



TAX ALERT

April 2019

This Alert summarizes the key reforms contained in each bill.

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1. BACKGROUND

On 28 March 2019, Uganda's Minister of Finance Planning and Economic Development tabled Tax Amendment Bills before the Parliament, unlike in the past when budgetary proposals for the year were closely guarded and revealed on the national budget reading day in June. It's now a requirement under the Public Finance Management Act 2015(PFMA 2015) for Government to present the proposed annual

budget to the Parliament by 1st April of each year for approval by 31st May. This enhances the Government's ability to have a transparent and predictable budget before its presented to the nation

If passed by Parliament and assented to by the President of the Republic of Uganda, all the Bills will become law on 1st July 2019. Passage of the Bills is anticipated in early June.

In general, the Amendment Bills (except the Tax Procedures Code (Amendment) Bill, 2019) have proposed to define the term "citizen" to cover a natural person who is a citizen of any East African Community (EAC) state or an East African company or a body of persons in which at least 51% of the shares are held by a citizen of any EAC state. This proposal is likely to promote cross-border trade and business across the EAC by ensuring that any tax benefits available to Uganda citizens will be available to all EAC individuals and companies.

2. Income Tax (Amendment) Bill 2019

The object of this Bill is to amend the Income Tax Act, Cap. 340 to provide for the definition of beneficial owner; to require payment of rental tax separately on each rental property; to reduce the threshold required for a tax exemption; to provide for withholding tax by a seller of a business or business asset; to provide for an offence and a penalty for failure to obtain a taxpayer identification number from a licensee; and for other related matters.

1. New definitions introduced:

(a) **Beneficial owner** which means a natural person who owns or has a controlling interest over a legal person other than an individual and who exercises control over the management and policies of a legal person or legal arrangement, directly or indirectly whether through ownership or voting securities, by contract or otherwise.

The proposal seems intended to limit the tax benefits (tax exemptions and reductions) under Uganda's tax treaties to natural persons that are tax resident in the treaty countries.

(b) **Citizen means**— (1) a natural person who is a citizen of a Partner State of East African Community;

(2) a company or a body of persons incorporated under the laws of a Partner State of the East African Community in which at least fifty-one percent of the shares are held by a person who is a citizen of a Partner State of East African Community.

2. Payment of tax in respect of rental income:



Proposed bill seeks amendment in section 5 where by a person who earns rental income from more than one rental property shall account for the income and expenses of the properties and shall pay tax for each of the properties **separately**.”

3. Income tax exemptions for investors.

Amendment of section 21 of the principal act’.

- (a) The bill proposed to exempt the income derived by a person from letting or leasing facilities whose investment capital is at least USD 50m in an industrial park or free zone for a period of 10 years from the date of commencement of construction or in the case of an existing developer, from the date on which the developer makes an additional investment equivalent to USD 50m.

The investment capital threshold for the exemptions for developers of industrial parks and free zones is reduced from USD 100 million to USD 50 million. The period of the exemption has also been increased from 5years to 10 years.

- (b) The bill also proposed to exempt the income of an operator in an industrial park or free zone or other person carrying on business outside the industrial park or free zone whose investment capital is at least USD10m in the case of a foreigner or USD 2m in the case of a citizen for 10 years from the date of commencement of business or, in the case of an existing operator, from the date on which the operator makes an additional investment equivalent to USD10m in the case of a foreigner or USD 2m in the case of a citizen.

Tororo industrial park photo credit: YouTube



- (c)) The Bill also proposes to exempt income of an operator within an industrial park, free zone or an operator who owns a single factory or other business outside the industrial park or free zone whose minimum investment capital is 10 million USDS in the case of a foreigner or 2 million USDS in case of a citizen, who uses at least 70% of the raw materials that are locally sourced, subject to their availability and employs at least 60% citizens,
The qualifying activities are as below:

1. Manufactures or assembles medical appliances, building materials, automobile, house hold appliances.



2. Manufactures furniture.



3. Establishes or operates vocational or technical institutes



4. carries on business in logistics and ware housing, information technology or commercial farming



5. Processing agricultural products.



(d) The proposed amendment has exempted withholding tax charge on interest paid on infrastructure bond whose maturity period is least 5 years.

Nile bridge in Jinja Photo credit: YouTube



Infrastructure bond was defined as all listed bonds, notes or other similar securities used to raise funds for public infrastructure and other social services.

4. Exclusion of financial institutions and insurance companies from interest capping provisions

The proposed amendment under Section 25 has excluded financial institutions and persons carrying on insurance business who are members of group from the limitation of interest expense allowable.

This will enable Financial institutions and insurance business to expense all the interest expense incurred.

5. Introduction of tax payable by a lossmaking person

Proposed amendment to Section 38 proposes to introduce tax of 0.5% on gross turnover for any taxpayer who has carried forward losses for a period of 7 years.

6. Withholding tax (WHT) on the purchase of a business or business asset by a resident person

Proposed amendment to Section 118B proposes that person who purchases a business or a business asset shall withhold tax at 6%.

7. TIN requirement for issuance of a license by Government Regulatory bodies.

Proposed amendment to Section 135 proposes that a Local Authority, Government Institution, or regulatory body shall not issue a license or any form of authorization necessary for purposes of conducting any business in Uganda, to any person without a taxpayer identification number (**TIN**).



8. Changes to withholding tax rates to Government securities.

The proposed withholding tax rates for interest payments on Government securities to non-resident persons under section 83 will be as below.

GOVERNMENT SECURITIES	OLD	NEW
Whose maturity period exceed 10years	20%	20%
Whose maturity period is at least 10 years	20%	10%

The withholding tax rate for interest payments on Government securities to a resident person under section 117 are:

GOVERNMENT SECURITIES	OLD	NEW
Whose period of maturity dose not exceed 10 years	20%	20%
Whose period of maturity is at least 10 years	20%	10%

The above proposed amendments seek to encourage investment in Government securities.

3.The Value Added Tax (Amendment) Bill, 2019

The object of this Bill is to amend the Value Added Tax Act, Cap. 349; to define a citizen; to provide for the percentage of withholding tax to be remitted, to empower the Minister to make Regulations for prescribing the equivalent tax treatment of supplies made in the course of Islamic financial transactions; and to provide tax incentives to investors by exempting certain supplies from Value Added Tax.

1. Provision of the percentage of withholding tax to be remitted.

Proposed amendment to Section 5 proposes that the Minister shall, by notice in the Gazette, designate persons who shall withhold tax on payment of taxable supplies.

Examples of taxable supplies

Sales of business assets (e.g. equipment, furniture, commercial vehicles)
Hire or loan of goods to someone else for consideration
Goods which you or your families have taken from the business for own use.
Commission received in return for selling something on behalf of someone else
Gifts to friends or business representatives;
Sales to your staff or relatives (e.g. your products supplied free of charge, or at reduced prices)
Sales from vending machines.

Furthermore, A person designated under subsection (1), shall remit to the Uganda Revenue Authority, six percent of the taxable value referred to in sections 21 and 23 of this Act.

2. Regulations for Islamic financial transactions

Section 73A proposes that the Minister shall make Regulations for prescribing the equivalent tax treatment of supplies made in the course of Islamic financial transactions.

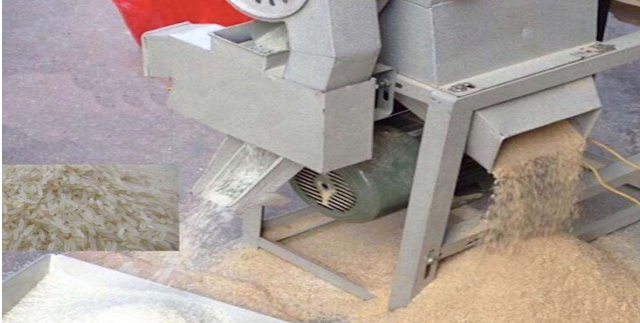
3. Public international organizations.

The proposed amendment includes United Nations Entity for gender Equality and the Empowerment of Women (UN Women) on the list of Public International Organizations.

4. Proposed supplies to be exempt from VAT

The proposed amendment exempts the following supplies from VAT: -

- ✓ Rice mills



- ✓ Aircraft insurance service



- ✓ Agricultural sprayers.



- ✓ Supply of drugs and medicine.



- ✓ Supply of imported math mathematical sets, geometrical sets used for **technical and vocational education**.



- ✓ Supply of wood working machines.



- ✓ Supply of sewing and welding machines.



This means that companies that are involved in the supply of these items that have been exempted from VAT can no longer be able to claim VAT charged to them as is the case for zero rated supplies.

Exclusion of drugs and medicines not manufactured in Uganda from the zero-rate regime

The proposed amendment zero rates the supply of drugs and medicines manufactured in Uganda.



4.The Excise Duty (Amendment) Bill, 2019

The object of this Bill is to amend the Excise Duty Act, 2014, to empower the Minister to make Regulations for prescribing the equivalent tax treatment of supplies made in the course of Islamic financial transactions; to amend Part III of the Act to provide for registration of manufacturers, importers and providers of excisable goods and services; to prescribe an interest rate payable on unpaid excise duty and to amend Schedule 2 to vary the excise duty in respect of non- alcoholic beverages, not including fruit or vegetable juices.

1.Excise Duty Regulations for Islamic financial transactions

These are to be made in the course of Islamic financial transactions.

2.Registration of manufacturers, importers and providers of excisable goods and services.

The proposed amendment provides that manufacturers, importer, or provider, of excisable goods and services other than retailers shall apply for registration and the registration of the premises in which the manufacture, provision or dealing in excisable goods or excisable services, other than retailing takes place. The application will be done in away prescribed by the commissioner as follows.

The Commissioner may, within one month after receiving the application under subsection (1), register or refuse to register a manufacturer, importer or provider of excisable goods and services or the premises in which the manufacture, provision or dealing in excisable goods or excisable services takes place.

- 1) The Commissioner may require the applicant to meet specified conditions before registration of the applicant or the premises.
- (2) The Commissioner may issue a certificate of registration, with or without conditions.
- (3) Where the Commissioner refuses to register the applicant or the premises, the Commissioner shall give reasons in writing for the refusal.
- (4) Where the Commissioner registers a manufacturer, importer or provider of excisable goods and services or premises under this section, the Commissioner shall, issue to the applicant a certificate of registration.
- (5) The certificate of registration shall be in a form prescribed by the Commissioner.
- (6) The Commissioner shall establish and maintain a register containing the relevant details of all registered persons and their premises of operation under this section.
- (7) A certificate of registration issued under this section is valid for twelve months from the date of issue.
- (8) A registered person may apply to the Commissioner, in the approved form and prescribed manner, for renewal of a certificate of registration issued under this section.
- (9) An application for renewal of a certificate of registration under subsection
- (10) shall be made thirty days before the expiry of the certificate of registration, or within such further time as the Commissioner may allow
- . (11) The Commissioner shall cancel a certificate issued under this section if satisfied that the registered person and the premises no longer meet the conditions for the grant of the certificate.
- (13) A registered person shall not use the premises for a purpose other than the purpose for which the

3. Interest on unpaid duty

The Bill introduces a uniform interest penalty of 2% per month, compounded, on late payment of all excise duty. Currently, the Act only provides for interest on unpaid duty in relation to manufactured or imported goods, with no penalty applying to excise duty on services.

4. Reduced excise duty rates for certain items

- Non-alcoholic beverages, not including fruit or vegetable juice, from the current 12% or UGX200 per liter whichever is higher to 11% or UGX185 per liter whichever is higher.
- NIL excise duty on materials for technical or vocational institute operators whose investment capital is at least US\$10 million for a foreigner or US\$2 million for a foreigner.

5. The Stamp Duty (Amendment) Bill, 2019

The object of this Bill is to amend the Stamp Duty Act, 2014 to define a citizen; to provide for a uniform stamp duty payable on bank guarantees, insurance performance bonds, indemnity bonds and similar debt instruments and to reduce capital thresholds for developers and operators.

In the Income Tax (Amendment) Bill 2019, **A Citizen** is defined as

- (1) a natural person who is a citizen of a Partner State of East African Community.
- (2) a company or a body of persons incorporated under the laws of a Partner State of the East African Community in which at least fifty-one percent of the shares are held by a person who is a citizen of a Partner State of East African Community.

Uniform Stamp Duty payable on bank guarantees, insurance performance bonds, and indemnity bonds.

The Bill proposes to set a fixed stamp duty rate of UGX 100,000 for the following instruments:

- bank guarantees
- insurance performance bonds (currently attracting a fixed rate of Ushs 50000 per instrument)
- indemnity bonds (currently attracting a rate of 1% of total value)
- similar debt instruments.

Incentives for investors

In line with the changes for other taxes, the investment thresholds for the Strategic Investment Project exemptions have been reduced to USD 50 million for developers of industrial parks or free zones, and to USD 10 million and USD 2 million for foreigners and citizens respectively in relation to specific sectors. In addition, there is a new exemption for certain instruments executed by a vocational institute operator meeting the USD 10 million or USD 2 million investment thresholds.

6. Tax Procedures Code (Amendment) Bill, 2019

The object of this Bill is to amend the Tax Procedures Code Act, 2014, to write off all unpaid taxes by Government as at 30th June 2019, to empower the Commissioner General to compound offences and to provide for a list of returns filed with the Commissioner General.

Commitment by Government to pay tax on behalf of taxpayers

- (1) The Minister shall pay any tax due and payable by Government, arising from a commitment made by Government to pay tax on behalf of a person or owing from Government as counterpart funding for aid funded projects.
- (2) Notwithstanding subsection (1), all unpaid taxes by Government as at 31st June, 2019 are written off.
- (3) The Minister shall publish in the Gazette, a list of all taxes waived under subsection (2)."

Waiver of penalty for a taxpayer who voluntarily discloses the commission of an offence

Proposed amendment in section 66 states that Where a person has committed an offence under a tax law, other than under section 63 of this Act and that person voluntarily discloses the commission of the offence to the Commissioner, at any time prior to the commencement of court proceedings, the Commissioner may enter into an agreement with the offender to compound the offence if the offender agrees to pay to the Commissioner the outstanding unpaid tax and that person shall not be required to pay any interest or fine due.

Payment to informers.

Proposed amendment in section 74A states that the Commissioner General shall pay to a person who provides information leading to the recovery of a tax or duty, the equivalent of 5% of the principal tax or duty recovered.

This has been reduced from 10% to 5% of Duty recovered as a result of information provided by that person.

The above are still proposals debated by Parliament. If passed and assented by the President will become law effective 01st July 2019.

For any queries, further clarifications and Tax assistance please contact us on.

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