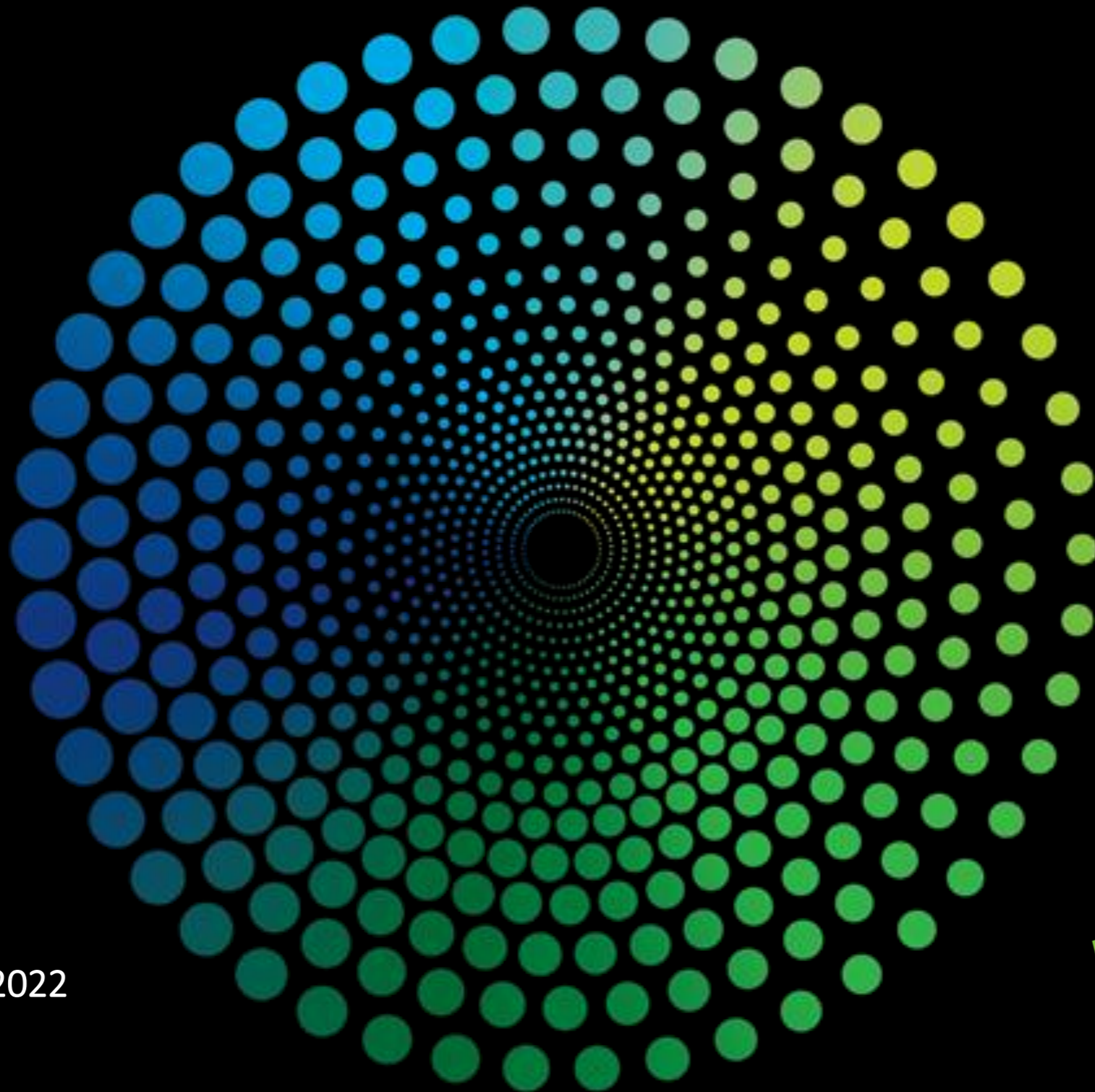


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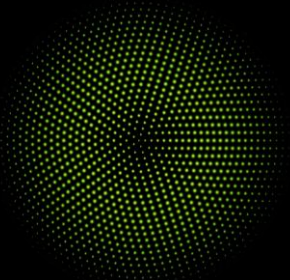


Uganda Tax Alert
Tax Amendment Bills, 2022

April 2022



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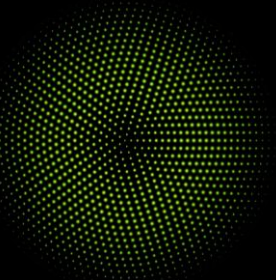
This publication highlights the tax and other measures proposed as per the 2022/23 amendment bills. This publication constitutes only a brief guide and is not intended to be a comprehensive summary of the tax law and practice. This publication summarizes our analysis of the proposed amendments under the following bills and their impact:

The Income Tax (Amendment) Bill, 2022;
The Value Added Tax (Amendment) Bill, 2022;
The Excise Duty (Amendment) Bill, 2022;
The Tax Procedures Code (Amendment) Bill, 2022;
The Stamp Duty (Amendment) Bill, 2022;
The Tax Appeals Tribunal Act (Amendment) Bill 2022; and
The Uganda Revenue Authority Act (Amendment) Bills 2022
The Finance Bill, 2022

The Bills are currently before Parliament and, subject to any changes that may be passed, will take effect after assent by the President on 1 July 2022.

While all reasonable care has been taken in the preparation of this analysis, Deloitte and its associates accept no responsibility for any errors it may contain, whether caused by negligence or otherwise, or for any loss, however caused or sustained by any person that relies on it.

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Corporation Tax

Beneficial owner redefined

The measure

“Beneficial owner” has been redefined to mean;

- a natural person who ultimately owns or controls a customer; or
- the natural person on whose behalf a transaction is conducted, including a person who exercises ultimate control over a legal person or arrangement.

legal person has been defined to include;

- the natural person who either directly or indirectly holds at least 10% shares or voting rights;
- the natural person exercising control of the legal person through other means including personal or financial superiority; or
- the natural person who has power to make or influence a decision of the legal person.

With regard to trusts, a beneficial owner expanded to include;

- the beneficiaries or the individual benefitting from the trust who is yet to be determined.

Who will be affected

Non- residents with income sourced in Uganda

Our view

This provides further clarity in relation to accessing tax treaty benefits under Double Tax Treaties (DTTs) where beneficial ownership is a key criteria. It follows the implementation of BEPS action point 6 which has enabled tax authorities to deny taxpayers treaty benefits that arise from transactions or arrangements which do not necessarily have any commercial substance and whose primary objective is achieving a given tax benefit.

Exempt organisation redefined

The measure

The definition of exempt organisation has been expanded to include research institutions / organisations whose object is not for profit

Who will be affected

Research institutions whose object is not for profit

Our view

Primarily, non-for-profit organisations fund their operations through donations and grants. This proposal is therefore aimed at promoting more scientific research and development initiatives to drive innovation without necessarily making them more costly than they need to be. These institutions will be exempt from tax subject to meeting the existing criteria of granting exemptions

Corporation Tax

Rental income tax

The measure

Changes made in respect of rental income as follows:

Deductible expenses and losses allowable to non-individuals earning rental income shall be limited to 50% of their rental income in that year of income. Any excess shall be carried forward to the subsequent year.

Repeal of the deduction of interest expense on a mortgage from financial institutions that was previously allowed to individuals in respect of the acquisition or construction of premises from which rental income was generated.

Change in how to compute rental tax for individuals with rental income. Currently tax is computed at a rate of 30% of the chargeable income. The proposal is compute tax at a rate of 12% of the gross rental income without allowing any deduction for expenses.

Who is affected

Landlords

Our view

We believe this is aimed at simplifying and fostering compliance for individuals. However, the effective tax rate will increase by 60%. See illustration on rental income of UGX 100 m received by an individual:

- Previously - rental tax **UGX 7.5 m** (100 X 75% X 30%)
- Proposal - rental tax **UGX 12 m** (100 m X 12%)

For non- individuals the proposed amendment limits the deductible expense allowed to a taxpayer in a given year of income to 50% of the gross rental income with the excess carried forward to the subsequent period. It does not give clarity on what happens should a taxpayer have excess deductible expenses over an extended period of time of for example 3 years.

Income tax exemption for specific categories of persons

The measure

Extension of income tax exemption for the Bujagali Hydro Power Project from 30th June 2022 to 30th June 2027.

Granting of income tax exemption to a manufacturer whose investment capital is, for over a period of at least 10 years from date of commencement of business, at least 35 million USD for a foreign investor or USD 5 million for a citizen who has capacity to source at least 50% locally produced raw materials, subject to availability; and capacity to employ a minimum of 100 citizens.

Hospital facility developer whose investment capital is at least USD 5 million

Who is affected

Investors meeting the investment requirements

Our view

This is all aimed at attracting more inward investment keeping in mind the Government's focus on enhancing industrialisation and private sector led development.

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Corporation Tax

Exclusion of income from carriage of persons, cargo or mail not embarked in Uganda

The measure

Income derived from the carriage of passengers, or cargo or mail not embarked in Uganda does not amount to income derived from Ugandan source service contract.

Who is affected

Non-resident transport service providers and resident persons paying non-resident transport service providers

Our view

This follows the controversial Tax Appeals Tribunal (TAT) ruling in Roche Transport and Logistics Limited Vs Uganda Revenue Authority (URA) where in March 2021 TAT ruled in favour of the URA collecting withholding tax (“WHT”) at the rate of 15% on freight payments to non-resident transporters for cargo deliveries into Uganda from abroad.

This proposal therefore comes as a welcome initiative especially with Uganda preparing for the development phase of its crude oil discoveries. The enforcement of the above ruling would have made it costly for businesses engaging in or relying on such services.

Changes in respect of the mining and petroleum industry

The measure

- The due date for payment of mining or petroleum revenue and other taxes has been changed from seven days after the due date of filing returns to the actual due date of filing the returns.

- Amortisation of an intangible asset at a rate of 100% if the cost of acquiring it is treated as a petroleum exploration expenditure; and
- Penal tax of at least USD 50,000 but not exceeding USD 500,000 to be paid by a licensee who fails to furnish a return or to provide any other document within the prescribed timeline.

Who is affected

Taxpayers in the mining and petroleum industry

Our view

These measures are aimed at harmonising the tax compliance requirements of players in the mining and petroleum industry with those of taxpayers in other industries.

They are also intended to enhance revenue collection from the mining and petroleum industry as the country gears up for the development phase of its crude oil discoveries.

Definition of “business asset”

The measure

A business asset is defined to mean land, the whole or any part of it which is held for use in any business except land held as a trading stock.

Who is affected

Taxpayers disposing of land held for use in a business

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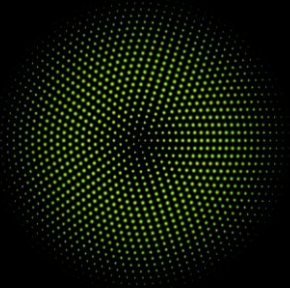
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Our view

This a welcome initiative as it helps erase the ambiguity as to what does or does not constitute a business asset on which WHT (at 6% for residents' sellers and 10% for non-resident sellers) was previously required to be withheld.

The Bill proposes to also exempt buyers of business assets from withholding tax where the seller of an asset is one who the Commissioner is satisfied has regularly complied i. e is exempt from 6% WHT . The list of taxpayers exempt from WHT is published annually by URA following a vetting process.

Extension of list of exempt institutions

The measure

International Development Law Organisation (IDLO) and Foreign, Commonwealth and Development Office (FCDO) (*formerly Department for International Development (DFID)*) have both been added to institutions whose income is exempt from tax as listed under the First Schedule to the Income Tax Act.

This list mainly comprises development partners and funding agencies of different states that support or provide funding for priority initiatives under the National Development Plan.

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Tax Appeals Tribunal

The Tax Appeals Tribunal (Amendment) Bill, 2022

The measure

The Bill seeks to amend the principal Act to provide for increase in the number of other members of the tax appeals tribunal from four to eight

Who will be affected/impacted

All persons having matters pending or intending to register cases with the tax appeals tribunal.

Our view

This amendment will result in an increase in the members of the tribunal from five to nine members. Given the current delays in hearing and determining tax cases, we believe an increase in the composition of the Tribunal would translate into expeditious disposition of matters before the tribunal.

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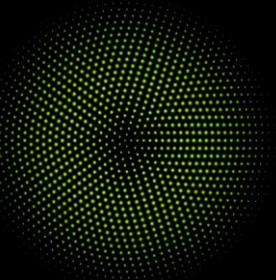
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Tax Procedure Code

Time frame for expiry of registration of tax agent amended

The measure

The Bill proposes that the registration of tax agents will remain in force from the date of issue of the certificate of registration to 31st December every calendar year..

Who will be affected

Tax Agents

Our view

Previously the registration of a tax agent would remain in force for a period of 12 months from the date of registration. This proposed amendment will harmonize the expiry date for all tax agents' certificates and call for a uniform renewal date. It appears this measure is intended to ensure easy tracking of noncompliant tax agents by the Uganda Revenue Authority and possibly protect taxpayers from unlicensed persons that masquerade as tax agents.

Mandatory electronic receipting and invoicing requirement

The measure

Businesses that do not comply with the requirements of electronic receipting and invoicing or tax stamps will be temporarily closed.

Who will be affected

Business owners /VAT registered taxpayers

Our view

The requirement for electronic receipting and invoicing was rolled out on 1st January 2021 and taxpayers have gradually embraced the system. This provision is therefore aimed at taxpayers that are still noncompliant and are not raising invoices electronically. The overall objective of the mandatory electronic receipting and invoicing requirement is to enhance compliance and revenue collection. It remains to be seen what the actual impact of this requirement will be on tax revenue.

Disclosure of information on contracted services

The measure

A person engaged in the construction or extractive industry shall disclose to the Commissioner the names of persons contracted in the course of performance of their duties or business within seven days from the date of signing the contract.

You are liable to a penalty of UGX 20 million for non-compliance to the above provision.

Who will be affected

Persons in the construction or extractive industry

Our view

This measure will enable the Uganda Revenue Authority to have access to information on the service providers with a view to checking their tax compliance status.

Tax Procedure Code

Increased penalty for making false or misleading statements

Proposal to increase the penalty for knowingly or recklessly making a false or misleading statement to a tax officer or omitting from such a statement any matter, to UGX 110 million from the previous UGX 4 million

Additional offences

Introduction of new offences to align with the introduction of digital tax stamps and electronic invoicing and receipting. Overall, these are offences and on conviction one is liable to a fine not exceeding UGX 30 million or imprisonment not exceeding 10 years or both. These include

- Failure to affix or activate a tax stamp
- Prints over or defacing of a tax stamp
- Forgery of a stamp
- Failure to use electronic receipts or invoicing
- Forgery of electronic receipts or invoice
- Interfering with the electronic fiscal device or electronic dispensing control device
- For offences related to automatic exchange of information the penalty is UGX 50 million or imprisonment for a term not exceeding 10 years or both

Payment of informers

The measure

Payment of informers. On provision of information;

- 1% of tax or duty assessed or UGX 15 million whichever is less.
- Recovery of unassessed tax or duty, 5% of the tax or duty recovered or UGX 100 million whichever is less.

Who will be affected

All informers but shall not apply to staff of the authority

Our view

This measure is intended to encourage more people with information leading to identification or recovery of tax to come forward with such information thus increasing compliance in the long run.

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Amended definition of exempt imported services

The measure

Amendment to what constitutes an exempt imported service by repealing the words *“or would be used in the provision of an exempt supply”*

Who will be affected

Taxpayers who provide exempt supplies.

Our view

Previously, the VAT law had a wider definition to what constitutes an exempt imported service. It covered services that would be used in the provision of an exempt supply. The amended provision therefore brings to charge imported services used in the provision of exempt supplies

Additional persons listed as Public International Organizations

The measure

The Bill proposes additions to the list of Public International Organizations in the First Schedule of the VAT Act to include

- International Development Law Organization
- Foreign Commonwealth and Development Office

These will be exempt for VAT purposes. Any person supplying these organizations shall not charge them VAT.

The Bill also proposes removal of Department for International Development from the list of public international organizations. This is because the organization was succeeded by the Foreign Commonwealth and Development office which has been added to the list of public international organizations.

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Value Added Tax

Changes to the list of exempt supplies

The measure

The second schedule (exempt supplies) is to be amended to include the following as exempt:

- Oxygen cylinder or oxygen for medical use;
- The supply of assistive devices for persons with disability
- the supply of airport user services charge by Civil Aviation Authority;
- The supply of services to conduct a feasibility study, design and construction; the supply of locally produced materials for construction of the premises and other infrastructure, machinery and equipment or furnishings and fittings to a hospital facility developer whose investment capital is at least five million United States Dollars and who develops a hospital with capacity to provide specialized medical care.
- All hospital developers *not* only those at the level of national referral hospital

- Supply of cotton seed cake is now standard rated at 18%

Who will be affected

Persons providing the supplies indicated

Our view

The provisions are mainly aimed at saving money for those businesses assuming that their suppliers are also exempt and will not charge VAT. This is supposed to make the provision of those services cheaper.

Should also encourage investment in those sectors.

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Value Added Tax

Changes to the list of zero-rated supplies

I. The measure

The Bill proposes to widen the scope of educational material to include educational materials manufactured in a partner state of the East African Community.

Who will be affected

Suppliers of educational material that are manufactured in the East African Community.

Our view

This is likely intended to strengthen trade between member states in the East African Community and to do away with the monopoly of the manufacturers based in Uganda.

II. The measure

The supply of menstrual cups and inputs for their manufacture are now zero rated

Who will be affected

Suppliers of Menstrual cups

Our View

Previously, menstrual cups were exempt supplies under the second schedule. The inclusion of the same in the third schedule appears to be align the VAT treatment of the supply of sanitary products such as sanitary towels, tampons that are manufactured for the same purpose. It is expected that this will reduce on the price of these items and make them affordable which should be a welcome move following the outcry of these items being expensive.

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Excise Duty

Definitions

Measure

The Bill expands the definitions of fruit juice, un-denatured spirits, and vegetable juice.

“fruit juice” means unfermented liquid extracted from the edible part of a fresh fruit whether the extracted liquid is diluted or not;”

“un-denatured spirits” means spirits, that are not mixed with any substance to render the spirit unfit for human consumption or capable of being rendered unfit for human consumption, including neutral spirits or alcoholic beverages made from neutral spirits that are fit for human consumption.

“vegetable juice” means unfermented liquid extracted from the edible part of a vegetable whether the extracted liquid is diluted or not;”

who will be affected

Manufacturers, importers and providers of these excisable goods and services

Our view

The introduction of these definitions is to ensure that the affected taxpayers attach the same meaning to those specific items especially that duty has also been introduced to some new items.

Introduction of new and adjustment of rate structure

Measure

Amendment of Schedule 2 to the principal Act.

Introduction of duty and amendment of the rate structure on

- Fruit juice
- Un-denatured spirits
- Vegetable juice
- Reduction of duty on opaque beer

Who will be affected

All taxpayers dealing in excisable goods

Our view

Some of the prices will increase for the affected items where there has been an increase and introduction of duties.

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Excise Duty

Item	Current rate	Proposed rate
Opaque beer	20% or Ushs230 per litre, whichever is higher	12% or Ushs. 150 per litre; whichever is higher
Un-denatured spirits of alcoholic strength by volume of 80% or made from locally produced raw material	60% or Ushs. 1500 per litre; whichever is higher	60% or Ushs. 1500 per litre; whichever is higher
Un-denatured spirits of alcoholic strength by volume of 80% or made from imported raw material	100% or Ushs. 2500 per litre whichever is higher	100% or Ushs. 2500 per litre whichever is higher
Any other un-denatured spirits- i) that is locally produced of alcoholic strength by volume less than 80% or	80% or Ushs. 1700 per litre whichever is higher	80% or Ushs. 1700 per litre whichever is higher
ii) that is imported of alcoholic strength by volume less than 80%.	80% or Ushs. 1700 per litre whichever is higher	100% or Ushs. 2500 per litre whichever is higher
Un-denatured spirits made from locally produced raw materials that is used in the production of disinfectants and sanitizers from the prevention of the spread of COVID-19 of alcoholic content by Volume not less than 70%	Nil	Nil
Fruit juice except juice made from at least 30% pulp or at least 30% juice by weight or volume of the total composition of the drink from fruits and vegetables locally grown.	13% or Ushs 250 per litre whichever is higher	12% or Ushs. 250 per litre, whichever is higher
Any other non-alcoholic beverage locally produced other than the beverage referred to in paragraph (a) made out of fermented sugary tea solution with a combination of yeast and bacteria	12% or Ushs 250 per litre whichever is higher	12% or Ushs 150 per litre whichever is higher
Sacks and bags of polymers of ethylene and other plastics under HS codes 3923.21.00 and 3923.29.00 except vacuum packaging bags for food, juices, tea and coffee sacks and bags for direct use in the manufacture of sanitary pads	Nil	40% or Ushs.4000 per kilogram whichever is higher
Any other fermented beverages including cider, perry, mead or near beer produced from locally grown or produced raw materials	30% or Ushs 550 whichever is higher	30% or Ushs 550 per litre whichever is higher
Construction materials of a manufacturer, whose investment capital is, at least thirty five million United States Dollars or, in the case of a foreigner or five million dollars in case of a citizen	Nil	Nil

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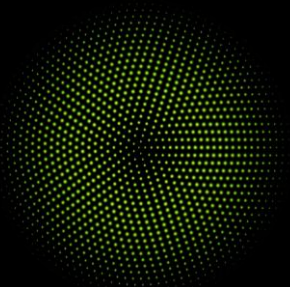


Stamp Duty

Item	Current rate	Proposed rate
AGREEMENT relating to deposit of title- deeds, pawn pledge – of the total value	1%	NIL
SECURITY BOND OR MORTGAGE DEED- executed by way of security for the due execution of an office, or to account for money or other property received by virtue of security bond or mortgage deed executed by surety to secure a loan or credit facility– of entry total value	1%	NIL
TRUST- concerning any property made by any writing including a transfer from a holder of letters of administration or Probate orders to a beneficiary*	15,000	15,000

* Expanded the definition of the dutiable items to include letters of administration or probate orders

The bill also seeks to exempt from stamp duty investments with a threshold from UGX 50 million invested to UGX 35 million. This is a reduction in the amount which qualifies for exemption for manufacturers who fall in this category.



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Finance Bill

Current law / Section	Description	Proposed amendment
The Finance Act 2016 Section 4 and Schedule 1	- Various fees payable in respect of services and documents' registration under the Traffic and Road Safety Act Cap	Repealed
The Finance Act 2015 - Section 3 and Part I of Schedule 1 - Section 4 - Section 5 (Part II of Schedule 1) - Section 6	- Fees payable while applying for a passport - Single entry visa application fees under the Uganda Citizenship and Immigration Control Act - Non-refundable prepayment fees when applying for a work-permit - Annual license fees for vehicle and vessels operators under the Traffic and Road Safety Act	Repealed
The Finance Act 2014 - Section 4 (a) and Schedule 1 - Section 4 (b) and Schedule 1	- Fees payable for retention licenses, location licenses and exploration licenses under the Mining Act 2003 - Work permit application and renewal fees for different classes under Uganda Citizenship and Immigration Control Act	Repealed
The Finance Act 2013 - Section 2 and Part II of Schedule 1 Section 5 and Schedule 1	- Fees payable for certification of copies of the record, registration fees for motorcycles, and registration fees for different types of motor vehicles based on engine and seater capacity. - Various fees payable under the Business Names Registration Act, the Cattle Traders Act, Mining Act 2003, Hide and Skin Trade Act, the Registration of Titles Act etc.	Repealed
The Finance Act, 2006 (Amendment) Act 2012	- Fees payable on engineering plants and related vehicles	Repeal of the Act
The Finance (Amendment) Act 2010 Section 2 and Schedule I	- Registration fees for motor vehicles, motorcycles etc.	Repealed

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Finance Bill

Current law / Section	Description	Proposed amendment
<p>The Finance Act 2009</p> <ul style="list-style-type: none"> - Section 5a and Schedule 1 & 2 - Section 5b and Schedule 2 	<ul style="list-style-type: none"> - Various services and document registration fees payable under the Traffic and Road Safety Act 1998 - Fees related to environmental levies 	Repealed
<p>The Finance Act 2008</p> <ul style="list-style-type: none"> - Section 3 and Schedule 1 & 2 	<ul style="list-style-type: none"> - Various services and document registration fees payable under the Traffic and Road Safety Act 1998 - Fees related to environmental levies 	Repealed
<p>The Finance Act 2006</p> <ul style="list-style-type: none"> - Section 1 and Schedule 1 	<ul style="list-style-type: none"> - Licenses and services fees payable under the Traffic and Road Safety Act 1998 	Repealed
<p>The Finance Act (NO.2) Act 2005</p> <ul style="list-style-type: none"> - Section 3 	<ul style="list-style-type: none"> - Various services and document registration fees as well as motor vehicle licensing fees 	Repealed
<p>The Finance Act 2005</p> <ul style="list-style-type: none"> - Section 2 and Schedule 1 	<ul style="list-style-type: none"> - Various fees payable for licensing and registration of various documents and services under the Traffic and Road Safety Act 1998 	Repealed

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Uganda Revenue Authority Act

Measure 1:

To empower the Minister to amend the First and Second Schedules by statutory instrument.

Who will be affected

Uganda Revenue Authority Board of Directors, employees and taxpayers.

Our view

With the power given to the Minister to appoint officers of the Board at the level of assistant commissioner or higher to provide for related matter, should make it possible for the Minister to assign a position of influence easily to aid with the administrative work and running of the Uganda Revenue Authority

Measure 2:

Change of the word “manager” with “assistant commissioner” under section 11 of the principal act.

Who will be affected

Uganda Revenue Authority staff and taxpayers.

Our view

The introduction of the assistant commissioner position within the administration of the Uganda Revenue Authority is aimed at bringing on a position of title that is well able to support the Commissioner on expectations, roles and responsibilities.

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International Trade

Measures and effects

- Exempting international calls from the United Republic of Tanzania from excise duty is a way of improving international trade within the East African Community.
- Imposing higher excise duty on imported items and raw materials is a way of protecting local manufactures and industries from the foreign market.

Who will be affected

Citizens of Uganda

Our view

The expansion of the export duties on various items is aimed at increasing the tax base for the government and higher duties on imported items is aimed at growing the local industries hence widen the employment base for its citizens.

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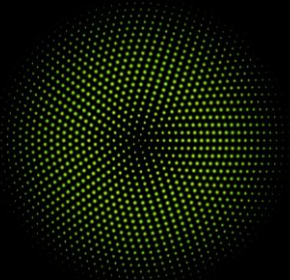
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