



Income Tax (Amendment) Bill, 2021

The Hon. Minister of Finance, Planning & Economic Development tabled the Tax Amendment Bills, 2021. The bills are due for discussion and if passed into law, will take effect from 1st July 2021.

Please find below a brief of what is contained in the Income Tax (Amendment) Bill 2021, including our understanding of its implications and comments, if any.



Executive summary of key proposed amendments:

1. **Amendment of section 2;**
 - a) Widening the scope of the term “beneficial owner”
 - b) Insertion of the definition of consideration and
 - c) change in the definition of the exempt organization.
2. **Amendment of section 5, 22 and Part VI of Third Schedule;** - New provisions related to computation, allowability of expenses, and tax rates for rental income.
3. **Amendment of section 21.**
 - a) Discontinuation of exemption related to agro-processing businesses.
 - b) Widening the scope of strategic sectors
 - c) Introduction of additional exemption regime: USD 50 Million requirements as investment capital.
4. **Amendment of sections 27 and 29:** Reclassification of Classes of depreciable assets as well as Deferment of deduction (wear and tear) in the year in which initial allowance is claimed for depreciable assets and industrial buildings.
5. **Amendment of section 50:** Introduction of the benefit of Indexation to compute capital gains on business assets.
6. **Amendment of section 54;** Non-recognition of capital gains/losses for venture capital funds on fulfillment of specific conditions.
7. **Amendment of section 88;** Facilitation of automatic exchange of information (if provided in the international agreements) by the Commissioner, subject to regulations to be passed by the Minister.
8. **Insertion of section 93A;** Clarity in relation to the due date for payment of taxes.
9. **Amendment of section 113:** Deemed date to be considered as the date of submission for refund.
10. **Amendment of section 118B;** Including transactions of purchase of business/business asset by the resident from another resident in the category of withholding tax exemption for compliant taxpayers.
11. **Amendment of First Schedule:** Inclusion of African Export-Import Bank and International Union for Conservation of Nature.
12. **Amendment of Sixth Schedule:** Reclassifying depreciable assets into three (3) Classes as opposed to four (4) Classes since 1997.



Details of all the amendments with their implications and comments, if any.

1. Amendment of section 2 of principal Act

a) by substituting for the definition of “beneficial owner” the following

“(ea) “beneficial owner” means—

(a) a natural person who has final ownership or control of another person or a natural person on whose behalf a transaction is conducted, and includes a natural person who exercises absolute control over a legal person and includes—

(i) in relation to a legal person, the natural person who either directly or indirectly holds at least ten percent shares or voting rights;

(ii) the natural person exercising control of the legal person through other means including personal or financial superiority; and

(iii) the natural person who has power to make or influence a decision of the legal person;

(b) in relation to trusts includes—

(i) the settlor;

(ii) the trustee;

(iii) the protector;

(iv) the beneficiaries; and

(v) any other natural person exercising absolute control of the trust;

(c) in relation to other legal person similar to trusts, a natural person holding a position equivalent any of the positions referred to in subparagraph (b);”

Implications/Comments

With proposed changes to the definition, any ambiguity or uncertainty that might have occasioned in 2019, is addressed, in addition to specifying the different qualifying criteria for a beneficial owner, such as the percentage of shareholding, influence on transactions as well as personal or financial superiority.

b) inserting immediately after the definition of “company” the following

“(na) “consideration” includes the total amount in money or of payment in kind, paid or payable for the supply of goods, services, or sale of land by any person, directly or indirectly, including any duties, levies, fees, and charges other than tax paid or payable on, or by reason of, the supply, reduced by any discounts or rebates allowed and accounted for at the time of the supply or sale;”

Comments

With the introduction of the definition, it is clarified that “the consideration” will include amounts paid or payable as well as goods or services delivered in kind as part of the consideration.

(c) by substituting for subparagraph (B) of paragraph (bb) (i) the following—

“(B) a religious, charitable or educational institution whose object is not for profit;”.

Implications

The proposal to amend the definition of the exempt organization by including “not for profit”, shall pave the way for solving irregularities in the operationalization of exemptions of qualifying bodies, as the term “public character” is still a subject of different interpretation among different stakeholders.



2. Amendment of Section 5: New provisions related to computation of rental income

Section 5 of the Principal Act is amended by inserting immediately after subsection (2) the following

“(2a) For the purposes of subsection (2), a person who earns rental income from more than one rental building shall account for the income and expenses of the rental buildings separately and shall pay tax for each of the rental buildings separately.

Implications

The chargeable rental income of each property will be computed separately and taxed accordingly.

Comments

This amendment was initially tabled before the Parliament in 2019 also. As the same was not passed into law, policymakers are seeking to engage the legislature again by proposing the same changes in Income Tax (Amendment) Bill 2021.

In our opinion, this proposal is once again bound to create some upheaval from developers and real estate businesses due to the following.

- a) It is bound to present administrative difficulties since taxpayers shall have to develop policies for apportioning common expenses to each property.
- b) The administrative burden on the URA will also increase as it will be tasked with designing complex forms for taxpayers to account for income, expenses, profit/losses, and income taxes for each property separately.

3. Amendment of section 21 of principal Act

Section 21 of the principal Act is amended in subsection (1)—

(a) by repealing paragraph (z);

Implications

A proposal to repeal income tax exemption related to agro-processing has been tabled. If passed into law, taxpayers who have made investments in the past (before insertion of Section 21(1)(af) shall not be entitled to income tax exemptions effective July 1, 2021.

Comments

Taxpayers engaged in processing of agricultural goods are now eligible for income tax exemption under Section 21(1)(af) of the Income Tax Act (ITA), subject to fulfilment of conditions related to the amount of investments (depending upon citizen or foreigner), use of locally sourced materials, employment of citizens and their earnings.

Therefore, it appears that repealing Section 21(1)(z) is to avoid the same business getting exemptions in two different subsections.

It appears that policymakers have forgotten to repeal Section 21(1)(za), which is directly related to Section 21(1)(z).

(b) by inserting immediately after paragraph (af) (vi) the following—

“(vii) manufactures chemicals for agricultural use, industrial use, textiles, glassware, leather products, industrial machinery, electrical equipment, sanitary pads and for diapers.”;

Implications/comments

The proposal to widen the scope of the exemption to the above strategic sectors is a welcome move. However, some of the terms under the strategic sectors have been subject to interpretation controversy. As such, the lawmakers should come up with more refined definitions like in the Customs Tariff to avoid any misinterpretation.



(c) by inserting immediately after paragraph (ah) the following—

“(ai) the income of a manufacturer, other than a manufacturer referred to in paragraph (af), whose investment capital is, for over a period of at least ten years from the date of commencement of business, at least fifty million United States Dollars or in the case of any other manufacturer, from the date on which the manufacturer makes an additional investment equivalent to fifty million United States Dollars who has—

- (i) capacity to at least use fifty percent of the locally produced raw materials, subject to availability; and
- (ii) capacity to employ a minimum of one hundred citizens;”;

(d) in subsection (1a), by substituting for the phrase “21 (1) (ae) and (af)” the phrase “21 (1) (ae), (af) and (ai)”;

(e) in subsection (1d), by inserting immediately after the phrase “(1) (af)”, the phrase “and (ai)”.

Implications

The bill seeks to introduce a “general exemption” up and above the exemption attached to the strategic sectors. Manufacturers whose investment capital over a period of 10 years is at least USD 50 million shall be accorded income tax exemption, subject to qualifying criteria as stated in the above-proposed amendment.

Comments

In our opinion, the investment cap for the general exemption is very high and shall render the exemption difficult to be accessed by potential investors.

4. Amendment of section 22: Fixed percentage allowed as expenditure or losses to derive rental income

Section 22 of the principal Act is amended in subsection (1) by substituting for paragraph (c) the following—

“(c) in case of rental income, sixty percent of the rental income as expenditure and losses incurred by a person in the production of such income;”.

Implications/Comments

For rental income, fixed 60% of gross rental income would be allowed as expenditure and losses for both individuals and non-individuals. With the change in the applicable income tax rate of 30% (As per the proposed amendment in Part VI of Schedule Three), the effective tax rate on gross rental income shall be 12% for both individuals and non-individuals.

The proposed amendment seeks to remove the disparity in the computation of chargeable rental income and percentage of tax payable, between individuals and non-individuals.

5. Amendment of section 27 and 29: Reclassification of Classes of depreciable assets as well as Deferment of deduction (wear and tear) in the year in which initial allowance is claimed for depreciable assets and industrial buildings

Section 27 of the principal Act is amended in subsection (2)—

(a) by substituting for the word “four” the word “three”;

Implications

If passed into law, effective July 2021, all the depreciable assets will be classified into three classes, as opposed to four Classes. The details are given in Point 13 (Amendment of Sixth Schedule)

Comments

What is not clarified is what will happen to the unutilized balance in the old class of 35%?

(b) inserting immediately after subsection (15) the following

“(16) Subject to subsection (4), a deduction for the depreciation of an asset that qualifies for initial allowance under section 27A (1) shall be deferred to the next year of income.

Section 29 of the principal Act is amended by inserting immediately after subsection (1) the following—

“(1a) Subject to subsection (1), a deduction for the depreciation of an industrial building that qualifies for initial allowance under section 27A (4) shall be deferred to the next year of income.

Implications/Comments

Taxpayers will not be able to claim depreciation and industrial building allowance in the same year of investment in qualifying assets. It means that in the year of investment in qualifying assets, taxpayers will claim only initial allowance and from Year 2, they will be eligible for depreciation and industrial building allowance.

6. Amendment of section 50: Introduction of the benefit of Indexation to compute capital gains on business assets.

Section 50 of the principal Act is amended by inserting immediately after subsection (2), the following—

“(3) 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, the cost base of the asset is calculated on the basis that each item of cost or expense included in the cost base shall be determined according to the following formula—

CB x CPID

CPIA where—

CB is the amount of an item of cost or expense Incurred determined in accordance with section 52 (2);

CPID is the Consumer Price Index number published for the calendar month of sale; and

CPI A 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.

(4) Subsection (3) shall not apply to an asset that is sold within twelve months from the date of purchase.”

Implications

A proposed amendment to Section 50 of the ITA seeks to adjust the cost base of an asset (Section 52) by accounting for the inflation effect on each item of cost or expense included in the cost base of the asset.

However, the above does not apply to assets that are sold within twelve months from the date of purchase.

Comments

We have been pitching for this amendment since the last many years and this proposed amendment is a significant boost to the taxpayers, who so far have been suffering heavy tax on capital gain, without the benefit of indexation to the cost base of the assets.

If passed into law, it will rationalize capital gain after eliminating the effect of inflation (which is measured and published as Consumer Price Index in Uganda).

7. Amendment of section 54: Non-recognition of capital gains/losses for venture capital funds on fulfilment of specific conditions

Section 54 of the principal Act is amended—
a) in subsection (1) by inserting immediately after paragraph (d) the following—

“(e) capital gains arising from the sale of investment interest of a registered venture capital fund if at least fifty percent of the proceeds on sale is reinvested within the year of income;” and

(b) by inserting immediately after subsection (1) the following—

“(1a) Notwithstanding subsection (1) (e), a registered venture capital fund shall be entitled to a nonrecognition of a gain or loss equivalent to the percentage of reinvested proceeds.”

Implications

Full gains/losses derived by venture capital funds from the sale of investment interest would be out of the scope of capital gains, as long as 50% of proceeds are reinvested within the year of income. If below 50% are reinvested, equivalent to the percentage of reinvestments, the gain/losses would be out of the scope of capital gains.

Comments

The business model of venture capital funds is tagged to the pooling of funds from different investors seeking an equity holding in startups as well as SMEs (small and medium-sized entities). As Uganda was ranked as the number one entrepreneurial country in the world, the need for startup finance is bound to increase. By introducing such an incentive to the ITA, it shall provide a much-needed incentive to venture capital funds to set up in the country.

8. Amendment of section 88: Facilitation of automatic exchange of information (if provided in the international agreements) by the Commissioner, subject to regulations to be passed by the Minister

Section 88 of the principal Act is amended by inserting immediately after subsection (3) the following—

“(3a) Where an international agreement provides for automatic exchange of information for tax purposes, the Commissioner shall facilitate the automatic exchange of information, as may be prescribed.

(3b) For the purposes of subsection (3a), the Minister may make regulations to provide for the automatic exchange of information for tax purposes.”

Implications/Comments

As Uganda has voluntarily committed to Automatic Exchange of Information (AEOI) of OECD from 2023, amendments are proposed to allow the commissioner to facilitate the exchange of information, as may be prescribed by the Minister through regulations.

AEOI exists to reduce global tax evasion and there will be a significant positive impact of the same, as it will allow and facilitate the competent authorities of respective countries to receive information about their citizens and residents from other countries without requesting for it.

9. Insertion of section 93A: Due date for payment of taxes

The principal Act is amended by inserting immediately after section 93 the following—

“93A. Due date for payment of tax

The tax due under this Act shall be payable—

(a) in the case of a taxpayer subject to section 20 of the Tax Procedure Code Act, 2014, on the due date for furnishing of the return of income to which the assessment relates; and

(b) in any other case, within forty-five days from the date of service of the notice of assessment.”

Comments

The due date for self-assessed tax is proposed as the due date for filing a return to which the tax relates and in any other case, it is 45 days from the date of service of notice of assessment. This shall serve as the starting point of computation of interest in case of payment default by a taxpayer.

10. Amendment of section 113: Deemed date to be considered as the date of submission for refund

Section 113 of the principal Act is amended by inserting immediately after subsection (4) the following

“(4a) A taxpayer shall be deemed to have submitted an application for refund referred to in subsection (4), on the date on which the application is received by the Commissioner.

(4b) Notwithstanding the provisions of subsection (4a), where the Commissioner requests for additional information, the application for refund shall be deemed to have been submitted on the date on which the additional information is received by the Commissioner.”

Implications

Computation of interest payable to a taxpayer due to delayed processing of a tax refund shall be based on the date deemed to be the date on which the commissioner received the application.

Comments

It should be noted that the process of securing refunds from the URA is riddled with many administrative hurdles. The URA has not formalized or gazetted a specific list of default information to be submitted by taxpayers at the time of applying for refunds. The implication of the above is that it is the discretion of the tax officer to ask for information required, as well as determining the adequacy of the same. Without any guidelines, this means that at any time, a tax officer may issue different requests for information, and on each submission of such information, the deemed date of refund application shall keep on changing. Hence, it would be very difficult to determine the cause of delay in the processing of refund and taxpayers would normally suffer from less or non-receipt of interest on delayed refund from URA.

We comprehend that once a taxpayer has ably submitted all information deemed necessary to process a refund (gazetted), and URA acknowledges receipt and that date should be considered as the date of submission of refund application.

11. Amendment of section 118B: Including transactions of purchase of business/business asset by the resident from another resident in the category of withholding tax exemption for compliant taxpayers

Section 118B of the principal Act is amended by inserting immediately after subsection (2) the following—

“(2a) Subsection (2) shall not apply to a person who, the Commissioner is satisfied has regularly complied with the obligations imposed on that person under this Act.”

Implications

If a resident taxpayer, who is a seller of business or business asset and has received withholding tax exemption from commissioner under Section 119(5)(f)(ii), during the period when the transaction takes place, will not suffer withholding tax.

12. Amendment of First Schedule to principal Act: Inclusion of African Export-Import Bank and International Union for Conservation of Nature.

First Schedule to the principal Act is amended by inserting the following in the appropriate alphabetical position—

Comments:

(a) “African Export – Import Bank”; and

(b) “International Union for Conservation of Nature”.

Implications

The above two organizations will also be considered as ‘Exempt organization’ under ITA.

13. Amendment of Sixth Schedule:

Reclassifying depreciable assets into three (3) Classes as opposed to four (4) Classes since 1997. (as per table in subsequent slide)



Classification			Rate	
Class	Current	Proposed Amendment	Current	Proposed
1	Computers and data handling equipment	Computers and data handling	40%	40%
2	<ul style="list-style-type: none"> Automobiles; buses and minibuses 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 	Plant and machinery used in farming, manufacturing, and mining	35%	30%
3	<ul style="list-style-type: none"> Buses with a seating capacity of 30 or more passengers; goods vehicles designed to carry or pull loads of 7 tonnes or more, specialized trucks, tractors, trailers, a trailer mounted containers; plant and machinery used in manufacturing or mining operations 	<ul style="list-style-type: none"> Automobiles; buses, minibuses, goods vehicles, construction and earth moving equipment, specialized trucks, tractors, trailers and trailer mounted containers, rail cars, locomotives, and equipment; vessels, barges, tugs, and similar water transportation equipment; aircraft; specialized public utility plant, equipment, and machinery; office furniture, fixtures and equipment; any depreciable asset not included in another class." 	30%	20%
4	<ul style="list-style-type: none"> rail cars locomotives and equipment vessels, barges tugs and similar water transportation equipment office furniture, fixtures, and equipment any depreciable asset not included in any other class 	REPEALED	20%	N/A

How can we help you?

Whereas the above analysis is in respect of bills which are currently under discussion by the Parliament, Grant Thornton Taxation Service Limited is available to provide further guidance as well as interpretation on current laws wherever required.

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Disclaimer:

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VAT Tax (Amendment) Bill, 2021

The Hon. Minister of Finance, Planning & Economic Development tabled the Tax Amendment Bills, 2021. The bills are due for discussion and if passed into law, will take effect from 1st July 2021.

Please find below a brief of what is contained in the VAT Tax (Amendment) Bill 2021, including our understanding of its implications and comments, if any.



Executive summary of key proposed amendments:

1. **Amendment to Section 1:** Repealing Section 1(aa) - the definition of “biodegradable packaging material”.
2. **Amendment of Section 20:** Harmonizing exemption of VAT on Imported services with VAT on imported goods for supplies which are exempt in Uganda.
3. **Insertion of sub-section 28(14a):** Time Limit on claiming of the Input tax credit on tax invoices is limited to six months from the date of the invoice.
4. **Insertion of sub-section 31A(1a):** Modification of due date for filing of VAT returns for the service providers in certain mentioned industry sectors.
5. **Insertion of Section 45A:** Refund of 5% of VAT paid on purchases worth Ush 10 Million Shillings supported by E-Invoice or E-Receipt in case of a person other than a taxable person.
6. **Amendment of Section 65:** Repealing the words “Knowingly or recklessly.” From the body of Section 65.
7. **Amendment to First Schedule:** Addition of African Export-Import Bank” and “International Union for Conservation of Nature”.
8. **Amendment to Second Schedule:**
 - Repealing of VAT exemption in connection to certain services provided to hotel or tourism facility developer.
 - Repealing of VAT exemption on supply of production inputs to the taxpayers engaged in the business of iron ore smelting into billets, supply of billets for further value addition in Uganda, limestone mining and processing into clinker in Uganda, and supply of clinker for further value addition in Uganda.
 - Exemption on Supply of services in nature of feasibility study or design and construction to manufacturers whose investment is equivalent to fifty million United States Dollars.
9. **Amendment of Third Schedule:** Supply of leased aircraft, aircraft engines, spare parts for aircraft, aircraft maintenance equipment, and repair services would be considered as Zero-rated.



Details of all the amendments with their implications and comments, if any.

1. Amendment to Section 1 (aa): Repealing the definition of “biodegradable packaging material”

The Value Added Tax Act Cap. 349, in this Act referred to as the principal Act is amended in section 1 by repealing section 1(aa)

Implications/Comments

The exemption on supply of biodegradable packaging materials was repealed by VAT(Am) Act, 2012, and hence the definition of same in the Act was of no significance, therefore the entire definition of “biodegradable packaging materials” has been now proposed to be repealed.

2. Amendment of Section 20: Harmonizing exemption of VAT on Imported services with VAT on imported goods for supplies which are exempt in Uganda

The principal Act is amended—

*(a) by numbering section 20 as subsection (1);
(b) inserting immediately after subsection (1) the following—*

“(2) Import of a service is an exempt import if the service would be exempt had it been supplied in Uganda.”

Implications/Comments

The import of service was always considered as exempt import if the service would be exempt had it been supplied in Uganda, but this was covered under Section 20A, now this section has been repealed and the provisions of same are proposed to be clubbed with existing Section 20 (Exempt Import) keeping the overall implication unchanged.

3. Insertion of subsection 28(14a): Time Limit on claiming of Input tax credit on tax invoices

Section 28 of the principal Act is amended by inserting immediately after subsection (14) the following—

“(14a) A taxable person under this section shall apply for input tax credit within six months from the date of the invoice.”

Implications

Any taxable person would ONLY be entitled to claim the input tax credit concerning tax invoices that have not elapsed six months from the date of the invoice.

Comments

With this proposed amendment and E-Invoicing system already into place, the government aims to regulate the input tax credit mechanism and make it time-barred to streamline the compliances and also to eliminate deferred VAT input claims. To effectively implement the above, where hardships are not suffered by the taxpayers, an input tax credit matching mechanism should be available on web portal, which is updated every month.

4. Insertion of subsection 31A(1a): Modification of due date in the filing of VAT returns for the service providers in certain mentioned industry sectors

Section 31A of the principal Act is amended by inserting immediately after subsection (1) the following—

“(1a) Subject to subsection (1), a taxable person who supplies services under section 16(2), shall lodge a tax return with the Commissioner General within fifteen days after the end of three consecutive calendar months.”



Implications

Any taxable person who is providing services to a non-taxable person in Uganda and is engaged in providing services in connection to.

- Immovable property in Uganda;
- Radio or television broadcasting services received at an address in Uganda;
- Electronic Services delivered to a person in Uganda;
- Transfer, assignment, or grant of a right to use a copyright, patent, trademark, or similar right in Uganda;
- Telecommunication services other than those by a supplier of telecommunication services or services to a person who is roaming while temporarily in Uganda; -

will be allowed to file VAT return within fifteen days after the end of three consecutive calendar months (means the quarterly filing of VAT returns)

Comments

The proposed amendment aims to reduce the compliance burden on the above industry sectors, and also will help the players in the industry to manage their cash flow in a better manner, since now with this proposed amendment the deadline for payment of tax would be quarterly instead of monthly previously.

However, clarity will have to be sought as to whether the new proposal is applicable for all supplies made of the above nature, irrespective of it being made to taxable or non-taxable persons.

5. Insertion of subsection 45A: Refund of 5% of VAT paid on purchases worth ten million shillings supported by E-Invoice or E-Receipt in case of a person other than a taxable person

A person other than a taxable person who purchases goods or services from a taxable person and is issued with an electronic receipt or invoice or several electronic receipts or invoices worth ten million shillings within a period of thirty consecutive days, shall be entitled to a refund of five percent of the tax paid."

Implication/Comments

The proposed amendment is a step in a very positive direction to encourage purchases from the formal sector by giving incentives to ultimate consumers, which will also prompt them to apply for TIN and ultimately expanding the tax base. However, it would be interesting to see how this is implemented by URA, such as the time frame within which these refunds are due, is the taxpayer required to apply for this refund, or is automatic.

6. Amendment of Section 65: Repealing the words "Knowingly or recklessly." From the body of Section 65

Section 65 of the principal Act is amended in subsection (6) by repealing the words "knowingly or recklessly".

Implications/Comments

Any person who makes a statement or declaration to any officials of URA or omits from a statement to URA on basis of which the tax payable is under-assessed, false refund claim, or incorrect return filed, shall be liable to pay a penal tax equal to double the amount of the excess tax, refund, or claim.

With this proposed amendment, it does not matter whether any of the above statements were made knowingly or recklessly by a person and gives more powers to URA to enforce the above-mentioned penalty.

7. Amendment to First Schedule: Addition of African Export-Import Bank” and “International Union for Conservation of Nature”

Implications

African Export-Import Bank and International Union for Conservation of Nature will be able to claim the input tax credit as well as eligible for a cash refund.

8. Amendment to Second Schedule (Exempt supplies):

(a) by repealing subparagraphs (vv), (ww) and (xx);

Implications

NO VAT Exemption, on the supply of services to conduct a feasibility study design and construction, the supply of locally produced materials for construction of premises, infrastructure, machinery, and equipment or furnishings and fittings which are not manufactured on the local market to a hotel or tourism facility developer whose investment capital is USD 10 Million or to meetings, incentives, conferences and exhibition facility developer whose investment capital is not less than Three Hundred Thousand United States Dollars.

NO VAT Exemption on the supply of all production inputs into iron ore smelting into billets and the supply of billets for further value addition in Uganda.

NO VAT Exemption on the supply of all production inputs into limestone mining and processing into clinker in Uganda and the supply of clinker for further value addition in Uganda.

These will lead to an increase in the cost of inputs and ultimately the increase in construction or production costs to the sectors mentioned above.

(b) by inserting immediately after subparagraph (hhha), the following—
“(hhab) the supply of liquefied gas”;

Implications

The common man of the country may benefit from a reduction in the price of LPG; however, it is worthy to note that the above exemption is already in place by the VAT (Am) Act, 2020.



The Second Schedule to the principal Act is amended in paragraph 1—

(c) by inserting immediately after subparagraph (III) the following—

“(mmm) the supply of services to a manufacturer, other than a manufacturer referred to in subparagraph (pp) whose investment capital is at least fifty million United States Dollars, to conduct a feasibility study or to undertake design and construction, or in the case of any other manufacturer, from the date on which the manufacturer makes an additional investment equivalent to fifty million United States Dollars—

(i) who has capacity to use at least seventy percent of the raw materials that are locally sourced, subject to their availability; and

(ii) who has capacity to employ at least seventy percent of the employees that are citizens earning an aggregate wage of at least seventy percent of the total wage bill.”

Implications

The Government further proposes to provide exemption on selected inputs in form of feasibility study or design and construction to the manufacturers whose investment capital in a period of 10 years would be at least USD 50 million.

Comments

Though the exemptions provided to the manufacturers whose investment capital is more than USD 50 million are welcome, however, since construction materials have been kept out of VAT exemption ambit, the cost of construction would still be higher.

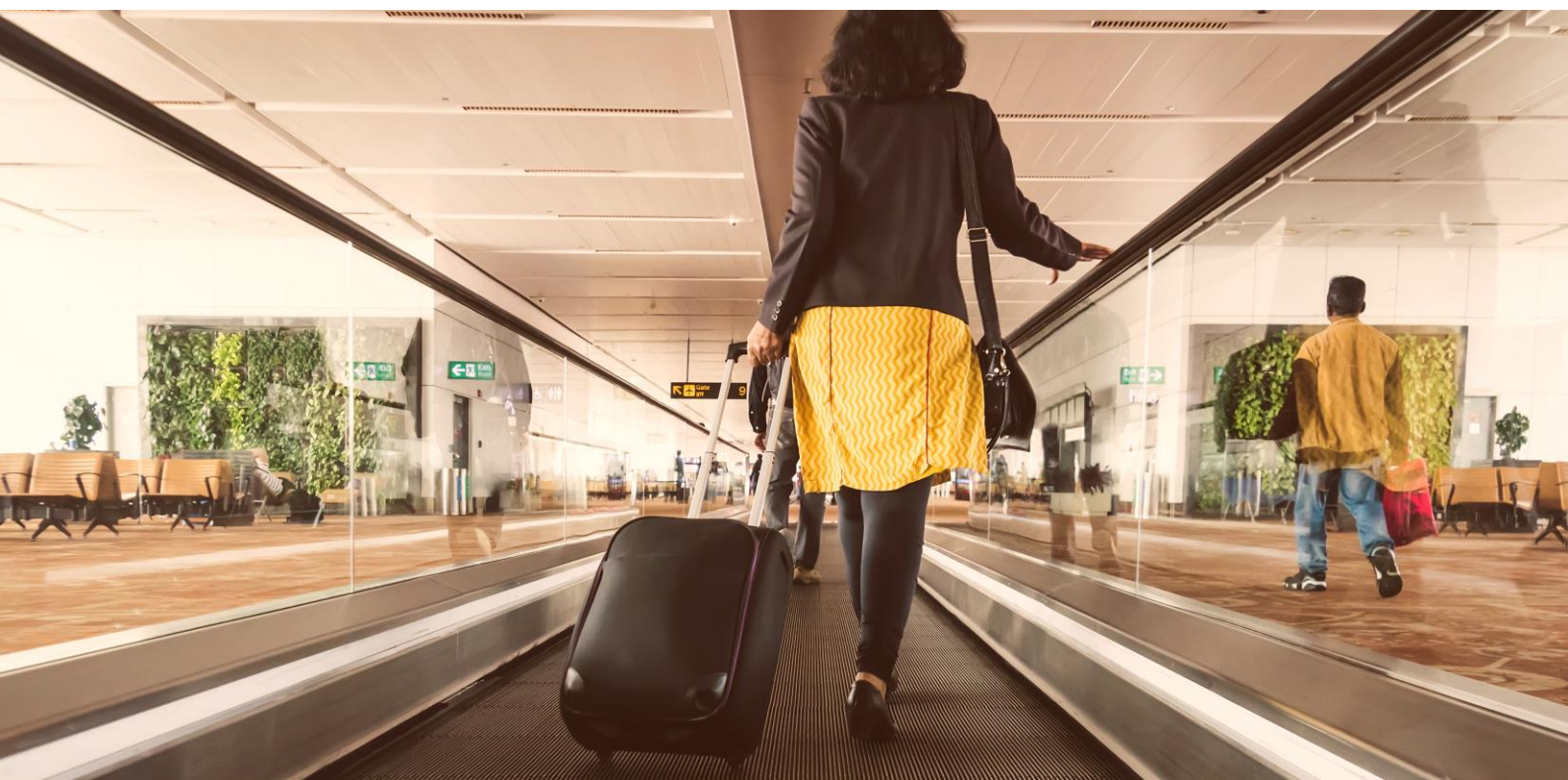
9. Amendment of Third Schedule (Zero-Rated Supplies)

The Third Schedule to the principal Act is amended in paragraph 1 by substituting for subparagraph (k) the following—

“(k) the supply of leased aircraft, aircraft engines, spare parts for aircraft, aircraft maintenance equipment and repair services”.

Implications

The supply of the above items would be considered as Zero-Rated supplies, although they were already classified as Zero-Rated vide VAT(Am) Act 2, 2008 but minor changes in wordings have been made by eliminating “Spare engines” and by adding “repair services” concerning aircraft.



How can we help you?

Whereas the above analysis in respect of bills which are currently under discussion by the Parliament, Grant Thornton Taxation Service Limited is available to provide further guidance as well as interpretation on current laws wherever required.

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Tax Procedures Code (Amendment) Bill, 2021

The Hon. Minister of Finance, Planning & Economic Development tabled the Tax Amendment Bills, 2021. The bills are due for discussion and if passed into law, will take effect from 1st July 2021.

Please find below a brief of what is contained in the Tax Procedures Code (Amendment) Bill 2021 including our understanding of its implications and comments, if any.



Executive summary of key proposed amendments:

1. **Amendment of section 3;** Definition of a “Tax Decision” is amended by specifying certain exclusions.
2. **Amendment of section 5;** - Local regulatory bodies to issue required authorizations / operational license only to TIN holders.
3. **Amendment of section 14;** Correction in the word from “Agent” to “Representative”
4. **Amendment of section 19B;** Additional penalties for certain offences concerning abuse of Digital Tax Stamps.
5. **Amendment of section 23:** Additional time for amending self-assessed returns.
6. **Amendment of section 24;** Insertion of provision of alternative dispute resolution procedure after receipt of Objection decision.
7. **Amendment of section 38;** Repealing of earliest liability rule under the order of payment.
8. **Insertion of Section 41A;** Empowering the Commissioner with rights during an Investigation.
9. **Amendment of section 54, 55, 56, 57, 58, 59, 60, 61, 62, and 63;** Amendment in the penal amounts and period of imprisonment for certain offences committed by the taxpayers, Tax Agents, and Tax Officers.



Details of all the amendments with their implications and comments, if any.

1. Amendment of section 3: Definition of a “Tax Decision” is amended by specifying certain exclusions.

The Tax Procedures Code Act, 2014 in this Act referred to as the principal Act is amended in section 3 by substituting for the definition of “tax decision” the following-

““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—*
 - (i) a decision made in relation to a tax assessment;*
 - (ii) a decision to refuse, issue or revoke a practice note or an omission to issue or revoke a practice note;*
 - (iii) a decision or omission that affects a tax officer or employee or agent of the Authority;*
 - (iv) the compoundment of an offence under any tax law; or*
 - (v) a decision to refuse, issue or revoke a private ruling or an omission to issue or revoke a private ruling;”.*

Implications

These proposed amendments, if passed into law, will have significant implications as taxpayers will not be able to object to the revocation of private ruling or rejection of the compounding of an offence by the Commissioner.

Comments

In our opinion, if the taxpayer is aggrieved due to any of the above, as per the principles of natural justice an option of appeal to the Tax Appellate Tribunal (TAT) should be made available.

2. Amendment of section 5: - Local regulatory bodies to issue required authorizations / operational license only to TIN holders

Section 5 of the principal Act is amended by inserting immediately after subsection (8) the following—

“(9) A local authority, Government institution or regulatory body shall not issue a licence or any form of authorisation necessary for purposes of conducting any business in Uganda to any person who does not have a tax identification number.”

Implications/Comments

The proposed amendment is meant to strengthen and emphasize compliance with the law by the taxpayers through local authorities and Government institutions by obliging these bodies to require a Taxpayer Identification Number before issuing a license or other form of authorization to do business. The provisions of similar nature are already in place under Income Tax Act (ITA).

3. Amendment of section 14

Section 14 of the principal Act is amended—

in subsection (2), by substituting for the word “agents”, the word “tax representatives”;
in subsection (5), by substituting for the word “agent”, the word “tax representative”.

Implications/Comments

Section 7 to Section 13 of Part III of the Tax Procedures Act deals with the registration of “Tax Agents” and Section 14 deals liabilities and obligations of “Tax Representatives” However, currently, the word “Agent” is erroneously used in section 14(2) and (5), the proposed amendment now seeks to rectify the above error.



4. Amendment of section 19B: Penalties for certain offences under Digital Tax Stamps

Section 19B is amended by inserting immediately after subsection 4 the following—

“(5) Where the offender under subsection (4) attempts to acquire or acquires or sells a tax stamp without goods, the offender shall be liable, on conviction, to a fine not exceeding five hundred currency points or to imprisonment for a term not exceeding five years or both.

(6) A person, who acquires tax stamps with the authority of the Commissioner and affixes the tax stamps on goods other than the goods approved by the Commissioner, commits an offence is liable, on conviction, to double the tax due on the goods or five hundred currency points, whichever is higher.

(7) For purposes of this section “tax” means tax imposed under the Excise Duty Act, 2014.”

Implications/Comments

A Taxpayer who attempts to acquire or sell the Tax Stamps WITHOUT goods is punishable for a fine up to Ush 10 Million or imprisonment for a term up to 5 years or both or if the taxpayer acquires tax stamps with the authority of the Commissioner and affixes the tax stamps on goods OTHER THAN the goods approved by the Commissioner, are punishable up to double the tax due on the goods or Ush 10 Million whichever is higher.

5. Amendment of section 23: Additional time for amending self-assessed returns

Section 23 of the principal Act is amended in subsection (3) by substituting for the words “twelve months” the word “three years”.

Implications / Comments

The taxpayers shall be allowed to amend the originally filed self-assessed tax returns (i.e. Income-tax, VAT, and Excise Duty) (if not under investigation) within 3 years after the date of furnishing the self-assessed return instead of one year allowed currently.

6. Amendment of section 24: Insertion of provision of alternative dispute resolution procedure after Objection decision is issued

*Section 24 of the principal Act is amended—
(1) by inserting immediately after subsection (10) the following—*

“(11) A tax payer who is dissatisfied with a decision of the Commissioner may apply to the Commissioner to

resolve the dispute using alternative dispute resolution procedure, as may be prescribed.”

(12) For the purposes of subsection (11), the Minister may make regulations to provide for alternative dispute resolution for tax purposes.”

Implications/Comments

The purpose of this subsection, in our opinion, is to formalize the process of alternative dispute resolution to reduce the number of cases piling up in TAT. This will help reduce the pressure of cases on TAT and fasten the resolution of the taxpayer's grievances. Certainly, this will depend upon how the regulations are drawn by the Minister.

7. Amendment of section 38: Repealing of earliest liability rule under the order of payment.

Section 38 of the principal Act is amended by repealing subsection (2);

Implications

The earliest liability settlement rule is proposed to be removed. This will clear a lot of confusion, which currently exists with respective tax officers taking different views in terms of allocation of payments. If the amendment is passed, the payments will be allocated in the following order:

- a) Principal tax;
- b) Penal tax; and
- c) Interest due.

Comments

URA Tax Arrears department is in process of reconciling the ledgers of taxpayers from 2009. In the process, the ledgers are issued to the taxpayers and tax liabilities are being demanded. There is an ongoing disagreement between taxpayers and URA on the payment allocation method based on which outstanding tax liabilities are computed.

What needs to be seen, is whether this amendment would be applied retrospectively or prospectively and its' implementation by URA.

8. Insertion of Section 41A: Empowering the Commissioner with rights during an Investigation

The principal Act is amended by inserting immediately after section 41 of the Act the following—

"41A Powers of the Commissioner during investigation The Commissioner shall in the process of investigation have the following powers—

- a) the power to effect an arrest with an arrest warrant;*
- b) the power to issue an order for interim closure of premises;*
- c) the power to record charge and caution statement; or*
- d) the power to execute a bond with or without security."*

Implications/Comments:

If the above proposal is approved, the URA investigation team will have the powers listed in the above-proposed amendment.

9. Amendment of section 54, 55, 56, 57, 58, 59, 60, 61, 62, and 63: Amendment in the penal amounts and period of imprisonment for certain offences committed by the taxpayers, Tax Agents and Tax Officers.

Section 54 of the principal Act is amended—

- a) in subsection (1), by substituting for the words "twentyfive" the word "fifty"; and*
- b) in subsection (2), by substituting for the word "fifty" the words "one hundred".*

Section 55 of the principal Act is amended in subsection (1), by substituting for the words "twenty-five" the words "one hundred".

Section 56 of the principal Act is amended by substituting for the words “forty- eight currency points or imprisonment not exceeding two years or both” the words “one hundred currency points or imprisonment for a term not exceeding six years or both”.

Section 57 of the principal Act is amended in subsection (1), by substituting for the words “twenty-four currency points or imprisonment not exceeding one year or both” the words “one hundred and fifty currency points or imprisonment for a term not exceeding six years or both”.

Section 58 of the principal Act is amended by substituting for the words “forty- eight currency points or imprisonment not exceeding two years or both” the words “two hundred currency points or imprisonment for a term not exceeding ten years or both”.

Section 59 of the principal Act is amended by substituting for the words “forty-eight currency points or imprisonment not exceeding two years or both” the words “two hundred and fifty currency points or imprisonment for a term not exceeding ten years or both”.

Section 60 of the principal Act is amended by—

- a) numbering the provision as subsection (1);
- b) inserting immediately after subsection (1) the following—

“(2) Where the offender under subsection (1) is a tax agent, the tax agent shall be liable to a fine equal to double the tax evaded or not exceeding two hundred and fifty currency points whichever is higher, or to imprisonment for a term not exceeding five years, or both.”—

Section 61 of the principal Act is amended by substituting for the words “forty- eight currency points or imprisonment not exceeding two years or both” the words “two hundred and fifty currency points or imprisonment not exceeding ten years or both”.

Section 62 of the principal Act is amended—

- a) in subparagraph (i), by substituting for the words “fifty currency points or imprisonment not exceeding two years or both” the words “one hundred and fifty currency points or imprisonment not exceeding six years or both”; and
- b) in subparagraph (ii), by substituting for the words “twenty five currency points or imprisonment not exceeding one years or both” the words “fifty currency points or imprisonment for a term not exceeding two years or both”;

Section 63 of the principal Act is amended—

- a) in subsection (1), by substituting for the words “forty eight currency points or imprisonment not exceeding two years or both” the words “one hundred and fifty currency points or imprisonment for a term not exceeding six years or both”;
- b) in subsection (2), by substituting for the words “forty eight currency points or imprisonment not exceeding two years or both” the words “one hundred and fifty currency points or imprisonment for a term not exceeding six years or both”; and
- c) in subsection (6), by substituting for the words “fifty currency points or imprisonment not exceeding two years or both” the words “one hundred currency points or imprisonment for a term not exceeding six years or both”.

Section Ref	Summary nature of an Offence	Current legislation	Proposed legislation
54 (1)	Failing to Furnish a Tax Return by the due date or within further time allowed by the commissioner	Fine not exceeding Ush 500,000	Fine not exceeding Ush 1,000,000
54 (2)	fails to furnish the return to which the offence relates within the period specified by the court	Fine not exceeding Ush 1,000,000	Fine not exceeding Ush 2,000,000
55	Failure to Comply with certain specified Obligations like non-cooperation in investigation proceedings, non-filing of return on request of the commissioner, non-obtaining of TCC wherever required, etc.,	Fine not exceeding Ush 500,000	Fine not exceeding Ush 2,000,000
56	Failure to Maintain Proper Records	Fine not exceeding Ush 960,000 or imprisonment not exceeding 2 years or both	Fine not exceeding Ush 2,000,000 or imprisonment not exceeding 6 years or both
57	Use of false TIN	Fine not exceeding Ush 480,000 or imprisonment not exceeding 1 year or both	Fine not exceeding Ush 3,000,000 or imprisonment not exceeding 6 years or both
58	Making False or Misleading Statements	Fine not exceeding Ush 960,000 or imprisonment not exceeding 2 years or both	Fine not exceeding Ush 4,000,000 or imprisonment not exceeding 10 years or both
59	Obstructing a Tax Officer	Fine not exceeding Ush 960,000 or imprisonment not exceeding 2 years or both	Fine not exceeding Ush 5,000,000 or imprisonment not exceeding 10 years or both
60(2)	Aiding or Abetting a Tax Offence	-	Where the offender under this section is A Tax Agent , the applicable fine is equal to double the tax evaded or not exceeding Ush 5,000,000 whichever is higher , or imprisonment for a term not exceeding 5 years, or both.

Section Ref	Summary nature of an Offence	Current legislation	Proposed legislation
61	Offences Relating to Recovery of Tax	Fine not exceeding Ush 960,000 or imprisonment not exceeding 2 years or both	Fine not exceeding Ush 5,000,000 or imprisonment not exceeding 10 years or both
62(i)	Offences committed knowingly or recklessly relating to registration	Fine not exceeding Ush 1,000,000 or imprisonment not exceeding 2 years or both	Fine not exceeding Ush 3,000,000 or imprisonment not exceeding 6 years or both
62(i)	Offences other than 62(i) relating to registration	Fine not exceeding Ush 500,000 or imprisonment not exceeding 1 year or both	Fine not exceeding Ush 1,000,000 or imprisonment not exceeding 2 years or both
63(1)(a) and 63(1)(b)	Offences in relation to Tax Officers	Fine not exceeding Ush 960,000 or imprisonment not exceeding 2 years or both	Fine not exceeding Ush 3,000,000 or imprisonment not exceeding 6 years or both
63(2)(a)	A person who directly or indirectly offers or gives to a tax officer any payment or reward not being payment or reward which officer is lawfully entitled to receive.	Fine not exceeding Ush 960,000 or imprisonment not exceeding 2 years or both	Fine not exceeding Ush 3,000,000 or imprisonment not exceeding 6 years or both
63(2)(b)	A person who proposes or enters into any agreement with a tax officer in order to induce the officer by which the tax revenue is defrauded.	Fine not exceeding Ush 960,000 or imprisonment not exceeding 2 years or both	Fine not exceeding Ush 3,000,000 or imprisonment not exceeding 6 years or both
63(6)	Impersonating a tax officer	Fine not exceeding Ush 1,000,000 or imprisonment not exceeding 2 years or both	Fine not exceeding Ush 2,000,000 or imprisonment not exceeding 6 years or both

From the above table, it is clear that the policymakers want taxpayers, tax agents and tax officers to strictly adhere to the provisions of respective laws.

How can we help you?

Whereas the above analysis is in respect of bills which are currently under discussion by the Parliament, Grant Thornton Taxation Service Limited is available to provide further guidance as well as interpretation on current laws wherever required.

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Excise Duty (Amendment) Bill 2021

The Hon. Minister of Finance, Planning & Economic Development tabled the Tax Amendment Bills, 2021. The bills are due for discussion and if passed into law, will take effect from 1st July 2021.

Please find below a brief of what is contained in the Excise Duty Amendment Bill 2021 including our understanding of its implications and comments, if any.











Executive summary of key proposed amendments:

1. **Amendment of Section 5:** No requirement to renew the certificate of registration in case of manufacturers, importers and providers of excisable goods and services.
2. **Amendment of Section 10:** Refund of excise duty paid on plastic packaging used in exported goods, medicaments or plastic packaging which is manufactured from recycled plastic unless the recycled plastic used in the manufacture of the plastic packaging is equivalent to at least fifty percent of the raw materials used.



Amendment of Schedule 2: The excise duty on the below mentioned items is proposed to be changed as follows.

No.	Excisable item	Category	Current legislation	Nature of proposal	Proposed legislation	Price Impact
1	Opaque beer	Beer	30% or Shs. 650 per litre, whichever is higher	Change in rate	30% or Shs 230 per litre, whichever is higher	
	Any other alcoholic beverage locally produced	Alcoholic beverage	-	Insertion of new excisable item(s)	30% or Shs 230 per litre, whichever is higher	
2	Any other non-alcoholic beverage locally produced other than non-alcoholic beverage not including fruit or vegetable juice, made out of fermented sugary tea solution with a combination of yeast and bacteria	Non-alcoholic	-	Insertion of new excisable item(s)	30% or Shs 230 per litre, whichever is higher	
3	Sacks and bags of polymers of ethylene and other plastics under its HS codes 3923.21.00 and 3923.29.00 except vacuum packaging bags for food, juices, tea and coffee, sacks and bags for direct use in the manufacture of sanitary pads	Sacks and bags of polymers of ethylene and other plastics under its HS codes 3923.21.00 and 3923.29.00 except vacuum packaging bags for food, juices, tea and coffee, sacks and bags for direct use in the manufacture of sanitary pads	120% or Shs.10,000 per Kilogram of the plastic bags	Repealing of the excise duty	The items mentioned herein are proposed to be kept out of the ambit of excise duty.	
4	Plastic Packaging	Plastics	-	Insertion of the new excisable item(s)	5% or USD 150 per ton, whichever is higher;	-
5	Plastic Granules				5% or USD 100 per ton, whichever is higher	
6	Over the Top (OTT) services	Telecommunication Services	Shs 200 per user per day of access	Repealing of the excise duty	The items mentioned herein are proposed to be kept out of the ambit of excise duty.	
7	Internet Data, except data for provision of medical services and education services		NIL	Change in rate	12% of the fee charged	
8	Value added services		20%	Change in rate	12% of the fee charged	

No.	Excisable item	Category	Current legislation	Nature of proposal	Proposed legislation	Price Impact
9	Any other fermented beverages including cider, perry, mead, spears or near beer	Fermented beverages	-	Insertion of the new excisable item(s)	60% or Shs 950 per litre; whichever is higher	▲
10	Wheat Grain	Wheat Grain	-	Insertion of the new excisable item(s)	Shs 100 per Kilogram	▲
11	Construction materials in case of a manufacturer whose investment capital is at least USD 50 Million	Construction materials for a manufacturer whose investment capital is more than USD 50 Million	-	Insertion of the new excisable item(s)	NIL	-



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The Stamp Duty, Mining, Traffic and Road Safety, Fish, and the External Trade (Amendment) Bill 2021

The Hon. Minister of Finance, Planning and Economic Development tabled the Tax Amendment Bills 2021. The bills are due for discussion and if passed into law, will take effect from 1st July 2021.

Please find below a brief of what is contained in the Stamp Duty, Mining, Traffic and Road Safety, Fish, and the External Trade (Amendment) Bill 2021 including our comments and its implications.



Proposed Amendments to the Stamp Duty Act

1. Amendment to Schedule 2;

The Stamp Duty Act, 2014, in this Act referred to as the principal Act is amended in Schedule by inserting immediately item 60A (e), the following—

“(f) a manufacturer, other than a manufacturer referred to in item 60A (b), whose investment capital is at least fifty million United States Dollars or, in the case of an any other manufacturer, that makes an additional investment equivalent to fifty million United States Dollars—

- i. debenture; whether a mortgage debenture or not, being of a marketable security – of total value;*
- ii. further charge; any instrument imposing a further charge on a mortgaged property – of total value;*
- iii. lease of land – of total value;*
- iv. increase of share capital;*
- v. transfer of land;*
- vi. an agreement to provide services on conducting a feasibility study or developing a design for construction.”;*

Implications

The manufacturer whose investment capital is at least USD 50 Million or, in the case of an any other manufacturer, that makes an additional investment equivalent to USD 50 Million will not have to bear stamp duty on execution of above-mentioned documents.

by substituting for item 57 the following—

“57	instrument of settlement or an instrument revoking the settlement including a deed of dower	15,000/=”
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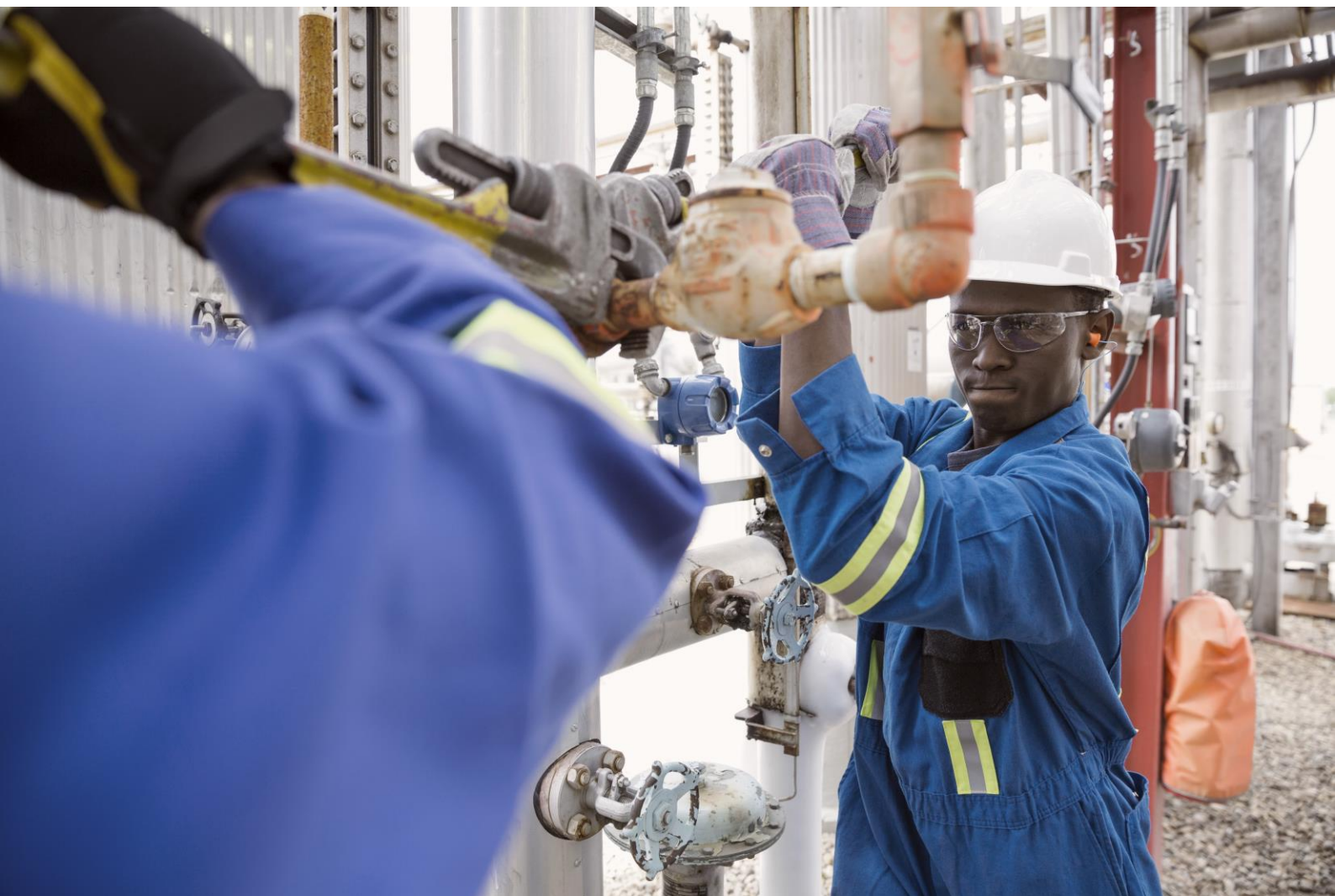
Comments

The proposed amendment aims to club existing item 57(a) and 57(b) into a single item as mentioned above, keeping the rate of duty unchanged.



Proposed Amendments to the Mining Act 2003

1. **Insertion of Section 116A;** levy on processed gold at the rate of USD 200 per kilogram which is exported out of Uganda and to be paid by the exporter of gold.
2. **Insertion of Section 116A;** levy on unprocessed minerals, at the rate of one percent of the value of the unprocessed minerals which is exported out of Uganda and to be paid by the exporter of unprocessed minerals.



Proposed Amendments to the Tobacco Control Act, 2015

1. **Insertion of Section 23A(1);** Unprocessed leaf tobacco which is now proposed to be defined as follows; “unprocessed leaf tobacco” includes tobacco plants or leaves in the natural state or cured, stemmed, stripped, trimmed, untrimmed, blended, cased or fermented.”



Proposed Amendments to External Trade Act

1. **Insertion of Section 4A(1);** levy on wheat bran, cotton cake, aize bran and other by-products of the milling industry, which are exported out of Uganda at a rate of USD 0.4 per kilogram



Proposed Amendments to Traffic and Road Safety Act

1. Insertion of 14A;

- 1) *A person shall not own or possess a motor vehicle, trailer or engineering plant or use it on a road, unless the motor vehicle, trailer or engineering plant is licensed under this Act.*
- 2) *An application for a licence for a motor vehicle, trailer or engineering plant shall be made to the chief licensing officer in the manner prescribed by regulations.*
- 3) *A licence granted under subsection (1), shall be valid until revoked.*
- 4) *A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or imprisonment for a term not exceeding one year or both*

Implication

The Bill proposes to introduce a license attached to ownership of motor vehicles, trailers as well as engineering plants. A person who fails to comply with the above shall be subject to penal implications as mentioned above.

2. Insertion of Section 14B;

- 1) *A person who owns or possess a motor vehicle, trailer or engineering plant or uses it on a road, shall pay an annual on or before the 31st day of January of every year, as may be prescribed by the Minister by regulations.*
- 2) *Where a person fails to pay a prescribed annual fee before or on the date specified in subsection (1) shall pay a penalty of ten currency points for each day on which the contravention continues; and*
- 3) *The unpaid annual fee and any penalty payable under this section, shall be a debt due to the Government by the defaulter.*

Implication

In addition to the proposed license under Section 14A, the bills seeks to introduce annual road user fees, payable before 31st January of every year. As under Section 14A, the amount of the proposed license fee shall be up to the discretion of the Minister, who shall draft regulations for Section 14A and 14B.



Proposed Amendments to the Fish Act 2003

1. **Insertion of Section 30A;** Introduction of levy on fish maw exported out of Uganda at a rate of Ush.70,000 per kilogram, which is payable to the Uganda Revenue Authority.



How can we help you?

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