

**JULY  
2016**

# **DOMESTIC TAX LAWS OF UGANDA**

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Updated & Tracked Compendium

**Income Tax Act  
Value Added Tax Act  
Excise Duty Act  
Tax Procedures Code Act**

Also contains Subsidiary Legislation,  
Practice Notes and Excerpts from EACCMA,  
Finance Acts and Stamps Act.

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*By Joseph O. Okuja at 05:48:02 PM, 19/09/2016*



## **Disclaimer**

Tax laws are among the most dynamic pieces of legislation because they are amended almost every year to serve various economic and social goals of the government. This necessitates that the laws are regularly updated with the various amendments for ease of reference. This compendium contains an up-to-date reproduction of the **Income Tax Act, Cap 340, the Value Added Tax Act, Cap 349, the Excise Duty Act 2014, and the Tax Procedure Code Act, 2014**. It also includes subsidiary legislation and practice notes under different the tax laws. In updating this version, the **“Reprint of the Income Tax Act and the Value Added Tax Act”** as at 19<sup>th</sup> October 2012, by the Uganda Law Reform Commission was used as an authentic reference for conformity; and all the amendments to the principal Acts and Regulations have been incorporated to date.

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FOR GOD AND MY COUNTRY

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# **INCOME TAX ACT | Cap 340**

## **Laws of Uganda**

An Act to consolidate and amend the law relating to income tax and for other connected purposes.

*Commencement:* 1<sup>st</sup> July 1997

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**PART I – PRELIMINARY****1. Application of the Act**

This Act applies to years of income commencing on or after 1<sup>st</sup> July, 1997.

**2. Interpretation**

In this Act, unless the context otherwise requires –

- (a) “amateur sporting association” means an association whose sole or main object is to foster or control any athletic sport or game and whose members consist only of amateur sports persons or affiliated associations, the members of which consist only of amateur sports persons;
- (b) “approved” means approved by the Minister under regulations made under Section 164;
- (c) “assessed loss” has the meaning in Section 38;
- (d) “assessment” means –
  - (i) the ascertainment of the chargeable income of, and the amount of tax payable on it, by a taxpayer for a year of income under this Act, including a deemed assessment under Section 96;
  - (ii) the ascertainment of the rental income of, and the amount of tax payable on it by an individual for a year of income under this Act;
  - (iii) the ascertainment of the amount of penal tax payable by a person under this Act; or
  - (iv) any decision of the Commissioner which, under this Act, is subject to objection and appeal;
- (e) “associate” has the meaning in Section 3;
- (f) “building society” means a building society registered under the Building Societies Act;
- (g) “business” includes any trade, profession, vocation or adventure in the nature of trade, but does not include employment;

- (h) “business asset” means an asset which is used or held ready for use in a business, and includes any asset held for sale in a business and any asset of a partnership or company;
- (i) “business debt” means –
- (i) in the case of a debtor –
    - (A) a debt obligation, the proceeds of which are used to acquire a business asset or to incur an expense of a business;
    - (B) a debt obligation arising, as a result of being given time to pay, on the acquisition of a business asset or the incurring of an expense of a business; or
    - (C) any debt obligation of a partnership or company; or
  - (ii) in the case of a creditor, any debt obligation owed to the creditor that was entered into or arose in the course of the creditor’s business;
- (j) “business income” has the meaning in Section 18;
- (k) “chargeable income” has the meaning in Section 15;
- (l) “chargeable trust income” has the meaning in Section 70;
- (la) “Collective Investment Scheme” has the meaning assigned to it by section 3 of the Collective Investment Schemes Act.
- (m) “Commissioner” means the Commissioner General appointed under the Uganda Revenue Authority Act;
- (n) “company” means a body of persons corporate or unincorporated, whether created or recognised under the law in force in Uganda or elsewhere, and a unit trust, but does not include any other trust or a partnership;
- (o) “cost base”, in relation to an asset, has the meaning in Section 52;
- (p) “court” means a court of competent jurisdiction;
- (q) “currency point” represents the amount in Uganda Shillings prescribed in the Seventh Schedule to this Act;

*Inserted by  
IT (Am) Act 2005*

- (r) “debenture” includes any debenture stock, mortgage, mortgage stock, loan, loan stock or any similar instrument acknowledging indebtedness, whether secured or unsecured;
- (s) “debt obligation” means an obligation to make a repayment of money to another person, including accounts payable and the obligations arising under promissory notes, bills of exchange and bonds;
- (t) “dependant”, in relation to a member of a retirement fund, means a spouse of the member, any child, including an adopted child of the member who is under the age of eighteen years, or any other relative of the member who the Commissioner is satisfied relies on the member for support;
- (u) “depreciable asset” means any plant or machinery, or any implement, utensil or similar article, which is wholly or partly used, or held ready for use, by a person in the production of income included in gross income and which is likely to lose value because of wear and tear, or obsolescence;
- (v) “disposal” has the meaning in Section 51;
- (w) “dividend” includes –
  - (i) where a company issues debentures or redeemable preference shares to a shareholder –
    - (A) in respect of which the shareholder gave no consideration, an amount equal to the greater of the nominal or redeemable value of the debentures or shares; or
    - (B) in respect of which the shareholder gave consideration which is less than the greater of the nominal or redeemable value, an amount equal to the excess;
  - (ii) any distribution upon redemption or cancellation of a share, or made in the course of liquidation, in excess of the nominal value of the share redeemed, cancelled, or subject to liquidation;
  - (iii) in the case of a partial return of capital, any payment made in excess of the amount by which the nominal value of the shares was reduced;
  - (iv) in the case of a reconstruction of a company, any payment made in respect of the shares in the company in excess of the nominal value of the shares before the reconstruction; or

*Inserted by  
IT (Am) Act 2013*

- (v) the amount of any loan, the amount of any payment for an asset or services, the value of any asset or services provided, or the amount of any debt obligation released, by a company to, or in favour of, a shareholder of the company or an associate of a shareholder to the extent to which the transaction is, in substance, a distribution of profits, but does not include a distribution made by a building society;
- (vi) the issue of bonus shares to shareholders. However, bonus shares shall only be taxable upon disposal.
- (x) “employee” means an individual engaged in employment;
- (y) “employer” means a person who employs or remunerates an employee;
- (z) “employment” means –
  - (i) the position of an individual in the employment of another person;
  - (ii) a directorship of a company;
  - (iii) a position entitling the holder to a fixed or ascertainable remuneration; or
  - (iv) the holding or acting in any public office;
- (aa) “employment income” has the meaning in Section 19;
- (bb) “exempt organisation” means any company, institution, or irrevocable trust –
  - (i) which is –
    - (A) an amateur sporting association;
    - (B) a religious, charitable or educational institution of a public character; or
    - (C) a trade union, employees’ association, an association of employers registered under any law of Uganda or an association established for the purpose of promoting farming, mining, tourism, manufacturing, or commerce and industry in Uganda; and
  - (ii) which has been issued with a written ruling by the Commissioner currently in force stating that it is an exempt organisation; and
  - (iii) none of the income or assets of which confers, or may confer, a private benefit on any person;

*Inserted by  
IT (Am) Act 2015*

- (iv) or the National Medical Stores
- (cc) “farming” means pastoral, agricultural, plantation, horticultural or other similar operations;
- (dd) “financial institution” means any person carrying on the business of receiving funds from the public or from members through the acceptance of money deposits repayable upon demand, after a fixed period, or after notice, or any similar operation through the sale or placement of bonds, certificates, notes or other securities, and the use of such funds either in whole or part for loans, investments or any other operation authorised either by law or by customary banking practices, for the account and at the risk of the person doing such business;
- (ee) “foreign-source income” means any income which is not derived from sources in Uganda;
- (ff) “gross income” has the meaning in Section 17;
- (gg) “gross turnover”, in relation to a resident taxpayer for a year of income, means –
  - (i) the amount shown in the recognised accounts of the taxpayer as the gross proceeds derived in carrying on a business or businesses during the year of income, including the gross proceeds arising from the disposal of trading stock, without deduction for expenditures or losses incurred in deriving that amount; and
  - (ii) the amount, if any, shown in the recognised accounts of the taxpayer as the amount by which the sum of the gains derived by the taxpayer during the year of income from the disposal of business assets, other than trading stock, exceeds the losses incurred by the taxpayer during the year in respect of the disposal of such assets;
- (hh) “incapacitated person” means a resident individual adjudged under a law in Uganda to be in a state of unsoundness of mind;
- (ii) “incapacitated person’s trust” means a trust established for the benefit of an incapacitated person;
- (jj) “industrial building” means any building which is wholly or partly used, or held ready for use, by a person in –
  - (i) manufacturing operations;
  - (ii) research and development into improved or new methods of manufacture;

- (iii) mining operations;
  - (iv) an approved hotel business;
  - (v) an approved hospital; or
  - (vi) approved commercial buildings.
- (kk) “interest” includes –
- (i) any payment, including a discount or premium, made under a debt obligation which is not a return of capital;
  - (ii) any swap or other payments functionally equivalent to interest;
  - (iii) any commitment, guarantee, or service fee paid in respect of a debt obligation or swap agreement; or
  - (iv) a distribution by a building society;
- (ll) “life insurance business” has the meaning in Section 16 (3);
- (mm) “listed institution” means an institution listed in the First Schedule to this Act;
- (nn) “local authority” means any public body established under a law of Uganda and having control over the expenditure of revenue derived from rates or taxes imposed by law upon the residents of the areas for which that body is established;
- (oo) “local council” has the same meaning as in the Local Governments Act;
- (pp) “manufacturing” means the substantial transformation of tangible movable property, including power generation and water supply;
- (qq) “mineral” has the same meaning as in the Mining Act;
- (rr) “mining operations” includes every method or process by which any mineral is won from the soil or from any substance or constituent of the soil;
- (ss) “Minister” means the Minister responsible for finance;
- (tt) “natural resource payment” means –
- (i) a payment, including a premium or like payment, made as consideration for the right to take minerals or a living or non-living resource from the land; or

*Inserted by  
Finance Act 2001*



- (ii) a payment calculated in whole or in part by reference to the quantity or value of minerals or a living or non-living resource taken from the land;
- (uu) “nominal value”, in relation to a share or debenture, means the paid-up amount of the share or face value of the debenture, including any premium paid in respect of the share or debenture;
- (vv) “non-resident person” has the meaning in Section 14;
- (ww) “partnership” means an association of persons carrying on business for joint profit;
- (xx) “payment” includes any amount paid or payable in cash or kind, and any other means of conferring value or benefit on a person;
- (yy) “person” includes an individual, a partnership, a trust, a company, a retirement fund, a government, a political subdivision of a government and a listed institution;
- (yya) “petroleum agreement” means an agreement for the grant of a licence for petroleum exploration, development and production between the Government and a contractor;
- (zz) “property income” has the meaning in Section 20;
- (aaa) “provisional taxpayer” means a person liable for provisional tax under Section 111;
- (bbb) “relative”, in relation to an individual, means –
  - (i) an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual, or of a spouse of the individual; or
  - (ii) a spouse of the individual or of any person specified in subparagraph (i) of this paragraph;
- (ccc) “rent” means any payment, including a premium or like amount, made as consideration for use or occupation of, or the right to use or occupy, land or buildings;
- (ddd) “rental income”, in relation to [an individual] *a person* for a year of income, means the total amount of rent derived by the [individual] *person* for the year of income from the lease of immovable property in Uganda [by the individual] with the deduction of any expenditures and losses incurred [by the individual] in respect of the property;

*Inserted by  
IT (Am) Act 2 2008*

*Substituted by  
IT (Am) Act, 2014*

- (eee) “resident company” has the meaning in Section 10;
- (fff) “resident individual” has the meaning in Section 9;
- (ggg) “resident partnership” has the meaning in Section 12;
- (hhh) “resident person” means a resident individual, resident company, resident partnership, resident trust, resident retirement fund, the Government of Uganda or a political subdivision of the Government of Uganda;
- (iii) “resident retirement fund” has the meaning in Section 13;
- (jjj) “resident taxpayer” means a taxpayer who is a resident person;
- (kkk) “resident trust” has the meaning in Section 11;
- (lll) “retirement fund” means a pension or provident fund established as a permanent fund maintained solely for either or both of the following purposes:-
  - (i) the provision of benefits for members of the fund in the event of retirement; or
  - (ii) the provision of benefits for dependants of members in the event of the death of the member;
- (mmm) “royalty” means –
  - (i) any payment, including a premium or like amount, made as consideration for –
    - (A) the use of, or the right to use, any patent, design, trademark, or copyright, or any model, pattern, plan, formula, or process, or any property or right of a similar nature;
    - (B) the use of, or right to use –
      - (I) any motion picture film;
      - (II) any video or audio material, whether stored on film, tape, disc, or other medium, for use in connection with television or radio broadcasting; or
      - (III) any sound recording or advertising matter connected with material referred to in sub-paragraph (i)(B)(I) or (II) of this paragraph;

Inserted by  
IT (Am) Act 2011

- (C) the use of, or the right to use, or the receipt of, or right to receive, any video or audio material transmitted by satellite, cable, optic fibre or similar technology for use in connection with television, *internet* or radio broadcasting;
  - (D) the imparting of, or undertaking to impart, any scientific, technical, industrial or commercial knowledge or information;
  - (E) the use of, or the right to use, any tangible movable property;
  - (F) the rendering of, or the undertaking to render, assistance ancillary to a matter referred to in subparagraph (i)(A) to (E) of this paragraph; or
  - (G) a total or partial forbearance with respect to a matter referred to in subparagraphs (i)(A) to (F); or
- (ii) any gain on the disposal of any right or property referred to in subparagraph (i) of this paragraph;
- (nnn) “substituted year of income” has the meaning in Section 39;
- (ooo) “swap agreement” means an arrangement between a person who has incurred a debt obligation with a floating interest rate and a person who has incurred a debt obligation with a fixed interest rate under which the persons agree to exchange their interest obligations;
- (ppp) “swap payment” means a payment made under a swap agreement;
- (qqq) “tax” means any tax imposed under this Act;
- (rrr) “tax-exempt employer” means an employer whose income is exempt from tax;
- (sss) “taxpayer” means any person who derives an amount subject to tax under this Act and includes –
- (i) any person who incurs an assessed loss for a year of income; or
  - (ii) for the purposes of any provision relating to a return, any person required by this Act to furnish such a return;
- (ttt) “trading stock” includes anything produced, manufactured, purchased, or otherwise acquired for manufacture, sale, or exchange, as well as consumable stores;
- (uuu) “transitional year of income” has the meaning in Section 39;

- (vvv) “trust” means any arrangement affecting property in relation to which there is a trustee;
- (www) “trustee” includes –
- (i) any person appointed or constituted as such by act of the parties, by will, by order or declaration of any court, or by operation of the law;
  - (ii) an executor, administrator, tutor, or curator;
  - (iii) a liquidator or judicial manager;
  - (iv) any person having the administration or control of property subject to a trust;
  - (v) any person acting in a fiduciary capacity;
  - (vi) any person having, either in a private or official capacity, the possession, direction, control or management of any property of a person under a legal disability;
  - (vii) any person who manages assets under a private foundation or other similar arrangement;
- (xxx) “underlying ownership”, in relation to a person other than an individual, means an interest held in, or over, the person directly or indirectly through interposed companies, partnerships, or trusts by an individual or by a person not ultimately owned by individuals;
- (yyy) “unit trust” means a unit trust registered or required to be registered as Parliament may by law prescribe; and
- (zzz) “year of income” means the period of twelve months ending on 30<sup>th</sup> June, and includes a substituted year of income and a transitional year of income.

### **3. Associate**

- (1) For the purposes of this Act, where any person, not being an employee, acts in accordance with the directions, requests, suggestions, or wishes of another person whether or not they are in a business relationship and whether those directions, requests, suggestions, or wishes are communicated to the first-mentioned person, both persons are treated as associates of each other.
  - (2) Without limiting the generality of subsection (1), the following are treated as an associate of a person –
-

- (a) a relative of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions, or wishes of the other person;
- (b) a partner of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions, or wishes of the other person;
- (c) a partnership in which the person is a partner where the person, either alone or together with an associate or associates under another application of this Section, controls fifty per cent or more of the rights to income or capital of the partnership;
- (d) the trustee of a trust under which the person, or an associate under another application of this Section, benefits or may benefit;
- (e) a company in which the person, either alone or together with an associate or associates under another application of this Section, controls fifty per cent or more of the voting power in the company either directly or through one or more interposed companies, partnerships, or trusts;
- (f) where the person is a partnership, a partner in the partnership who, either alone or together with an associate or associates under another application of this Section, controls fifty per cent or more of the rights to income or capital of the partnership;
- (g) where the person is the trustee of a trust, any other person who benefits or may benefit under the trust; or
- (h) where the person is a company –
  - (i) a person who, either alone or together with an associate or associates under another application of this Section, controls fifty per cent or more of the voting power in the company, either directly or through one or more interposed companies, partnerships, or trusts; or
  - (ii) another company in which the person referred to in subparagraph (i) of this paragraph, either alone or together with an associate or associates under another application of this Section, controls fifty per cent or more of the voting power in that other company, either directly or through one or more interposed companies, partnerships, or trusts.

## PART II – IMPOSITION OF TAX

### 4. Income Tax imposed

- (1) Subject to, and in accordance with this Act, a tax to be known as income tax shall be charged for each year of income and is imposed on every person who has chargeable income for the year of income.
- (2) Subject to subsections (4) and (5), the income tax payable by a taxpayer for a year of income is calculated by applying the relevant rates of tax determined under this Act to the chargeable income of the taxpayer for the year of income and from the resulting amount are subtracted any tax credits allowed to the taxpayer for the year of income.
- (3) Where a taxpayer is allowed more than one tax credit for a year of income, the credits shall be applied in the following order-
  - (a) the foreign tax credit allowed under Section 81; then
  - (b) the tax credit allowed under Section 128; then
  - (c) the tax credit allowed under Section 111(8).
- (4) *Subject to subsection (6a), where the gross income of a taxpayer for a year of income consists exclusively of employment income derived from a single employer from which tax has been withheld as required under Section 116, the income tax payable by the taxpayer for the year of income is the amount equal to the sum of the amounts required to be withheld from such income under Section 116.*
- (5) Subject to subsection (7), where the gross turnover of a resident taxpayer for a year of income derived from carrying on a business or businesses is less than *one hundred and fifty million shillings*, [fifty million shillings] the income tax payable by the taxpayer for the year of income shall be determined in accordance with the Second Schedule to this Act, unless the taxpayer elects by notice in writing to the Commissioner for subsection (2) to apply; and
  - (a) the tax shall be a final tax on the business income of the taxpayer;
  - (b) no deductions shall be allowed under this Act for expenditures or losses incurred in the production of the business income; and
  - (c) no tax credits allowed under this Act shall be used to reduce the tax payable on the business income of the taxpayer, except as provided in the Second Schedule to this Act.

*Inserted by  
IT (Am) Act 2011*

*Substituted by  
IT (Am) Act 2015*

- (6) An election under subsection (5) must be lodged with the Commissioner by the due date for the taxpayer's return for the year of income to which it relates.

*Inserted by  
IT (Am) Act 2011*

- (6a) Section 4(4) shall not apply to a taxpayer for a tax year if the employment income of that taxpayer for that year includes an amount under section 19(1)(h).

- (7) Subsection (5) does not apply to a resident taxpayer who is in the business of providing medical, dental, architectural, engineering, accounting, legal, or other professional services, public entertainment services, public utility services, or construction services.

## 5. Rental Tax imposed

- (1) Subject to, and in accordance with this Act, a tax shall be charged for each year of income and is imposed on every [individual] *person* who has rental income for the year of income.

- (2) The tax payable by [an individual] *any person* under this Section for a year of income is –

*Section 5  
Substituted By  
IT (Am) Act 2014*

[calculated by applying the relevant rates of tax determined under Section 6(2) to the rental income derived by the individual for the year.]

- (a) where the person is an individual, calculated by applying the relevant rates of tax determined under section 6(2) to the rental income derived by the individual for the year;
- (b) where the person is a company, calculated by applying the relevant rates of tax determined under section 7(2) to the rental income derived by the company for the year;
- (c) where the person is a trustee of a trust or a retirement fund, calculated by applying the relevant rates of tax determined under section 8(5) to the rental income derived by the trustee or retirement fund for the year;
- (d) where the person is a partnership, calculated by applying the relevant rates of tax on the individual partners under section 6(2) to the rental income derived by the partnership for the year.
- (3) The tax imposed under this section on any person is separate from the tax imposed under section 4 and –
- (a) the rent derived by a person shall not be included in the gross income of the person which is subject to tax under this Act for any year of income;

- (b) expenditures and losses incurred by the individual in the production of the rent shall be allowed as a deduction under this Act for any year of income only as provided for in section 22(1)(c);
  - (c) *expenditures and losses incurred by a person, other than an individual, in the production of rent shall be allowed as a deduction under this Act for any year of income; and*
  - (d) *expenditures and losses incurred by a partnership in the production of rent shall be allowed as a deduction under this Act for any year of income only as provided for in section 22(1)(c).*
- (3) The tax imposed under this Section on an individual is separate from the tax imposed under Section 4 and –
- (a) *the [rental income of the individual] rent derived by an individual shall not be included in the gross income subject to tax under this Act of the individual for any year of income;*
  - (b) *expenditures and losses incurred by the individual in the production of rent [rental income] shall be allowed as a deduction under this Act for any year of income only as provided in Section 22(1)(c); and*
  - (c) *the tax payable by a resident individual under this Section shall not be reduced by any tax credits allowed to the individual under this Act.*
- (4) In this Section, “year of income” means the period of twelve months ending on 30<sup>th</sup> June.]

*Substituted by  
IT (Am) Act 2002*

*Substituted by  
IT (Am) Act 2002*

*Repealed by  
IT (Am) Act 1 2008*

## ***Rates of Tax***

### **6. Rates of Tax for Individuals**

- (1) The chargeable income of an individual for a year of income is charged to income tax at the rates prescribed in Part I of the Third Schedule to this Act.
- (2) The rental income of a resident individual for a year of income is charged to rental tax at the rate prescribed in Part VI of the Third Schedule.

### **7. Rate of Income Tax for Companies**

- (1) The chargeable income of a company for a year of income, is charged to income tax at the rate prescribed in Part II of the Third Schedule to this Act.
- (2) The rental income of a company for a year of income is charged to income tax at the rate prescribed in Part II of the Third Schedule to this Act.

*Inserted by  
IT (Am) Act 2014*



**8. Rate of Income Tax for Trustees and Retirement Funds**

- (1) Subject to subsections (2) and (3), a trustee of a trust is charged to tax at the rate prescribed in Part III of the Third Schedule to this Act on the chargeable trust income of the trust for a year of income.
- (2) A trustee of a trust being the estate of a deceased taxpayer who, at the date of death, was a resident individual, is charged to tax on the chargeable trust income of the trust at the rates prescribed in Part I of the Third Schedule to this Act for –
  - (a) the year of income in which death occurred; and
  - (b) the following year of income.
- (3) A trustee of an incapacitated person's trust is charged to tax at the rates prescribed in Part I of the Third Schedule to this Act on the chargeable trust income of the trust for a year of income.
- (4) The chargeable income of a retirement fund for a year of income is charged to tax at the rate prescribed in Part III of the Third Schedule to this Act.
- (5) Subject to subsections (6) and (7), the rental income of a trustee for a year of income is charged to tax at the rate prescribed in Part III of the Third Schedule.
- (6) A trustee of a trust being the estate of a deceased taxpayer who, at the date of death, was a resident individual, is charged to tax on the rental income of the trust at the rates prescribed in Part I of the Third Schedule to this Act for –
  - (a) the year of income in which death occurred; and
  - (b) the following year of income.
- (7) A trustee of an incapacitated person's trust is charged to tax on the rental income of the trust for a year of income at the rates prescribed in Part I of the Third Schedule to this Act.
- (8) The rental income of a retirement fund for a year of income is charged to tax at the rate prescribed in Part III of the Third Schedule to this Act.

**PART III – RESIDENTS AND NON-RESIDENTS****9. Resident Individual**

- (1) Subject to subsections (2) and (3), an individual is a resident individual for a year of income if that individual –

- (a) has a permanent home in Uganda;
  - (b) is present in Uganda –
    - (i) for a period of, or periods amounting in aggregate to, 183 days or more in any twelve-month period that commences or ends during the year of income; or
    - (ii) during the year of income and in each of the two preceding years of income for periods averaging more than 122 days in each such year of income; or
  - (c) is an employee or official of the Government of Uganda posted abroad during the year of income.
- (2) An individual who is a resident individual under subsection (1) for a year of income, in this Section referred to as the “current year of income”, but who was not a resident individual for the preceding year of income is treated as a resident individual in the current year of income only for the period commencing on the day on which the individual was first present in Uganda.
- (3) An individual who is a resident individual for the current year of income but who is not a resident individual for the following year of income is treated as a resident individual in the current year of income only for the period ending on the last day on which the individual was present in Uganda.

## **10. Resident Company**

A company is a resident company for a year of income if it –

- (a) is incorporated or formed under the laws of Uganda;
- (b) has its management and control exercised in Uganda at any time during the year of income; or
- (c) undertakes the majority of its operations in Uganda during the year of income.

## **11. Resident Trust**

A trust is a resident trust for a year of income if –

- (a) the trust was established in Uganda;
- (b) at any time during the year of income, a trustee of the trust was a resident person; or

- (c) the trust has its management and control exercised in Uganda at any time during the year of income.

## **12. Resident Partnership**

A partnership is a resident partnership for a year of income if, at any time during that year, a partner in the partnership was a resident person.

## **13. Resident Retirement Fund**

A retirement fund is a resident retirement fund for a year of income if it –

- (a) is organised under the laws of Uganda;
- (b) is operated for the principal purpose of providing retirement benefits to resident individuals; or
- (c) has its management and control exercised in Uganda at any time during the year of income.

## **14. Non-Resident Person**

- (1) Subject to subsection (2), a person is a non-resident person for a year of income if the person is not a resident person for that year.
- (2) Where Section 9(2) or (3) applies, an individual is a non-resident person for that part of the year of income in which the individual is not a resident individual.

# **PART IV – CHARGEABLE INCOME**

## **15. Chargeable Income**

Subject to Section 16, the chargeable income of a person for a year of income is the gross income of the person for the year less total deductions allowed under this Act for the year.

## **16. Chargeable Income arising from Insurance Business**

- (1) The chargeable income of a person for a year of income arising from the carrying on of a short-term insurance business is determined in accordance with the Fourth Schedule to this Act.
- (2) Where a person to whom subsection (1) applies derives income charged to tax other than income arising from the carrying on of a short-term insurance business for a year of income, the chargeable income determined under subsection (1) is added to

that other income for the purposes of determining the person's total chargeable income for the year of income.

- (3) In this Section,
- (a) “insurance business” means the business of, or in relation to the issue of, or the undertaking of liability under, life policies, or to make good or indemnify the insured against any loss or damage, including liability to pay damages or compensation contingent upon the happening of a specified event;
  - (b) “life insurance business” means business of any of the following classes –
    - (i) effecting, carrying out, and issuing policies on human life or contracts to pay annuities on human life;
    - (ii) effecting, carrying out, and issuing contracts of insurance against the risk of the person insured sustaining injury or dying as the result of an accident or an accident of a specific class, or becoming incapacitated in consequence of disease or of diseases of specified classes, being contracts that are expressed to be in effect for a period of not less than five years or without limit of time and either are not expressed to be terminable by the insurer before the expiry of five years from taking effect or are expressed to be so terminable before the expiry of such period only in special circumstances specified in the contract; or
    - (iii) effecting, carrying out, and issuing of insurance whether effected by the issue of policies, bonds, endowment certificates, or otherwise, whereby, in return for one or more premiums paid to the insurer, an amount or series of amounts is to become payable to the insurer in the future, not being such contracts as fall within subparagraph (i) or (ii) of this paragraph; and
  - (c) “short-term insurance business” means any insurance business which is not a life insurance business.

### ***Gross Income***

#### **17. Gross Income**

- (1) Subject to this Act, the gross income of a person for a year of income is the total amount of –
- (a) business income;
  - (b) employment income; and

- (c) property income,  
  
derived during the year by a person, other than income exempt from tax.
- (2) For the purposes of subsection (1) –
  - (a) the gross income of a resident person includes income derived from all geographical sources; and
  - (b) the gross income of a non-resident person includes only income derived from sources in Uganda.
- (3) Unless this Act provides otherwise, Part V of this Act, which deals with tax accounting principles, applies in determining when an amount is derived for the purposes of this Act.

## **18. Business Income**

- (1) Business income means any income derived by a person in carrying on a business and includes the following amounts, whether of a revenue or capital nature –
  - (a) the amount of any gain, as determined under Part VI of this Act which deals with gains and losses on disposal of assets, derived by a person on the disposal of a business asset, or on the satisfaction or cancellation of a business debt, whether or not the asset or debt was on revenue or capital account;
  - (b) any amount derived by a person as consideration for accepting a restriction on the person's capacity to carry on business;
  - (c) the gross proceeds derived by a person from the disposal of trading stock;
  - (d) any amount included in the business income of the person under any other Section of this Act;
  - (e) the value of any gifts derived by a person in the course of, or by virtue of, a past, present, or prospective business relationship;
  - (f) interest derived by a person in respect of trade receivables or by a person engaged in the business of banking or money lending; and
  - (g) rent derived by a person whose business is wholly or mainly the holding or letting of property.

*Repealed by  
IT (Am) Act 2014*

- (2) An amount included in business income under subsection (1)(f) or (g) retains its character as interest or rent for the purposes of any Section of this Act referring to such income.
- (3) Where, as a result of any concession granted by, or a compromise made with, a taxpayer's creditors in the course of an insolvency, the taxpayer derives a gain on the cancellation of a business debt, Section 38(3) applies in lieu of including the gain in the business income of the taxpayer under subsection (1).
- (4) In this Section, "business asset" does not include trading stock or a depreciable asset.

## **19. Employment Income**

- (1) Subject to this Section, employment income means any income derived by an employee from any employment and includes the following amounts, whether of a revenue or capital nature –
  - (a) any wages, salary, leave pay, payment in lieu of leave, overtime pay, fees, commission, gratuity, bonus, or the amount of any travelling, entertainment, utilities, cost of living, housing, medical, or other allowance;
  - (b) the value of any benefit granted;
  - (c) the amount of any discharge or reimbursement by an employer of expenditure incurred by an employee, other than expenditure incurred by an employee on behalf of the employer which serves the proper business purposes of the employer;
  - (d) any amount derived as compensation for the termination of any contract of employment, whether or not provision is made in the contract for the payment of such compensation, or any amount derived which is in commutation of amounts due under any contract of employment;
  - (e) any amount paid by a tax-exempt employer as a premium for insurance on the life of the employee and which insurance is for the benefit of the employee or any of his or her dependants;
  - (f) any amount derived as consideration for the employee's agreement to any conditions of employment or to any changes in his or her conditions of employment;
  - (g) the amount by which the value of shares issued to an employee under an employee share acquisition scheme at the date of issue exceeds the consideration, if any, given by the employee for the shares including any

amount given as consideration for the grant of a right or option to acquire the shares;

- (h) the amount of any gain derived by an employee on disposal of a right or option to acquire shares under an employee share acquisition scheme.
- (2) Notwithstanding subsection (1), the employment income of an employee does not include –
- (a) the cost incurred by the employer of any passage to and from Uganda in respect of the employee's appointment or termination of employment where the employee –
    - (i) was recruited or engaged outside Uganda;
    - (ii) is in Uganda solely for the purpose of serving the employer; and
    - (iii) is not a citizen of Uganda; or
  - (b) any reimbursement or discharge of the employee's medical expenses;
  - (c) except where subsection (1)(e) applies, any amount paid as a premium for insurance on the life of the employee and which insurance is for the benefit of the employee or any of his or her dependants;
  - (d) any allowance given for, and which does not exceed the cost actually or likely to be incurred, or a reimbursement or discharge of expenditure incurred by the employee on –
    - (i) accommodation and travel expenses; or
    - (ii) meals and refreshment,  
*while undertaking travel* in the course of performing duties of employment;
  - (e) the value of any meal or refreshment provided by the employer to the employee in premises operated by, or on behalf of the employer solely for the benefit of employees and which is available to all full-time employees on equal terms;
  - (f) any benefit granted by the employer to the employee during a month, where the total value of the benefits provided by the employer to the employee for the month is less than ten thousand shillings; or

*Substituted by  
IT (Am) Act 2002*

(g) any contribution or similar payment *by the employer* made to a retirement fund for the benefit of the employee or any of his or her dependents.

*Inserted by  
IT (Am) Act 2011*

(h) the value of a right or option to acquire shares granted to an employee under an employee share acquisition scheme.

(3) For the purposes of this Section, the value of any benefit is determined in accordance with the Fifth Schedule to this Act.

(4) Where the amount to which subsection (1)(d) applies is paid by an employer to an employee who has been in the employment of the employer for ten years or more, the amount included in employment income is calculated according to the following formula –

$$\mathbf{A \times 75\%}$$

where, **A** is the total amount derived by the employee to which subsection (1)(d) applies.

(5) For the purposes of subsection (2), a director of a company is only a full-time employee of the company if the director –

- (a) is required to devote substantially the whole of his or her time to the service of the company in a managerial or technical capacity; and
- (b) does not have an interest of more than five per cent in the underlying ownership of the company.

(6) For the purposes of this Section, an amount or benefit is derived in respect of employment if it –

- (a) is provided by an employer or by a third party under an arrangement with the employer or an associate of the employer;
- (b) is provided to an employee or to an associate of an employee; and
- (c) is provided in respect of past, present, or prospective employment.

(7) An amount excluded from the employment income of an employee under subsection (2) or (4) is exempt income of the employee.

(8) In this Section –

- (a) “employee share acquisition scheme” means an agreement or arrangement under which –



- (i) a company is required to issue shares in the company to employees of the company or of an associated company; or
  - (ii) a company is required to issue shares to a trustee of a trust and under the trust deed the trustee is required to transfer the shares to employees of the company or of an associated company; and
- (b) “medical expenses” includes a premium or other amount paid for medical insurance.

## 20. Property Income

- (1) Property income means –
- (a) any dividends, interest, annuity, natural resource payments, rents, royalties and any other payment derived by a person from the provision, use, or exploitation of property;
  - (b) the value of any gifts derived by a person in connection with the provision, use, or exploitation of property;
  - (c) the total amount of any contributions made to a retirement fund during a year of income by a tax exempt employer; and
  - (d) any other income derived by a person *including winnings derived from sports betting and pool betting*, but does not include any amount which is business, employment or exempt income.
- (2) An amount included in property income under subsection (1)(a) retains its character as dividends, interest, annuity, natural resource payment, rent, or royalties for the purposes of any Section of the Act referring to such income.

*Substituted by  
IT (Am) Act 2014*

### *Exempt Income*

## 21. Exempt Income

- (1) The following amounts are exempt from tax –
- (a) the income of a listed institution;
  - (b) the income of any organisation or person entitled to privileges under the Diplomatic Privileges Act to the extent provided in the regulations and orders made under that Act;

- (c) the official employment income derived by a person in the public service of the government of a foreign country if –
  - (i) the person is either a non-resident person or is a resident individual solely by reason of performing such service;
  - (ii) the income is payable from the public funds of that country; and
  - (iii) the income is subject to tax in that country;
- (d) any allowance payable outside Uganda to a person working in a Ugandan foreign mission;
- (e) the income of any local authority;
- (f) the income of an exempt organisation, other than –
  - (i) property income, except rent received by an exempt organisation in respect of immovable property *[which is used by the lessee] and the rent is used by the lessor* exclusively for the activities of the organisation specified in paragraph (bb)(i) of the definition of “exempt organisation” in Section 2; or
  - (ii) business income that is not related to the function constituting the basis for the organisation’s existence;
- (g) any education grant which the Commissioner is satisfied has been made bona fide to enable or assist the recipient to study at a recognised educational or research institution;
- (h) any amount derived by way of alimony or allowance under any judicial order or written agreement of separation;
- (i) *interest payable on Treasury Bills or Bank of Uganda Bills;*
- (j) the value of any property acquired by gift, bequest, devise, or inheritance that is not included in business, employment, or property income;
- (k) any capital gain that is not included in business income, *other than capital gains on the sale of shares in a private limited liability company or on the sale of a commercial building;*
- (l) employment income derived by an individual to the extent provided for in a technical assistance agreement where –

Substituted by  
IT (Am) Act 2005

Repealed by  
IT (Am) Act 2002

Substituted by  
IT (Am) Act 2010  
& IT (Am) Act 2014

- (i) the individual is a non-resident or a resident solely for the purpose of performing duties under the agreement; and
- (ii) the Minister has concurred in writing with the tax provisions in the agreement;
- (m) foreign-source income derived by –
  - (i) a short-term resident of Uganda;
  - (ii) a person to whom paragraph (c) or (l) of this subsection applies; or
  - (iii) a member of the immediate family of a person referred to in subparagraph (i) or (ii) of this paragraph;
- (n) a pension;
- (o) a lump sum payment made by a resident retirement fund to a member of the fund or a dependant of a member of the fund;
- (p) the proceeds of a life insurance policy paid by a person carrying on a life insurance business;
- (q) the official employment income of a person employed in the Uganda Peoples' Defence Forces, the Uganda Police Force, *the External Security Organisation, the Internal Security Organisation* or the Uganda Prisons Service, other than a person employed in a civil capacity;
- (r) the income of the Government of the Republic of Uganda and the Government of any other country;
- (s) the income of the Bank of Uganda;
- (t) income of a collective investment scheme to the extent of which the income is distributed to participants in the collective investment scheme;
- (u) interest earned by a financial institution on a loan granted to any person for the purpose of farming, forestry, fish farming, bee keeping, animal and poultry husbandry or similar operations;
- (v) emoluments payable to employees of the East African Development Bank with effect from 1<sup>st</sup> July 1997;

*Inserted by  
IT (Am) Act 2013*

*Added by  
IT (Am) Act 2002*

*Inserted by  
IT (Am) Act 2003  
W.E.F 7/07*

*[t,u,v] Inserted by  
IT (Am) Act 2005*

*Repealed by  
IT (Am) Act 2014*

*Inserted by  
IT (Am) Act 2006  
and 2008*

- (w) the income of an Investor Compensation Fund established under Section 81 of the Capital Markets Act;
- Inserted by IT (Am) Act 1 2008 and substituted by IT (Am) Act 2 2008*
- (x) the income of a person derived from the operation of aircraft in *domestic and international traffic or the leasing of aircraft*; [whose place of effective management is not in Uganda;]
- (y) the income of a person derived from the exportation of finished consumer and capital goods for a period of ten years, where the person –
- (i) in the case of a new investment, applies in writing to the Commissioner to be issued with a certificate of exemption at the beginning of his or her investment; or
- (ii) in the case of an existing investment, applies for a certificate from the Commissioner which is effective from 1<sup>st</sup> July 2007, and the person –
- (aa) exports at least 80% of his or her production of goods;
- (ab) has fulfilled such conditions as may be prescribed by Regulations made by the Minister; and
- (ac) has been issued with a certificate of exemption prescribed by the Commissioner.
- (z) the income of a person for a year of income derived from agro-processing where –
- Inserted by IT (Am) Act 2 2008 and substituted by IT (Am) Act 2009, and by IT (Am) Act 2011.*
- (i) the person or an associate of the person has not previously carried on agro-processing of a similar or related agricultural product in Uganda;
- (ii) upon commencement of agro-processing in Uganda, the person applies in writing to the Commissioner for a certificate of exemption which the Commissioner may issue within sixty days of receiving the application;
- (iii) the person invests in plant and machinery that has not previously been used in Uganda by any person in agro-processing to process agricultural products for final consumption;
- (iv) the person processes agricultural products grown or produced in Uganda;
- (v) the person regularly files returns as required under this Act;
- (vi) the person regularly fulfils all obligations under this Act relating to that person's investment; and

- (vii) the person has been issued with a certificate of exemption for that year of income by the Commissioner.

*Inserted by  
IT (Am) Act 2011*

- (za) for avoidance of doubt, a certificate of exemption issued under subsection (1)(z)(ii) shall be valid for one year and may be renewed annually.

*Inserted by IT (Am)  
Act 2 2008 &  
substituted by  
IT (Am) Act 2009.  
Repealed by  
IT (Am) Act 2014*

- (aa) *business* income derived by a person from managing or running an educational institution; or

*Inserted by  
IT (Am) Act 2 2008  
and repealed by  
IT (Am) Act 2013*

- (ab) interest earned by a person on deposit auction funds issued by the Bank of Uganda for the purposes of liquidity management.

*Inserted by  
IT (Am) Act 2013*

- (ab) an award received by a sports person as a reward for winning or participating in a sports competition.

(2) In this Section,

- (a) “short-term resident” means a resident individual, other than a citizen of Uganda, present in Uganda for a period or periods not exceeding two years; and

- (b) “technical assistance agreement” means a grant agreement between the Government of Uganda and a foreign government or a listed institution for the provision of technical assistance to Uganda.

*Inserted by  
IT (Am) Act 2009*

- (c) “agro-processing” in relation to agricultural products of pastoral, agricultural, or other farming operations, means an industrial or manufacturing process that substantially transforms or converts raw agricultural produce in order to convert the produce into a different chemical or physical states and includes the activities that take place between slaughter or harvest of the raw product in order to change it or preserve it.

## ***Deductions***

### **22. Expenses of deriving Income**

- (1) Subject to this Act, for the purposes of ascertaining the chargeable income of a person for a year of income, there shall be allowed as a deduction –
- (a) all expenditures and losses incurred by the person during the year of income to the extent to which the expenditures or losses were incurred in the production of income included in gross income;

- (b) the amount of any loss as determined under Part VI, which deals with gains and losses on the disposal of assets, incurred by the person on the disposal of a business asset during the year of income, whether or not the asset was on revenue or capital account;
- (c) in the case of rental income, twenty per cent of the rental income as expenditures and losses incurred by the individual in the production of such income;
- (d) local service tax [graduated tax] paid by an individual; and
- (e) 2% of income tax payable under this Act by private employers who prove to Uganda Revenue Authority that 5% of their employees on full time basis are persons with disabilities;
- (f) Section 17 of the Persons with Disabilities Act is repealed.

*Inserted by  
IT (Am) Act 2002  
and substituted by  
IT (Am) Act 2 2008*

*Inserted by  
IT (Am) Act 2 2008  
and substituted by  
IT (Am) Act 2009*

(2) Except as otherwise provided in this Act, no deduction is allowed for –

- (a) any expenditure or loss incurred by a person to the extent to which it is of a domestic or private nature;
- (b) subject to subsection (1), any expenditure or loss of a capital nature, or any amount included in the cost base of an asset;
- (c) any expenditure or loss which is recoverable under any insurance, contract, or indemnity;
- (d) income tax payable in Uganda or a foreign country;
- (e) any income carried to a reserve fund or capitalised in any way;
- (f) the cost of a gift made directly or indirectly to an individual where the gift is not included in the individual's gross income;
- (g) any allowance given to, or a reimbursement or discharge of expenditure incurred by, an employee, in respect of the employee's housing, and any expenditures incurred in respect of housing provided to an employee;
- (h) any fine or similar penalty paid to any government or a political subdivision of a government for breach of any law or subsidiary legislation;
- (i) a contribution or similar payment made to a retirement fund [either for the benefit of the person making the payment or for the benefit of any other

*Repealed by  
IT (Am) Act 2002*

*Deleted & Substituted  
by IT (Am) Act 2005*

person] *by the employee either for the benefit of the employee or for the benefit of any other person;*

- (j) a premium or similar payment made to a person carrying on a life insurance business on the life of the person making the premium or on the life of some other person;
- (k) the amount of a pension paid to any person; or
- (l) any alimony or allowance paid under any judicial order or written agreement of separation.
- (m) any expenditure above five million shillings in one transaction on goods and services from a supplier who does not have a taxpayer identification number.

*Inserted by  
IT (Am) Act 2015*

- (3) In this Section, expenditure of a domestic or private nature incurred by a person includes –
  - (a) the cost incurred in the maintenance of the person and the person's family or residence;
  - (b) the cost of commuting between the person's residence and work;
  - (c) the cost of clothing worn to work, except clothing which is not suitable for wearing outside of work; and
  - (d) the cost of education of the person not directly relevant to the person's employment or business, and the cost of education leading to a degree, whether or not it is directly relevant to the person's employment or business.
- (4) Unless this Act provides otherwise, Part V, which deals with tax accounting principles, applies for the purposes of determining when an expenditure or loss is incurred for the purposes of this Act.
- (5) In this Section, "business asset" does not include trading stock or a depreciable asset.
- (6) For the purposes of subsection (1)(a) expenditures and losses incurred by a person during exploration, development or production of petroleum in a contract area shall be allowed as a deduction only against the income of that area included in gross income.

*Inserted by  
IT (Am) Act 2006  
& repealed by  
IT (Am) Act 2 2008*

## 23. Meals, Refreshment, and Entertainment Expenditure

A deduction is allowed for expenditure incurred by a person in providing meals, refreshment, or entertainment in the production of income included in gross income, but only where –

- (a) the value of the meals, refreshment, or entertainment is included in the employment income of an employee under Section 19(1)(b) or is excluded from employment income by Section 19(2)(d) or (e) ; or
- (b) the person's business includes the provision of meals, refreshment, or entertainment and the persons to whom the meals, refreshment, or entertainment have been provided have paid an arm's length consideration for them.

## 24. Bad Debts

- (1) Subject to subsection (2), a person, is allowed a deduction for the amount of a bad debt written off in the person's accounts during the year of income;

- (2) A deduction for a bad debt is only allowed –

*Substituted by  
IT (Am) Act 2002*

- (a) if the amount of the debt claim was included in the person's *gross* income in any year of income;
- (b) if the amount of the debt claim was in respect of money lent in the ordinary course of a business carried on by a financial institution in the production of income included in gross income; or

*Inserted by  
IT (Am) Act 1 2008*

- (c) if the amount of the debt claim was in respect of a loan granted to any person by a financial institution for the purpose of farming, forestry, fish farming, bee keeping, animal and poultry husbandry or similar operations.

- (3) In this Section,

- (a) “bad debt” means –
  - (i) a debt claim in respect of which the person has taken all reasonable steps to pursue payment and which the person reasonably believes will not be satisfied; and
  - (ii) in relation to a financial institution, a debt in respect of which a loss reserve held against presently identified losses or potential losses, and which is therefore not available to meet losses which subsequently materialise, has been made; and



- (b) “debt claim” means a right to receive a repayment of money from another person, including deposits with financial institutions, accounts receivable, promissory notes, bills of exchange, and bonds.

## 25. Interest

- (1) Subject to this Act, a person is allowed a deduction for interest incurred during the year of income in respect of a debt obligation to the extent that the debt obligation has been incurred by the person in the production of income included in gross income.
- (2) In this Section, “debt obligation” includes an obligation to make a swap payment arising under a swap agreement and shares in a building society.

## 26. Repairs and Minor Capital Equipment

- (1) A person is allowed a deduction for expenditure incurred during the year of income for the repair of property occupied or used by the person in the production of income included in gross income.
- (2) A person is allowed a deduction for expenditure incurred during the year of income in acquiring a depreciable asset with a cost base of less than [five] *fifty currency points*.
- (3) Subsection (2) only applies to a depreciable asset if the asset normally functions in its own right and is not an individual item which forms part of a set.

*Substituted by  
IT (Am) Act 2005*

## 27. Depreciable Assets

- (1) A person is allowed a deduction for the depreciation of the person’s depreciable assets, other than an asset to which Section 26(2) applies, during the year of income as calculated in accordance with this Section.
- (2) Depreciable assets are classified into four classes as set out in Part I of the Sixth Schedule to this Act with depreciation rates applicable for each class as specified in that Part.
- (3) A person’s depreciable assets shall be placed into separate pools for each class of asset, and the depreciation deduction for each pool is calculated according to the following formula -

$$A \times B$$

where –

**A** is the written down value of the pool at the end of the year of income; and

**B** is the depreciation rate applicable to the pool.

- (4) The written down value of a pool at the end of a year of income is the total of –
  - (a) the written down value of the pool at the end of the preceding year of income after allowing for the deduction under subsection (3) for that year; and
  - (b) the cost base of assets added to the pool during the year of income, reduced, but not below zero, by the consideration received from the disposal of assets in the pool during the year of income.
- (5) Where the amount of consideration received by a person from the disposal during a year of income of any asset or assets in a pool exceeds the written-down value of the pool at the end of the year of income disregarding that amount, the excess is included in the business income of the person for that year.
- (6) If the written down value of a pool at the end of the year of income, after allowing for the deduction under subsection (3), is less than *[five] fifty* currency points, a deduction shall be allowed for the amount of that written down value.
- (7) Where all the assets in a pool are disposed of before the end of a year of income, a deduction is allowed for the amount of the written down value of the pool as at the end of that year.
- (8) Where a person has incurred non-deductible expenditures in more than one year of income in respect of a depreciable asset, this Section applies as if the expenditures incurred in different years of income were incurred for the acquisition of separate assets of the same class.
- (9) The cost base of a depreciable asset is added to a pool in the year of income in which the asset is placed in service.
- (10) Where a depreciable asset is only partly used during a year of income in the production of income included in gross income, the depreciation deduction allowed under this Section in relation to the asset shall be proportionately reduced.
- (11) For the purposes of subsection (4)(b), the cost base of a road vehicle, other than a commercial vehicle, is not to exceed the amount set out in Part II of the Sixth Schedule.
- (12) Where the cost base of a road vehicle for the purposes of subsection (4)(b) is limited under subsection (11), the person is treated as having acquired two assets –

*Substituted by  
IT (Am) Act 1 2008*

- (a) a depreciable asset being a road vehicle with a cost base equal to the amount set out in Part II to the Sixth Schedule to this Act; and
  - (b) a business asset that is not a depreciable asset with a cost base equal to the difference between the cost base of the asset not taking into account subsection (11), in this Section referred to as the “actual cost base”, and the amount set out in Part II of the Sixth Schedule.
- (13) Where a road vehicle to which subsection (12) applies is disposed of, the person is treated as having disposed of each of the assets specified under that subsection and the consideration received on disposal is apportioned between the two assets based on the ratio of the cost base of each asset as determined under that subsection to the actual cost base of the asset.
- (14) In calculating the amount of any gain or loss arising on disposal of an asset specified in subsection (12)(b), the cost base of the asset as determined under that paragraph is reduced by the depreciation deductions which would have been allowed to the person if the asset –
- (a) was a depreciable asset being a road vehicle; and
  - (b) the asset was the only asset in the pool.
- (15) In this Section, “commercial vehicle” means –
- (a) a road vehicle designed to carry loads of more than half a tonne or more than thirteen passengers; or
  - (b) a vehicle used in a transportation or vehicle rental business.

## 28. Initial Allowance

- (1) A person who places an item of eligible property into service for the first time during the year of income is allowed a deduction for that year of an amount equal to –
- (a) where the asset is placed in service outside an area prescribed in Part IV of the Sixth Schedule to this Act, seventy five per cent of the cost base of the property at the time it is placed in service; or
  - (b) in any other case, fifty per cent of the cost base of the property at the time it is placed in service.
- (2) The cost base of an asset to which subsection (1) applies is reduced by the amount of the deduction allowed under that subsection for the purposes of Section 27(4)(b).

*Repealed by  
IT (Am) Act 2014*

- (3) In this Section, “item of eligible property” means plant and machinery wholly used in the production of income included in gross income but does not include –
- (a) goods and passenger transport vehicles;
  - (b) appliances of a kind ordinarily used for household purposes; or
  - (c) office or household furniture, fixtures and fittings.
- (4) A person who places a new industrial building in service for the first time during the year of income is allowed a deduction for that year of an amount equal to 20% of the cost base of the building at the time it was placed in service.
- [4-8] Inserted by Finance Act 2001*
- (5) The cost base of an industrial building to which subsection (4) applies is reduced by the amount of deduction allowed under that subsection for the purposes of Section 29.
- (6) Where a person has incurred capital expenditure on the extension of an existing industrial building, this Section applies as if the expenditure was capital expenditure incurred on the construction of a separate industrial building.
- (7) For the purposes of subsections (4) and (6), a new industrial building or extension of an existing industrial building means a building on which construction was commenced on or after 1<sup>st</sup> July 2000.
- (8) In this Section, “industrial building” does not include an approved commercial building.

## 29. Industrial Buildings

- (1) Subject to this Section, where a person has incurred capital expenditure in any year of income on the construction of an industrial building and the building is used by the person during the year of income in the production of income included in gross income, the person is allowed a deduction for the depreciation of the building during the year of income as calculated according to the following formula –

$$A \times B \times C/D$$

where –

- A** is the depreciation rate applicable to the building as determined under Part III of the Sixth Schedule;
- B** is the capital expenditure incurred in the construction of the building;

**C** is the number of days in the year of income during which the asset was used or was available for use in the production of income included in gross income; and

**D** is the number of days in the year of income.

- (2) Subject to subsection (3), where an industrial building is only partly used by a person during a year of income for prescribed uses, the amount of the depreciation deduction allowed under subsection (1) shall be proportionately reduced.
- (3) Where an industrial building is only partly used by a person during a year of income for prescribed uses and the capital expenditure incurred in the construction of that part of the building used for other uses is not more than ten per cent of the total capital expenditure incurred on the construction of the building, the building is treated as wholly used for prescribed uses.
- (4) Where a person has incurred expenditure in making a capital improvement to an industrial building in a year of income, this Section applies as if the expenditure was capital expenditure incurred in that year in the construction of a separate industrial building.
- (5) Where an industrial building is purchased by a person, the person is deemed to have incurred the capital expenditure incurred by the person who constructed the building.
- (6) The amount of the deduction allowed under this Section is not to exceed the amount which, apart from making the deduction, would be the residue of expenditure at the end of the year of income.
- (7) Where an industrial building has been disposed of by a person during a year of income, the cost base of the building for the purposes of this Act is reduced by any deductions allowed to the person under this Section in respect of the building.
- (8) Where an industrial building is bought and sold together with land, the value of the land shall be the difference between the total consideration and the value of the industrial building as defined in subsection (7).
- (9) Where subsection (4) applies, the consideration received on disposal of an industrial building shall be reasonably apportioned among the separate industrial buildings identified under that subsection.
- (10) In this Section,
  - (a) “capital expenditure” does not include –

- (i) expenditure incurred in the acquisition of a depreciable asset installed in an industrial building; or
- (ii) expenditure incurred in the acquisition of, or of any rights in or over, any land;
- (b) “prescribed uses” means the uses specified in the definition of “industrial building” in Section 2; and
- (c) “residue of expenditure” means the capital expenditure incurred on the construction of an industrial building less any deductions allowed under this Section to any person and any amounts which would have been allowed as deductions if the building was solely used for prescribed uses at all times since construction was completed.

### 30. Start-Up Costs

- (1) A person who has incurred expenditure in starting up a business to produce income included in gross income *or in the initial public offering at the stock market* shall be allowed a deduction of an amount equal to twenty five per cent of the amount of the expenditure in the year of income in which the expenditure was incurred and in the following three years of income in which the business is carried on by the person.

*Substituted by  
IT (Am) Act 2002*

- (2) In this section, “expenditure in starting up a business” means –

- (a) in the case of initial public offering, costs incurred in listing the business with the Uganda Stock Exchange;
- (b) in any other case, non-recurring preliminary or pre-opening costs, which are associated with setting up a business such as fees of an accountant, registration charges, legal fees, costs for promotional and advertising activities, as well as costs for employee training.

*Inserted by  
IT (Am) Act 2014*

### 31. Costs of Intangible Assets

- (1) A person who has incurred expenditure in acquiring an intangible asset having an ascertainable useful life is allowed a deduction in each year of income during the useful life of the asset in which the person wholly uses the asset in the production of income included in gross income of an amount calculated according to the following formula –

**A/B**

where –

**A** is the amount of expenditure incurred; and

**B** is the useful life of the asset in whole years.

- (2) Where an intangible asset has been disposed of by a person during the year of income, the cost base of the asset is reduced by any deductions allowed under this Section to the person in respect of the asset.

### **32. Scientific Research Expenditure**

- (1) A person is allowed a deduction for scientific research expenditure incurred during the year of income in the course of carrying on a business, the income from which is included in gross income.
- (2) In this Section –
- (a) “scientific research” means any activities in the fields of natural or applied science for the development of human knowledge;
  - (b) “scientific research expenditure”, in relation to a person carrying on business, means the cost of scientific research undertaken for the purposes of developing the person’s business, including any contribution to a scientific research institution which is used by the institution in undertaking research for the purposes of developing the person’s business, but does not include –
    - (i) expenditure incurred for the acquisition of a depreciable or intangible asset;
    - (ii) expenditure incurred for the acquisition of land or buildings; or
    - (iii) expenditure incurred for the purpose of ascertaining the existence, location, extent, or quality of a natural deposit; and
  - (c) “scientific research institution” means an association, institute, college, or university which undertakes scientific research.

### **33. Training Expenditure**

- (1) An employer is allowed a deduction for expenditure incurred during the year of income for the training or tertiary education, not exceeding in the aggregate five years, of a citizen or permanent resident of Uganda, other than an associate of the employer, who is employed by the employer in a business, the income from which is included in gross income.

- (2) In this Section, “permanent resident” means a resident individual who has been present in Uganda for a period or periods in total of five years or more.

### 34. Charitable Donations

- (1) A person is allowed a deduction for a gift made during a year of income to an organisation within Section 2(bb)(i)(A) or (B) of the definition of “exempt organisation”.
- (2) For the purposes of subsection (1), the value of a gift of property is the lesser of –
- (a) the value of the property at the time of the making of the gift; or
  - (b) the consideration paid by the person for the property.
- (3) The amount of a deduction allowed under subsection (1) for a year of income shall not exceed five per cent of the person’s chargeable income, calculated before taking into account the deduction under this Section.

### 35. Farming

- (1) Expenditure incurred by a person in acquiring farm works is included in the person’s pool for class 4 assets under Section 27 in the year of income in which the expenditure is incurred and is depreciated accordingly.
- (2) Subject to subsection (3), a person carrying on a business of horticulture in Uganda *to produce income included in gross income*, who has incurred expenditure of a capital nature on –
- (a) the acquisition or establishment of a horticultural plant; or
  - (b) the construction of a greenhouse,

shall be allowed a deduction of an amount equal to twenty per cent of the amount of the expenditure in the year of income in which the expenditure was incurred and in the following four years of income in which the plant or greenhouse is used in the business of horticulture carried on by the person.

- (3) Expenditure of a capital nature incurred on the establishment of a horticultural plant shall include expenditure incurred in draining or clearing land.
- (4) In this Section,
- (a) “farm works” means any labour quarters and other immovable buildings necessary for the proper operation of a farm, fences, ditches, drains, water and

*Inserted by the  
IT (Am) Act 2002*



Inserted by  
IT (Am) Act 2002

electricity supply works, windbreaks, and other works necessary for farming operations *carried on to produce income included in gross income*, but does not include:—

- (i) farm houses; or
  - (ii) depreciable assets; and
- (b) “horticulture” includes –
- (i) propagation or cultivation of seeds, bulbs, spores, or similar things;
  - (ii) propagation or cultivation of fungi; or
  - (iii) propagation or cultivation in environments other than soil, whether natural or artificial.

### 36. Mineral Exploration Expenditures

Inserted by  
IT (Am) Act 2002  
Repealed by  
IT (Am) Act 2015

A person carrying on mining operations *to produce income included in gross income* is allowed a deduction for any expenditure of a capital nature incurred in searching for, discovering and testing, or winning access to deposits of minerals in Uganda.

### 37. Apportionment of Deductions

- (1) A deduction relating to the production of more than one class of income shall be reasonably apportioned among the classes of income to which it relates.
- (2) Where a person derives more than one class of income, the deduction allowed under Section 34 shall be allocated rateably to each class of income.

### 38. Carry Forward Losses

- (1) Subject to this Section, where, for any year of income, the total amount of income included in the gross income of a taxpayer is exceeded by the total amount of deductions allowed to the taxpayer, the amount of the excess, in this Act referred to as an “assessed loss”, shall be carried forward and allowed as a deduction in determining the taxpayer’s chargeable income in the following year of income.
- (2) Where, for any year of income, the total farming income derived by a taxpayer who is an individual is exceeded by the total deductions allowed to the taxpayer relating to the production of that income, the amount of the excess, in this Act referred to as an “assessed farming loss”, may not be deducted against any other income of the taxpayer for the year of income, but shall be carried forward and allowed as a

deduction in determining the chargeable farming income of the taxpayer in the following year of income.

- (3) The amount of an assessed loss carried forward under this Section for a taxpayer shall be reduced by the amount or value of any benefit to the taxpayer from a concession granted by, or a compromise made with, the taxpayer's creditors *in the course of an insolvency* whereby the taxpayer's liabilities to those creditors have been extinguished or reduced, provided such liabilities were incurred in the production of income included in gross income.
- (4) Where a taxpayer has more than one class of loss, the reduction in subsection (3) shall be applied rateably to each class of loss.
- (5) Subsection (1) shall apply separately to income derived from sources in Uganda and to foreign-source income.
- (6) In this Section –
  - (a) “chargeable farming income” means the total farming income of a taxpayer for a year of income reduced by any deductions allowed under this Act for that year which relate to the production of such income; and
  - (b) “farming income” means the business income derived from the carrying on of farming operations.

## PART V – TAX ACCOUNTING PRINCIPLES

### 39. Substituted Year of Income

- (1) A taxpayer may apply, in writing, to use as the taxpayer's year of income a substituted year of income being a twelve-month period other than the normal year of income and the Commissioner may, subject to subsection (3), by notice in writing, approve the application.
- (2) A taxpayer granted permission under subsection (1) to use a substituted year of income may apply, in writing, to change the taxpayer's year of income to the normal year of income or to another substituted year of income and the Commissioner, subject to subsection (3), may, by notice in writing, approve the application.
- (3) The Commissioner may only approve an application under subsection (1) and (2) if the taxpayer has shown a compelling need to use a substituted year of income or to change the taxpayer's year of income and any approval is subject to such conditions as the Commissioner may prescribe.

- (4) The Commissioner may, by notice in writing to a taxpayer, withdraw the permission to use a substituted year of income granted under subsection (1) or (2).
- (5) A notice served by the Commissioner under subsection (1) takes effect on the date specified in the notice, and a notice under subsection (2) or (4) takes effect at the end of the substituted year of income of the taxpayer in which the notice was served.
- (6) Where the year of income of a taxpayer changes as a result of subsections (1), (2), or (4), the period between the last full year of income prior to the change and the date on which the changed year of income commences is treated as a separate year of income, to be known as the “transitional year of income”.
- (7) In this Act, a reference to a particular normal year of income includes a substituted year of income or a transitional year of income commencing during the normal year of income.
- (8) A taxpayer dissatisfied with a decision of the Commissioner under subsections (1), (2), or (4) may only challenge the decision under the objections and appeal procedure in this Act.
- (9) In this Section, “normal year of income” means the period of twelve months ending on the 30<sup>th</sup> June.

#### 40. Method of Accounting

- (1) A taxpayer’s method of accounting shall conform to generally accepted accounting principles.
- (2) Subject to subsection (1) and unless the Commissioner prescribes otherwise in a particular case, a taxpayer may account for tax purposes on a cash or accrual basis.
- (3) A taxpayer *who intends to change* the taxpayer’s method of accounting *shall apply in writing to the Commissioner* and the Commissioner may, by notice in writing, approve *the application where he or she is satisfied* that the change is necessary to clearly reflect the taxpayer’s income.
- (4) A taxpayer dissatisfied with a decision under this Section may only challenge the decision under the objection and appeal procedure in this Act.
- (5) If the taxpayer’s method of accounting is changed, adjustments to items of income, deduction, or credit or to other items shall be made in the year of income following the change, so that no item is omitted and no item is taken into account more than once.

*Substituted by  
IT (Am) Act 2010*

**41. Cash-Basis Taxpayer**

A taxpayer who is accounting for tax purposes on a cash basis derives income when it is received or made available and incurs expenditure when it is paid.

**42. Accrual-Basis Taxpayer**

- (1) A taxpayer who is accounting for tax purposes on an accrual basis –
  - (a) derives income when it is receivable by the taxpayer; and
  - (b) incurs expenditure when it is payable by the taxpayer.
- (2) Subject to this Act, an amount is receivable by a taxpayer when the taxpayer becomes entitled to receive it, even if the time for discharge of the entitlement is postponed or the entitlement is payable by instalments.
- (3) Subject to this Act, an amount is treated as payable by the taxpayer when all the events that determine liability have occurred and the amount of the liability can be determined with reasonable accuracy, but not before economic performance with respect to the amount occurs.
- (4) For the purposes of subsection (3), economic performance occurs –
  - (a) with respect to the acquisition of services or property, at the time the services or property are provided;
  - (b) with respect to the use of property, at the time the property is used; or
  - (c) in any other case, at the time the taxpayer makes payment in full satisfaction of the liability.

**43. Pre-payments**

Where a deduction is allowed for expenditure incurred on a service or other benefit which extends beyond thirteen months, the deduction is allowed proportionately over the years of income to which the service or other benefit relates.

**44. Claim of Right**

- (1) A taxpayer who is accounting for tax purposes on a cash basis shall include an amount in *gross* income when received or claim a deduction for an amount when paid, notwithstanding that the taxpayer is not legally entitled to receive the amount or liable to make the payment, if the taxpayer claims to be legally entitled to receive, or legally obliged to pay the amount.

- (2) Where subsection (1) applies, the calculation of the chargeable income of the taxpayer shall be adjusted for the year of income in which the taxpayer refunds the amount received or recovers the amount paid.
- (3) A taxpayer who is accounting for tax purposes on an accrual basis shall include an amount in *gross* income when receivable or claim a deduction for an amount when payable notwithstanding that the taxpayer is not legally entitled to receive the amount or liable to make the payment, if the taxpayer claims to be legally entitled to receive, or to be legally obliged to pay the amount.
- (4) Where subsection (3) applies, the calculation of the chargeable income of the taxpayer shall be adjusted for the year of income in which the taxpayer ceases to claim the right to receive the amount or ceases to claim an obligation to pay the amount.

Substituted by  
IT (Am) Act 2002

#### 45. Long-Term Contracts

- (1) In the case of an accrual-basis taxpayer, income and deductions relating to a long-term contract are taken into account on the basis of the percentage of the contract completed during the year of income.
- (2) The percentage of completion is determined by comparing the total costs allocated to the contract and incurred before the end of the year of income with the estimated total contract costs as determined at the time of commencement of the contract.
- (3) Where, in the year of income in which the long-term contract is completed, it is determined that the contract has made a final year loss, the Commissioner may allow the loss to be carried back to the preceding years of income and applied against an amount in *gross* income over the period of the contract under subsection (1) for those years starting with the year immediately preceding the year in which the contract was completed.
- (4) In this Section,
  - (a) “final year loss”, in relation to a long-term contract, occurs where both the following conditions are satisfied –
    - (i) the profit estimated to be made under the contract for the purposes of subsection (1) exceeds the actual profit, including a loss, made under the contract; and
    - (ii) the difference between the estimated profit and the actual profit exceeds the amount included in income under subsection (1) for the year of income in which the contract is completed,

Substituted by  
IT (Am) Act 2002

and the amount of the excess referred to in subparagraph (ii) of this paragraph is the amount of the final year loss; and

- (b) “long-term contract” means a contract for manufacture, installation, or construction, or, in relation to each, the performance of related services, which is not completed within the year of income in which work under the contract commenced, other than a contract estimated to be completed within six months of the date on which work under the contract commenced.

#### 46. Trading Stock

- (1) A taxpayer is allowed a deduction for the cost of trading stock disposed of during a year of income.
- (2) The cost of trading stock disposed of during a year of income is determined by adding to the opening value of trading stock for the year, the cost of trading stock acquired during the year, and subtracting the closing value of trading stock for the year.
- (3) The opening value of trading stock for a year of income is –
  - (a) the closing value of trading stock at the end of the previous year of income; or
  - (b) where the taxpayer commenced business during the year of income, the *market value, at the time of commencement of the business*, of trading stock acquired prior to the commencement of the business.
- (4) The closing value of trading stock is the lower of cost or market value of trading stock on hand at the end of the year of income.
- (5) A taxpayer who is accounting for tax purposes on a cash basis may calculate the cost of trading stock on the prime-cost method or absorption-cost method; and a taxpayer who is accounting for tax purposes on an accrual basis shall calculate the cost of trading stock on the absorption-cost method.
- (6) Where particular items of trading stock are not readily identifiable, a tax payer may account for that trading stock on the first-in-first-out method or the average cost method but, once chosen, a stock valuation method may be changed only with the written permission of the Commissioner.
- (7) In this Section,
  - (a) “absorption-cost method” means the generally accepted accounting principle under which the cost of trading stock is the sum of direct material costs, direct labour costs, and factory overhead costs;

*Substituted by  
IT (Am) Act 2002*

- (b) “average-cost method” means the generally accepted accounting principle under which trading stock valuation is based on a weighted average cost of units on hand;
- (c) “direct labour costs” means labour costs directly related to the production of trading stock;
- (d) “direct material costs” means the cost of materials that become an integral part of the trading stock produced;
- (e) “factory overhead costs” means the total costs of manufacturing except direct labour and direct material costs;
- (f) “first-in-first-out method” means the generally accepted accounting principle under which trading stock valuation is based on the assumption that trading stock is sold in the order of its receipt;
- (g) “prime-cost method” means the generally accepted accounting principle under which the cost of trading stock is the sum of direct material costs, direct labour costs, and variable factory overhead costs; and
- (h) “variable factory overhead costs” means those factory overhead costs which vary directly with changes in volume.

#### **47. Debt Obligations with Discount or Premium**

- (1) Subject to subsection (2), interest in the form of any discount, premium, or deferred interest shall be taken into account as it accrues.
- (2) Where the interest referred to in subsection (1) is subject to withholding tax, the interest shall be taken to be derived or incurred when paid.

#### **48. Foreign Currency Debt Gains and Losses**

- (1) Foreign currency debt gains are included in gross income and foreign currency debt losses are deductible only under this Section.
- (2) A foreign currency debt gain derived by a taxpayer during the year of income is included in the business income of the taxpayer for that year.
- (3) Subject to subsection (4) and (6), a foreign currency debt loss incurred by a taxpayer during a year of income is allowed as a deduction to the taxpayer in that year.
- (4) A deduction is not allowed to a taxpayer for a foreign currency debt loss incurred by the taxpayer unless the taxpayer has notified the Commissioner in writing of the

existence of the debt which gave rise to the loss by the due date for furnishing of the taxpayer's return of income for the year of income in which the debt arose or by such later date as the Commissioner may allow.

- (5) Subsection (4) does not apply to a financial institution.
- (6) Where –
  - (a) a taxpayer has incurred a foreign currency debt loss under a transaction;
  - (b) the taxpayer or another person has derived a foreign currency debt gain under another transaction; and
  - (c) either –
    - (i) the transaction giving rise to the loss would not have been entered into, or might reasonably be expected not to have been entered into, if the transaction giving rise to the gain had not been entered into; or
    - (ii) the transaction giving rise to the gain would not have been entered into, or might reasonably be expected not to have been entered into, if the transaction giving rise to the loss had not been entered into,

no deduction is allowed to the taxpayer to the extent that the amount of the loss exceeds that part of the gain included in gross income.
- (7) Subject to subsection (9), a taxpayer derives a foreign currency debt gain if –
  - (a) where the taxpayer is a debtor, the amount in Shillings of the foreign currency debt incurred by the taxpayer is greater than the amount in Shillings required to settle the debt; or
  - (b) where the taxpayer is a creditor, the amount in Shillings of the foreign currency debt owed to the taxpayer is less than the amount in Shillings paid to the taxpayer in settlement of the debt.
- (8) Subject to subsection (9), a taxpayer incurs a foreign currency debt loss if:–
  - (a) where the taxpayer is a debtor, the amount in Shillings of the foreign currency debt incurred by the taxpayer is less than the amount in Shillings required to settle the debt; or
  - (b) where the taxpayer is a creditor, the amount in Shillings of the foreign currency debt owed to the taxpayer is greater than the amount in shillings paid to the taxpayer in settlement of the debt.



- (9) In determining whether a taxpayer has derived a foreign currency debt gain or incurred a foreign currency debt loss, account shall be taken of the taxpayer's position under any hedging contract entered into by the taxpayer in respect of the debt.
- (10) A foreign currency debt gain is derived or a foreign currency debt loss is incurred by a taxpayer in the year of income in which the debt is satisfied.
- (11) In this Section,
  - (a) "foreign currency debt" means a business debt denominated in foreign currency; and
  - (b) "hedging contract" means a contract entered into by the taxpayer for the purpose of eliminating or reducing the risk of adverse financial consequences which might result for the taxpayer under another contract from currency exchange rate fluctuation.

## **PART VI – GAINS AND LOSSES ON DISPOSAL OF ASSETS**

### **49. Application of Part VI**

This Part applies for the purposes of determining the amount of any gain or loss arising on the disposal of an asset where the gain is included in gross income or the loss is allowed as a deduction under this Act.

### **50. Gains and Losses on Disposal of Assets**

- (1) The amount of any gain arising from the disposal of an asset is the excess of the consideration received for the disposal over the cost base of the asset at the time of the disposal.
- (2) The amount of any loss arising from the disposal of an asset is the excess of the cost base of the asset at the time of the disposal over the consideration received for the disposal.

### **51. Disposals**

- (1) A taxpayer is treated as having disposed of an asset when the asset has been –
  - (a) sold, exchanged, redeemed, or distributed by the taxpayer;
  - (b) transferred by the taxpayer by way of gift; or
  - (c) destroyed or lost.

- (2) A disposal of an asset includes a disposal of a part of the asset.
- (3) Where the Commissioner is satisfied that a taxpayer –
  - (a) has converted an asset from a taxable use to non-taxable use; or
  - (b) has converted an asset from a non-taxable use to a taxable use,

the taxpayer is deemed to have disposed of the asset at the time of the conversion for an amount equal to the market value of the asset at that time and to have immediately re-acquired the asset for a cost base equal to that same value.
- (4) A non-resident person who becomes a resident person is deemed to have acquired all assets, other than taxable assets, owned by the person at the time of becoming a resident for their market value at that time.
- (5) A resident person who becomes a non-resident person is deemed to have disposed of all assets, other than taxable assets, owned by the person at the time of becoming a non-resident for their market value at that time.
- (6) Where a person to whom subsection (5) would otherwise apply-
  - (a) intends, in the future, to re-acquire status as a resident person; and
  - (b) provides the Commissioner with sufficient security to satisfy any tax liability which would otherwise arise under subsection (5),

the Commissioner may, by notice in writing, exempt the person from the application of subsection (5).
- (7) In this Section, “taxable asset” means an asset the disposal of which would give rise to a gain included in the gross income of, or a loss allowed as a deduction to, a resident or non-resident taxpayer.

## 52. Cost Base

- (1) Subject to this Act, this Section establishes the cost base of an asset for the purpose of this Act.
- (2) The cost base of an asset purchased, produced, or constructed by the taxpayer is the amount paid or incurred by the taxpayer in respect of the asset, including incidental expenditures of a capital nature incurred in acquiring the asset, and includes the market value *at the date of acquisition* of any consideration in kind given for the asset.

- (3) Subject to subsection (4), the cost base of an asset acquired in a non-arm's length transaction is the market value of the asset at the date of acquisition.
- (4) The cost base of an asset acquired in a transaction described in Section 53(2) is the amount of the consideration deemed by that subsection to have been received by the person disposing of the asset.
- (5) Where a part of an asset is disposed of, the cost base of the asset shall be apportioned between the part of the asset retained and the part disposed of in accordance with their respective market values at the time of acquisition of the asset.
- (6) Unless otherwise provided in this Act, expenditures incurred to alter or improve an asset which have not been allowed as a deduction are added to the cost base of the asset.
- (7) Where the acquisition of an asset by a taxpayer represents the derivation of an amount included in gross income, the cost base of the asset is the amount included in gross income plus any amount paid by the taxpayer for the asset.
- (8) Where the receipt of an asset represents the derivation of an amount which is exempt from tax, the cost base of the asset is the amount exempt from tax plus any amount paid by the taxpayer for the asset.

### 53. Special Rules for Consideration Received

- (1) The consideration received on disposal of an asset includes the market value *at the date of the disposal* of any consideration received in kind.
- (2) Where an asset is disposed of to an associate or in a non-arm's length transaction other than by way of transmission of the asset to a trustee or beneficiary on the death of a taxpayer, the person disposing of the asset, in this Section referred to as the "disposer", is treated as having received consideration equal to the greater of –
  - (a) the cost base of the asset to the disposer at the time of disposal; or
  - (b) the fair market value of the asset at the date of disposal.
- (3) Where two or more assets are disposed of in a single transaction and the consideration paid for each asset is not specified, the total consideration received is apportioned among the assets disposed of in proportion to their respective market values at the time of the transaction.

*Inserted by  
IT (Am) Act 2002*

*Repealed by  
IT (Am) Act 2002*

- (4) Where a part of an asset is disposed of, the consideration received is apportioned between the part of the asset retained and the part of the asset disposed of in accordance with their respective market values at the time of acquisition of the asset.

#### **54. Non-Recognition of Gain or Loss**

- (1) No gain or loss is taken into account in determining chargeable income in relation to –
- (a) a transfer of an asset between spouses;
  - (b) a transfer of an asset between former spouses as part of a divorce settlement or bona fide separation agreement;
  - (c) an involuntary disposal of an asset to the extent to which the proceeds are reinvested in an asset of a like kind within one year of the disposal; or
  - (d) the transmission of an asset to a trustee or beneficiary on the death of a taxpayer.
- (2) Where no gain or loss is taken into account as a result of subsection (1)(a), (b), or (d), the transferred or transmitted asset is deemed to have been acquired by the transferee, or trustee or beneficiary as an asset of the same character for a consideration equal to the cost base of the asset to the transferor or deceased taxpayer at the time of the disposal.
- (3) The cost base of a replacement asset described in subsection (1)(c) is the cost base of the replaced asset plus the amount by which any consideration given by the taxpayer for the replaced asset exceeds the amount of proceeds received on the involuntary disposal.

### **PART VII – MISCELLANEOUS RULES FOR DETERMINING CHARGEABLE INCOME**

#### **55. Income of Joint Owners**

- (1) Income or deductions relating to jointly owned property are apportioned among the joint owners in proportion to their respective interests in the property.
- (2) Where the interest of the joint owners in jointly-owned property cannot be ascertained, the interest of such joint owners in the property shall be deemed to be equal.

**56. Valuation**

- (1) For the purposes of this Act and subject to Section 19(1)(b), the value of a benefit in kind is the fair market value of the benefit on the date the benefit is taken into account for tax purposes.
- (2) The fair market value of a benefit is determined without regard to any restriction on transfer or to the fact that it is not otherwise convertible to cash.

**56A. Other Methods of allocating Costs and Revenue**

*Inserted by  
IT (Am) Act 2013*

In determining the chargeable income of a person, use of input-output ratios and other methods of allocating costs and revenue may be applied.

**57. Currency Conversion**

*Substituted by  
IT (Am) Act 2002*

- (1) Chargeable income under this Act shall be calculated in Uganda Shillings.
- (2) Where *an amount taken into account under this Act* is in a currency other than the Uganda Shilling, the amount shall be converted to the Uganda Shilling at the Bank of Uganda mid-exchange rate applying between the currency and the Uganda Shilling on the date that the amount is derived, incurred, or otherwise taken into account for tax purposes.
- (3) With the prior written permission of the Commissioner, a taxpayer may use the average rate of exchange during the year of income, or may keep books of account in a currency other than the Uganda Shilling.

**58. Indirect Payments and Benefits**

The income of a person includes –

- (a) a payment that directly benefits the person; and
- (b) a payment dealt with as the person directs,

which would have been income of the person if the payment had been made directly to the person.

**59. Finance Leases**

- (1) Where a lessor leases property to a lessee under a finance lease, for the purposes of this Act –
  - (a) the lessee is treated as the owner of the property; and

- (b) the lessor is treated as having made a loan to the lessee, in respect of which payments of interest and principal are made to the lessor equal in amount to the rental payable by the lessee.
- (2) The interest component of each payment under the loan is treated as interest expense incurred by the lessee and interest income derived by the lessor.
- (3) A lease of property is a finance lease if –
  - (a) the lease term exceeds seventy-five per cent of the effective life of the leased property;
  - (b) the lessee has an option to purchase the property for a fixed or determinable price at the expiration of the lease; or
  - (c) the estimated residual value of the property to the lessor at the expiration of the lease term is less than twenty per cent of its fair market value at the commencement of the lease.
- (4) For the purposes of subsection (3), the lease term includes any additional period of the lease under an option to renew.

#### **60. Exclusion of Doctrine of Mutuality**

- (1) A company which carries on a member's club, a trade association, or a mutual insurance company is treated for the purposes of this Act as carrying on a business subject to tax.
- (2) The business income of a company to which subsection (1) applies includes entrance fees and subscriptions paid by members.
- (3) Where a company referred to in subsection (1) is operated primarily to furnish goods or services to members, deductions attributable to the furnishing of goods or services to members are allowed only to the extent of the total income derived from the members, with any excess carried forward and allowed as a deduction in the following year of income.
- (4) In this Section, "member's club" means a club or similar institution, all the assets of which are owned by or are held in trust for the members of the club or institution.

#### **61. Compensation Receipts**

A compensation payment derived by a person takes the character of the item that is compensated.

**62. Recouped Expenditure**

- (1) Where a previously deducted expenditure, loss, or bad debt is recovered by the taxpayer, the amount recovered is deemed to be income derived by the taxpayer in the year of income in which it is recovered and takes the character of the income to which the deduction related.
- (2) For the purposes of subsection (1), a deduction is considered recovered upon the occurrence of an event which is inconsistent with the basis for the deduction.

**PART VIII – PERSONS ASSESSABLE*****Taxation of Individuals*****63. Taxation of Individuals**

The chargeable income of each taxpayer who is an individual is determined separately.

**64. Income Splitting**

- (1) Where a taxpayer attempts to split income with another person, the Commissioner may adjust the chargeable income of the taxpayer and the other person to prevent any reduction in tax payable as a result of the splitting of income.
- (2) A taxpayer is treated as having attempted to split income where –
  - (a) the taxpayer transfers income, directly or indirectly, to an associate; or
  - (b) the taxpayer transfers property, including money, directly or indirectly, to an associate with the result that the associate receives or enjoys the income from that property,

and the reason or one of the reasons for the transfer is to lower the total tax payable upon the income of the transferor and the transferee.

- (3) In determining whether the taxpayer is seeking to split income, the Commissioner shall consider the value, if any, given by the associate for the transfer.

***Taxation of Partnerships and Partners*****65. Principles of Taxation for Partnerships**

- (1) The income and losses arising from activities conducted by a partnership is taxed in accordance with this Act.

- (2) The presence or absence of a written partnership agreement is not decisive in determining whether a partnership relationship exists between persons.
- (3) A partnership shall be liable to furnish a partnership return of income in accordance with Section 92, but shall not be liable to pay tax on that income.
- (4) Any election, notice, or statement required to be filed in relation to a partnership's activities shall be filed by the partnership.
- (5) Unless the context otherwise requires, partnership assets are treated as owned by the partnership and not the partners.

*Inserted by  
IT (Am) Act 2002*

## **66. Calculation of Partnership Income or Loss**

- (1) The partnership income for a year of income is –
  - (a) the gross income of the partnership for that year calculated as if the partnership were a resident taxpayer; less
  - (b) the total amount of deductions allowed under this Act for expenditures or losses incurred by the partnership in deriving that income, other than the deduction allowed under Section 38.
- (2) A partnership loss occurs for a year of income where the amount in subsection (1)(b) exceeds the amount in subsection (1)(a) for that year; and the amount of the excess is the amount of the loss.
- (3) Where the partnership is a non-resident partnership for a year of income, Section 87 applies in calculating partnership income or partnership loss of the partnership for that year.

## **67. Taxation of Partners**

- (1) The gross income of a resident partner for a year of income includes the partner's share of partnership income for that year.
- (2) The gross income of a non-resident partner for a year of income includes the partner's share of partnership income attributable to sources in Uganda.
- (3) A resident partner is allowed a deduction for a year of income for the partner's share of a partnership loss for that year.
- (4) A non-resident partner is allowed a deduction for a year of income for the partner's share of a partnership loss, but only to the extent that the activity giving rise to the



loss would have given rise to partnership income attributable to sources in Uganda if a loss had not been incurred.

- (5) Income derived, or expenditure or losses incurred, by a partnership retain their character as to geographic source and type of income, expenditure, or loss in the hands of the partners, and are deemed to have been passed through the partnership on a pro rata basis unless the Commissioner permits otherwise.
- (6) Subject to subsection (7), a partner's share of partnership income or loss is equal to the partner's percentage interest in the income of the partnership as set out in the partnership agreement.
- (7) Where the allocation of income in the partnership agreement does not reflect the contribution of the partners to the partnership's operations, a partner's share of partnership income or loss shall be equal to the partner's percentage interest in the capital of the partnership.

## **68. Formation, Reconstitution, or Dissolution of a Partnership**

- (1) A contribution to a partnership by a partner of an asset owned by the partner is treated as a disposal of the asset by the partner to the partnership for a consideration equal to –
  - (a) the cost base of the asset to the partner at the date on which the contribution was made where all the following conditions are satisfied –
    - (i) the asset was a business asset of the partner immediately before its contribution to the partnership;
    - (ii) the partner and partnership are residents at the time of contribution;
    - (iii) the partner's interest in the capital of the partnership after the contribution is twenty five per cent or more;
    - (iv) an election for this paragraph to apply has been made by the partners jointly;
    - (v) the interest in the partnership received by the partner in return for the contribution equals the market value of the asset contributed at the time of the contribution; or
  - (b) in any other case, the market value of the asset at the date the contribution was made.

- (2) Where subsection (1)(a) applies, the asset retains the same character in the hands of the partnership as it did in the hands of the partner.
- (3) Where there is a change in the constitution of a partnership or a partnership is dissolved, the former partnership is treated as having disposed of all the assets of the partnership to the reconstituted partnership or to the partners in the case of dissolution for a consideration equal to –
  - (a) the cost base of the asset to the former partnership at the date of the change in constitution where all the following conditions are satisfied –
    - (i) the former partnership and the reconstituted partnership are resident partnerships at the time of the change;
    - (ii) twenty-five per cent or more of the interests in the capital of the reconstituted partnership are held for twelve months after the change by persons who were partners in the former partnership immediately before the change; and
    - (iii) an election for this paragraph to apply has been made by the partners of the reconstituted partnership jointly; or
  - (b) in any other case, the market value of the asset at the date of the change in constitution or dissolution, as the case may be.
- (4) Where subsection (3)(a) applies, the asset retains the same character in the hands of the reconstituted partnership as it did in the hands of the former partnership.
- (5) An election under this Section shall be made in the partnership return of income for the year of income in which the contribution was made or the constitution of the partnership changed.

## 69. Cost Base of Partner's Interest

- (1) A partner's interest in a partnership is treated as a business asset of the partner for all purposes of this Act.
- (2) Subject to subsection (3) and (4), the cost base of a partner's interest in a partnership is [the amount the partner has paid for the interest plus] –
  - (a) *in the case of an interest acquired by contribution of property (including money) to the partnership, the amount of any such money contributed plus –*
    - (i) the cost base of an asset contributed to the partnership by the partner where Section 68(1)(a) applies; and

- (ii) the market value of any asset contributed to the partnership by the partner where Section 68(1)(b) applies; or
  - (b) *in any other case, the price paid for the interest.*
- (3) The cost base of a partner's interest in a partnership determined under subsection (2) is increased by the sum of the partner's share for the year of income and prior years of income of –
  - (a) partnership income; and
  - (b) income of the partnership exempt from tax under this Act.
- (4) The cost base of a partner's interest in a partnership determined under subsection (2) is reduced, but not below zero, by distributions by the partnership and by the sum of the partner's share for the year of income and prior years of income of partnership losses and expenditures of the partnership not deductible in computing its chargeable income and not properly chargeable to capital account.

### ***Taxation of Trusts and Beneficiaries***

#### **70. Interpretation of Provisions relating to Taxation of Trusts and Beneficiaries**

In this Section and Sections 71, 72, and 73 –

- (a) “chargeable trust income”, in relation to a year of income, means:–
  - (i) the gross income of the trust (other than an amount to which Section 72(1) or 73(1) applies) for that year calculated as if the trust is a resident taxpayer; less
  - (ii) the total amount of deductions allowed under this Act for expenditures or losses incurred by the trust in deriving that income;
- (b) “non-resident trust”, in relation to a year of income, means a trust that is not a resident trust for that year;
- (c) “qualified beneficiary” means a person referred to in paragraph (d)(i) or (ii) of this Section of the definition of “qualified beneficiary trust”;
- (d) “qualified beneficiary trust” means –
  - (i) a trust in relation to which a person, other than a settlor, has a power solely exercisable by that person to vest the corpus or income of the trust in that person; or

- (ii) a trust whose sole beneficiary is an individual or an individual's estate or appointees,

but does not include a trust whose beneficiary is an incapacitated person;

- (e) “settlor” means a person who has transferred property to, or conferred a benefit on, a trust for no consideration or for a consideration which is less than the market value of the property transferred or benefit conferred *at the date of the transfer or conferral*; and
- (f) “settlor trust” means a trust in relation to a whole or part of which, the settlor has –
  - (i) the power to revoke or alter the trust so as to acquire a beneficial entitlement in the corpus or income of the trust; or
  - (ii) a reversionary interest in the corpus or income of the trust.

*Inserted by  
IT (Am) Act 2002*

## 71. Principles of Taxation for Trusts

- (1) Subject to subsection (5), the income of a trust is taxed either to the trustee or to the beneficiaries of the trust, as provided in this Act.
- (2) Separate calculations of chargeable trust income shall be made for separate trusts regardless of whether they have the same trustee.
- (3) Income derived, or expenditure or losses incurred by a trust retain their character as to geographic source and type of income, expenditure, or loss in the hands of the beneficiary.
- (4) A trust is required to furnish a trust return of income in accordance with Section 92.
- (5) A settlor trust or a qualified beneficiary trust –
  - (a) is not treated as an entity separate from the settlor or qualified beneficiary, respectively; and
  - (b) the income of such a trust is taxed to the settlor or qualified beneficiary and the property owned by the trust is deemed to be owned by the settlor or qualified beneficiary, as the case may be.
- (6) The trustee of an incapacitated person's trust is liable for tax on the chargeable trust income of the trust.
- (7) Trustees are jointly and severally liable for a tax liability arising in respect of chargeable trust income that is not satisfied out of the assets of the trust.

- (8) Where a trustee has paid tax on the chargeable trust income of the trust under Sections 72 or 73, that income shall not be taxed again in the hands of the beneficiary.

## **72. Taxation of Trustees and Beneficiaries**

- (1) Any amount derived by a trustee for the immediate or future benefit of any ascertained beneficiary, other than an incapacitated person, with a vested right to such amount is treated as having been derived by the beneficiary for the purposes of this Act.
- (2) Where a beneficiary has acquired a vested right to any amount referred to in subsection (1) as a result of the exercise by the trustee of a discretion vested in the trustee under a deed of trust, an arrangement, or a will of a deceased person, such amount is deemed to have been derived by the trustee for the immediate benefit of the beneficiary.
- (3) For subsection (2) to apply to a beneficiary for a year of income, a trustee must have exercised the discretion by the end of the second month after the end of the year of income.
- (4) Where subsections (1) or (2) applies, the beneficiary is treated as having derived the amount at the time the amount was derived by the trustee.
- (5) Where any amount to which subsection (1) applies is included in the gross income of the beneficiary for a year of income, the beneficiary shall be allowed a deduction in accordance with this Act for any expenditure or losses incurred in that year by the trustee in deriving that income.
- (6) A trustee of a trust that is a resident trust for a year of income is liable for tax on the chargeable trust income of the trust for that year.
- (7) A trustee of a trust that is a non-resident trust for a year of income is liable for tax on so much of the chargeable trust income of the trust for that year as is attributable to sources in Uganda.
- (8) This Section is subject to Section 73.

## **73. Taxation of Estates of Deceased Persons**

- (1) Any amount derived by a trustee as executor of the estate of a deceased person shall, to the extent that the Commissioner is satisfied that such amount has been derived for the immediate or future benefit of any ascertained heir or legatee of the deceased, be treated as having been derived by such heir or legatee for the purposes of this Act.

- (2) Where any amount to which subsection (1) applies is included in the gross income of the heir or legatee for a year of income, the heir or legatee shall be allowed a deduction in accordance with this Act for any expenditure or losses incurred in that year by the trustee in deriving that income.
- (3) The trustee of an estate of a deceased person that is a resident trust for a year of income is liable for tax on the chargeable trust income of the estate for that year.
- (4) The trustee of an estate of a deceased person that is a non- resident trust for a year of income is liable for tax on so much of the chargeable trust income of that year attributable to sources in Uganda.
- (5) The trustee of an estate of a deceased person is responsible for the tax liability of the deceased taxpayer arising for any year of income prior to the year of income in which the taxpayer died.

### ***Taxation of Companies and Shareholders***

#### **74. Principles of Taxation for Companies**

- (1) A company is liable to tax separately from its shareholders.
- (2) Subject to subsection (3), a dividend paid to a resident company, other than an exempt organisation, by another resident company is exempt from tax where the company receiving the dividend controls, directly or indirectly, twenty-five per cent or more of the voting power in the company paying the dividend.
- (3) Subsection (2) does not apply to –
  - (a) a dividend paid to a financial institution by virtue of its ownership of redeemable shares in the company paying the dividend; or
  - (b) a dividend to which Section 76 applies.

#### **75. Change in Control of Companies**

Where, during a year of income, there has been a change of fifty per cent or more in the underlying ownership of a company, as compared with its ownership one year previously, the company is not permitted to deduct an assessed loss in the year of income or in subsequent years, unless the company, for a period of two years after the change or until the assessed loss has been exhausted if that occurs within two years after the change –

- (a) continues to carry on the same business after the change as it carried on before the change; and

- (b) does not engage in any new business or investment after the change, where the primary purpose of the company or the beneficial owners of the company is to utilise the assessed loss so as to reduce the tax payable on the income arising from the new business or investment.

## **76. Dividend Stripping**

- (1) Where a company takes part in a transaction in the nature of dividend stripping and receives a dividend from a resident company in the transaction, the company receiving the dividend shall include the dividend in its gross income to the extent to which the Commissioner considers necessary to offset any decrease in the value of shares in respect of which the dividend is paid or in the value of any other property caused by the payment of the dividend.
- (2) In any such transaction, the Commissioner may also reduce the amount of any deduction arising to the extent to which it represents the decrease in value of the shares or other property.
- (3) In this Section, “dividend stripping” includes an arrangement under which –
  - (a) a company, referred to as the “target company”, has accumulated or current-year profits, or both, represented by cash or other readily realisable assets;
  - (b) another company, referred to as the “acquiring company”, acquires the shares in the target company for an amount that reflects the profits of the target company;
  - (c) the disposal of the shares in the target company gives rise to a tax-free capital gain to the shareholders in the target company;
  - (d) after the acquiring company has acquired the shares in the target company, the target company pays a dividend to the acquiring company, which in the absence of Section 74(3)(b) would be exempt from tax in the hands of the target company; and
  - (e) after the dividend is declared, the acquiring company sells the shares for a loss.

## **77. Roll-Over Relief**

- (1) Where a resident person, in this subsection referred to as the “transferor”, transfers a business asset, with or without any liability not in excess of the cost base of the asset, to a resident company other than an exempt organisation, in this subsection referred to as the “transferee”, in exchange for a share in the transferee and the transferor has a fifty per cent or greater interest in the voting power of the transferee immediately after the transfer –

- (a) the transfer is not treated as a disposal of the asset by the transferor but is treated as the acquisition by the transferee of a business asset;
  - (b) the transferee's cost base for the asset is equal to the transferor's cost base for the asset at the time of transfer; and
  - (c) the cost base of a share received by the transferor in exchange for the asset is equal to the cost base of the asset transferred, less any liability assumed by the transferor in respect of the asset.
- (2) Where, as part of the liquidation of a resident company, in this subsection referred to as the "liquidated company", a business asset is transferred to a shareholder being a resident company other than an exempt organisation, in this subsection referred to as the "transferee company", and, immediately prior to the transfer, the transferee company held a fifty per cent or greater interest in the voting power of the liquidated company:
- (a) the transfer is not treated as a disposal of the asset by the liquidated company, but is treated as the acquisition of a business asset by the transferee company;
  - (b) the transferee's cost base for the asset is equal to the liquidated company's cost base for the asset at the time of transfer;
  - (c) the transfer of the asset is not a dividend; and
  - (d) no gain or loss is taken into account on the cancellation of the transferee's shares in the liquidated company.
- (3) Where a resident company or a group of resident companies is reorganised without any significant change in the underlying ownership or control of the company or group, the Commissioner may –
- (a) permit any resident company involved in the reorganisation to treat the reorganisation as not giving rise to the disposal of any business asset or the realisation of any business debt, as the case may be; and
  - (b) determine the cost base of any business asset held, or business debt undertaken, by the resident company after the reorganisation in order to reflect the fact that no disposal or realisation is treated as having occurred.
- (4) For purposes of this section reorganisation means –
- (a) a transaction in which a company transfers its assets to another company that is controlled by the transferor or its shareholders following which the stock of the transferee is distributed; or



- (b) a transaction in which a person whether for payment or not is allotted shares in or debentures of a company in respect of and in proportion to, or as nearly as may be in proportion to, their holdings of shares in the company and in any case which there is more than one class of shares and the rights attached to shares of any class are altered;
  - (c) a merger or amalgamation where all or substantially all the assets and liabilities of one or more transferor companies are transferred to a single transferee company, whereby the transferor company cease to exist by operation of law;
  - (d) a transaction in which two or more companies transfer their assets and liabilities to a single newly established company;
  - (e) corporate division; through which all or substantially all the assets of one company are transferred in exchange for shares to at least two or more newly established or pre-existing companies, except where the assets are already in the hands of a subsidiary;
- (5) For the avoidance of doubt, a sale of a share from one person to another does not constitute a reorganization for the purposes of this Act.

## PART IX – INTERNATIONAL TAXATION

### 78. Interpretation of Part IX

In this Part,

- (a) “branch” means a place where a person carries on business, and includes:—
  - (i) a place where a person is carrying on business through an agent, other than a general agent of independent status acting in the ordinary course of business as such;
  - (ii) a place where a person has, is using, or is installing substantial equipment or substantial machinery *for ninety days or more*; [or]
  - (iii) a place where a person is engaged in a construction, assembly, or installation project for ninety days or more, including a place where a person is conducting supervisory activities in relation to such a project; or [and]
  - (iv) the furnishing of services, including consultancy services, by a person through employees or other personnel engaged by the person for such purpose, but only if activities of that nature continue for the same or a connected project for a period aggregating more than ninety days in any twelve- month period.

*Inserted by  
IT (Am) Act 2011*

*(iv), (aa) & (c)  
Inserted by  
IT (Am) Act 2015*

- (aa) “immovable property” includes a mining right, petroleum right, mining information, or petroleum information;
- (b) “management charge” means any payment made to any person, other than a payment of employment income, as consideration for any managerial services, however calculated.
- (c) “mining information”, “mining right”, “petroleum information”, and “petroleum right” have the meanings in section 89A.”

## 79. Source of Income

Income is derived from sources in Uganda to the extent to which it is:

- (a) [derived from the sale of goods –
  - (i) in the case of goods manufactured, grown, or mined by the seller, the goods were manufactured, grown, or mined in Uganda; or
  - (ii) in the case of goods purchased by the seller, the agreement for sale was made in Uganda, wherever such goods are to be delivered.]
- (i) derived by a resident person in carrying on a business except to the extent that it is attributable to a business carried on by the person through a branch outside Uganda;
- (ii) derived by a non-resident person in carrying on a business through a branch in Uganda;
- (b) derived by a resident person in carrying on a business as owner or charterer of a vehicle, ship, or aircraft, wherever such vehicle, ship, or aircraft may be operated;
- [(c) derived from any employment exercised or services rendered in Uganda.]
- (c) employment income or a fee for the provision of services –

*Substituted by  
IT (Am) Act 2015*

*Substituted by  
IT (Am) Act 2015*

- (i) derived from employment or services exercised or rendered in Uganda;
- (ii) paid by a resident person, other than as an expenditure of a business carried on by a person outside Uganda through a branch; or
- (iii) paid by non-resident person as an expenditure of a business carried on by a person through a branch in Uganda;

*Repealed by  
IT (Am) Act 2015*

- (d) derived in respect of any employment exercised or services rendered under a contract with the Government of Uganda, wherever the employment is exercised or services are rendered;
- (e) derived by a resident individual from any employment exercised or services rendered as a driver of a vehicle, or an officer or member of a crew of any vehicle, ship, or aircraft, wherever the vehicle, ship, or aircraft may be operated;
- (f) derived from the rental of immovable property located in Uganda;
- (g) derived from the disposal of an interest in immovable property located in Uganda or from the disposal of a share in a company the property of which consists directly or indirectly principally of an interest or interests in such immovable property, where the interest or share is a business asset;
- (h) derived from the disposal of movable property, other than goods, under an agreement made in Uganda for the sale of the property, wherever the property is to be delivered;
- (i) an amount –
  - (i) included in the business income of a taxpayer under Section 27(5) in respect of the disposal of a depreciable asset used in Uganda; or
  - (ii) treated as income under Section 62, where the deduction was allowed for an expenditure, loss, or bad debt incurred in the production of income sourced in Uganda;
- (j) a royalty –

*Substituted by  
IT (Am) Act 2002  
and IT (Am) Act 2011*

- (i) paid by a resident person, other than as an expenditure of a business carried on by the person outside Uganda through a branch;
  - (ii) paid by a non-resident person as an expenditure of a business carried on by the person through a branch in Uganda; or
  - (iii) arising from the disposal of industrial or intellectual property used in Uganda.
- (k) interest where –
  - (i) the debt obligation giving rise to the interest is secured by immovable property located, or movable property used, in Uganda;
  - (ii) the payer is a resident person; or

- (iii) the borrowing relates to a business carried on in Uganda;
- (l) a dividend or director's fee paid by a resident company;
- (m) a pension or annuity where –
  - (i) the pension or annuity is paid by the Government of Uganda or by a resident person; or
  - (ii) the pension or annuity is paid in respect of an employment exercised or services rendered in Uganda;
- (n) a natural resource payment in respect of a natural resource taken from Uganda;
- (o) a foreign currency debt gain derived in relation to a business debt which has arisen in the course of carrying on a business in Uganda;
- (p) a contribution to a retirement fund made by a tax-exempt employer in respect of an employee whose employment is exercised in Uganda;
- Inserted by IT (Am) Act 2015* (q) a management charge paid by a resident person; *or*
- (r) taxable in Uganda under an international agreement; or
- (s) attributable to any other activity which occurs in Uganda, including an activity conducted through a branch in Uganda.

## 80. Foreign Employment Income

- (1) Foreign-source employment income derived by a resident individual is exempt from tax if the individual has paid foreign income tax in respect of the income.
- (2) A resident individual is treated as having paid foreign income tax on foreign-source employment income if tax has been withheld and paid to the revenue authority of the foreign country by the employer of the individual.

## 81. Foreign Tax Credit

- (1) A resident taxpayer is entitled to a credit, in this Section referred to as a “foreign tax credit”, for any foreign income tax paid by the taxpayer in respect of foreign-source income included in the gross income of the taxpayer.
- (2) The amount of the foreign tax credit of a taxpayer for a year of income shall not exceed the Ugandan income tax payable on the taxpayer's foreign-source income

for that year, *calculated* by applying the average rate of Ugandan income tax of the taxpayer for that year to the taxpayer's net foreign-source income for that year.

- (3) The calculation of the foreign tax credit of a taxpayer for a year of income is made separately for foreign-source business income and other income derived from foreign sources by the taxpayer during the year.
- (4) Foreign income tax paid by –
  - (a) a partnership is treated as paid by the partners;
  - (b) a trustee is treated as paid by the beneficiary where the income on which foreign income tax has been paid is included in the gross income of the beneficiary under this Act; or
  - (c) a beneficiary is treated as paid by the trustee where the income on which foreign income tax has been paid is taxed to the trustee under this Act.
- (5) For the purposes of this Section,
  - (a) “average rate of Ugandan income tax”, in relation to a taxpayer for a year of income, means the percentage that the Ugandan income tax, before the foreign tax credit, is of the chargeable income of the taxpayer for the year and, in the case of a taxpayer with both foreign-source business income and other income derived from foreign sources, the average rate of tax is to be calculated separately for both classes of income;
  - (b) “foreign income tax” includes a foreign withholding tax, but does not include a foreign tax designed to raise the level of the tax on the income so that the taxation by the country of residence is reduced; and
  - (c) “net foreign-source income” means the total foreign-source income included in the gross income of the taxpayer, less any deductions allowed to the taxpayer under this Act that –
    - (i) relate exclusively to the derivation of the foreign-source income; and
    - (ii) in the opinion of the Commissioner, may appropriately be related to the foreign-source income.

## 82. Taxation of Branch Profits

- (1) A tax shall be charged for each year of income and is imposed on every non-resident company carrying on business in Uganda through a branch which has repatriated income for the year of income.

- (2) The tax payable by a non-resident company under this Section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the repatriated income of the branch of the non-resident company for the year of income.
- (3) The repatriated income of a branch for a year of income is calculated according to the following formula –

$$A + (B - C) - D$$

where –

- A** is the total cost base of assets, net of liabilities, of the branch at the commencement of the year of income;
- B** is the net profit of the branch for the year of income calculated in accordance with generally accepted accounting principles;
- C** is the Ugandan tax payable on the chargeable income of the branch for the year of income; and
- D** is the total cost base of assets, net of liabilities, of the branch at the end of the year of income.
- (4) In calculating the repatriated income of a branch, the total cost base of assets at the end of a year of income is the total cost base of assets at the commencement of the next year of income.
- (5) The tax imposed under this Section is in addition to any tax imposed by this Act on the chargeable income of the branch *under Section 4, but is otherwise treated for all purposes of this Act as a tax on chargeable income.*

*Inserted by  
IT (Am) Act 2002*

### 83. Tax on International Payments

- (1) Subject to this Act, a tax is imposed on every non-resident person who derives any dividend, interest, royalty, *rent*, natural resource payment, or management charge from sources in Uganda.
- (2) The tax payable by a non-resident person under this Section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the gross amount of the dividend, interest, royalty, natural resource payment, or management charge derived by a non-resident person.

*Inserted by  
IT (Am) Act 2002*

- (3) Notwithstanding Section 79(l), a dividend derived by a non-resident person is only treated as income derived from sources in Uganda for the purposes of this Section to the extent to which the dividend is paid out of profits sourced in Uganda.
- (4) For the purposes of subsection (3), where a resident company has profits sourced both within and outside Uganda, the company is treated as having paid a dividend out of the profits sourced in Uganda first.
- (5) Interest paid by a resident company in respect of debentures is exempt from tax under this Act where the following conditions are satisfied –

*Substituted by  
IT (Am) Act 2002  
& IT (Am) Act 2006*

- (a) the debentures were issued by the company outside Uganda for the purpose of raising a loan outside Uganda;
- (b) the debentures were *widely* issued for the purpose of raising funds for use by the company in a business carried on in Uganda *or the interest is paid to a bank or a financial institution of a public character; and*
- (c) the interest is paid outside Uganda.

*Inserted by  
IT (Am) Act 2006*

- (6) Subsection (1) does not apply to an amount attributable to the activities of a branch of the non-resident in Uganda and such amount is subject to the operation of Section 17.

*Inserted by  
IT (Am) Act 2002*

#### **84. Tax on payments to Non-Resident Public Entertainers or Sports Persons**

- (1) Subject to this Act, a tax is imposed on every non-resident entertainer, sports person, or theatrical, musical, or other group of non-resident entertainers or sports persons who derive income from any performance in Uganda.
- (2) The tax payable by a non-resident person under this Section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the gross amount of –
  - (a) remuneration derived by a non-resident public entertainer or sports person; or
  - (b) receipts derived by any theatrical, musical, or other group of non-resident public entertainers or sports persons.
- (3) Tax is imposed under this Section on any group regardless of whether or not the performance is conducted for the joint account of all or some members of the group.

Inserted by  
IT (Am) Act 2002

- (4) Every member of a group shall be jointly and severally liable for payment of the tax imposed under this Section and, subject to Section 87(1)(c) , shall remit *to the Commissioner* the tax due before leaving Uganda.

## 85. Tax on Payments to Non-Resident Contractors or Professionals

- (1) Subject to this Act, a tax is imposed on every non-resident person deriving income under a Ugandan-source services contract.
- (2) The tax payable by a non-resident person under this Section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the gross amount of any payment to a non-resident under a Ugandan- source services contract.
- (3) Subsection (1) does not apply to a royalty or management charge charged to tax under Section 83.
- (4) In this Section, “Ugandan-source services contract” means a contract, other than an employment contract, under which –
- (a) the principal purpose of the contract is the performance of services which gives rise to income sourced in Uganda; and
  - (b) any goods supplied are only incidental to that purpose.

## 86. Taxation of Non-Residents providing Shipping, Air Transport or Telecommunications Services in Uganda

Inserted by  
IT (Am) Act 2002

- (1) Subject to this Act, a tax is imposed on every non-resident person carrying on the business of ship operator, charterer, or air transport operator who derives income from the carriage of passengers who embark, or cargo or mail which is embarked in Uganda *and on a road transport operator who derives income from the carriage of cargo or mail which is embarked in Uganda.*

Inserted by  
IT (Am) Act 2002

- (2) The tax payable by a non-resident person under subsection (1) is calculated by applying the rate of tax prescribed in Part VII of the Third Schedule to this Act to the gross amount derived by the person from the carriage *and is treated for all purposes of the Act as a tax on chargeable income.*
- (3) Subsection (1) does not apply to any income derived from the carriage of passengers who embark, or cargo or mail which is embarked, solely as a result of trans-shipment.
- (4) Where a non-resident person carries on the business of transmitting messages by cable, radio, optical fibre, or satellite communication, *or the business of providing internet*



Inserted by  
IT (Am) Act 2006  
and substituted by  
IT (Am) Act 1 2008  
& IT (Am) Act 2011

*connectivity services*, the tax payable by the person shall be five per cent of the gross amount derived by the person in respect of –

- (a) the transmission of messages by apparatus established in Uganda;
- (b) the provision of direct-to-home pay services to subscribers in Uganda; or
- (c) *the provision of internet connectivity services to subscribers in Uganda.*

## 87. General Provisions relating to Taxes imposed under Sections 83, 84, 85 and 86

- (1) The tax imposed on a non-resident person under Sections 83, 84, 85, 86(1) and 86(4) is a final tax on the income on which the tax has been imposed and –

Substituted by  
IT (Am) Act 1 2008

- (a) *that* income is not included in the gross income of the non-resident person who *derives* the income;
- (b) no deduction is allowed for any expenditure or losses incurred by the non-resident person in deriving *that* income; and
- (c) the liability of the non-resident person is satisfied if the tax payable has been withheld by a withholding agent under Section 120 and paid to the Commissioner under Section 123.

- (2) In this Section, “withholding agent” has the meaning in Section 115.

## 88. International Agreements

- (1) An international agreement entered into between the Government of Uganda and the government of a foreign country or foreign countries shall have effect as if the agreement was contained in this Act.
- (2) To the extent that the terms of an international agreement to which Uganda is a party are inconsistent with the provisions of this Act, apart from subsection (5) of this Section and Part X which deals with tax avoidance, *or any other law of Uganda dealing with matters covered by this agreement*, the terms of the international agreement prevail over the provisions of this Act *and any other law of Uganda dealing with matters covered by this agreement*.
- (3) Where an international agreement provides for reciprocal assistance in the collection of taxes and the Commissioner has received a request from the competent authority of another country pursuant to that agreement for the collection from any person in Uganda of an amount due by that person under the income tax laws of that other country, the Commissioner may, by notice in writing,

Substituted by  
IT (Am) Act 2014

require the person to pay the amount to the Commissioner by the date specified in the notice for transmission to the competent authority of that other country.

- (4) If a person fails to comply with a notice under subsection (3), the amount in question may be recovered for transmission to the competent authority of that other country as if it were tax payable by the person under this Act.
- (5) Where an international agreement provides that income derived from sources in Uganda is exempt from Ugandan tax or *the application of the treaty results in a reduction in Ugandan tax*, the benefit of that exemption or reduction is not available to any person who, for the purposes of the agreement, is a resident of the other contracting state where fifty per cent or more of the underlying ownership of that person is held by an individual or individuals who are not residents of that other Contracting state for the purposes of the agreement.
- (6) In this Section, “international agreement” means –
  - (a) an agreement with a foreign government providing for the relief of international double taxation and the prevention of fiscal evasion; or
  - (b) a bilateral or multilateral agreement with a foreign government or foreign governments or foreign organisation providing for administrative assistance in tax matters. [an agreement with a foreign government providing for reciprocal administrative assistance in the enforcement of tax liabilities]

*Substituted by  
IT (Am) Act 2011*

*Substituted by  
IT (Am) Act 2014*

## 89. Thin Capitalisation

- (1) Where a foreign-controlled resident company which is not a financial institution has a foreign debt-to-foreign equity ratio in excess of 1 [2] to 1 at any time during a year of income, a deduction is disallowed for the interest paid by the company during that year on that part of the debt which exceeds the 1 [2] to 1 ratio.
- (2) In this Section,
  - (a) “foreign-controlled resident company” means a resident company in which fifty per cent or more of the underlying ownership or control of the company is held by a non-resident person, in this Section referred to as the “foreign controller”, either alone or together with an associate or associates;
  - (b) “foreign debt”, in relation to a foreign-controlled resident company, means the greatest amount, at any time during a year of income, of the sum of –
    - (i) the balance outstanding at that time on any debt obligation owed by the foreign-controlled resident company to a foreign controller or non-resident associate of the foreign controller on which interest is payable

*Substituted by  
IT (Am) Act 2014*

which interest is deductible to the foreign-controlled resident company and is not included in the gross income of the foreign controller or associate; and

- (ii) the balance outstanding at that time on any debt obligation owed by the foreign-controlled resident company to a person other than the foreign controller or an associate of the foreign controller where that person has a balance outstanding of a similar amount on a debt obligation owed by the person to the foreign controller or a non-resident associate of the foreign controller; and
- (c) “foreign equity”, in relation to a foreign-controlled resident company and for a year of income, means the sum of the following amounts –
  - (i) the paid-up value of all shares in the company owned by the foreign controller or a non-resident associate of the foreign controller at the beginning of the year of income;
  - (ii) so much of the amount standing to the credit of the share premium account of the company at the beginning of the year of income as the foreign controller or a non-resident associate would be entitled if the company were wound up at that time; and
  - (iii) so much of the accumulated profits and asset revaluation reserves of the company at the beginning of the year of income as the foreign controller or a non-resident associate of the foreign controller would be entitled if the company were wound up at that time;

reduced by the sum of –

- (iv) the balance outstanding at the beginning of the year of income on any debt obligation owed to the foreign-controlled resident company by the foreign controller or a non-resident associate of the foreign controller; and
- (v) where the foreign-controlled resident company has accumulated losses at the beginning of the year of income, the amount by which the return of capital to the foreign controller or non-resident associate of the foreign controller would be reduced by virtue of the losses if the company were wound up at that time.

- (1) Subject to subsection (2), where a foreign-controlled resident company, other than a financial institution, has a debt-to-equity ratio in excess of 1.5 to 1 at any time during a year of income, a deduction is disallowed for the interest paid by the company during that year on that part of the debt that exceeds the 1.5 to 1 ratio for the period the ratio was exceeded.

- (2) If the debt-to-equity ratio of a foreign-controlled resident company exceeds 1.5 to 1 for a year of income, subsection (1) does not apply if, at all times during the year, the amount of the debt of the company does not exceed the arm's length debt amount.
- (3) This section applies to a non-resident company with a branch in Uganda on the basis of the following –
- (a) the branch is treated as a foreign-controlled resident company; and
  - (b) the debt-to-equity ratio of the branch is computed by reference to:
    - (i) the debt obligations of the non-resident company attributable to the branch; and
    - (ii) the equity of the non-resident company attributable to the operations of the company conducted through the branch.
- (4) For purposes of this section –

“arm's length debt amount”, in relation to a foreign controlled resident company, means the amount of debt that a financial institution that is not related to the company would be prepared to lend to the company having regard to all the circumstances of the company;

“debt”, in relation to a foreign-controlled resident company, means the greatest amount, at any time during a year of income, of the debt obligations of the company on which interest is payable as determined according to International Financial Reporting Standards;

“debt obligation” means an obligation to make a repayment of money to another person, including obligations arising under promissory notes, bills of exchange, and bonds, but not including accounts payable or a debt obligation on which no interest is payable;

“equity”, in relation to a foreign-controlled resident company, means the greatest amount, at any time during a year of income, of the equity of the company as determined according to International Financial Reporting Standards and includes a debt obligation on which no interest is payable; and

“foreign-controlled resident company” means a resident company in which more than fifty per cent of the underlying ownership or control of the company is held by a non-resident person either alone or together with an associate or associates.”

Part IXA first  
inserted by  
IT (Am) Act 2  
2008  
W.E.F 1/7/1997

## PART IX A – SPECIAL PROVISIONS FOR THE TAXATION OF PETROLEUM OPERATIONS

### 89A. Interpretation

(1) In this Part, unless the context otherwise requires –

Ss. 89A – 89G  
Substituted by  
IT (Am) Act 2015  
Ss. 89G – 89GG  
Inserted by  
IT (Am) Act 2015

“commercial production” means –

- (a) for mining operations, the first period of thirty (30) consecutive days during which the average level of production of the twenty five (25) highest production days in the thirty-day period reaches a production level deemed to be commercial as determined by the Minister responsible for mining operations;
- (b) for petroleum operations, the production of crude oil or natural gas, or both, and delivery of the crude oil or natural gas at the delivery point under a program of regular production and sale.

“contract area” means an exploration area which is a subject of a petroleum agreement, or a development area, as the case may be;

“contractor” means a person supplying services or goods other than as an employee, to the following –

- (a) a licensee in respect of mining operations undertaken by the licensee;
- (b) a licensee in respect of petroleum operations undertaken by the licensee;”.

“delivery point” means the point at which petroleum passes through the intake valve of the pipeline, vessel, vehicle or craft at a terminal or refinery in Uganda;

“farm-out agreement” is an agreement to which section 89GE applies;

“gross income of a licensee” includes cost oil, licensee's share of profit oil and any credits earned by the licensee from petroleum operations;

“licence area” means the area that is the subject of a mining right;

”licensee” means a person who has been granted a mining right or a person with whom the Government has entered into a petroleum agreement as defined in the Petroleum (Refining, Conversion, Transmission and Midstream) Act, 2013;

“Mining Act” means the Mining Act, 2003;

“mining exploration expenditure” means expenditure incurred by a licensee in undertaking mining exploration operations, and includes the following –

- (a) expenditure incurred in acquiring –
  - (i) an interest in a mining exploration right from the Government or under a farm-out agreement; or
  - (ii) Mining exploration information from the Government or under a farm-out agreement;
- (b) Social infrastructure expenditure incurred in accordance with a mining exploration right;
- (c) expenditure incurred to acquire a depreciable asset that is first used in mining exploration operations;

“mining extraction expenditure” means capital expenditure incurred by a licensee in undertaking operations authorised under a mining lease, other than expenditure incurred to acquire a depreciable asset, and includes the following –

- (a) expenditure whenever incurred in acquiring –
  - (i) an interest in a mining right, other than an interest referred to in paragraph (a)(i) of the definition of “mining exploration expenditure”; or
  - (ii) mining information, other than information referred to in paragraph (a)(ii) of the definition of “mining exploration expenditure”;
- (b) Social infrastructure expenditure incurred in accordance with a mining lease;

“mining exploration information” means information relating to the search for minerals under a mining exploration right;

“mining exploration operations” means authorised operations under a mining exploration right;

“mining exploration right” means an exploration or retention licence granted under the Mining Act;

“mining extraction operations” means authorised operations under a mining lease;

“mining exploration right” means a prospecting, exploration, or retention licence;

“mining information” means information relating to mining operations;

“mining operations” means authorised operations under a mining right;

“mining revenues” means signature and other bonuses, surface rentals, royalties, and any other duties or fees payable to the Government under the Mining Act or a mining right granted under that Act;

“mining right” means a mining exploration right, or a mining lease;

“non-resident associate”, in relation to a licensee, means an associate of the licensee that is a non-resident person;

“non-resident contractor” means a contractor that is not a resident person;

“participation dividend” in relation to a resident licensee, means a dividend paid by the licensee to a non-resident company that has a 10% or greater voting interest in the voting power of the licensee;

“petroleum agreement”, means an agreement entered into by the Government of Uganda with another person in accordance with the Petroleum (Exploration, Development and Production) Act, 2013, or the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013;

“petroleum development expenditure” means expenditure incurred by a licensee in undertaking exploration operations authorised under a petroleum production rights;

“petroleum development operations” means authorised operations under a petroleum production licence;

“petroleum exploration expenditure” means expenditure incurred by a licensee in undertaking exploration operations authorized under a petroleum exploration right;

“petroleum exploration information” means information relating to the search for petroleum under a petroleum exploration right;

“petroleum exploration operations” means an authorised operation under a petroleum exploration right;

“petroleum exploration right” means a reconnaissance permit or petroleum exploration licence;

“petroleum operation” means a petroleum activity as defined in the Petroleum (Exploration, Development and Production) Act;

“petroleum revenues” has the meaning assigned to it in section 3 of the Public Finance Management Act, 2015;

“petroleum right” means a reconnaissance permit, petroleum exploration right, or a petroleum production licence;

“prescribed licensee” means –

- (a) a person who has been granted a mining right and, in respect of whom, the Commissioner has notified in writing to be a prescribed licensee; or
- (b) a person with whom the Government has entered into a petroleum agreement.

“resident licensee” means a licensee that is a resident company;

“service fee” includes an amount treated as a royalty in section 2(mmm)(i)(E);

“social infrastructure expenditure” means capital expenditure that a licensee is required to incur under a mining right or petroleum agreement on the construction of a public school, public hospital, public road, or similar social infrastructure.

- (2) Unless the context otherwise requires, any term that is not defined in this Act but is defined in the Mining Act, 2003 or the Petroleum (Exploration, Development and Production) Act, 2013 as the case may be, has the same meaning as in the Mining Act or Petroleum (Exploration, Development and Production) Act, 2013.
- (3) If more than one person has signed a petroleum agreement, each person is treated as a licensee for the purposes of this Part.
- (4) An amount is not treated as “mining exploration expenditure”, “mining extraction expenditure”, “petroleum exploration expenditure”, or “petroleum development expenditure” to the extent that the amount is not allowed as a deduction under section 22(3) or 23.

### ***Mining Operations***

#### **89B. Taxation of Mining Licenses**

- (1) This Act applies to a licensee in relation to mining operations subject to the modifications in this Part.



- (2) Where there is any inconsistency in the taxation of a licensee referred to in subsection (1), between this Part, other parts of this Act and any agreement, the provisions of this Part shall prevail.
- (3) The rate of income tax applicable to a licensee in respect of mining operations is the rate specified under paragraph 1 of Part IX of the Third Schedule.

### **89C. Limitations on Deductions relating to Mining Operations**

- (1) Subject to subsection (5), an amount that a licensee may deduct under this Act in relation to mining operations undertaken by the licensee in a licence area in a year of income shall be allowed as a deduction only against the gross income derived by the licensee from the operations in the licence area for that year.
- (2) If an amount allowed as a deduction relates partly to mining operations in a licence area and partly to mining operations in another licence area or to some other activity, the deduction shall be apportioned accordingly.
- (3) If, in any year of income, the total deductions of a licensee in relation to mining operations undertaken in a licence area exceeds the total gross income arising from those operations in the licence area, the excess is carried forward to the following year of income and shall be deducted in that year against gross income arising from the mining operations in the licence area, until the excess is fully deducted or the mining operations in the licence area cease.
- (4) If a licensee has a loss carried forward for a licence area under subsection (3) for more than one year of income, the loss of the earliest year shall be allowed as a first deduction.
- (5) In this section, the licence area for a mining lease includes the area of a mining exploration right provided the licence area for the mining lease is wholly within the area covered by the mining exploration right.

### **89D. Mining Exploration Expenditure**

- (1) If the cost of acquiring a depreciable asset is treated as mining exploration expenditure, section 27 applies to the asset on the following basis –
  - (a) the asset is treated as belonging to a separate pool of depreciable assets; and
  - (b) the depreciation rate applicable to the pool is 100%.
- (2) If the cost of acquiring an intangible asset is treated as mining exploration expenditure, section 31 applies to the asset on the basis that the useful life of the asset is one year.

- (3) A licensee shall be allowed a deduction for mining exploration expenditure to which subsection (1) or (2) do not apply in the year of income in which the expenditure is incurred.

### 89E. Mining Extraction Expenditure

- (1) Subject to subsection (4), if the cost of acquiring an intangible asset is mining extraction expenditure, the useful life of the asset is the lesser of:–
- (a) the expected life of the mining extraction operations to which the asset relates; or
  - (b) six years.
- (2) Subject to subsection (4), a licensee shall be allowed a deduction on a straight line basis for mining extraction expenditure to which subsection (1) does not apply over the lesser of –
- (a) the expected life of the mining extraction operations to which the expenditure relates; or
  - (b) six years.
- (3) Subject to subsection (5), if a depreciable asset for use in mining extraction operations is acquired or constructed by a licensee before the commencement of commercial production, section 27 applies to the asset as if it was acquired or constructed at the time of commencement of commercial production.
- (4) Subject to subsection (5), if mining extraction expenditure is incurred before the commencement of commercial production, subsection (2) or section 31, as the case may be, applies to the expenditure as if it was incurred at the time of commencement of the commercial production.
- (5) The amount of a deduction for a depreciable asset referred to in subsection (3) or a mining extraction expenditure referred to in subsection (4) for the year of income in which the commencement of commercial production occurs is computed according to the following formula –

$$A \times B/C$$

where –

**A** is the amount of the cost of the asset or the amount of the expenditure;

**B** is the number of days in the period beginning on the date of commencement of commercial production and ending on the last day of

the year of income in which commercial production commenced; and

**C** is the number of days in the year of income in which commercial production commenced.

- (6) If a licensee disposes of an interest in a mining right (other than under a farm-out agreement), any gain arising on the disposal shall be reduced by any mining extraction expenditure incurred by the licensee to which subsection (2) applies that has not been deducted by the licensee at the time of the disposal.

### **89F. Rehabilitation Expenditure**

- (1) A contribution made by a licensee to a rehabilitation fund in accordance with an approved rehabilitation plan in relation to mining operations shall be allowed as a deduction in the year of income in which the contribution was made.
- (2) An expenditure incurred by a licensee in carrying out work required by an approved rehabilitation plan in respect of the licensee's mining operations shall be allowed as a deduction in the year of income in which the expenditure is incurred provided that the work is not paid for, directly or indirectly, from money made available out of the licensee's rehabilitation fund for the mining operations.
- (3) An amount accumulated in a rehabilitation fund, or an amount withdrawn from a rehabilitation fund to meet expenditure incurred under an approved rehabilitation plan, shall be exempt income.
- (4) The following amounts shall be included in the gross income of a licensee: –
  - (a) an amount withdrawn from a rehabilitation fund and returned to the licensee;
  - (b) any surplus in a rehabilitation fund of a licensee at the time of completion of rehabilitation that is returned to the licensee.
- (5) For purposes of this section –

“approved rehabilitation plan” means a plan for rehabilitation of a mine site approved by the Minister responsible for mining operations; and

“rehabilitation fund” means a fund or account required to be established under a mining right to provide for the future payment of remedial work to the licence area covered by the mining right and that is managed jointly by the licensee and the Minister responsible for mining operations.

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***Petroleum Operations*****89G. Taxation of Petroleum Licensees**

- (1) This Act applies to a licensee in relation to a petroleum operation subject to the modifications in this Part.
- (2) Where there is any inconsistency in the taxation of a licensee referred to in clause (1) between this Part, other parts of this Act, and any petroleum agreement, the provisions of this Part shall prevail.
- (3) The rate of income tax applicable to a licensee in relation to a licensee in relation to a petroleum operation is the rate specified under paragraph 2 of Part IX of the Third Schedule.
- (4) If a licensee has a loss carried forward for a contract area under subsection (3) for more than one year of income, the loss of the earliest year shall be allowed as a first deduction.
- (5) In this section, a contract area that is a development area includes an exploration area provided the development area is wholly within the exploration area.

**89GA. Limitations of Deductions relating to Petroleum Operations**

- (1) An amount that a licensee may deduct under this Act in relation to a petroleum operation undertaken by the licensee in a contract area in a year of income shall be allowed as a deduction only against the gross income derived by the licensee from the operations in the contract area for that year.
- (2) Where an amount allowed as a deduction relates partly to petroleum operations in a contract area and partly to petroleum operations in another contract area or to some other activity, the deduction shall be apportioned accordingly.
- (3) Where, in any year of income, the total deductions of a licensee in relation to petroleum operations undertaken in a contract area exceeds the total gross income arising from those operations in the contract area, the excess shall be carried forward to the following year of income and shall be deducted in that year against gross income arising from the petroleum operations in the contract area, until the excess is fully deducted or the petroleum operations in the contract area cease.
- (4) If a licensee has a loss carried forward for a contract area under subsection (3) for more than one year of income, the loss of the earliest year shall be allowed as a first deduction.

- (5) In this section, a contract area that is a development area includes an exploration area provided the development area is wholly within the exploration area.

### **89GB. Petroleum Exploration Expenditure**

- (1) If the cost of acquiring a depreciable asset is treated as petroleum exploration expenditure, section 27 applies to the asset on the following basis –
- (a) the asset is treated as belonging to a separate pool of depreciable assets; and
  - (b) the depreciation rate applicable to the pool is 100%.
- (2) If the cost of acquiring an intangible asset is treated as petroleum exploration expenditure, section 31 applies to the asset on the basis that the intangible asset is amortised at the same rate as the assets of the petroleum exploration.
- (3) A licensee shall be allowed a deduction for petroleum exploration expenditure to which subsection (1) and (2) do not apply in the year of income in which the expenditure is incurred.

### **89GC. Petroleum Development Expenditure**

- (1) Subject to subsection (4), if the cost of acquiring an intangible asset is petroleum development expenditure, the useful life of the asset is the lesser of –
- (a) the expected life of the petroleum development operations to which the asset relates; or
  - (b) six years.
- (2) Subject to subsection (4), a licensee shall be allowed a deduction on a straight-line basis for petroleum development expenditure to which subsection (1) does not apply over the lesser of –
- (a) the expected life of the petroleum development operations to which the expenditure relates; or
  - (b) six years.
- (3) Subject to subsection (5), if a depreciable asset for use in petroleum development operations is acquired or constructed by a licensee before the commencement of commercial production, section 27 shall apply to the asset as if it was acquired or constructed at the time of commencement of the commercial production.
- (4) Subject to subsection (5), if petroleum development expenditure is incurred before

the commencement of commercial production, subsection (2) or section 27, as the case may be, shall apply to the expenditure as if it was incurred at the time of commencement of the commercial production.

- (5) The amount of a deduction for a depreciable asset referred to in subsection (3) or petroleum development expenditure referred to in subsection (4) for the year of income in which the commencement of commercial production occurs shall be computed according to the following formula –

$$A \times B/C$$

where:

- A** is the amount of the cost of the asset or the amount of the expenditure;
- B** is the number of days in the period beginning on the date of commencement of commercial production and ending on the last day of the year of income in which commercial production commenced; and
- C** is the number of days in the year of income in which the commercial production commenced.

- (6) In this section, “commencement of commercial production” means the first day of the period of thirty consecutive days during which production is not less than the level of regular production delivered for sale as determined by Government as part of the approval of, or amendment to a development plan, averaged over not less than twenty five days in the period.

#### **89GD. Decommissioning Expenditure**

- (1) A contribution made by a licensee to a decommissioning fund in accordance with an approved decommissioning plan in relation to petroleum operations shall be allowed as a deduction in the year of income in which the contribution was made.
- (2) An expenditure incurred by a licensee in carrying out work required by an approved decommissioning plan in respect of the licensee’s petroleum operations shall be allowed as a deduction in the year of income in which the expenditure is incurred provided that the work is not paid for, directly or indirectly, from money made available out of the licensee’s decommissioning fund for the petroleum operations.
- (3) An amount accumulated in a decommissioning fund, or an amount withdrawn from a decommissioning fund to meet expenditure incurred under an approved decommissioning plan, shall be exempt income.
- (4) The following amounts are included in the gross income of a licensee –

- (a) an amount withdrawn from a decommissioning fund and returned to the licensee;
  - (b) any surplus in a decommissioning fund of a licensee at the time of completion of decommissioning that is returned to the licensee.
- (5) For purposes of this section –
- “approved decommissioning plan” means a decommissioning plan approved under the Petroleum (Exploration, Development and Production) Act; and
- “decommissioning fund” means a decommissioning fund established under an approved decommissioning plan.

### ***Common Rules applicable to Mining and Petroleum Operations***

#### **89GE. Farm-Outs**

- (1) This section shall apply where the following conditions are satisfied –
- (a) a licensee (referred to as the “transferor”) has entered into an agreement (referred to as a “farm-out agreement”) with a person (referred to as the “transferee”) for the transfer of part of the interest of the transferor in a mining right or petroleum agreement;
  - (b) the consideration given by the transferee for the transferred interest wholly or partly includes the transferee undertaking some or all of the work commitments of the transferor in respect of the part of the interest retained by the transferor.
- (2) If this section applies –
- (a) the value of any work undertaken by the transferee in relation to the part of the interest retained by the transferor shall be included in –
    - (i) the consideration received by the transferor for the transferred interest; or
    - (ii) the gross income of the transferor; and
  - (b) the following applies to any amount of money received or receivable by the transferor for the transferred interest –
    - (i) section 62 applies to the amount of money on the basis that it is a recoupment by the transferor of any deductions allowed for

expenditure incurred by the transferor in respect of the transferred interest;

- (ii) if the amount of money exceeds the amount of deducted expenditure to which section 62 applies, the excess shall be treated as consideration received for the transferred interest.

#### **89GF. Indirect Transfers of Interest**

- (1) If there is a change in the underlying ownership of a licensee, the licensee shall immediately notify the Commissioner, in writing, of the change.
- (2) If the person disposing of the interest to which a notice under subsection (1) relates is a non-resident person, the licensee shall be liable, as agent for the non-resident person, for any tax payable under this Act by the non-resident person in respect of the disposal.
- (3) The interest referred to in subsection (2) is a business asset for the purposes of this Act.

#### **89GG. Taxation of Contractors**

- (1) Subject to subsection (3), a non-resident contractor who derives a fee for the provision of services (referred to as a “service fee”) to a licensee or licensee in respect of mining or petroleum operations is liable to pay non-resident contractor tax at the rate prescribed in Part IX of the Third schedule.
- (2) The tax payable under subsection (1) shall be computed by applying the rate prescribed in Part IX of the Third Schedule to the gross amount of the service fee.
- (3) A licensee paying a service fee to a non-resident contractor that is subject to non-resident contractor tax shall withhold tax on the gross amount paid at the rate specified in subsection (1).
- (4) A licensee to whom subsection (3) applies shall withhold tax at the earlier of –
  - (a) at the time the licensee credits the service fee to the account of the non-resident contractor; or
  - (b) at the time that the fee is actually paid.
- (5) A non-resident contractor tax imposed under this section shall be a final tax on the service fee and the fee shall not be included in the gross income of the contractor.



- (6) Sections 123 – 128 of the Act and the Tax Procedures Code Act apply to a non-resident contractor on the basis that –
- (a) the tax is a tax withheld under Part XIII;
  - (b) the contractor is a payee; and
  - (c) the licensee is a withholding agent.
- (7) This section shall apply as if the associate is a non- resident contractor providing services to the licensee if the following conditions are satisfied:–
- (a) a non-resident contractor provides services to a licensee;
  - (b) the service fee is paid to the contractor by a non- resident associate of the licensee;
  - (c) the fee is recharged by the associate to the licensee.
- (8) If a non-resident contractor provides services for the benefit of a licensee and the fee for the services is paid to the non-resident contractor by a non-resident associate of the licensee, this section applies to any recharge of the fee by the associate to the licensee as if the associate provided the services to the licensee.

## 89H. Withholding Tax

- (1) The tax payable for the purposes of Section 83(3) applicable to a participation dividend paid by a resident licensee to a company is calculated by applying the rate prescribed in Part IXA of the Third Schedule to this Act.

*Substituted by  
IT (Am) Act 2015*

- (2) The tax payable for the purposes of Section 85(2) by a non-resident subcontractor deriving income under a Uganda-source services contract where the services are provided to a contractor and directly related to petroleum operations under a petroleum agreement is calculated by applying the rate specified in part IXB of the Third Schedule to this Act.

*Repealed by  
IT (Am) Act 2015*

- (3) Section 85 applies to an amount treated as a royalty in section 2(nnn)(i)(E), if it is paid by a contractor to a non-resident subcontractor in respect of the use of property in Uganda.

- (4) A licensee is treated as a designated person for the purposes of Section 119 in respect of payments made to a resident contractor.

*Substituted by  
IT (Am) Act 2015*

- (5) Section 119 applies to an amount treated as a royalty in section 2(mmm)(i)(E), if it is paid by a licensee to any contractor in Uganda in respect of the use of property in Uganda.

- (6) For the purposes of this section, “resident contractor” means a contractor that is a resident person.

*Inserted by  
IT (Am) Act 2015*

## 89I. Tax Accounting Principles

- (1) A licensee shall account on an accrual basis.

- (2) Except as may be otherwise agreed in writing between the Government and a licensee, all transactions shall be accounted for at arm’s-length prices, and a licensee shall disclose all non-arm’s-length transactions in a return for a specified period if required to do so by the Commissioner.

*Sections 89I – 89Q  
Inserted by IT  
(Am) Act 2009 and  
Substituted by IT  
(Am) Act 2010  
W.E.F 7/97*

- (3) A prescribed licensee shall, for purposes of taxation –

- (a) maintain accounts for a contract area in Uganda Shillings and in United States Dollars, and in the case of any conflict, the accounts maintained in United States Dollars shall prevail; and

*Substituted by  
IT (Am) Act 2015*

- (b) use the exchange rates prescribed for conversion of currencies as follows –

- (i) the Government or a prescribed licensee shall not experience an exchange gain or loss at the expense of, or to the benefit of, the other; and any gain or loss resulting from the exchange of currency will be credited or charged to the accounts;
- (ii) amounts received and costs and expenditures made in Uganda shillings, United States Dollars or any other currency shall be converted into Uganda Shillings or United States Dollars, as the case may be, on the basis of the average of the buying and selling exchange rates between the currencies in question as published by the Bank of Uganda, prevailing on the last business day of the calendar month preceding the calendar month in which the amounts are received, and costs and expenditures are paid.
- (iii) in the event of an increase or decrease, one time or accumulative, of ten per cent (10%) or more in the rates of exchange between the Ugandan Shilling, the United States Dollar or the currency in question during any given calendar month, the following rates will be used –
- (aa) for the period from the first of the calendar month to the day when the increase or decrease is first reached, the average of the

official buying and selling exchange rates between the United States Dollar, the Uganda Shilling or the currency in question as issued on the last day of the previous calendar month.

- (ab) for the period from the day on which the increase or decrease is first reached to the end of the calendar month, the average of the official buying and selling exchange rates between the United States Dollar, the Uganda Shilling or the currency in question as issued on the last day on which the increase or decrease is reached.

- (4) A prescribed licensee shall maintain a record of the exchange rates used in converting Uganda Shillings, United States Dollars or any other currency.

### 89J. Allocation of Costs and Expenses

- (1) Costs and expenses incurred by a contractor in respect of activities which would only in part qualify as contract expenses shall be allocated to the books, accounts, records and reports maintained for that purpose, in a manner that –

*Repealed by  
IT (Am) Act 2015*

- (a) avoids any duplication of costs;
- (b) fairly and equitably reflects the costs attributable to the petroleum operations carried out;
- (c) excludes any costs and expenses which would be allocated to those activities which do not constitute petroleum operations.

- (2) Any petroleum exploration expenditure or petroleum expenditure or petroleum development expenditure associated with a unit development involving a discovery area which extends into a neighbouring country or licence or both shall be allocated on the basis of the petroleum reserves attributable to that portion of the discovery area located in Uganda or licence or both.

*Inserted by  
IT (Am) Act 2010  
W.E.F 7/97 and  
Substituted by  
IT (Am) Act 2015*

*Repealed by  
IT (Am) Act  
2010*

### 89K. The Principle of Ring Fencing

#### 89KA. Valuation and Measurement of Petroleum

For the purposes of determining the value of petroleum derived from petroleum operations from a contract area, petroleum shall be valued and measured in accordance with the regulations prescribed by the Minister which shall be laid before Parliament.

*Inserted by  
IT (Am) Act 2010  
W.E.F 7/97*

*Repealed by  
IT (Am) Act  
2010*

### 89L. Allowable Currencies

**89M. Consolidation Principle****89MA. Application of Sections 111 to 113 of the Act and the Tax Procedures Code Act**

*Inserted by  
IT (Am) Act 2010  
W.E.F 7/97 and  
Substituted by  
IT (Am) Act 2015*

Sections 111 to 113 of this Act and the Tax Procedures Code Act apply subject to the modifications in this Part, to a licensee in respect of –

- (a) mining and petroleum revenues and for that purpose –
  - (i) such revenues are a “tax”; and
  - (ii) a consolidated mining revenue return and a consolidated petroleum revenue return required under section 89O are a “tax return”;
- (b) taxes payable to the Government not included in mining or petroleum revenues, in this Part referred to as “other taxes”.

*Repealed by  
IT (Am) Act  
2010*

**89N. Carry Forward Losses****89O. Returns**

- (1) Section 93 of the Act and sections 16 and 19 of the Tax Procedures Code Act apply to a licensee subject to the following modifications –

*Substituted by  
IT (Am) Act 2010  
W.E.F 7/2010  
And IT (Am) Act 2015*

- (a) a licensee shall furnish a return not later than seven (7) days after the end of every month in respect of the provisional payments required under section 89P(b);
- (b) not less than thirty days before the beginning of a year of income, a contractor shall furnish a return, including particulars for each calendar quarter of the year, estimated to the best of the contractor’s judgement, and shall furnish updates of the return within 7 days after the end of each of the first three calendar quarters in the year;
- (c) the Commissioner may require a duly appointed agent or trustee of the licensee, whether taxable or not, to furnish a return on the licensee’s behalf or as an agent or trustee of the licensee;
- (d) in addition to a return furnished on a licensee’s own behalf, the Commissioner may require a licensee acting as an operator in a contract area, to furnish a return in respect of that area on behalf of all licensee’s with an interest in the petroleum agreement;

- (e) a return required under this section shall include particulars of mining or petroleum revenues and other taxes prescribed by the Commissioner;
  - (f) a return required for any period shall be furnished, whether mining or petroleum [Government] revenues or other taxes are payable for the period or not;
  - (g) the Commissioner may make provision permitting or requiring a licensee to submit returns electronically.
- (2) In addition to a return required under subsection (1), a contractor shall file an annual consolidated mining or petroleum revenue return with the Commissioner at the end of each year of income, not later than ninety days after the expiry of the year of income.
- (3) [A person who fails to furnish a return of income for a tax period within the time required by this section commits an offence and is liable to pay a penal tax equal to 2 per cent per annum of the tax payable for that period.]

*Repealed by  
IT (Am) Act 2015*

### **89OA. Assessments, Objections and Appeal**

- (1) Part VI of the Tax Procedures Code Act apply to a licensee subject to the following modifications –
- (a) an assessment made by the Commissioner on a licensee may relate to mining or petroleum revenues and not only to chargeable income;
  - (b) the time limit in section 95(1) is three years instead of five years;
  - (c) section 96(1), (2), (3) and (4) apply to a licensee, notwithstanding that a notice has not been published under section 96(5).
- (2) Objections and appeals relating to mining or petroleum revenues shall be determined in accordance with Part VII of the Tax Procedures Code Act.

*Inserted by  
IT (Am) Act  
2010  
W.E.F 7/2010  
& substituted  
by IT (Am)  
Act 2015*

*Deleted by  
IT (Am) Act 2015*

### **89P. Collection and Recovery**

Sections 111 to 113 of this Act and Part VIII of the Tax Procedures Code Act shall apply to licensees with the following modifications –

- (a) mining or petroleum revenues and other taxes charged in any assessment shall be payable within 7 days after the due date for furnishing a return;
- (b) a licensee shall, in each calendar quarter, make a provisional payment consisting of –

*Substituted by  
IT (Am) Act  
2010  
W.E.F 7/2010*

- (i) in the case of income tax, one quarter of the licensee's estimated income tax for the year; and
  - (ii) in the case of mining or petroleum revenues other than income tax, the amounts payable for the quarter under the Mining Act or mining right, or petroleum agreement.
- (c) unless otherwise agreed between the Government and a prescribed licensee, all payments or refunds of mining or petroleum revenues other than those payable in kind and other taxes shall be made in United States Dollars;
- (d) all mining or petroleum revenues shall be payable to the Uganda Revenue Authority;
- (e) subject to paragraph (f), section 113 shall apply to refunds of mining or petroleum revenues and other taxes payable to the Government;
- (f) late payment, or refunds of mining or petroleum revenues and other taxes payable to the Government shall, for each day on which the sums are overdue during any month, bear interest compounded daily at an annual rate equal to the average rates published by the Bank of Uganda plus five percentage points;
- (g) where a licensee has paid mining or petroleum revenues in kind and the amount payable subsequently requires to be adjusted for any reason, the adjustment will be made in cash unless otherwise agreed between the Government and a licensee;
- (h) a payment of mining or petroleum revenues made by a licensee shall be allocated by the Commissioner against amounts payable in the order in which they become due and in such a way as to minimise any interest or penalties payable by a contractor.

*Repealed by  
IT (Am) Act  
2010*

## **89Q. Classification, Definition and Allocation of Costs and Expenditures**

### **89QA. Failure to Furnish Returns**

- (1) A licensee who fails to furnish a return or any other document within the time prescribed by this Act is liable to a fine of not less than 50,000 United States Dollars and not exceeding 500,000 United States Dollars.

*89QA – D Inserted by  
IT (Am) Act 2010  
W.E.F 7/2010 &  
substituted by IT  
(Am) Act 2015*

- (2) A contractor who files false or inaccurate returns commits an offence and is liable on conviction to a fine of not less than 50,000 United States Dollars and not exceeding 500,000 United States Dollars or its equivalent in Uganda Shillings and

*Repealed by  
IT (Am) Act 2015*

where there is fraud, a fine of not less than 500,000 United States Dollars or its equivalent in Uganda Shillings.

- (3) Where a licensee convicted of an offence under subsection (2) fails to furnish the return or document to which the offence relates within a period specified by the court, or furnishes false or inaccurate returns, that licensee is liable to a fine not exceeding 100,000 United States Dollars.

### 89QB. Making False or Misleading Statements

A prescribed licensee or person in relation to a prescribed licensee who is convicted of an offence under section 58 of the Tax Procedures Code Act shall be liable –

- (a) when the statement or omission was made knowingly or recklessly, to a fine not less than 1,000,000 United States Dollars or imprisonment for a term not exceeding five years, or both; or
- (b) in any other case, to a fine not less than 50,000 United States dollars and not exceeding 500,000 United States dollars.”

### 89QC. Penal Tax and Tax Offences

- (1) Part XIV and sections 59, 60, 63, 64, 65, 67 of the Tax Procedures Code Act apply to a licensee in respect of mining or petroleum revenues and other taxes subject to the following modifications –

*Substituted by  
IT (Am) Act 2011  
And (Am) Act 2015*

- (a) interest under section 89P(f) and not penal tax under section 51 of the Tax Procedures Code Act shall be charged where provisional tax is understated;
- (b) a licensee shall not be prosecuted or fined under these sections if prosecuted or fined for the same offence under the Mining Act, Petroleum (Exploration, Development and Production) Act or the petroleum agreement.

### 89QD. Right of Commissioner to undertake Audit

*Inserted by  
IT (Am) Act 2015*

Nothing in a *mining right*, petroleum agreement or in any law shall be construed as limiting the right of the Commissioner to execute his or her mandate for purposes of this Act.

**PART X – ANTI AVOIDANCE****90. Transactions between Associates**

- (1) In any transaction between taxpayers who are associates or who are in an employment relationship, the Commissioner may distribute, apportion, or allocate income, deductions, or credits between the taxpayers as is necessary to reflect the chargeable income the taxpayers would have realised in an arm's length transaction.
- (2) The Commissioner may adjust the income arising in respect of any transfer or licence of intangible property between associates so that it is commensurate with the income attributable to the property.
- (3) In making any adjustment under subsections (1) or (2), the Commissioner may determine the source of income and the nature of any payment or loss as revenue, capital, or otherwise.

**91. Re-characterisation of Income and Deductions**

- (1) For the purposes of determining liability to tax under this Act, the Commissioner may –
  - (a) re-characterise a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme;
  - (b) disregard a transaction that does not have substantial economic effect; or
  - (c) re-characterise a transaction the form of which does not reflect the substance.
- (2) A “tax avoidance scheme” in subsection (1) includes any transaction, one of the main purposes of which is the avoidance or reduction of liability to tax.

**PART XI – PROCEDURE RELATING TO INCOME TAX**

*S.92 Repealed by  
TPC Act 2014*

**Returns****92. Furnishing of Return of Income****93. Cases where Return of Income not required**

Unless requested by the Commissioner by notice in writing, no return of income shall be furnished under this Act for a year of income –



*Substituted by  
IT (Am) Act 2002*

- (a) by a non-resident person where *Section 4(4) or Section 87(1)(c) or both apply* to all the income derived from sources in Uganda by the person during the year of income; or

*Deleted by  
IT (Am) Act 2002*

- (b) by a resident individual –

- (i) to whom Section 4(4) [or (5)] applies; or
- (ii) whose total chargeable income for the year of income is subject to the zero rate of tax under Part I of the Third Schedule to this Act.

#### **94. Extension of Time to furnish a Return of Income**

*Ss.94 – 110  
Repealed by  
TPC Act 2014*

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### ***Provisional Tax***

#### **111. Payment of Provisional Tax**

- (1) A person who derives or expects to derive any income during a year of income which is not or will not be subject to withholding tax at the source under Section 116, 117, or 118 [or subject to tax under Section 5] is liable *or subject* to pay

*Substituted by  
IT (Am) Act 2006*

provisional tax under this Section.

- (2) A provisional taxpayer, other than an individual, is liable to pay two instalments of provisional tax, on or before the last day of the sixth and twelfth months of the year of income, in respect of the taxpayer's liability for income tax for that year.
- (3) For the purposes of subsection (2), the amount of each instalment of provisional tax for a year of income is calculated according to the following formula –

$$(50\% \times A) - B \quad [50\% \times (A - B)]$$

*Substituted by  
IT (Am) Act 2002*

where –

- A** is the estimated tax payable by the provisional taxpayer for the year of income; and
- B** is the amount of any tax withheld under this Act, prior to the due date for payment of the instalment, from any amounts derived by the taxpayer during the year of income which will be included in the gross income of the taxpayer for that year.

- (4) A provisional taxpayer who is an individual is liable to pay four instalments of provisional tax, on or before the last day of the third, sixth, ninth, and twelfth months of the year of income, in respect of the taxpayer's liability for income tax for that year.
- (5) For the purposes of subsection (4), the amount of each instalment of provisional tax for a year of income is calculated according to the following formula –

$$(25\% \times A) - B \quad [25\% \times (A - B)]$$

*Substituted by  
IT (Am) Act 2003*

Where

- A** is the estimated tax payable by the provisional taxpayer for the year of income; and
- B** is the amount of any tax withheld under this Act, prior to the due date for payment of the instalment, from any amounts derived by the taxpayer during the year of income which will be included in the gross income of the taxpayer for that year.

- (6) Upon written application by the taxpayer, the Commissioner may, where good cause is shown, extend the due date for payment of an instalment of provisional tax or allow for payment of such an instalment in equal or varying amounts.

- (7) An instalment of provisional tax, when it becomes due and payable, is a debt due to the Government and the provisions of this Act shall apply for the purposes of the collection and recovery of provisional tax by the Commissioner.
- (8) Each instalment of provisional tax shall be credited against the income tax assessed to the provisional taxpayer for the year of income to which the instalment relates.
- (9) Where the total of the instalments credited under subsection (8) exceeds the taxpayer's income tax assessed for that year, the excess shall be dealt with by the Commissioner in accordance with Section 113(3).
- (10) No instalment of provisional tax paid by a provisional taxpayer shall be refunded to the taxpayer other than in accordance with subsection (9).
- (11) In this Section, "estimated tax payable" has the meaning in Section 112;

## **112. Estimated Tax Payable**

- (1) A provisional taxpayer's estimated tax payable for a year of income is –
  - (a) in the case of a taxpayer to whom Section 4(5) applies, the amount determined under the Second Schedule to this Act for that year as the tax payable on the gross turnover of the taxpayer estimated for that year under subsection (2); or
  - (b) in any other case, the amount calculated by applying the rates of tax in force for that year against the amount estimated under subsection (3) by the taxpayer as the chargeable income of the tax payer for the year.
- (2) Every provisional taxpayer to whom Section 4(5) applies shall furnish an estimate of the gross turnover of the taxpayer for each year of income and shall include with the estimate for a year of income, a statement of the actual gross turnover of the taxpayer for the previous year of income.
- (3) Every provisional taxpayer, other than a taxpayer to whom Section 4(5) applies, shall furnish an estimate of the chargeable income to be derived by the taxpayer for a year of income in respect of which provisional tax is or may be payable by the taxpayer.
- (4) A provisional taxpayer's estimate under subsection (2) or (3) shall be in the form prescribed by the Commissioner and shall be furnished to the Commissioner by the due date for payment of the first instalment of provisional tax for the year of income.
- (5) A provisional taxpayer's estimate under subsection (2) or (3) shall remain in force for the whole of the year of income unless the taxpayer furnishes a revised estimate

to the Commissioner which revised estimate shall only apply to the calculation of the provisional tax payable by the taxpayer after the date the revised estimate was furnished to the Commissioner.

- (6) Where a provisional taxpayer fails to furnish an estimate of gross turnover or chargeable income as required by subsection (2) or (3), the estimated gross turnover or chargeable income of the taxpayer for the year of income shall be such amount as estimated by the Commissioner.

### ***Refund of Tax***

#### **113. Refunds**

- (1) A taxpayer may apply to the Commissioner for a refund, in respect of any year of income, of any tax paid by withholding, instalments, or otherwise in excess of the tax liability assessed to or due by the taxpayer for that year.
- (2) An application for a refund under this Section shall be made to the Commissioner in writing within five years of the later of –
  - (a) the date on which the Commissioner has served the notice of assessment for the year of income to which the refund application relates; or
  - (b) the date on which the tax was paid.
- (3) Where the Commissioner is satisfied that tax has been over paid, the Commissioner shall –
  - (a) apply the excess in reduction of any other tax due from the taxpayer;
  - (b) apply the balance of the excess, if any, in reduction of any outstanding liability of the taxpayer to pay other taxes not in dispute or to make provisional tax payments during the year of income in which the refund is to be made; and
  - (c) refund the remainder, if any, to the taxpayer.
- (4) Where the Commissioner is required to refund an amount of tax to a person as a result of –
  - (a) an application made to him or her under this Act;
  - (b) a decision under Section 99;
  - (c) a decision of the High Court or Tribunal under Section 100; or

*Inserted by  
IT (Am) Act 2002*

*Substituted by  
IT (Am) Act 2002*

(d) a decision of the Court of Appeal under Section 101,

the Commissioner shall pay simple interest at a rate of two per cent per month for the period commencing on the date the person [paid the tax refunded] *made the application for refund* and ending on the last day of the month in which the refund is made.

*Substituted by  
IT (Am) Act 2002*

(5) The Commissioner shall, within thirty days of making a decision on a refund application under subsection (1), serve on the person applying for the refund a notice in writing of the decision.

(6) A person dissatisfied with a decision referred to in subsection [(6)] (5) may only challenge the decision under the objection and appeal procedure in this Act.

*Substituted by  
IT (Am) Act 2002*

## PART XII – PROCEDURE RELATING TO RENTAL TAX

### 114. Rental Tax

(1) *An individual* [A resident individual] charged to tax under Section 5 shall furnish a return of [gross] rental income for each year of income not later than ~~six~~ [four] months after the end of that year.

*Substituted by  
IT (Am) Act 2002  
& IT (Am) Act 2009*

(2) Sections 92, 94 to 110 and 113 apply, with the necessary changes made, to the tax imposed under Section 5.

(3) For the avoidance of doubt, the Commissioner shall prescribe the form for return of [gross] rental income under this Section.

*Substituted by  
IT (Am) Act 2002*

## PART XIII – WITHHOLDING OF TAX AT THE SOURCE

### 115. Interpretation of Part XIII

In this Part –

(a) “payee” means a person receiving payments from which tax is required to be withheld under this Part; and

(b) “withholding agent” means a person obliged to withhold tax under this Part.

### 116. Withholding of Tax by Employers

(1) Every employer shall withhold tax from a payment of employment income to an employee as prescribed by regulations made under Section 164.

- (2) The obligation of an employer to withhold tax under subsection (1) is not reduced or extinguished because the employer has a right, or is otherwise under an obligation, to deduct and withhold any other amount from such payments.
- (3) The obligation of an employer to withhold tax under subsection (1) applies notwithstanding any other law which provides that the employment income of an employee shall not be reduced or subject to attachment.

### 117. Payment of Interest to Resident Persons

- (1) Subject to subsection (2), a resident person who pays interest to another resident person shall withhold tax on the gross amount of the payment at the rate prescribed in Part V of the Third Schedule to this Act.
- (2) This Section does not apply to –
  - (a) interest paid by a natural person;
  - (b) interest, *other than interest from government securities*, paid to a financial institution;
  - (c) interest paid by a company to an associated company; or
  - (d) interest paid which is exempt from tax in the hands of the recipient.
- (3) In this Section, “associated company”, in relation to a company, in this subsection referred to as the “payer company”, means –
  - (a) a company in which the payer company controls fifty per cent or more of the voting power in the company either directly or through one or more interposed companies;
  - (b) a company which controls fifty per cent or more of the voting power in the payer company either directly or through one or more interposed companies; or
  - (c) a company, in this subsection referred to as the “payee company”, where another company controls fifty per cent of the voting power in the payee and payer companies either directly or through one or more interposed companies.

*Inserted by  
IT (Am) Act 2006*

### 118. Payment of Dividends to Resident Shareholders

- (1) A resident company which pays a dividend to a resident shareholder shall withhold tax on the gross amount of the payment at the rate prescribed in Part V of the Third Schedule to this Act.

- (2) This Section does not apply where the dividend income is exempt from tax in the hands of the shareholder.

### 118A. Withholding Tax from Professional Fees

- Inserted by IT (Am) Act 2002 & substituted By IT (Am) Act 2010 IT (Am) Act 2013*
- (1) A resident person who pays management *or* professional fees to a resident [professional] *person* shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule.
- (2) This Section does not apply to a [professional] *resident person* who the Commissioner is satisfied has regularly complied with the obligations imposed on that person under this Act.

### 118B. Withholding of Tax by the Purchaser of an Asset

- Inserted by IT (Am) Act 2013*
- A resident person who purchases an asset from a non-resident person shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule.

### 118C. Payments for winnings of sports betting or pool betting

- Inserted by IT (Am) Act 2014*
- A person who makes payments for winnings of sports betting or pool betting shall withhold tax on the gross amount of the payment, at the rate prescribed in Part X of the Third Schedule to this Act.

### 118D Withholding Tax on Payments of Re-Insurance Premiums

- Inserted by IT (Am) Act 2014*
- (1) A resident person who makes a payment of premium for re-insurance services to a non-resident person shall withhold tax on the gross amount of the payment at a rate prescribed in Part XI of the Third Schedule.
- (2) Subsection (1) does not apply to re-insurance services provided by –
- (a) Uganda Reinsurance Company Limited;
  - (b) African Reinsurance Corporation;
  - (c) PTA Reinsurance Company.

### 119. Payment for Goods and Services

- (1) Where the Government of Uganda, a Government institution, a local authority, any company controlled by the Government of Uganda, or any person designated in a notice issued by the Minister, in this Section referred to as the “payer”, pays an

amount or amounts in aggregate exceeding one million shillings to any person in Uganda –

- (a) for a supply of goods or materials of any kind; or
- (b) for a supply of any services,

the payer shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule to this Act, and the payer shall issue a receipt to the payee.

(2) Where –

- (a) there are separate supplies of goods or materials, or of services and each supply is made for an amount that is one million shillings or less; and
- (b) it would reasonably be expected that the goods or materials, or services would ordinarily be supplied in a single supply for an amount exceeding one million shillings,

subsection (1) applies to each supply.

- (3) Every person who imports goods into Uganda is liable to pay tax at the time of importation on the value of the goods at the rate prescribed in Part VIII of the Third Schedule to this Act.
- (4) The value of goods under subsection (3) shall be the value of the goods ascertained for the purposes of customs duty under the laws relating to customs.
- (5) This Section does not apply to –

*Deleted by  
IT (Am) Act 2009  
And substituted by  
IT (Am) Act 2010*

- (a) a supply or importation of petroleum or petroleum products, including furnace oil, [lubricants] other than *lubricants*, cosmetics and fabrics or yarn manufactured out of petroleum products;

*a, b, c, d, g  
Repealed by  
IT (Am) Act 2015*

- (b) a supply or importation of plant and machinery;
- (c) a supply or importation of human or animal drugs;
- (d) a supply or importation of scholastic materials;
- (e) importations by organisations within the definition of “exempt organisation” in Section 2(bb)(i)(B);
- (f) a supplier or importer –



- (i) who is exempt from tax under this Act; or
- (ii) who the Commissioner is satisfied has regularly complied with the obligations imposed on the supplier or importer under this Act; or

*Inserted by  
Finance Act 2001*

- (g) the supply or importation of raw materials.

*Substituted by  
IT (Am) Act 2002*

- (6) The tax paid under subsections (1) and (3) is treated as tax withheld for the purposes of Section 128.

## **120. International Payments**

- (1) Any person making a payment of the kind referred to in Section 83 or 85 shall withhold from the payment the tax levied under the relevant Section.
- (2) Any promoter, agent, or similar person –
  - (a) paying remuneration to a non-resident entertainer or sportsperson; or
  - (b) responsible for collecting the gross receipts from a performance in Uganda by a theatrical, musical, or other group of non-resident entertainers or sportspersons,

shall withhold from the remuneration or receipts the tax levied under Section 84.
- (3) This Section does not apply where the payment is exempt from tax.

## **121. Non-Resident Services Contract**

- (1) Every person who enters into an agreement with a non-resident for the provision of services by the non-resident which services give rise to income sourced in Uganda shall, within thirty days of the date of entering into such agreement, notify the Commissioner in writing of –
  - (a) nature of such agreement;
  - (b) the likely duration of the agreement;
  - (c) the name and postal address of the non-resident person to whom payments under the agreement are to be made; and
  - (d) the total amount estimated to be payable under the agreement to the non-resident person.

- (2) The Commissioner may, by notice in writing served on the person who has notified the Commissioner under subsection (1), require that person to withhold tax from any payment made under the agreement at the rate specified by the Commissioner in the notice.
- (3) *Subsection 2* does not apply to a contract to which Section 85 applies.
- (4) A person who fails to notify the Commissioner in accordance with subsection (1) is personally liable to pay to the Commissioner the amount of tax that the non-resident is liable for on the income arising under the contract, but the person is entitled to recover this amount from the non-resident.
- (5) The provisions of this Act relating to collection and recovery of tax apply to the liability imposed by subsection (1) as if it were tax.

(3) Substituted,  
(4) & (5) inserted by  
IT (Am) Act 2011

## 122. Withholding as a Final Tax

Where –

- (a) tax has been withheld under Section 117 on a payment of interest *on treasury bills or other Government securities by the Bank of Uganda to any person or* by a financial institution to a resident individual, other than in the capacity of trustee, resident retirement fund, or to an exempt organisation; or
- (b) tax has been withheld under Section 118 on a payment of dividends to a resident individual;

Inserted by  
IT (Am) Act 2006  
and substituted by  
IT (Am) Act 1 2008

the withholding tax is a final tax and –

- (c) no further tax liability is imposed upon the taxpayer in respect of the income to which the tax relates;
- (d) that income is not aggregated with the other income of the taxpayer for the purposes of ascertaining chargeable income;
- (e) no deduction is allowed for any expenditure or losses incurred in deriving the income; and
- (f) no refund of tax shall be made in respect of the income.

Substituted by  
IT (Am) Act 2002

## 123. Payment of Tax Withheld

- (1) Subject to subsection (2), a withholding agent shall pay to the Commissioner any tax that has been withheld or that should have been withheld under this Part within

fifteen days after the end of the month in which the payment subject to withholding tax was made by the withholding agent.

- (2) Where a person withholds or should have withheld tax as required under Section 120(2), the tax shall be paid to the Commissioner within five days of the performance or by the day before the date the non-resident leaves Uganda, whichever is the earlier.
- (3) The provisions of this Act relating to the collection and recovery of tax apply to any amount withheld under this Part as if it were tax.

#### **124. Failure to Withhold Tax**

- (1) A withholding agent who fails to withhold tax in accordance with this Act is personally liable to pay to the Commissioner the amount of tax which has not been withheld, but the withholding agent is entitled to recover this amount from the payee.
- (2) The provisions of this Act relating to the collection and recovery of tax apply to the liability imposed by subsection (1) as if it were tax.

#### **125. Tax Credit Certificates**

- (1) Subject to subsection (3), a withholding agent shall deliver to the payee a tax credit certificate setting out the amount of payments made and tax withheld during a year of income.
- (2) A payee who is required to furnish a return of income shall attach to the return the tax credit certificate or certificates supplied to the payee for the year of income for which the return is filed.
- (3) A withholding agent shall at the end of each year of income deliver to the employee to which Section 4(4) applies a certificate setting out the amount of tax withheld during a year of income.

#### **126. Record of Payments and Tax Withheld**

- (1) A withholding agent shall maintain, and keep available for inspection by the Commissioner, records showing, in relation to each year of income –
  - (a) payments made to a payee; and
  - (b) tax withheld from those payments.

- (2) The records referred to in subsection (1) shall be kept by the withholding agent for five years of income after the end of the year of income to which the records relate.
- (3) The Commissioner may call upon a withholding agent to allow an auditor to examine the agent's records to verify their accuracy against the agent's tax credit certificates.

### **127. Priority of Tax Withheld**

- (1) Tax withheld by a withholding agent under this Act –
  - (a) is held by the withholding agent in trust for the Government of Uganda; and
  - (b) is not subject to attachment in respect of a debt or liability of the withholding agent,

and in the event of the liquidation or bankruptcy of the withholding agent, an amount withheld under this Act does not form a part of the estate in liquidation, assignment, or bankruptcy; and the Commissioner shall have a first claim before any distribution of property is made.
- (2) Every amount which a withholding agent is required under this Act to withhold from a payment is –
  - (a) a first charge on that payment; and
  - (b) withheld prior to any other deduction which the withholding agent may be required to make by virtue of an order of any court or any other law.

### **128. Adjustment on Assessment and Withholding Agent's Indemnity**

- (1) The amount of tax withheld under this Part is treated as income derived by the payee at the time it was withheld.
- (2) A withholding agent who has withheld tax under this Part and remitted the amount withheld to the Commissioner is treated as having paid the withheld amount to the payee for the purposes of any claim by that person for payment of the amount withheld.
- (3) Tax withheld from a payment under this Part is deemed to have been paid by the payee and, except in the case of a tax that is a final tax under this Act, is credited against the tax assessed on the payee for the year of income in which the payment is made.

- (4) Where the tax withheld under this Part for a year of income, together with any provisional tax paid under Section 111 for that year, exceeds the liability under an assessment of the taxpayer for that year, the excess shall be dealt with by the Commissioner in accordance with Section 113(3).
- (5) Where a person who pays tax in accordance with Section 119(3) is an individual whose only source of income is employment income, the tax shall be refunded on application by that person in accordance with Section 113.

## PART XIV – RECORDS AND INFORMATION COLLECTION

### 129. Accounts and Records

*S.129 Repealed by  
TPC Act 2014*

### 130. Business Information Returns

- (1) Every person carrying on business in Uganda who makes a payment of income sourced in Uganda, being services income, ~~[other than employment income,]~~ interest, royalties, management fees, or other income specified by the Commissioner shall furnish a return of such payments, in this Section referred to as a “business information return”, to the Commissioner within sixty days after the end of the year of income in which the payment was made.

*Repealed by  
IT (Am) Act 2002*

- (2) A business information return shall be in the form specified by the Commissioner and shall state the information required.

- (3) Subsection (1) does not apply to the payment of any income subject to withholding of tax at the source under Part XIII, *other than employment income.*

*Inserted by  
IT (Am) Act 2013*

- (4) Despite subsection (1), a person required to withhold tax under section 116 shall furnish a withholding tax return for every month in the form specified by the Commissioner, not later than fifteen days after the end of the month to which the withholding tax relates for all employees liable to tax.

*Inserted by  
IT (Am) Act 2013*

### 131. Access to Books, Records, and Computers

*Ss.131 – 135  
Repealed by  
TPC Act 2014*

### 132. Notice to obtain Information or Evidence

### 133. Books and Records not in the English Language

***Tax Clearance Certificate*****134. Tax Clearance Certificate**

*S 134 repealed  
by TPC Act  
2014 & re-  
enacted by ITA  
(Am) Act 2015*

A taxpayer –

- (a) providing a passenger transport service;
- (b) providing a freight transport service where the goods vehicle used has a load capacity of more than 2 tonnes;
- (c) supplying goods or services to the Government;
- (d) transferring funds in excess of 2500 currency points from Uganda to a place outside Uganda; or
- (e) to whom paragraphs (a) and (b) apply shall be required to pay advance tax at the rates specified in Part III of the Second Schedule to this Act before renewal of operational licenses,

*Inserted by  
IT (Am) Act 2015*

shall obtain a tax clearance certificate from the Commissioner as provided for in regulations made under Section 164.

***Taxpayer Identification Number*****135. Taxpayer Identification Number**

*Substituted by  
IT (Am) Act 2011  
& repealed by  
TPC Act 2014*

- (1) For purposes of identification of taxpayers, the Commissioner General shall issue a number to be known as a *taxpayer* identification number to every taxpayer.
- (2) The Commissioner General may require a *person* to show *his or her taxpayer* identification number in any return, notice, or other document used for the purposes of this Act.
- (3) Every local authority, Government institution, or regulatory body shall require a taxpayer identification number from any person applying for a license or any form of authorisation necessary for purposes of conducting any business in Uganda.

*Enacted by  
IT (Am) Act 2015*

**PART XV – OFFENCES AND PENALTIES*****Interest*****136. Interest on Unpaid Tax**

- (1) A person who fails –
  - (a) to pay any tax, including provisional tax;
  - (b) to pay any penal tax; or
  - (c) to pay to the Commissioner any tax withheld or required to be withheld by the person from a payment to another person,

on or before the due date for payment is liable for interest at a rate equal to two per cent per month on the amount unpaid calculated from the date on which the payment was due until the date on which payment is made.
- (2) Interest paid by a person under subsection (1) shall be refunded to the person to the extent that the tax to which the interest relates is found not to have been due and payable.
- (3) Where good cause is shown, in writing, by the person liable for payment of interest, the Minister may, on the advice of the Commissioner, remit, in whole or in part, any interest charged under this Section.
- (4) Interest charged in respect of a failure to comply with Section 123 is borne personally by the withholding agent and no part of it is recoverable from the person who received the payment from which tax was or should have been withheld under Part XIII which deals with withholding of tax.
- (5) Interest charged under this Section shall be simple interest.
- (6) The provisions of this Act relating to the collection and recovery of tax apply to any interest charged under this Section as if it were tax due.

***Offences and Penalties*****137. Failure to Furnish a Return****138. Failure to comply with Recovery Provision****139. Failure to maintain Proper Records****140. Failure to comply with *sections 121, 129, 130, 131, 132 and 133*****141. Improper use of Taxpayer Identification Number****142. Making False or Misleading Statements**

*Ss.137 – 162  
Repealed by  
TPC Act 2014*

- 143. Obstructing an Officer of the Authority
- 144. Aiding and Abetting
- 145. Offences by and relating to Officers
- 146. Offences by Companies
- 147. Officer may appear on behalf of the Commissioner
- 148. Compounding Offences
- 149. Place of Trial
- 150. Tax charged to be paid notwithstanding Prosecution

### *Penal Tax*

- 151. Penal Tax for Failure to Furnish a Return of Income
- 152. Penal Tax in relation to Records
- 153. Penal Tax in relation to False or Misleading Statements
- 154. Penal Tax for understating Provisional Tax Estimates
- 155. Recovery of Penal Tax

## **PART XVI – ADMINISTRATION**

- 156. Delegation
- 157. Official Secrecy

### *Forms and Notices*

- 158. Forms and Notices; Authentication of Documents
- 158A. Use of Information Technology
- 158B. Cancellation of Registration
- 158C. Offences
- 159. Service of Notices and other Documents

### *Rulings*

- 160. Practice Notes
- 161. Private Rulings

### *Remission of Tax*

- 162. Remission of Tax

## **PART XVII - MISCELLANEOUS**

- 163. Interpretation of Part XVII

In this Part, “repealed legislation” means the Income Tax Decree, 1974, amendments to it and subsidiary legislation made under it and Section 25 of the Investment Code, 1991.



**164. Regulations**

- (1) The Minister may, by statutory instrument, make regulations for better carrying into effect the purposes of this Act.
- (2) Without prejudice to the general effect of subsection (1), regulations made under that subsection may –
  - (a) contain provisions of a saving or transitional nature consequent on the making of this Act; or
  - (b) prescribe penalties for the contravention of the regulations not exceeding a fine of twenty five currency points or imprisonment not exceeding six months or both, and may prescribe, in the case of continuing offences, an additional fine not exceeding five currency points in respect of each day on which the offence continues.

**165. Amendment of Monetary Amounts and Schedules**

The Minister may, with the approval of Parliament, by statutory instrument, amend

- (a) any monetary amount set out in this Act; or
- (b) the Schedules.

**166. Transitional**

- (1) The repealed legislation continues to apply to years of income prior to the year of income in which this Act comes into force.
- (2) All appointments made under the repealed legislation and subsisting at the date of commencement of this Act are deemed to be appointments made under this Act.
- (3) Any arrangement between the Government of Uganda and the Government of a foreign country with a view to affording relief from double taxation made under Section 47 of the Income Tax Decree 1974 or its predecessor and which is still in force at 1<sup>st</sup> July 1997 continues to have effect under this Act.
- (4) All forms and documents used in relation to the repealed legislation may continue to be used under this Act, and all references in those forms and documents to provisions of, and expressions appropriate to, the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.
- (5) A reference in this Act to a previous year of income includes, where the context requires, a reference to a year of income under the repealed legislation.

- (6) Section 3(1)(d) of the Income Tax Decree 1974 continues to apply to an amount referred to in Section 21(1)(h) of this Act if the payer of the alimony, allowance, or maintenance has obtained a deduction for the payment under the Income Tax Decree 1974 prior to the commencement of this Act.
- (7) Section 18(1)(a) and 22(1)(b) do not apply to business assets of a capital nature disposed of before 1<sup>st</sup> April 1998 or to business debts of a capital nature cancelled or satisfied before 1<sup>st</sup> April 1998.
- (8) Where, as a result of the application of this Act, a gain or loss on realisation of a liability is subject to tax being a gain or loss which would not otherwise have been subject to tax, the value of the liability on 31<sup>st</sup> March 1998 shall be used in the calculation of any income or deduction as from that date.
- (9) Subject to subsection (10) and (11), where, as a result of the application of this Act, a gain or loss on disposal of an asset is subject to tax being a gain or loss that would not otherwise have been subject to tax, the cost base of the asset is calculated on the basis that each item of cost or expense included in the cost base and which was incurred prior to that date is determined according to the following formula -

$$\text{CB} \times \frac{\text{CPID}}{\text{CPIA}}$$

where –

*Substituted by  
IT (Am) Act 2002*

- CB** is the amount of an item of cost or expense incurred on or before *31<sup>st</sup> March 1998* included in the cost base of the asset;
- CPID** is the Consumer Price Index number published for the month ending on *31<sup>st</sup> March 1998*; and
- CPIA** is the Consumer Price Index number published for the month immediately prior to the date on which the relevant item of cost or expense was incurred.
- (10) Where the taxpayer is able to substantiate the market value of an asset on 31<sup>st</sup> March 1998, the taxpayer may substitute that value for the cost base determined under subsection (9).
- (11) Where the asset referred to in subsection (10) is immovable property, the cost base of the property as at 31<sup>st</sup> March 1998 is equal to the market value of the property as determined by the Chief Government Valuer.
- (12) Section 27(4)(b) shall apply to depreciable assets acquired by a taxpayer before 1<sup>st</sup> July 1997 and held by the taxpayer at that date on the basis that the cost base of the

asset is the cost of the asset less any depreciation deductions allowed under the repealed legislation in respect of that cost.

- (13) For the purposes of Section 29(6), the “residue of expenditure” of an industrial building at 30<sup>th</sup> June 1997, shall be the residue of expenditure as determined under the Income Tax Decree 1974, at that date.

*Substituted by  
IT (Am) Act 2002*

- (14) The amount of a deduction allowed to a taxpayer under Section 38 for the year of income commencing on 1<sup>st</sup> July 1997, shall be determined under Section 14(4) of the Income Tax Decree 1974.

- (15) The amount of a deduction allowed under Sections 30 and 31 in respect of start-up costs incurred or intangible assets acquired before this Act comes into force shall be calculated on the assumption that those Sections had always applied.

- (16) For the purpose of applying subsections (7) to (14) to a taxpayer permitted to use a substituted year of income for the first year of income under this Act -

(a) the reference in those subsections to 31<sup>st</sup> March 1998 is treated as a reference to the day immediately preceding the commencement of the first year of income of the taxpayer under this Act; and

(b) the reference in those subsections to 1<sup>st</sup> April 1998 is treated as a reference to the first day of the first year of income of the taxpayer under this Act.

- (17) A taxpayer entitled to use a substituted year of income under the Income Tax Decree 1974 is permitted to continue to use that period as the taxpayer's substituted year of income under this Act until the Commissioner decides otherwise by notice in writing to the taxpayer.

- (18) Where a taxpayer subject to tax under this Act but who was not subject to tax under the Income Tax Decree 1974 is entitled to use a substituted year of income, the taxpayer is treated for the purposes of Section 39(6) of this Act as having a transitional year of income for the period 1<sup>st</sup> July 1997, to the end of the day immediately preceding the start of the first substituted year of income after that date.

- (19) Finance leases, as defined in Section 59 of this Act, entered into before 1<sup>st</sup> July 1997 shall be dealt with in terms of the Income Tax Decree, 1974.

*Substituted by  
IT (Am) Act 2002*

- (20) A reference in Section 62 to a previously deducted expenditure, loss or bad debt includes a reference to an expenditure, loss or bad debt deducted under the repealed legislation.

- (21) Notwithstanding the repeal of Section 25 of the Investment Code 1991, the holder of a certificate of incentives which is valid at the commencement of this Act may make an election in writing to the Commissioner by 31<sup>st</sup> December 1997 for the exemption from tax on corporate profits and the exemption from withholding tax paid on dividends and interest paid to resident persons as provided under Section 25 of the Investment Code 1991 to continue until the exemption expires in accordance with that Section, as if that Section had not been repealed.
- (22) Notwithstanding the exemption referred to in subsection (21), a holder of a certificate of incentives validly in force at 30<sup>th</sup> June 1997, and who has made an election under subsection (21) shall furnish a return of income in accordance with Section 92 prepared on the basis that the holder is not exempt from tax for each year of income for which the exemption applies under this Act.
- (23) Where an exemption referred to in subsection (21) expires, the following provisions apply to the holder of the certificate of incentives –
- (a) subsections (7) to (10) apply to the person on the basis that the reference in those subsections to 31<sup>st</sup> March 1998 is treated as a reference to the day on which the exemption expired;
  - (b) the amount of the deduction allowed under Sections 27, 29, 30 and 31 in respect of depreciable assets, industrial buildings, or intangible assets acquired, or start-up costs incurred, before the exemption expired shall be calculated on the assumption that those Sections had always applied; and
  - (c) the amount of any assessed loss to be deducted in the first year of income after the exemption has expired is calculated on the basis that this Act and its predecessor has always applied to the person.
- (24) Notwithstanding the repeal of Section 25 of the Investment Code 1991, and without prejudice to other relevant provisions of this Section, an investor who, immediately before the commencement of this Act, holds a valid investment licence under the Investment Code 1991, and who but for this Act would be eligible for the grant of a certificate of incentives and whose application had been approved for a certificate of incentives shall be issued with the certificate in accordance with the Investment Code 1991, as if Section 25 of the Code had not been repealed.
- (25) Where a person, but for the repeal of Section 25 of the Investment Code 1991, would have been issued with a certificate of incentives under the Investment Code 1991, and the person had placed an item of eligible property, as defined in Section 28(3) into service during the year of income immediately preceding the person's first year of income under this Act, the person shall be treated as having placed the item of eligible property into service during the person's first year of income under this Act.

*Substituted by  
IT (Am) Act 2002*

- (26) Subject to subsection (27), where the income of a person is wholly or partly exempt from tax under –
- (a) a notice published in the *Gazette* under Section 12(2) of the Income Tax Decree 1974; or
  - (b) a provision in any agreement,
- the notice or provision shall have no effect under this Act unless the Minister has concurred in writing by 31<sup>st</sup> December 1997 with the exemption provided for in the notice or provision.
- (27) Subsection (26) does not apply where the exemption is provided for in an agreement between the Government of Uganda and a foreign government or the United Nations or a specialised agency of the United Nations.

**FIRST SCHEDULE**

S.2

**Listed Institutions**

African Development Bank

African Development Fund

Aga Khan Foundation

Austrian Development Agency (ADA)

Belgian Technical Cooperation (BTC)

Danish International Development Agency (DANIDA)

Department for International Development (DFID)

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)

East African Development Bank

Eastern and Southern African Trade and Development Bank

European Development Fund

European Investment Bank

European Union

Food and Agriculture Organisation

French Development Agency (AFD)

Global Fund for AIDS, Malaria and Tuberculosis

Icelandic International Development Agency (ICEADA)

International Bank for Reconstruction and Development

International Civil Aviation Organisation

International Development Association

International Finance Corporation

Inserted by  
IT (Am) Act  
2012

Inserted by  
IT (Am) Act 2012

Inserted by  
IT (Am) Act 2015

Inserted by  
IT (Am) Act 2012

International Labour Organisation

International Monetary Fund

International Telecommunications Union

Japan International Cooperation Agency (JICA)

Korea International Cooperation Agency (KOICA)

Kreditanstalt für Wiederaufbau (KfW)

Norwegian Agency for Development Cooperation (NORAD)

Swedish International Development Agency (SIDA)

United Nations related Agencies and Specialised Agencies

*Inserted by  
IT (Am)  
Act 2012*

## SECOND SCHEDULE

S.4

## Small Business Taxpayers Tax Rates

*Part I*

1. The amount of tax payable for purposes of Section 4(5) is –

GROSS TURNOVER	TAX
Where the gross turnover of the taxpayer exceeds Shs.50 million but does not exceed shs.75 million per annum.	Shs.937,500 or 1.5% of the gross turnover, whichever is lower
Where the gross turnover of the taxpayer exceeds Shs.75 million but does not exceed Shs.100 million per annum	Shs.1,312,500 or 1.5% of the gross turnover, whichever is lower
Where the gross turnover of the taxpayer exceeds Shs.100 million but does not exceed Shs.125 million per annum.	Shs.1,687,500 or 1.5% of the gross turnover, whichever is lower
Where the gross turnover of the taxpayer exceeds Shs.125 million but does not exceed Shs.150 million per annum.	Shs.2,062,500 or 1.5% of the gross turnover, whichever is lower

*Substituted  
by IT (Am)  
Act 2003,  
2014 and  
2015*

2. The tax payable by a taxpayer under Section 4(5) is reduced by –

- (a) any credit allowed under Section 128(3) for withholding tax paid in respect of amounts included in the gross turnover of the taxpayer; or
- (b) any credit allowed under Section 111(8) for provisional tax paid in respect of amounts included in the gross turnover of the taxpayer.



**Part II**

1. The amount of tax payable for purposes of section 4(5) where the gross turnover is less than fifty million shillings is –

## (i) Kampala City and Divisions of Kampala

<b>BUSINESS TRADE</b>	With turnover between 35m - 50m	With turnover between 20m - 35m	With turnover between 10m - 20m
General Trade	500,000	400,000	250,000
Carpentry/ Metal	500,000	400,000	250,000
Garages (Motor Vehicle repair)	550,000	450,000	300,000
Hair and Beauty/ Salons	550,000	400,000	300,000
Restaurants or Bars	550,000	450,000	300,000
Clinics	550,000	450,000	300,000
Drug Shops	500,000	350,000	100,000
Others	450,000	300,000	200,000

## (ii) Municipalities

<b>BUSINESS TRADE</b>	With turnover between 35m - 50m	With turnover between 20m - 35m	With turnover between 10m - 20m
General Trade	400,000	300,000	150,000
Carpentry/ Metal Workshops	400,000	300,000	150,000
Garages (Motor Vehicle repair)	450,000	350,000	200,000
Hair and Beauty/ Salons	450,000	350,000	200,000
Restaurants or Bars	450,000	350,000	200,000
Clinics	450,000	350,000	200,000
Drug Shops	400,000	300,000	150,000
Others	400,000	350,000	150,000

## (iii) Towns and Trading Centres

<b>BUSINESS TRADE</b>	With turnover between 35m - 50m	With turnover between 20m - 35m	With turnover between 10m - 20m
General Trade	300,000	200,000	100,000
Carpentry/ Metal Workshops	300,000	200,000	100,000
Garages (Motor Vehicle repair)	350,000	250,000	100,000
Hair and Beauty/ Salons	350,000	250,000	100,000
Restaurants or Bars	350,000	250,000	100,000
Clinics	350,000	250,000	100,000
Drug Shops	300,000	200,000	100,000
Others	300,000	250,000	100,000

***Part III***

The rate of advance tax under section 134(e) shall be –

- (a) for goods vehicles: fifty thousand shillings per ton per year;
- (b) for passenger service vehicles: twenty thousand shillings per passenger per year.

## THIRD SCHEDULE

Ss.6, 7, 8, 83, 84, 85, 86, 117, 118,119

## Rates of Tax

s.6 (1)

*Part I****Income Tax Rates for Individuals***

Substituted by  
IT (Am) Act 2012  
**NB:** Monthly (pm)  
values my addition.

1. The income tax rates applicable to resident individuals are –

CHARGEABLE INCOME	RATE OF TAX
Not exceeding Ushs.2,820,000 (235,000 pm)	Nil
Exceeding Ushs.2,820,000 (235,000 pm) but not exceeding Ushs.4,020,000 (335,000 pm)	10% of the amount by which Chargeable income exceeds Ushs.2,820,000 (235,000 pm).
Exceeding Ushs. 4,020,000 (335,000 pm) but not exceeding Ushs.4,920,000 (410,000 pm)	UShs.120,000 (10,000 pm) plus 20% of the amount by which chargeable income exceeds Ushs.4,020,000 (335,000 pm).
Exceeding Ushs.4,920,000 (410,000 pm)	(a) UShs.300,000 (25,000 pm) plus 30% of the amount by which chargeable income exceeds Ushs.4,920,000 (410,000 pm); and  (b) Where the chargeable income of an individual exceeds Ushs.120,000,000 (10,000,000 pm) an additional 10% charged on the amount by which chargeable income exceeds Ushs.120,000,000 (10,000,000 pm).

2. The income tax rates applicable to non-resident individuals are-

CHARGEABLE INCOME	RATE OF TAX
Not exceeding Ushs. 4,020,000 (335,000 pm)	10%
Exceeding Ushs. 4,020,000 (335,000 pm) but not exceeding Ushs. 4,920,000 (410,000 pm)	Ushs.402,000 (33,500 pm) plus 20% of the amount by which chargeable income exceeds Ushs.4,020,000 (335,000 pm).
Exceeding Ushs. 4,920,000 (410,000 pm)	(a) Ushs.582,000 (48,500 pm) plus 30% of the amount by which chargeable income exceeds Ushs. 4,920,000 (410,000 pm); and (b) Where the chargeable income of an individual exceeds shs.120,000,000 (10,000,000 pm) an additional 10% charged on the amount by which chargeable income exceeds Ushs.120,000,000 (10,000,000 pm).

Substituted by  
IT (Am) Act  
2012  
**NB:** Monthly  
(pm) values my  
addition.

S.7

## Part II

### Income Tax Rate for Companies

1. The income tax rate applicable to companies, other than mining companies, for the purposes of Section 7 is 30%.
2. Subject to paragraphs 3 and 4, the income tax rate applicable to mining companies is calculated according to the following formula –

$$70 - 1500/X$$

where **X** is the number of the percentage points represented by the ratio of the chargeable income of the mining company for the year of income to the gross revenue of the company for that year.

Substituted by  
IT (Am) Act 2015

3. If the rate of tax calculated under paragraph 2 exceeds 45%, then the rate of tax shall be 45%.
4. If the rate of tax calculated under paragraph 2 is less than 25%, then the rate of tax shall be 25%.
5. In this Part –
  - (a) “gross revenue”, in relation to a mining company for a year of income, means –
    - (i) the amount shown in the recognised accounts of the company as the gross proceeds derived in carrying on of mining operations during the year of income, including the gross proceeds arising from the disposal of trading stock, without deduction for expenditures or losses incurred in deriving that amount; and
    - (ii) the amount, if any, shown in the recognised accounts of the taxpayer as the amount by which the sum of the gains derived by the taxpayer during the year of income from the disposal of business assets used or held ready for use in mining operations, other than trading stock, exceeds the sum of losses incurred by the taxpayer during the year in respect of the disposal of such assets; and
  - (b) “mining company” means a company carrying on any mining operations in Uganda.

S.8

### ***Part III***

#### ***Income Tax Rate for Trustees and Retirement Funds***

The income tax rate applicable to trustees and retirement funds for the purposes of Section 8 is 30%.

Ss.82, 83, 84 &amp; 85

### ***Part IV***

#### ***Income Tax Rate for Non-Resident Persons***

1. The income tax rate applicable to a non-resident person under Section 82, 83, 84 or 85 *excluding interest on government securities* is 15 per cent.
2. *The withholding tax applicable for interest payments on government securities to a non-resident person under section 83 is 20 per cent;*

*Inserted by  
IT (Am) Act 2013*

**Part V*****Withholding Tax rate for Interest and Dividends for Resident Persons***

1. The withholding tax rate applicable for interest and dividend payments to a resident person under Sections 117 and 118, *excluding interest on government securities*, is 15%.
2. The withholding tax rate applicable for dividend payments from companies listed on the stock exchange to individuals under Section 118 is 10%.
3. The withholding tax rate applicable for interest payments on government securities to a resident person under section 117 is 20%.

*Inserted by  
IT (Am) Act 2012*

*Inserted by  
IT (Am) Act 2006*

*Inserted by  
IT (Am) Act 2012*

Sec.6 (2)

**Part VI*****Rate of Rental Tax***

The rate of tax applicable to an individual for the purposes of Section 6(2) is 20% of the chargeable income in excess of *shs.2,820,000* [1,560,000].

*Substituted by  
IT (Am) Act 2012*

S.86 (2)

**Part VII*****Rate of Tax applicable to Shipping and Aircraft Income***

The rate of tax applicable to shipping and aircraft income under Section 86(2) is 2%.

*Substituted by  
IT (Am) Act 2005 &  
IT (Am) Act 2013*

Ss.118A, 118B & 119

**Part VIII*****Withholding Tax Rate for Goods and Services Transactions***

1. The withholding tax rate applicable for goods and services transactions and for imported goods under *Sections 118A and 119* is **6%**.
2. The withholding tax rate for purposes of section 118B is 10% of the gross payment".

S.89B, 89G, 89GG

*Parts IX, IXA & IXB*

*Inserted by  
IT (Am) Act 2010  
W.E.F 7/97*

*Substituted by  
IT (Am) Act 2015*

**Part IX*****Tax Rates for Licensees and Contractors***

1. The income tax rate applicable to a licensee under section 89B is 30%.

2. The income tax rate applicable to a licensee under section 89G is 30%.
3. The rate of non-resident contractor tax under section 89GG is 10%”;

S.89H (1)

***Part IX A******Income Tax Rate for Resident Contractors***

The income tax rate payable on a participation dividend paid by a resident contractor to a non-resident company is 15%.

S.89H (2)

***Part IX B******Income Tax Rate for Non-Resident Subcontractors***

The income tax rate payable by a non-resident subcontractor deriving income under a Uganda sourced services contract is 15%.

S.118C

***Part X******Withholding tax rate for winnings from sports betting and pool betting***

The withholding tax rate applicable to winnings from sports betting and pool betting is 15%.

S.118D

***Part XI******Withholding tax on payments of re-insurance premiums***

The withholding tax rate for purposes of section 118D is 10% [15%]

*Inserted by  
IT (Am) Act 2014*

*Inserted by  
IT (Am) Act 2014  
Substituted by  
IT (Am) Act 2015*

## FOURTH SCHEDULE

S.16

**Chargeable Income arising from short-term Insurance Business**

1. The chargeable income of a resident person for a year of income arising from the carrying on of a short-term insurance business is determined according to the following formula –

$$A - B$$

where –

**A** is the total income derived by the resident person for the year of income in carrying on a short-term insurance business as determined under paragraph 2; and

**B** is the total deduction allowed for the year of income in the production of income referred to in A as determined under paragraph 3.

2. The total income derived by a resident person for a year of income in carrying on a short-term insurance business is the sum of –

- (a) the amount of the gross premiums, including premiums on reinsurance, derived by the person during the year of income in carrying on such a business in respect of the insurance of any risk, other than premiums returned to the insured;

- (b) the amount of any other income derived by the person during the year of income in carrying on such a business, including any commission or expense allowance derived from reinsurers, any income derived from investments held in connection with *such a business and any gains* derived on disposal of assets of the business; and

- (c) the amount of any reserve deducted in the previous year of income under paragraph 3(d).

3. The total deduction allowed for a year of income in the production of income from the carrying on of a short-term insurance business is the sum of –

- (a) the amount of the claims admitted during the year of income in the carrying on of such a business, less any amount recovered or recoverable under any contract of reinsurance, guarantee, security or indemnity;

- (b) the amount of agency expenses incurred during the year of income in the carrying on of such a business;

*Substituted by  
IT (Am) Act 2002*



- (c) the amount of expenditures and losses incurred by the person during the year of income in carrying on that business which are allowable as a deduction under this Act, other than expenditures or losses referred to in paragraphs (a) and (b); and
  - (d) the amount of a reserve for unexpired risks referable to such a business at the percentage adopted by the company at the end of the year of income.
4. Where, for any year of total income, the total deduction allowed to a person under paragraph 3 exceeds the income derived by the person as determined under paragraph 2, the excess may not be deducted against any other income of the person for the year of income, but shall be carried forward and deducted in determining the chargeable income of the person arising from the carrying on of a short-term insurance business in the next year of income.
5. The chargeable income of a non-resident person for a year of income arising from the carrying on of a short-term insurance business in Uganda is determined according to the following formula –

$$\mathbf{A - B}$$

where –

- A** is the total income derived by the person for the year of income in carrying on a short-term insurance business as determined under paragraph 6; and
- B** is the total deduction allowed for the year of income in the production of income referred to in A as determined under paragraph 7.
6. The total income derived by a non-resident person for a year of income in carrying on a short-term insurance business in Uganda is the sum of –
- (a) the amount of the gross premiums, including premiums on reinsurance, derived by the person during the year of income in carrying on such a business in respect of the insurance of any risk in Uganda, other than premiums returned to the insured;
  - (b) the amount of any other income derived by the person during the year of income in carrying on such a business in Uganda including:–
    - (i) any commission or expense allowance derived from reinsurance of risks accepted in Uganda;
    - (ii) any income derived from investment of the reserves referable to such business carried on in Uganda; and

- (iii) any gains derived on disposal of assets of the business, and
  - (c) the amount of any reserve deducted in the previous year of income under paragraph 7(d).
7. The total deduction allowed for a year of income in the production of income from the carrying on of a short-term insurance business in Uganda by a non-resident person is the sum of –
- (a) the amount of the claims admitted during the year of income in the carrying on of such a business, less any amount recovered or recoverable under any contract of reinsurance, guarantee, security or indemnity;
  - (b) the amount of agency expenses incurred during the year of income in the carrying on of such a business;
  - (c) the amount of expenditures and losses incurred by the person during the year of income in carrying on that business which are allowable as a deduction under this Act, other than expenditures or losses referred to in paragraphs (a) and (b); and
  - (d) the amount of a reserve for unexpired risks in Uganda referable to such a business at the percentage adopted by the company at the end of the year of income.
8. Where, for any year of total income, the total deduction allowed to a person under paragraph 7 exceeds the income derived by the person as determined under paragraph 6, the excess may not be deducted against any other income of the person for the year of income, but shall be carried forward and deducted in determining the chargeable income of the person arising from the carrying on of a short-term insurance business in Uganda in the next year of income.

**FIFTH SCHEDULE**

S.19(3)

**Valuation of Benefits**

1. The valuation of benefits for the purposes of Section 19(3) of this Act shall be determined in accordance with this schedule.
2. For the purposes of this Schedule, a benefit provided by an employer to an employee means a benefit that –
  - (a) is provided by an employer, or by a third party under an arrangement with the employer or an associate of the employer;
  - (b) is provided to an employee or to an associate of an employee; and
  - (c) is provided in respect of past, present or prospective employment.
3. Where a benefit provided by an employer to an employee consists of the use, or availability for use, of a motor vehicle wholly or partly for the private purposes of the employee, the value of the benefit is calculated according to the following formula –

$$(20\% \times A \times B/C) - D$$

where –

- A** is the market value of the motor vehicle at the time when it was first provided for the private use of the employee;
  - B** is the number of days in the year of income during which the motor vehicle was used or available for use for private purposes by the employee for all or a part of the day;
  - C** is the number of days in the year of income; and
  - D** is any payment made by the employee for the benefit.
4. Where a benefit provided by an employer to an employee consists of the provision of a housekeeper, chauffeur, gardener or other domestic assistant, the value of the benefit is the total employment income paid to the domestic assistant in respect of services rendered to the employee, reduced by any payment made by the employee for the benefit.
  5. Where a benefit provided by an employer to an employee consists of the provision of any meal, refreshment or entertainment, the value of the benefit is the cost to the employer of providing the meal, refreshment or entertainment, reduced by any consideration paid by the employee for the meal, refreshment or entertainment.

6. Where a benefit provided by an employer to an employee consists of the provision of utilities in respect of the employee's place of residence, the value of the benefit is the cost to the employer of providing the utilities reduced by any consideration paid by the employee for the utilities.
7. Where a benefit provided by an employer to an employee consists of a loan or loans in total exceeding one million shillings at a rate of interest below the statutory rate, the value of the benefit is the difference between the interest paid during the year of income, if any, and the interest which would have been paid if the loan had been made at the statutory rate for the year of income.
8. Where a benefit provided by an employer to an employee consists of a waiver by an employer of an obligation of the employee to pay or repay an amount owing to the employer or to any other person, the value of the benefit is the amount waived.
9. Where a benefit provided by an employer to an employee consists of the transfer or use of property or the provision of services, the value of the benefit is the market value of the *property or services at the time the benefit is provided*, reduced by any payment made by the employee for the benefit.
10. Where a benefit provided by an employer to an employee consists of the provision of accommodation or housing, other than where Section 19(1)(a) or (c) applies, the value of the benefit is the lesser of –
  - (a) the market rent of the accommodation or housing reduced by any payment made by the employee for the benefit; or
  - (b) 15% of the employment income, including the amount referred to in paragraph (a), paid by the employer to the employee for the year of income in which the accommodation or housing was provided.
11. The value of any benefit provided by an employer to an employee which is not covered by the above clauses is the market value of the *benefits, at the time the benefit is reduced* by any payment made by the employee for the benefit.
12. Paragraph 11 does not apply to any benefit expressly covered by Section 19(1)(a) or (c) to (h).
13. In this Schedule, “statutory rate”, in relation to a year of income, means the Bank of Uganda discount rate at the commencement of the year of income.

Substituted by  
IT (Am) Act 2002

Substituted by  
IT (Am) Act 2002

## SIXTH SCHEDULE

Ss.27, 28, 29

## Depreciation Rates and Vehicle Depreciation Ceiling

*Part I**Declining Balance Depreciation Rates for Depreciable Assets*

CLASS	ASSETS INCLUDED	RATE
1	Computers and data handling equipment	40%
2	Automobiles; buses and mini-buses with a seating capacity of less than 30 passengers; goods vehicles with a load capacity of less than 7 tonnes; construction and earth moving equipment.	35%
3	Buses with a seating capacity of 30 or more passengers; goods vehicles designed to carry or pull loads of 7 tonnes or more; specialised trucks; tractors; trailers and trailer-mounted containers; plant and machinery used in farming, manufacturing or mining operations.	30%
4	Rail cars, locomotives and equipment; vessels, barges, tugs and similar water transportation equipment; aircraft; specialised public utility plant, equipment and machinery; office furniture, fixtures and equipment; any depreciable asset not included in another class.	20%

Substituted  
by IT (Am)  
Act 2002

*Part II**Vehicle Depreciation Ceiling*

Substituted by  
IT (Am) Act 2009

The amount for the purposes of Section 27(11) is *sbs.* 60,000,000 [30,000,000]

*Part III**Straight-line Depreciation Rate for Industrial Buildings*

The depreciation rate for the purposes of Section 29 is 5%.

*Part IV*

*Prescribed Areas*

The following areas are prescribed for the purposes of Section 28: - Kampala, Entebbe, Namanve, Jinja and Njeru.

**SEVENTH SCHEDULE**

S. 2

**Currency Point**

One currency point is equivalent to twenty thousand (20,000) Uganda shillings.

*Inserted by  
IT (Am) Act 2009  
Repealed by  
IT (Am) Act 2015*

**EIGHTH SCHEDULE**

S.89Q

**Classification, Definition and Allocation of Costs and Expenditures**

1. Exploration Expenditure
2. Development and Production Expenditure
3. Operating Expenses
4. Service Costs
5. General and Administrative Expenses
6. Classification of Expenses for Income Tax purposes
7. Capital Allowances
8. Definition of Allowable Contract Expenditures
9. Costs recoverable without further approval of Government
10. Costs not recoverable under a Petroleum Agreement
11. Duplication of Charges and Credits
12. Meaning of “Affiliated Company”

**Cross References**

Building Societies Act, Cap. 108  
 Constitution, 1995  
 Diplomatic Privileges Act, Cap. 201  
 Income Tax Decree, Decree 1/1974  
 Investment Code, Statute 1/1991  
 Local Governments Act, Cap. 243  
 Magistrates Courts Act, Cap.16  
 Mining Act, Cap. 148  
 Petroleum (Exploration and Production) Act, Cap.150  
 Uganda Revenue Authority Act, Cap. 196

## SUBSIDIARY LEGISLATION

### THE INCOME TAX (WITHHOLDING TAX) REGULATIONS 2000

*(Under Section 116(1) and 164 of the Income Tax Act, 1997 Cap.340)*

In exercise of the powers conferred upon the Minister by Section 164 of the Income tax Act 1997, these Regulations are made this 1<sup>st</sup> day of June 2000.

#### 1. Short Title and Commencement

These Regulations may be cited as the Income Tax (Withholding Tax) Regulations, 2000, and shall be deemed to have come into force on the 1<sup>st</sup> day of July 2000.

#### 2. Interpretation

- (1) In these Regulations, “Act” means the Income Tax Act, 1997.
- (2) Terms and expressions used in these Regulations have, unless the contrary intention appears, the same meaning as they have in the Act.

#### 3. Amount of Tax to be Withheld

- (1) Every employer obliged under Section 116 of the Act to withhold tax from a payment of employment income to an employee shall withhold tax in accordance with this regulation.
- (2) Subject to sub-regulation (10), where employment income is paid monthly by an employer to an employee and the employee has furnished the employer with an employee declaration, the amount of tax to be withheld from the payment for a month (referred to as the “current month”) is calculated according to the following formula –

$$(A - B)/C$$

where –

**A** is the amount of tax payable calculated –

- (a) in the case of an employee who is a resident individual, in accordance with paragraph 1 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with sub-regulation (3); and
- (b) in the case of an employee who is a non-resident person, in accordance with paragraph 2 of Part I of the Third schedule to the

Act on the annualised employment income of the employee calculated in accordance with sub-regulation (3);

- B** the amount of tax withheld from payments made to the employee in the previous months of the year of income; and
- C** is the number of months remaining in the year of income, including the current month.

- (3) The annualised employment income of an employee for the purposes of component A of the formula in sub-regulation (2) is calculated in accordance with the following formula -

$$(D + E) \times 12/F$$

where –

- D** is the amount of employment income paid by the employer to the employee in the current month;
- E** is the amount of employment income paid by the employer to the employee in the previous months of the year of income; and
- F** is the number of completed months in the year of income, including the current month.

- (4) Subject to sub-regulation (10), where employment income is paid fortnightly by an employer to an employee and the employee has furnished the employer with an employee declaration, the amount of tax to be withheld from a payment for a fortnight (referred to as the “current fortnight”) is calculated according to the formula –

$$(A-B)C$$

where –

- A** is the amount of tax payable calculated -
  - (a) in the case of an employee who is a resident individual, in accordance with paragraph 1 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with sub regulation (5); or
  - (b) in the case of an employee who is a non-resident individual, in accordance with paragraph 2 of Part I of the Third Schedule to the



Act on the annualised employment income of the employee calculated in accordance with sub-regulation (5);

- B** is the amount of tax withheld from payments made to the employee in the previous fortnights of the year of income; and
  - C** is the number of remaining fortnights in the year of income, including the current fortnight.
- (5) The annualised employment income of an employee for the purposes of component A of the formula in sub-regulation (4) calculated in accordance with the following formula-

$$(D+E) \times 26/F$$

where –

- D** is the amount of employment income paid by the employer to the employee in the current fortnight;
  - E** is the amount of employment income paid by the employer to the employee in the previous fortnights of the year of income; and
  - F** is the number of completed fortnights in the year of income, including the current fortnight.
- (6) Subject to sub-regulation (10), where employment income is paid weekly by an employer to an employee and the employee has furnished the employer with an employee declaration, the amount of tax to be withheld from a payment for a week (referred to as the “current week”) is calculated according to the following formula:–

$$(A-B)/C$$

where –

- A** is the amount of tax payable calculated –
  - (a) in the case of an employee who is a resident individual, in accordance with paragraph 1 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with sub-regulation (7); or
  - (b) in the case of an employee who is a non-resident individual, in accordance with paragraph 2 of Part I of the Third Schedule to

the Act on the annualised employment income of the employee calculated in accordance with sub-regulation (7);

**B** is the amount of tax withheld from payments made to the employee in the previous weeks of the year of income; and

**C** is the number of remaining weeks in the year of income, including the current week.

- (7) The annualised employment income of an employee for the purposes of component A of the formula in sub-regulation (6) is calculated in accordance with the following formula –

$$(D + E) \times 52/F$$

where –

**D** is the amount of employment income paid by the employer to the employee in the current week;

**E** is the amount of employment income paid by the employer to the employee in the previous weeks of the year of income; and

**F** is the number of completed weeks in the year of income, including the current week.

- (8) An employer shall notify the Commissioner, in writing, where the employer pays employment income to an employee on a basis other than monthly, fortnightly, or weekly.
- (9) An employer shall notify the Commissioner, in writing, of any change, during a year of income, to the period of payment of employment income to an employee who has furnished an employee declaration to the employer.
- (10) Where a notification has been made under sub-regulation (8) or (9), the Commissioner shall advise the employer, by notice in writing, of the amount of tax to be withheld by the employer from the employment income paid by the employer to the employee.
- (11) Subject to sub-regulation (13), where an employee has not furnished an employer with an employee declaration under regulation 4, the amount of tax to be withheld from a payment of employment income for any period shall be the standard withholding amount.

- (12) An employee who has not furnished an employer with an employee declaration may apply, in writing, to the Commissioner for a statement of the amount of tax to be withheld by the employer from the employment income paid by the employer to the employee.
- (13) After considering the application under sub-regulation (1), the Commissioner may, if he or she considers it appropriate, issue the employee with a statement of the amount of tax to be withheld by the employer from the employment income paid by the employer to the employee, and the employee shall furnish the statement to his or her employer and the employer shall withhold tax from payments of employment income to the employee in accordance with the statement.
- (14) Where a change occurs in the circumstances affecting the amount of withholding tax specified in a statement referred to in sub-regulation (13), the employee to whom the statement has been issued shall, by notice in writing within seven days of the change occurring, notify the Commissioner of any change occurring and the Commissioner shall issue a new statement accordingly.
- (15) In this regulation –
- (a) a fortnight is a “completed fortnight”, “previous fortnight” or “remaining fortnight”, in relation to a year of income, if the pay day for the fortnight occurs during the year of income;
  - (b) a week is an “completed week”, “previous week”, or “remaining week”, in relation to a year of income, if the pay day for the week occurs during the year of income; and
  - (c) “standard withholding amount”, in relation to payment of employment income to an employee, means

**A x B**

where –

**A** is the highest marginal rate specified in the rates of tax in the relevant paragraph of Part I of the Third Schedule; and

**B** is the amount of employment income paid to the employee.

#### **4. Employee Declaration**

- (1) Subject to sub-regulation (2), an employee shall furnish an employee declaration to his or her employer for each year of income.

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- (2) Where an employee has more than one employer at any time during the year of income, the employee shall furnish an employee declaration to only one employer.
  - (3) An employee declaration shall be-
    - (a) in the form prescribed by the Commissioner;
    - (b) signed and dated by the employee; and
    - (c) furnished to the employer –
      - (i) unless the Commissioner provides otherwise, by 1 July of the year of income to which the declaration relates; or
      - (ii) where the employee takes up employment during the year of income, within seven days after the date on which the employment commenced.

## **5. Secondary Employment Form**

- (1) Where an employee has more than one employer at any time during a year of income, the employee shall furnish a secondary employment form to each employer other than the employer to whom an employee declaration has been furnished under regulation 4.
- (2) A secondary employment form shall be –
  - (a) in the form prescribed by the Commissioner, and
  - (b) signed and dated by the employee.
- (3) A secondary employment form shall be furnished to the employer: –
  - (a) unless the Commissioner provides otherwise, by 1 July of the year of income to which the form relates; or
  - (b) where the employee takes up employment during the year income, within seven days after the date on which the employment commenced.

## **6. Declarations and Secondary Employment Forms**

- (1) An employee declaration or a secondary employment form applies only to amounts of tax to be withheld after the date on which the declaration or form is furnished to the employer and continues in force until –

- (a) withdrawn by the employee by notice in writing to the employer;
  - (b) the end of the year of income to which the declaration or form relates; or
  - (c) the employee ceases to be in the employment of the employer to whom the declaration or form has been furnished, whichever is the earlier.
- (2) Where, after furnishing an employee declaration to an employer, a change occurs in the circumstances affecting the amount of withholding tax calculated under regulation 3, the employee shall, by notice in writing within seven days after the change occurring, withdraw the declaration and furnish the employer with a new declaration.
- (3) An employer shall maintain and keep available for a period of five years, employee declarations and secondary employment forms furnished by employees under regulations 4 and 5 for inspection by the Commissioner.

## **7. Change of Employment Certificate**

- (1) An employer shall issue to each employee who leaves the employer's employment during the year of income, a change of employment certificate setting out –
- (a) the amount of employment income paid by the employer to the employee during the year of income;
  - (b) the amount of tax withheld under Section 116 of the Act by the employer from that income; and
  - (c) the period of the year of income that the employee was employed by the employer.
- (2) A change of employment certificate shall be issued to the employee at the time that the employee leaves the employer's employment.
- (3) An employee who receives a change of employment certificate shall furnish the certificate to his or her new employer within seven days after he or she commences the new employment.
- (4) An employer who has been furnished with a certificate under sub-regulation (3) shall take the amounts set out in the certificate into account in applying regulation 3 to the employment income paid to the employee for the year of income to which the certificate relates.

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**8. Tax Credit and Employee Withholding Certificate**

- (1) This regulation applies to the issue of tax credit certificates under Section 125(1) of the Act and employee withholding certificates under Section 125(3) of the Act.
  - (2) A withholding agent who is required to issue a tax credit certificate or employee withholding certificate to a payee shall sign the certificate and shall issue it by –
    - (a) causing it to be delivered to the payee personally; or
    - (b) posting it by prepaid letter addressed to the payee's last known postal address.
  - (3) Where a tax credit certificate or employee withholding certificate which has been posted in accordance with this regulation is returned to the withholding agent undelivered, the withholding agent shall forward the certificate to the Commissioner within seven days after the date on which the certificate was returned to the withholding agent.
  - (4) A payee whose tax credit certificate or employee withholding certificate has been lost, stolen or destroyed, may request in writing that the withholding agent issue a duplicate certificate.
  - (5) Where a request has been made under sub-regulation (4), the withholding agent shall comply with the request and the certificate so issued shall be clearly marked "duplicate".
  - (6) The personal representative of a payee who dies during the year of income may apply, in writing, to the withholding agent of the deceased payee for a tax credit certificate or employee withholding certificate in respect of that part of the year of income prior to the death of the payee.
  - (7) A payee who intends to cease to be a resident person may apply in writing, to his or her withholding agent for a tax credit certificate or employee withholding certificate in respect of that part of the year of income prior to the payee ceasing to be a resident person.
  - (8) Where an application has been made under sub-regulation (6) or (7), the withholding agent shall issue the personal representative or payee with the certificate within seven days after the application is made.
  - (9) A withholding agent who ceases to carry on business shall issue a tax credit certificate or employee withholding certificate to each payee prior to ceasing business.
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## 9. Offences

- (1) An employee who fails to notify any change in circumstances as required by regulation 3(14) commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.
- (2) An employee who furnishes an employee declaration to an employer in contravention of regulation 4(2) commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.
- (3) An employer who fails to maintain employee declarations and secondary employment forms as required under regulation 6(3) commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.
- (4) An employer who fails to issue a change in employment certificate as required by regulation 7 commits an offence and is liable on conviction to a fine not exceeding twenty currency points.
- (5) A withholding agent who fails to issue a tax credit certificate or employee withholding certificate as required by regulation 8 commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

**History:** S.I 52/2000

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### Statutory Instrument 340-2

## THE INCOME TAX (DISTRRAINT) RULES

*(Under section 107(8) of the Act)*

### 1. Citation.

These Rules may be cited as the Income Tax (Distrainment) Rules.

### 2. Interpretation.

In these Rules, unless the context otherwise requires –

- (a) “distrainor” means an officer in the service of the Uganda Revenue Authority authorised to levy distress under a warrant;
- (b) “distrainment agent” means a person appointed a distrainment agent under Rule 3 of these Rules;

- (c) “distress” means a distress levied under a warrant;
- (d) “distress debt” means the amount of any tax and penalties specified in a warrant;
- (e) “goods” means all movable property (other than growing crops and goods which are liable to perish within ten days of attachment) of the distrainee which is liable under the laws of Uganda to attachment and sale in execution of a decree of a court of Uganda;
- (f) “warrant” means a warrant issued by the Commissioner under section 107 of the Act.

### **3. Appointment of Distrain Agent.**

- (1) The Commissioner may appoint distrain agents to assist distrainers in the execution of warrants for the purposes of section 107 of the Act.
- (2) No person shall be appointed a distrain agent unless he or she satisfies the Commissioner –
  - (a) that he or she is of good repute and financial standing;
  - (b) that he or she is qualified under the laws of Uganda to levy distress (by way of attachment of movable property) in execution of a decree of a court of Uganda;
  - (c) that he or she has adequate and secure facilities for the storage of goods; and
  - (d) that he or she has contracted a policy of insurance in an adequate sum against theft, damage, or destruction by fire of any goods which may be placed in his or her custody by reason of the performance of his or her duties as a distrain agent.

### **4. Distrain Agent to give Security.**

- (1) A person appointed a distrain agent shall furnish the Commissioner with security by means of a deposit, or such other security as the Commissioner may approve, of a sum of five hundred thousand shillings and that security shall be refunded or cancelled on the termination of the appointment, unless it is deemed to be forfeited under this Rule.
- (2) Where a distrain agent is convicted of an offence involving fraud or dishonesty in connection with any functions performed by him or her as a distrain agent, the court by which he or she is convicted may make an order for the forfeiture of his or



her security or part of his or her security deposited with the Commissioner under sub-rule (1) of this Rule.

- (3) Section 83 of the Magistrates Courts Act and section 21 of the Trial on Indictments Act, insofar as they relate to forfeiture of recognisance, shall apply, with the necessary modifications, to the forfeiture of any security under this Rule.

## **5. Execution of Warrant.**

- (1) A warrant may be executed at any time between 6.00 a.m. and 6.00 p.m., after it has been served on the distrainee in the manner provided by Rule 6 of these Rules.
- (2) A warrant shall be executed by attachment of such goods of the distrainee as, in the opinion of the distrainor, are of a value which would, on sale by public auction, realise a sum sufficient to meet the distress debt and the costs and expenses of the distress incurred by the distrainor.

## **6. Service of Warrant.**

- (1) Service of a warrant to an individual shall be effected –
  - (a) by service by the distrainor of a copy of the warrant on the distrainee in person; or
  - (b) if, after using all due and reasonable diligence, the distrainee cannot be found, by service of a copy of the warrant on an agent of the distrainee empowered to accept service or an adult member of the family of the distrainee who is residing with him or her.
- (2) Service of a warrant to a company shall be effected by delivering it to the principal officer, company secretary, general manager or a director of the company.
- (3) A person served with a copy of a warrant under this Rule shall endorse and acknowledge service on the original warrant stating the time, date and place of service.
- (4) Where a person served with a warrant under sub-rule (3) of this Rule refuses to endorse the warrant, the distrainor shall leave the copy of the warrant stating –
  - (a) that the person upon whom he or she served the warrant refused to sign the acknowledgement; and
  - (b) that he or she left, at the time, date and place stated in the warrant, a copy of the warrant with that person and the name and address of the person (if any)

by whom the person on whom the warrant was served was identified, and thereupon the warrant shall be deemed to have been duly served.

## **7. Entry into House and Rooms.**

- (1) In executing any distress under these Rules, the outer door of a dwelling house shall not be broken open unless that dwelling house is occupied by the distrainee and he or she refuses, or in any way prevents access to it.
- (2) When the distrainor executing distress under these Rules has duly gained access to a dwelling house, he or she may break open the door of any room in which he or she has reason to believe any goods of the distrainee to be.
- (3) Where a room in a dwelling house is in the actual occupancy of a woman who, according to her religion or local custom does not appear in public, the distrainor shall give notice to her that she is at liberty to leave the room.
- (4) After allowing reasonable time for a woman to leave the room under sub-rule (3) of this Rule and giving her reasonable facility for leaving, the distrainor may enter that room for the purpose of attaching any goods in it, using at the same time every precaution consistent with these Rules to prevent their clandestine removal.

## **8. Receipts and Reports.**

As soon as practicable after the attachment of any goods, the distrainor shall –

- (a) issue a receipt in respect of the goods distrained; and
- (b) forward to the Commissioner a report containing –
  - (i) an inventory of all the items attached;
  - (ii) the value of each item as estimated by the distrainor;
  - (iii) the address of the premises at which the goods are being kept, pending sale;
  - (iv) the name and address of the distraint agent in whose custody the goods have been placed; and
  - (v) the arrangements, if any, made or to be made for the sale by public auction of the goods on the expiration of ten days after the date of attachment.

**9. Sale by Public Auction.**

- (1) The goods distrained under Rule 8 of these Rules shall be sold by public auction, and the distrainor shall cause the sale to be stopped when the sale has realised a sum equal to or exceeding the distress debt and the cost and expenses incurred by the distrainor.
- (2) Any unsold goods shall, at the cost of the distrainee, be restored to the distrainee, and the proceeds of the sale shall be applied in the manner prescribed under section 107(5) of the Act.

**10. Returns to Commissioner.**

Immediately after the completion of the sale by public auction of goods attached under these Rules, the distrainor shall make a return to the Commissioner specifying –

- (a) the items which have been sold;
- (b) the amount realised by the sale; and
- (c) the manner in which the proceeds of the sale were applied.

**11. Payment or Security.**

- (1) Where a distrainee has, within ten days after attachment of his or her goods, paid or given security accepted by the Commissioner for the whole of the tax due from him or her together with the whole of the costs and expenses incurred by the distrainor in executing the distress, the distrainor shall, at the cost of the distrainee, immediately restore the attached goods to the distrainee and return the warrant to the Commissioner who shall cancel it.
- (2) Any sum paid by a distrainee under this Rule shall be applied by the Commissioner:–
  - (a) first in settlement of the costs and expenses incurred by the distrainor; and
  - (b) the balance, if any, in settlement of the distress debt or such part of the debt as the Commissioner shall direct.

**12. Attachment of Livestock.**

Where any goods attached under these Rules comprise or include livestock, the distrainor may make appropriate arrangements for the transport, safe custody and feeding of the livestock, and any costs and expenses incurred in doing so shall be recoverable from the

distrainee under Rule 9 or 11 of these Rules, as the case may be, as costs and expenses incurred by the distrainor.

### **13. Costs and Expenses.**

In addition to a claim for any other costs and expenses which may be incurred by the Commissioner or the distrainor in levying any distress under these Rules, there may be claimed by the distrainor and recovered under Rule 9 or 11 of these Rules, as the case may be, costs at the rate specified in the Schedule to these Rules.

### **14. Remuneration of Distraint Agent.**

The maximum rates of remuneration which a distraint agent is entitled to demand from the distrainor for the distraint agent's assistance in executing a distress under these Rules, and which may be recovered by the distrainor under Rule 11 of these Rules are specified in the Schedule to these Rules.

### **15. Auctioneer's Commission.**

- (1) The maximum rate of commission which an auctioneer is entitled to demand from the distrainor as remuneration for the auctioneer's services for the sale by public auction of any goods attached under these Rules, and which may be recovered by the distrainor under Rule 9 of these Rules, is 2 percent of the amount realised on sale.
- (2) Where an auctioneer has rendered services as a distraint agent, he or she is entitled, in addition to any commission under sub-rule (1) of this Rule, to remuneration for those services as provided by Rule 14 of these Rules.

### **16. Remuneration to cover all expenses.**

The rates of remuneration specified in the Schedule to these Rules shall be deemed to include all expenses of advertisements, inventories, categories, catalogues and insurance and necessary charges for safeguarding any goods attached under these Rules.

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## ***SCHEDULE***

Rules 13, 14, 16.

### **Charges**

#### **1. Distraint Charges.**

- (1) Where no distress is levied and the distress debt and any costs and expenses incurred by the distrainor are paid by the distrainee on demand or within thirty

minutes thereafter, the distrainee shall pay the distrainor one hundred thousand shillings.

- (2) The distrainee shall, in addition to the payment under subparagraph (1) of this paragraph, pay the distrainee costs incurred in serving or executing a warrant.

## 2. Distraint Agent Charges.

- (1) Where no distress is levied and the distressed debt and any costs and expenses incurred by the distrainor are paid by the distrainee on demand or within thirty minutes thereafter, the distraint agent is entitled to remuneration of one hundred thousand shillings.
- (2) For attaching goods or attaching and keeping possession of goods pending sale or for sale of the goods –

<b>TAX RECOVERED OR AMOUNT REALISED ON SALE</b>	<b>CHARGES</b>
Up to 50,000,000 shillings	3% of tax recovered or amount realised on sale
Exceeding 50,000,000 shillings but not exceeding 100,000,000 shillings	1,500,000 shillings plus 2% of the amount by which tax recovered or amount realised on sale exceeds 50,000,000 shillings
Exceeding 100,000,000 shillings	2,500,000 shillings plus 1% of the amount by which tax recovered or amount realised on sales exceeding 100,000,000 shillings

## 3. Charges on Auction.

Where the goods or part of them have been sold by public auction, the distraint agent's charges shall be calculated by reference to the amount realised on sale after deduction of the auctioneer's commission under Rule 15 of these Rules.

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**History:** S.I. 53/2000.

### Cross References

Magistrates Courts Act, Cap. 16.  
Trial on Indictments Act, Cap. 23.

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## Statutory Instrument No.9 of 2003

**THE INCOME TAX (APPROVED INDUSTRIAL BUILDINGS)  
REGULATIONS, 2003**

*(Under Section 29 and 164 of the Income Tax Act, 1997 Cap. 340)*

In exercise of the powers conferred upon the Minister by Section 164 of the Income Tax Act 1997, these Regulations are made this 31<sup>st</sup> day of October 2002.

**1. Citation**

These Regulations may be cited as the Income Tax (Approved Industrial Buildings) Regulations, 2003.

**2. Commencement and Application**

- (1) Regulations 4 and 5 shall be deemed to have come into force on 1<sup>st</sup> July 1997 and apply to an approved hotel or approved hospital whose construction commenced on or after 1/7/1997.
- (2) Regulation (6) shall be deemed to have come into force on 1<sup>st</sup> July 2000 and applies to an approved commercial building whose construction commenced on or after 1<sup>st</sup> July 2000.

**3. Approval of Industrial Buildings**

For the purposes of Section 29 of the Act, the industrial buildings referred to in regulations 4, 5 and 6 are approved for the purposes specified in those regulations.

**4. Approved Hotel**

An approved hotel is an industrial building licensed by the appropriate authorities for use, at a price, for boarding and lodging with at least –

- (a) ten bedrooms with minimum facilities of bed and bedding, toilet and bath or shower room; and
- (b) restaurant or dining room for provision of food and beverages.

**5. Approved Hospital**

An approved hospital is a specialised institutional industrial building manned by a fully registered specialist and general practitioner for the purpose of treating general patients as outpatients or inpatients, or both, for medical, paediatric, surgical and obstetric or

gynaecological conditions, providing treatment and nursing care and equipped with equipment and facilities for specialised establishment.

## 6. Approved Commercial Building

- (1) An approved commercial building is an industrial building which is primarily used by the owner or let out for rent –
  - (a) for the purpose of carrying on a business, trade or profession;
  - (b) as an office;
  - (c) as a warehouse or commercial storage facility; or
  - (d) as a workshop.
- (2) For the avoidance of doubt, an approved commercial building does not include a building let out or used for residential accommodation.

### Statutory Instrument No.34 of 2009

## THE INCOME TAX (TAX INCENTIVES FOR EXPORTERS OF FINISHED CONSUMER AND CAPITAL GOODS) REGULATIONS, 2009

*(Under sections 21 (1)(y)(ab) and 164 of the Income Tax Act, Cap.340)*

### ARRANGEMENT OF REGULATIONS

#### *Regulation*

1. Title
2. Commencement and application
3. Interpretation
4. Application and grant of certificate of Entitlement to Exemption
5. Validity of Certificate of Entitlement to Exemption
6. Conditions for grant of exemption
7. Obligations of the certificate holder
8. Revocation of the Certificate of Entitlement to Exemption
9. Appeals
10. Records
11. Filing returns
12. Register

### SCHEDULE FORMS

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IN EXERCISE of the powers conferred upon the Minister by sections 21(1)(y)(ab) and 164 of the Income tax Act, Cap. 340, these Regulations are made this 11<sup>th</sup> day of May, 2009.

## **1. Title**

These Regulations may be cited as the Income Tax (Tax Incentives for Exporters of Finished Consumer and Capital Goods) Regulations, 2009.

## **2. Commencement and Application**

These Regulations shall be deemed to have come into force on 1st July 2007 and apply to persons engaged in the exportation of finished consumer and finished capital goods.

## **3. Interpretation**

In these Regulations, unless the context otherwise requires –

“Authority” means the Uganda Revenue Authority;

“Commissioner” means the Commissioner General appointed under the Uganda Revenue Authority Act;

“existing investment” means an investment that was in existence as at 1<sup>st</sup> July, 2007;

“export” means to take or cause to be taken out of the partner states;

“finished capital goods” means goods other than finished Consumer goods that may be used in the production process;

“finished consumer goods” means finished consumer products ready for consumption without the need for further processing; and in the case of flower exports includes potted plants and chrysanthemum cuttings;

“goods” includes all kinds of articles, wares, merchandise, livestock, and currency;

“investment” means the creation of new business assets and includes the expansion, restructuring or rehabilitation of an existing business enterprise;

“manufacturing” means the substantial transformation of tangible movable property, including power generation and water supply;

“manufacturing under bond” means a facility extended to manufacturers to import plant, machinery, equipment and raw materials tax free, exclusively for use in the manufacture of goods for export;



“Minister” means the Minister responsible for finance;

“new investment” means an investment that did not exist as at 1<sup>st</sup> July, 2008;

“production” means a process involving the use of inputs to derive outputs including manufacturing, growing or extraction.

#### **4. Application and Grant of Certificate of Entitlement to Exemption**

- (1) A person seeking tax exemption on income derived from the export of finished consumer goods and finished capital goods under section 21(1)(y) of the Act shall apply for a Certificate of Entitlement to Exemption in Form 1 set out in the Schedule to the Regulations.
- (2) The applicant under sub regulation (1) shall state in the application-
  - (a) his or her name and address;
  - (b) the description of the goods;
  - (c) the tax identification number;
  - (d) telephone and e-mail contact;
  - (e) the details of directors;
  - (f) a declaration that the applicant will export or intends to export at least eighty per cent (80%) of his or her production of finished consumer goods and finished capital goods during the year, whether or not the raw materials are from within Uganda;
  - (g) details of the manufacturing or production of goods process including graphic presentation of the manufacturing process where applicable.
- (3) The Commissioner may request for additional information to ascertain whether a person qualifies for a grant of a Certificate of Entitlement to Exemption, to verify the existence of the investment.
- (4) The Commissioner shall, based on the information provided, decide whether or not to grant a certificate of Entitlement to Exemption, and on ascertainment of the existence of an investment, make a decision within thirty working days.
- (5) A person who qualifies under sub-regulation (4) shall be issued with a certificate of entitlement to exemption in Form 2 set out in the schedule to these Regulations.

- (6) A certificate of entitlement to exemption under these Regulations shall be specific to a person and the income derived from activities resulting in exports.
- (7) Where the Commissioner refuses to grant a certificate of entitlement to exemption, the Commissioner shall state in writing the reasons for the refusal.

## **5. Validity of Certificate of Entitlement to Exemption**

- (1) Subject to subsection (2), a certificate of entitlement to exemption is valid for a period of ten years starting from the date on which it is issued.
- (2) Notwithstanding subsection (1), an exporter is only eligible for the tax exemption in any year in which the exporter fulfils the conditions for the tax exemption specified in Regulation 6.
- (3) Where the exporter fails to fulfil the conditions for the tax exemption for a particular year, the tax exemption shall not be granted for that year.

## **6. Conditions for Grant of Certificate of Entitlement to Exemption**

A certificate of entitlement to exemption on income derived from export of finished consumer goods and finished capital goods shall not be granted to an applicant unless the applicant –

- (a) keeps proper books of accounts and records required under Regulation 10; and
- (b) exports at least eighty per cent (80%) of his or her production of finished consumer goods and finished capital goods of goods during the year, whether or not the raw materials are from within Uganda.

## **7. Obligations of the Certificate Holder**

The holder of the Certificate of Entitlement to Exemption shall, during the period of the tax incentives –

- (a) comply with the obligations imposed by the Income Tax Act, Cap. 340;
- (b) keep proper books of accounts and records as required by Regulation 7;
- (c) export eighty per cent (80%) of the finished consumer goods or finished capital goods produced by him or her;
- (d) not transfer the Certificate of Entitlement to Exemption to another person.

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## 8. Revocation of Certificate of Entitlement to Exemption

- (1) The Commissioner may revoke a Certificate granted under these Regulations where he or she is satisfied that –
  - (a) there has been a breach of the terms under which the certificate is granted;
  - (b) there has been a breach of a condition attached to the certificate;
  - (c) the application for the Certificate of Entitlement to Exemption was defective in that the holder misrepresented him/herself and failed to rectify the defect within forty five days after being requested to do so;
  - (d) the holder is bankrupt;
  - (e) the holder has failed to submit the required information for two years consecutively;
  - (f) the holder knowingly or negligently gives false or misleading information to the Authority;
  - (g) the holder refuses or neglects to provide information which the Authority may reasonably require for the purposes of the enforcement of these Regulations;
  - (h) the holder refuses or neglects to keep proper books of accounts; or
  - (i) the holder refuses without lawful excuse to admit an officer or an agent of the Authority, after being given reasonable notice, into the premises of his or her business enterprise or otherwise obstructs any inspection by an officer or agent of the Authority in the discharge of its monitoring function.
- (2) The Commissioner shall before revoking a certificate under subsection (1) give not less than thirty days' written notice of the intention to revoke the certificate to the holder of the certificate and shall consider any written representations made to the holder of the certificate to the Commissioner within that time.

## 9. Appeals

- (1) A person aggrieved by a decision of the Commissioner may appeal to the Minister by giving written notice to the authority against –
    - (a) the refusal of the authority to grant a certificate under these regulations ;
    - (b) the attaching of a condition to a certificate; or
-

- (c) the revocation of the certificate.
- (2) An appeal under this Regulation shall be in writing to the Minister within thirty days after the receipt of the decision of the Authority and the appellant shall give notice of the appeal to the Authority.
- (3) The Minister shall consider an appeal under this regulation and may –
  - (a) dismiss the appeal;
  - (b) require the authority to issue a certificate to the appellant;
  - (c) quash the revocation of a certificate; or
  - (d) permit the appellant to make a fresh application for a certificate notwithstanding that the period prescribed for applications has expired and the Authority shall give effect to the determination of the Minister.

## **10. Records**

- (1) The holder of a Certificate of Entitlement of Exemption shall maintain records of –
  - (a) inputs for the exports business;
  - (b) export sales;
  - (c) export documents;
  - (d) goods that have been warehoused;
  - (e) goods that have been produced;
  - (f) local sales; and
  - (g) any other records as may be required by the Commissioner.

## **11. Filing of returns**

- (1) The holder of a Certificate of Entitlement to Exemption shall submit an annual return to the Authority, showing a summary of receipts and exports and the return shall contain the following information –
  - (a) stock at hand at the beginning of the year;
  - (b) total receipts into the company warehouse;
  - (c) total annual production;
  - (d) stock carried forward to the next year; and

- (e) total sales in the local market and total sales exported.
- (2) The return shall be submitted annually together with the final return of income.

## 12. Register

- (1) The Authority shall maintain a register of all the certificates granted under these Regulations.
- (2) The Authority shall cause to be entered in the register in respect of each certificate –
  - (a) the name of the business enterprise to which the certificate was granted;
  - (b) the principal place of business of the certificate holder; and
  - (c) the activities to which the certificate relates.

## SCHEDULE

*Regulation 4(1)*

### FORMS

#### FORM 1

#### **Application for a Certificate of Entitlement to Exemption**

*(Under section 21 and 164 of the Income Tax Act, 1997 Cap. 340)*

*Please enter the information requested in the spaces provided. Please note that any additional information should be attached to this application form.*

#### **Business Details:**

Name (Company or individual).....  
 TIN.....  
 Parent Company (If applicable).....  
 Address (Postal and Physical).....  
 Contact Telephone Number.....  
 E-Mail address .....  
 Directors Details (Names and contacts .....  
 Nature of goods to be manufactured for export.....

**DECLARATION:**

I .....declare that I am exporting or intend to export at least eighty per cent (80%) of my production of finished capital goods or finished consumer goods during the year.

Completed by:

Name .....

Title.....

Signature.....

Date.....

**Official Comments.**

Details of Verifications and Recommendations:

Verification officer's Signature.....

Date.....

Supervisor's Signature.....

Date.....

**FORM 2:**

*Regulation 4 (5)*

**Certificate of Entitlement to Exemption**

*This Certificate of Entitlement to Exemption is issued under section 21 and 164 of the Income Tax Act, Cap. 340.*

Name of Business:.....

Address:.....

Physical Location:.....

Nature of Business:.....

Tax Incentives: ***Exemption from Corporation Tax and Withholding Tax.***

The certificate is valid from..... to.....

**Note:**

1. The holder of this Certificate of Entitlement to Exemption shall comply with the requirements of section 21 of the Income Tax Act Cap.340 and these Regulations.
2. The Commissioner may revoke the Certificate if satisfied that there has been a breach of the terms under which the certificate is granted or on a breach of a condition attached to the certificate or if the holder of the certificate is convicted of an offence under the Income Tax Act or other relevant law.

.....  
*Commissioner*

## Statutory Instrument No.30 of 2011

**THE INCOME TAX (TRANSFER PRICING) REGULATIONS, 2011***(Under sections 90 and 164 of the Income Tax Act cap 340)*

IN EXERCISE of the powers conferred upon the Minister by section 164 of the Income Tax Act Cap. 340, these Regulations are made this 20<sup>th</sup> day of June 2011.

**ARRANGEMENT OF REGULATIONS***Regulation***PART I—PRELIMINARY**

1. Title and commencement
2. Application of regulations
3. Interpretation

**PART II—COMPARTIBILITY FACTORS, BRANCH PERSON AND OECD DOCUMENTS**

4. Compatibility factors
5. Branch person and headquarter person
6. Application of OECD documents

**PART III—CONSISTENCY WITH ARM'S LENGTH PRINCIPLE, DOCUMENTATION, ADVANCED PRICING AGREEMENTS AND CORRESPONDING ADJUSTMENTS**

7. Consistency with arm's length principles
8. Documentation
9. Advanced pricing agreements
10. Corresponding adjustments

**PART I—PRELIMINARY****1. Title and commencement**

These Regulations may be cited as the Income Tax (Transfer Pricing) Regulations 2011, and shall come into force on the 1st day of July 2011.

**2. Application of Regulations**

The Regulations shall apply to a controlled transaction if a person who is a party to the transaction is located in and is subject to tax in Uganda and the other person who is a party to the transaction is located in or outside Uganda.

### 3. Interpretation

In these Regulations, unless the context otherwise requires –

“Act” means the Income Tax Act;

“arm’s length principle” in relation to a controlled transaction, means the results of the transaction are consistent with the results that would have been realised in a transaction between independent persons dealing under the same conditions;

“associate” has the meaning given to it in section 3 of the Act;

“branch” in relation to a person –

- (a) where there is a tax treaty applicable to the person, means a permanent establishment as defined in the treaty; or
- (b) in any other case, has the meaning given to it in section 78 of the Act;

“comparability factors” means the factors specified in regulation 4;

“comparable uncontrolled price method” means comparing the price charged in a controlled transaction with the price charged in a comparable uncontrolled transaction;

“comparable uncontrolled transaction” in relation to the application of a transfer pricing method to a controlled transaction, means an uncontrolled transaction which, after taking account of the comparability factors, satisfies the differences, if any, between the two transactions or between the persons undertaking the transactions which do not materially affect the financial indicator applicable under the method or where the differences do materially affect the financial indicator applicable under the method, then reasonably accurate adjustments can be made to eliminate the effects of the differences;

“controlled transaction” means a transaction between associates;

“cost plus method” means comparing the mark up on the costs directly and indirectly incurred in the supply of property or services in a controlled transaction with the mark up on those costs directly or indirectly incurred in the supply of property or services in a comparable uncontrolled transaction;

“financial indicator” means –

- (a) in relation to the comparable uncontrolled price method, the price;
- (b) in relation to the cost plus method, the mark up on costs;



- (c) in relation to the resale price method, the resale margin;
- (d) in relation to the transaction net margin method, the net profit margin; or
- (e) in relation to the transactional profit split method, the division of profit and loss;

“person” has the meaning given to it in the Act and includes a “branch person” & “headquarters person” referred to in regulation 5;

“resale price method” means comparing the resale margin that a purchaser of property in a controlled transaction earns from reselling the property in an uncontrolled transaction with the resale margin that is earned in a comparable uncontrolled purchase and resale transaction;

“transaction” includes an arrangement, understanding, agreement, or mutual practice whether or not legally enforceable or intended to be legally enforceable, and includes a dealing between a branch of a person and another part of the person;

“transactional net margin method” means comparing the net profit margin relative to the appropriate base including costs, sales or assets that a person achieves in a controlled transaction with the net profit margin relative to the same basis achieved in a comparable uncontrolled transaction;

“transactional profit split method” means comparing the division of profit and loss that a person achieves in a controlled transaction with the division of profit and loss that would be achieved when participating in a comparable uncontrolled transaction;

“transfer pricing method” means –

- (a) the comparable uncontrolled price method;
- (b) the resale price method;
- (c) the cost plus method;
- (d) the transaction net margin method; or
- (e) the transactional profit split method; and

“uncontrolled transaction” means a transaction that is not a controlled transaction.

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## PART II—COMPARABILITY FACTORS, BRANCH PERSONS AND OECD DOCUMENTS

### 4. Comparability factors

In determining whether two or more transactions are comparable the following factors shall be considered to the extent that they are economically relevant to the facts and circumstances of the transactions –

- (a) the characteristics of the property or services transferred or supplied;
- (b) the functions undertaken by the person entering into the transaction taking account of assets used and risks assumed;
- (c) the contractual terms of the transactions;
- (d) the economic circumstances in which the transactions take place; and
- (e) the business strategies pursued by the associate to the controlled transaction.

### 5. Branch person and headquarter person

For the purposes of these Regulations –

- (a) a branch shall be deemed to be a separate and distinct person referred to as the “branch person” from the person in respect of whom it is a branch referred to as the “headquarters person”;
- (b) a branch person and headquarters person shall be deemed to be associates; and
- (c) a branch person and a headquarter person are located where their activities are located.

### 6. Application of OECD documents

- (1) Subject to sub regulation (2), these Regulations shall be applied in a manner consistent with –
  - (a) the arm’s length principle in Article 9 of the OECD Model Tax Convention on Income and Capital; and
  - (b) the OECD Transfer Pricing Guidelines for Multi-national Enterprises and Tax Administrations approved by the Council of the OECD for publication on 13 July 1995 (C(95)126/FINAL) as supplemented and updated from time to time.

- (2) Where there is any inconsistency between the Act, these Regulations and the OECD documents referred to in sub regulation (1), the Act shall prevail.

**PART III—CONSISTENCY WITH ARM’S LENGTH PRINCIPLE,  
DOCUMENTATION, ADVANCED PRICING AGREEMENTS AND  
CORRESPONDING ADJUSTMENTS**

**7. Consistency with the arm’s length principle**

- (1) Where a person has entered into a transaction or a series of transactions to which these Regulations apply, the person shall determine the income and expenditures resulting from the transaction or transactions in a manner that is consistent with the arm’s length principle.
- (2) Where a person fails to comply with sub regulation (1), the Commissioner may make the necessary adjustments to ensure that the income and expenditures resulting from the transaction or transactions are consistent with the arm’s length principle.
- (3) In determining whether the result of a transaction or series of transactions is consistent with the arm’s length principle, the most appropriate transfer pricing method shall be used taking into account—
- (a) the respective strengths and weaknesses of the transfer pricing methods in the circumstances of the case;
  - (b) the appropriateness of a transfer pricing method having regard to the nature of the controlled transaction determined, in particular, through an analysis of the functions undertaken by each person that is a party to the controlled transaction;
  - (c) the availability of reliable information needed to apply the transfer pricing methods; and
  - (d) the degree of comparability between controlled and uncontrolled transactions, including the reliability of adjustments, if any, that may be required to eliminate differences.
- (4) Where a person has used an appropriate transfer pricing method in accordance with sub regulation (3), the Commissioner’s examination as to whether income and expenditures resulting from the person’s transaction or transactions are consistent with the arm’s length principle shall be based on the transfer pricing method used by the person.

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- (5) A person may apply a transfer pricing method other than those listed in the definition of transfer pricing method under regulation 3, if the person can establish that –
- (a) none of the listed methods can reasonably be applied to determine whether a controlled transaction is consistent with the arm's length principle; and
  - (b) the method used gives rise to a result that is consistent with that between independent persons engaging in comparable uncontrolled transactions in comparable circumstances.
- (6) A person who contravenes this regulation is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding twenty five currency points or both.

## **8. Documentation**

- (1) A person shall record, in writing, sufficient information and analysis to verify that the controlled transactions are consistent with the arm's length principle.
- (2) The documentation referred to in sub regulation (1) for a year of income shall be in place prior to the due date for filing the income tax return for that year.
- (3) The Commissioner may, by notice, specify the items of documentation that a person is required to keep for the purposes of this regulation.
- (4) A person who fails to comply with this regulation is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding twenty five currency points or both.

## **9. Advance pricing agreements**

- (1) A person may request that the Commissioner enter into an advance pricing agreement to establish an appropriate set of criteria for determining whether the person has complied with the arm's length principle for certain future controlled transactions undertaken by the person over a fixed period of time.
  - (2) A request under sub regulation (1) shall be accompanied by –
    - (a) a description of the person's activities, controlled transactions, and the proposed scope and duration of the advanced pricing agreement;
    - (b) a proposal by the person for the determination of the transfer prices for the transactions to be covered by the advanced pricing agreement setting out the comparability factors, the selection of the most appropriate transfer pricing
-

method to the circumstances of the controlled transactions; and the critical assumptions as to future events under which the determination is proposed;

- (c) the identification of any other country or countries that the person wishes to participate in the advanced pricing agreement; and
  - (d) any other information which the Commissioner may require as specified in a practice note on transfer pricing.
- (3) The Commissioner shall consider a request made by a person under sub regulation (1) and, after taking account of the matters specified in the request and the expected benefits from an advance pricing agreement in the circumstances of the case, the Commissioner may decide to enter into an advance pricing agreement or to reject the request.
- (4) Where the Commissioner agrees to enter into an advance pricing agreement with a person, the Commissioner may –
- (a) accept the person's proposal under sub regulation (2)(b);
  - (b) reject the proposal; or
  - (c) modify the proposal with the person's consent.
- (5) The Commissioner may enter into an advance pricing agreement with the person either alone or together with the competent authorities of the country or countries of the person's associate or associates identified under sub regulation (2)(c).
- (6) Where the Commissioner approves a proposal under sub regulation (4)(a) or modifies it with the person's consent under sub regulation (4)(c), the Commissioner shall enter into an advance pricing agreement that will provide confirmation to the person that no transfer pricing adjustment will be made under regulation 7(2) to controlled transactions covered by the agreement where the transactions are consistent with the terms of the agreement.
- (7) An advance pricing agreement entered into under sub regulation (6) shall apply to the controlled transactions specified in the agreement that are entered into on or after the date of the agreement and the agreement shall specify the years of income for which the agreement applies.
- (8) The Commissioner may cancel an advanced pricing agreement with a person by notice in writing if –
- (a) the person has failed to materially comply with a fundamental term of the agreement;

- (b) there has been a material breach of one or more of the critical assumptions underlying the agreement;
  - (c) there is a change in the tax law that is materially relevant to the agreement; or
  - (d) the agreement was entered into based on a misrepresentation, mistake or omission by the person.
- (9) Cancellation of an advance pricing agreement under sub regulation (8) takes effect –
- (a) in the case of sub regulation (8)(a) and (c), from the date of the notice of cancellation specified by the Commissioner in the notice of cancellation;
  - (b) in the case of sub regulation (8)(b), from the date that the material breach occurred; and
  - (c) in the case of sub regulation (8)(d), from the date the agreement was entered into.
- (10) The Commissioner shall treat as confidential any trade secrets or other commercially sensitive information or documentation provided to the Commissioner in the course of negotiating an advance pricing agreement.

## **10. Corresponding adjustments**

Where –

- (a) an adjustment is made by a competent authority of another country with which Uganda has a double tax treaty to the taxation of a transaction or transactions of a person subject to tax in Uganda; and
- (b) the adjustment results in taxation in another country of income or profits that are also taxable in Uganda, the Commissioner shall, upon request by the person subject to tax in Uganda, determine whether the adjustment is consistent with the arm's length principle and where it is determined to be consistent, the Commissioner shall make a corresponding adjustment to the amount of tax charged in Uganda on the income or profits so as to avoid double taxation.

**Cross references** - Income Tax Act Cap 340

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**THE INCOME TAX (DESIGNATION OF PAYERS) NOTICE, 2013***Legal Notice No.9 of 2013**(Under Section 119(1) of the Income Tax Act, Cap.340)*

IN EXERCISE of the powers conferred upon the Minister by Section 119(1) of the Income Tax Act, this Notice is issued this 28<sup>th</sup> day of June, 2013.

**1. Title**

This Notice may be cited as the Income Tax (Designation of Payers) Notice, 2013.

**2. Commencement**

This Notice shall come into force on the 1st day of July, 2013.

**3. Designation of persons as payers**

The persons specified in the Schedule to this Notice are designated as payers for purposes of Section 119(1) of the Income Tax Act.

**4. Payment for goods and services**

(1) Where any person designated in this Notice as a payer pays an amount or amounts in aggregate exceeding one million shillings to any person in Uganda-

- (a) for a supply of goods or materials of any kind; or
- (b) for a supply of any services,

the payer shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule to the Income Tax Act, and the payer shall issue a receipt to the payee.

(2) Where –

- (a) there are separate supplies of goods or materials, or of services and each supply is made for an amount that is one million or less; and
- (b) it would reasonably be expected that the goods or materials, or services would ordinarily be supplied in a single supply for an amount exceeding one million shillings, sub-paragraph (1) applies to each supply.

## 5. Revocation of Legal Notice No.10 of 2012

The Income Tax (Designation of Payers) Notice, 2012 is revoked.

### SCHEDULE

- |  |  |
|--|--|
| 1. 23rd Metallurgical Construction of Non-Ferrous Metals     | 39. Bethany High School Nalya Limited      |
| 2. A.K. Transporters Ltd.                                    | 40. Brac Uganda Limited                    |
| 3. A2z Maintenance And Engineering Services Ltd              | 41. Brac Uganda Microfinance Limited       |
| 4. Abb Limited   | 42. Britania Allied Industries Limited     |
| 5. Abc Capital Bank Limited                                  | 43. Budadiri Arabica Coffee Factory Ltd    |
| 6. Acdi/Voca-Usaid Pl480 Title Ii Program                    | 44. Bugema University                      |
| 7. Action Aid International Uganda Limited                   | 45. Bugisu Cooperative Union Ltd           |
| 8. Africa Air Rescue (U) Ltd (Aar)                           | 46. Buildtop Construction Ltd              |
| 9. African Medical and Research Foundation                   | 47. Bujagali Energy Limited                |
| 10. African Palliative Care Association Limited by Guarantee | 48. Cable Corporation Ltd.                 |
| 11. African Skies Limited                                    | 49. Cairo International Bank               |
| 12. Afsat Communications (Uganda) Limited                    | 50. Canaan Sites Limited                   |
| 13. Agakhan Education Service Uganda                         | 51. Capital Radio Limited                  |
| 14. Ahf Global Immunity                                      | 52. Capital Shoppers Ltd                   |
| 15. Aids Information Centre Posttest Club                    | 53. Care International in Uganda           |
| 16. Airtel Uganda Limited                                    | 54. Catholic Relief Services               |
| 17. Alcatel-Lucent East Africa Ltd                           | 55. Cbmi Construction Co Ltd               |
| 18. Alexander Forbes (U) Ltd                                 | 56. Cementers Limited                      |
| 19. Ambitious Construction Co.Ltd                            | 57. Centenary Rural Development Bank Ltd   |
| 20. Ambrosoli Limited  | 58. Century Bottling Co. Ltd.              |
| 21. American Refugee Committee                               | 59. Chartis (U) Ltd/ Aig                   |
| 22. Amnesty International Limited                            | 60. Children's Aids Fund                   |
| 23. Ankole Coffee Processors                                 | 61. China Civil Eng.Construction Co.       |
| 24. Aon Uganda Limited                                       | 62. China Nanjing International (U) Ltd    |
| 25. Apollo Hotel Corporation Limited                         | 63. China Road and Bridge Corporation Ltd  |
| 26. Aponye (U) Ltd   | 64. Chobe Safari Lodges Limited            |
| 27. Arab Contractors (Uganda) Limited                        | 65. Churchill Safaris and Travel Limited   |
| 28. Aurum Roses Limited                                      | 66. Cinderella Agencies Limited            |
| 29. Avocats Sans Frontiers                                   | 67. Citibank Uganda Limited                |
| 30. Avsi Foundation  | 68. City Oil (U) Limited                   |
| 31. Babcon (U) Ltd   | 69. Civicon Limited                        |
| 32. Baker Hughes Eho Limited                                 | 70. Coil Limited                           |
| 33. Bank of Africa - Uganda Ltd                              | 71. Colline Hotel Limited                  |
| 34. Bank of Baroda (U) Limited                               | 72. Compassion Internat'l                  |
| 35. Barclays Bank (U) Ltd.                                   | 73. Complant Engineering Trade (U) Ltd     |
| 36. Bata Shoe Co. Uganda Limited                             | 74. Construction Put Sarajevo              |
| 37. Baylor College of Medicine Children's Foundation         | 75. Coronation Developers (U) Ltd          |
| 38. Bayport Financial Services Uganda Limited                | 76. Crane Bank Limited                     |
|  | 77. Crestanks Ltd.                         |
|  | 78. Crown Beverages Limited                |
|  | 79. Dayalbhai Madanji & Co Investments Ltd |
|  | 80. Deloitte Uganda Limited                |
|  | 81. Delta Petroleum Limited                |



82. Dfcu Bank Limited
83. Dfcu Limited
84. Dhl Global Forwarding (Uganda) Limited
85. Dhl International (U) Ltd
86. Diamond Trust Bank Ltd
87. Doshi Hardware (U) Ltd
88. Dott Services Limited
89. East African Distributors Limited
90. East African Underwriters Limited
91. East High School-Ntinda Limited
92. Eastern Builders and Engineers Ltd
93. Ecobank Uganda Limited
94. Ecopower Uganda Limited
95. Elgon Terrace Hotel Ltd
96. Elizabeth Glaser Pediatric Aids Foundation
97. Embassy Supermarket (U) Ltd
98. Energo (Uganda) Company Limited
99. Engen Uganda Limited
100. Enjoy (U) Ltd
101. Epicentre / Msf
102. Equator Catering Ltd
103. Equity Bank Uganda Limited
104. Ericsson Ab Uganda Branch
105. Ernst and Young
106. Eskom Uganda Limited
107. Excel Construction Ltd.
108. Ferdult Engineering Services Ltd
109. Fina Bank Uganda Limited
110. Finca - Uganda
111. First Insurance Co
112. Five Star Insurance Services Ltd
113. Fountain Publishers Limited
114. Fuelex (U) Limited
115. G4s Secure Solutions Uganda Limited
116. Gal Chizar Palace Investments Limited
117. Game Discount World Uganda Limited
118. Gapco Uganda Ltd.
119. Gauff Consultants Uganda Limited
120. Geolodges Uganda Limited
121. Giz
122. Global Trust Bank (U) Limited
123. Gnd International (Pty) Limited
124. Goal Relief And Development Organisation
125. Gold Star Insurance Co. Limited
126. Golden Leaves Hotels & Resort Ltd
127. Golf Course Group Limited
128. Golf Course Holdings Limited
129. Golf Course Hotel Limited
130. Grant Thornton
131. Greenhill Holdings Ltd
132. Gulfstream Investments Uganda Limited
133. Hana Mixed Secondary School Limited
134. Hared Petroleum Limited
135. Hashi Energy (U) Limited
136. Hass Petroleum (U) Limited
137. Heifer Project Inter
138. Heritage Coffee Company Limited
139. Heritage Sites Ltd
140. Hilton High School Mukono
141. Hima Cement Ltd
142. Hl Construction Ltd
143. Hospice Africa Uganda Limited
144. Hossana Real Estates Ltd
145. Hotel Africana Ltd
146. Hotel Paradise On The Nile Limited
147. Housing Finance Bank Limited
148. Huawei Technologies Uganda Co Limited
149. Imperial Bank (Uganda) Limited
150. Imperial Group Of Hotels Limited
151. Infocom Limited
152. Innscor Uganda Limited
153. Insurance Company of East Africa
154. International Hiv/Aids Alliance Uganda
155. International Law Institute
156. International Rescue Committee Inc.
157. International School Of Uganda Limited
158. Inter-Religious Council Of Uganda
159. IucnLiason Office
160. J.P Cuttings Limited
161. Jacobsen Uganda Power Plant Co. Ltd
162. Jamani Investments Limited
163. Jambo Roses Ltd
164. Jazz Supermarkets Limited
165. Jesani Construction Ltd
166. Jiemke Ltd
167. Jomayi Property Consultant Limited
168. Jomayi Stones And Concrete Products
169. Jsi Research And Training Institute Inc.
170. Kabira Country Club Limited
171. Kakira Sugar Limited
172. Kakiri Stone Quarry Limited
173. Kampala International University Limited
174. Kampala Aeroclub Training Centre
175. Kampala International School Uganda Limited
176. Kark Technical Services Ltd

177. Karmic Foods Limited	Accountancy Programme
178. Kayonza Growers Tea Factory Limited	226. Mulusa Academy Wobulenzi Limited
179. Kcb Bank Uganda Limited	227. Munyonyo Common Wealth Resort Limited
180. Kenfreight U Ltd	228. Nakumatt (Uganda) Ltd
181. Kengrow Industries Limited	229. Namirembe Hillside High School Ltd
182. Kenjoy Enterprises	230. Nation Media Group Limited
183. Kensington Africa Limited	231. National Bank of Commerce (U) Limited
184. Kijura Tea Company Limited	232. National Contracting Company Limited
185. Kinyara Sugar Limited	233. National Forestry Authority
186. Knight Frank Uganda Limited	234. National Insurance Corporation Ltd.
187. Kobil Uganda Limited	235. Ndejje University
188. Kpmg Peat Marwick	236. Nestle Equatorial African Region Limited
189. Krishna Construction Company Limited	237. New Oasis Esso Service Station Ltd.
190. Lake Victoria Hotel Limited	238. Newplan Limited
191. Leads Insurance Limited	239. Nice House of Plastics Limited
192. Libra Energy Limited	240. Nicontra Limited
193. Libya Oil Uganda Limited	241. Nile Breweries Ltd
194. Link Community Development Limited	242. Nkumba University
195. Lion Insurance Co. Limited	243. Nokia Siemens Tietoliikenne Oy
196. Lutheran World Federation	244. North Bukedi Cotton Company Limited
197. M.K Publishers Uganda Limited	245. Northern Uganda Rehabilitation Programme
198. M.T.N. Uganda Limited	246. Ntinda View Academy Limited
199. Mabale Growers Tea Factory Limited	247. Oil and Gas Exploration Company Krakow Ltd
200. Mada Holdings (U) Limited	248. Omega Construction Ltd
201. Madhvani Group Limited	249. Opportunity (U) Limited
202. Malaria Consortium East Africa	250. Orange Uganda Limited
203. Mantrac (Uganda) Limited	251. Orient Bank Ltd
204. Marie Stopes Uganda Limited	252. Oxfam Gb In Uganda
205. Mbale Resort Hotel Limited	253. Pancon Engineers Ltd
206. McleodRussel Uganda Limited	254. Paraa Safari Lodge Limited
207. Mediciens Sans Frontier Holland	255. Pdm (Uganda) Limited
208. Mediciens Sans Frontiers-Spain	256. Pearl Development Group Limited
209. Mega Supermarket Limited	257. Pearl Flowers Ltd.
210. Merchantile Credit Bank Limited	258. Pearson Longman (U) Limited
211. Merryland High School	259. Petro Uganda Limited
212. Metroplex Shopping Mall Ltd	260. Petrocity Enterprises (Uganda) Limited
213. Metropole Holdings Ltd	261. Phoenix Petroleum Uganda Limited
214. Metropolitan Properties Ltd	262. Picfare Industries Ltd.
215. Mgs International (U) Ltd	263. Pine Investments
216. Microcare Health Limited	264. Pioneer Construction Ltd
217. Mildmay International	265. Pkf Consulting Limited
218. Moil (U) Limited	266. Pkf Taxation Services
219. Monitor Publications Ltd	267. Pkf Uganda
220. Mpanga Growers Tea Factory Ltd	268. Plan International
221. Mu-Jhu Care Ltd	269. Polaris Seismic International Limited
222. Muljibhai Madhivan Foundation	270. Post Bank Uganda Limited
223. Muljibhai Madvani Co. Ltd	
224. Multichoice Uganda Limited	
225. Multitech Management and	

271. Premier Academy Limited
272. Pricewater House Coopers
273. Pricewater House Coopers Limited
274. Pride Micro Finance Limited
275. Private Sector Foundation Uganda
276. Program For Accessible Health Communication And Education
277. Property Services Limited
278. Protea Hotels Uganda Ltd
279. Protecting Families Against Hiv/Aids (Prefa)
280. Qg Saatchi & Saatchi Ltd
281. Quality Uganda Limited
282. Queen Elizabeth National Park
283. Rabbai Real Estates
284. Rainbow International School (2003) Limited
285. Rakai Health Science Program
286. Raz Entertainment Limited
287. Reach Out Mbuya Parish Hiv/Aids Initiative
288. Red Chilli Hideaway Limited
289. Research Triangle Institute
290. Reynolds Construction Company
291. Ridar Hotel Ltd
292. Rio Insurance Company Limited
293. Roko Construction Limited
294. Roofings Limited
295. Roofings Rolling Mills Limited
296. Royal Van Zanten Limited
297. S.S Constructions Limited
298. SaliniConstruttori Spa
299. Sameer Agriculture & Livestock Limited
300. Sanlam Life Insurance (U) Limited
301. Save The Children International
302. Schlumberger Oilfield
303. SdvTransami (Uganda) Limited
304. Seeta High School Ltd
305. Sema Properties Ltd
306. Senana Investments Ltd
307. Seroma Christian High Ltd
308. Seyani Brothers & Co. (U) Limited
309. Shell Malindi (Uganda) Limited
310. Shell Uganda Ltd.
311. Shoprite Checkers Uganda Limited
312. Sny Netherlands Development Organization
313. Sobetra Uganda Limited
314. SogeaSatom Ltd
315. Sos Children's Villages Uganda
316. Southern Range Nyanza Limited
317. SpedagInterfreight Uganda Limited
318. Speke Hotel (1996) Limited
319. Spencon Services Ltd
320. Srs (Uganda) Limited
321. St Lawrence Citizens' High School Limited
322. Stanbic Bank (U) Ltd.
323. Standard Chartered Bank Uganda Limited
324. Standard Supermarkets Limited
325. Statewide Insurance Co
326. Stirling Civil Engineering Ltd - Uganda Branch
327. Stone Construction Limited
328. Straight Talk Foundation Limited
329. Strategic Logistics Ltd
330. Sugar Corporation Of Uganda Limited
331. Sunrise Commodities & Millers Uganda
332. Sunset Hotel International Limited
333. Super Supermarket Limited
334. Target Well Control Uganda Limited
335. Team Business College Limited
336. The Aids Support Organisation (Taso)
337. The Aids Support Organisation (Taso) - Central Region
338. The Emin Pasha Limited
339. The Human Rights and Good Governance Programme
340. The Infectious Diseases Institute Limited
341. The Johns Hopkins University Center for Communications Programmes
342. The Jubilee Insurance Co Ltd
343. The New Vision Printing and Publishing Corporation
344. The Registered Trustees of Kampala Archdiocese
345. The Registered Trustees of Reproductive Health Uganda
346. Tibbett & Britten International Limited
347. Tilda Uganda Limited
348. Toro Mityana Tea Co. Ltd.
349. Tororo Cement Ltd
350. Total Uganda Limited.
351. Tps (Uganda) Limited
352. Transafrica Assurance Co Ltd
353. Tronder Power Uganda Limited
354. Tropical African Bank Limited
355. Tusker Mattresses Uganda

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|--|---|
| 356. Uap Insurance Uganda Limited            | 375. Uvan Ltd                               |
| 357. Uchmi Super Markets (Uganda) Limited    | 376. Valley View Estates Limited            |
| 358. Ugacof Limited                          | 377. Vambeco Enterprises Limited            |
| 359. Uganda Baati Ltd                        | 378. Venus Flowers (U) Limited              |
| 360. Uganda Breweries Ltd                    | 379. Victoria Construction Company Ltd      |
| 361. Uganda Christian University             | 380. Victoria Pumps Ltd                     |
| 362. Uganda Development Bank Ltd             | 381. Vienna College Namugongo Limited       |
| 363. Uganda Finance Trust Limited            | 382. Viral Services Limited                 |
| 364. Uganda Health Marketing Group Limited   | 383. Wagagai Limited                        |
| 365. Uganda Inflight Services Ltd            | 384. Wanno Engineering Ltd                  |
| 366. Uganda Martyrs University               | 385. Warid Telecom Uganda Limited           |
| 367. Uganda Red Cross Society                | 386. Water Aid                              |
| 368. Uganda Telecom Limited                  | 387. Watoto Childcare Ministries            |
| 369. Ugarose Flowers Limited                 | 388. Weatherford Services & Rentals Limited |
| 370. Ugma Engineering Corporation Ltd        | 389. Western Uganda Cotton Company Limited  |
| 371. Umeme Limited                           | 390. Xclusive Cuttings Uganda Limited       |
| 372. Unilever Uganda Limited                 | 391. XclusiveKalanchoe (U) Limited          |
| 373. United Bank for Africa (Uganda) Limited | 392. Zion Constructions                     |
| 374. United Healthcare Distributors Ltd      |   |

### Revoked Designation of Payers Notices

*Revoked by  
Legal Notice  
No.10 of 2012  
& Legal Notice  
No.9 of 2013*

The Income Tax (Designation of Payers) Notice, 2006;

The Income Tax (Designation of Payers) (Am) Notice, 2007;

The Income Tax (Designation of Payers) Notice 2012;

## PRACTICE NOTES

*(Under Section 160 of the Income Tax Act)*

These Practice Notes, which are binding on all URA officers unless altered or revoked, were issued to achieve consistency in the administration of the Income Tax Act and to provide guidance to taxpayers and officers of the Uganda Revenue Authority.

### Practice Notes – 2001

<b>ISSUE DATE</b>	:	2 <sup>nd</sup> November 2001
<b>EFFECTIVE DATE:</b>	:	1 <sup>st</sup> July 2001
<b>ISSUED BY</b>	:	Annebritt Aslund - CG

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#### 1. Recruitment Expenses

All expenses genuinely incurred by taxable employers in the recruitment of employees should be treated as incurred in the production of income under Section 22 of the ITA and allowed as a deduction.

#### 2. Deduction of Bad Debts

- (a) For persons other than financial institutions, a bad debt is allowed as a deduction only if all reasonable steps for recovery have been taken and there is reasonable ground that the debt will not be recovered.
- (b) For financial institutions, specific reserves for identified losses or potential losses are allowable as a deduction. For this purpose in respect of financial institutions, bad debts provided for in accordance with the Bank of Uganda Regulations are allowable as a deduction. [Refer to Prudential Norms on Asset Quality for Financial Institutions – Paragraph 12(1) to (6)]
- (c) Paragraph 12(7) of the same Bank of Uganda Regulations provides for 1% general provision on the total outstanding credit facilities. This 1% general provision does not satisfy the requirements of Section 25 of the ITA and is therefore not deductible.
- (d) Any recoveries of previously written off bad debts will be treated as income and taxed in the year in which the recoveries are made.

#### 3. Initial Allowance

Placing “*an item of eligible property into service for the first time...*” should be interpreted to mean for the first time in the taxpayer’s business. Therefore where taxpayer ‘B’ buys equipment which has been used by taxpayer ‘A’ in his business, taxpayer ‘B’ is entitled to initial

allowance in the first year in which he puts the same equipment to use notwithstanding that 'A' got initial allowance in respect of the same equipment.

#### **4. Carry Forward of Losses by Companies enjoying Tax Holidays under Certificate of Incentives – Section 166(23)**

The meaning of this subsection is that in respect of companies enjoying tax holidays, a tax computation will be done under Section 166(23)(c) for each of the tax holiday years as if the company was not exempt, and notional deductions made for Sections 27, 29, 30 and 31 under Section 166(23)(b) so that any loss in the final tax holiday year may be carried forward for deduction in the first year after expiration of the tax holiday and subsequently in accordance with Section 38.

#### **5. Valuation of Benefits – Housing provided to Domestic Workers within the same Compound as the Person they work for (commonly referred to as “Boys’ Quarters”)**

Workers quarters of this nature have no market value in terms of rent. Consequently, no benefit should be attached to such accommodation for domestic workers under paragraph 10 of the Fifth Schedule.

#### **6. Valuation of Benefits – Provision of Security Guards**

An employer's provision of security guards is not classified as a taxable benefit under the Fifth Schedule.

#### **7. Computer Software**

Computer software is an integral part of computers and therefore a class 1 depreciable asset under the Sixth Schedule of the ITA.

#### **8. Withholding Tax on Professional Fees paid to Residents**

*Revoked by  
Practice Note issued  
on 1<sup>st</sup> September 08*

In respect of Section 119(A), the following professionals will be deemed to have regularly complied with the obligations imposed under the Income Tax Act –

- A. All Professionals who are registered for VAT purposes;
- B. Doctors, Dentists or Nurses with a fixed place of business and registered for income tax purposes.

Professionals not covered by the above may, on application to the Commissioner General, be granted exemptions.

#### **9. Any assessments that have become final and conclusive as at 1<sup>st</sup> July 2001 shall not be re-opened on account of variance with these Practice Notes.**

## Practice Notes – 2002

ISSUE DATE :  
 EFFECTIVE DATE:  
 ISSUED BY : Annebritt Aslund - CG

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### 1. Foreign Currency Debt Gains and Losses – Section 48(4)

This Section requires notification of foreign currency debt to be given to the Commissioner in writing before a foreign currency loss in respect thereof can be allowed as a deduction.

Information relating to foreign currency gains and losses must be available in the accounts. Therefore the notification requirement is deemed to be satisfied when the accounts have been submitted. If any further details are necessary, they should be provided when requested.

### 2. Withholding Tax on Professional Fees – Section 119A *[Now 118A]*

This Section requires deduction of withholding tax from management or professional fees paid to resident professionals.

Professional here shall have the same meaning as under Section 4(7), namely “a resident taxpayer who is in the business of providing medical, dental, architectural, engineering, accounting, legal or other professional services”.

Other professional services shall be limited to persons belonging to a vocation or calling that involves some advanced learning or science with a minimum qualification of a Diploma or Degree, or its equivalent.

## Practice Notes – 2006

ISSUE DATE : 24<sup>th</sup> July 2006  
 EFFECTIVE DATE:  
 ISSUED BY : Allen Kagina (Mrs) - CG

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### 1. Treatment of Expenses and Losses incurred by Financial Institutions on Loans given out for Agricultural purposes

The Income Tax (Amendment) Act 2005 inserted a provision under Section 21 that exempts from tax interest earned by financial institutions on loans granted for agricultural purposes.

Under Section 22(1)(a) ITA, expenses and losses are allowed only to the extent to which the expenditures or losses were incurred in the production of income included in gross

income. Expenses and losses incurred in producing income that is exempt from tax are therefore not allowable for tax purposes.

Below is the recommended tax treatment of expenses related to deriving exempt bank interest, and procedures to be followed:

(a) Direct Finance Cost (Interest on borrowed funds)

- (i) Interest payable by a Financial Institution on borrowed funds should be apportioned between loans for agricultural purposes and loans for other purposes using the formula –

Interest relating to agricultural loans =

$$\frac{A+B}{C+D} \times E$$

where,

- A** loans (principal) for agricultural purposes outstanding at the beginning of the Year;
- B** loans (principal) for agricultural purposes outstanding at the end of the year;
- C** borrowed funds at the beginning of the year;
- D** borrowed funds at the end of the year;
- E** the total interest cost for the year.

- (ii) The portion of interest obtained using the formula above is not tax allowable.

(b) Provisions for Bad and Doubtful Debts

Specific provisions as well as general provisions made in respect of agricultural loans are not allowable for tax purposes as per provisions of Section 22(1)(a).

(c) Overheads and other Expenses

- (i) Overheads are allowed wholly because they cannot be directly traced to agricultural loans, and possible bases of apportionment are highly subjective.



- (ii) Administrative and other establishment expenses are also allowed wholly because of the difficulty in obtaining a suitable base for apportionment.
- (d) Any other expenses that can be separately identified and is wholly related to agricultural loans is not allowable for tax purposes.
- (e) Transitional Loans

This refers to loans that had already been advanced by financial institutions for agricultural purposes before 1<sup>st</sup> July 2005.

Interest accruing to a financial institution out of this category of loans after 1<sup>st</sup> July 2005 is exempt, while the related expenses are not allowable for tax purposes.

- (f) Financial Institutions should submit with their final returns and accounts the following information –
  - (i) A breakdown of specific provisions between those made against loans for agricultural purposes and those made against loans for other purposes;
  - (ii) Total interest cost for the year;
  - (iii) Opening and closing balances of the principal in respect of loans advanced for agricultural purposes; and
  - (iv) Opening and closing balances of total interest-incurring funds available to the financial institution for lending.
- (g) Definitions

“Agricultural loan” means a loan for primary production purposes of farming, forestry, fish farming, bee keeping, animal and poultry husbandry, or similar operations.

“Financial Institution” is defined in the ITA.

## 2. Exemption of Income of a Collective Investment Scheme

The income of a Collective Investment Scheme (CIS) is exempt from tax under Section 21(1)(t) of the ITA to the extent of which the income is distributed to participants in the Collective Investment Scheme.

A Collective Investment Scheme is defined in Section 3 of the Collective Investment Scheme Act to mean –

“...any arrangement with respect to property of any description, including money, the purpose or effect of which is to enable persons taking part in the arrangement, whether by becoming owners of the property or any part of it or otherwise, to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income.”

This definition is adopted for purposes of the ITA under Section 2.

To qualify as a CIS under the above definition, the following conditions must be satisfied:

- (a) The participants in the scheme must not have day to day control over the management of the property in question;
- (b) The participant's contributions and ultimate income/profits in relation to a property as a whole (not as separate parts unless there's free exchange or rights) must be pooled;
- (c) The property must be managed as a whole by the operator of the scheme or on his behalf.

Arrangements that do not meet the above conditions and those outlined under Section 3(5) of the CIS Act do not constitute a CIS for the purposes of the ITA and would not enjoy the exemption.

### **3. Exempt Organisation**

For purposes of the definition of exempt organisation in Section 2 of the ITA, in order to be considered –

- (a) “charitable” – an organisation must be proved to provide services for public benefit falling under any of the following categories:
  - (i) the relief of poverty;
  - (ii) the advancement of education;
  - (iii) the advancement of religion; or
  - (iv) other purposes beneficial to the community within the legal understanding of charity.

Whereas the public benefit in the above categories can easily be assumed, an organisation claiming to be charitable under category (iv) shall positively demonstrate the public benefit provided.

- (b) “an institution of public character” – the benefit provided must be to the public at large or at least to a sufficient section of the community.

#### 4. Widely Issued – Section 83(5)(a)

For interest paid by a resident person in respect of debentures to be exempt from tax, the “public offer test” must be met. This means the debentures, debenture stock, mortgage stock, loans, loan stock or similar instrument acknowledging indebtedness whether secured or not, must have been issued –

- (a) to a reasonable number of people operating in a capital market;
- (b) to several investors with a history of previous acquisition of debt instruments or debentures;
- (c) as a result of negotiations for the loan in a public forum used by financial markets dealing in debt instruments; or
- (d) to a dealer, manager or underwriter for the purpose of placement of the debt instrument.

The issuance of debentures should therefore be non-exclusive and preferably in a capital market arrangement that caters for public involvement.

#### 5. “Partly Used” – Section 27(10) and 2(u)

The phrase “partly used” relates to use of assets for both business and non-business purposes.

### Practice Notes – 2007

<b>ISSUE DATE</b>	:	18 <sup>th</sup> June 2007
<b>EFFECTIVE DATE:</b>		
<b>ISSUED BY</b>	:	Allen Kagina (Mrs) - CG

#### 1. Withholding Tax on Payments for Goods and Services – Meaning of “aggregate” and “gross amount” under Section 119(1) ITA.

- (a) For purposes of Section 119(1) ITA, the word “aggregate” is interpreted to mean the total payments to a supplier in respect of a supply of goods or services as provided for in a contract. The threshold of one million shillings is

therefore in respect of the total contract value. This implies that separate supplies which constitute one contract of one million shillings and above are subject to 6% WHT irrespective of whether the amount paid at any given time in respect of the supply is less than the threshold provided under Section 119(2).

- (b) Gross amount of the payment under Section 119(1) refers to the actual consideration for goods or services exclusive of any tax (i.e. VAT or Excise Duty)

## **2. Exemption for 6% WHT on Sales by Insurance Brokers/Agents**

Section 119(1) gives the Government of Uganda, a Government Institution, a local authority, any company controlled by the GOU or any person designated in a notice issued by the Minister the mandate to withhold at a rate of 6% on the gross amount payable to any person in Uganda for the services or goods supplied. This includes payments to insurance brokers/agents.

In exercising this provision, the WHT agents have been withholding tax at 6% from payments of premiums to brokers/agents. Inevitably, the WHT is levied on the gross payments to the agent who may be entitled only to a part of the sale proceeds as a commission, yet the WHT credit can only be claimed by the agent and not the principal on whose behalf the sales are made.

Therefore, in order to iron out the anomaly, 6% WHT shall not apply on payment of insurance premiums.

## **3. 6% WHT on Sale of Air Tickets**

Section 86 ITA imposes tax on every non-resident person carrying on the business of air transport operator who derives income from the carriage of passengers who embark in Uganda at a rate of 2% of the gross income. Section 87 provides that the tax is a final tax if the tax payable has been withheld by a withholding agent under Section 120 and paid to the Commissioner under Section 123.

Section 119(1) gives the Government of Uganda, a Government Institution, a local authority, any company controlled by the GOU or any person designated in a notice issued by the Minister the mandate to withhold at a rate of 6% on the gross amount payable to any person in Uganda for the services or goods supplied. This includes payments to travel agents.

However, it is noted that travel/ticketing agents receive money for air tickets on behalf of the airlines which are already taxed under a different arrangement.

Therefore, in order to iron out this anomaly, 6% WHT shall not apply on payments for air tickets.

## Practice Notes – 2008

<b>ISSUE DATE</b>	:	18 <sup>th</sup> April 2008
<b>EFFECTIVE DATE:</b>	:	1 <sup>st</sup> May 2008
<b>ISSUED BY</b>	:	Allen Kagina (Mrs) - CG

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### 1. Cessation of Tax Credit Certificates in respect of Final Withholding Tax

Section 128 (3) provides that tax withheld by a withholding agent from a payee is deemed to have been paid by the payee/supplier and is credited against the tax assessed on the payee/supplier for the year of income in which the payment is made. The payee/supplier is entitled to a Tax Credit Certificate (TCC) with which he/she makes claim of the tax withheld.

However, in respect of withholding tax that is final tax under section 122 of the Income Tax, the tax withheld cannot be claimed as credit against any other tax liability in Uganda.

Therefore, with effect from 1<sup>st</sup> May 2008, URA will no longer issue Tax Credit Certificates in respect of final tax namely;

- (a) Tax that is withheld on payment of interest by a financial institution to a resident individual, unless the individual receives it in the capacity of a trustee (section 117);
- (b) Tax that is withheld on payment of interest by a financial institution to resident retirement fund (section 117);
- (c) Tax that is withheld on payment of interest by a financial institution to an institution or organization which the Commissioner General has exempted from income tax under section 2(bb);
- (d) Tax that is withheld on payment of interest on treasury bills (where the interest is payable on Treasury Bills that mature/matured on or after 1<sup>st</sup> July 2006); and
- (e) Tax that is withheld on payment of dividends to a resident individual (section 118);

### 2. Boundaries of Kampala and Entebbe Areas for Income Tax Purposes

Section 28 of the Income Tax Act provides for Initial allowance and subsection (1)(a) provides that;

“where the asset is placed in service outside an area prescribed in part IV of the sixth Schedule to this Act, seventy five per cent of the cost base of the property at the time it is placed in service: or

(b) in any other case, fifty per cent of the cost base of the property at the time it is placed in service.”

And Part IV of the sixth schedule provides as hereunder,

“The following areas are prescribed for the purposes of section 28 - **Kampala, Entebbe, Namanve, Jinja, and Njeru.**”

It has been noted that there has been a contention as to the boundaries of Kampala and Entebbe areas for purposes of the above quoted provision. This therefore is to clarify on what Kampala and Entebbe Tax Districts are composed of.

Kampala area for Income Tax purposes and in particular the above quoted provision is composed of the five political divisions namely;

- 1) Kampala Central;
- 2) Nakawa;
- 3) Rubaga;
- 4) Makindye and
- 5) Kawempe

Any area outside the above does not comprise Kampala for purposes of the Income Tax Act provision quoted above.

Entebbe area for tax purposes shall comprise of the administrative divisions of Entebbe Municipality which are divisions A and B. The divisions are further divided into four parishes that is,

- 1) Kigungu Parish;
- 2) Kiwafu Parish;
- 3) Central Parish and
- 4) Katabi Parish

Any area outside the above does not comprise Entebbe for purposes of tax.

For purposes of uniformity, ease in operation and implementation of Section 28 of the Income Tax Act, Kampala and Entebbe areas shall be defined as above.

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<b>ISSUE DATE</b>	:	1 <sup>st</sup> September 2008
<b>EFFECTIVE DATE</b>	:	1 <sup>st</sup> September 2008
<b>ISSUED BY</b>	:	Allen Kagina (Mrs) - CG

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**Withholding tax on management or professional fees paid to residents (section 119A [Now 118A])**

This PN revokes the practice note issued on November 2<sup>nd</sup>, 2001 on the application of section 119A [Now 118A] of the Income Tax Act 1997, Cap 340.

In respect of Section 119A [Now 118A] (Amendment Act 2001) of the Income Tax Act 1997, Cap 340, any professional meeting the following requirements will be deemed to have regularly complied with the obligations imposed under the Income Tax Act –

- i) Is registered with URA;
- ii) Has submitted the Provisional, Final/Self-Assessment Returns for the company and individuals (including directors); and monthly PAYE and VAT returns by the due dates for the three preceding years;
- iii) Has submitted all the directors' returns (for companies only);
- iv) Has fully settled all the taxes by the due dates for the three preceding years of income;
- v) Has fully complied with the obligations to withhold tax under the Act;
- vi) Has paid all the customs dues to date;
- vii) Has entered and honours an arrangement to pay any URA arrears of tax due; and
- viii) Has complied with any notice or any requirement to provide information under the Income Tax Act.

URA will administratively review the professionals in the data base and issue a list of those deemed to be compliant as per section 119A (2) [Now 118A] of the Income Tax Act 1997 as amended. All professionals already appearing on the recently published list of exempt persons are deemed to be compliant. Professionals not exempted shall require clearance from URA.

Any assessments that have become final and conclusive as at 1<sup>st</sup> September 2008 shall not be re-opened on account of variance with this Practice Note.

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## Practice Notes 2009

<b>ISSUE DATE</b>	:	16 <sup>th</sup> March 2009
<b>EFFECTIVE DATE</b>	:	1 <sup>st</sup> July 2008
<b>ISSUED BY</b>	:	Allen Kagina (Mrs) - CG

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### No. URA/IT/PN 1/09: Exempt Income derived by a person from managing or running an Educational Institution

#### 1. Background to the exemption

The Minister of Finance, Planning and Economic Development proposed the exemption in his Budget Speech for the Financial Year 2008/2009 in order to encourage investment in the education sector. The proposal was subsequently passed into law and is provided for in section 21(1)(aa) of the Income Tax (Amendment) Act 2008. It is expected that the tax foregone would be re-invested in the institutions to provide better facilities and improve curricula for the betterment of Ugandans.

#### 2. Effective date of exemption

The exemption applies to years of income commencing on or after 1<sup>st</sup> July 2008. Therefore income derived by a person from managing or running an education institution whose year of income commenced before 1<sup>st</sup> July 2008 is not exempt even if the accounting date falls after 1<sup>st</sup> July 2008.

#### 3. Education institution

There are three broad categories that constitute education institutions i.e.

- (i) a school,
- (ii) a tertiary institution and;
- (iii) a university.

The meaning of the above mentioned categories obtained from the Ministry of Education and Sports/The Education Acts indicated below shall be adopted for the purposes of this exemption.

##### ***School***

A school means a nursery school, a primary school, a senior secondary school, a technical, a business or a vocational school providing some form of training to a group of learners. This category covers pre-primary, primary and post primary sub sectors.



***Tertiary institution***

A tertiary institution means a post-secondary or post ordinary level business, technical or vocational education and training institution or a degree awarding institution duly registered and gazetted by the National Council for Higher Education.

***University***

A university means an institution, school, Institute or centre of Higher Education, other than a tertiary institution, which provides post-secondary education offering courses of study leading to the award of certificates, diplomas and degrees and conducting research and publish.

**4. Beneficiaries of the exemption**

Generally, all institutions provided for by the Education (Pre-primary, Primary and Post-primary) Act 2008, the Business, Technical, Vocational Educational and Training (BTVET) Act 2008 and the Universities and Other Tertiary Institutions Act 2003 may be referred to as educational institutions falling under section 21(1)(aa) of the Income tax Amendment Act 2008.

**5. Income derived from running or managing education institution**

Income that may be derived from running or managing an education institute constitute the following:

- (i) Fees levied on the students
- (ii) Donations
- (iii) Legacies
- (iv) Grants
- (v) Income from development al projects of the institution such as a farm, hire of institutional premises and equipment , research, and consultancy
- (vi) Income generated by production units in Technical and vocational schools, institutes and colleges when they take on contracts or produce goods and services under **“Training With Production”** training strategy, especially under the following trades;
  - ✓ Food and nutrition(baking),
  - ✓ Motor vehicle mechanics,
  - ✓ Carpentry and joinery,

- ✓ Electronics,
  - ✓ Welding and fabrication,
  - ✓ Tailoring, designing and cutting of garments,
  - ✓ Farming, and
  - ✓ Electrical installation
- (vii) Any other income that is generated by an education institution to help in the provision and advancement of education and training and, is reflected in the income and expenditure books of accounts of the institution.

It should be noted that the following income is not exempted:

- a) Employment income to staff including management staff and directors;
- b) Dividends to shareholders,
- c) Business/investment income that is not related to the functioning of the education institution and
- d) Income from the institution's subsidiary enterprises and investments.

## 6. Obligations of education institutions

Education institutions still have the following obligations:

1. Each education institution shall present evidence of recognition by the Ministry of Education and Sports or its relevant agencies to attest its legal existence and to the fact that it was founded for purposes of providing education i.e. by means of a license, registration certificate or charter.
2. Filing of Income tax returns,
3. Filing of Pay As You Earn (PAYE) returns and payment of the tax thereof;
4. Payment of tax on income that is not exempt,
5. Payment of other taxes imposed under the:-
  - Value Added Tax Act Cap 349
  - The East African Community Customs Management Act 2004
  - Taxes, fees, imposed under the Traffic and Road Safety Act Cap 361

- Taxes under the Stamps Act Cap 342
- Taxes, levies, fees or duties imposed by any other statute recognized under the laws of Uganda.

**ISSUE DATE** : 31<sup>st</sup> March 2009  
**EFFECTIVE DATE:** 1<sup>st</sup> July 2008  
**ISSUED BY** : Allen Kagina (Mrs) - CG

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## **No. URA/IT/PN 2/09: DEDUCTION ALLOWED TO PRIVATE EMPLOYERS EMPLOYING PERSONS WITH DISABILITIES**

The Commissioner General of Uganda Revenue Authority hereby issues practice notes under Section 160 of the Income Tax Act, Cap 340 for the guidance of officers of URA and the Public on the effective date as per the Income Tax (amendment) Act 2008 under section 22(1)(e) which allows as a deduction 15% percent of tax payable to all private employers who employ ten or more persons with disabilities. The practice notes also define key terms in the provision.

Section 22(1) (e) provides that.....

“private employers who employ ten or more persons with disabilities either as regular employees, apprentices or learners on full time basis shall be entitled to tax deduction of fifteen percent of all payable tax upon proof to the Uganda Revenue Authority”

### **Effective date of the amendment**

This amendment applies to **years of income commencing on or after 1<sup>st</sup> July 2008.**

### **Implication of the amendment**

A deduction of 15% of tax payable by a private employer who employs 10 or more persons with disabilities shall be allowed in ascertaining chargeable income.

### **Illustration**

If Chargeable Income ascertained of a corporate body is;

1,000,000 - Tax thereon at 30%	_____	300,000
15% deduction allowed	_____	15%*300,000
		= 45,000

Therefore the chargeable Income after deduction under section 2(1)(e)

$$1,000,000 - 45,000 = 955,000$$

Tax thereon a 30% \_\_\_\_\_ 30%\*955,000  
= 286,000

**The meanings below shall be attached to the terms as in the provision:-**

***“apprentices or learners on full time basis”*** means a person who has agreed to work for a skilled employer for a fixed period usually for a low wage in return for being taught that persons skill.

***“disability”*** means a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment which substantially limits one or more of the major life activities of that person.

***“private employer”*** means an employer other than government or government controlled entities liable to income tax.

### **Note**

An entity partly owned by Government but to less than 51% stands to benefit from the deduction.

***“regular employees”*** means employees are following a constant definite pattern, done or happening often, lasting or happening over a long period.

## **Practice Notes 2012**

<b>ISSUE DATE</b>	:	5 <sup>th</sup> May 2012
<b>EFFECTIVE DATE:</b>	:	1 <sup>st</sup> July 2011
<b>ISSUED BY</b>	:	Allen Kagina (Mrs) - CG

### **Transfer Pricing Documentation to Be Kept By Taxpayers**

The Honourable Minister of Finance, Planning and Economic Development by virtue of the powers conferred upon her under Section 164 of the Income Tax Act, Cap. 340, Laws of Uganda, issued Statutory Instrument No. 30 of 2011 titled The Income Tax (Transfer Pricing) Regulations, 2011 effective 1<sup>st</sup> July 2011.

### **Documentation**

In accordance with Sub Regulation 3 of Regulation 8 of the Regulations, the Commissioner General hereby notifies the general taxpaying public that the following documentation shall be required for transfer pricing purposes.

1. These documentation requirements shall apply to controlled transactions for Multi National Enterprises (MNEs); or

2. Controlled Transactions in aggregate equal to or exceeding 25,000(Twenty five thousand) currency points in a year of income.

Note: For purpose of this Practice Notes, MNEs are defined as enterprises that manage production, deliver services or generate sales and profits in more than one country and includes hybrid arrangements and relationships through shared shareholders.

This list is neither intended to be exhaustive nor meant to apply to all types of businesses. The taxpayer should maintain documents of sufficient quality so as to accurately and completely describe the transfer pricing analysis conducted and efforts to comply with the arm's length principle.

#### **A. Company details:**

- i) Ownership and organizational structure showing linkages between the associated parties. This shall include -
  - a) description of the taxpayers worldwide organizational structure (including an organizational chart) covering all associated parties;
  - b) The identification of participants in related party dealings ; and
  - c) Brief history and any significant changes in relationships between the parties including dates of incorporation, shareholding at the time of the changes.
- ii) Operational aspects of business including details of functions performed, risks assumed and assets employed relevant to the transactions.
- iii) Assumptions and information regarding factors that influenced the setting of prices or the establishment of policies for the taxpayer and the related party group as a whole

#### **B. Transaction details.**

- i) A description of controlled transactions that identifies the transactions which have been entered into, the names of the participants, the scope, type, timing, frequency of and value of transactions e.g. purchase of raw material or fixed assets, sale of finished goods, borrowing of funds, the currency of the transactions should also be stated, identification of internal data relating to the controlled transactions, terms and conditions of the transactions including copies of relevant intercompany agreements relating to the transactions such as –
  - a) Technical assistance fees.
  - b) Management fees.

- c) Marketing fees and branding arrangements.
  - d) Recruitment fees, or other services provided.
  - e) Royalties and licences payable.
  - f) Purchase or rental of equipment or other assets.
  - g) Handling charges.
  - h) Loans, including loans advanced by a related company to the associate through independent parties.
  - i) Allocation of overhead expenses or any specific expenses (e.g. promotional or advertising) borne by the foreign entity or associated enterprise.
  - j) Other forms of payment made to associates. And
  - k) In regard to payments made above, where the payment made by an associate to a third party will result in an offset of obligations due by the third party to an associate or non-associate.
- ii) Comparables, description of the comparables including, for tangible property, the physical features, availability and quality of tangible property, for services the nature and extent of the services, and for intangible property, the form of the transaction, type of intangible, the rights to use the intangible that are assigned, and anticipated benefits from use of the intangible.

Also,

- Identify factors taken into account by the taxpayer to evaluate comparability including the characteristics of the property or service transferred.
- The functions performed (and the significance of those functions in terms of their frequency, nature and value to the respective parties), the assets employed (taking into consideration their age, market value, location, etc.)
- the risks assumed (including risks such as market risk, financial risk, and credit risk).
- Identification of any internal comparables, adjustments made if any, criteria used in selecting comparables etc.
- Aggregation analysis (grouping of transactions for comparability).

- Extension of the analysis over a number of years with reasons for the years chosen, where relevant.
- iii) Economic conditions during the time of transactions including differences surrounding controlled firms transactions and uncontrolled transactions to which it is compared in terms of –
  - a) Geographical location.
  - b) Business plans to the extent to which they relate to the nature and purpose of the controlled transactions.
  - c) Description of internal procedures and internal controls in place at the time of controlled transactions.
  - d) Economic and legal factors affecting the pricing of the taxpayer property and services.
  - e) Description of intangible property potentially relevant to the pricing of the taxpayers' property or services in the controlled transactions.
  - f) Market size and Market share to the extent differences affect price.
  - g) Regulatory framework.
  - h) Description of the structure, intensity and dynamics of the relevant Industry competitive environment.
  - i) Trends, risks and key players, etc.
  - j) Availability of substitute goods and services.
  - k) Levels of supply and demand.
  - l) Any other special circumstances.

### **C. Determination of arm's length price.**

- i) Description of the method selected and the reasons why it was selected (The pricing methodology adopted, showing how the arm's length price is derived. Also indicate why that method is chosen over other methods and a description of the measures taken to ensure that the measure of profit for taxation purposes is derived from arm's length pricing of relevant transactions. This would include –

- An analysis of the controlled transaction using the five (5) comparability factors as contained in Regulation 4 of the Transfer Pricing Regulations.
  - Searches and databases and criteria used in selection of comparables including economic considerations.
  - A description of the transactions selected as comparables, including an analysis of those transactions (using the five comparability factors) and an explanation of why the selected comparables are considered sufficiently reliable.
  - A description of any comparability adjustments considered appropriate.
  - A description of how comparable pricing or margins is applied to the tested transaction.
  - Intangible property, the form of the transaction, the type of intangible, the rights to use the intangible that are assigned, and the anticipated benefits from its use, Documentation of assumptions and judgments made in the course of determining an arm's length outcome.
  - Documentation of calculations made in applying the selected method and any adjustments made. Assumptions and information regarding factors that influenced the setting of prices or the establishment of any pricing policies for the taxpayer and the related party group as a whole.
- ii) Functional analysis of the risks assumed (including risks such as market risk, financial risk, credit risk, foreign exchange risk, liability risk, assets employed (taking into account consideration of their age, market value, location etc.) and functions performed by entity in relation to risks, assets and functions and performed by the associated entities that are party to the transaction and the significance of those functions in terms of their frequency, nature and value to the respective parties involved in or related to the transaction.
- iii) Cost Contribution arrangements (CCA) including copies of the CCA agreements and relevant amendments, list of arrangement participants and beneficiaries, extent of use of CCA property by associated parties who are non-parties to CCA, duration of CCA, description of the scope of the activities to be undertaken, including any intangible or class of intangibles in existence or intended to be developed, interest of each participant, identification of benefits accruing to each party and any material differences between expectations and actual benefits and all other rights and obligations of each associated enterprise under the CCA, contribution borne by each participant, description of the method used to determine each parties share of the contribution consequences of a participant entering or withdrawing from the agreement.



- iv) Management strategy/policy and/or corporate business plans to the extent they give an insight into the nature of special circumstances under which the taxpayer business is conducted, for example to enter a new market, increase share in existing market, to introduce new products into market, or to fend off increasing competition, set off transactions, distribution channel selection and management strategies that influenced determination of transfer price.
- v) Where applicable, financial information relevant in comparing profit and loss between associated entities with whom the taxpayer has transactions subject to transfer pricing rules.
- vi) If a comparability analysis results in a range of arm's length outcomes, please document all the outcomes. Reasons for choosing that particular arm's length price from the range of outcomes must be documented. If a range is used, documentation supporting the establishment of the range should be evidenced; and
- vii) An explanation of the capital relationship eg. balance and source of debt and equity funding) relevant to the transactions.

When to submit documents:

Documents pertaining to transfer pricing are NOT to be physically submitted with Return Forms, BUT must be in place prior to the due date for filing the Income Tax Return for the relevant year, must be in the English language or translated into the English language, prepared at the time the transfer price is established.

#### **D. Summary and Conclusion**

A summary and conclusion as to whether the controlled transactions comply with arm's length principle and whether any transfer pricing adjustments are required.

**E. Note** - A person who fails to comply with this regulation is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding twenty five currency points or both.

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# **VALUE ADDED TAX ACT | Cap 349**

## **Laws of Uganda**

An Act to provide for the imposition and collection of Value Added Tax, and for other purposes connected to that tax.

*Commencement:* 1<sup>st</sup> July 1996

### **Arrangement of Sections**

#### **PART I – PRELIMINARY**

1. Interpretation
2. Interpretation of fair market value
3. Interpretation of associate

#### **PART II – CHARGE OF TAX**

4. Charge of tax
5. Person liable to pay tax

#### **PART III – TAXABLE PERSONS**

6. Taxable person
7. Persons required or permitted to register
8. Registration
9. Cancellation of registration

#### **PART IV – SUPPLIES OF GOODS AND SERVICES**

10. Supply of goods
11. Supply of services
12. Mixed supplies
13. Supply by agent
14. Time of supply
15. Place of supply of goods
16. Place of supply of services
17. Imports

#### **PART V – TAXABLE SUPPLIES**

18. Taxable supply
19. Exempt supply
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- 20A. Exempt import of services

**PART VI – TAXABLE VALUE**

21. Taxable value of a taxable supply  
22. Adjustments  
23. Taxable value of an import of goods

**PART VII – CALCULATION OF TAX PAYABLE**

24. Calculation of tax payable on a taxable transaction  
25. Calculation of tax payable by a taxable person for a tax period  
26. Cash basis accounting  
27. Consequences of a change in accounting basis  
28. Credit for input tax  
29. Tax invoices  
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**PART VIII – PROCEDURE AND ADMINISTRATION OF TAX**

***Returns and Assessments***

31. Returns  
32. Assessments  
33. General provisions relating to assessments

**PART VIIIA - OBJECTIONS AND APPEALS**

- 33A. Interpretation  
33B. Objections to assessments  
33C. Appeals to Tax Appeals Tribunal  
33D. Appeals to High Court  
33E. Burden of proof

***Collection and Recovery of Tax***

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37. Preferential claim to assets  
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### ***Taxpayer Identification Number***

- 50. Taxpayer identification number

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- 60. Obstructing an officer of the Authority
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<i>First Schedule</i>	Public international organizations
<i>Second Schedule</i>	Exempt supplies
<i>Third Schedule</i>	Zero-rated supplies
<i>Fourth Schedule</i>	Formulae, tax invoices, credit notes & debit notes
<i>Fifth Schedule</i>	Calculation of interest penalty

## SUBSIDIARY LEGISLATION

1. Value Added Tax Regulations, 1996
2. The Value Added Tax (Deferment of Tax on Plant and Machinery) Regulations 2013

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## PART I - PRELIMINARY

### 1. Interpretation

In this Act, unless the context otherwise requires –

- (a) “application to own use”, in relation to goods *or services*, means applying the goods *or services* to personal use, including personal use by a relative, or any other non-business use;

*Substituted by  
VAT (Am) Act 1 2008*

- (aa) “biodegradable packaging material” means packaging material which can undergo a breakdown of its entire composition and by naturally existing micro-organisms in the presence of air and water at specific temperatures into smaller constituent components within a given time of usually not more than six months;

*Inserted by  
VAT (Am) Act 2010*

- (b) “Commissioner General” means the Commissioner General of the Uganda Revenue Authority;

- (c) “company” means a body corporate or un-incorporate, whether created or recognized under a law in force in Uganda or elsewhere, but does not include a partnership or trust;

- (d) “consideration”, in relation to a supply of goods or services, means the total amount in money or kind paid or payable for the supply by any person, directly or indirectly, including any duties, levies, fees, and charges paid or payable on, or by reason of, the supply other than tax, reduced by any discounts or rebates allowed and accounted for at the time of the supply;

- (da) “contractor” means a person supplying goods or services other than as an employee to the following –

(i) A licensee in respect of mining operations undertaken by the licensee; or

(ii) A licensee in respect of petroleum operations undertaken by the licensee.

- (e) “exempt import” has the meaning in Section 20;

- (f) “exempt supply” means a supply of goods or services to which Section 19 applies;

- (g) “finance lease”, in relation to goods, includes the lease of goods where –

*Inserted by  
VAT (Am) Act 2015*

- (i) the lease term exceeds seventy five per cent of the expected life of the goods;
  - (ii) the lessee has an option to purchase the goods for a fixed or determinable price at the expiration of the lease; or
  - (iii) the estimated residual value of the goods to the lessor at the expiration of the lease term, including the period of any option to renew, is less than 20 per cent of its fair market value at the commencement of the lease;
- (h) “goods” includes all kinds of movable and immovable property, [thermal and electrical energy, heating, gas, refrigeration, air conditioning and water] but does not include money;
- Substituted by  
VAT (Am) Act 2011*
- (i) “hire purchase agreement” means an agreement that is a hire purchase agreement in terms of hire purchase law in Uganda;
  - (j) “import” means to bring, or to cause to be brought, into Uganda from a foreign country or place;
  - (k) “importer”, in relation to an import of goods, includes the person who owns the goods, or any other person for the time being possessed of or beneficially interested in the goods and, in relation to goods imported by means of a pipeline, includes the person who owns the pipeline;
  - (l) “input tax” means the tax paid or payable in respect of a taxable supply to or an import of goods or services by a taxable person;
  - (la) “licensee” means a person granted a mining right or a person with whom the Government has entered into a petroleum agreement;
- (la – ld) Inserted by  
VAT (Am) Act 2015*
- (lb) “mining operations” includes every method or process by which any mineral is won from the soil or from any substance or constituent of the soil and includes mining exploration operations;
  - (lc) “petroleum operations” means an authorised operation under a petroleum agreement for petroleum exploration, development, production and export including, planning, installation, transportation of petroleum, storage or decommissioning, and for the construction of a pipeline or petroleum refinery.
  - (ld) “petroleum agreement” means an agreement entered into by the Government of Uganda with another person in accordance with the Petroleum (Exploration, Development and Production) Act, 2013, or the Petroleum (Refinery, Conversion, Transmission and Midstream Storage) Act 2013.
  - (m) “Minister” means the Minister responsible for Finance;



- (n) “money” includes –
- (i) coins or paper currency that the Bank of Uganda has issued as legal tender;
  - (ii) coins or paper currency of a foreign country which is used or circulated as currency;
  - (iii) a bill of exchange, promissory note, bank draft, postal order, or money order, other than a coin or paper currency that is a collector's piece, investment article or an item of numismatic interest;
- (o) “output tax” means the tax chargeable under Section 4 in respect of a taxable supply;
- (p) “person” includes an *individual*, a partnership, company, trust, government, and any public or local authority;
- (q) “public international organization” means an organization listed in the First Schedule to this Act;
- (r) “reduced consideration has the meaning in Section 18(7);
- (s) “relative”, in relation to an individual, includes an ancestor of the individual, a descendant of the individual's grandparents, or the spouse of the individual or of any of the foregoing;
- (t) “services” means anything that is not goods or money;
- (u) “tax” means the value added tax chargeable under this Act;
- (v) “tax fraction” means the fraction calculated in accordance with the formula;

$$\frac{r}{r + 100}$$

in which formula “**r**” is the rate of tax applicable to the taxable supply;

- (w) “tax period” means the calendar month;
- (x) “taxable person” has the meaning in Section 6;
- (y) “taxable supply” has the meaning in Section 18;
- (z) “taxable transaction” means a taxable supply or an import of goods or services that is subject to tax under this Act;

- (aa) “taxable value”, in relation to a taxable supply or an import of goods or services is determined under Part VI of this Act;
- (bb) “trust” means any relationship where property is under the control or management of a trustee;
- (cc) “trustee” includes –
  - (i) an executor, administrator, tutor or curator;
  - (ii) a liquidator or judicial manager;
  - (iii) a person having or taking on the administration or control of property subject to another person having a beneficial interest in the property;
  - (iv) a person acting in a fiduciary capacity;
  - (v) a person having possession, control or management of the property of a person under a legal disability.

## **2. Interpretation of Fair Market Value**

- (1) For the purposes of this Act, the fair market value of a taxable supply at any date is the consideration in money which a similar supply would generally fetch if supplied in similar circumstances at that date in Uganda, being a supply freely offered and made between persons who are not associates.
- (2) Where the fair market value of a taxable supply cannot be determined under subsection (1), the fair market value of the supply shall be the amount that, in the opinion of the Commissioner General having regard to all the circumstances of the supply, is the fair market value of the supply.
- (3) In this Section, “similar supply”, in relation to a taxable supply, means a supply that is identical to, or closely or substantially resembles, the taxable supply, having regard to the characteristics, quality, quantity supplied, functional components, reputation of, and materials comprising the goods and services which are the subject of the taxable supply.

## **3. Interpretation of Associate**

- (1) For the purposes of this Act, “associate”, in relation to a person, means any other person who acts or is likely to act in accordance with the directions, requests, suggestions or wishes of the person whether or not they are communicated to that other person.

- (2) Without limiting the generality of subsection (1), the following are treated as an associate of a person –
- (a) a relative;
  - (b) a partner, an associate of a partner under another application of this Section or a partnership in which the person is a partner;
  - (c) the trustee of a trust under which the person, or an associate under another application of this Section, benefits or is capable of benefiting;
  - (d) a company in which the person either alone, or together with an associate or associates under another application of this Section, controls directly or indirectly fifty per cent or more of the voting power in the company, or which is accustomed or may reasonably be expected to act in accordance with the directions or wishes of the person or an associate of the person;
  - (e) where the person is a partnership, a partner in the partnership, an associate of the partner under another application of this Section, or another partnership in which the person or an associate is a partner;
  - (f) where the person is the trustee of a trust, any other person or an associate of such other person under another application of this Section who benefits or is capable of benefiting under the trust; or
  - (g) where the person is a company, a person who either alone or together with an associate or associates under another application of this Section controls directly or indirectly fifty per cent or more of the voting power of the company, or in accordance with whose directions or wishes the company is accustomed or may reasonably be expected to act.

## **PART II - CHARGE OF TAX**

### **4. Charge of Tax**

A tax, to be known as a value added tax, shall be charged in accordance with this Act on –

- (a) every taxable supply [in Uganda] made by a taxable person;
- (b) every import of goods other than an exempt import; and

*Substituted by  
VAT (Am) Act 2011*

- (c) the supply of *imported services, other than an exempt service, by any person.* [any imported services by any person]

## 5. Person Liable to Pay Tax

Except as otherwise provided in this Act, the tax payable –

- (a) in the case of a taxable supply, is to be paid by the taxable person making the supply;
- (b) in the case of an import of goods, is to be paid by the importer;
- (c) in *the case of a supply of imported services, other than an exempt service,* [an import of services] is to be paid by the person receiving the supply.[recipient of the imported services.]

*Substituted by  
VAT (Am) Act 2011*

## PART III - TAXABLE PERSONS

### 6. Taxable Person

- (1) A person registered under Section 7 is a taxable person from the time the registration takes effect.
- (2) A person who is not registered, but who is required to be registered or to pay tax under this Act, is a taxable person from the beginning of the tax period immediately following the period in which the duty to apply for registration or to pay tax arose.

*Substituted by  
VAT (Am) Act 1 2008*

### 7. Persons required or permitted to register

- (1) A person who is not already a registered person shall apply to be registered in accordance with Section 8 –
- (a) within twenty days of the end of any period of three calendar months if during that period the person made taxable supplies, the value of which exclusive of any tax exceeded one-quarter of the annual registration threshold set out in subsection (2); or
- (b) at the beginning of any period of three calendar months where there are reasonable grounds to expect that the total value exclusive of any tax of taxable supplies to be made by the person during that period will exceed one-quarter of the annual registration threshold set out in subsection (2).
- (c) at the beginning of any tax period of more than three calendar months where there are reasonable grounds to expect that the total value exclusive of any tax

*Inserted by  
VAT (Am) Act 2014*

of taxable supplies to be made by the person will exceed the annual threshold set out in subsection (2).

- (2) The annual registration threshold is *one hundred and fifty million shillings* [fifty million shillings].

*Substituted by VAT  
(Am) Act 2015*

- (3) In determining whether the registration threshold is exceeded for the period specified in subsection (1), it is to be assumed that the person is a taxable person during that period.

- (4) A person supplying goods or services for consideration as part of his or her business activities, but who is not required by subsection (1) or (5) to apply for registration, may apply to the Commissioner General to be registered in accordance with Section 8.

- (4A) Notwithstanding subsection (4), the following persons may apply to the Commissioner General to be registered in accordance with section 8 –

*Inserted by  
VAT (Am) Act 2015*

- (a) a licensee undertaking mining or petroleum operations;
- (b) a person undertaking the construction of a petroleum refinery or petroleum pipeline; and
- (c) a person engaged in commercial farming;
- (d) a person undertaking midstream operations as defined by the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013.

*Inserted by  
VAT (Am) Act 2016*

- (5) Notwithstanding subsection (1), a person being a national, regional, local or public authority or body which carries on business activities shall apply for registration at the date of commencement of those activities.

- (6) The registration under paragraph (c) of subsection (1) shall be valid only for purposes of accessing terms and conditions of payment of tax on plant and machinery as provided under section 34(8).

*Inserted by  
VAT (Am) Act 2014*

- (6) An engineer, lawyer, economist, architect, publisher, auctioneer, estate agent, valuer, accountant, auditor, clearing and forwarding agent or other professional supplying goods or services for consideration as part of his or her business, but who is not required by subsection (1) or (2) to apply for registration, shall apply to be registered in accordance with Section 8, without regard to the eligibility requirement under subsection (2).

*Inserted by  
VAT (Am) Act 2002  
and repealed by  
VAT (Am) Act 1 2008*

## 8. Registration

- (1) An application for registration under Section 7 shall be in the form prescribed by the Commissioner General, and the applicant shall provide the Commissioner General with such information as the Commissioner General may require.
- (2) The Commissioner General shall register a person who applies for registration under Section 7 and issue to that person a certificate of registration including the VAT registration number unless the Commissioner General is satisfied that that person is not eligible for registration under this Act or, in the case of an application under section 7(4) –
  - (a) the person has no fixed place of abode or business; or
  - (b) the Commissioner General has reasonable grounds to believe that that person –
    - (i) will not keep proper accounting records relating to any business activity carried on by that person;
    - (ii) will not submit regular and reliable tax returns as required by Section 31; or
    - (iii) is not a fit and proper person to be registered.
- (3) Registration under this Section takes effect –
  - (a) in the case of an application under *Section* 7(1), (5) or (6) from the beginning of the tax period immediately following the period in which the duty to apply for registration arose; or
  - (b) in the case of an application under Section 7(4), from the beginning of the tax period immediately following the period in which the person applied for registration.
- (4) A certificate of registration shall state the name and other relevant details of the taxable person, the date on which the registration takes effect, and the taxpayer identification number.
- (5) The Commissioner General shall establish and maintain a register containing the relevant details of all taxable persons.
- (6) The Commissioner General may register a person if there are reasonable grounds for believing that the person is required to apply for registration under Section 7 but has failed to do so, and that registration shall take effect from the date specified in the certificate of registration.

*Substituted by  
VAT (Am) Act 2002*

- (7) The Commissioner General shall serve a notice in writing on a person of the decision to refuse to register the person under subsection (2) within one month of receiving the application.
- (8) The Commissioner General shall serve a notice in writing on a person of a decision to register the person under subsection (6) within one month of making the decision.
- (9) A person dissatisfied with a decision made under subsection (8) may only challenge the decision under Part VIII of this Act on the basis that the decision is an assessment.
- (10) A taxable person shall notify the Commissioner General in writing of any change
  - (a) in the name or address of that person;
  - (b) in circumstances where the person no longer satisfies the grounds for registration; or
  - (c) of a material nature in business activities or in the nature of taxable supplies being made,

and the notification shall be made within fourteen days after the change has occurred.

## **9. Cancellation of Registration**

- (1) A taxable person shall apply in writing for the cancellation of the registration if that person has ceased to make supplies of goods or services for consideration as part of the business activities of the person.
- (2) Subject to subsection (3), a taxable person may apply in writing to have his or her registration cancelled if, with respect to the most recent period of three calendar months, the value of his or her taxable supplies exclusive of tax does not exceed one-quarter of the annual registration threshold specified under Section 7(2) and if the value of his or her taxable supplies exclusive of tax for the previous twelve calendar months does not exceed seventy five per cent of the annual registration threshold.
- (3) In the case of a taxable person who applied for registration under Section 7(4), an application under subsection (2) may only be made after the expiration of two years from the date of registration.
- (4) The Commissioner General may cancel the registration of –

- (a) a person who has applied for cancellation under subsection (1) or (2); or
  - (b) a person who has not applied for cancellation of registration but in respect of whom the Commissioner General is satisfied that he or she is neither required nor entitled under Section 7 to apply for registration.
- (5) The Commissioner General may cancel the registration of a person who is not required to apply for registration under Section 7 where the person –
- (a) has no fixed place of abode or business;
  - (b) has not kept proper accounting records relating to any business activity carried on by him or her;
  - (c) has not submitted regular and reliable tax returns as required by Section 31; or
  - (d) is not, in the opinion of the Commissioner General, a fit and proper person to be registered.
- (6) The Commissioner General shall serve a notice in writing on a taxable person of a decision to cancel or refuse to cancel the registration under this Section within fourteen days of making the decision.
- (7) The cancellation of registration shall take effect from the end of the tax period in which the registration is cancelled.
- (8) Where the registration of a person is cancelled, the Commissioner General shall remove that person's name and the details described in Section 8 from the register.
- (9) A taxable person whose registration has been cancelled under this Section shall be regarded as having made a taxable supply of all goods on hand (including capital goods) and shall be liable for output tax, at the time the registration is cancelled, on all goods in respect of which he or she received input tax credit, the output tax payable being based on the fair market value of the goods at the time his or her registration was cancelled.
- (10) The obligations and liabilities of a person under this Act, including the lodging of returns required under Section 31, in respect of anything done or omitted to be done by that person while a taxable person shall not be affected by cancellation of the person's registration.

#### **PART IV - SUPPLIES OF GOODS AND SERVICES**

##### **10. Supply of Goods**



*Inserted by  
VAT (Am) Act 2009*

- (1) Except as otherwise provided under this Act, a supply of goods means any arrangement under which the owner of the goods parts or will part with possession of the goods, including *a lease or an agreement of sale and purchase*.

*Repealed by  
VAT (Am) Act 2011*

- (2) A supply of electrical or thermal energy, heating, gas, refrigeration, air conditioning or water is a supply of goods.

- (3) The application of goods to own use is a supply of the goods.

## **11. Supply of Services**

- (1) Except as otherwise provided under this Act, a supply of services means a supply which is not a supply of goods or money, including:—

- (a) the performance of services for another person;
- (b) the making available of any facility or advantage;
- (c) the toleration of any situation or the refraining from the doing of any activity; or
- (d) the provision of thermal and electrical energy, heating, gas, refrigeration, air conditioning and water.

*Inserted by  
VAT (Am) Act 2011*

- (2) A supply of services made by an employee to an employer by reason of employment is not a supply made by the employee.

## **12. Mixed supplies**

- (1) A supply of services incidental to the supply of goods is part of the supply of goods.
- (2) A supply of goods incidental to the supply of services is part of the supply of services.
- (3) A supply of services incidental to the import of goods is part of the import of goods.
- (4) Regulations made under Section 78 may provide that a supply is a supply of goods or services.

## **13. Supply by Agent**

- (1) A supply of goods or services made by a person as agent for another person being the principal is a supply by the principal.
- (2) Subsection (1) does not apply to an agent's supply of services as agent to the principal.

**14. Time of Supply**

- (1) Except as otherwise provided under this Act, a supply of goods or services occurs –
- (a) where the goods are applied to own use, on the date on which the goods or services are first applied to own use;
  - (b) where the goods or services are supplied by way of gift, on the date on which ownership in the goods passes or the performance of the service is completed; or
  - (c) in any other case, on the earliest of the date on which –
    - (i) the goods are delivered or made available, or the performance of the service is completed;
    - (ii) payment for the goods or services is made; or
    - (iii) a tax invoice is issued.
- (2) Where –
- (a) goods are supplied under a rental agreement; or
  - (b) goods or services are supplied under an agreement or law which provides for periodic payments,
- the goods or services are treated as successively supplied for successive parts of the period of the agreement or as determined by that law, and each successive supply occurs on the earlier of the date on which payment is due or received.
- (3) For the purposes of this Section, where two or more payments are made or are to be made for a supply of goods or services other than a supply to which subsection (2) applies, each payment shall be regarded as made for a separate supply to the extent of the amount of the payment on the earlier of the date the payment is due or received.
- (4) A person making a supply to which subsection (1)(a) or (b) applies shall keep a record of the date on which the supply occurred as determined under this Section.
- (5) In this Section, “rental agreement” means any agreement for the letting of goods including a hire-purchase agreement or finance lease.

**15. Place of Supply of Goods**

*Substituted by  
VAT (Am) Act  
2011*

A supply of goods shall take place in Uganda if the goods are delivered or made available in Uganda by the supplier, or if the delivery or making available involves transportation, the goods are in Uganda when the transportation commences.

- (1) Except as otherwise provided under this Act, a supply of goods takes place where the goods are delivered or made available by the supplier.
- (2) A supply of thermal or electrical energy, heating, gas, refrigeration, air conditioning, or water, takes place where the supply is received.

## **16. Place of Supply of Services**

- (1) A supply of services shall take place in Uganda if the business of the supplier from which the services are supplied is in Uganda.
- (2) Notwithstanding subsection (1), a supply of services shall take place in Uganda if the recipient of the supply is not a taxable person and –
  - (a) the services are physically performed in Uganda by a person who is in Uganda at the time of supply;
  - (b) the services are in connection with immovable property in Uganda;
  - (c) the services are radio or television broadcasting services received at an address in Uganda;
  - (d) the services are electronic services delivered to a person in Uganda at the time of supply;
  - (e) the supply is a transfer, assignment, or grant of a right to use a copyright, patent, trademark or similar right in Uganda; or
  - (f) the services are telecommunication services initiated by a person in Uganda other than a supply initiated by –
    - (i) a supplier of telecommunications services; or
    - (ii) a person who is roaming while temporarily in Uganda.
- (3) For the purposes of subsection (2)(f), the person who initiates a supply of telecommunications services shall be the person who first does any of the following:–

*16 Substituted by  
VAT (Am) Act 2011*

- (a) the person who –
    - (i) controls the commencement of the supply;
    - (ii) pays for the services;
    - (iii) contracts for the supply; or
  - (b) the person to whom the invoice for the supply is sent.
- (4) Where the supplier of a telecommunications service cannot identify any of the persons referred to in subsection (3) because it is impractical to determine the physical location of a person due to the type of service or to the class of customer to which the person belongs, the supplier shall, in respect of all supplies of telecommunications services made for that type of service or that class of customer, treat the supply as being made where the physical residence or business address for the person receiving invoices from the supplier is located.
- (5) In this section –
- (a) “electronic services” means any of the following, when provided or delivered on or through a telecommunications network –
    - (i) websites, web-hosting or remote maintenance of programs and equipment;
    - (ii) software and the updating of software;
    - (iii) images, text and information;
    - (iv) access to databases;
    - (v) self-education packages;
    - (vi) music, films and games including games of chance; or
    - (vii) political, cultural, artistic, sporting, scientific and other broadcasts and events including television; and
  - (b) “telecommunications services” means the transmission, emission, or reception of signals, writing, images, sounds, or information of any kind by wire, radio, optical, or other electromagnetic systems and includes –
    - (i) the related transfer or assignment of the right to use capacity for such

transmission, emission, or reception; and

(ii) the provision of access to global or local information networks,

but does not include the supply of the underlying writing, images, sounds, or information.

- (1) Except as otherwise provided under this Act, a supply of services takes place where the services are rendered.
- (2) A supply of services in connection with immovable property takes place where the immovable property is located.
- (3) A supply of services of, or incidental to, transport takes place where the transport commences.
- (4) A supply of services to which clause 1(a) of the Third Schedule applies shall be regarded as having been made in Uganda.
- (5) Where a person is required to pay a fee for receiving a signal or service for a supply of television, radio, telephone or other communication services, the supply takes place where that person receives the signal or service, *or where a supply involves an agent or any other person of whatever description, the supply takes place at that person's place of business.*

*Substituted by  
Finance Act 2001*

## 17. Imports

An import of goods takes place –

- (a) where customs duty is payable, on the date on which the duty is payable; or
- (b) in any other case, on the date the goods are brought into Uganda.

## PART V - TAXABLE SUPPLIES

### 18. Taxable Supply

- (1) A taxable supply is a supply of goods or services, other than an exempt supply, made *in Uganda* by a taxable person for consideration as part of his or her business activities.
- (2) A supply is made as part of a person's business activities if the supply is made by him or her as part of, or incidental to, any independent economic activity he or she conducts, whatever the purposes or results of that activity.

*Inserted by  
VAT (Am) Act 2011*

- (3) The business activities of an individual do not include activities carried on by him or her only as part of his or her hobby or leisure activities.
- (4) A supply is made for consideration if the supplier directly or indirectly receives payment for the supply, whether from the person supplied or any other person, including any payment wholly or partly in money or kind.
- (5) The application to own use by a taxable person of goods *and services* supplied to a *person* for the purposes of *the person's* business activities shall be regarded as a supply of those goods *and services* for consideration as part of *the person's* business activities.

*Substituted by  
VAT (Am) Act 2009*

- Inserted by  
Finance Act  
2001 and  
substituted by  
VAT (Am) Act  
2009*
- (5a) For the purposes of subsection (5), a supply of business goods *and services* for no consideration is an application to own use.

*Substituted by  
VAT (Am) Act 2009*

- (6) Where goods *and services* have been supplied to a taxable person for the purposes of *the person's* business activities, the supply of those goods *and services* for reduced consideration shall be regarded as a supply for consideration unless the goods *and services* are supplied or used only as trade samples.
- (7) A supply is made for reduced consideration if the supply is made between associates for no consideration or between associates for a consideration that is less than the fair market value of the supply.
- (8) Notwithstanding subsection(1) a supply of services by a foreign person for consideration as part of the person's business activities is treated as a taxable supply if the services are considered as taking place in Uganda under Section 16.
- (9) Subject to Section 19 and the Second Schedule, the sale or disposal of a business asset *by a taxable person* is a taxable supply.

*Inserted by VAT (Am)  
Act 2003 and Amended  
by VAT (Am) Act 2006*

## 19. Exempt Supply

- (1) A supply of goods or services is an exempt supply if it is specified in the Second Schedule.
- (2) Where a supply is an exempt supply under paragraph 1(k) of the Second Schedule, both the transferor and transferee shall, within 21 days of the transfer, notify the Commissioner General in writing of the details of the transfer.

## 20. Exempt Import

An import of goods is an exempt import if the goods –

*Substituted by  
VAT (Am) Act 2005,  
(AM) Act 2015 &  
(AM) Act 2016*

- (a) are exempt from customs duty under the Fifth Schedule of the **East African Community Customs Management Act, 2004** *except compact fluorescent bulbs with a power connecting cap at the end, and lamps and bulbs made from Light Emitting Diodes (LED) technology for domestic and industrial use; or*
- (b) would be exempt had they been supplied in Uganda.

## 20A. Exempt Import Service

*Inserted by  
VAT (Am) Act  
2011*

An import of a service is an exempt import if the service would be exempt had it been supplied in Uganda.

## PART VI - TAXABLE VALUE

### 21. Taxable Value of a Taxable Supply

- (1) Except as otherwise provided under this Act, the taxable value of a taxable supply is the total consideration paid in money or in kind by all persons for that supply.
- (2) The taxable value of –
  - (a) a taxable supply of goods by way of an application to own use;
  - (b) a taxable supply for reduced consideration; or
  - (c) a taxable supply described in Section 9(9),
 is the fair market value of the goods and services at the time the supply is made.
- (3) Where a taxable supply is made without a separate amount of the consideration being identified as a payment of tax, the taxable value of that supply is the total amount of the consideration paid excluding tax.
- (4) The taxable value of a taxable supply of goods under a rental agreement, as defined in Section 14, is the amount of the rental payments due or received.
- (5) The taxable value of a taxable supply of goods or services where the Government has provided a subsidy is the consideration paid in money or in kind by all persons for that supply less the subsidy.

*Inserted by  
VAT (Am) Act 1 2008*

### 22. Adjustments

- (1) This Section applies where, in relation to a taxable supply by a taxable person –
- (a) the supply is cancelled;
  - (b) the nature of the supply has been fundamentally varied or altered;
  - (c) the previously agreed consideration for the supply has been altered by agreement with the recipient of the supply, whether due to an offer of a discount or for any other reason; or
  - (d) the goods or services or part of the goods or services have been returned to the supplier,
- and the taxable person making the supply has –
- (e) provided a tax invoice in relation to the supply and the amount shown in the invoice as the tax charged on the supply is incorrect as a result of the occurrence of any one or more of the above-mentioned events; or
  - (f) filed a return for the tax period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply as a result of the occurrence of any one or more of the above-mentioned events.
- (2) Where subsection (1) applies, the taxable person making the supply shall make an adjustment as specified in subsection (3) or (4).
- (3) Where the output tax properly chargeable in respect of the supply exceeds the output tax actually accounted for by the taxable person making the supply, the amount of the excess shall be regarded as tax charged by the person in relation to a taxable supply made in the tax period in which the event referred to in subsection (1) occurred.
- (4) Subject to subsection (6), where the output tax actually accounted for exceeds the output tax properly chargeable in relation to that supply, the taxable person making the supply shall be allowed a credit for the amount of the excess in the tax period in which the event referred to in subsection (1) occurred.
- (5) The credit allowed under subsection (4) shall, for the purposes of this Act, be treated as a reduction of output tax.
- (6) No credit is allowed under subsection (4) where the supply has been made to a person who is not a taxable person, unless the amount of the excess tax has been repaid by the taxable person to the recipient, whether in cash or as a credit against any amount owing to the taxable person by the recipient.



**23. Taxable Value of an Import of Goods**

The taxable value of an import of goods is the sum of –

- (a) the value of the goods ascertained for the purposes of customs duty under the laws relating to customs;
- (b) the amount of customs duty, excise tax, and any other fiscal charge other than tax payable on those goods; and
- (c) the value of any services to which Section 12(3) applies which is not otherwise included in the customs value under paragraph (a).

**PART VII -CALCULATION OF TAX PAYABLE****24. Calculation of Tax Payable on a Taxable Transaction**

- (1) Subject to subsection (2), the tax payable on a taxable transaction is calculated by applying the rate of tax to the taxable value of the transaction.
- (2) Where the taxable value is determined under Section 21(2) or (3), the tax payable is calculated by the formula specified in Section 1(a) of the Fourth Schedule.
- (3) Subject to subsection (4), the rate of tax shall be as specified in Section 78(2).
- (4) The rate of tax imposed on taxable supplies specified in the Third Schedule is zero.
- (5) The tax payable on a taxable supply made by a contractor to a licensee to undertake mining or petroleum operations is deemed to have been paid by the licensee to the contractor provided the supply is for use by the licensee solely and exclusively for mining or petroleum operations.
- (6) For the purposes of this section, the tax payable on a taxable supply made by a supplier to a contractor executing an aid-funded project is deemed to have been paid by the contractor provided the supply is for use by the contractor solely and exclusively for the aid funded project.

*Inserted by  
VAT (Am) Act 2015*

*Inserted by  
VAT (Am) Act 2016*

**25. Calculation of Tax Payable by a Taxable Person for a Tax Period**

- (1) Subject to Section 26, the tax payable by a taxable person for a tax period is calculated according to the formula specified in Section 1(b) of the Fourth Schedule.

*Amended by  
VAT (Am) Act 2015*

- (2) For a contractor *or supplier*, component X of the formula in paragraph 1(b) of the Fourth Schedule for a tax period does not include the amount of tax that the licensee *or supplier* is deemed to have paid to the contractor *or supplier* under section 24(5) *or* (6) for the period.

(2) & (3) inserted by  
VAT (Am) Act 2015  
& substituted by  
VAT (Am) Act 2016

- (3) For a licensee, component Y of the formula in paragraph 1(b) of the Fourth Schedule for a tax period does not include the amount of tax that the licensee is deemed to have paid to the contractor under section 24(5) for the period.

## 26. Cash Basis Accounting

- (1) This Section applies to a taxable person, the annual value of whose taxable supplies does not exceed *five hundred million shillings* [two hundred million shillings].
- (2) A taxable person to whom this Section applies may elect to account for tax purposes on a cash basis.
- (3) An election under subsection (2) shall be made in writing to the Commissioner General by the due date for the first return in which the taxable person seeks to use the method of accounting specified in subsection (2).
- (4) Where a taxable person makes an election under subsection (2), that person must account for both the output tax payable and the input tax credited on a cash basis.
- (5) A taxable person who has made an election under subsection (2) shall determine the tax payable for a tax period according to the formula specified in Section 1(c) of the Fourth Schedule.
- (6) An election made under subsection (2) remains in force until –
- withdrawn by the taxable person by notice in writing to the Commissioner General; or
  - the Commissioner General, by notice in writing to the taxable person, requires the person to determine the tax payable for a tax period in accordance with Section 25.
- (7) A taxable person who has made an election under subsection (2) may not withdraw the election within two years after making the election unless the person is no longer a person to whom this Section applies.

Substituted by  
VAT (Am) Act 2015

## 27. Consequences of a Change in Accounting Basis

- (1) Every taxable person whose accounting basis is changed is liable for tax, if any, as determined under this Section in the tax period in which the change occurred.

- (2) Where a taxable person changes from the method of accounting provided under Section 25 (referred to as the “invoice basis”) to the method of accounting provided under Section 26 (referred to as the “cash basis”), the tax payable under subsection (1) is determined in accordance with the formula specified in Section 1(d) of the Fourth Schedule.
- (3) Where a taxable person changes from a cash basis to an invoice basis of accounting, the tax payable under subsection (1) is determined in accordance with the formula specified in Section 1(e) of the Fourth Schedule.
- (4) If the amount determined in accordance with subsection (2) or (3) is negative, it shall be refunded to the taxable person in accordance with Section 42(1).

## 28. Credit for Input Tax

- (1) Where Section 25 applies for the purposes of calculating the tax payable by a taxable person for a tax period, a credit is allowed to the taxable person for the tax payable in respect of –

- (a) all taxable supplies made to that person during the tax period; or

- (b) all imports of goods ~~[and services]~~ made by that person *or import of services made by a contractor or licensee or a person providing business process outsourcing services* during the tax period,

if the supply or import is for use in the business of the taxable person.

- (2) Where Section 26 applies for the purposes of calculating the tax payable by a taxable person for a tax period, a credit is allowed to the taxable person for any tax paid in respect of taxable supplies to, or imports by, the taxable person where the supply or import is for use in the business of the taxable person.
- (3) A credit is allowed to a taxable person on becoming registered for input tax paid or payable in respect of –
  - (a) all taxable supplies of goods, including capital assets, made to the person prior to the person becoming registered; or
  - (b) all imports of goods, including capital assets, made by the person prior to becoming registered,

*Repealed by  
VAT (Am) Act 2012  
& inserted by  
VAT (AM) Act  
2015 & 2016*

*Substituted and  
Repealed by  
Finance Act 2001*

where the supply or import was for use in the business of the taxable person, provided the goods are on hand at the date of registration and provided that the supply or import occurred not more than *six months* prior to the date of registration. [or, in the case of capital goods, not more than six months before the date of registration.]

- (4) An input tax credit –
  - (a) under subsection (1) arises on the date the goods or services are supplied to, or imported by, the taxable person;
  - (b) under subsection (2) arises on the date the tax is paid; or
  - (c) under subsection (3) arises on the date of registration.
- (5) A taxable person under this Section shall not qualify for input tax credit in respect of a taxable supply or import of –
  - (a) a passenger automobile, and the repair and maintenance of that automobile, including spare parts, unless the automobile is acquired by the taxable person exclusively for the purpose of making a taxable supply of that automobile in the ordinary course of a continuous and regular business of selling or dealing in or hiring of passenger automobiles;
  - (b) entertainment unless the taxable person –
    - (i) is in the business of providing entertainment; or
    - (ii) supplies meals or refreshments to his or her employees in premises operated by him or her, or on his or her behalf, solely for the benefit of his or her employees; or
  - (c) telephone services, to the extent of 10 per cent of the input tax on those services.
- (6) Subject to subsection (7), where a taxable supply to, or an import of goods by, a taxable person is partly for a business use as set out in subsection (1), (2), or (3) and partly for another use, the amount of the input tax allowed as a credit is that part of the input tax that relates to the business use.
- (7) Subject to subsections (8) and (9) [(9) and (10)], the input tax that may be credited by a taxable person for a tax period is –

*Substituted by  
VAT (Am) Act 2014*

- (a) where all of the taxable person's supplies for that period are taxable supplies, the whole of the input tax specified in subsection (1) or (2); or
  - (b) where only part of the taxable person's supplies for that period are taxable supplies, the amount calculated according to the formula specified in Section 1(f) of the Fourth Schedule.
- (8) Where the fraction B/C in Section 1(f) of the Fourth Schedule is less than 0.05, the taxable person may not credit any input tax for the period.
- (9) Where the fraction B/C in section 1(f) of the Fourth Schedule is more than 0.95, the taxable person may credit all input tax for the period.
- (10) Notwithstanding subsection (7)(b), the Commissioner General may approve a proposal by a taxable person for the apportionment of input tax credit where the taxable person makes both taxable and exempt supplies.
- (11) Subject to subsection (13), an input tax credit allowed under this Section may not be claimed by the taxable person until the tax period in which the taxable person has –
- (a) an original tax invoice for the taxable supply; or
  - (b) a bill of entry or other document prescribed under the *East African Community Customs Management Act, 2004* evidencing the amount of input tax.
- (12) Where a taxable person does not have a tax invoice evidencing the input tax paid, the Commissioner General may allow an input tax credit in the tax period in which the credit arises where the Commissioner General is satisfied that –
- (a) the taxable person took all reasonable steps to acquire a tax invoice;
  - (b) the failure to acquire a tax invoice was not the fault of the taxable person; and
  - (c) the amount of input tax claimed by the taxable person is correct.
- (13) Where a taxable person has made a calculation under subsection (7) for any tax period of a calendar year, he or she shall, in the first tax period of the following year, make a calculation based on the annual value of taxable and exempt supplies.
- (14) Where –
- (a) the calendar year credit exceeds the return credit, the excess shall be claimed as a credit in the first tax period of the following calendar year; or

Substituted by  
VAT (Am) Act 2014

- (b) the return credit exceeds the calendar year credit, the excess shall be regarded as tax charged by the taxable person in relation to a taxable supply made in the first tax period of the following calendar year.

(15) In this Section –

- (a) “calendar year credit” means the total input tax payable, where Section 25 applies, or paid, where Section 26 applies for the calendar year;
- (b) “entertainment” means the provision of food, beverages, tobacco, accommodation, amusement, recreation, or hospitality of any kind;
- (c) “passenger automobile” means a road vehicle designed solely for the transport of sitting persons;
- (d) “return credit” means the total of the input tax claimed as a credit in each tax period of the calendar year; and
- (e) “telephone services” does not include telephone call services supplied to a hotel, lodge or similar establishment where output tax has been accounted for by the establishment on the supply of that service to their customers.

## **29. Tax Invoices**

- (1) A taxable person making a taxable supply to any person shall provide that other person, at the time of supply, with an original tax invoice for the supply.
- (2) A taxable person making a taxable supply shall retain one copy of the tax invoice referred to in subsection (1).
- (3) Where a supplied person loses the original tax invoice, the supplier may provide a duplicate copy clearly marked ‘COPY’.
- (4) An original tax invoice shall not be provided in any circumstance other than that specified in subsection (1).
- (5) A person –
  - (a) who has not received a tax invoice as required by subsection (1); or
  - (b) to whom Section 28(3) applies,

may request a person, who has supplied goods or services to him or her, to provide a tax invoice in respect of the supply.

- (6) A request for a tax invoice under subsection (5) shall be made –
- (a) in the case of a request under subsection (5)(a), within thirty days after the date of the supply;
  - (b) in the case of a request under subsection (5)(b), within thirty days after the date of registration.
- (7) A taxable person who receives a request under subsection (5) shall comply with the request within fourteen days after receiving that request.
- (8) A tax invoice is an invoice containing the particulars specified in Section 2 of the Fourth Schedule.

### **30. Credit and Debit Notes**

- (1) Where a tax invoice has been issued in the circumstances specified in Section 22(1)(e) and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the supply, the taxable person making the supply shall provide the recipient of the supply with a credit note containing the particulars specified in Section 3 of the Fourth Schedule.
- (2) Where a tax invoice has been issued in the circumstances specified in Section 22(1)(e) and the tax properly chargeable in respect of the supply exceeds the amount shown as tax charged in that tax invoice, the taxable person making the supply shall provide the recipient of the supply with a debit note containing the particulars specified in Section 4 of the Fourth Schedule.

## **PART VIII - PROCEDURE AND ADMINISTRATION OF TAX**

### ***Returns and Assessments***

- 31. Returns**
- 32. Assessments**
- 33. General Provisions relating to Assessments**

## **PART VIIIA - OBJECTIONS AND APPEALS**

- 33A. Interpretation**
- 33B. Objections to Assessment**
- 33C. Appeals to Tax Appeals Tribunal**
- 33D. Appeals to High Court**
- 33E. Burden of Proof**

*Ss.31 – 40  
Repealed by  
TPC Act 2014*

*Sections 33A-E  
Inserted by  
Finance Act 2001*

*Collection and Recovery of Tax*

- 34. Due Date for Payment of Tax
- 35. Tax as a Debt Due to Government
- 36. Security
- 37. Preferential Claim to Assets
- 38. Seizure of Goods
- 39. Closure of Business and Distress Proceedings
- 40. Recovery of Tax from Third Parties

**41. Duties of Receivers**

- (1) A receiver shall in writing notify the Commissioner General within fourteen days after being appointed to the position of receiver or taking possession of an asset in Uganda, whichever first occurs.
- (2) The Commissioner General may in writing notify a receiver of the amount which appears to the Commissioner General to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the receiver.
- (3) A receiver shall not part with any asset in Uganda, which is held by the receiver in his or her capacity as receiver without the prior written permission of the Commissioner General.
- (4) A receiver –
  - (a) shall set aside, out of the proceeds of the sale of an asset, the amount notified by the Commissioner General under subsection (2), or such lesser amount as is subsequently agreed on by the Commissioner General;
  - (b) is liable to the extent of the amount set aside for the tax of the person who owned the asset; and
  - (c) may pay any debt that has priority over the tax referred to in this Section notwithstanding any provision of this Section.
- (5) A receiver is personally liable to the extent of any amount required to be set aside under subsection (4) for the tax referred to in subsection (2) if, and to the extent that, the receiver fails to comply with the requirements of this Section.
- (6) In this Section, “receiver” includes a person who, with respect to an asset in Uganda, is –



- (a) a liquidator of a company;
- (b) a receiver appointed out of court or by a court;
- (c) a trustee for a bankrupt person;
- (d) a mortgagee in possession;
- (e) an executor of a deceased person; or
- (f) any other person conducting the business of a person legally incapacitated.

### ***Refund of Tax***

#### **42. Refund of Overpaid Tax**

- (1) If, for any tax period, a taxable person's input tax credit exceeds his or her liability for tax for that period, the Commissioner General shall refund him or her the excess within one month of the due date for the return for the tax period to which the excess relates, or within one month of the date when the return was made if the return was not made by the due date.
- (2) Notwithstanding subsection (1), the Commissioner General –
  - (a) shall, where the taxable person's input credit exceeds his or her liability for tax for that period by less than five million shillings, except in the case of a licensee [an investment trader] or person providing mainly zero rated supplies, offset that amount against the future liability of the taxable person; and
  - (b) may, with consent of the taxable person, where the taxable person's input credit exceeds his or her liability for tax for that period by five million shillings or more, offset that amount against the future liability of the taxable person, or apply the excess in reduction of any other tax not in dispute due from the taxpayer.
- (2a) If for any tax period taxable supplies in stock or stock in transit are lost due to theft, fire, accident, or force majeure and input tax has been paid on those goods, the Commissioner General may grant a refund or allow credit for the input tax paid on those goods if there is evidence that the goods are destroyed or lost and cannot be recovered. [Where goods in stock are lost due to theft or fire and input tax has been paid on those goods, the Commissioner General may grant a refund or allow credit for the input tax paid on those goods if there is evidence that the goods are lost and cannot be recovered.]

*Substituted by  
VAT (Am) Act 2015*

*Substituted by  
VAT (Am) Act 2002*

*Inserted by  
Finance Act 2001  
And substituted by  
VAT (Am) Act 2013*

- (3) A person may claim a refund of any output tax paid in excess of the amount of tax due under this Act for a tax period.
- (4) A claim for a refund under subsection (3) shall be made in a return within three years after the end of the tax period in which tax was overpaid.
- (5) Where a person has claimed a refund under subsection (3) and the Commissioner General is satisfied that the person has paid an amount of tax in excess of the amount of tax due, the Commissioner General shall refund immediately the excess to the taxable person.
- (6) Where a person claiming a refund is required by the Commissioner General to provide accounts or records to substantiate the claim and fails to do so in a manner satisfactory to the Commissioner General within seven days of being requested, the time period specified in subsection (1) for making the refund shall not be binding on the Commissioner General.
- (7) The Commissioner General shall serve on a person claiming a refund a notice in writing of a decision in respect of the claim.
- (8) A person dissatisfied with a decision under subsection (6) may only challenge the decision under Part IV of the Tax Appeals Tribunal Act.
- (9) No refund shall be made under subsection (5) in relation to a taxable supply that has been made to a person who is not a taxable person, unless the Commissioner General is satisfied that the amount of the excess tax has been repaid by the taxable person to the recipient, whether in cash or as a credit against an amount owing to the taxable person by the recipient.

#### **43. Refund of Tax for Bad Debts**

- (1) Where a taxable person has supplied goods or services for a consideration in money, and has –
  - (a) paid the full tax on the supply to the Commissioner General, but has not within two years after the supply received payment, in whole or in part from the person to whom the goods or services are supplied; and
  - (b) taken all reasonable steps to the satisfaction of the Commissioner General, to pursue payment and he or she reasonably believes that he or she will not be paid,

that person may seek a refund of that portion of the tax paid for which he or she has not received payment.

- (2) If a refund is taken under subsection (1) and the taxable person later receives payment in whole or in part, in respect of the debt, he or she shall remit to the Commissioner General, with his or her next tax return, a sum equal to the portion of the payment that represents the tax refunded.
- (3) A registered supplier who fails to remit the tax in accordance with subsection (2) with his or her next return, commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings, in addition to the payment of the full amount of the undeclared tax plus a penal tax on that outstanding tax calculated at the rate specified in the Fifth Schedule.

#### 44. Interest on Overpayments and Late Refunds

- (1) Where the Commissioner General is required to refund an amount of tax to a person as a result of –
  - (a) a decision under Section 33B;
  - (b) a decision of the Tax Appeals Tribunal; or
  - (c) a decision of the High Court, the Court of Appeal or the Supreme Court,

he or she shall pay interest at a rate of 2% per month compounded on the tax to be refunded.

- (2) Where the Commissioner General fails to make a refund required under Section 42(1) within the time specified in that Section, he or she shall pay interest at a rate of 2% per month compounded on the amount of refund for the period.

- (3) Where the Commissioner General finds, after conducting an investigation of any amount shown as an excess in terms of Section 42(1), that the excess amount of input tax credit is greater than the true amount due in excess of not less than fifty thousand shillings, no interest shall be payable under subsection (2) where there has been a delay in making the refund.

- (4) Notwithstanding subsection (1), a taxpayer who causes delay in determining a correct refund payable to him or her, and leading to a belated refund process, is only entitled to interest with effect from sixty days from the date on which he or she filed his or her delayed return, lodged an application with the Tax Appeals Tribunal or the High Court, or submitted to the Commissioner General all necessary and satisfactory information required in relation to the refund in question, whichever is the later.

**45. Refund of Tax to Diplomats and Diplomatic and Consular Missions and International Organisations**

- (1) The Minister may, with the concurrence of the Minister responsible for Foreign Affairs, authorise the granting of a refund in respect of tax paid or borne by –
  - (a) any person enjoying full or limited immunity, rights or privileges under any local or international laws applicable in Uganda or under recognised principles of international law; or
  - (b) any diplomatic or consular mission of a foreign country or any public international organisation established in Uganda or listed in the First Schedule to this Act relating to transactions concluded for its official purposes.
- (2) The refund provided for in subsection (1)(a) shall not be available to any citizen or permanent resident of Uganda.
- (3) Any claim for a refund of tax under this Section shall be made in such form and at a time that the Commissioner General may prescribe and shall be accompanied by proof of payment of tax.
- (4) The Minister may make regulations specifying conditions to be met or restrictions to apply for claiming or granting of tax refunds under this Section.

*Ss.46 -64  
Repealed by  
TPC Act 2014*

***Records and Investigation Powers***

- 46. Records**
- 47. Access to Books, Records and Computers**
- 48. Notice to Obtain Information or Evidence**
- 49. Books and Records not in English Language**

***Taxpayer Identification Number***

- 50. Taxpayer Identification Number**

***Offences and Penal Tax***

- 51. Offences related to Registration**
- 52. Offences related to Tax Invoices, Credit Notes, and Debit Notes**
- 53. Failure to Lodge a Return**
- 54. Failure to Comply with Recovery Provision**
- 55. Failure to Maintain Proper Records**
- 56. Failure to Provide Reasonable Assistance**
- 57. Failure to Comply with Section 48 or 49 Notice**

- 58. Improper Use of Taxpayer Identification Number
- 59. False or Misleading Statements
- 60. Obstructing an Officer of the Authority
- 61. Offences by Officers and other Persons
- 62. Offences by Companies
- 63. Officer may appear on behalf of Commissioner General
- 64. Compounding of Offences

**65. Penal Tax**

- (1) A person who fails to apply for registration as required by Section 7(1) or (5) is liable to pay a penal tax equal to double the amount of tax payable during the period commencing on the last day of the application period in Section 7(1) until either the person files an application for registration with the Commissioner General or the Commissioner General registers the person under Section 8(6).
- (2) A person who fails to lodge a return within the required time under this Act is liable to pay a penal tax amounting to whichever is the greater of the following:
  - (a) two hundred thousand shillings; or
  - (b) an interest charge for the period the return is outstanding calculated according to the formula specified in the Fifth Schedule.
- (3) A person who fails to pay tax imposed under this Act on or before the due date is liable to pay a penal tax on the unpaid tax at a rate specified in the Fifth Schedule for the tax which is outstanding.
- (4) If a person pays a penal tax under subsection (3) and the tax to which it relates is found not to have been due and payable by the person and is refunded, then the penal tax, or so much of the penal tax as relates to the amount of the refund, shall also be refunded to that person.
- (5) A person who fails to maintain proper records in a tax period in accordance with the requirements of this Act is liable to pay a penal tax equal to double the amount of tax payable by the person for the tax period.
- (6) Where a person knowingly or recklessly –
  - (a) makes a statement or declaration to an official of the Uganda Revenue Authority that is false or misleading in a material particular; or

- (b) omits from a statement made to an official of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular, and
  - (i) the tax properly payable by the person exceeds the tax that was assessed as payable based on the false or misleading information;
  - (ii) the amount of the refund claimed was false; or
  - (iii) the person submitted a return with an incorrect offset claim,that person is liable to pay penal tax equal to double the amount of the excess tax, refund or claim.
- (7) Section 59(4) applies in determining whether a person has made a statement to an official of the Uganda Revenue Authority.

#### **66. Recovery of Penal Tax**

- (1) Where good cause is shown, in writing, by the person liable to pay a penal tax, the Commissioner General may remit in whole or part any penal tax payable other than the penal tax imposed or payable under Section 65 for late payment.
- (2) Subject to subsection (3), the imposition of a penal tax is in addition to any penalty imposed as a result of a conviction for an offence under Sections 51 to 64.
- (3) No penal tax is payable under Section 65 where the person has been convicted of an offence under Section 51, 55, or 59 in respect of the same act or omission.
- (4) If a penal tax under Section 65 has been paid and the Commissioner General institutes a prosecution proceeding under Section 51, 55 or 59 in respect of the same act or omission, the Commissioner General shall refund the amount of penal tax paid; and that penal tax is not payable unless the prosecution is withdrawn.
- (5) Penal tax shall for all purposes of this Act be treated as a tax of the same nature as the output tax to which it relates and shall be payable in and for the same tax period as that output tax.
- (6) Penal tax shall be assessed by the Commissioner General in the same manner as the output tax to which it relates and an assessment of penal tax shall be treated for all purposes as an assessment of tax under this Act.

#### **67. Remission of Tax**

- (1) Where the Commissioner General is of the opinion that the whole or any part of the tax due under this Act from a taxpayer cannot be effectively recovered by reason of –
  - (a) considerations of hardship; or
  - (b) impossibility, undue difficulty, or the excessive cost of recovery,
 the Commissioner General may refer the taxpayer's case to the Minister.
- (2) Where the taxpayer's case has been referred to the Minister under subsection (1) and the Minister is satisfied that the tax due cannot be effectively recovered, the Minister may remit or write off, in whole or part, the tax due from the taxpayer.

*Ss.68 -70A  
Repealed by  
TPC Act 2014*

## **PART IX - GENERAL PROVISIONS**

### **68. Form, Authentication and Availability of Documents**

#### **68A. Use of Information Technology**

#### **68B. Cancellation of Registration**

#### **68C. Offences**

### **69. Service of Notices and Other Documents**

### **70. Nominated Person**

#### **70A. VAT Representatives of Non-Resident Persons**

### **71. Application of Act to Partnerships and Unincorporated Associations**

- (1) This Act applies to a partnership as if the partnership were a person, but with the following changes –
  - (a) obligations that would be imposed on the partnership are imposed on each partner, but may be discharged by any of the partners;
  - (b) the partners are jointly and severally liable to pay any amount that would be payable by the partnership; and
  - (c) any offence under this Act that would otherwise be committed by the partnership is taken to have been committed by each of the partners.
- (2) This Act applies to an unincorporated association as if it were a person, but the obligations that would be imposed on the association are imposed on each member of the committee of management of the association, but may be discharged by any of those members.

- (3) In a prosecution of a person for an offence that the person is taken to have committed under subsection (1)(c), it is a defence if the person proves that he or she –
- (a) did not aid, abet, counsel, or procure the relevant act or omission; and
  - (b) was not in any way knowingly concerned in, or party to, the relevant act or omission.

## **72. Trustee**

A person who is a trustee in more than one capacity is treated for the purposes of this Act as a separate person in relation to each of those capacities.

## **73. Currency Conversion**

- (1) For the purposes of this Act, all amounts of money are to be expressed in Uganda shillings.
- (2) Where an amount is expressed in a currency other than Uganda shillings, the amount shall be converted into the Uganda shillings using the weighted selling rates of the previous month for the currency concerned.

## **74. Prices Quoted to include Tax**

Any price advertised or quoted for a taxable supply shall include tax and the advertisement or quotation shall state that the price includes the tax.

## **75. Schemes for obtaining Undue Tax Benefits**

- (1) Notwithstanding anything in this Act, if the Commissioner General is satisfied that a scheme has been entered into or carried out where –
  - (a) a person has obtained a tax benefit in connection with the scheme; and
  - (b) having regard to the substance of the scheme, it would be concluded that the person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person to obtain the tax benefit,

the Commissioner General may determine the liability of the person who has obtained the tax benefit as if the scheme had not been entered into or carried out, or in a manner as in the circumstances the Commissioner General considers appropriate for the prevention or reduction of the tax benefit.



(2) In this Section –

- (a) “scheme” includes any agreement, arrangement, promise, or undertaking whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings, and any plan, proposal, course of action, or course of conduct;
- (b) “tax benefit” includes –
  - (i) a reduction in the liability of any person to pay tax;
  - (ii) an increase in the entitlement of a person to a credit or refund; or
  - (iii) any other avoidance or postponement of liability for the payment of tax.

## **76. International Agreements**

- (1) To the extent that the terms of a treaty or other international agreement to which Uganda is a party are inconsistent with the provisions of this Act, apart from Section 75, the terms of the treaty or international agreement prevail over the provisions of this Act.
- (2) In this Section, “international agreement” means an agreement between Uganda and a foreign government or a public international organisation.

## **77. Priority of Schedules**

Where a supply of goods or services may be covered by both the Second Schedule and the Third Schedule, the supply shall be treated as being within the Third Schedule.

## **78. Regulations and Amendment of Schedules**

- (1) The Minister may make regulations for the better carrying into effect of the provisions and purposes of this Act.
- (2) The Minister may by Statutory Order specify the rates of tax payable under this Act; and the Order shall cease to have effect unless it is introduced into Parliament within three months from the date of its publication and Parliament approves a resolution confirming that Order.
- (3) The Minister may, with the approval of Cabinet, make regulations amending the First, Second and Third Schedules.

## **78A. Supremacy of the Act**

Where there is any inconsistency between this Act and any other law prescribing a rate of tax, this Act shall prevail.

## 79. Practice Notes

*Ss. 79, 80 & 81  
inserted by  
VAT (Am) Act  
2005. 79 & 80  
Repealed by  
TPC Act 2014*

## 80. Private Rulings

## 81. International Agreements

Where an international agreement entered into between the Government of Uganda and the government of a foreign country or an international organisation, provides tax reliefs to a foreign government or an international organisation, the provisions relating to tax reliefs or benefits shall have effect –

- (a) on the ratification of the agreement by the Cabinet; and
- (b) upon approval by Parliament.

## FIRST SCHEDULE

Ss.1 & 45

### *Public International Organisations*

*Inserted by  
VAT (Am) Act 2005*

African Development Bank (ADB)

*Inserted by  
Finance Act 2001*

African Development Foundation (ADF)

*Inserted by  
VAT (Am) Act 2 2008*

African Union (AU)

Aga Khan Development Network, Uganda, and the following agencies:–

- (i) Aga Khan Foundation, Uganda;
- (ii) Aga Khan Education Service, Uganda;
- (iii) Aga Khan Health Service, Uganda;
- (iv) Aga Khan Trust for Culture; and
- (v) Aga Khan University, Uganda.

*Inserted by  
VAT (Am) Act 2003*

*Inserted by  
VAT (Am) Act 2012*

Austrian Development Agency (ADA)

*Inserted by  
VAT (Am) Act 2 2008*

Belgian Technical Cooperation (BTC)

*Inserted by  
VAT (Am) Act 2012*

Danish International Development Agency (DANIDA)

Department for International Development (DFID)

Desert Locust Control Organisation for Eastern Africa (DLCOE)

*Substituted by  
VAT (Am) Act 2012*

Deutsche Gesellschaft für Internationale Zusammenarbeit (GTZ)

*Inserted by  
VAT (Am) Act 2003*

Common Market for East and Southern Africa (COMESA)

*Inserted by  
VAT (Am) Act 2005  
and substituted by  
VAT (Am) Act 2013*

East African Community, its Organs and Institutions

East African Development Bank (EADB)

Eastern and Southern Africa Management Institute (ESAMI)

European Union (EU)

Food and Agricultural Organisation (FAO)

*Inserted by  
VAT (Am) Act 2012  
and substituted by*

French Development Agency (Agence Française de Développement) (FDA)

*Inserted by  
VAT (Am) Act 2015*

Global Fund to fight AIDS, Malaria and Tuberculosis

Icelandic International Development Agency (ICEADA)

IGAD Regional HIV and AIDS Partnership Programme (IRAPP)

International Atomic Agency (IAA)

International Civil Aviation Organisation (ICAO)

*Inserted by  
VAT (Am) Act 2003*

*Inserted by  
VAT (Am) Act 2 2008*

International Committee of the Red Cross (ICRC)

*Inserted by  
VAT (Am) Act 2 2008*

International Criminal Court (ICC)

International Labour Organisation (ILO)

International Monetary Fund (IMF)

*Inserted by  
VAT (Am) Act 2003*

International Organisation for Migration (IOM)

International Telecommunications Union (ITU)

*Substituted by  
VAT (Am) Act 2012*

Japan International Cooperation Agency (JICA)

*Inserted by  
VAT (Am) Act 2012*

Korea International Cooperation Agency (KOICA)

Kreditanstalt für Wiederaufbau (KfW)

Medical Research Council

Netherlands Development Organisation (SNV)

*Inserted by  
VAT (Am) Act 2003*

Nile Basin Initiative

*Substituted by  
VAT (Am) Act 2012*

Norwegian Agency for Development *Cooperation* (NORAD)

*Repealed by  
VAT (Am) Act 2 2008*

[Organisation of African Unity (OAU)]

*Inserted by  
VAT (Am) Act 2012*

Swedish International Development Agency (SIDA)

*Inserted by  
VAT (Am) Act 2015*

Uganda Red Cross Society

Union of National Radio and Television Organisations of Africa (UNRTNA–  
PEC)

United Nations African Institute for the Prevention of Crime and the Treatment  
of Offenders (UNAFRI)

United Nations Children's Fund (UNICEF)

United Nations Development Programme (UNDP)

United Nations Fund for Population Activities (UNFPA)

United Nations High Commission for Refugees (UNHCR)

United States Agency for International Development (USAID)

Universal Postal Union (UPU)

World Bank

World Food Programme (WFP)

World Health Organisation (WHO)

World Meteorological Organisation (WMO)

## SECOND SCHEDULE

S.19

### *Exempt Supplies*

1. The following supplies are specified as exempt supplies for the purposes of Section 19 –

- (a) the supply of *livestock*, unprocessed foodstuffs and unprocessed agricultural products; [*except wheat grain;*] [and livestock]
- (b) the supply of postage stamps;

*Substituted by  
VAT (Am) Act 2013  
& (Am) Act 2016*

(c) the supply of financial services;

*Substituted by  
VAT (Am) Act 2014*

(d) the supply of [insurance services]

i) health insurance services [wef July 2014]

ii) life insurance services [wef July 2014]

iii) micro insurance services [wef November 2014]

iv) re-insurance services [wef November 2014]

*Inserted by  
Finance Act 2001*

(e) the supply of unimproved land;

(f) a supply by way of *sale*, *leasing* or letting of immovable property, other than –

**NB:** The supply of residential dwelling units was a taxable supply at 5% from July 2007 to June 2009

i) a *sale*, lease or letting of commercial premises;

ii) a *sale*, lease or letting for parking or storing cars or other vehicles;

iii) a sale, lease or letting of hotel or holiday accommodation;

iv) a sale, lease or letting for periods not exceeding three months; or

v) a sale, lease or letting of service apartments;

*Substituted by  
VAT (Am) Act 2009*

(g) the supply of education services;

*Inserted by  
VAT (Am)  
Act 1 2008*

(h) the supply of *veterinary*, medical, dental, and nursing services;

(i) the supply of social welfare services;

*Repealed by  
VAT (Am) Act 2011  
And reinstated by  
VAT (Am) Act 2012*

(j) *the supply of betting, lotteries, and games of chance;*

(k) the supply of goods as part of the transfer of a business as a going concern by one taxable person to another taxable person;

(l) the supply of burial and cremation services;

(m) the supply of precious metals and other valuables to the Bank of Uganda for the State Treasury;

(n) the supply of passenger transportation services (other than Tour and Travel operators);

*Substituted by VAT  
(Am No.2) Act 2002  
& (Am) Act 2 2008*

- (o) the supply of petroleum fuels subject to excise duty, (motor spirit, kerosene and gas oil), spirit type jet fuel, kerosene type jet fuel and residual oils for use in thermal power generation to the national grid;

*Repealed by  
VAT (Am)  
Act 2002*

- (p) the supply of milk, including milk treated in any way to preserve it

*Inserted by  
VAT (Am) Act 2011  
and substituted by  
VAT (Am) Act 2013*

- (q) the supply of dental, medical, *and* veterinary goods [equipment *and ambulances*] *and for the purposes of this subparagraph "goods" means:*

- i) *dental*, medical and veterinary equipment;
- ii) ambulances;
- iii) contraceptives of all forms;
- iv) maternity kits (mama kits);
- v) medical examination gloves;
- vi) medicated cotton wool;
- vii) mosquito nets, acaricides, insecticides and mosquito repellent devices; and
- viii) diapers.

*Inserted by  
Finance Act 2001  
& repealed by  
VAT (Am) Act  
2014*

- (r) the supply of feeds for poultry and livestock;

*Inserted by  
Finance Act 2001&  
Substituted by  
VAT (Am) Act 2014*

- (s) the supply of machinery [used for the processing of agricultural or dairy products], tools and implements suitable for use only in agriculture, and for the purposes of this subparagraph, "machinery, tools and implements" means;

- i) knapsack sprayers;
- ii) ox ploughs;
- iii) drinkers and feeders for chicken;
- iv) agricultural tractors (including walking tractors);
- v) disk harrows;
- vi) cultivators;
- vii) ploughs;

*xxiv – xxxv  
Inserted by  
VAT (Am) Act  
2016*

- viii) weeders;
- ix) seeders;
- x) planters;
- xi) subsoilers;
- xii) seed drills;
- xiii) threshers;
- xiv) bale wrappers;
- xv) milking machinery;
- xvi) milk coolers;
- xvii) maize mills;
- xviii) wheat flour mills;
- xix) homogenisers;
- xx) dairy machinery;
- xxi) grain cleaners and sorters;
- xxii) feed grinders hatcheries;
- xxiii) implements used for artificial insemination in animals
- xxiv) hullers;
- xxv) oil press;
- xxvi) tillers;
- xxvii) grain dryers;
- xxviii) manure spreaders;
- xxix) fertilizer distributor;
- xxx) transplanters;
- xxxi) juice presses and crushers;
- xxxii) seed and grain shellers;
- xxxiii) silage chopper machines;
- xxxiv) color sorters for coffee;
- xxxv) coffee roasters.



- (t) the supply of photosensitive semiconductor devices, including photovoltaic devices, whether or not assembled in modules or made into panels; light emitting diodes; solar water heaters, solar refrigerators and solar cookers.

*Inserted by Finance Act 2001 and substituted by VAT (Am) Act 2005,*

*Inserted by VAT (Am) Act 2011 & repealed by (Am) Act 2016*

- (ta) supply of power generated by solar;

*Added by VAT (Am) Act 2002, Substituted by VAT (Am) Act 2003 & 1 2008. Deleted by VAT (Am) Act 1 2008. Repealed by VAT (Am) Act 2014.*

- (u) the supply of accommodation in tourist lodges and hotels outside Kampala District; [and Entebbe]

- (v) supply of new –

- (i) computers
- (ii) desktop printers; and
- (iii) computer parts and accessories.

*Substituted by VAT (Am No.2) Act 2002, (Am) Act 2005, (Am) Act 2 2008 & (Am) Act 2009. Repealed by Am Act 2014.*

- (w) the supply of computer software *and software licences*;

*Inserted by (Am) Act 2003 & substituted by (Am) Act 2010. Repealed by Am Act 2014*

- (x) the supply of lifejackets, lifesaving gear, headgear and speed governors;

- (y) the supply of Mobile toilets and Ekoloo toilets made form polyethylene;

- (z) the supply of mosquito nets, insecticides and acaricides;

- (aa) the supply of specialised vehicles, plant and machinery, feasibility studies, engineering designs, consultancy services and civil works related to hydro-electric power, roads and bridges construction, public water works, agriculture, education and health sectors.

*Inserted by VAT (Am) Act 2005, (Am) Act 2006, (Am) Act 1 2008, (Am) Act 2 2008 & (Am) Act 2009. Repealed by Am Act 2014*

- (bb) the supply of contraceptive sheaths and examination gloves;

- (cc) the supply of Liquefied Petroleum Gas.

*Inserted by VAT (Am) Act 2006. Repealed by Am Act 2014*

*Inserted by VAT (Am) Act 2006. Repealed by VAT (Am) Act 2013*

*Inserted by VAT (Am) Act 1 2008 & Repealed by VAT (Am) Act 2013*

- (dd) the supply of any goods and services to the contractor of the Bujagaali hydro-electric power project;

*Inserted by VAT  
(Am) Act 2 2008 &  
substituted By  
(Am) Act 2016*

- (dda) the supply of any goods and services to the contractors and subcontractors of hydro-electric power, *solar power, geothermal power or bio gas and wind energy* projects;

*Inserted by VAT  
(Am) Act 1 2008 &  
Repealed by VAT  
(Am) Act 2013*

- (ee) the supply of diapers.

*Inserted by VAT  
(Am) Act 2 2008  
& repealed by Am  
Act 2014*

- (ff) the supply of salt;

*Inserted by Am Act  
2 2008 and repealed  
by VAT (Am) Act  
2011*

- (gg) the supply of motor vehicles or trailers of a carrying capacity of 3.5 tonnes or more designed for the transport of goods;

*(hh) & (ii) inserted  
by VAT (Am) Act  
2009 & repealed by  
Am Act 2014*

- (hh) the supply of packing materials exclusively used by the milling industry for packing milled products;

- (ii) the supply of packing materials exclusively used by the dairy industry for packing milk;

*Inserted by  
VAT (Am) Act 2010  
And repealed by  
VAT (Am) Act 2012*

- (jj) the supply of biodegradable packaging materials.

*Inserted by VAT  
(Am) Act 2012  
W.E F 1/10/2012  
and Repealed by  
VAT (Am) Act  
2013*

- (kk) the supply of water for domestic use excluding mineral water and aerated waters which contain sweetening matter or flavour.

## 2. In this Schedule –

- (a) “education services” means education provided by –

- (i) a pre-primary, primary, or secondary school;
- (ii) a technical college or university;
- (iii) an institution established for the promotion of adult education, vocational training, technical education, or the education or training of physically or mentally handicapped persons;

- (b) “financial services” means –

- (i) granting, negotiating, and dealing with loans, credit, credit guarantees, and any security for money, including management of loans, credit, or credit guarantees by the grantor;
- (ii) transactions concerning deposit and current accounts, payments,

*Inserted by  
VAT (Am) Act 2006*

transfers, debts, foreign currency sales and purchases, cheques, and negotiable instruments, other than debt collection and factoring;

- (iii) transactions relating to shares, stocks, bonds, and other securities, other than custody services;
- (iv) management of investment funds; but does not include provision of credit facilities under a hire-purchase or finance lease agreement;
- (c) “passenger transportation services” means the transportation of fare-paying passengers, and their personal effects by road, rail, water, or air, but does not include passenger transport services provided by a registered tour operator; and
- (d) “social welfare services” means –
  - (i) care for the elderly, sick, and disabled, including care in a hospital, aged person's home, and similar establishments; or
  - (ii) care and welfare services provided for the benefit of minors.
- (e) “transfer of a going concern” includes the disposal of any part of a business which is capable of separate operation;
- (f) insurance services include brokerage.

*Inserted by  
VAT (Am) Act 2009*

3. For the purposes of paragraph 1(a) of this Schedule, the term “unprocessed” includes low value added activity such as sorting, drying, salting, filleting, deboning, freezing, chilling, or bulk packaging, *where, except in the case of packaging*, the value added does not exceed 5% of the total value of the supply.

*Substituted by  
VAT (Am) Act 1  
2008*

4. Paragraph 1(aa) shall continue to apply to contracts that were entered into prior to its repeal until the contracts are completed or are terminated.

*Inserted by  
VAT (Am) Act 2014*

## THIRD SCHEDULE

S.24(4)

*Zero-Rated Supplies*

1. The following supplies are specified for the purposes of Section 24(4) –

- (a) a supply of goods or services where the goods or services are exported from Uganda as part of the supply;

*Substituted by VAT (Am No.2) Act 2002*

- (b) the supply of international transport of goods or passengers and tickets for their transport;

- (c) the supply of drugs and medicines;

*Substituted by VAT (Am No.2) Act 2002 & VAT (Am) Act 2014*

- (d) the supply of educational materials [and the supply of printing services for educational materials];

- (e) the supply of seeds, fertilisers, pesticides, and hoes;

*Substituted by VAT (Am) Act 2013. Repealed by Am Act 2014*

- (f) the supply of cereals where the cereals are grown *and* milled [or produced] in Uganda;

*Inserted by Finance Act 2001. Repealed by Am Act 2014*

- (g) the supply of machinery, tools and implements suitable for use only in agriculture;

*Added by VAT (Am) Act 2002. Repealed by Am Act 2014*

- (h) the supply of milk, including milk treated in any way to preserve it;

*Inserted by VAT (Am) Act 2011 And repealed by VAT (Am) Act 2012*

- (ha) the supply of water, excluding mineral water and aerated waters containing sweetening matter or flavoured;

*Inserted by VAT (Am) Act 2005 And repealed by VAT (Am) Act 2012*

- (i) the supply and installation of Mobilet Toilets, Ekoloo Toilets, and components made from polythene with effect from 1<sup>st</sup> July 2004;

*Inserted by VAT (Am) Act 2005 and substituted by VAT (Am) Act 2009*

- (j) the supply of sanitary towels and tampons and inputs for their manufacture; and

*Inserted by VAT (Am) Act 2008*

- (k) the supply of leased aircraft, aircraft engines, spare engines, spare parts for aircraft and aircraft maintenance equipment.

- (l) the supply of cereals, where the cereals are grown and milled in Uganda;

*(l) & (m) inserted by VAT (Am) Act 2015 W.E.F 1/1/2015*

- m) the supply of handling services provided by the National Medical Stores in respect of medical supplies, funded by donors.

2. For the purposes of paragraph 1(a), goods or services are treated as exported from Uganda if –
- (a) in case of goods, the goods are delivered to, or made available at an address outside Uganda as evidenced by documentary proof acceptable to the Commissioner General; or
  - (b) in the case of services, the services were supplied by a person engaged exclusively in handling of goods for export at a port of exit or were supplied for use or consumption outside Uganda as evidenced by documentary proof acceptable to the Commissioner General.
3. For the purposes of paragraph (1)(b), international transport of goods or passengers occurs where goods or passengers are transported by road, rail, water, or air –
- (a) from a place outside Uganda to another place outside Uganda where the transport or part of the transport is across the territory of Uganda;
  - (b) from a place outside Uganda to a place in Uganda; or
  - (c) from a place in Uganda to a place outside Uganda.
4. In this Schedule –
- (a) "educational materials" means materials, *whether printed or audio*, suitable for use only in public libraries and educational establishments specified in paragraph 2 of the Second Schedule to this Act;
  - (b) "pesticides" means insecticides, rodenticides, fungicides and herbicides but does not include pesticides packaged for personal or domestic use.

Inserted by  
VAT (Am) Act 2006

Inserted by  
VAT (Am) Act 2013

## FOURTH SCHEDULE

Ss. 24 - 30

*Formulae, Tax Invoices, Credit Notes and Debit Notes*

1. (a) For the purposes of Section 24(2), the following formula shall apply –

$$A \times B$$

where,

**A** is the taxable value as determined under Section 21(2) or (3); and

**B** is the tax fraction.

- (b) For the purposes of Section 25, the following formula shall apply –

$$X - Y$$

where,

**X** is the total of the tax payable in respect of taxable supplies made by the taxable person during the tax period; and

**Y** is the total credit allowed to the taxable person in the tax period under the Act.

- (c) For the purposes of Section 26(5), the following formula shall apply –

$$S - T$$

where,

**S** is the total output tax received by the taxable person during the tax period in respect of taxable supplies made by the person and

**T** is the total input tax credit allowed to the taxable person in the tax period under the Act.

- (d) For the purposes of Section 27(2), the following formula shall apply –

$$M - N$$

where,

**M** is the total amount of input tax credited in relation to amounts due by the taxable person at the time of change in the accounting basis; and

**N** is the total amount of output tax accounted for in relation to amounts due to the taxable person at the time of change in the accounting basis.

- (e) For the purposes of Section 27(3), the following formula shall apply –

$$\mathbf{O - P}$$

where,

**O** is the total amount of output tax that would have been accounted for on amounts due to the taxable person at the time of change in accounting basis if the taxable person had been accounting for tax on an invoice basis; and

**P** is the total amount of input tax that would have been credited on amounts due by a taxable person at the time of change in accounting basis if the taxable person had been accounting for tax on an invoice basis.

- (f) For the purposes of Section 28(7)(b), the following formula shall apply –

$$\mathbf{A \times B / C}$$

where,

**A** is the total amount of input tax for the period; and

**B** is the total amount of taxable supplies made by the taxable person during the period; and

**C** is the total amount of all supplies made by the taxable person during the period other than an exempt supply under paragraph 1(k) of the Second Schedule.

2. A tax invoice as required by Section 29 shall, unless the Commissioner General provides otherwise, contain the following particulars –

- (a) the words “tax invoice” written in a prominent place;
- (b) the commercial name, address, place of business, and the taxpayer identification and VAT registration numbers of the taxable person making the supply;
- (c) the commercial name, address, place of business, and the taxpayer identification number and VAT registration number of the recipient of the taxable supply;

- (d) the individualised serial number and the date on which the tax invoice is issued;
  - (e) a description of the goods or services supplied and the date on which the supply is made;
  - (f) the quantity or volume of the goods or services supplied;
  - (g) the rate of tax for each category of goods and services described in the invoice; and
  - (h) either –
    - (i) the total amount of the tax charged, the consideration for the supply exclusive of tax and the consideration inclusive of tax; or
    - (ii) where the amount of tax charged is calculated under Section 24(2), the consideration for the supply, a statement that it includes a charge in respect of the tax and the rate at which the tax was charged.
3. A credit note as required by Section 30(1) shall, unless the Commissioner General provides otherwise, contain the following particulars –
- (a) the words “credit note” in a prominent place;
  - (b) the commercial name, address, place of business, and the taxpayer identification and VAT registration numbers of the taxable person making the supply;
  - (c) the commercial name, address, place of business, and the taxpayer identification and VAT registration numbers of the recipient of the taxable supply;
  - (d) the date on which the credit note was issued;
  - (e) the rate of tax; and
  - (f) either –
    - (i) the taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference; or
    - (ii) where the tax charged is calculated under Section 24(2), the amount of the difference between the taxable value shown on the tax invoice and



the correct amount of the taxable value and a statement that the difference includes a charge in respect of the tax;

- (g) a brief explanation of the circumstances giving rise to the issuing of the credit note; and
  - (h) information sufficient to identify the taxable supply to which the credit note relates.
4. A debit note as required by Section 30(2) shall, unless the Commissioner General provides otherwise, contain the following particulars –
- (a) the words “debit note” in a prominent place;
  - (b) the commercial name, address, place of business, and the taxpayer identification and VAT registration numbers of the taxable person making the supply;
  - (c) the commercial name, address, place of business, and the taxpayer identification and VAT registration numbers of the recipient of the taxable supply;
  - (d) the date on which the debit note was issued;
  - (e) the rate of tax; and
  - (f) either –
    - (i) the taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference; or
    - (ii) where the tax charged is calculated under Section 24(2), the amount of the difference between the taxable value shown on the tax invoice and the correct amount of the taxable value and a statement that the difference includes a charge in respect of the tax;
  - (g) a brief explanation of the circumstances giving rise to the issuing of the debit note;
  - (h) information sufficient to identify the taxable supply to which the debit note relates.

**FIFTH SCHEDULE**

Secs.43 & 65

***Calculation of Interest Penalty***

The rate of interest chargeable as penalty shall be 2% per month, compounded.

**Cross References**

East African Customs and Transfer Tax Management Act, Laws of the Community, 1970 Revision, Cap. 27.

East African Community Customs Management Act, 2004 (Act No.1 of 2005).

Finance Act, 2000, Act 1/2001.

Magistrates Courts Act, Cap. 16.

Tax Appeals Tribunal Act, Cap. 345.

Customs Tariff Act, Cap. 337.

**SUBSIDIARY LEGISLATION**  
(Statutory Instruments and Regulations)

**VALUE ADDED TAX REGULATIONS, 1996**  
(Under Section 78 of the ACT)

**1. Citation and Commencement**

These Regulations may be cited as the Value Added Tax Regulations.

**2. Contracts entered into before and after 1<sup>st</sup> July 1996**

- (1) Where a contract was concluded between two or more parties before the 1<sup>st</sup> July 1996, and no provision relating to tax was made in the contract, the supplier shall recover tax due on any taxable supplies made under the contract after 1<sup>st</sup> July 1996.
- (2) Where a contract concluded after 1<sup>st</sup> July 1996 does not include a provision relating to tax, the contract price shall be deemed to include the tax and the supplier under the contract shall account for the tax due.

**3. Tax paid on Capital Goods and Stock on Hand**

Where after the 1<sup>st</sup> July 1996, a person being registered has in stock plant and machinery and other goods on which tax was paid prior to being registered, that person shall be entitled to claim a credit of the tax on the goods which were purchased within four months before the date of registration, and in the case of plant and machinery, within six months before the date of registration.

**4. Display of Registration Certificate**

A registered taxpayer shall display the registration certificate issued under the Act at his or her principal place of business.

**5. New Investors**

- (1) A person who is approved by the Uganda Investment Authority as an investor and who plans to make taxable supplies in due course, may apply to the Commissioner General to be registered as an investment trader [for a period not exceeding four years] for a period of four years, renewable for another period of four years. [Effective 1st July 2002]
- (2) A person shall not be registered as an Investment Trader unless that person gives the Commissioner General an undertaking and security that the Commissioner General may require, guaranteeing the repayment of any tax refunded to that

*Substituted by  
VAT (Am)  
Regulations 2003  
Revoked by  
VAT (Am)  
Regulations 2011*

person, if that person does not make any taxable supply within the period during which that person was registered as an Investment trader.

- (3) An Investment Trader may claim input tax deduction in respect of expenditure on inputs, whether imported or locally procured, relating to the planned taxable business activities and that trader shall be entitled to a refund of the input tax on those purchases.
- (4) An Investment Trader shall abide by all the duties and obligations of a registered person, including the keeping of proper books of accounts and the filing of regular returns.
- (5) A person shall cease to be an Investment Trader immediately after making a taxable supply in the course of business.

## 6. Tax on Construction Services

- (1) Where a taxable supply is building and construction services, tax shall be collected at each stage of the work when an invoice is issued or when payment is received or becomes due, whichever is the earliest, in respect of each stage completed.
- (2) Where an invoice or a claim for payment by a contractor requires certification by an architect, building consultant or other person, the invoice or claim shall not be effective for tax purposes until it is certified as required, and the time of supply shall be the time of certification, and for purposes of the tax any claim or invoice under this regulation shall be certified within 30 days of the date of the invoice or claim.
- (3) Where a contractor varies the cost of a contract during the course of execution, the variations to the original contract shall be deemed to include tax, and the tax shall become due and payable at the time payment is made for each stage completed.

## 7. Relief for Diplomats, etc.

- (1) The relief provided for under Section 45 of the Act relating to diplomatic missions and accredited personnel shall be administered as follows –
  - (a) in the case of imported goods and services, the diplomatic mission or accredited personnel shall be exempted from tax;
  - (b) in the case of services provided by *persons providing utility services*, the diplomatic mission or accredited personnel shall be exempted from tax;
  - (c) in the case of other procurements, the tax shall be payable and the diplomatic missions or accredited personnel entitled to relief may claim a refund of the tax paid on the following conditions –

- (i) the diplomatic mission or accredited personnel shall produce evidence of procurement and of payment of the tax;
  - (ii) individual transactions of less than 50,000/=, excluding tax, shall not be eligible for a refund;
  - (iii) the total value of transactions for any claim period shall not be less than 200,000/=, excluding tax;
  - (iv) diplomatic missions or accredited personnel may be required to provide evidence of entitlement to relief by producing the official card issued by the Ministry responsible for Foreign Affairs.
- (2) The relief provided under Section 76 relating to Public International Organisations in the First Schedule of the Act shall be administered as follows:
  - (a) the organisation may be required to provide evidence of entitlement to relief in terms of a valid agreement with the Government of Uganda;
  - (b) the organisation shall be exempted from tax in the case of imported goods and services;
  - (c) in the case of locally procured goods and services, tax shall be payable and the organisation entitled to relief may claim a refund of the tax on the following conditions –
    - (i) the organisation shall produce evidence of procurement and of payment of the tax;
    - (ii) individual transactions of less than 50,000/=, excluding tax, shall not be eligible for a refund;
    - (iii) the total value of transactions for any claim period shall not be less than 200,000/=, excluding tax;
- (3) The Commissioner General may prescribe the forms to be used for refund claims and may specify the frequency of submitting and processing claims in any individual case, which frequency shall not be less than a month.

## **8. Records to be kept by a Registered Person**

- (1) A registered person shall keep records and accounts of all supplies received or made by that person in the course of business, including zero-rated and exempt supplies.

- (2) For the purpose of accounting for input tax and output tax, the following records shall be kept by a registered person –
- (a) tax accounts and records, which shall include total output tax and input tax in each period and net tax payable or the excess credit of tax refundable at the end of the tax period;
  - (b) purchase records, showing details of all local purchases on which tax has been paid, on all imports on which tax has been paid, and of all purchases made without payment of tax, including original tax invoices for all local purchases from registered suppliers, invoices for local purchases from unregistered suppliers and certified customs entries of all imports;
  - (c) sales records showing exempt and taxable sales and, where tax is chargeable, the rates of tax applicable for each sale, including copies of tax invoices and receipts issued in respect of sales;
  - (d) exports records showing details of goods and services exported from Uganda, including, in the case of goods, certified copies of customs export documents and evidence of exportation;
  - (e) debit and credit notes issued and received;
  - (f) cash records including cash books, petty cash vouchers and other accounts records showing daily takings such as till rolls or copy receipts;
  - (g) computer records;
  - (h) in the case of a person making exempt and taxable supplies, details of input tax calculations;
  - (i) transitional relief claims and all related documents and records;
  - (j) stock records showing movements of goods into or out of stock including, in the case of a manufacturer, manufacturing stock records.
- (3) In addition to the records kept under paragraph (2), a registered person with a taxable turnover exceeding 100 million shillings per annum shall keep the following records –
- (a) orders and delivery notes;
  - (b) relevant business correspondence;
  - (c) appointment and job books;

- (d) annual accounts including trading, profit and loss accounts and balance sheet; and
  - (e) bank statements and pay-in-slips.
- (4) All records shall be kept by the taxpayer for a period of six years and shall be available to the Commissioner General for audit or inspection if required.

## 9. Simplified Tax Invoices

- (1) Notwithstanding the basic requirements in respect of tax invoices, as specified in the Fourth Schedule to the Act, registered persons with a taxable turnover below 100 million shillings per annum may issue a simplified tax invoice for taxable supplies made to another registered person, provided the value of any individual item on the invoice does not exceed 50,000/= and the total invoice does not exceed one hundred thousand shillings.
- (2) A simplified tax invoice shall contain the following particulars –
- (a) the commercial name, address, taxpayer identification number and registration number of the person making the supply;
  - (b) the date the invoice is issued;
  - (c) the description of the goods;
  - (d) the quantity of the goods; and
  - (e) the value of the supply inclusive of tax and a statement that tax is included in the price.
- (3) Zero-rated supplies and exempt supplies shall not be included on a simplified tax invoice.

## 10. Treatment of Cash-Basis Accounting Taxpayer

- (1) This Section shall apply to registered persons whose annual taxable supplies do not exceed *two hundred million shillings*.
- (2) Where a registered person sells only goods liable at the positive rate of tax, sales may be calculated on the basis of the daily gross takings recorded from the cash register or cash box and a sales day book record and any cash removed from the cash register or box must be recorded and included in the daily gross takings total; then the output tax is calculated by applying the tax fraction to the total of the daily gross takings for the tax period.

*Substituted by  
Finance Act 1999*

- (3) Where a registered person makes zero-rated or exempt supplies, in addition to supplies at the positive rate, sales may be recorded on the basis of daily gross takings at each tax rate, and the different tax categories shall be separately identified at the point of sale either by means of a cash register or by keeping separate cash boxes for each category, together with a sales day book record, or in some other manner acceptable to the Commissioner General; then the output tax is calculated by applying the tax fraction to the total gross takings at the positive rate for the tax period.

## 11. Export of Goods

- (1) Where goods are supplied by a registered taxpayer to a person in another country and the goods are delivered by a registered taxpayer to a port of exit for export, the goods may be invoiced at the zero rate, provided the registered taxpayer obtains documentary proof set out in this Section and the goods are removed from Uganda within 30 days of delivery to a port of exit.

*Inserted by  
VAT (Am)  
Regulations 2011*

- (1a) For the purposes of sub regulation (1), the Commissioner General may require goods for export specified in a notice in the Uganda Gazette to be distinctively labelled by the registered taxpayer.
- (1b) The Commissioner General shall issue guidelines to specify the colour, nature, size and type of labels referred to in sub-regulation (1a).
- (2) For an export transaction to qualify for zero-rating, a registered taxpayer shall obtain and be able to show as proof of export for every export transaction the following –
- (a) a copy of the bill of entry or export certified by the Customs authorities;
  - (b) a copy of the invoice issued to the foreign purchaser with tax shown at the zero rate;
  - (c) evidence sufficient to satisfy the Commissioner General that the goods have been exported, in the form of an order from, or signed contract with, a foreign purchaser, or transport documentation which identify the goods such as –
    - (i) transit order or consignment note issued by the Uganda Railways Corporation for goods exported by rail;
    - (ii) copy of a bill of lading for goods exported by water;
    - (iii) copy of an airway bill for goods exported by air; or
    - (iv) copy of a transport document for goods exported by road.



## 12. Export of Service

Where services are supplied by a registered taxpayer to a person outside Uganda, the services shall qualify for zero rating only if the taxpayer can show evidence that the services are used or consumed outside Uganda, which evidence can be in the form of a contract with a foreign purchaser and shall clearly specify the place of use or consumption of the service to be outside Uganda or that the service is provided for a building or premises outside Uganda.

## 13. Imported Services

(1) A registered taxpayer who receives a supply of services from a foreign supplier shall account for the tax due on the supply, and the taxpayer shall account for that tax when performance of the service is completed, or when payment for the service is made, or when the invoice is received from the foreign supplier, whichever is the earliest.

*Substituted by  
VAT (Am)  
Regulations 2011*

(2) The value for calculating the amount of tax payable under paragraph (1) shall be the total consideration paid to the foreign supplier and the registered person receiving the services shall apply the tax rate to the total consideration to calculate the tax due and he shall enter both the value and the tax calculated in his Tax Return.

(3) Tax accounted for on imported services may be claimed as a credit under the provision of Section 28 of the Act, provided the recipient of the service prepares a self-billed tax invoice to account for tax due on the supply; the claim for credit is subject to the conditions specified in Section 28 of the Act.

(1) A person who receives imported services other than an exempt service shall account for the tax due on the supply, and the taxpayer shall account for that service when performance of the service is completed, or when payment for the service is made, or when the invoice is received from the foreign supplier, whichever is the earliest.

(2) The value for calculating the amount of tax payable under paragraph (1) shall be the taxable value of the supply determined under section 21 of the VAT Act and the taxable person receiving the services shall apply the tax rate to the taxable value to calculate the tax due and he shall enter both the value and the tax calculated in his Tax Return.

(3) If a taxable person carries on a business both in and outside Uganda, and there is an internal provision of services from the part outside Uganda to the part in Uganda, then, in relation to those services, the following applies for the purposes of the Value Added Tax Act and these Regulations –

*Inserted by  
VAT (Am)  
Regulations 2011*

(a) that part of the business carried on outside Uganda is treated as if it were

carried on by a person (referred to as the “overseas person”) separate from the taxable person;

- (b) the overseas person is not a taxable person; and
- (c) the internal provision of services is treated as a supply of services made outside Uganda by the overseas person to the taxable person for reduced consideration.

#### **14. Credit for Input Tax for Persons making Taxable and Exempt Supplies**

- (1) Where a registered taxpayer who is making taxable and exempt supplies is disadvantaged by the provisions of Section 28(7)(b) of the Act, the Commissioner General may approve an alternative method for calculating the input tax to be credited, as described in paragraphs (2) and (3), which shall be known as the Standard Alternative Method.
- (2) The registered taxpayer may directly attribute input tax separately to the exempt and taxable supplies in so far as this is possible and may claim credit for all the input tax related to taxable supplies and for none of the input tax related to exempt supplies.
- (3) The balance of input tax which cannot be attributed to taxable or exempt supplies shall be apportioned under the provisions of Section 28(7)(b) of the Act; however, the provisions of Section 28(13) and (14) of the Act shall be complied with in respect of the non-attributable input tax.
- (4) Where a registered taxpayer wishes to use the Standard Alternative Method, or any other method which is not provided for in Section 28(7)(b) of the Act, that taxpayer must seek the written approval of the Commissioner General.

**History:** S.I 38/1996; S.I 29/1999; S.I 80/2003; S.I 26/2002; S.I 29/2011

**THE VALUE ADDED TAX (RATE OF TAX) ORDER 2006****SI No.51 of 2005 and No.29 of 2006***(Under Section 78 of the Value Added Tax Act, Cap.349)*

IN EXERCISE of the powers conferred upon the Minister by Section 78 of the Value Added Tax Act, this Order is made this 15th day of June 2006.

**1. Title**

This Order may be cited as the Value Added Tax (rate of Tax) Order 2006.

**2. Commencement**

This Order shall come into force on the 1st day of July 2005.

**3. Rate of Tax**

The rate of tax for –

- (a) every taxable supply made in Uganda by a taxable person;
- (b) every import of goods other than an exempt import; and
- (c) the supply of any imported services by any person,

is 18% of the taxable value as defined in Sections 21 and 23 of the VAT Act.

4. The rate of tax prescribed in paragraph 3 does not apply to taxable supplies specified in the Third Schedule of the Act.[i.e. Zero-rated goods and services]

*Revoked by  
The VAT (Rate of Tax)  
(Revocation) Order 2009*

**The Value Added Tax (Rate of Tax) Order 2007***(Under Section 78 of the Value Added Tax Act, Cap.349)*

IN EXERCISE of the powers conferred upon the Minister by Section 78 of the Value Added Tax Act, this Order is made this 15th day of June 2007.

**1. Title**

This Order may be cited as the Value Added Tax (Rate of Tax) Order 2007.

**2. Commencement**

This Order shall come into force on the 1st day of July 2007.

**3. Application Of Order**

This Order applies to a taxable supply which is part of a commercial venture of a taxable person who builds for rent or sale.

**4. Rate of Tax**

The rate of tax for every taxable supply of a residential dwelling unit made by a taxable person is 5% of the taxable value as defined in Sections 21 and 23 of the Act.

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**Statutory Instrument No.30 of 2009**

**THE VALUE ADDED TAX (RATE OF TAX)(REVOCATION) ORDER, 2009**  
*(Under section 78 of the VAT Act)*

IN EXERCISE of the powers conferred upon the Minister by section 78 of the VAT Act, this Order is made this 11<sup>th</sup> day of June 2009.

**1. Title**

This Order may be cited as the Value Added Tax (Rate of Tax)(Revocation) Order 2009

**2. Revocation**

The Value Added Tax (Rate of Tax Order) 2007, S.I No.21 of 2007 is revoked.

**THE VALUE ADDED TAX (DEFERMENT OF TAX ON PLANT AND MACHINERY) REGULATIONS, 2013.**

*(Under section 34 (8) of the Value Added Tax Act Cap. 349) - SI 2013 No. 28*

**ARRANGEMENT OF REGULATIONS**

Regulation.

1. Title.
2. Commencement.
3. Interpretation.
4. Application for deferment.
5. Period of deferment.
6. Conditions for approval.
7. Sale of plant and machinery during or after the deferment period.
8. Inspection.
9. Termination of deferment.
10. Payment of tax due.

IN EXERCISE of the powers conferred upon the Minister by section 34(8) of the Value Added Tax Act, these Regulations are made this 28th day of June, 2013.

**1. Title.**

These Regulations may be cited as the Value Added Tax (Deferment of Tax on Plant and Machinery) Regulations 2013.

**2. Commencement.**

These Regulations shall come into force on 1st July 2013.

**3. Interpretation.**

In these Regulations unless the context otherwise requires –

“Act” means the Value Added Tax Act; and

“deferment” means postponement of payment of the value added tax under the Act in respect of imported plant and machinery.

**4. Application for deferment.**

- (1) An importer of plant and machinery may apply to the Commissioner General to defer the payment of tax due in respect of imported plant and machinery.
- (2) An application for deferment shall be in the form prescribed by the Commissioner General and shall be accompanied with a declaration by the applicant that the goods are for use in the business of the applicants and shall not be disposed of during the deferment period without prior approval by the Commissioner General.
- (3) Subject to regulation 5, the Commissioner General may if satisfied that the imported plant and machinery is for use in the manufacture of goods or provision of value added services defer the payment of the tax to a specified period.
- (4) Where an application is in respect of phased importation of plant and machinery, the application shall be accompanied with a schedule indicating the phases and the list of the plant and machinery included in each phase.

**5. Period of deferment.**

- (1) The period of deferment shall, in the case of –
  - (a) a person making taxable supplies, be fifteen days after the tax period;
  - (b) a person not yet making taxable supplies, be one year from the commencement of the deferment; and

- (c) of phased importations, be fifteen days after the tax period.
- (2) A person under subsection 1(b) may apply for extension of time to the Commissioner General not exceeding one year.

## **6. Conditions for approval.**

- (1) The Commissioner General shall not approve an application for deferment unless –
  - (a) the applicant is registered under Part III of the Act;
  - (b) the plant and machinery in respect of which the application is made is imported for use in the business of the applicant;
  - (c) the tax due and in respect of which a deferment is sought is at least USD 4,000; and
  - (d) the applicant has complied with section 31 of the Act.
- (2) The Commissioner General may require the applicant to furnish security for the tax proposed to be deferred before approving the deferment.

## **7. Sale of plant and machinery during or after the deferment period.**

Where the plant and machinery that is the subject of deferment is sold, re-exported or disposed of before or after expiry of the deferment period or utilized for any other purpose other than the purpose declared in the application, the importer shall pay in addition to any tax for which he or she is liable on such sale, re-export or disposal, the outstanding deferred amount and interest in accordance with the VAT Act.

## **8. Inspection.**

- (1) The Commissioner General may at any time during the period of deferment, inspect the plant and machinery specified in the application for deferment to ascertain whether it is duly installed and utilised for the purpose specified in the application.
- (2) Where the Commissioner General ascertains that the plant and machinery is installed or utilised for the purpose specified in the application for deferment, the Commissioner General shall allow the taxable person to cause adjustments to the respective returns to reflect that the deferred tax has been accounted for.

## **9. Termination of deferment.**

Deferment shall terminate -

- (a) when the period of deferment specified in accordance with regulation 5 ends; or
- (b) where the Commissioner General ascertains under regulation 8 that the imported machinery is not installed or utilised for the purpose specified in the application.

**10. Payment of tax due.**

Where the period of deferment terminates in accordance with these Regulations, the tax due shall become payable in accordance with the Act.

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**EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT ACT****5TH SCHEDULE - EXEMPTION REGIME (EACCMA) Extract**

The following goods which are exempt from Customs Duties under the 5<sup>th</sup> Schedule of the EACCMA are also VAT exempt at importation by virtue of section 20 of the VAT Act. However, if and when these items are sold locally, they attract VAT at 18%.

**Note:** This is an abridged listing and may not contain all the details of the exempted items as contained in the 5<sup>th</sup> Schedule (as amended)

**PART A – SPECIFIC EXEMPTIONS**

SN	BENEFICIARY	GOODS/ITEMS	W.E.F
1.	The Presidency	All goods	Jan 2005
2.	The Armed Forces, Police and <i>Prison services</i>	All goods	Jan 2005 & <i>July 2015</i>
3.	Commonwealth Armed forces and Naval vessels	All goods	Jan 2005
4.	Diplomats and their dependants, the UN and its agencies, High Commissions, Foreign Embassies, Diplomatic Missions; and their accredited employees	Household and personal effects, one motor vehicle, goods for official use and project support.	Jan 2005
5.	Donor Agencies with bilateral or multilateral Agreements and their accredited personnel and dependants.	Household and personal effects, one motor vehicle.	Jan 2005
6.	International and Regional Organisations	All goods for official use.	Jan 2005
7.	The War Graves Commission	All goods for the establishment and maintenance of war cemeteries, except office supplies and personal effects.	Jan 2005



8.	The disabled, Blind and physically handicapped	Specially designed materials, articles and equipment, and one motor vehicle.	Jan 2005
9.	Rally Drivers	One rally motor vehicle and spare parts.	Jan 2005
10.	Aid Funded Projects	All goods and equipment for the projects.	Jan 2005
11.	National Red Cross Societies	All goods for official use in provision of relief services.	Jul 2009

## PART B – GENERAL EXEMPTIONS

SN	BENEFICIARY	GOODS/ITEMS	W.E.F
1.	Aircraft Operators and Ground Handlers	Aircrafts, parts and accessories, specialised equipment, Apron buses	Jan 2005 & Modified in Jul 2011
2.	Importer	Containers, boxes, tins, bottles, jars and any ordinary trade packages, pallets, pre-packing slings, export packing materials, [gas cylinders] and inputs for their manufacture.	Jan 2005 & Jul 2010. <del>Deleted July 2015.</del>
3.	Consignee of Deceased Person's effects	Used personal effects of the deceased, including one motor vehicle.	Jan 2005
4.	Importer	Fresh Fish, Crustaceans and Molluscs (dead or alive), chilled or frozen caught and landed in Uganda.	Jan 2005
5.	Arriving Passengers, first arrivals or returning residents above the age of 18.	Accompanied baggage, personal and previously used household effects, including one motor vehicle and goods up to the value of USD 500, liquors up to 1 ltr, wine up to 2 ltr, perfumes up to ¼ ltr, and cigarettes up to 250g.	Jan 2005 & Jul 2010

6.	Importer	Samples and miscellaneous articles with no commercial value	Jan 2005
7.	Importer	Ships and other vessels	Jan 2005
8.	Importer	Preparations for cleaning dairy apparatus	Jan 2005
9.	Importer	Mosquito nets and materials for their manufacture	Jan 2005
10.	Approved importer by Ministry of Agriculture	Seeds and cut plants for sowing and planting and specially treated inputs use in processing and preservation of seeds for sowing.	Jan 2005 & Jul 2014
11.	Approved importer by Ministry of Agriculture	Chemically defined compounds used as fertilizers	Jan 2005
12.	National Museums	Exhibits, specimens, scientific equipment, chemicals, reagents, films, visual aids.	Jan 2005
13.	Importer	Diapers, urine bags and hygienic bags for medical use.	Jan 2005
14.	Approved Importer	Diagnostic reagents and equipment for use in hospitals, clinics and diagnostic laboratories; <i>blood collection tubes</i>	Jan 2005, Jul 2006, Jul 2008 and July 2016
15.	Persons engaged in agriculture, horticulture, floriculture, poultry, bee keeping	Inputs and gear.	Jan 2005, Sep 2005, Nov 2009, Jul 2010 & Jul 2012
16.	Importer	Packaging materials and raw materials for manufacture of medicaments.	Jan 2005

17.	Importer	Educational articles and materials	Jan 2005
18.	Manufacturer	Splints for manufacturing matches	Jan 2005
19.	Manufacturer	Heating, ventilating and air conditioning equipment for pharmaceutical manufacturers	July 2016
20.	Government, an approved agent, NGO, relief agency	Relief goods for emergency use in disaster areas.	Jul 2006
21.	Licensed Hotel	Engraved or marked washing machines, kitchen ware, cookers, fridges, freezers, air conditioning systems, cutlery, TVs, carpets, furniture, linen, curtains, gym equipment	Sep 2005 & Jul 2008
22.	Importer	Refrigerated trucks, insulated tankers, heat insulated milk tanks and aluminium cans for dairy industry	Sep 2005, Jul 2008, Nov 2009 & Jul 2012
23.	Importer	Speed governors	Sep 2005
24.	Approved railway operator	Wagons, coaches, locomotives and parts, equipment and accessories for the construction, repair and maintenance of railway infrastructure	Jul 2013
25.	Importer	Electrical energy saving bulbs and LED bulbs.	Jul 2006, Jul 2008 & Jul 2010
26.	Importer	Specialised equipment for development and generation of Solar and Wind Energy, including accessories and deep cycle batteries which use and/or store solar power.	Jul 2006, Jul 2010, Jul 2014, July 2016

<b>27.</b>	Importer	Plastic bag biogas digesters	Jul 2013
<b>28(1)</b>	Licensed Hospitals	Engraved or marked shadow-less lamps, blood freezers, kitchenware and equipment, laundry equipment, mattresses and linen, bedside screens, air conditioners, [ <i>hospital staff uniforms – deleted</i> ], water heating equipment, trolleys and stretchers, furniture.	Jul 2007, July 2016
<b>28(2)</b>	<i>Licensed Hospitals</i>	<i>Incinerators equipment and materials"</i>	<i>July 2016</i>
<b>29.</b>	Local authorities or their contractors	Motor vehicles specially designed for garbage collection and disposal	Jul 2008
<b>30.</b>	Licensed company	Machinery, spares and equipment used in oil, gas and mining operations.	Nov 2009 & Jul 2012
<b>31.</b>	Registered manufacturers	Replacement spare parts for industrial machinery under chapters 84 & 85 of the CET.	Jul 2009
<b>32.</b>	Licensed and recommended Tour operators	Specially designed motor vehicles for transportation of tourists.	Jul 2009
<b>33.</b>	Importer	Examination gloves for laboratory and medical use.	Jul 2010
<b>34.</b>	Importer	Tsetse fly traps	Jul 2011
<b>35.</b>	Importer	Security equipment like metal detectors, CCTV cameras, bomb detectors and under carriage mirrors	Jul 2011
<b>36.</b>	Importer	Battery operated vehicles for use in hotels, hospitals and	Jul 2011

		airports.	
<b>37.</b>	Approved manufacturers	Inputs for use in manufacturing medical diagnostic kits.	Jul 2012
<b>38.</b>	Importer	Water treatment effluent plant	Jul 2013
<b>39.</b>	Importer	Refrigeration equipment for dead bodies for use in Hospital, city council or funeral home	July 2016

**PRACTICE NOTES***(Under Section 79 of the VAT Act)*

These Practice Notes, which are binding on all URA officers unless altered or revoked, were issued to achieve consistency in the administration of the Value Added Tax Act and to provide guidance to taxpayers and officers of the Uganda Revenue Authority.

**Practice Notes – 2007**

**ISSUE DATE** : 18th June 2007  
**EFFECTIVE DATE:**  
**ISSUED BY** : Allen Kagina (Mrs) - Commissioner General

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**1. Definition of the Terms “Medical, Dental and Veterinary Equipment” for VAT Purposes.**

Paragraph 1(q) of the Second Schedule to the VAT Act provides that the supply of dental, medical and veterinary equipment is an exempt supply.

Definition of Equipment

- (a) The Act does not define the term equipment. This PN is therefore intended to provide the meaning of what should be treated as medical, dental and veterinary equipment.
- (b) Medical, Dental and Veterinary equipment is any equipment or device which has features or characteristics that identify it as having been designed to be used alone or in combination for a medical, dental or veterinary purpose or function such as the diagnosis, prevention, monitoring, treatment, alleviation of or compensation for an injury and alleviation of disease in human beings and animals.
- (c) The equipment/device will usually be durable although certain disposable items such as syringes may still be equipment.
- (d) Based on the above definition, medical, dental and veterinary equipment covers a wide range of goods from simple items like bandages and syringes, to complex machinery such as X-ray machines as well as parts and accessories for use with the equipment.
- (e) Parts and accessories will be treated as medical equipment/device if they are intended specifically by manufacturers to be used together with the parent medical device.
- (f) Parts are integral components without which the equipment is not complete; while accessories are optional extras which can be used to improve the operation of the

equipment or enable it to be used to better effect. Accessories do not include items which have an independent function.

- (g) For purposes of clarity, medical, dental and veterinary equipment shall include articles under heading 9018 – 9022 of the Harmonized Systems Code (HS Code), contact lenses, spectacle lenses (excluding frames) and those that will be treated as such based on the classification given by the National Drug Authority.

### Exclusions

- (a) Excluded from the definition are chemical reagents and medicines, mosquito nets, cleaning and sterilizing fluids, disinfectants, cotton wool (other than sterilized), hospital linen, blankets, drug trolleys, gloves (other than surgical), gymnasium equipment (other than specialized physiotherapy equipment), clothing (other than specialized ones such as surgical masks and gowns), lockers, bathroom scales.
- (b) This definition shall also exclude general use items used to equip or facilitate a medical facility or items that can be put to diverse uses which are not necessarily medical uses e.g. television sets, telephone sets or a fan used in a medical ward will not be considered medical equipment.

## **2. Definition of Medicines and Drugs for VAT purposes**

- (a) Paragraph 1(c) of the Third Schedule VAT Act provides that the supply of drugs and medicines is a zero-rated supply. However, drugs and medicines are not defined.
- (b) Medicines and drugs shall be interpreted to be any substance or article (not being an equipment/device, instrument, apparatus or appliance) which is for use wholly or mainly in either or both of the following ways –
  - (i) by being administered to human beings or animals internally or externally for medical purposes; or
  - (ii) as an ingredient in the preparation of a substance or article to be so administered.
- (c) Therefore, medicines and drugs are any substance, preparation or mixture of substances used or intended for use in diagnosing, or treating of disease, disorder or abnormal physical state or the symptoms thereof in human beings or animals.
- (d) The World Customs Organisation (WCO) uses the term “medicament” in reference to medicines and drugs.

- (e) A medicament is an agent that promotes recovery from injury or ailment. Medicaments are impregnated or coated with pharmaceutical substances for therapeutic or prophylactic use in medical, surgical, dental or veterinary purposes.
- (f) For purposes of VAT and clarity, medicines and drugs shall include surgical dressings, biological products such as vaccines and blood products, as well as items under headings 3004 and 3005 of the HS Code.

### Exclusions

- (a) The definition of medicines and drugs shall not include preparations commonly used for toilet purposes, or in connection with the care of the human body, whether for cleansing, deodorizing, beautifying, preserving or restoring whether or not possessing therapeutic or prophylactic properties e.g. medicated soaps, shampoos, toothbrushes, dental pastes and creams, facial and body creams, hair removing creams, aromatherapy oils, mouth washes, lip balms, deodorants, antiperspirants, disinfectants. [The definition shall also not include lozenges and all items under headings 3301 to 3307 of the HS Code]
- (b) Nutrition/Food supplements are not drugs or medicines for VAT purposes because they are intended to supplement one's dietary requirements and do not contain active pharmaceutical substances and as such shall be treated as taxable supplies for VAT purposes.

**ISSUE DATE** : 14th November 2007

*Revoked WEF  
Sept.2014*

**EFFECTIVE DATE:**

**ISSUED BY** : Allen Kagina (Mrs) - CG

### **VAT on Imported Rice**

1. Paragraph 1(a) of the Second Schedule of the VAT Act provides that the supply of unprocessed agricultural products and livestock is an exempt supply.
2. Paragraph 3 of the same Schedule states that
 

“for purposes of paragraph 1(a)...unprocessed includes low value added activity such as sorting, drying, salting, filleting, deboning, freezing, chilling, or bulk packaging, where, except in the case of packaging, the value added does not exceed 5% of the total value of the supply.
3. All imported rice shall be considered to be unprocessed agricultural produce for purposes of the VAT Act and therefore falls under the provisions of the Second Schedule which provides for exempt goods.



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**Practice Notes – 2008**

**ISSUE DATE** : 23<sup>rd</sup> April 2008  
**EFFECTIVE DATE:**  
**ISSUED BY** : Allen Kagina (Mrs) - CG

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**1. VAT treatment of Computer Printers**

Paragraph 1(v) of the second schedule of the VAT Act provides that, “the supply of computers, printers, parts and accessories falling under heading 84.71 and 84.73 of the harmonized coding system of the customs law is exempt;”

Following the recent changes in the Customs coding system i.e. from the Harmonized Commodity Description and Coding System 2002 (HS 2002) version to HS 2007, computer printers became classifiable under two tariff headings- 84.71 (when presented with a computer) and 84.43 (when presented separately), with specific HS codes as 8471.60.00 and 8443.32.00.

As a result of the new coding, the current provisions of paragraph 1 (v) of the second schedule, exclude computer printers classified under HS Code 8443.32.00.

This position is a mismatch arising from the change in the Customs coding system, but not a change in policy.

Therefore, the purpose of this practice note is to clarify that, the supply of printers as provided for in paragraph 1 (v) of the second schedule of the VAT Act, includes desktop printers or printers presented separately specifically under subheading 8443.32.00 of the East African Community Common External Tariff.

**2. Boundaries of Kampala District for VAT purposes**

The Value Added Tax (Amendment Act) 2008 deleted “and Entebbe” from the Second Schedule paragraph (u) under Exempt Supplies to read –

“the supply of accommodation in tourist lodges and hotels outside Kampala District;”

This practice note is intended to clarify on what constitutes Kampala District for VAT purposes to bring about uniformity and ease the administration of VAT collection.

Kampala District shall constitute the five political divisions namely;

1. Kampala Central; 2) Nakawa; 3) Rubaga; 4) Makindye; and 5) Kawempe.

Any area outside the above political divisions does not fall under Kampala District for VAT purposes.

**ISSUE DATE** : 2<sup>nd</sup> June 2008  
**ISSUED BY** : Allen Kagina (Mrs) - CG

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### **VAT treatment of supply of goods as part of the transfer of a business as a going concern**

Paragraph 1(k) of the second schedule of the VAT Act provides that, “the supply of goods as part of the transfer of a business as a going concern by one taxable person to another taxable person is exempt.”

The “transfer of going concern” is defined in paragraph 2 (e) of the second schedule to include “the disposal of any part of a business which is capable of separate operation.” However, this definition is not sufficient in explaining what a sale of a business as a going concern entails.

The purpose of this practice note therefore, is to clarify what constitutes the supply of goods as part of the transfer of a business as a going concern for purposes of section 19 and paragraph 1 (k) of Schedule II of the VAT ACT, Cap 349.

The supply is VAT exempt if all of the following requirements are met;

1. The supplier disposes of any part of a business which is capable of separate operation (for example a branch of a business).
2. Both the seller and the buyer must be registered as taxable persons for VAT.
3. The Agreement of Sale which should be duly executed must make it absolutely clear that the property is a whole or part of the Seller's business which is being sold as a going concern.
4. Activities of the business must continue after the business is transferred to the purchaser for at least two (2) years.
5. The supplier supplies to the recipient all of the facilities that are necessary for the continued operation of the enterprise being sold. This may include premises, plant & equipment, stock in trade, intangible assets such as goodwill, contacts and licenses, and all the operating structure and process of the enterprise.
6. The supplier carries on or will carry on the business until the day of the supply (whether or not as a part of a larger business carried on by the supplier) and that the nature of the business will not change after the transaction.

7. The transferor and transferee shall within 21 days of the transfer, notify the Commissioner General in writing of the details of the transfer in accordance with section 19 (2) of the VAT Act, Cap.349.

**Note:** A mere disposal of an asset used by the business is not a supply of a going concern.

### Practice Notes – 2010

<b>ISSUE DATE</b>	:	<b>4<sup>th</sup> March 2010</b>
<b>EFFECTIVE DATE:</b>		<b>1<sup>st</sup> July 2009</b>
<b>ISSUED BY</b>	:	Allen Kagina (Mrs) - CG

### Exemption of VAT in accordance with section 19 and paragraph 1(aa) of the Second Schedule to the VAT Act.

Paragraph 1(aa) of the Second Schedule to the VAT Act was amended by the VAT(amendment) Act 2009 to provide as hereunder;

“The following supplies are specified as exempt supplies for the purpose of section 19 –

the supply of specialized vehicles, plant and machinery, feasibility studies, engineering designs, consultancy services and civil works related to hydro- electric power, roads and bridges construction, public water works, agriculture, education and health sectors”

### Definitions:

The meaning below shall be attached to the terms as used in the provision:-

“specialized vehicles” means vehicles manufactured for a particular task other than for the ordinary use of transportation of goods and passengers.

“plant and machinery” includes whatever apparatus is used by a business man for carrying on his business – not his stock in trade which he buys or makes for sale, but all goods and chattels, fixed or moveable, live or dead, which he keeps for the permanent employment in his business.

“feasibility studies” means an investigation to determine whether a particular project system, process etc. is desirable, practicable. It is an analysis designed to establish the practicability and cost justification of a given project. It is a preliminary study undertaken to determine and document project viability. The term feasibility study is also used to refer to the resulting documents or artefact.

“engineering designs” it is the result of a process used by engineers to help develop products. The engineering design is defined as the result of the process of servicing a system, component or process to meet desired deeds. It is a result of a decision – making process in which the basic sciences, mathematics, and engineering sciences are applied to convert resources optimally to meet a stated objective. It comes as a result of defining the problem, conducting research, narrowing the research and analysing set criteria.

“Consultancy services” means expert advice on a particular project or activity.

“civil works” relates to services in building/construction of hydro- electric power projects, roads and bridges construction, public water works, agriculture, education and health. It involves all the activities involved in the construction process starting from clearing of land to the completion of the project. However civil works does not include the goods used in the construction/projects.

“agriculture” the science or practice of cultivating the land and keeping or breeding animals.

“education” a process of training and instruction especially of children and young people in schools, colleges, universities and other education institution which is designed to give knowledge and develop skills.

“health” Provision of medical care. It deals with the prevention, treatment and management of illness and the preservation of mental and physical well-being through the services offered by the medical and allied health professions.

### Implication of the amendment

The provision above exempts VAT on the supplies of goods or services of specialized vehicles, plant and machinery, feasibility studies, engineering designs, consultancy services and civil works related to hydro- electric power, roads and bridges construction, public water works. The exemption has also been extended to the agriculture, education and health sectors.

This means that suppliers of the goods and services highlighted above as goods or services related to hydro–electric power projects, roads, bridges construction, public water works, agriculture, education and health sectors should not charge VAT on these supplies.

In the same spirit, the suppliers shall not claim input tax incurred in the process of making the supplies of the listed services to the above named sectors.

The suppliers must maintain a record of evidence of the provision of the services to the listed projects/sectors. The contractors shall also be required to provide the

Commissioner, Domestic Taxes office and their respective stations a list of suppliers and services offered reflecting quantity and values in Uganda Shillings. This shall be in both soft and hard copy.

NB: This exemption is on the supply of the services or goods listed in the provision related to the sectors therein mentioned and not to the contractors.

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### PRACTICE NOTES: URA/ VAT/PN2/14

The Commissioner General of Uganda Revenue Authority hereby issues these Practice Notes under Section 79 of the Value Added Tax Act, Cap 349, Laws of Uganda.

Section 5 of the VAT (Amendment) Act 2014 repealed Paragraph 1(f) of the Third Schedule to the VAT Act which zero rated the supply of cereals, where the cereals are grown, milled or produced in Uganda. The implication of this amendment is that the supply of cereals grown and milled in Uganda attracts VAT at the rate of 18% with effect from 1<sup>st</sup> July 2014.

Furthermore, Paragraph 1(a) of the Second Schedule to the VAT Act exempts from VAT the supply of livestock, unprocessed foodstuffs, and unprocessed agricultural products. Paragraph 3 of the same Schedule defines “unprocessed” to include low value added activity such as **sorting, drying, salting, filleting, deboning, freezing, chilling or bulk packaging**, where, except in the case of packaging, the value added does not exceed 5% of the total value of the supply.

From the research conducted, we have established that in relation to the supply of rice, the value addition activities such as **drying, hulling, milling, polishing, grading, sorting and packaging** among others exceeds 5%.

This implies that the supply of rice which is ready for human consumption does not fall within the provisions of Paragraph 1(a) of the Second Schedule to the VAT Act nor does it fall under the Third Schedule of the same Act and therefore the supply attracts VAT at the rate of 18%. This also means that imported rice is subject to VAT at 18%.

Our Practice Notes issued on the 14th November 2007 on imported rice are hereby revoked.

**Doris Akol**

**Commissioner General**

Reference Number: PN2014090300922    Effective Date: 02/09/2014

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**FINANCE ACTS – Extracts****THE FINANCE ACT 2013***Commencement 1<sup>st</sup> July 2013***SCHEDULE****Fees Payable under Specified Enactments**

	<b>ITEM</b>	<b>FEEs (UGX/USD)</b>
<b>1.</b>	<b>Business Names Registration Act, Cap.109</b>	<b>UGX</b>
	a) For certified copy of certificate of registration ( per copy)	5,000
<b>2.</b>	<b>Registration of Titles Act, Cap.230</b>	
	a) Registration fees in respect of transfer of land	30,000
	b) Consent to transfer land	20,000
	c) Application for extension of lease	20,000
	d) Registration of court order	20,000
<b>3.</b>	<b>Mortgage Act, 2009 (Act No. 8 Of 2009)</b>	
	a) Registration fees	40,000
	b) Certification of a mortgage	4,000
<b>4.</b>	<b>Uganda Citizenship And Immigration Control Act, Cap 66</b>	

<b>Part I - Passports</b>					
	a) Diplomatic				300,000
	b) Official				250,000
	c) Ordinary				150,000
	d) East African				80,000
	e) Conventional Travel Documents (CTDs)				120,000
	f) Passports processed within 2 working days				300,000
<b>Part II - Work Permits</b>					
		<b>FEES IN USD (\$) BY MONTHS</b>			
		<b>6</b>	<b>12</b>	<b>24</b>	<b>36</b>
	a) Class B (Agriculture)	800	2500	4000	5000
	b) Class C (Mining )	800	2500	4000	5000
	c) Class E (Manufacturing)	800	2500	4000	5000
	d) Class F(Professional)	800	2500	4000	5000
	e) Class G (Expatriate employment)	800	2500	4000	5000
<b>Other Finance Act 2015 amendments</b> (Not under this Schedule) <ul style="list-style-type: none"> <li>Single entry visa = \$ 100</li> <li>Non-refundable prepayment fee on application for work permit = \$ 1500</li> </ul>					
<b>Part III - Certificate of Residence</b>					
	a) 5 years				USD 2500
	b) 10 years				USD 2000
	c) 15 years				USD 2500
	d) For life				USD 2500
	e) Due to marriage				USD 500
<b>Part IV - Other Fees</b>					
	a) Temporary movement permit				UGX 10,000
	b) Illegal stay (per day)				USD 100
	c) Airlines or carriers fine for inadmissible				USD 3000
<b>5. The Companies Act, 2012 ( Act No. 1 of 2012) - Fees Payable to the Registrar</b>					
	a) On making request to the registrar to approve and reserve any name for registration of a company or change of name of a company				20,000



	i) For the registration of a company whose nominal share capital does not exceed Shs. 5,000,000.	50,000
	ii) For the registration of a company whose nominal share capital exceeds Shs. 5,000,000	1% of nominal share capital
	iii) For the registration of a company without nominal share capital	80,000
	b) For any resolution required to be filed under the companies Act	
	i) 3 copies	20,000
	ii) Every extra copy	10,000
	c) For the filling of amended Articles of Association and Memorandum of Association.	
	i) 3 copies	
	ii) Every extra copy	
	d) For registration of annual return of a company, including a copy of the balance sheet or a certificate that no invitation has been made to the public to subscribe to its shares;	
	i) 3 copies	50,000
	ii) Every extra copy	10,000
	e) For registration of the annual return of a company without a nominal share capital	
	i) 3 copies	30,000
	ii) Every extra copy	10,000
	f) For registration of any application to the Registrar under the Company Act	20,000
	g) For registration of any Notice or Order required to be delivered, sent or forwarded to the registrar	20,000
	h) For the certification of any company document	
	i) 3 copies	20,000

	ii) Every extra copy	10,000
	i) For the registration of any increase of share capital made after the first registration of the company	1% of the amount by which the increased share capital exceeds the share capital on the preceding registration
	j) For the registration of any document effecting a transfer of shares	
	i) 3 copies	20,000
	ii) Every extra copy	10,000
	k) For registering a certified copy of the charter, statute or memorandum and articles of the company or other instrument constituting or defining the constitution of the company	USD 250
	i) 3 copies	USD 250
	ii) Every extra copy	USD 10
	l) For registering any other document required to be delivered to the registrar under part X of the Act.	
	i) 3 copies	USD 55
	ii) Every extra copy	USD 10
	m) For registering under part IV of the Act, any charge required to be registered by a company	50,000
	n) For registering particulars of a series of debentures under the Act.	50,000
	o) For registering the appointment of a receiver or manager of the property of a company under section 103 of the Act.	25,000
	p) For inspecting the register of charges for each inspection	25,000
	q) For inspecting the register of companies in respect of any one company or for each inspection of a company's file	25,000
	r) For the issue of a license by the Minister dispensing with the word limited.	50,000

# **THE EXCISE DUTY ACT, 2014**

An Act to consolidate and amend the law relating to excise duty and to provide for related matters.

Date of Commencement: 1st July, 2014.

## **Arrangement of Sections**

### **PART I - PRELIMINARY**

1. Commencement
2. Interpretation
3. Associate

### **PART II - IMPOSITION, LIABILITY AND PAYMENT OF EXCISE DUTY**

4. Imposition of excise duty

### **PART III - LICENSING OF MANUFACTURERS, IMPORTERS AND PROVIDERS OF EXCISABLE GOODS AND SERVICES.**

5. Licence for premises

### **PART IV - CONTROL OF EXCISABLE GOODS**

6. Provision of facilities for excise control
7. Entry
8. Storage of excisable goods after manufacture
9. Deficiency or excess in stock

### **PART V - PAYMENT OF EXCISE DUTY, RETURNS, ASSESSMENTS AND APPEALS**

10. Payment of excise duty
11. Application of information technology
12. Refunds
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### **PART VI - MISCELLANEOUS**

15. Prices quoted to include duty
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17. Power of Minister to amend Schedule
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## **PART I - PRELIMINARY**

### **1. Commencement**

This Act shall be deemed to have come into force on 1st July, 2014

### **2. Interpretation**

In this Act, unless the context otherwise requires –

“aircraft” includes every description of craft used in aerial navigation;

“assessment” means –

- (a) the ascertainment of excise duty under this Act; or
- (b) the ascertainment of the amount of interest and any other amount payable by a person under this Act;
- (c) a decision of the Commissioner which, under this Act, is subject to objection and appeal;

“Authority” means the Uganda Revenue Authority established by the Uganda Revenue Authority Act;

“beer” includes ale, porter, and any other description of beer and any liquor which is made or sold as a description of, or substitute for, beer and which contains more than two per cent of proof spirit but does not include –

- (a) liquor as defined in the law relating to liquor; or
- (b) any kind of beer prescribed by regulations;

“cigar” means a cigar, cheroot, or cigarillo, prepared from tobacco;

“cigarette” means a cigarette prepared from tobacco and includes any form of tip and the paper;

“Commissioner” means the Commissioner General appointed under the Uganda Revenue Authority Act;

“distiller” means a manufacturer of spirits by distillation of a fermented liquor or enguli or by any other process;

“distillery” means a distiller’s factory;

“distiller’s warehouse” means a place of security provided by a distiller and approved by the Commissioner under this Act;

“document” includes magnetic tapes, disks and microfilms;

“enguli” means a spirituous liquor including a drink containing liquor, which is conveyed into a receiver in a distillery entered under this Act as an enguli receiver;

“excisable goods” means goods manufactured in Uganda and imported into Uganda and specified in Schedule 2 but does include goods exempt from duty;

“excisable services” means the services specified in Schedule 2;

“excise duty” means a duty imposed under this Act;

“export” means to take or cause to be taken out of Uganda;

“goods exempt from duty” means the goods specified in Schedule 3;

“import” as used in relation to goods has the meaning assigned to it in the Value Added Tax Act;

“importer” as used in relation to goods has the meaning assigned to it in the Value Added Tax Act;

“manufacture” includes the production of excisable goods or any intermediate or uncompleted process in the production of excisable goods or the rectifying or denaturing of spirits;

“materials” means the goods from which excisable goods are capable of being manufactured and any residue from the process of manufacture;

“officer” includes a person other than a labourer employed in the service of the Uganda Revenue Authority and whose right or duty it is to require the performance of any act in this Act;

“own use” in relation to services means applying the services for non-business use;

“owner” in respect of any excisable goods, materials, aircraft, vessel, vehicle, plant, or other thing, includes a person who is or holds himself or herself out to be the owner,

manufacturer, agent or the person in possession of, or beneficially interested in, or having control of, or power of disposition over, such goods, materials, aircraft, vessel, vehicle, plant, or other thing;

“plant” includes utensils, presses, machinery, mills, implements, appliances and fittings;

“premises” includes a building, house, room or place;

“registered person” means a person registered to manufacture excisable goods, import excisable goods or provide excisable services under this Act;

“rectifier” means a person who redistills spirits removed from a spirits receiver for the purpose of purifying or adding flavour but does not include the re-distillation of enguli;

“return” means a return of excise duty;

“specially denatured spirits” means spirits denatured in accordance with a formula prescribed by regulations made under this Act for specially denatured spirits;

“spirits” means spirits of any description and includes all liquor mixed with spirits and all mixtures and compounds or preparations made with spirits but does not include denatured spirits or enguli;

“sugar” includes a saccharine substance, extract, or syrup, rice, flaked maize, any other description of corn which in the opinion of the Commissioner is prepared in a manner similar to flaked maize and any other material capable of being used in brewing except malt, corn, hops, hop concentrate, or hop oil;

“supply” as used in relation to services has the meaning assigned to it in the Value Added Tax Act;

“telecommunications services” means a service for the transmission, emission, or reception of signals, writing, images, sounds, or information of any kind by wire, radio, optical, or other electromagnetic systems and includes the related transfer or assignment of the right to use capacity for such transmission, emission, or reception the provision of access to global or local information networks, but does not exclude a private network for the exclusive use of the person;

“tribunal” means the tax appeals tribunal established by the Tax Appeals Tribunal Act;

“value added services” means content, products or services offered in the telecom sector via the mobile platform and includes short messaging service and multimedia messaging service which afford the user flexibility in accessing other services including mobile betting, games, paying for services, products or promotions but does not include standard voice calls, peer to peer short messaging service and multimedia messaging service, fax

transmission, internet, mobile money transactions and games promoted by a value added service provider licensed by the National Lotteries Board;

“value added tax” means value added tax imposed under the Value Added Tax Act;

“wash” means the fermented liquor from which spirits are produced by distillation;

“wine” means liquor of a strength not exceeding fifty degrees of proof which is made from fruit and sugar and which fruit or sugar mixed with any other material and which had undergone a process of fermentation in its manufacture and includes mead.

### **3. Associate**

- (1) For the purposes of this Act, where a person who is not an employee acts in accordance with the directions, requests, suggestions or wishes of another person whether or not they are in a business relationship and whether those directions, requests, suggestions or wishes are communicated to the first-mentioned person, both persons are treated as associates of each other.
- (2) Without limiting the general effect of subsection (1), the following are treated as an associate of a person –
  - (a) a relative of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions or wishes of the other person;
  - (b) a partner of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions or wishes of the other person;
  - (c) a partnership in which the person is a partner where the person, either alone or together with an associate or associates under another application of this section, controls fifty percent or more of the rights to income or capital of the partnership;
  - (d) the trustee of a trust under which the person, or an associate under another application of this section, benefits or may benefit;
  - (e) a company in which the person, either alone or together with an associate under another application of this section, controls fifty percent or more of the voting power in the company either directly or through one or more interposed companies, partnerships or trusts;
  - (f) where the person is a partnership, a partner in the partnership who, either alone or together with an associate or associates under another application of

this section, controls fifty percent or more of the rights to income or capital of the partnership;

- (g) where the person is the trustee of a trust, any other person who benefits or may benefit under the trust; or
- (h) where the person is a company –
  - (i) a person who, either alone or together with an associate or associates under another application of this section, controls fifty percent or more of the voting power in the company, either directly or through one or more interposed companies, partnerships or trusts; or
  - (ii) other company in which the person referred to in subparagraph (i), either alone or together with an associate or associates under another application of this section, controls fifty percent or more of the voting power in that other company, either directly or through one or more interposed companies, partnerships or trusts.

## **PART II - IMPOSITION, LIABILITY AND PAYMENT OF EXCISE DUTY**

### **4. Imposition of excise duty**

- (1) Subject to this Act, the excisable goods and excisable services specified in Schedule 2 shall be chargeable with the excise duty specified in that Schedule.
- (2) Unless otherwise provided in this Act excise duty –
  - (a) in the case of an excisable service, is to be paid by the person providing the service;
  - (b) in the case of a manufactured excisable good, is to be paid by the person manufacturing the excisable good; and
  - (c) in the case of an imported excisable good, is to be paid by the person importing the excisable good.
- (3) A manufacturer of an excisable good becomes liable to pay excise duty on that manufactured excisable good when the manufactured good is removed from the manufacturer's premises.
- (4) A person providing an excisable service becomes liable to pay excise duty on that service on the date of provision of the service.
- (5) An importer of excisable goods shall pay excise duty at the time of import.



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**PART III - LICENSING OF MANUFACTURERS, IMPORTERS AND PROVIDERS OF EXCISABLE GOODS AND SERVICES****5. Licence for premises**

- (1) For the purpose of facilitating the administration of excise duty a registered person shall apply for a licence for premises in which the manufacture, provision or dealing in excisable goods or excisable services takes place.
- (2) The application shall be in the form prescribed by the Commissioner.
- (3) Within one month after receiving the application under subsection (1), the Commissioner may grant or refuse the application.
- (4) The Commissioner may require the applicant to meet specified conditions before licensing the premises of the applicant.
- (5) The Commissioner may grant or renew a license, with or without conditions.
- (6) Where the Commissioner refuses to license premises, the Commissioner shall give reasons for the refusal.
- (7) Where the Commissioner licenses premises under this section, the Commissioner shall, on payment of the prescribed fee by the applicant, issue to the applicant a license.
- (8) The certificate of registration shall be in a form prescribed by the Commissioner.
- (9) The Commissioner shall establish and maintain a register containing the relevant details of all premises licensed under this section.
- (10) A licence issued under this section is valid for twelve months from the date of issue.
- (11) A registered person may apply to the Commissioner, in the approved form and prescribed manner, for renewal of a licence issued under this section.
- (12) An application for renewal of a licence under subsection (5) must be made before the expiry date of the licence or within such further time as the Commissioner may allow and be accompanied by payment of the prescribed fee for renewals.
- (13) The Commissioner must cancel a licence issued under this section if satisfied that the premises no longer meet the conditions for the grant of the licence.
- (14) A registered person shall not use the licensed premises for a purpose other than that the purpose for which the premises were licensed.

**PART IV - CONTROL OF EXCISABLE GOODS****6. Provision of facilities for excise control**

- (1) The Commissioner may for the purpose of ensuring the proper performance of the provisions of this Act require an officer to be stationed on the licensed premises of a registered person under this Act.
- (2) The Commissioner may, for the purposes of subsection (1), require the registered person to provide and maintain, to the satisfaction of the Commissioner, suitable office accommodation and equipment in the licensed premises.
- (3) A registered person shall provide and maintain at the licensed premises storing excisable goods, scales and weights, lights, ladders, and other equipment, as may be necessary to enable an officer to take account of, or check by weight, gauge, or measure, all excisable goods or materials in the licensed premises.

**7. Entry**

- (1) A registered person shall, before commencing manufacture of excisable goods, make entry in the prescribed manner of each building, room, place, and item of plant in the licensed premises, which the registered person proposes to use in the manufacture, preparation for sale, or storage, of materials or excisable goods.
- (2) An entry under subsection (1) shall specify the purpose for which a building, room, place or item of plant, is to be used and, unless the Commissioner otherwise permits, the mark by which it is to be distinguished.
- (3) The Commissioner may, by notice in writing to the registered person, require a new entry to be made by the registered person within one month of the date of the notice.
- (4) A registered person shall not, in the course of manufacture, preparation, sale or storage, of any materials or excisable goods –
  - (a) make use of any building, room, place, or item of plant, in relation to which entry is required under this section unless there is in force a valid entry;
  - (b) make use of a building, room, place, or item of plant, for any purpose other than that for which it was entered;
  - (c) effect, without the prior permission of the Commissioner, an alteration to any building, room, place, or item of plant.

- (5) A registered person who contravenes subsection (5) commits an offence and is liable on conviction to imprisonment not exceeding three years or a fine not exceeding seventy two currency points or both.
- (6) Where a person is convicted under subsection (5), the court shall order the forfeiture of any excisable goods, materials or plant in respect of which the offence has been committed.

## **8. Storage of excisable goods after manufacture**

- (1) All manufactured excisable goods shall, after the process of manufacture has been completed, be immediately removed to a room to be known as the “stock room”.
- (2) The stock room shall be within the licensed premises.
- (3) The stock room shall not be used for any purpose other than that of storing manufactured excisable goods after they have been manufactured.
- (4) All manufactured excisable goods kept in the stock room shall be stored in a manner that facilitates the taking of a full account of all the goods.
- (5) A registered person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding seventy two currency points or imprisonment not exceeding three years and the court convicting the offender shall forfeit the excisable goods to the State.
- (6) A stock book shall be kept in the prescribed form and shall be available for inspection by the Commissioner.
- (7) The Commissioner may take copies of any entry in the stock book.

## **9. Deficiency or excess in stock**

- (1) Where, upon the Commissioner taking stock of the manufactured excisable goods in the licensed premises of a registered person –
  - (a) the registered person fails to account to the Commissioner for any excisable goods manufactured by him or her, the excise duty on those manufactured excisable goods shall immediately become due and payable;
  - (b) any excisable goods are found in excess of the quantity which, according to the stock book of the registered person must be in the stockroom, those goods shall be forfeited to the State.
- (2) A registered person –

- (a) who fails to account to the Commissioner for any excisable goods manufactured by the registered person; or
- (b) in whose licensed premises excisable goods are found in excess of the quantity which, according to the stock book, should be in the licensed premises, unless the registered person explains the deficiencies or excess to the satisfaction of the Commissioner, the registered person commits an offence, and is liable on conviction to a fine not exceeding seventy two currency points or imprisonment not exceeding three years or both.

## **PART V - PAYMENT OF EXCISE DUTY, RETURNS, ASSESSMENTS AND APPEALS**

### **10. Payment of excise duty**

- (1) A person liable to pay excise duty shall pay the duty on the date the person files a return with the Commissioner, or shall, in the case of an assessment, pay the excise duty within forty five days after receipt of the notice of assessment.
- (2) Where excisable goods on which excise duty has been paid are converted into other excisable goods liable to excise duty, the converted excisable goods shall be liable only to the difference between the excise duty on the converted goods and the excise duty originally paid before the conversion.
- (3) Where excisable goods on which excise duty has been paid are converted into approved healthcare or medical products, a refund of the excise duty shall be provided to the manufacturer of the approved health care or medical products.
- (4) In this section, “approved healthcare or medical product” means a product that has been approved by the Minister responsible for finance in consultation with the Minister responsible for health, in accordance with regulations made under section 16.

### **11. Application of information technology**

Subject to conditions the Commissioner may prescribe, the formalities or procedures under this Act which may be carried out by use of information technology.

### **12. Refunds**

- (1) A person liable to pay excise duty may apply to the Commissioner for a refund of any excise duty paid in error or in excess of the excise duty assessed or due.
- (2) An application for a refund under this section shall be made to the Commissioner in the form and manner prescribed by the Commissioner

- (3) Where the Commissioner is satisfied that excise duty has been overpaid, the Commissioner shall –
  - (a) apply the excess in reduction of any other duty due from the person liable to pay excise duty; and
  - (b) at the written option of the person liable to pay excise duty, apply the balance of the excess, if any, in reduction of any outstanding liability of the person liable to pay excise duty in regard to other taxes not in dispute.
- (4) In this section “any other duty” means a duty other than excise duty.
- (5) Where the Commissioner is required to refund an amount of excise duty to a person under this Act, the Commissioner shall pay simple interest on the amount of the refund at the rate of two percent per month commencing thirty days after the date the application for the refund and ending on the last day on which a refund is made.
- (6) Notwithstanding subsection (4), a person liable to excise duty who causes delay in determining a correct refund payable to him or her, and leading to a belated refund process, is only entitled to interest with effect from sixty days from the date on which he or she filed his or her delayed return, lodged an application with the tribunal or the High Court, or submitted to the Commissioner all necessary and satisfactory information required in relation to the refund in question, whichever is the later.
- (7) The Commissioner shall, within thirty days after making a decision on a refund application under subsection (1), serve on the person applying for the refund a notice in writing of the decision.
- (8) A person dissatisfied with a decision referred to in subsection (5) may challenge the decision under the objection and appeal procedure in this Act.

### **13. Liability to duty on re- importation**

Where a remission or refund of excise duty has been granted in respect of excisable goods or excisable services which have been exported and those excisable goods or excisable services are subsequently unloaded in Uganda for home consumption those excisable goods or excisable services are liable to excise duty in force at the time of the unloading.

### **14. Excisable goods or excisable services granted remission liable to duty on disposal**

- (1) Subject to this Act, a person who has been granted a remission or refund in respect of excisable goods or excisable services or is in possession of excisable goods for which a remission or refund has been granted, shall not subsequently deal with

those excisable goods or supply those excisable services in a manner inconsistent with the purpose for which the remission or refund was granted.

- (2) A person who deals with excisable goods or supplies excisable services in a manner inconsistent with the purpose for which the remission or refund was granted is liable to pay the excise duty which would have been paid if the remission or refund had not been granted.
- (3) Where excisable goods to which subsection (1) applies are sold or disposed of without payment of the excise duty to which they are liable, the excisable goods shall be forfeited to the State.
- (4) A person who knowingly disposes of or knowingly acquires excisable goods or knowingly provides or knowingly receives excisable services, to which subsection (1) applies without the duty on the goods or services having been paid commits an offence and is liable, on conviction, to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.

## **PART VI - MISCELLANEOUS**

### **15. Prices quoted to include excise duty**

The price advertised or quoted for an excisable good or service shall include excise duty and the advertisement or quotation shall state that the price includes excise duty.

### **16. Regulations**

- (1) The Minister may, by statutory instrument, make regulations to better carry into effect the provisions of this Act.
- (2) Without limiting the general effect of subsection (1), regulations made under this section may –
  - (a) provide for the fees to be paid for a licence issued under this Act;
  - (b) provide for the form of the returns to be made by a registered person;
  - (c) provide for the securing and collection of excise duty on spirits;
  - (d) prescribe the maximum and minimum strength of a wort, wash or spirits;
  - (e) regulate the remission of excise duty including the remission of excise duty on spirits;

- (f) regulate the receipt, storage, warehousing, removal and delivery of spirits prior to the payment of excise duty.
- (3) Regulations under subsection (1) may provide that a person who contravenes a provision of the regulations commits an offence and is liable on conviction to a fine not exceeding seventy two currency points or both.

#### **17. Power of Minister to amend Schedule**

The Minister may, by statutory instrument, with the approval of Cabinet, amend Schedule 1.

#### **18. Repeal and savings**

- (1) The East African Excise management Act, 1970 and the Excise Tariff Act, Cap. 338 are repealed.
- (2) Notwithstanding subsection (1),
  - (a) all excise duty due in respect of a transaction that took place before the commencement of this Act shall be due and payable as if the repealed Act were still in force but in case of a default the person shall be dealt with under this Act;
  - (b) all appointments made under the repealed legislation and subsisting at the date of commencement of this Act are taken to be appointments made under this Act;
  - (c) all forms and documents used in relation to the repealed legislation may continue to be used under this Act, and all references in those forms and documents to provisions of and expressions appropriate to the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.

**SCHEDULE 1**

Section 2

***Currency Point***

One currency point is equivalent to twenty thousand shillings

**SCHEDULE 2**

Section 3,3A, 3AA, 3B

**Part I—Excise Duty In Respect Of Excisable Goods  
And Services**

	<b>EXCISABLE GOOD OR SERVICE</b>	<b>DUTY RATE</b>	
		<b>2015/2016</b>	<b>2016/2017</b>
<b>1. Cigarettes</b>			
	a) Soft cup [Other soft cup]	Shs.45,000 per 1,000 sticks	Shs.50,000 per 1,000 sticks
	b) Hinge Lid	Shs.75,000 per 1,000 sticks	Shs.80,000 per 1,000 sticks
	c) Cigars, cheroots and cigarillos containing tobacco	160%	200%
	d) Smoking tobacco, whether or not containing tobacco substitutes in any proportion	160%	200%
	e) Homogenised or reconstituted tobacco	160%	200%
	f) Other	160%	200%
<b>2. Beer</b>			
	a) Malt beer	60%	60%
	b) Whose local raw material content, excluding water, is at least 75% by weight of its constituent	30%	30%
	c) Beer produced from barley grown and malted in Uganda	30%	30%
<b>3. Spirits</b>			
	a) Made from locally produced raw materials	60%	60%
	b) Undenatured spirits	Shs.2500 per litre or 100%, whichever is higher	Shs.2500 per litre or 100%, whichever is higher
	c) Other	70%	80%
<b>4. Wine</b>			
	a) Made from locally produced raw materials	20%	20%
	b) Other wines	80%	80%
<b>5.</b>	Non-alcoholic beverages, excluding natural fruit juice drinks and/or vegetable juice drinks containing not less than 10% by mass of	13%	13%



	standardized fruit and/ or vegetable juice		
6.	Mineral water, bottled water and other water purposely for drinking	10%	10%
7.	Cement	Shs.500 per 50kgs	Shs.500 per 50kgs
8.	<b>Fuel</b>		
	a) Motor spirit (gasoline)	Shs.1000 per litre	Shs.1100 per litre
	b) Gas oil (automotive, light, amber for high speed engine)	Shs.680 per litre.	Shs.780 per litre.
	c) Other gas oils	Shs.630 per litre	Shs.630 per litre
	d) Gas oil for thermal power generation to national grid	Nil	Nil
	e) Illuminating kerosene	Ushs. 200 per litre	Ushs. 200 per litre
	f) Jet A1 and aviation fuel	Shs.630 per litre	Shs.630 per litre
	g) Jet A1 and aviation fuel imported by registered airlines, companies with designated storage facilities or with contracts to supply airlines	Nil	Nil
9.	Cane or beet sugar and chemically pure sucrose in solid form	Shs.50 per kg	Shs.100 per kg
10.	Cane or beet sugar for industrial use	0%	0%
11.	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.	120%	120%
12.	Cosmetics and perfumes, <i>except creams used by Albino in the treatment of their skin</i>	10%	10%
13.	<b>Telecommunication Services</b>		
	a) Value added services	20%	20%
	b) Incoming international call services, <i>except calls from the Republic of Kenya, the Republic of Rwanda and the Republic of South Sudan.</i>	USD 0.09 per minute [WEF 1/1/2015]	USD 0.09 per minute
	c) Money transfer or withdrawal services, including transfers and withdraw services by the operators licensed or permitted to provide communications or money transfer or withdrawal but not including transfer and withdraw services provided by banks.	10% of the fees charged	10% of the fees charged
	d) Other usage of airtime		
	i) Mobile cellular	12%	12%
	ii) Landlines and public pay phones	5%	5%
14.	Ledger fees, ATM fees, withdrawal fees and periodic charges and other transaction and non-transaction charges, excluding loan related charges periodically charged by financial institutions.	10% of the fees charged	10% of the fees charged
15.	Motor vehicle lubricants	5%	10%
16.	<i>Sugar confectionaries</i> (Chewing gum, sweets	10%	20%

	and chocolates)		
	Furniture	10%	
17.	(a) Specialised hospital furniture		NIL
	(b) Other furniture		10%

## Part II - Calculation of Excise Duty Payable in Respect of Excisable Goods and Services whose Excise Duty is expressed in Percentages

### 1. Calculation of excisable duty payable

The excise duty payable by a person in respect of excisable goods or services whose excise duty is expressed as percentages shall be calculated using the following formula –

$$A \times B$$

Where,

**A** is the value of the excisable goods or the excisable service; and

**B** is the rate of excise duty applicable to the goods or service.

### 2. Determination of value of excisable goods and services

- (1) The value of an excisable good shall be the normal ex-factory price of the good exclusive of any tax on that good.
- (2) The normal ex-factory price of the good shall include raw material costs, manufacturing costs, labour costs, profit margin, bank charges and interest and all other costs, charges and expenses incidental to the factory, production and sale.
- (3) The value of an excisable service shall be the price paid or payable by the consumer of that service excluding value added tax chargeable under the Value Added Tax Act and excise duty chargeable under this Act.
- (4) In the case of non-arm's length transactions, the normal ex-factory price shall be the price at which the transaction would have occurred in the ordinary course of business between the person liable to excise duty and an independent person dealing at arm's length and, in cases where the price cannot be determined, the price shall, subject to this Act, be decided by the Commissioner.
- (5) A sale in the open market between a manufacturer and a buyer independent of each other presupposes –
  - (a) that the price is the sole consideration;

- (b) that the price is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the manufacturer or any person associated in business with him and the buyer; and
  - (c) that no part of the proceeds of the subsequent re-sale, use or disposal of the goods or services will accrue either directly or indirectly to the manufacturer or any person associated with him.
- (6) Notwithstanding this Act, where the Commissioner is satisfied that an arrangement has been entered into or carried out where –
  - (a) a person has obtained an excise duty benefit in connection with the arrangement; and
  - (b) having regard to the substance of the arrangement, it is concluded that the person, or one of the persons, who entered into or carried out the arrangement did so for the sole or dominant purpose of enabling the person to obtain the excise duty benefit,

the Commissioner may determine the liability of the person who has obtained the excise duty benefit as if the arrangement had not been entered into or carried out, or in a manner as in the circumstances the Commissioner considers appropriate for the prevention or reduction of the excise duty benefit.

- (7) In this section –
  - (a) “arrangement” includes an agreement, promise, or undertaking whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings, and a plan, proposal, course of action, or course of conduct; and
  - (b) “excise duty benefit” includes –
    - (i) a reduction in the liability of a person to pay excise duty;
    - (ii) an increase in an entitlement of a person to a credit or refund; or
    - (iii) any other avoidance or postponement of liability for the payment of excise duty.
- (8) The value of an imported excisable good is the sum of the value of the good ascertained for the purposes of import duty under the laws relating to customs; and the amount of import duty payable on that good.

- (9) The value of an excisable service is the amount exclusive of any tax and duty, paid or payable by the final consumer in consideration for the service.
- (10) Where no amount is paid in consideration for the excisable service under subsection (9) or where there is an application of the excisable service to own use by the person providing the service, the value of the excisable service shall be the market value of the excisable service.
- (11) The taxable value of money transfer services by cellular service providers, money transfer agencies and other financial service providers shall be the fees charged for a particular money transfer service transaction.

### **SCHEDULE 3**

#### **Section 2**

#### **Goods Exempt from Excise Duty**

The goods exempt from excise duty are imported goods which are exempt from import duty under the Fifth Schedule to the East African Customs Management Act, 2004

#### **Cross References**

East African Customs Management Act, 2004

Excise Tariff Act, Cap. 338

Liquor Act, Cap. 93

Magistrates Court Act, Cap. 16

Tax Appeals Tribunal Act, Cap. 345

Uganda Revenue Authority Act, Cap. 96

# STAMP DUTY RATES

(Under Schedule 2 of the Stamp Duty Act, 2014)

Stamp Duty is charged on any instrument, in the Schedule below, which is executed in or outside Uganda, and which relates to property situated in Uganda or to a matter or thing done or to be done in Uganda. Instruments executed by, on behalf of, or in favour of the Government of Uganda are exempted. The exemption also extends to various international organisations as listed in the tax laws. Instruments are expected to be stamped within 45 days of the execution if executed in Uganda, and within 30days of being received in Uganda if executed outside Uganda.

	Description of Instrument	Stamp Duty	
		2015/2016	2016/2017
1.	ACKNOWLEDGEMENT of a debt exceeding shs.100,000	NIL	NIL
2.	(a) ADMINISTRATION BOND	5000/=	10,000/=
	(b) CUSTOMS BONDS - of the total value	0.05 %	0.05%
3.	ADOPTION DEED	5000/=	10,000/=
4.	AFFIDAVIT including an affirmation or declaration	5000/=	10,000/=
5.	AGREEMENT OR MEMORANDUM of an agreement.	5000/=	10,000/=
6.	AGREEMENT relating to deposit of title deeds, pawn pledge - of the total value	1 %	1%
7.	APPOINTMENT IN EXECUTION of a power, whether of trustees or of property	5000/=	10,000/=
8.	APPRAISMENT OR VALUATION made otherwise than under an order of court - of the total value.	NIL	NIL
9.	APPRENTICESHIP DEED	5000/=	10,000/=

10.	ARTICLES OF ASSOCIATION OF A COMPANY	10,000/=	10,000/=
11.	ASSENT TO BEQUEST WHETHER UNDER HAND OR SEAL	5,000/=	10,000/=
12.	AWARD by arbitrator or umpire	5,000/=	10,000/=
13.	BILL OF EXCHANGE not being a bond, bank note or currency note	5,000/=	10,000/=
14.	BILL OF LADING (including a thorough bill of lading)	NIL	NIL
15.	BILL OF SALE	5,000/=	10,000/=
16.	BOND (not being a debenture)	5,000/=	10,000/=
17.	CANCELLATION - instrument of	5,000/=	10,000/=
18.	CAPITAL DUTY (a) on nominal share capital or any increase of it of any company incorporated in Uganda with limited liability - of the total value.	0.5 %	0.5%
	(b) on increase of share capital of any company when the increase is a condition precedent for disbursement of loan funds for a development project.	NIL	NIL
	(c) on becoming public through the operation of the stock exchange.	NIL	NIL
19.	CAVEAT (under the Registration of Titles Act or any other law relating to the registration of title to land)	5,000/=	10,000/=
20.	CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold)	5,000/=	10,000/=

21.	CHARTER PARTY (instrument for charter hire or vessel or part of it)	5,000/=	10,000/=
22.	CHEQUE	NIL	NIL
23.	COMPOSITION DEED (instrument of conveyance of property by a debtor for the benefit of his creditors) - of the total value	1 %	1%
24.	CONVEYANCE (not being transfer) - of the total value	5,000/=	10,000/=
25.	COPY OF EXTRACT	5,000/=	10,000/=
26.	COUNTERFEIT OR DUPLICATE of an instrument chargeable with duty and in respect of which the property duty has been paid.	5,000/=	10,000/=
27.	DEBENTURE - whether a mortgage debenture or not, being of a marketable security - of the total value.	0.5 %	0.5%
28.	DEED	5,000	10,000/=
29.	DIVORCE - (any instrument by which any person effects the dissolution of marriage)	5,000	10,000/=
30.	EQUITABLE MORTGAGE - of the total value	0.5 %	0.5%
31.	EXCHANGE OF PROPERTY – of the total value	1%	2%
32.	EXTRACT	5,000/=	10,000/=
33.	FURTHER CHARGE - any instrument imposing a further charge on mortgaged property - of the total value	0.5 %	0.5%

<b>34.</b>	GIFT - Instrument of not being a settlement or will or transfer – of the total value	1 %	1%
<b>35.</b>	HIRE PURCHASE AGREEMENT - of the total value	1 %	1%
<b>36.</b>	INDEMNITY BOND	1 %	1%
<b>37.</b>	INSTRUMENT – for a loan not exceeding Uganda shillings three million	NIL	NIL
<b>38.</b>	LEASE - of the total value	1 %	1%
<b>39.</b>	LETTER OF CREDIT - an instrument by which one person authorizes another to give credit to the person in whose favour it is drawn	5,000/=	10,000/=
<b>40.</b>	LETTER OF LICENSE - any agreement between a debtor and his creditors that the latter shall for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion	5,000/=	10,000/=
<b>41.</b>	MEMORANDUM OF ASSOCIATION OF A COMPANY	10,000/=	10,000/=
<b>42.</b>	(a) Mortgage deed - of the total value. A MORTGAGOR who gives a power of attorney to collect rents or a lease of the property mortgaged is deemed to give possession within the meaning of this item.	0.5 %	0.5%
	(b) Where a collateral or auxiliary or additional or substituted security is given by way of further assurance where the principal or primary security is duly stamped.	5,000/=	10,000/=
<b>43.</b>	MORTGAGE OF A CROP - including any instrument endorsement, note, attestation, certificate or entry not being PROTEST OF A BILL OF NOTE, made or signed by a Notary Public in the execution of the duties of his office or by other person lawfully acting as Notary Public	5,000/=	10,000/=



44.	NOTARIAL ACT - made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public	5,000/=	10,000/=
45.	NOTE OR MEMORANDUM - sent by a broker or agent to his principal intimating the purchase or sale on account such principal of any goods stock or marketable security.	5,000/=	10,000/=
46.	PARTITION		10,000/=
47.	(a) PARTNERSHIP	5,000/=	10,000/=
	(b) DISSOLUTION OF PARTNERSHIP.	5,000/=	10,000/=
48.	(a) POLICY OF INSURANCE	35,000/=	35,000/=
	(b) LIFE INSURANCE	NIL	NIL
	(c) INSURANCE PERFORMANCE BOND	50,000/=	50,000/=
49.	POWER OF ATTORNEY	5,000/=	10,000/=
50.	PROMISSORY NOTE	5,000/=	10,000/=
51.	PROTEST OF BILL OR NOTE - any declaration in writing made by a Notary Public, attesting the dishonour of a bill of exchange or promissory note.	5,000/=	10,000/=
52.	RECEIPT - as defined by section 2 for any money or other property the amount of value exceeds Shs.50,000		10,000/=
53.	RECONVEYANCE OF MORTGAGED PROPERTY - of the total value.	5,000/=	10,000/=

54.	RELEASE - Any instrument not being such a release as is provided for by section 26(2) by which a person renounces a claim upon another person or against any specified property	5,000/=	10,000/=
55.	RESPONDENTIA BOND - any instrument securing a loan on the cargo laden on board a ship and making repayment contingent on the arrival of the cargo at the port of	5,000/=	10,000/=
56.	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 thereof or executed by surety to secure the due performance of a contract - of the total value	1 %	1%
57.	SETTLEMENT (a) INSTRUMENT OF – (including a deed of dower)	5,000/=	10,000/=
	(b) REVOCATION OF –	5,000/=	10,000/=
58.	SHARE WARRANTS - to bearer issued under the Companies Act - of the total value	1 %	1%
59.	SHIPPING ORDER - for or relating to the conveyance of goods on board any vessel	5,000/=	10,000/=
60.	SOLEMN OR STATUTORY DECLARATION	5,000/=	10,000/=
61.	SURRENDER TO LEASE	5,000/=	10,000/=
62.	TRANSFER – (a) of the total value	1 %	1.5%
	(b) transfer of shares in an incorporated company listed on the stock exchange, arising from the trading of those shares on the stock exchange.	0.5 %	0.5%

	(c) of assets to special purpose vehicles for the purpose of issuing asset backed securities	NIL	NIL
<b>63.</b>	TRUST - concerning any property made by any writing not being a will.	5,000/=	10,000/=
<b>64.</b>	Any other <i>instrument</i> [provision] not specifically mentioned	5,000/=	10,000/=

# TAX PROCEDURE CODE ACT, 2014

An Act to provide for a Code to regulate the procedures for the administration of specified tax laws in Uganda; to harmonise and consolidate the tax procedures under existing tax laws; and to provide for related matters.

Date of Assent: 19th October, 2014.

Date of Commencement: 1<sup>st</sup> July 2016

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- |                   |   |  |
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**PART I - PRELIMINARY****1. Commencement**

This Act shall come into force on a date appointed by the Minister, by statutory instrument.

**2. Application**

This Act shall apply to every tax law specified in Schedule 2.

**3. Interpretation**

In this Act, unless the context otherwise requires –

“additional assessment” means an additional assessment made by the Commissioner under section 23;

“advance assessment” means an advance assessment made by the Commissioner under section 22;

“Authority” means the Uganda Revenue Authority established by the Uganda Revenue Authority Act;

“business information return” means a return required to be furnished under section 130 of the Income Tax Act;

“Commissioner” means the Commissioner-General appointed under the Uganda Revenue Authority Act;

“Committee” means the Tax Agents Registration Committee established under section 7;

“currency point” has the meaning assigned to it in Schedule 1 ;

“default assessment” means a default assessment made by the Commissioner under section 21;

“due date” means the date by which a tax obligation must be fulfilled under this Act;

“listed institution” has the meaning assigned to it in the Income Tax Act;

“Minister” means Minister responsible for Finance;

“objection decision” means a decision within the meaning of section 24;



“occupier” in relation to premises or a place means the owner, manager, or any other person lawfully in the premises or place;

“penal tax” means a tax imposed as a penalty for failure to perform an act required by or under a tax law;

“person” has the same meaning as in the Income Tax Act;

“record” includes –

- (a) a book of account, document, paper, register, bank statement, receipt, invoice, voucher, contract and agreement, or Customs declaration; or
- (b) any information or data stored on a mechanical or electronic data storage device;

“registration threshold” has the meaning in section 7(2) of the Value Added Tax Act;

“self-assessment” means an assessment treated as having been made by a taxpayer under section 20;

“self-assessment return” means a return made in accordance with section 16 and 20;

“statutory rate”, in relation to a period, means the Bank of Uganda discount rate at the commencement of that period;

“tax” means a tax imposed under a tax law and includes withholding tax and provisional tax;

“tax assessment” means a self-assessment, default assessment, advance assessment, or additional assessment”;

“tax agent” means a person registered as a tax agent under this Act;

“tax decision” means –

- (a) a tax assessment; or
- (b) a decision on any matter left to the discretion, judgment, direction, opinion, approval, satisfaction or determination of the Commissioner, other than a decision made in relation to a tax assessment;

“tax law” means a law specified in Schedule 2;

“tax obligation” means any duty expected of a taxpayer under a tax law and includes registration, filing and payment of a tax liability;

“tax officer” means the Commissioner and an officer of the Authority appointed under the Uganda Revenue Authority Act;

“taxpayer” means a person liable for tax under a tax law and includes

- (a) for the income tax, a person who has zero chargeable income or an assessed loss for a year of income; or
- (b) for the VAT, a taxable person whose total input tax credits for a tax period are equal to or exceed the person’s total output tax for the period;

“tax period”, means –

- (a) in the case of the income tax –
  - (i) for the purposes of withholding tax, the period to which the withholding relates;
  - (ii) for the purposes of provisional tax, the period to which the provisional tax relates; or
  - (iii) for any other purposes, the year of income;
- (b) in the case of VAT, the tax period under the Value Added Tax Act; or
- (c) in any other case, the period for which the tax is reported;

“tax representative” means –

- (a) for an individual under a legal disability, the guardian or manager who receives or is entitled to receive income on behalf, or for the benefit of that natural person;
- (b) for a company, the chief executive officer, managing director, or any director of the company;
- (c) for a partnership, a partner in the partnership;
- (d) in the case of a trust, a trustee of the trust;

- (e) in the case of the Government or local Government in Uganda, the individual responsible for accounting for the receipt or payment of moneys or funds on behalf of the Government or local Government;
- (f) in the case of a foreign government, political subdivision of a foreign government, or a listed institution, any natural person responsible for accounting for the receipt or payment of moneys or funds in Uganda on behalf of the government, political subdivision of the government, or listed institution; and
- (g) in the case of a non-resident person, the individual controlling the person's affairs in Uganda, including a manager of a business of that person or any representative appointed by the person in Uganda;

“tax return” means a return or other document listed in the Third schedule;

“transaction information” means information relating to a transaction in respect of which a record is made;

“TIN” means a Tax Identification Number issued to a registered taxpayer;

“Tribunal” means the Tax Appeals Tribunal established by the Tax Appeals Tribunal Act;

“unpaid tax” means tax that has not been paid by the due date, but does not include tax that is the subject of an objection and that is not required to be paid until the objection is finally decided;

“VAT” means Value Added Tax; and

“withholding tax” means any tax that a withholding agent is required to deduct from a payment to a payee.

## **PART II - REGISTRATION OF TAXPAYERS**

### **4. Registration**

- (1) A person liable to pay tax under a tax law shall apply to the Commissioner for registration in the prescribed manner.
- (2) The application shall be accompanied by the prescribed evidence of the person's identity.
- (3) The Commissioner shall register a person who has applied for registration if satisfied that the person meets the requirements for registration.

- (4) Where the Commissioner refuses to register a person who has applied for registration, the Commissioner shall serve that person with written notice of the refusal within fourteen days after the refusal, stating the reasons for refusal.
- (5) Where a person applies for registration as required under a tax law, the Commissioner may use the information provided for the registration for the purposes of this Act without requiring the person to furnish the same particulars under this Act.
- (6) Despite subsection (5), the Commissioner may request a person to provide any further information necessary to complete the registration of the person under this Act.

## **5. Tax Identification Number**

- (1) Upon registration, the Commissioner shall issue to every person registered a Tax Identification Number, TIN.
- (2) The Commissioner shall issue one TIN to each person registered.
- (3) The TIN issued by the Commissioner shall be used for tax purposes under all tax laws.
- (4) A person shall state that person's TIN on any return, notice, communication, or other document furnished, lodged, or used for the purposes of a tax law.
- (5) Subject to subsection (6), a TIN is personal to the person to whom it has been issued and shall not be used by another person.
- (6) The TIN of a registered taxpayer may be used by a registered tax agent if:–
  - (a) the person has given written permission to the registered tax agent to use the TIN on their behalf; and
  - (b) the registered tax agent uses the TIN only in respect of the tax affairs of the taxpayer.
- (7) The Commissioner shall by notice in writing, cancel a TIN if satisfied that:–
  - (a) the person is deregistered for the purposes of all tax laws;
  - (b) a TIN has been issued to the person under an identity that is not that person's true identity; or
  - (c) the person has been previously issued with a TIN that is still in force.

- (8) The Commissioner may, at any time, by notice in writing, cancel the TIN issued to a person and issue the person with a new TIN.

## **6. Deregistration**

- (1) A person who is no longer required to be registered for the purposes of a tax law may, in the prescribed manner, apply to the Commissioner to be deregistered.
- (2) The Commissioner shall by notice in writing, deregister a person if –
- (a) that person has applied for deregistration and the Commissioner is satisfied that the person is no longer required to be registered; or
  - (b) that person has not applied for deregistration but the Commissioner is satisfied that the person is eligible for deregistration.
- (3) Deregistration takes effect from the date specified in the notice of deregistration.
- (4) A person who is deregistered shall comply with any requirements relating to deregistration as specified under the tax law to which the registration relates.

## **PART III - TAX AGENTS AND TAX REPRESENTATIVES**

### *Registration of Tax Agents*

## **7. Tax Agents Registration Committee**

- (1) There shall be a Tax Agents Registration Committee to handle registration, renewal of registrations and cancellation of tax agent's registration.
- (2) The Committee shall comprise of the following members –
- (a) the Commissioner General, or his or her representative for purposes of this Act, who shall be the Chairperson;
  - (b) one representative from the accountancy profession nominated by the Institute of Certified Public Accountants of Uganda;
  - (c) a representative from the legal profession nominated by the Uganda Law Society; and
  - (d) two members from the private sector with expertise or relevant experience in economics, finance or taxation who shall be appointed by the Board of the Uganda Revenue Authority,

- (3) The Commissioner shall receive and maintain a register of all registered tax agents.
- (4) In exercise of its functions under this Act, the Committee shall make rules to govern its own procedure.

## **8. Tax Agents**

- (1) An individual, partnership, or company may apply to the Committee for registration as a tax agent.
- (2) An application for registration as a tax agent under subsection (1) shall be in the prescribed form and shall be accompanied by the prescribed fee.
- (3) For purposes of this Act, a tax agent is a person engaged –
  - (a) in the preparation, certification, and filing tax returns, information returns or other statements or reports required by the Authority.
  - (b) in the preparation of requests for ruling, petitions for reinvestigation, protests, objections, requests for refund or tax certificates, compromise settlements and/or abatement of tax liabilities and other official papers and correspondences with the Authority.
  - (c) in meetings and hearings on behalf of the taxpayer in all matters relating to a taxpayer rights, privileges or liabilities under the laws or regulations administered by the Authority.

## **9. Registration of Tax Agents**

- (1) In the case of an application by a natural person, the Committee shall register the applicant if satisfied that the applicant is a fit and proper person to prepare tax returns and transact business with the Committee under the tax laws on behalf of taxpayers.
- (2) In the case of an application by a partnership or a company, the Committee shall register the applicant if satisfied that –
  - (a) the partner or employee specified in the application as the nominee of the partnership or company respectively is a fit and proper person to prepare tax returns and transact business with the Commissioner under a tax law on behalf of a taxpayer; and
  - (b) a partner in the partnership or a director, manager or other executive officer of the company is of high integrity and good character.

- (3) An individual applying for registration as a tax agent, or in the case of an application by a partnership or company, the partner or employee specified as the nominee of the partnership or company respectively, shall meet the following requirements –
- (a) have been awarded a degree or a post-graduate award from an approved tertiary institution in the discipline that is relevant for the provision of tax agent services; or
  - (b) have successfully completed a course in taxation that is recognised by the Tax Registration Committee; or
  - (c) in the coming into force of this Act, have been engaged in the equivalent of 24 months of full-time tax practice in the preceding 5 years.
- (4) The registration of a tax agent shall remain in force for twelve months from the date of registration.
- (5) The Commissioner shall notify the applicant of the decision on the application.
- (6) This section does not apply to an advocate acting as an advocate to a taxpayer.

## **10. Renewal of Registration**

- (1) A tax agent may apply to the Committee for the renewal of the tax agent's registration.
- (2) An application under subsection (1) shall be in the prescribed form and shall be accompanied by the prescribed fee.
- (3) The application shall be submitted to the Committee within twenty one days before the date of expiry of the tax agent's registration or a later date allowed by the Committee.
- (4) The Committee shall renew the registration of a tax agent who has applied under subsection (1) if the tax agent still meets the requirements for registration.
- (5) The Committee shall in writing notify the applicant of the decision on the application to renew registration.

## **11. Registration of Additional or Substituted Tax Agents**

- (1) A partnership or company registered as a tax agent may apply to the Committee, in the prescribed form and accompanied by the prescribed fee, to register a partner of the partnership or an employee of the company as an additional or substituted tax agent.

- (2) The Committee shall register the person nominated under subsection (1) if satisfied that the person is a fit and proper person to prepare tax returns and transact business with the Committee under a tax law on behalf of a taxpayer.
- (3) The Committee shall in writing notify an applicant under this section of the decision of the Committee on the application.

## **12. Notice of Change in Registered Particulars**

- (1) A partnership that is registered as a tax agent shall notify the Committee, in writing, if –
  - (a) there is a change in the composition of the partnership, within seven days after the change in composition; or
  - (b) the partnership is going to be dissolved within, seven days before the dissolution of the partnership.
- (2) A company that is registered as a tax agent shall notify the Committee, in writing, if:–
  - (a) a registered nominee ceases to be an employee of the company or a person becomes a director, manager, or other executive officer of the company, within seven days after the employee ceases to be employed, or the person becomes a director, manager or other executive officer; or
  - (b) the company is going into liquidation within seven days before the company goes into liquidation.

## **13. Cancellation of Tax Agent's Registration**

- (1) A tax agent that ceases to carry on business as a tax agent shall notify the Committee, in writing, within seven days after ceasing to carry on business as a tax agent.
- (2) A tax agent may apply to the Committee, in the prescribed form to cancel the registration of the agent where the agent no longer wishes to be registered as a tax agent.
- (3) The Committee may cancel the registration of a tax agent if the Committee is satisfied that –



- (a) in the case of an individual, the person is no longer a fit and proper to prepare tax returns and transact business with the Committee under the tax laws on behalf of a taxpayer;
  - (b) in the case of a partnership, the additional or nominated partner has ceased to be a partner in the partnership or the partnership has applied to the Committee to cancel the registration of the partner;
  - (c) in the case of a company, the person nominated has ceased to be employed by the company or the company has applied to the Committee to cancel the registration of the employee;
  - (d) a tax return prepared and delivered by the tax agent is false in any material particular, unless the tax agent establishes to the satisfaction of the Committee that it was not due to any wilful or negligent conduct of the tax agent;
  - (e) the tax agent has ceased to meet the requirements for registration as a tax agent; or
  - (f) the tax agent has ceased to carry on business as a tax agent.
- (4) The Committee shall give notice, in writing, to a tax agent of a decision to cancel the registration of the tax agent or a nominee of the tax agent.
- (5) The cancellation shall take effect from the date specified in the notice.

### ***Tax Representatives***

#### **14. Liabilities and Obligations of a Tax Representative**

- (1) A tax representative is responsible for performing any duty or obligation imposed by a tax law on the taxpayer, including the submission of tax returns and payment of tax.
- (2) If there are two or more tax representatives of a taxpayer, the obligations referred to in this section apply jointly and severally to the agents but may be discharged by any of them.
- (3) A tax representative making a payment of tax on behalf of a taxpayer is to be treated as acting under the authority of the taxpayer.
- (4) A tax that, by virtue of subsection (1), is payable by the representative of a taxpayer is recoverable from the agent only to the extent of the assets of the taxpayer that are in the possession or under the control of the tax representative.

- (5) Subject to subsection (6), a tax agent is personally liable for the payment of any tax due by the tax representative in that capacity if, while the amount remains unpaid, the representative—
- (a) alienates, charges, or disposes of any moneys received or accrued in respect of which the tax is payable; or
  - (b) disposes of or parts with any moneys or funds belonging to the taxpayer that are in the possession of the representative or which come to the representative after the tax is payable, if tax could legally have been paid from or out of the moneys or funds.
- (6) A tax representative is not personally liable for tax if –
- (a) the monies were paid by the representative on behalf of a taxpayer and the amount paid has priority, in law or equity, over the tax payable by the taxpayer; or
  - (b) at the time the monies were paid, the representative had no knowledge, and could not reasonably be expected to know, of the taxpayer's tax or duty liability.
- (7) An amount that a tax representative is personally liable for under subsection (5) shall be collected and recovered in accordance with this Act.
- (8) Nothing in this section relieves a taxpayer from performing any obligation imposed on the taxpayer under a tax law that the tax representative of the taxpayer has failed to perform.
- (9) A reference in this section to a tax liability includes any interest payable in respect of the liability.

## **PART IV - RECORD-KEEPING**

### **15. Accounts and Records**

- (1) Subject to subsections (2) and (5), every taxpayer shall for the purposes of a tax obligation –
- (a) maintain, in the English language, records including in electronic format, as may be required to determine the taxpayer's tax liability under a tax law;
  - (b) maintain the record so as to enable the taxpayer's tax liability under the tax law to be readily ascertained; and

- (c) retain the record for five years after the end of the tax period to which it relates or other period as specified in the tax law.
- (2) Where, at the end of the time specified in subsection (1) (c), a record is necessary for a proceeding commenced before the end of the five-year period, the person shall retain the document until all proceedings have been completed.
- (3) A mode of record keeping shall contain sufficient transaction information and, in the case of a record in electronic format shall be capable of being retrieved and converted to a standard record format equivalent to that contained in an acceptable paper record.
- (4) The Commissioner may, on the application of a taxpayer who wishes to keep records in a language other than English or in a currency other than Uganda Shillings, allow the taxpayer to keep records in a different language or currency.
- (5) An application under subsection (4) shall clearly state the reasons of the applicant for wishing to keep records in a different language or currency.
- (6) Where a record referred to in subsection (1) is not in English, the Commissioner may, by notice in writing, require the person keeping the record to provide, at the person's expense, a translation into English by a translator approved by the Commissioner.
- (7) A taxpayer granted permission to keep records in a language other than English shall file a tax return or provide other correspondence with the Commissioner in English.

## **PART V - TAX RETURNS**

### **16. Furnishing of Tax Returns**

- (1) A person required to furnish a tax return under a tax law shall submit the return in the prescribed form and in the manner determined by the Commissioner.
- (2) Where a person does not furnish a tax return under subsection (1), the Commissioner may at the person's cost, by notice in writing, appoint another person to prepare and furnish the return on behalf of that person.
- (3) A return furnished under subsection (2) shall be treated, for all the purposes of the tax law under which the return is required to be furnished, to be the return of the person required to furnish the return.
- (4) Where the Commissioner is not satisfied with a tax return furnished by a person, other than a self-assessment return, the Commissioner may, by notice in writing,

require the person who has furnished the return to provide a fuller or further tax return.

- (5) A taxpayer with an annual turnover of the amount prescribed in Schedule 3 shall furnish with the taxpayer's return of income audited financial statements prepared by an accountant registered by the Institute of Certified Public Accountants of Uganda.
- (6) A tax return purporting to be made by or on behalf of a person is treated as having been made by the person or with the person's authority unless the contrary is proved.
- (7) The following are tax returns for the purposes of this Act –
  - (a) a return of income;
  - (b) a return of rental income;
  - (c) a provisional tax estimate;
  - (d) a business information return;
  - (e) a return required to be furnished under the Value Added Tax Act;
  - (f) an excise duty return;
  - (g) any other return required to be furnished under a tax law; and
  - (h) any form required to be furnished under a tax law containing information relating to an assessment of tax.
- (8) For purposes of subsection (7), the applicable time frame for lodging a return shall be as follows –
  - (a) in the case of a return of income, every taxpayer shall furnish a return of income for each year of income of the taxpayer not later than six months after the end of that year;
  - (b) in the case of a return of rental income, every taxpayer shall furnish a return of rental income for each year of income of the taxpayer not later than six months after the end of that year;
  - (c) in the case of a provisional tax estimate, every taxpayer is required to furnish a return of provisional tax estimate on or before the last day of the sixth and

twelfth months of the year of income, in respect of the taxpayer's liability for a period of six or twelve months;

- (d) in the case of a business information return, a person who is required to furnish a business information return with the commissioner should do so within sixty days after the end of the year of income in which the payment was made;
- (e) in the case of the Value Added Tax Act, a taxable person shall lodge a Value Added Tax return with the Commissioner General for each tax period within fifteen days after the end of the tax period;
- (f) in the case of an Excise Duty return, a person who is required to furnish an excise duty return with the Commissioner General shall do so by the fifteenth day of the following month;
- (g) in the case of the Gaming and Pool Betting Act, a person who is required to furnish a return with the Commissioner shall do so in the period specified under the Act;
- (h) in case of any other return required to be furnished under a tax law, a person is required to furnish such return with the commissioner in the period specified under the tax law to which the return relates;
- (i) in case of any form required to be furnished under a tax law containing information relating to an assessment of tax, a person is required to furnish such a form with the commissioner in the period specified by the Commissioner.

## **17. Certification of Tax Return by Tax Agent**

- (1) A tax agent who prepares or assists in the preparation of a tax return of a taxpayer shall provide the taxpayer with a signed certificate in the prescribed form –
  - (a) Stating the sources available to the tax agent for the preparation of the return; and
  - (b) certifying that the tax agent has examined the documents of the taxpayer and that, to the best of the tax agent's knowledge, the return together with any supporting documentation, reflects the correct data and transactions to which it relates.
- (2) A tax agent who does not provide the certificate referred to in subsection (1) shall in writing specify to the taxpayer the reasons for not providing the certificate.

- (3) A tax agent who prepares or assists in the preparation of a tax return of a taxpayer shall make a declaration in the taxpayer's return stating whether a certificate under subsection (1) or a statement under subsection (2) has been provided to the taxpayer.
- (4) A tax agent shall when required to do so by notice in writing from the Commissioner, produce to the Commissioner a copy of the certificate under subsection (1) or the statement provided to the taxpayer under subsection (2).
- (5) A tax agent shall keep copies of certificates provided to taxpayers under subsection (1) and statements provided to taxpayers under subsection (2) for five years from the date that the tax return to which the certificate or statement relates is furnished.

#### **18. Power of the Commissioner to require Tax Returns in certain Cases**

- (1) This section applies if, during a tax period –
  - (a) a taxpayer has died;
  - (b) a taxpayer has become bankrupt, wound up, or goes into liquidation;
  - (c) a taxpayer is about to leave Uganda permanently; or
  - (d) the Commissioner otherwise considers it appropriate.
- (2) The Commissioner may, by notice in writing and at any time during the tax period, require –
  - (a) the taxpayer or the taxpayer's representative to furnish a tax return for the tax period by the date specified in the notice being a date that may be before the date that the return for the tax period would otherwise be due; and
  - (b) the taxpayer or taxpayer's representative to pay any tax due under the return.
- (3) Where a taxpayer is subject to more than one tax, this section applies to each tax separately.

#### **19. Extension of Time to Furnish a Tax Return**

- (1) A person required to furnish a tax return may apply in writing to the Commissioner for an extension of time to furnish the return.
- (2) An application under subsection (1) shall be made by the date on which the return is required to be furnished or made.

- (3) Where an application has been made under subsection (1) and the Commissioner is satisfied that the person is unable to furnish the tax return by the due date because of any reasonable cause, the Commissioner may, by notice in writing, grant the person an extension of time to furnish the return.
- (4) The extension of time granted under subsection (3) shall not exceed an aggregate period of ninety days.
- (5) An extension of time granted under this section does not change the date for payment of the tax due as specified in the tax law under which the tax return is required to be furnished and interest remains payable on the unpaid tax from the date the tax was originally due.
- (6) The commissioner may allow an application for the extension of time after the expiry of the due date if the commissioner is satisfied that the failure to furnish a tax return was due to exceptional circumstances.

## PART VI - TAX ASSESSMENTS

### 20. Self-Assessment

- (1) A taxpayer who has submitted a self-assessment return in the prescribed form for a tax period is treated, as having made an assessment of the amount of tax payable, including a nil amount, for that period being the amount set out in the return.
- (2) Where a taxpayer liable to income tax has submitted a self- assessment return in the prescribed form for a year of income and the taxpayer has an assessed loss for the year, the taxpayer is treated, as having made an assessment of the amount of the loss for that year being that amount set out in the return.
- (3) Where a taxable person has submitted a self-assessment return in the prescribed form for a tax period and the taxable person has an excess input tax credit carried forward for that tax period, the taxable person is treated, as having made an assessment of the amount of the excess input tax credit carried forward for that tax period being that amount set out in the return.
- (4) Where a taxpayer electronically completes and submits a prescribed form for a tax return that tax return is a self-assessment return despite the form having pre-filled information provided by the Commissioner.
- (5) The following are self-assessment returns for the purposes of this Act –
  - (a) a return of income;
  - (b) a return of rental income;

- (c) a return required to be furnished under the Value Added Tax Act;
- (d) a return required to be furnished under the Excise Duty Act;
- (e) a return specified as a self-assessment return under a tax law.

## 21. Default Assessment

- (1) Where a taxpayer fails to furnish a self-assessment return for a tax period as required under a tax law, the Commissioner may, at any time, make an assessment as follows –
  - (a) in the case of an assessed loss under the Income Tax Act, the amount of the assessed loss of the taxpayer for the period;
  - (b) in the case of an excess input tax credit under the Value Added Tax Act, the amount of the excess input tax credit of the taxpayer for the period; or
  - (c) in any other case, the tax payable by the taxpayer for the tax period.
- (2) The Commissioner shall serve a taxpayer assessed under subsection (1) with notice, in writing, of the assessment specifying –
  - (a) the amount of tax assessed, assessed loss, or excess input tax credit, as the case may be;
  - (b) the amount of penal tax and interest, if any, payable in respect of the amount assessed;
  - (c) the tax period to which the assessment relates;
  - (d) the due date for payment of the tax, penal tax and interest; and
  - (e) the manner of objecting to the assessment.
- (3) The service of a notice of an assessment under this section does not change the due date for payment of the tax payable under the assessment as determined under the tax law imposing the tax, and penal tax and interest remain payable based on the original due date.

## 22. Advance Assessment

- (1) This section applies to a taxpayer specified in section 18 and where the Commissioner is satisfied that there is a risk that a taxpayer may delay, obstruct,



prevent, or render ineffective payment or collection of tax that has not yet become due.

- (2) Subject to subsection (3), the Commissioner may make an assessment for a tax period in relation to a taxpayer to whom section 18 applies –
  - (a) in the case of an assessed loss under the Income Tax Act, of the amount of the assessed loss of the taxpayer for the period;
  - (b) in the case of an excess input tax credit under the Value Added Tax Act, of the amount of the excess input tax credit of the taxpayer for the period; or
  - (c) in any other case, of the tax payable by the taxpayer for the period.
- (3) Subsection (2) applies only if the taxpayer has not submitted a return as required by section 18.
- (4) An assessment made under subsection (2) –
  - (a) may be made before the date on which the taxpayer's tax return for the period is due; and
  - (b) shall be made in accordance with the tax law in force at the date the assessment was made.
- (5) The Commissioner shall serve a taxpayer assessed under subsection (2) with notice, in writing, of the assessment specifying –
  - (a) the amount of tax assessed;
  - (b) the amount of penal tax and interest, if any, payable in respect of the tax assessed;
  - (c) the tax period to which the assessment relates;
  - (d) the due date for payment of the tax, penal tax and interest; and
  - (e) the manner of objecting to the assessment.
- (6) An assessment made under subsection (2) may be amended under section 23 so that the taxpayer is assessed in respect of the whole of the tax period to which the assessment relates.
- (7) Nothing in this section relieves a taxpayer from being required to furnish the tax return to which the assessment served under this section relates.

**23. Additional Assessment**

- (1) The Commissioner may make an additional assessment amending a tax assessment made for a tax period to ensure that –
  - (a) for an assessed loss under the Income Tax Act, the taxpayer is assessed in respect of the correct amount of the assessed loss for the period;
  - (b) for an excess input tax credit under the Value Added Tax Act, the taxpayer is assessed in respect of the correct amount of the excess input tax credit for the period; or
  - (c) in any other case, the taxpayer is liable for the correct amount of tax payable in respect of the period.
- (2) An additional assessment under subsection (1) may be made –
  - (a) at any time, if fraud or any gross or wilful neglect has been committed by, or on behalf of the taxpayer, or new information has been discovered in relation to the tax payable by the taxpayer for a tax period;
  - (b) in the case of an additional assessment, within three years from the date of service of the notice of the additional assessment; or
  - (c) in any other case, within three years after the date –
    - (i) the taxpayer furnished the self-assessment return to which the original assessment relates; or
    - (ii) the Commissioner served notice of the original assessment on the taxpayer.
- (3) Subject to subsection (1), a taxpayer who has furnished a self-assessment return, other than a taxpayer whose return is being investigated, may upon discovering an error within twelve months after the date of furnishing the return, apply to the Commissioner for leave to make an additional assessment.
- (4) The Commissioner shall within thirty days after receiving the application, in writing notify the taxpayer of the decision.
- (5) For the purposes of subsection (2)(b) the additional assessment shall be limited to amending the alterations and additions made in the additional assessment.

- (6) Where the Commissioner has made an additional assessment under this section, the Commissioner shall serve the taxpayer with notice, in writing, of the additional assessment specifying—
- (a) the amount assessed as tax, assessed loss, or excess input tax credit, as the case may be;
  - (b) the amount of penal tax and interest, if any, payable in respect of the amount assessed as a result of subsection (2) (a);
  - (c) the tax period to which the assessment relates;
  - (d) the due date for payment of any tax, penal tax and interest being a date that is not less than forty five days from the date of service of the notice; and
  - (e) the manner of objecting to the assessment.
- (7) The service of a notice of an additional assessment under this section does not change the due date for payment of the tax payable under the assessment as determined under the tax law imposing the tax, and penal tax and interest shall remain payable based on the original due date.
- (8) Subsection (6) shall not apply to where the circumstances leading to the additional assessment are occasioned by an error on the part the Commissioner.

## **PART VII - OBJECTIONS AND APPEALS**

### **24. Objection to a Tax Decision**

- (1) A person who is dissatisfied with a tax decision may lodge an objection with the Commissioner within forty five days after receiving notice of the tax decision.
- (2) An objection shall be in the prescribed form and shall state the grounds upon which it is made and contain sufficient evidence to support the objection.
- (3) Where a taxpayer has lodged an objection to a tax assessment for a tax period, the Commissioner may consider the objection if the taxpayer –
  - (a) has furnished the return to which the assessment relates in the case of a default or advance assessment;
  - (b) has paid the tax due under the return to which the assessment relates together with any penalty or interest due.

- (4) A person may apply in writing to the Commissioner for an extension of time to lodge an objection and the Commissioner may, if satisfied with the grounds upon which the application is made, grant an extension for such period as the Commissioner determines.
- (5) The Commissioner may make a decision on an objection –
  - (a) to a tax assessment, affirming, reducing, increasing, or otherwise varying the assessment to which the objection relates; or
  - (b) to any other tax decision, affirming, varying, or setting aside the decision.
- (6) The Commissioner shall serve notice of an objection decision on the person objecting within ninety days from the date of receipt of the objection.
- (7) Subject to subsection (9), where an objection decision has not been served within the time specified under subsection (6), the person objecting may, by notice in writing to the Commissioner, elect to treat the Commissioner as having made a decision to allow the objection.
- (8) Where a person makes an election under subsection (7), the person is treated as having been served with notice of the objection decision on the date the person's election is lodged with the Commissioner.
- (9) The time limit for making an objection decision is waived where a review of a taxpayer's records is necessary for settlement of the objection and the taxpayer is notified.
- (10) Where the Commissioner reviews the taxpayer records under subsection (9), the Commissioner shall within the time specified in subsection (6) notify the taxpayer of the review.

## **25. Review of an Objection Decision**

- (1) A person dissatisfied with an objection decision may, within 30 days after being served with a notice of the objection decision, lodge an application with the Tax Appeals Tribunal for review of the objection decision.
- (2) A person dissatisfied with a decision of the Tribunal may, within 30 days after being served with a notice of the decision, lodge an application with the High Court for review of the decision.

## **26. Burden of Proof**

In any proceeding under this Act—

- (a) for a tax assessment, the burden is on the taxpayer to prove that the assessment is incorrect; or
- (b) for any other tax decision, the burden is on the person objecting to the decision to prove that the decision should not have been made or should have been made differently.

## **PART VIII - COLLECTION AND RECOVERY OF TAX**

### ***Tax Collection***

#### **27. Payment of Tax**

- (1) The tax owing by a taxpayer for a tax period is payable on the date specified in the tax law under which the tax is payable.
- (2) An amount that is treated as tax for the purposes of this Act shall be collected by the Commissioner serving a notice of demand on the person liable for the amount.
- (3) The amount is payable on the date specified in the notice being a date that is not less than twenty eight days from the date of service of the notice.
- (4) The Commissioner may waive the amount or accept a lesser amount than is required to be paid under section 24 (3) where an objection has reasonably been made to a tax assessment.

#### **28. Extension of Time to Pay Tax**

- (1) A taxpayer may apply, in writing, to the Commissioner for an extension of time within which to pay tax that is due.
- (2) An application for an extension of time to pay tax shall be made by the due date for payment of the tax to which the application refers.
- (3) Where an application has been made under this section, the Commissioner may, having regard to the circumstances of the case and by notice in writing –
  - (a) grant the taxpayer an extension of time for payment of the tax; or
  - (b) require the taxpayer to pay the tax in such instalments as the Commissioner may determine.
- (4) Where tax is permitted to be paid by instalments and there is default in payment of any instalment, the whole balance of the outstanding tax becomes payable immediately.

- (5) Despite the grant of an extension of time or permission to pay tax by instalments, the liability for interest arises from the original due date for payment of the tax.

## **29. Tax as a Debt Due to the Government of Uganda**

- (1) Tax payable under a tax law is a debt due to the Government of Uganda and is payable to the Commissioner in the manner and at the place determined by the Commissioner.
- (2) The Commissioner may sue for and recover unpaid tax in a court of competent jurisdiction in Uganda.
- (3) In any suit under this section, the production of a certificate signed by the Commissioner stating the name and address of the taxpayer and the amount of tax payable is conclusive evidence of the amount of tax payable by the taxpayer unless the contrary is proved.

### *Enforced Tax Collection*

## **30. Collection of Tax from Persons leaving Uganda Permanently**

- (1) If the Commissioner has reasonable grounds to believe that a taxpayer may leave Uganda permanently without paying tax that is due, the Commissioner may issue a certificate containing particulars of the tax payable to the officer responsible for immigration control and request the Commissioner for Immigration to prevent that person from leaving Uganda until that person –
- (a) makes payment of the tax in full; or
  - (b) executes a financial bond guaranteeing payment of the tax.
- (2) A copy of a certificate issued under subsection (1) shall be served on the taxpayer named in the certificate if it is practicable to do so.
- (3) Payment of the tax specified in the certificate to a customs or immigration officer or the production of a certificate signed by the Commissioner stating that the tax has been paid or secured is sufficient authority for allowing the taxpayer to leave Uganda.

## **31. Recovery of Tax through Persons Owning Money to the Taxpayer**

- (1) This section applies where a person is, or will become liable to pay tax and –
- (a) the tax is unpaid; or

- (b) the Commissioner has reasonable grounds to believe that the taxpayer will not pay the tax by the due date for payment.
- (2) Where this section applies to a taxpayer, the Commissioner may, by notice in writing, require a person who –
- (a) owes or may subsequently owe money to the taxpayer;
  - (b) holds or may subsequently hold money, for or on account of, the taxpayer;
  - (c) holds money on account of some other person for payment to the taxpayer;  
or
  - (d) has authority from some other person to pay money to the taxpayer,
- to pay the amount specified in the notice to the Commissioner, being an amount that shall not exceed the amount of the unpaid tax or the amount that the Commissioner believes will not be paid by the taxpayer by the due date.
- (3) A person to whom a notice is served under subsection (2) shall pay the amount specified in the notice under subsection (2) by the date specified in the notice, being a date that is not before the date that the amount owed by the payer to the taxpayer becomes due to the taxpayer or held on the taxpayer's behalf.
- (4) If a notice served under subsection (2) requires a person to deduct amounts from salary, wages, or other similar remuneration payable at fixed intervals to the taxpayer, the amount required to be deducted by the person from each payment shall not exceed twenty percent of the amount of each payment of the pension, salary, wages, or other remuneration.
- (5) Where a person served with a notice under subsection (2) is unable to comply with the notice by reason of lack of moneys owing to, or held for the taxpayer, the person shall, as soon as is practicable and in any case before the payment date specified in the notice, notify the Commissioner accordingly.
- (6) If a notice is served on the Commissioner under subsection (5), the Commissioner shall, by notice in writing –
- (a) accept the notification and cancel or amend the notice issued under subsection (2); or
  - (b) reject the notification.
- (7) The Commissioner shall, by notice in writing to a person under this section, revoke or amend a notice served under subsection (2) if the taxpayer has paid the whole or

part of the tax payable or has made an arrangement satisfactory to the Commissioner for payment of the tax.

- (8) A copy of a notice served on a person under this section shall also be served on the taxpayer.
- (9) A person making a payment in accordance with a notice under subsection (2) is treated as acting under the authority of the taxpayer and of all other persons concerned and is indemnified in respect of the payment despite any provisions to the contrary in any written law, contract, or agreement.
- (10) The Commissioner must credit any amount paid by a person under this section against the tax owing by the taxpayer.
- (11) A person who does not comply with a notice issued under this section is personally liable for the amount specified in the notice which shall be treated and collected as unpaid tax under this Act.

## **32. Distress Proceedings**

- (1) The Commissioner or an officer authorised by the Commissioner in writing may issue an order, in writing, for the recovery of unpaid tax by distress and sale of the movable property of a taxpayer.
- (2) An order issued under subsection (1) shall specify –
  - (a) the taxpayer against whose property the order is issued;
  - (b) the amount of the unpaid tax liability;
  - (c) the property against which distress is to be executed and location of the property; and
  - (d) the tax liability to which the order relates.
- (3) For the purposes of executing distress under subsection (1), the Commissioner or an officer authorised by the Commissioner may –
  - (a) at any time, enter any premises described in the order for distress proceedings; and
  - (b) require a police officer to be present while the distress is being executed.
- (4) Any property subject to distress proceedings under this section shall be –



- (a) identified by the attaching of a notice stating:
 

“PROPERTY IMPOUNDED FOR NOT COMPLYING WITH TAX OBLIGATIONS BY ORDER OF THE COMMISSIONER GENERAL OF THE UGANDA REVENUE AUTHORITY UNDER SECTION 34 OF THE TAX PROCEDURES CODE ACT” and
  - (b) kept at the premises where the distress is executed or at any other place that the Commissioner or authorised officer may consider appropriate, at the cost of the taxpayer.
- (5) If the taxpayer does not pay the tax due and specified in the order under subsection (1), together with the costs of the distress –
- (a) in the case of perishable goods, within a period that the Commissioner or authorised officer considers reasonable having regard to the condition of the goods; or
  - (b) in any other case, within ten days after the distress is executed,
- the property subject to the distress proceedings may be disposed of by sale by public auction or in such other manner as the Commissioner or authorised officer may direct.
- (6) The proceeds of a disposal under subsection (5) shall be applied by the Commissioner in the following order –
- (a) towards the cost of taking, keeping, and selling the property subject to distress proceedings;
  - (b) towards the payment of any tax, penalty, or interest owing by the taxpayer; and
  - (c) the remainder of the proceeds, if any, are to be paid to the taxpayer.
- (7) Where the proceeds of disposal are less than the sum of the costs of the distress and the tax payable, the Commissioner or authorised officer may recover the shortfall in accordance with this Part.

### 33. Temporary Closure of Business

- (1) The Commissioner or an officer authorised in writing by the Commissioner for the purposes of this section may notify a person in writing of the intention to close down part or the whole of the person’s business premises for default in paying a tax that is due and payable, within seven days from the date of the notice.

- (2) Where a taxpayer does not pay the tax due after service of a notice under subsection (1), the Commissioner or authorised officer may issue an order to close down part or the whole of the business premises of the taxpayer for a period not exceeding fourteen days.
- (3) The Commissioner or authorised officer may, at any time, enter any premises described in an order issued under subsection (2) for the purposes of executing the order and may require a police officer to be present while the order is being executed.
- (4) The Commissioner or an authorised officer shall affix in a conspicuous place at any entrance to the premises that have been closed in accordance with an order issued under subsection (2), a notice in the following words: –  
  
“TEMPORARILY CLOSED FOR FAILURE TO COMPLY WITH A TAX OBLIGATION”
- (5) If the tax due is satisfied during the period of closure, the Commissioner shall immediately remove the notice referred to in subsection (4).

#### **34. Charge over Immovable Property**

- (1) If a taxpayer who is the owner of land or a building in Uganda does not pay tax by the due date, the Commissioner may, by notice in writing, to the Registrar of Titles direct the Registrar that the land or buildings in the notice are the subject of a security for unpaid tax.
- (2) The Commissioner shall serve a copy of the notice on the taxpayer.
- (3) Upon receipt of the notice under subsection (1), the Registrar shall, without fee, register the directive as if it were an instrument of mortgage or charge on the land or building and that registration, subject to any prior mortgage or charge, operates in all respects as a legal mortgage or charge on that land or building to secure the amount of the unpaid tax.
- (4) Where a taxpayer does not pay the tax due within twelve months after receiving the copy of the notice under subsection (2) the Commissioner may commence distress proceedings against the land or building of the taxpayer.
- (5) Upon receipt of the full amount of tax secured under this section, the Commissioner shall notify the Registrar to cancel the entry made under subsection (3) and the Registrar shall, without fee, cancel the entry.
- (6) This section does not preclude the Commissioner from registering a caveat on the land or building as an interim measure to stop the transfer of the land or building.

**35. Seizure of Goods**

- (1) The Commissioner or a tax officer authorised in writing by the Commissioner may seize any goods in respect of which there are reasonable grounds to believe that the tax payable in respect of the supply, removal or import of the goods has not been paid.
- (2) Goods seized under subsection (1) shall be stored in a place approved by the Commissioner or authorised officer for the storage of seized goods.
- (3) Upon seizing the goods, the person seizing the goods shall obtain a written statement from the owner or the person who has custody or control of the goods at the time of the seizure, specifying the quantity and quality of the goods.
- (4) Subject to subsection (5), where goods are seized under this section, the Commissioner or authorised officer shall, within ten days after the seizure, serve on the owner of the goods or the person who has custody or control of the goods immediately before the seizure, a notice –
  - (a) identifying the goods;
  - (b) stating that the goods have been seized under this section and the reason for the seizure; and
  - (c) setting out the terms for the release or disposal of the goods.
- (5) Where after making reasonable enquiries, the Commissioner does not have sufficient information to identify the person on whom a notice under subsection (4) should be served, the Commissioner or authorised officer may serve the notice on a person claiming the goods, but that person must give sufficient information to enable the notice to be served.
- (6) The Commissioner or authorised officer may authorise the release of any goods seized under subsection (1) to the person on whom a notice under subsection (4) has been served where that person has paid, or gives security for the payment of the tax assessed as payable or the tax that will become payable in respect of the supply, removal, or import of the goods.
- (7) If the proceeds of disposal are less than the sum of the costs of the seizure and the tax payable, the Commissioner or authorised officer may recover the shortfall in accordance with this Part.
- (8) Subject to subsection (6), the Commissioner shall retain the goods seized under subsection (1) –

- (a) in the case of perishable goods, for a period that the Commissioner or authorised officer considers reasonable having regard to the condition of the goods; or
  - (b) in any other case, until the later of –
    - (i) ten days after the seizure of the goods; or
    - (ii) ten days after the date on which payment of the tax is due in respect of the supply, or import of the goods.
- (9) Upon expiry of the period specified in subsection (8), the Commissioner or an authorized officer may sell the goods in the manner specified in section 32(5) and apply the proceeds of sale as set out in section 32(6).

### **36. Security for Unpaid Tax**

The Commissioner may require a taxpayer, by notice in writing, to give security by bond, deposit, or otherwise satisfactory to the Commissioner, for the payment of tax that may become payable, if there is reason to believe that –

- (a) a taxpayer establishing a business in Uganda intends to carry on the business for a limited time only; or
- (b) a taxpayer may not pay tax when it becomes payable.

### **37. Priority of Withholding Tax and VAT**

- (1) The following amounts are held in trust for the Government by the person receiving or withholding the amount –
- (a) if the person is a taxable person under the Value Added Tax Act, the VAT on taxable supplies made by the person, net of any input tax credit allowed; and
  - (b) withholding tax.
- (2) Despite any other enactment, withholding tax withheld or deducted by a person –
- (a) shall not be subject to attachment in respect of any debt or liability of the person;
  - (b) is a first charge on the payment or amount from which the tax is withheld or deducted; and

- (c) shall be withheld or deducted prior to any other deduction that the person may be required to make from the payment or amount under an order of any court or any other law.
- (3) Where the Commissioner is satisfied that tax has been overpaid, the Commissioner shall –
  - (a) apply the excess in reduction of any other tax due from the taxpayer;
  - (b) apply the balance of the excess, if any, in reduction of any outstanding liability of the taxpayer to pay other taxes not in dispute or to make provisional tax payments during the year of income in which the refund is to be made; and
  - (c) refund the remainder, if any, to the taxpayer.

### **38. Order of Payment**

- (1) When a taxpayer is liable for penal tax and interest in relation to a tax liability and the taxpayer makes a payment that is less than the total amount of tax, penal tax, and interest due, the amount paid is applied in the following order –
  - (a) in payment of the tax liability;
  - (b) in payment of penal tax; and
  - (c) the balance remaining is applied against the interest due.
- (2) If a taxpayer has more than one tax liability at the time a payment is made, subsection (1) applies to the earliest liability first.

### *Interest on Late Payments*

### **39. Recovery of Interest on Unpaid Tax**

- (1) Interest payable on unpaid tax under a tax law shall be collected by the Commissioner in accordance with this Act as if it were unpaid tax.
- (2) Interest paid by a person under subsection (1) shall be refunded to the person to the extent that the principal amount to which the interest relates is found not to have been payable.
- (3) Interest payable by a person –

- (a) in respect of withholding tax payable by the person; or
- (b) in respect of an amount referred to in section 14(7) or 31 which is payable by the person,

is borne personally by the person and is not recoverable from any other person.

## **PART IX - REMISSION OF TAX**

### **40. Remission of Tax**

- (1) Where the Commissioner is of the opinion that the whole or any part of the tax payable under a tax law by a taxpayer cannot be effectively recovered by reason of hardship, impossibility, undue difficulty or the excessive cost of recovery, the Commissioner may refer the taxpayer's case to the Minister.
- (2) Where a taxpayer's case is referred to the Minister under subsection (1) and the Minister is satisfied that the tax due cannot be effectively recovered, the Minister may remit in whole or part the tax payable by the taxpayer.
- (3) For the purposes of this section "tax" includes interest and penal tax.

## **PART X - INVESTIGATIONS**

### **41. Access to Premises, Records and Data Storage Devices**

- (1) For the purposes of administering any provision of a tax law, the Commissioner –
  - (a) shall have at all times and without prior notice, full and free access to –
    - (i) any premises or place;
    - (ii) any record, including a record in electronic format; or
    - (iii) any data storage device;
  - (b) may make an extract or copy from any record, including a record in electronic format, of any information relevant to a tax obligation;
  - (c) may seize any record that, in the opinion of the Commissioner, affords evidence which may be material in determining the correct tax liability of any person;
  - (d) may seize a data storage device that may contain data relevant to a tax obligation; and

- (e) may retain any record or data storage device seized under this section for as long as it is required for determining a taxpayer's tax obligation and liability, including any proceedings under this Act.
- (2) The Commissioner may require a police officer to be present for the purposes of exercising powers under this section.
- (3) The occupier of the premises or place in which an exercise of power under subsection (1) relates shall provide all reasonable assistance and facilities necessary for the effective exercise of the power including –
  - (a) answering questions relating to the investigation to which the exercise of power relates orally or in writing; or
  - (b) providing access to decryption information necessary to decrypt data to which access is sought under this section.
- (4) A person whose records or data storage device have been seized and retained under this section may access and examine them, including making copies or extracts from them under supervision as the Commissioner may determine.
- (5) The Commissioner shall sign for all records or data storage devices seized and retained under this section.
- (6) Where any record or data storage device seized and retained under this section is lost or destroyed while in the possession of the Commissioner, the Commissioner shall appropriately compensate the owner for the loss or destruction.
- (7) This section has effect despite –
  - (a) any law relating to privilege or the public interest with respect to access to premises or places, or the production of any property or record, including in electronic format; or
  - (b) any contractual duty of confidentiality.

#### **42. Notice to Obtain Information or Evidence**

- (1) The Commissioner may, for the purpose of administering any provision of a tax law, require any person, by notice in writing, whether or not liable for tax –
  - (a) to furnish, within the time specified in the notice, any information that may be stated in the notice; or

- (b) to attend at the time and place designated in the notice for the purpose of being examined by the Commissioner concerning the tax affairs of that person or any other person, and for that purpose the Commissioner may require the person to produce any record, including an electronic format, in the control of the person.
- (2) If a notice under subsection (1) is unable to be served on a person in accordance with section 48, the notice may be published in any widely circulated newspaper in Uganda and publication in such newspaper is treated as service for the purposes of this section.
- (3) The Commissioner may require the information referred to in subsection (1) to be –
  - (a) given on oath and, for that purpose, the Commissioner may administer the oath; or
  - (b) verified by statutory declaration or otherwise.
- (4) This section has effect despite –
  - (a) any law relating to privilege or the public interest with respect to access to premises or places, or the production of any property or record, including in electronic format; or
  - (b) any contractual duty of confidentiality.

## **PART XI - TAX CLEARANCE CERTIFICATES**

### **43. Tax Clearance Certificate**

- (1) A taxpayer providing a passenger transport service; or a freight transport service with a goods vehicle with a capacity of two tonnes or more, shall if required by the Transport licensing Board, obtain a tax clearance certificate from the Commissioner as proof of compliance with the taxpayer's obligations.
- (2) A taxpayer providing ware housing or clearing and forwarding services shall obtain a tax clearance certificate from the Commissioner as proof of compliance with the taxpayer's obligations.
- (3) A taxpayer supplying goods or services to the Government shall obtain a tax clearance certificate from the Commissioner as proof of compliance with the taxpayer's tax obligations.
- (4) Any person who requires a tax clearance certificate shall apply to the Commissioner for the certificate as proof of tax compliance.



**PART XII - PRACTICE NOTES AND RULINGS***Practice Notes***44. Practice Notes**

- (1) The Commissioner may issue practice notes setting out the Commissioner's understanding of the application of a provision in a tax law.
- (2) The Commissioner shall issue a practice note by publishing a notice of the practice note in the Gazette.
- (3) A practice note issued under this Act is binding on the Commissioner until it is revoked by the Commissioner.
- (4) A practice note applies from the date specified in the notice and if no date is specified, from the date of publication in the Gazette.
- (5) The Commissioner may revoke a practice note, in whole or part, by publishing a notice of the revocation in the Gazette or in any widely circulated newspaper.
- (6) A practice note that has been revoked in whole or in part shall -
  - (a) continue to apply to a transaction commenced before the practice note is revoked; and
  - (b) not apply to a transaction commenced after the practice note is revoked to the extent that the practice note is revoked.

*Private Rulings***45. Private Rulings**

- (1) Subject to subsection (2), the Commissioner may, upon application in writing by a taxpayer, issue to the taxpayer a private ruling setting out the position of the Commissioner regarding the application of a provision in a tax law to a transaction entered into or proposed to be entered into by the taxpayer.
- (2) The Commissioner may reject an application for a private ruling if -
  - (a) the Commissioner has already decided the matter that is the subject of the application in a tax assessment;
  - (b) the Commissioner is of the opinion that an existing practice note adequately covers the matter that is the subject of the application;

- (c) the application relates to a matter that is the subject of a tax audit or an objection;
  - (d) the application is frivolous or vexatious;
  - (e) the transaction to which the application relates has not been carried out and there are reasonable grounds to believe that it will not be carried out;
  - (f) the applicant has not provided the Commissioner with sufficient information to make a private ruling; or
  - (g) in the opinion of the Commissioner, it would be unreasonable to comply with the application having regard to the resources needed to comply.
- (3) Where a taxpayer has made a full and true disclosure of the nature of all aspects of the transaction relevant to the ruling and the transaction has proceeded in all material respects as described in the taxpayer's application for the ruling, the ruling is binding on the Commissioner in relation to the taxpayer to whom the ruling has been issued.
- (4) A private ruling is not binding on the taxpayer to whom it is issued.
- (5) Where a private ruling is inconsistent with an existing practice note, the private ruling has priority to the extent of the inconsistency.
- (6) Where the Commissioner rejects an application for a private ruling, the Commissioner shall notify the taxpayer in writing.
- (7) A private ruling is issued by serving a written notice of the ruling on the applicant and the ruling shall set out the matter ruled on, identifying –
- (a) the taxpayer;
  - (b) the tax law relevant to the ruling;
  - (c) the tax period to which the ruling applies;
  - (d) the transaction to which the ruling relates; and
  - (e) any assumptions on which the ruling is based.
- (8) The Commissioner may revoke a private ruling in whole or in part by written notice served on the taxpayer to whom the ruling is issued.
- (9) A private ruling is not a tax decision for the purposes of this Act.

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**PART XIII - TAX OFFICERS****46. Delegation**

- (1) Subject to this Act, the Commissioner may, by written instrument, delegate to a tax officer, an accounting officer of a local government or Kampala Capital City Authority any duty, power, or function conferred or imposed on the Commissioner under a tax law, other than the power to compound offences under section 66 and the power to delegate conferred by this section.
- (2) A reference in a tax law to the Commissioner includes, in respect of the exercise of a power or performance of a function delegated to a tax officer, a reference to the tax officer.
- (3) A delegation under this section is revocable at will and does not prevent the exercise of a power or performance of a function by the Commissioner.

**47. Confidentiality**

- (1) A tax officer shall regard as secret and confidential all information and documents received in performance of duties as a tax officer.
- (2) A person appointed under, or employed in carrying out the provisions of a tax law shall not disclose any information or produce any document which has come into the person's possession or knowledge in connection with the performance of duties under a tax law except as may be necessary for the purpose of giving effect to the provisions of a tax law.
- (3) Nothing in this section prevents the disclosure of information or any document to –
  - (a) a court or the Tribunal where the disclosure is required for the purposes of a tax law;
  - (b) the Minister or any other person if the disclosure is necessary for the purposes of a tax law;
  - (c) a person in the service of the Government in a revenue or statistical department if such disclosure is necessary for the performance of the person's official duties;
  - (d) the Auditor-General or any person authorised by the Auditor-General if disclosure is necessary for the performance of official duties; or
  - (e) the competent authority of the government of another country with which Uganda has entered into an agreement for the avoidance of double

taxation or for the exchange of information, to the extent permitted under that agreement.

- (4) A person receiving documents and information under subsection (2) or (3) is required to keep them secret under the provisions of this section, except to the minimum extent necessary to achieve the purpose for which the disclosure is necessary.
- (5) Documents and information obtained by the Commissioner in the performance of the Commissioner's duties and powers under a tax law may be used by the Commissioner for the purposes of any other tax law.
- (6) This section shall continue to apply to a former tax officer or person formerly appointed or employed under a tax law as it applies to a tax officer.

## **PART XIV - PENAL TAX**

### *Penal Tax*

#### **48. Penal Tax for Default in Furnishing a Tax Return**

A person who fails to furnish a tax return by the due date, or within a further time allowed by the Commissioner under this Act is liable to pay a penal tax equal to 2 percent of the tax payable under the return before subtracting any credit allowed to the taxpayer on his or her tax return or ten currency points per month, whichever is higher, for the period the return is outstanding.

#### **49. Penal Tax for Failing to Maintain Proper Records**

A person who deliberately fails to maintain proper records as required under a tax law for a tax period is liable to pay a penal tax equal to double the amount of tax payable by the person for the period to which the failure relates.

#### **50. Penal Tax for Making False or Misleading Statements**

Where a person knowingly or recklessly –

- (a) makes a statement to an officer of the Uganda Revenue Authority that is false or misleading in a material particular; or
- (b) omits from a statement made to an officer of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular, and the tax properly payable by the person exceeds the tax that was assessed as payable based on the false or misleading statement or omission, that person is liable to pay a penal tax equal to double the amount of the excess.

**51. Penal Tax for Understating Provisional Tax Estimates**

- (1) A provisional taxpayer, whose estimate or revised estimate of chargeable income for a year of income is less than ninety percent of the taxpayer's actual chargeable income assessed for that year, is liable to penal tax equal to twenty percent of the difference between the tax calculated in respect of the taxpayer's estimate, or as revised, of chargeable income and the tax calculated in respect of ninety percent of the taxpayer's actual chargeable income for the year of income.
- (2) A provisional taxpayer whose estimate or revised estimate of gross turnover for a year of income is less than ninety percent of the taxpayer's actual gross turnover for that year is liable to penal tax equal to twenty percent of the difference between the tax calculated in respect of the taxpayer's estimate, or as revised, of gross turnover and the tax calculated in respect of ninety percent of the taxpayer's actual gross turnover for the year of income.
- (3) This section does not apply to a taxpayer who is in the business of agricultural, plantation, or horticultural farming.

**52. Penalty for Failing to Apply for Registration**

- (1) A person who does not apply for registration as required under a tax law is liable to a default penalty equal to the higher of –
  - (a) double the amount of tax payable during the period commencing on the last day of the application period until the person files an application for registration with the Commissioner or the Commissioner registers the person on the Commissioner's own motion; or
  - (b) fifty currency points.
- (2) The penalty imposed under this section shall be recovered and collected by the Commissioner as if it were unpaid tax.

**53. Recovery of Penal Tax**

- (1) Liability for penal tax is calculated separately in respect of each section dealing with penal tax.
- (2) A person is liable for penal tax if the Commissioner serves notice on the person of a demand for the penal tax setting out the amount of penal tax payable and the due date for payment being a date that is not less than twenty eight days from the date of service of the notice.

- (3) Penal tax shall not be imposed on a person for an act or omission if the person has been convicted of an offence for the same act or omission.
- (4) Where penal tax has been paid and criminal proceedings are instituted in respect of the same act or omission, the Commissioner shall refund the amount of penal tax paid.
- (5) Where good cause is shown, in writing, by the person liable to pay penal tax, the Minister may, on the advice of the Commissioner, remit in whole or part, any penal tax payable.
- (6) Penal tax is treated as unpaid tax for the purposes of this Act and shall be recovered and collected as unpaid tax.

## **PART XV - OFFENCES**

### **54. Failing to Furnish a Tax Return**

- (1) A person who does not furnish a tax return by the due date, or within such further time as the Commissioner may allow, commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.
- (2) Where a person convicted of an offence under subsection (1) fails to furnish the return to which the offence relates within the period specified by the court, the person commits another offence and is liable on conviction to a fine not exceeding fifty currency points.

### **55. Failure to Comply with Obligations under this Act**

- (1) A person who does not –
  - (a) comply with a notice served on the person under section 31;
  - (b) comply with a notice served on the person under section 18(2);
  - (c) provide reasonable facilities and assistance as required under section 41;
  - (d) comply with a notice served on the person under section 42;
  - (e) get a tax clearance certificate prior to performing an act specified in section 43; or
  - (f) comply with sections 11, 13, 47 or 72,

commits an offence and is liable on conviction to a fine not exceeding twenty-five currency points.

- (2) A person who notifies the Commissioner in writing under section 31(5) is considered to be in compliance with any notice served on the person under section 31(2) until the Commissioner serves the person with a notice under section 31(6) amending the notice served under section 31(2) or rejecting the person's notice under section 31(5).

## **56. Failure to Maintain Proper Records**

A taxpayer who knowingly or recklessly does not maintain records as required under a tax law commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or to imprisonment not exceeding two years or both.

## **57. Use of false TIN**

- (1) A person who knowingly or recklessly uses a false TIN on a tax return or other document prescribed or used for the purposes of a tax law commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or to imprisonment not exceeding one year or both.
- (2) A person who uses a TIN of another person is treated as having used a false TIN, unless the TIN has been used in the circumstances specified in section 5(6).

## **58. Making False or Misleading Statements**

- (1) A person who knowingly or recklessly –
  - (a) makes a statement to a tax officer that is false or misleading in a material particular; or
  - (b) omits from a statement made to a tax officer any matter or thing without which the statement is false or misleading in a material particular,

commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or to imprisonment not exceeding two years or both.

- (2) Section 50 applies in determining whether a person has made a statement to a tax officer.

**59. Obstructing a Tax Officer**

A person who obstructs a tax officer in the performance of duties under a tax law commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or to imprisonment not exceeding two years or both.

**60. Aiding or Abetting a Tax Offence**

A person who aids, abets, counsels, or induces another person to commit an offence under a tax law, commits an offence and is liable on conviction for the same punishment as imposed for the principal offender.

**61. Offences Relating to Recovery of Tax**

A person who –

- (a) rescues any goods that are the subject of an order under section 32 that are in premises which are the subject of an order under section 33, or that have been seized under section 35;
- (b) before, during, or after any distress proceedings under section 32 or seizure of goods under section 35, staves, breaks or destroys any goods, or documents relating to any goods, to prevent –
  - (i) the seizure or the securing of the goods; or
  - (ii) the proof of an offence; or
- (c) enters premises which are the subject of an order under section 33 without the permission of the Commissioner,

commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years.

**62. Offences Relating to Registration**

A person who –

- (a) does not apply for registration as required under a tax law;
- (b) does not notify the Commissioner of a change in registration particulars or circumstances as required under a tax law; or
- (c) does not apply for cancellation of registration as required under a tax law,



commits an offence and is liable on conviction –

- (i) if the failure or act is done knowingly or recklessly, to a fine not exceeding fifty currency points or imprisonment not exceeding two years or both; or
- (ii) in any other case, a fine not exceeding twenty five currency points or imprisonment not exceeding one year or both.

### **63. Offences in Relation to Tax Officers**

(1) A tax officer who –

- (a) directly or indirectly asks for, or takes in connection with any of the officer's duties, a payment or reward, whether pecuniary or otherwise, or a promise or security for any payment or reward, not being a payment or reward which the officer is lawfully entitled to receive; or
- (b) enters into or acquiesces in any agreement to do any act or thing, abstain from doing any act or thing, permit or connive in the doing of any act or thing, or conceal any act or thing whereby the tax revenue is or may be defrauded or which is contrary to the provisions of a tax law or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years, or both.

(2) A person who –

- (a) directly or indirectly offers or gives to a tax officer any payment or reward, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the officer is lawfully entitled to receive; or
- (b) proposes or enters into any agreement with a tax officer in order to induce the officer to do any act or thing, abstain from doing any act or thing, connive at the doing of any act or thing, or concealing any act or thing by which tax revenue is or may be defrauded or which is contrary to the provisions of a tax law or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years, or both.

(3) A tax officer who commits an act specified in subsection (1) and who volunteers information to the Commissioner relating to that act is –

- (a) exonerated from prosecution; but
  - (b) is liable for twenty percent of the fine that would be imposed on a person convicted of an offence under subsection (1).
- (4) A person who commits an act specified in subsection (2), and who volunteers information to the Commissioner relating to that act is –
  - (a) exonerated from prosecution; but
  - (b) is liable for the amount of tax unpaid as a result of the agreement with the tax officer referred to subsection (2).
- (5) A tax officer convicted of an offence under subsection (1) is, in addition to any punishment imposed under that subsection, liable for the amount of tax unpaid as a result of the agreement with the tax officer referred to subsection (2).
- (6) A person who impersonates a tax officer commits an offence and is liable on conviction to a fine not exceeding fifty currency points or imprisonment not exceeding two years or both.

#### **64. Offences by Bodies of Persons**

- (1) When an offence under a tax law is committed by a company, the offence is treated as having been committed by a person who, at the time the offence is committed, is:–
  - (a) the chief executive officer, managing director, a director, company secretary, treasurer, or other similar officer of the company; or
  - (b) acting or purporting to act in that capacity.
- (2) Where an offence under a tax law is committed by a partnership, every partner at the time of the commission of the offence is treated as having committed the offence.
- (3) This section does not apply to a person if –
  - (a) the offence is committed without the consent or knowledge of a person specified under subsection (1), (2), or (3); and
  - (b) the person specified under subsection (1), (2), or (3) has exercised all diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the representative's functions and all other circumstances.

- (4) When an offence under a tax law is committed by an unincorporated association or body of persons, the offence is treated as having been committed by a person who, at the time the offence was committed, was:–
- (a) involved in the management of the unincorporated association or body of persons; or
  - (b) acting or purporting to act in that capacity.

**65. Tax Officer may appear on behalf of Commissioner**

- (1) Notwithstanding anything in any written law, a tax officer duly authorised in writing by the Commissioner may appear in any court on behalf of the Commissioner in any civil proceedings in which the Commissioner is a party.
- (2) Notwithstanding anything in any written law, a tax officer duly authorised in writing by the Commissioner may conduct any prosecution for an offence under this Act and for that purpose, the officer has all the powers of a public prosecutor appointed under section 42 of the Magistrates Courts' Act subject to the powers of Director of Public Prosecutions under article 120 of the Constitution.

**66. Compounding of Offences**

- (1) If a person has committed an offence under a tax law, other than under section 63, the Commissioner may, at any time prior to the commencement of court proceedings, enter into an agreement with the offender to compound the offence if the offender agrees to pay to the Commissioner –
  - (a) any unpaid tax; and
  - (b) an amount not exceeding the maximum fine imposed by the tax law for the offence.
- (2) The Commissioner may compound an offence under this section only if the offender admits, in writing, to committing the offence and requests the Commissioner to enter into a compounding agreement in relation to the offence.
- (3) If the Commissioner compounds an offence under this section, the compounding agreement in relation to the offence –
  - (a) shall specify the name of the offender, the offence committed, the sum of money to be paid, and the date for payment;
  - (b) shall have a copy of the written admission referred to in subsection (2) attached;

- (c) shall be served on the offender;
  - (d) is not subject to any appeal;
  - (e) may be enforced in the same manner as a decree of any court for the payment of the amount stated in the order; and
  - (f) on production to any court, is treated as proof of the conviction of the offender for the offence specified.
- (4) Where the Commissioner compounds an offence under this section, the offender is not be liable for prosecution or penal tax in respect of the same act or omission that was the subject of the compounded offence.

#### **67. Tax Charged to be paid despite Prosecution**

The amount of any tax due and payable under a tax law by a taxpayer is not abated by reason only of the conviction or punishment of the taxpayer for an offence under any tax law, or for the compounding of such offence under section 66.

### **PART XVI - MISCELLANEOUS**

#### **68. Validity of Tax Decision**

The validity of a tax decision, a notice of a tax decision, or any other document purporting to be made or executed under a tax law is not –

- (a) affected by reason that any of the provisions of the tax law under which it is made have not been complied with;
- (b) quashed or deemed to be void or voidable for want of form; or
- (c) affected by reason of any mistake, defect, omission or commission in it.

#### **69. Rectification of a Mistake**

Where the Commissioner is satisfied that an order or decision made, or a document or notice issued contains an error which is apparent from the record and that the error does not involve a dispute as to the interpretation of the law or facts of the case, the Commissioner may, for the purpose of rectifying the error, amend the order, decision, document or notice at any time before the expiry of three years from the date of making or issuing the order, decision, document or notice.

**70. Forms, Notices, and Authentication of Documents**

- (1) Subject to section 47, a form, notice, tax return, statement, table, or any other document required or published by the Commissioner for the purposes of a tax law shall be in the form determined by the Commissioner.
- (2) The Commissioner shall make any document referred to in subsection (1) available to the public at the offices of the Authority and at other locations, or by mail or other means, determined by the Commissioner.
- (3) A notice or other document issued, served, or given by the Commissioner under a tax law is sufficiently authenticated if the name or title of the Commissioner, or an authorised tax officer, is printed, stamped, or written on the document.

**71. Approved or Prescribed Form**

- (1) A tax return, notice, or other document required to be furnished or lodged under a tax law is in the approved or prescribed form if
  - (a) it is in the form prescribed by the Commissioner for that type of tax return, notice, or document;
  - (b) it contains the information, including any attached documents required; and
  - (c) is signed as required by the form.
- (2) The Commissioner shall publish the prescribed forms in the gazette and a newspaper with wide circulation.

**72. Manner of Furnishing Documents or Service of Notices**

- (1) Except as provided in section 72, a tax return, application, notice, or other document required to be furnished by a taxpayer under a tax law shall be furnished by –
  - (a) personally delivering the document to an office of the Authority; or
  - (b) registered post to an office of the Authority,

and is treated as received by the Commissioner when acknowledged by stamping or other prescribed method, electronic or otherwise.

- (2) Except as otherwise provided in a tax law, a notice or other document required to be served by the Commissioner on a person for the purposes of a tax law is treated as sufficiently served on the person if –
- (a) personally served on the person;
  - (b) left at the person's registered office, place of business, or last known address as stated in any communication with the Commissioner;
  - (c) sent by registered post to the person's registered office, place of business, or last known address as stated in any communication with the Commissioner;  
or
  - (d) an electronic data message is transmitted to the person's known or registered electronic account.
- (3) Where a notice or other document is served by registered post, the notice or document is, in the absence of any proof to the contrary, treated as having been sufficiently served on the fourteenth day after the date of postage and, in proving service, it is sufficient to prove that the envelope containing the notice or other document was properly addressed and was posted.

### **73. Electronic Returns and Notices**

- (1) The Commissioner may establish and operate a procedure to be known as the electronic notice system, for the electronic furnishing of tax returns or other documents to the Commissioner and the electronic service of notices and other documents by the Commissioner.
- (2) For the purposes of subsection (1), the Commissioner may prescribe conditions for:–
- (a) the registration of taxpayers to participate in the electronic notice system;
  - (b) the issuing and cancellation of authentication codes to registered users;
  - (c) the tax returns and other documents that may be transmitted through the electronic notice system, including the format and manner in which they are to be transmitted;
  - (d) the correction of errors in or amendments to electronic returns or other documents;
  - (e) the use of the electronic notice system, including the procedure applicable if there is a breakdown or interruption in the system;

- (f) the use in any electronic transmission of symbols, codes, abbreviations, or other notations to represent any particulars or information required under a tax law; and
  - (g) any other matter for the proper functioning of the electronic notice system.
- (3) Where a tax return or other document of a registered user has been transmitted to the Commissioner through the electronic system using the authentication code assigned to a registered user,
- (a) with or without the authority of the registered user; and
  - (b) before the registered user applies to the Commissioner for cancellation of the authentication code,
- the return or other document is, for the purposes of the tax law under which it has been furnished, presumed to be furnished by the registered user unless the registered user proves the contrary.
- (4) A person who furnishes an electronic tax return or other document on behalf of another person must not divulge or disclose the contents of the return or document, or a copy of it, without the prior written consent of the Commissioner.

#### **74. Appeal from the Decision of the Committee**

Section 14 of the Tax Appeals Tribunal Act, cap 345 is amended by substituting for sub clause (1) the following –

- (a) a person who is aggrieved by a decision made under a taxing Act by the:–
  - (i) Uganda Revenue Authority; or
  - (ii) Committee established under the Tax Procedures Code Act, may apply to the tribunal for a review of the decision.

#### **75. Regulations**

- (1) The Minister may, by statutory instrument, make regulations –
  - (a) prescribing fees, or other matters required under this Act; or
  - (b) for the better carrying into effect of the provisions and purposes of this Act.
- (2) Without prejudice to the general effect of subsection (1), regulations made under that subsection may –

- (a) contain provisions of a saving or transitional nature subsequent to the coming into force of this Act; or
- (b) prescribe in respect of a contravention of the regulations –
  - (i) a penalty not exceeding a fine of one hundred twenty five currency points or imprisonment not exceeding one year or both;
  - (ii) in the case of the second or subsequent offence, a penalty not exceeding a fine of fifty currency points or imprisonment not exceeding two years or both;
  - (iii) in the case of a continuing offence, an additional fine not exceeding five currency points in respect of each day on which the offence continues; and
  - (iv) a requirement that the court must forfeit to the Government anything with which the offence was committed.

## **76. Amendment of Schedules**

- (1) The Minister may by statutory instrument with approval of the Cabinet amend Schedule 1.
- (2) The Minister may, by statutory instrument with the approval of Parliament amend Schedule 2 or 3.

## **77. Repeals**

- (1) The following provisions of the Income Tax Act are repealed –
  - (a) sections 92, 94-110;
  - (b) sections 129 and 131 to 135; and
  - (c) sections 137 to 162.
- (2) The following provisions of the Value Added Tax Act are repealed –
  - (a) Part VIII sections 31, 32 and 33;
  - (b) sections 33A to 40;
  - (c) sections 46 to 64;



- (d) sections 68 to 70A; and
- (e) sections 79 and 80.

## **78. Transitional Provisions**

- (1) A prosecution commenced before the commencement of this Act shall continue and be disposed of as if this Act had not come into force.
- (2) Where the period for making any application, appeal, or prosecution has expired before the commencement of this Act, nothing in this Act is to be construed as enabling the application, appeal, or prosecution to be made under this Act by reason only of the fact that a longer period is specified in this Act.
- (3) A tax liability that arose before the commencement of this Act may be recovered under this Act, but without prejudice to any action already taken for the recovery of the tax.
- (4) All forms and documents used under the tax laws specified in Schedule 2 may continue to be used until they are revoked under this Act and all references in those forms and documents to the tax laws under that Schedule are taken to refer to the corresponding provisions in this Act.

## **SCHEDULE 1**

Sec.3

### **Currency Point**

One currency point is equivalent to twenty thousand Shillings.

## **SCHEDULE 2**

Sec.2

### **Tax Laws**

For the purposes of this Act, a reference to tax law means –

- (a) this Act;
- (b) the Income Tax Act;
- (c) the Value Added Tax Act;

- (d) the Excise Duty Act;
- (e) Gaming Pool Betting (Control and Taxation) Act;
- (f) any other Act imposing a tax as the Minister, may by statutory instrument declare in accordance with section 76 (2).

### **SCHEDULE 3**

Sec.15

#### **Amount of Turnover in respect of which Audited Financial Statements are required**

Uganda Shillings 500,000,000 and above

#### **Cross References**

1. Income Tax Act, Cap 340
2. Tax Appeals Tribunal Act, Cap 345
3. Uganda Revenue Authority Act, Cap 196
4. Value Added Tax Act, Cap 349