



# Voluntary Disclosure

As part of the 2017/18 budget speech that was delivered by the Honorable Minister of Finance, Planning and Economic Development (MoFPED), an amnesty provision was introduced into the Tax Laws of Uganda. Section 66(1) of the Tax Procedures Code Act provides for compounding of offences (voluntary disclosure). As such, in this write up, we explore the scope this provision, its implications and the benefits that the taxpayers can explore under this provision.



# What is it, what is involved?

As part of the public notices issued on March 25, 2020 and July 17, 2020 by the Commissioner General of the Uganda Revenue Authority (URA), it was informed that pursuant to Section 66 (1a) of the TPC Act, a taxpayer who voluntarily discloses any tax that should have been declared to the Commissioner, may enter into an agreement with the Commissioner to pay the outstanding unpaid tax and that person shall not be required to pay any interest or fine due.

Whereas the terms “Voluntary” and “disclosure” are not defined as part of the Tax laws of the country, it can be drawn from the public notice that voluntary disclosure means to “declare something out of one’s own will and without coercion”. As opposed to punitive action, the voluntary disclosure program inspires pre-emptive and affirmative action from a taxpayer, to disclose any offences which they may have committed during the course of their business activities. Emphasis is placed on the word “pre-emptive”, which automatically rules out reactionary disclosures. It is thus of great importance that as a taxpayer, one is well versed with scenarios during which voluntary disclosure may not apply.

1. Notice of Audit from the Uganda Revenue Authority (URA);
2. Notice of initiation of Tax investigations by the URA;
3. Notice of requirement to perform a tax health check by the URA;
4. Notice of request of information by the URA;
5. Notice of a generated tax query from the URA;
6. Any reactionary disclosure in lieu of actions from the URA.

Due to the severe impact on the economy that was caused by COVID-19, the MoFPED introduced a temporary tax relief measures for sectors of the economy most impacted by the epidemic. Such measures can be described falling under a **temporary amnesty** regime as they were a). targeted to specific sectors and b). for a specific time period. The Voluntary tax disclosure scheme in Uganda is contrast to the above as it is open to all sectors of the economy, not time bound, as well as applicable to all taxpayers (any person i.e., registered or un-registered including a resident or non-resident employer, employee, individual, partnership, company, trustee, retirement fund, a political subdivision of Government or a listed institution).

# What is the process?

As the main goal of voluntary disclosure is to highlight one's compliance gaps, it is pertinent that a tax health check be conducted as to reveal these gaps.

A tax health check-up is a review of the tax affairs of a business entity, which is intended to highlight potential weaknesses or risks arising from errors or omissions in the business records and accounting systems, as well as identifying potential tax liabilities. It can be argued that this is the most accurate way of uncovering compliance gaps, which are then quantified and subjected to disclosure. Other sources of information/tendencies that could highlight areas of non-conformity to tax laws include;

1. Qualified Management letter after during Statutory Audit;
2. Periodical Internal Auditor's management reports citing gaps;
3. General Ignorance of existing Tax laws regarding statutory compliance (you cannot be compliant if you do not know how to comply).

Subsequent to the availability of information from the above sources, the taxpayer fills out the **Voluntary Disclosure Form** as prescribed by the Commissioner General, which can be accessed from the URA's web portal, which is then submitted over any of the URA platforms, that is, online or manually to the nearest Domestic tax offices. Upon submitting of the above form, the Commissioner then issues the applicant with Voluntary Disclosure Certificate which contains the following information;

1. The name of the taxpayer;
2. The offence committed;
3. The sum of money paid, and the date of payment;
4. The fact that the certificate is not subject to any appeal;
5. The fact that the certificate may be enforced in the same manner as a decree of any court for the payment of the amount stated in that order and;
6. The fact that the production of the certificate to any court is treated as proof of the conviction of the offender for the offence specified.

# What are the benefits?

With this new provision in the tax law, a number of stakeholders (taxpayers as well as the Revenue Authority) are bound to reap the benefits as follows;

## **Taxpayers:**

1. Waiving of interest and penalties that would have been otherwise applicable if traditional formalities such as tax audits, or assessments were instituted;
2. Ability to disclose any compliance gaps at timelines set by the taxpayer, and in so doing framing operational deliverables around taxpayer strategy as opposed to URA audit timelines;
3. Better knowledge of Tax laws given that before making any disclosure, taxpayers will have to study the legislative provisions, deduce the rationale, and only report any gaps to URA.

## **Uganda Revenue Authority:**

1. Reduced cost of tax collection, which is in line with the canons of Taxation, that is 'economy" The costs incurred in administering tax audits, investigations is bound to reduce with sensitization of voluntary disclosure to URA;
2. Expansion of the tax base in the country. The "fear and myths", within the business community, surrounding the obligations related to tax laws and URA as a whole can drastically change once taxpayers know that they can be the masters of their own destiny as regards their tax obligation is concerned.





## How can we help you?

Grant Thornton Taxation Service Limited provides tax health check services for companies involved in different sectors and shall be able to represent you from the time of voluntary disclosure to the URA, up to the time of securing the voluntary disclosure certificate on your behalf.

## Contact us



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### **Disclaimer:**

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