

Tax & Legal Alert
November 2022



Keeping you in the loop

Recent developments – Changes to VAT & PAYE Returns

On 10th October 2022, five (5) days before the due date for filing of monthly tax returns, the Uganda Revenue Authority (URA) issued a Public Notice communicating to the Public about changes that were to be made to the PAYE and VAT Return.

This communication highlights the key changes and rationale for the same.



Background

VAT deferment is an incentive available to VAT registered taxpayers who import plant and machinery to be used in the production of taxable goods. This incentive allows the taxpayer to defer payment of VAT on importation of plant and machinery.

An importer can apply for this facility subject to satisfying such conditions as the Commissioner General may require i.e:

- be tax compliant;
- be registered for VAT with URA;
- the plant and machinery should be used in the business and
- the VAT to be deferred should be more than USD 4,000 etc.

Changes to the VAT Return

Under Schedule 3 of the Monthly VAT return, a validation control has been added against the declared “VAT deferred” at importation.

Prior to this change, taxpayers would manually input the amount of the deferred VAT in the return, and it was not synchronized with the ASYCUDA system. This means URA had no control over the declarations that were made by the taxpayers since those declarations would be unchecked.

With the changes, the VAT return will only allow amounts supported by fiscalised import receipts from EFRIS that also exist in ASYCUDA.

Rationale for the change

This is to help synchronize the system with the declarations made by taxpayers. As a result, this will prevent taxpayers from making false /erroneous deferred VAT declarations.

Who is affected by this change?

Importers of heavy-duty machinery.

Our view

The change in the VAT Return filing template will help speed up the assessment of customs declarations and improve accountability for revenue collection by the URA.

In addition, we anticipate that this will in the long run encourage more compliance by importers and more so efficiency in their record keeping.

Background to changes to the PAYE Return

Every person who is in employment is subject to tax on total employment income through a withholding mechanism commonly referred to as Pay As You Earn (PAYE).

PAYE will apply to any individual earning monthly income above Shs. 235,000. The tax rates applied are as below:

Monthly Taxable Pay (Ush)	Annual Taxable Pay (Ush)	Tax Rate (%)
235,001 - 335,000	2,820,001 - 4,020,000	10
335,001 - 410,000	4,020,001 - 4,920,000	20
410,001 - 10,000,000	4,920,001 - 120,000,000	30
Above 10,000,000	Above 120,000,000	40

PAYE is deducted by and remitted by the employer on a monthly basis by the 15th day of the month following the payroll month. The employer accounts for the tax through a PAYE Return – Form DT- 2008.

The PAYE return automatically computes the PAYE applicable based on the amount and duration of the employment during the month.

Concept of the secondary employer

Secondary employment is when one, or more, of employees of a business work another formal job outside of that employment.

Ex. Mukiza is a full-time employee at ABC Law Firm. However, because he is a specialist in his field, he is also lectures law students two times a week at a University.

In the above example ABC Law firm is his primary (first) employer and the University is a secondary employer.

Obligations of the second employer

The second employer also has the obligation to deduct and account for PAYE on the remuneration they provide to Mukiza.





Obligation of the second employer cont'd

However, unlike the primary employer who applies the tax brackets (thresholds), the secondary employer is required to deduct PAYE at the highest marginal rate of tax (this is the highest tax bracket that applies to an individual).

The rationale behind this treatment is that the tax brackets would have been considered and taken into account by the first employer. This means that any additional income that a person earns would reasonably be expected to fall within the top tax bracket.

Therefore, in accounting for the amount paid to and tax deductible from an employee for whom an employer is not the primary employer, one indicates in the PAYE Form that a fixed rate applies to the individual.

Prior to 2012, the top tax bracket was 30%. This meant that any monthly employment amount above Shs. 410,000 was taxed at 30%. This is the rate that has been applied to employees to whom a fixed rate of tax applies in the PAYE return.

However effective 1 July 2012, a new bracket was introduced. While amounts above Shs. 410,000 still attract tax at 30%, where this amount then reaches Shs. 10 million in a month, any amount above Shs. 10 million becomes taxable at 40%.

Ex.

For an ordinary employee (single employer) earning Shs. 12 million a month, their tax will be determined as follows:

- Up to Shs 235,000 – Nil (tax free)
- Between 235,001 - 335,000 – 10%
- Between 335,001 - 410,000 – 20%
- Between 410,001 - 10,000,000: - 30%
- Between 10,000,001 – 12,000,000: - 40%

The changes that URA has made to the PAYE return do not impact an individual with a single employer or where the employer is the primary (first) employer..



Changes to the PAYE Return

Under Schedule 1 of the Monthly PAYE return, the rate of for computation of PAYE for employees taxed under 'fixed rate' has been changed to accommodate both the 30% and 40%.

This means that where an employer, who is the second employer, pays an individual an amount below Shs. 10 million, a fixed rate of 30% is applied. If however, the payment to the individual is above Shs. 10 million, then the fixed rate applied is 40%.

Rationale for the change

This is to align to the change in tax rate that was effected in 2012 of 40% as the highest tax bracket.

Concerns for an employee earning more than Shs 10 million in secondary employment

Would I pay more tax in a month than I would pay if my employment income was aggregated and taxed at the PAYE tax brackets?

Yes. While this treatment assumes that for the most part people earn more from their primary employer than their secondary employer, this may not necessarily be the case. As such a person who earns Shs. 11m from their secondary employer and Shs. 3.5m from their primary employer could pay more tax due to the application of the fixed rate of 40% on the Shs. 11m rather than had PAYE brackets been applied to the aggregate amount of Shs. 14.5 million [11 + 3.5].

Can I recover the tax overpaid?

Yes. This is recoverable by the individual and not the employer. To be able to recover the excess tax paid, one would need to file an individual tax return indicating all their income for the year including employment (but excluding rental), indicate the tax that has been deducted at source or paid as advance tax. Where the tax position is a tax credit i.e. the tax on income is lower than the tax that has been withheld at source or paid as advance tax, the individual can request for a refund.

Contacts for this alert

Norbert Kagoro

Country Managing Director

+256 772 703 595

nkagoro@deloitte.co.ug

Lillian Kubebea

Regional Tax Partner

lkubebea@deloitte.co.ke

Patronella Namubiru

Associate Director | Tax & Legal

+256 772 553 801

pnamubiru@deloitte.co.ug

Martin Makumbi

Senior Manager | Tax & Legal

+256 776 810 606

mmakumbi@deloitte.co.ug

Joanna Muhwezi

Senior Consultant | Tax & Legal

+256 417 701 000

jmuhwezi@deloitte.co.ug

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