower their cost of capital hence woo more investment in comparison with sectors less capability to avoid taxes. That study established that there was no financial shifting and that huge portion of profit shifting is executed by means of profit shifting. The current study seeks to ascertain the effect of debt shifting by multinational corporations on revenue performance by KRA. Further the current study will be focusing on multinational corporations that are based in Kenya.

Jansky and Palansky (2019) studied on the scale of profit shifting and tax revenue losses related to foreign direct investment. That study focused on main channels of profit shifting including debt shifting, trade mispricing and location of intangibles. That study compared the estimated revenue losses in relation to their respective GDP and tax revenues of countries classified based on per capita income. That study established that profit shifting and associated tax revenue losses were relatively high across most of the countries studied besides most income groups. The current study seeks to ascertain the effect of debt shifting by multinational corporations on revenue performance by KRA. Debt shifting will be assessed using the following indicators: thin capitalization, leverage buyout and different treatment on interest payment and dividends.

2.2.2 Location of Intellectual Property rights and Revenue Performance

Davies *et al* (2022) assessed on competition for foreign direct investments when governments compete in tax incentives besides intellectual property rights protection. The study established that a higher intellectual property rights tend to lower the likelihood of imitation and hence higher expected profits and tax revenues. A weak intellectual property rights lead to imitations and lower tax bases and this has repercussion on tax revenues. The current study is aimed at examining whether strategic location of intellectual property rights affects revenue performance by KRA. The indicators for intellectual property rights assessed in this study are: income based incentive only, expenditure based incentive only and combination of income based incentive with expenditure based incentive.

Sharma *et al* (2021) carried a research study to ascertain the firm’s incentive to transfer an intellectual property right of uncertain value offshore before its failure or success is determined. That study established that, with an asymmetric treatment of profit and losses in the home country, the multinational corporation tend to transfer its intellectual property to a foreign low-tax country to avoid potentially negative profits at home country. Incentives exists to transfer the intellectual property to a tax jurisdiction where tax rates are comparable or relatively higher than at home when the foreign tax jurisdiction offer a relatively more symmetric treatment of losses. The current study is aimed at examining whether strategic location of intellectual property rights affects revenue performance by KRA. The indicators for intellectual property rights assessed in this study are: income based incentive only, expenditure based incentive only and combination of income based incentive with expenditure based incentive.

Gaessler *et al* (2021) conducted a research assessing on whether patent income tax should be lowered. That study aimed at determining the effects of introduction of patent box on choice of ownership location, international patent transfers and invention of the relevant country. The study utilized secondary data from European Patent office. That study established that effect on international patent transfer was positive but insignificant whereas invention is not affected.

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2.2.3 Bilateral Tax Treaty and Revenue Performance

Petkova *et al* (2020) conducted a study bilateral tax competition and regional spillovers in tax treaty formation. That study focused on four treaties relating to withholding tax rates on passive income which included: portfolio dividends, participation dividends, interest and royalties. The treaties that were focused on were 3,000 tax treaties and amending protocols signed between 1930 and 2012. The study established that there is a positive relationship between negotiated withholding tax rates of a destination country's tax treaty and destination country's competitors past tax treaties with similar source country. There tend to be a strong link between tax rates on interest and royalties. The current study is focused on assessing the effect of bilateral tax treaty on revenue performance by KRA. This will be measured using: Double Taxation Agreement, Mutual Agreement Procedure on dispute resolution and exchange of information.

van`t Riet and Lejour (2020) studied on Dutch tax treaties and developing countries. That study focused on six treaties of the Netherlands with developing countries. The study aimed at ascertaining to what degree Dutch tax treaties and developing countries could result to tax revenue losses for these countries and transferred income flows through the Netherlands. That study used network analysis to compute taxation on interest, dividend and royalties. The results for that study suggest that reduction of tax liability to multinational corporations is attributed by transfer of income flows leading to tax revenue losses to respective governments. The current study is focused on assessing the effect of bilateral tax treaty on revenue performance by KRA. This will be measured using: Double Taxation Agreement, Mutual Agreement Procedure on dispute resolution and exchange of information.

De Simone *et al* (2018) carried out a research on transparency and tax evasion. The study focused on evidence from the Foreign Account Tax Compliance Act. FATCA and the International Common Reporting Standard were enacted to counter tax evasion in US. Among the tools used was Automatic Exchange of Information (AEOI). The evidence posits reduction of cross-border investments among the US taxpayers, to avoid being caught up with stringent FATCA regulations. AEOI was effective to an extent that made some tax evaders voluntarily disclosed their respective hidden offshore funds. Despite AEOI being effective in disclosing a variety of hidden offshore finances, there is a set of financial assets that are not subject to AEOI. This therefore creates an imbalance in opportunity to carry out tax evasion among the tax evaders. The current study is focused on determining whether bilateral tax treaty affects revenue performance by KRA. The measurement indicator of bilateral tax treaty in this study include Exchange of Information, Double Taxation Agreement and Mutual Agreement Procedure on dispute.

Dong (2019) studied on effect of double tax treaties on FDI inflow in ASEAN countries. The research focused on both new double taxation treaties and old double taxation treaties whereas corporate tax rate was used as control variable. The sample of the study comprised 10 ASEAN countries including Cambodia, Brunei, Indonesia, Lao, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam. That study suggests that new double taxation treaties tend to have positive albeit insignificant effect on FDI inflow into ASEAN countries. Moreover, the study established that old double taxation treaties had a negative significant effect on FDI inflow in ASEAN countries. The current study is focused on determining whether bilateral tax treaty affects revenue performance by KRA. The measurement indicator of bilateral tax treaty in this study include Exchange of Information, Double Taxation Agreement and Mutual Agreement Procedure on dispute.

3.0 Research Methodology

This research study reviewed on the previous studies undertaken on the area of interest. This study focused on the study findings and the methodology. The conclusions regarding the relationship that exist between the independent variables and dependent for this study were derived from the findings of the past studies. Recommendations in this study were made based on the previous study findings and conclusions. Reiter *et al* (2021) conducted a study to assess how multinational banks use internal debts to shift profits to low-taxed subsidiaries. The study utilized regulatory data on multinational banks headquartered in Germany. The study found that multinational banks tend to utilize this tax avoidance channel more aggressively than the non-financial multinationals do. Further the study established that a ten percentage points higher corporate tax rate increases the internal net debt ratio by 5.7 percentage points, corresponding to a 20% increment of the mean.

Bilicka *et al* (2020) assessed on how multinational corporations reallocate debt and real operations across their affiliates in response to the 2010 UK worldwide debt cap that limits interest deductibility. That study established that multinationals affected by the reform reduced the amount of debt held in UK and increased the debt held abroad. Those reforms enabled UK tax authority to increase their tax revenues from affected UK headquartered multinationals and did not affect the worldwide effective tax rates. Jansky and Palansky (2019) conducted a study on the scale of profit shifting and tax revenue losses related to foreign direct investment. That study focused on main channels of profit shifting including debt shifting, trade mispricing and location of intangibles. That study compared the estimated revenue losses in relation to their respective GDP and tax revenues of countries classified based on per capita income. That study established that profit shifting and associated tax revenue losses were relatively high across most of the countries studied besides most income groups.

Sharma *et al* (2021) carried a research study to ascertain the firm’s incentive to transfer an intellectual property right of uncertain value offshore before its failure or success is determined. That study established that, with an asymmetric treatment of profit and losses in the home country, the multinational corporation tend to transfer its intellectual property to a foreign low-tax country to avoid potentially negative profits at home country. Incentives exists to transfer the intellectual property to a tax jurisdiction where tax rates are comparable or relatively higher than at home when the foreign tax jurisdiction offer a relatively more symmetric treatment of losses. Davies *et al* (2022) assessed on competition for foreign direct investments when governments compete in tax incentives besides intellectual property rights protection. The study established that a higher intellectual property rights tend to lower the likelihood of imitation and hence higher expected profits and tax revenues. A weak intellectual property rights lead to imitations and lower tax bases and this has repercussion on tax revenues.

Petkova *et al* (2020) conducted a study bilateral tax competition and regional spillovers in tax treaty formation. That study focused on four treaties relating to withholding tax rates on passive income which included: portfolio dividends, participation dividends, interest and royalties. The treaties that were focused on were 3,000 tax treaties and amending protocols signed between 1930 and 2012. The study established that there is a positive relationship between negotiated withholding tax rates of a destination country’s tax treaty and destination country’s competitors past tax treaties with similar source country. There tend to be a strong relationship between tax rates on interest and royalties. van`t Riet and Lejour (2020) carried a study regarding Dutch tax treaties and developing countries. That study focused on six treaties of the Netherlands with developing countries. The study aimed at ascertaining to what degree Dutch tax treaties and developing countries could result to tax revenue losses for these countries and transferred income flows through the Netherlands. That study used network analysis to compute taxation on interest, dividend and royalties. The results for that study suggest that reduction of tax liability to multinational corporations is attributed by transfer of income flows leading to tax revenue losses to respective governments.

4.0 Findings

Findings from the reviewed studies suggests that that debt shifting has a significant positive effect on revenue collection performance by KRA. Jansky and Palansky (2019) established that profit shifting and associated tax revenue losses in relation to foreign direct investments were relatively high across most of the countries studied. Bilicka *et al* (2020) established that multinationals affected by the reform regarding the 2010 UK worldwide debt cap that limits interest deductibility, reduced the amount of debt held in UK and increased the debt held abroad. The result was consistent with theoretical review that posits that there is shift of tax liability from mobile to immobile tax bases, particularly for economies that are open and small. Sectors carrying out more profit shifting tend to lower their cost of capital hence woo more investment in comparison with sectors less capability to reduce their respective tax liability.

This study established that location of intellectual property rights had a significant positive effect on revenue collection performance by KRA. Sharma *et al* (2021) argued that based on an asymmetric treatment of profits and losses in the home country, the multinational corporation tend to transfer its intellectual property to a foreign low-tax country to avoid potentially negative profits at the home country. Further, incentives exist to transfer the intellectual property to a tax jurisdiction where tax rates are comparable or relatively higher than at home when the foreign tax jurisdiction offer a relatively more symmetric treatment of losses. Davies *et al* (2022) stated that a higher intellectual property rights tend to lower the likelihood of imitation and hence higher expected profits and tax revenues. A weak intellectual property rights lead to imitations and lower tax bases and this has repercussion on tax revenues.

This study also examined the effect of bilateral tax treaty on revenue collection performance by KRA. The study found that bilateral tax treaty had a significant positive effect on revenue collection performance by KRA. van`t Riet and Lejour (2020) stated that bilateral tax treaties tend to reduce the tax liability of multinational corporations; this is attributed by transfer of income flows leading to tax revenue losses to respective governments. Moreover, Petkova *et al* (2020) established that there is a positive relationship between negotiated tax rates of a destination country’s tax treaty and destination country’s competitors past tax treaties with similar source country.

Most authors used different geographical context in carrying out research in regarding the effect of aggressive tax planning on organization performance. The difference in results might be due geographical location hence the findings cannot be generalized. Different authors employed different methodologies in arriving at their conclusion. When different methodologies are used there is a tendency to arrive at a conclusion that cannot be generalized since the data might vary.

Most authors used different theories. A theory is a pillar upon which the research is anchored on. In the case whereby different theories are applied in a particular study, the findings tend to differ since theory is the centerpiece of any research. Under Bilateral tax treaty, technological gap has emerged. Most authors did not use EOI, AEOI, EOIR. This platform is vital at this age since they enable countries to exchange information regarding the taxpayers inorder to counter tax evasion.

In the theoretical and empirical analysis, the study proposes the following model to ascertain and describe the link between aggressive tax planning and revenue performance by KRA. All constructs in this paper have played a critical role in coming up with the phenomenon for this particular study paper. The model is summarized in the figure below:

Proposed Theoretical Model

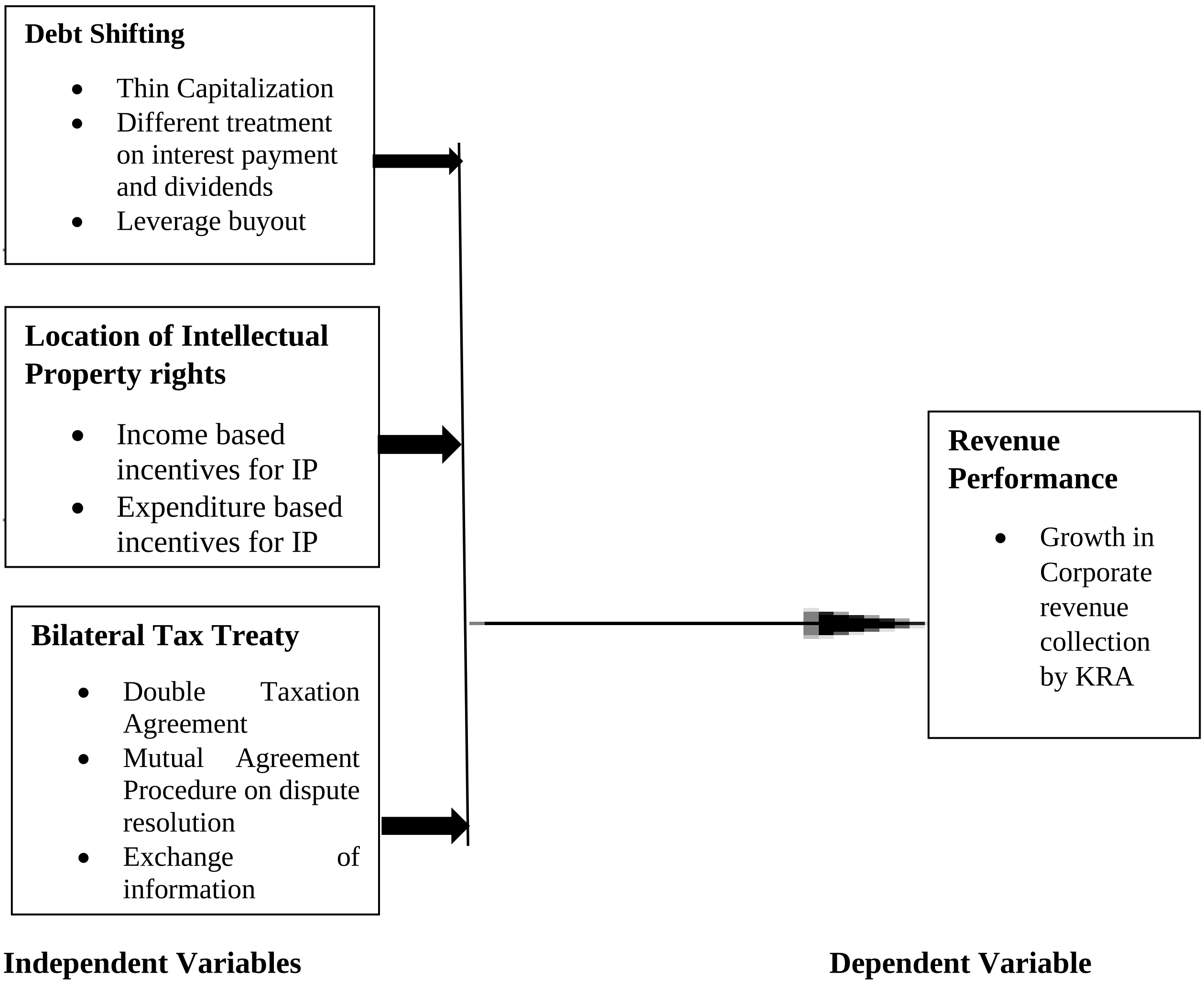

Figure 1: Proposed Theoretical Model

Aggressive Tax Planning and Performance by KRA- Aggressive tax panning has become an issue in Accounting and Economics literature. Bodrova et al (2023) argued that it the desire of a rational taxpayer to reduce the onerous tax liability whereas the government desires reduce tax avoidance loopholes. Countering aggressive tax planning has become a major pressing task for the Russian Federation and the world. Aggressive tax planning has dire repercussion on domestic resource mobilization of a given country. **Proportion 1:** Aggressive tax planning affects performance of KRA. **Aggressive tax planning Techniques-** Effective use of aggressive tax planning techniques including debt shifting, location of intellectual property rights and bilateral tax treaties leads to reduction of tax liability to KRA. **Proposition 2:** aggressive tax planning techniques leads to reduction of tax liability to KRA. **Effect of aggressive tax planning Techniques and performance by KRA-** It is crucial to note that aggressive tax planning techniques affects performance of KRA. Revenue collection is expected to dwindle in the event aggressive tax planning is intensified. Further, the business entities tend to utilize optimally aggressive tax planning inorder for them to reduce their tax liability. **Proposition 3**: Aggressive tax planning methods affect performance of KRA.

5.0 Conclusions and Recommendation

5.1 Conclusion

Aggressive tax planning is a concept that is widely used with regard to the issue of reducing the onerous tax liability to the tax administration. Multinational corporations tend to utilize aggressive tax planning optimally to reduce their respective tax liabilities. Multinational corporations tend to exploit all the available loopholes within the tax laws in order for them to decrease their tax liability to tax administration. Due to multinational corporations adopting aggressive tax planning, the dire repercussions include tax revenues being collected by the tax administration tend to reduce significantly. This leads to tax administration not meeting their tax revenues collection targets.

5.2 Recommendations

This study recommends KRA to continuously review any existing loopholes in the tax laws. Sealing the respective loopholes in tax laws tend to enhance tax revenues collection targets. The multinational corporations need to observe ethics in their business practices. Further, they should observe the doctrine of economic substance, which states that tax benefit with regards to a transaction are not allowable if the transaction does not have economic substance or lacks business purpose. Country by country reporting is a vital tool in effort towards countering aggressive tax planning. Multinational corporations in Kenya with subsidiaries outside Kenya need to submit information appertaining to the transaction with the respective subsidiaries to KRA. This information will enable KRA determine whether debt shifting has taken place.

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