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Uganda Tax Alert

Tax Amendment Bills, 2020

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The Income Tax (Amendment) Bill, The Value Added Tax (Amendment) Bill and The Excise Duty (Amendment) Bill 2020 were published on 30 March 2020. The Bills do not include the interim administration tax measures announced by the Uganda Revenue Authority (URA) towards the end of March 2020 aimed at encouraging compliance among taxpayers in light of the COVID-19 situation.

Key changes contained in the Bills include:

- Introduction of new tax regime for small business distinguishing between businesses that have records and those that do not have records;
- Minimum tax of 0.5% of gross turnover for taxpayers with tax liability of less than 0.5% of gross income for five consecutive years;
- Increase in rental tax rate for individuals from 20% to 30%;
- Introduction of withholding tax of 0.5% of purchase price on land that is not a business asset;
- Withholding tax of 10% of commission paid to insurance agent and advertising agent;
- Reinstatement of withholding tax on agricultural supplies;
- Requirement for e-receipt to claim VAT or take deduction for expense where supplier is designated to use the e-invoicing system;
- VAT offsets related to stock loss to be limited to a maximum of three months;
- Exemption of additional supplies for VAT purposes; and
- Changes to excise duty rates for certain products.

The Bill is currently before Parliament and, subject to any changes that may be passed, will take effect after assent by the President on 1 July 2020.

This publication summarizes our analysis of the proposed amendments and their impact.

Corporate Income Tax

Upward revision of individual rental tax rate to 30% and increase of deduction for rental expenditure to 50%

The measure

The Bill proposes the following changes with respect to rental income:

a) The tax rate applicable to all persons with rental income to be 30%;

b) 50% of rental income to be allowed as expenditures and losses incurred in production of that income;

c) Rental tax to be accounted for separately for each building for property owners earning rental income from more than one building; and

d) Where a landlord is a Partnership, rental tax to be imposed on each individual partner.

Who will be affected

All persons earning rental income

Our view

The proposals seek to streamline and eliminate the different tax treatment of individuals and legal entities with rental income. Corporate bodies have always been taxed at the rate of 30% while the individual rental tax rate is at 20%.

Additionally, while an individual is currently allowed a deduction of 20% as expenditure and losses in earning rental income, corporate entities are allowed a deduction for interest on loans taken with respect to buildings and depreciation.

The changes also mean that expenses such as mortgage interest, capital allowances, repairs and maintenance etc. are all bundled and capped to a maximum of 50% of the rental income for each building which is not necessarily reflective of the reality on the ground.

It will also mean that businesses with more than one building have to apportion costs incurred collectively to each building and can no longer utilise synergies of occupancy to support buildings which are not yet utilised or even support investment in new buildings.

The return on investment in real estate, which is generally a challenge for a majority of property owners is likely to be affected further by these proposals. The effect is likely to be passed on to tenants who already feel that property rates are too high.

The ring fencing of rental income from each building combined with the other proposed changes, means that as a landlord, there can be no losses arising from the rent of a building.

Corporate Income Tax

Consolidation of provisions on investment incentives including expansion of qualifying industries

The measure

The Bill proposes to replace the two separate categories under the ITA on persons who qualify for incentives with a single category that defines the parameters as well as the industries that qualify.

a) Parameters for a person to qualify:

- Investment capital of at least USD 10m or USD 1m for a foreigner or citizen respectively from the date of commencement or when additional qualifying investment is made; and
- Use of at least 50% of locally sourced raw materials subject to availability; and
- Employment of at least 100 citizens.

b) Qualifying industries:

- Processing of agricultural goods;
- Manufacture or assembly of medical appliances, medical sundries or pharmaceuticals, building materials, automobile, house hold appliances;
- Manufacture of furniture, pulp, paper, printing and publishing of instructional materials;
- Establishment or operation of vocational or technical institutions; or
- Carrying on business in logistics and ware housing, ICT or commercial farming; or
- Manufacture of tyres, footwear, mattress or toothpaste.

c) In addition to who qualifies, the bill has also provided clarification on unlocking the incentive:

- Declaration of qualifying income and related expenses in tax return determined using formulae to attribute qualifying income to qualifying investment;
- Prescribing date of commencement of the business of the investor as the latter of:
  - ✓ 1st day of the year of income; or
  - ✓ 1st day during the year of income in which the qualifying investment generates income;
- Where qualifying investment is under construction or assembly, qualifying investment is cumulative to the year when the investment starts to generate income.

Who will be affected

Persons with qualifying investments.

Our view

This proposal aligns to the Government's focus of enhancing industrialization especially in identified sectors as well as the focus on promotion of local content through use of local raw materials and employment of local individuals.

Most importantly though it also clarifies how and when investors who qualify can unlock this benefit.

Corporate Income Tax

E-receipt requirement for deduction of expense where supplier is designated to use the e-invoicing system;

The measure

No deduction shall be allowed for expenses of a person who purchases goods or services from a supplier who is designated to use the e-invoicing system unless the expenses are supported by e-invoices or e-receipts.

Who will be affected

Any person with suppliers required to use electronic devices

Our view

The Tax Laws already contain provisions relating to the use of electronic devices. The URA has been piloting these with a number of taxpayers, mostly large taxpayers or businesses in certain sectors. This proposal is not surprising as we have seen similar measures introduced to ensure compliance by transferring the administrative burden of the same to the recipient of the service.

Other changes for Income Tax

The measure

The Bill also proposes the following changes:

a) **Exemption of income of the Deposit Protection Fund (DPF) established under section 108 of the Financial Institutions Act, 2016**: The DPF is financed from premiums levied on all deposit taking institutions which are regulated by Bank of Uganda. Its purpose is to ensure that depositors are paid their protected deposits in the event of failure of a contributing Institution. This proposal makes sense given that the Fund's objective is to cushion the public from loss and not necessarily to generate income.

b) **Inclusion of the Islamic Development Bank as a listed institution**: Income of listed institutions is exempt from income tax. In the past financial periods, amendments have been made to different tax laws to promote Islamic banking and therefore the inclusion of the bank is very much in line with the recognition of Islamic banking.

c) **Requirement for Tax Clearance Certificate (TCC) for persons providing passenger transport or freight transport services with capacity of atleast 2 tonnes**: The TCC is being tagged to the renewal of an operational licence for such transporters. Normally before a TCC is issued, the person requesting for the same is verified in the URA system to ensure that they are compliant with their tax obligations.

Turnover Tax

Introduction of minimum tax rate of 0.5% of gross turnover

The measure

A taxpayer whose declared tax liability for a consecutive period of five years of income is an arithmetic average of less than 0.5 percent of gross income shall pay a minimum tax at a rate of 0.5 percent of the gross turnover after the sixth year.

Who will be affected

Loss making entities and entities whose effective tax rate is less than 0.5%

Our view

This proposal has been made for the last two consecutive financial years and both times was dropped in the Amendment Act.

The aim is to ensure businesses that have perpetual losses over a period of 5 years pay a minimum tax. For clarity gross income will exclude income subject to withholding tax as a final tax and it will exclude rental income which is taxed separately.

However this has not taken into account businesses with small margins like suppliers of motor fuel, capital intensive projects and infrastructure projects which may be loss making as a result of significant tax allowances or projects which typically take longer than 5 years to break even. Therefore, there is need to consider excluding such businesses.

Presumptive Income Tax

Changes in presumptive tax rates

The measure

The Bill proposes new tax rates for businesses below the Shs. 150m turnover threshold as below:

Gross Turnover	Business without records	Business with records
Gross turnover > Shs. 10 m	Nil	Nil
Gross turnover Shs. 10m to 30m	Shs. 80,000	0.4% of annual turnover in excess of Shs. 10m
Gross turnover Shs. 30m to 50m	Shs. 200,000	Shs. 80,000 + 0.5% of annual turnover in excess of Shs. 30m
Gross turnover Shs. 50m to 80m	Shs. 400,000	Shs. 180,000 + 0.6% of annual turnover in excess of Shs. 50m
Gross turnover Shs. 80m to 150m	Shs. 900,000	Shs. 360,000 + 0.7% of annual turnover in excess of Shs. 80m

Who will be affected

Small businesses with turnover not exceeding Shs. 150m

Our view

This proposal if passed will be a welcome one, as it reduces the tax payable generally across the different thresholds. However it also lowers the threshold turnover at which a person becomes taxable hence attempting to widen the tax base. Practically though, a lot of small businesses do not keep proper records or even where they do, there is a presumption from the URA that not all income has been fully disclosed. As such the majority still end up assessed on the basis of what the authorities expect they should be earning.

Withholding Tax

Imposition of withholding tax on the sale of land and on commissions paid to insurance and advertising agents

The measure

The Bill proposes to impose withholding tax as follows:

a) 0.5% of the purchase price on purchase of land, other than land that is a business asset ;

b) 10% of a commission payment to an insurance or advertising agent.

Who will be affected

Persons selling land that is not a business asset

Insurance agents

Advertising agents

Our view

We believe that this has been introduced to capture land transactions occurring between individuals. The expectation would be that this transaction is already captured upon payment of stamp duty at transfer. An additional 0.5% on top of the 1% transfer duty makes land acquisition more costly as this will most likely be passed on to purchaser. However the main question is how individuals are then required to account for the withholding deducted from the seller. This will be utilized as advance tax for purchasers who are registered for tax, compliant and deal in land.

The withholding tax on payments to insurance and advertising commission agents is in line with a similar provision introduced in 2018 on commission payments on airtime distribution and mobile money services.

Re-instatement of withholding tax on agricultural supplies

The measure

The Bill proposes to re-introduce the 6% withholding tax on the supply of agricultural products

Who will be affected

Suppliers of agricultural products

Our view

This is abit surprising especially in light of Government efforts to encourage agriculture and specifically efforts to move away from subsistence agriculture to value addition. It also begs the question of why in the last two financial periods we have seen a reduction in the withholding tax rate on agricultural products from 6% to 1% in 2018 and total scrapping of withholding tax altogether in 2019. It stands to reason that this is driven mainly by revenue collection i.e. a number of persons involved in agricultural supplies are not necessarily accounting for tax on business income. As a result, the elimination of the 6% withheld from their supplies most likely resulted into loss of revenue to URA.

Value Added Tax

Extension of claimability period on first registration for manufacturers

The measure

The Bill proposes to allow manufacturers registering for VAT for the first time to claim input VAT incurred 12 months before their VAT registration.

Currently, a business is only allowed to claim input VAT incurred within 6 months before registration for VAT.

Who will be affected

Manufacturers registering for the first time

Our view

This is a welcome move and is in recognition of the fact that the capital investment for a person setting up a manufacturing plant can be more than 6 months before any actual good is produced. However this proposal still does not take into account VAT incurred on different services provided to such a manufacturer which under the current VAT provisions would still not be claimable as they may not form part of capital assets on hand at the time of registration.

It may be worthwhile considering the re-instatement of the investor trade status for certain sectors.

Limitation on period of offset for VAT credit arising from loss of stock

The measure

The Bill proposes to limit the offset of a VAT credit arising due to loss of inventory or stock in transit as a result of theft, fire or accident to a maximum period of 3 months after which, a refund must be claimed.

Who will be affected

Manufacturers, supermarkets, wholesalers/ distributors and businesses that usually have significant stock

Our view

There is generally no limitation on how long a business can carry forward a tax credit and offset it against taxable income. This has in some cases resulted in businesses not having to pay VAT for extended periods where the business has significant tax credits carried forward.

Certain businesses by their very nature are more likely to have significant credits arising from VAT on stock that is no longer available and will therefore not generate any output VAT. It therefore makes sense that the tax authority is seeking to limit the ability of a business to deduct VAT from stock that is no longer in existence against output VAT from different stock.

Additionally, a request for a refund triggers an audit, which gives the tax authority an opportunity to review such losses and establish the validity of the same. However, we hope that the revenue authority will expedite the approval and payment of such refunds.

Value Added Tax

Restriction of claim on VAT on commercial buildings and designated e-invoicing suppliers

The measure

The Bill proposes amendments to the effect that:

a) An owner of more than one commercial building is required to account for VAT and claim tax credits arising on each commercial building separately;

b) No tax credits on inputs used in the construction of an incomplete building can be claimed against the tax collected from a completed commercial building;

c) A person is not allowed a tax credit for any purchase from a designated e-invoicing supplier, if that credit is not supported by an e-invoice/ receipt

Who will be affected

Property owners and developers

VAT registered taxpayers who purchase from designated e-invoicing suppliers

Our view

Ring fencing credits for VAT on inputs for landlords will be a challenge. The apportionment base for multiple buildings will be an issue and denial of input tax credit especially during the construction phase will deny property developers the much needed cash flows to support such projects.

The limitation on deduction of input VAT which is not supported by an e-invoice/ receipt similar to the restriction for corporate tax purposes is meant to transfer the burden of ensuring that designated e-invoicing suppliers are compliant to the recipient of the service. It is in line with trends in the region to minimize tax leakages.

Expansion of exemption list

The measure

The Bill proposes to change the VAT status of the following items to exempt:

a) Trailer for agricultural purposes;

b) Combine harvesters Agricultural sprays;

c) Supply of digital stamps for purposes implementing tax verification, quality and safety system;

d) Supply of cotton seed cake;

e) the supply of accommodation in tourist hotels and lodges located up-country;

f) the supply of liquefied gas;

g) the supply of processed milk.”

h) Supply of the following imported services –

❖ software and equipment installation services to manufactures;

❖ services incidental to tele-medical services; and

❖ royalties paid in respect of agricultural technologies;

Who will be affected

Suppliers of listed goods and services

Value Added Tax

Our view

This is motivated by the need to support taxpayers in those industries to promote their products or make services to them cheaper.

There is a general belief that exemption makes goods cheaper however, consideration needs to be taken for what they call the cascading effect of VAT. Taxpayers who are exempt from VAT are not allowed to register and since they are not taxable persons they can not get credit for their input tax. The implication therefore is that VAT will have to be factored into the cost of their products and this will be the case in the whole chain of getting the good o service to the final consumer.

Other changes

The measure

In addition to the measures proposed for VAT, the following additional items are also proposed:

a) Listing of the Islamic Development Bank as a Public International Organisation: this matches the exempt status granted for income tax purposes

b) Alignment of parameters for VAT exemption for investment incentives to those under the Income Tax (Amendment) Bill

Value Added Tax

Change of VAT status from exempt to standard-rated

The measure

The Bill proposes to change the VAT status of the following goods and services from exempt to standard rated:

1. Plants and machinery of Chapter 84 and 85 used for the manufacture of goods;
2. Taxable supplies, excluding motor vehicles, imported or purchased for direct and exclusive use in the construction of a power generating plant, by a company, to supply electricity to the national grid approved by Cabinet Secretary for National Treasury upon recommendation by the Cabinet Secretary responsible for energy;
3. Taxable supplies, excluding motor vehicles, imported or purchased for direct and exclusive use in geothermal, oil or mining prospecting or exploration, by a company granted prospecting or exploration license in accordance with Geothermal Resources Act, production sharing contracts in accordance with the provisions of Petroleum (Exploration and Production) Act (Cap. 308) or mining license in accordance with the Mining Act (Cap. 306), upon recommendation by the Cabinet Secretary responsible for energy or the Cabinet Secretary responsible for mining, as the case may be;
4. Fertilisers of Chapter 31;
5. Taxable supplies, procured locally or imported for the construction of liquefied petroleum gas storage facilities with a minimum capital investment of four billion shillings and a minimum storage capacity of fifteen thousand metric tonnes as approved by the Cabinet Secretary for National Treasury upon recommendation by the Cabinet Secretary responsible for liquefied petroleum gas;
6. Helicopters;
7. Aeroplanes and other aircraft, of unladen weight not exceeding 2,000 kg of tariff code 8802.20.00.

Our view

The change will enable taxpayers to get credit for their input tax which may be a better alternative than exemption.

Excise Duty

Amendment of the excise duty tax schedule

The measure

The Bill proposes to amend schedule 2 to the Excise Duty Act to increase tax rates for certain goods. *(See next page)*

Who will be affected

Manufacturers and importers of excisable goods as well as consumers

Our view

Excise duty continues to be viewed as a sin tax and an easy way to collect taxes as this is in most cases passed on to the final consumer. However as businesses continue to struggle with the implementation of the digital tax stamps which has added to their costs, an increases in excise duty will affect businesses and their bottom line as they find ways to absorb part of the cost arising and not significantly raise prices. The timing is rather inappropriate given the significant economic slowdown arising from the impact of COVID-19 and the hardship that will arise on business and the general population. Higher prices may further suppress demand and therefore defeat the Government's aim of raising additional tax.

Item	Current rate	Proposed rate
Soft cup – locally manufactured	• Shs. 55,000 per 1,000 sticks	• Shs. 75,000 per 1,000 sticks
Soft cup – imported	• Shs. 75,000 per 1,000 sticks	• Shs. 75,000 per 1,000 sticks
Hinge lid – Locally manufactured	• Shs. 80,000 per 1,000 sticks	• Shs. 120,000 per 1,000 sticks
Hinge lid – imported	• Shs. 100,000 per 1,000 sticks	• Shs. 120,000 per 1,000 sticks
Malt beer	• 60% or Shs. 1,860 per litre whichever is higher	• 60% or Shs 2,050 per litre whichever is higher
Beer whose local raw material content, excluding water ,is at least 75% by weight of its constituent	• 30% or Shs. 650 per litre, whichever is higher	• 30% or Shs 790 per litre whichever is higher
Beer produced from barley grown and malted in Uganda	• 30% or Shs. 950 per litre, whichever is higher	• 30% or Shs 1,115 per litre whichever is higher
Un denatured spirits made from locally produced raw materials	• 60% or Shs 2,000 per litre, whichever is higher	• 60% or Shs 1,500 per litre whichever is higher
Ready to drink spirits	• 80% or Shs 1,500 per litre, whichever is higher	• 80% or Shs 1,700 whichever is higher
Wine made from locally produced raw materials	• 20% or Shs 2,000 per litre, which ever is higher	• 20% or Shs 2,300 per litre whichever is higher

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Excise Duty

Item	Current rate	Proposed rate
Non alcoholic beverages not including fruit or Vegetable juices	• 11% or Shs. 185 per liter, whichever is higher	• 12% or Shs 250 per litre whichever is higher
Fruit juice and vegetable juice, except juice made from at least 30% of pulp from fruit and vegetables grown in Uganda	• 13% or Shs. 300 per liter, whichever is higher	• 12% or Shs. 250 per litre whichever is higher
Motor spirit (gasoline)	• Shs. 1,200 per litre	• Shs. 1,350 per litre
Gas oil (automotive, light, amber for high speed engine)	• Shs. 880 per litre	• Shs. 1,030 per litre
Gas oil for power generation to national grid	• Nil	• Nil
Illuminating kerosene	• Shs. 200 per litre	• Shs. 300 per litre
Motor spirit (gasoline)	• Shs. 1,200 per litre	• Shs. 1,350 per litre
Sacks and bags of polymers of ethylene and other plastics under its 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	• 120%	• 120% or Shs. 10,000 per kilogram of the plastic bags

Excise Duty

Item	Current rate	Proposed rate
Lubricants HS codes 2710.19.51, 2710.19.52, 3403.19.00 and 3403.99.00 including motor vehicle lubricants except aircraft Lubricant	• 10%	• 15%
Motor cycles at first registration	• Shs. 200,000	• Shs. 300,000
Other fermented beverages including cider, perry, mead, spears, near beer (New)		• 60% or Shs. 950 per litre whichever is higher.
Excluded light industries from exemption and introduced the exemption of tyres, footwear, mattress or toothpaste	• Nil	• Nil
Aligned percentage of locally sourced raw materials from 70 to 50 as is with the other Acts	• Nil	• Nil

Other measures

Changes to the Stamp Duty Act

Payment of stamp duty on professional licence or certificate

A fixed tax of Shs. 100,000 is payable by professionals who belong to and are governed by a professional body which gives a license or certificate to its members in order to practice. Examples of such professionals include lawyers, architects, and accountants. This shall be an additional cost for professionals when renewing or getting their practicing license or certificates

Amendment of Second Schedule

This has been amended to align with the proposed changes under the income tax, VAT, and Excise duty Acts with respect to qualifying for investment incentives. Propose to charge zero Stamp Duty for as long as you have a “capacity” to employ 100 citizens.

The change makes it possible for new investors to qualify for the exemption without having to first employ 100 citizens as was the case with the previous provision which is proposed to be repealed. The investor will now be required to just demonstrate ability to employee 100 citizens to benefit from this.

For clarifications on this publication

Martin Makumbi
Senior Manager, Tax
mmakumbi@deloitte.co.ug

Patronella Namubiru
Associate Director, Tax
pnamubiru@deloitte.co.ug

Offices

Uganda
3rd Floor, Rwenzori House
1 Lumumba Avenue
Nakasero,
Kampala

Tel: +256 417 701 000

Tax & Legal leaders

Norbert Kagoro
Managing Partner, Deloitte Uganda
nkagoro@deloitte.co.ug

Fred Omondi
Tax & Legal Leader, Deloitte East Africa
fomondi@deloitte.co.ke

Lillian Kubebea
Tax & Legal Partner
lkubebea@deloitte.co.ke

Doreen Mbogho
Tax & Legal Partner
dmbogho@deloitte.co.ke

James Mwendia
Tax & Legal Partner
jmwendia@deloitte.co.ke