



Tax Amendments

**The tax amendments have yet to be assented by H.E President*

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Tax Procedures Code Act Amendments

TIN (Tax Identification Number) requirement for Stamp Duty

All persons making payment of stamp duty are required to have a TIN. The proposed amendment aims to enhance tax compliance and widen the tax base by making a Tax Identification Number ('TIN') a prerequisite for the registration of stamp duty instruments by local authorities, government institutions, and regulatory bodies.

Misclassification of stamps

A penal tax is introduced for persons fixing tax stamps on wrong goods, brand, or volume. This revision aims to deter and penalize unauthorized interference or tampering with digital tax stamp machines, ensuring the integrity of the tax system, and discouraging potential tax evasion or fraud related to the use of these machines by increasing the penalty to a fine not exceeding One Hundred Million Uganda Shillings Only, or imprisonment not exceeding ten years, or both.

Order of Payment

The order of tax payment is amended to have all principal taxes cleared, first. Previously, the payments were allocated to the earliest liabilities in the order of Principal, Penalty, and Interest. This amendment aims to provide clarity regarding the application of payments made by taxpayers. Tax liabilities consist of principal tax, interest, and penalties. By specifying that payments should be allocated to the principal tax outstanding at the date of payment and thereafter penalty and interest, the amendment ensures that the core tax liability is addressed before other ancillary amounts. For tax heads other than VAT (VALUE ADDED TAX), where the interest is not compounded, this application minimizes the accumulation of interest by reducing the principal. The amendment also promotes transparency and prevents confusion in the payment allocation process.

Tax remission

The power to waive tax is shifted to Parliament. Previously, the URA (Uganda Revenue Authority) commissioner would recommend to the Ministry of Finance, and the Minister would decide. This amendment means that in cases where a taxpayer's situation is referred to the Minister and it is determined that the outstanding tax cannot be effectively recovered, the Minister is charged with the duty, subject to approval from Parliament, to remit all or a portion of the tax amount owed by the taxpayer. The amendment empowers Parliament to have the final say on tax arrears that are written off.

Waiver of interest and penalties

Taxpayers with outstanding tax liabilities, including interest and/or penalties, may benefit from a waiver of interest and penalties. The amendment empowers the Commissioner to waive any interest and penalty payable by a taxpayer if the taxpayer voluntarily pays tax on a pro-rata basis, either the whole or part of the principal tax outstanding as of 30 June 2023, by 31 December 2023. This amendment is intended to incentivize taxpayers to settle their outstanding tax obligations and to tap into a wider community of taxpayers who may have extended periods of noncompliance that will require sufficient time to undertake self-review.

Failure to present information during a tax review

Taxpayers that fail to present information during the review and objections stages will not be allowed to present that information when appealing to the Tax Appeals Tribunal or Alternative Dispute Resolution. Taxpayers should comply with the request for information or else they will lose the opportunity to present that information as part of their defence or argument during the appeal or alternative dispute resolution stage of a tax decision.

This restriction does not apply to information requested by the Commissioner if the information is older than three years from the date it was authored or beyond the past three financial years. This means that if the Commissioner requests information that falls outside the specified period, the taxpayer is not bound by the restriction mentioned in subsection 42(3a). They can still provide the requested information during the appeal or alternative dispute resolution process.

Income Tax Act Amendments

Definition of company

The Act is amended to provide guidance on what a Trust is and how it should be subjected to tax. A unit trust is no longer considered a company as per paragraph 2(n) but rather a form of Collective Investment Scheme (CIS) as per the CIS Act.

To provide clarity, the amendment proposes to tax the profits, such as interest or dividends, that are paid or credited to participants of a CIS. However, the income of a CIS itself will be unconditionally exempt from income tax. The tax on profits derived by participants or unitholders will be imposed in the form of a withholding tax, which will be withheld by the CIS on the income paid or credited to the participant. This proposed change aligns with Section 117(2)(c) of the Income Tax Act, which pertains to WHT (Withholding Tax) on interest paid to resident persons.

Persons not affected by the Interest capping

This amendment means that a taxpayer who is a member of a group is required to cap the deduction of interest expenses to a maximum of 30% of their Tax Earnings Before Interest, Tax, Depreciation, and Amortization (Tax EBITDA), excluding financial institutions and those engaged in the insurance business. The interest capping rules exemption has been extended to Micro-finance Deposit-taking Institutions (MDIs) and Tier 4 Micro-finance Institutions (MFIs). This exemption provides MDIs and Tier 4 MFIs with more flexibility in deducting their interest expenses, which helps support their financial operations and growth.

In this context, Tier 4 Micro-finance comprises SACCOS, non-deposit-taking microfinance institutions, self-help groups, and community-based microfinance institutions.

Repealing of Initial Allowance

Taxpayers can no longer claim an initial allowance on qualifying assets or buildings. Currently, this Section allows a taxpayer to claim a deduction for initial allowances of 50% of the cost of items of eligible property placed into service for the first time outside a radius of 50 kilometres from Kampala. The amendment to remove initial allowances would further delay the recovery of capital cost investments, especially for manufacturers operating outside Kampala. The intention behind repealing this provision is to prevent the creation of assessable losses rather than trading losses. The change in

the proposed law also repeals the clause that instituted the Initial Allowance of 20% of the cost of a new building.

Removal of WHT on winnings from gaming

The law is amended to omit the winnings relating to gaming from the list of services on which tax is withheld at 15%. This amendment means that the withholding tax on winnings from gaming can encourage participation in the gaming industry, as players will receive their full winnings. This may lead to increased activity and revenue generation in the gaming sector. The Lotteries and Gaming Act 2016 defines gaming to mean the playing of a game of chance for winnings in money or money's worth and, for the avoidance of doubt, includes gambling, whereas Betting means making or accepting a bet on the outcome of a race, competition, or other events or processes, the likelihood of anything occurring or not occurring, and whether anything is or is not true.

Introduction of WHT on Agent Banking

10% WHT has been imposed on commissions paid to agent bankers to equalize their tax treatment with other agents operating similar businesses such as mobile money agents. The tax withheld will be considered as a final tax, and the recipients of the commission will not be required to pay any further tax on the same income.

This may affect any Agent Banking entity that is in a loss position or that is just starting up as they will be subjected to tax regardless of whether they make a profit or not.

Capping of interest on unpaid taxes

Currently, Section 136 of the Income Tax Act and Section 65A of the VAT Act, Cap 349 provide for capping of interest. However, both these sections have now been repealed from the respective Acts. These amendments provide for the waiver of excess interest due and payable as of 1 July 2017, where such interest exceeds the aggregate of the principal and penal tax.

This proposal means that the capping of interest on unpaid tax will cover all tax period before and after the previously mentioned 30 June 2017.

Value Added Tax Act Amendments

Inclusion of Auction in the definition of taxable supply

The law is amended to include the provision of auction services and sale by auction as events that trigger the charging of VAT. This means that the auctioneer is responsible for declaring and remitting the VAT collected from the auction. Additionally, the amendment clarifies that the auction services provided by the auctioneer are separate from the supply of goods being auctioned. Therefore, the auctioneer needs to treat the supply of services as a separate taxable supply and account for VAT accordingly. In summary, the amendment ensures that VAT is appropriately applied and collected during the auction of goods, distinguishing the role of the auctioneer as both a supplier of goods and a provider of auction services.

Taxation of non-resident service providers dealing with non-VAT registered persons

The law clarifies the scope of supplies considered to be made in Uganda by including a person carrying on a business outside Uganda and does not have a place of business in Uganda. It also

provides clarity that recipients of such supplies will, in addition to non-taxable persons or those that have not voluntarily registered for VAT yet.

Non-resident persons will be required to charge VAT on the supply of services to non-taxable supplies. They will also need to continue filing quarterly returns within fifteen days after the end of each quarter. Additionally, non-resident taxpayers will now be able to file returns and pay taxes in United States Dollars currency to facilitate compliance for those operating in Uganda. However, this does not change the requirement to apply to the commissioner for permission to file income tax returns in a foreign currency for resident taxpayers.

The amendment also addresses the taxation of electronic services. It clarifies that electronic services delivered to a person in Uganda will be considered supplied at the time of supply. Furthermore, it provides a clear definition of electronic services as those provided through an online or digital network by a supplier located outside Uganda to a recipient within Uganda. The list of such services has been expanded to include advertising platforms, streaming platforms and subscription-based services, cab-hailing services, cloud storage, and data warehousing.

Non-creditable purchases

The law introduces restrictions on the claiming of input VAT for entertainment expenses related to membership fees for clubs, associations, or societies of a sporting, social, or recreational nature. It aims to clarify that VAT incurred on payments made by employers to facilities like gyms and sports centres on behalf of employees is not eligible for credit for input tax.

This amendment also includes a restriction for the claim of input tax by a taxable person outside Uganda making a supply of services to a non-taxable person in Uganda as described under Section 16 (2) of the VAT Act, i.e., non-resident suppliers of electronic services.

The Amendment further defines "business use" and "use in the business." The proposed amendment seeks to clarify that such business use applies only to the related business of the taxpayer that generates the taxable supply.

Revision of exempt items

The Amendment provides for the following changes to certain paragraphs in the Second Schedule of the VAT Act, which contains a list of exempt supplies.

- diapers will no longer be treated as exempt supplies.
- Amendment of paragraph (qa) substituting the term "animal feeds and premixes" with "animal feeds and mixed components."
- The supply of all production inputs for iron ore smelting, which are subsequently transformed into billets, will no longer be exempt from VAT. Instead, only the supply of the billets themselves for further value addition will qualify for VAT exemption.
- Subparagraph (yy) has been repealed, meaning that the supply of all production inputs necessary for processing hides and skins into finished leather products in Uganda and the supply of leather products made in Uganda are no longer VAT exempt.
- the supply of cotton seed cakes is no longer exempt.

For more information, please contact tax@mazars.ug or call 041 4660071.