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**TAX
ALERT**

2024 TAX AMENDMENTS

APRIL 2024



On the 27th March 2024, the Ministry of Finance, Planning and Economic Development (“MoFPED”) gazetted the 2024 tax amendment bills. The tax laws the MoFPED seeks to amend include; Income Tax Act, Value Added Tax Act, Stamp Duty Act, Tax Procedure Code Act and the Excise Duty Act. The bills have now been tabled before parliament for debate. In this tax alert, we highlight the key provisions of the bills.

1. THE INCOME TAX (AMENDMENT) BILL, 2024

Expansion of the definition of retirement fund

The Income Tax (Amendment) Bill 2024 (“ITAB 2024”) seeks to expand the definition of the term “retirement fund”. Under the proposed regime, a pension or provident fund established as a permanent fund maintained for the provision of benefits for members of the fund in the event of termination of service or upon the occurrence of an event specified in the written law, agreement or arrangement will qualify as a retirement fund.

Capital gains tax on disposal of non-business assets

Under the Income Tax Act, capital gains from disposal of non-business assets are exempt from income tax (Section 21(1)(k)). Under the current regime, for capital gains to be taxed, they must (i) form part of business income, (ii) result from the sale of shares in a private limited liability company, and/or (iii) be derived from a sale of a commercial building.

The ITAB 2024 seeks to change this. Clause 3 of the ITAB 2024, if passed, will insert a new section 5A in the Income Tax Act. Under the proposed section 5A, a 5% tax will be imposed on a capital gain derived from the disposal of non-business assets.

This tax will apply to a disposal of three things:

- shares of a private company;
- land in cities or municipalities except the principal place of residence. (The ITAB 2024 does not define the principal place of residence)
- rental property that is subject to rental tax under section 5 of the Income Tax Act.

Under the proposed regime, the gains from the disposal of non-business assets will not be taxed if they are arrive from:

- disposal of land in cities and municipalities that qualifies as a person's principal residence.
- involuntary disposal of a non-business asset through auction, court order, mortgages, divorce settlement or spousal separation agreement.
- transmission of a non-business asset of a deceased to a trustee or beneficiary.
- the disposal of an investment interest of a registered venture capital fund or private equity.

Under the proposed regime, the capital gains tax on non-business assets is a final tax and is separate from any other tax imposed under the Income Tax Act. This tax is payable within 15 days after the disposal of the non-business asset.

The proposed regime will impose an obligation on every person who disposes of a non-business asset to notify the Commissioner General of Uganda Revenue Authority ("commissioner"), in writing, of the details of the disposal within 15 days from the date of the disposal.

Failure to pay the capital gains tax will result in payment of the interest.

Exemption of income

Clause 4 of the ITAB 2024 seeks to amend section 21 of the Income Tax Act. If this amendment is allowed by Parliament, the following income shall be exempted from income tax:

- income derived from or by private equity or venture capital fund regulated under the Capital Markets Authority Act, Cap. 84.
- income derived from the disposal of government securities on the secondary market.
- income of a person who manufactures an electric vehicle, electric battery or electric vehicle charging equipment or fabricates the frame and body of an electric facility.
- income of a person who operates a specialized hospital facility.

Changes in provisions dealing with non-recognition of disposals for capital gains purposes

Section 54(1)(e) of the Income Tax Act provides that no gain or loss is taken into account in determining chargeable income in relation to 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. Clause 5 of the ITAB 2024, if passed, will repeal this provision. Moreover, clause 5 of the ITAB 2024 seeks to repeal section 54(1a) which provides that a registered venture capital fund shall be entitled to a non-recognition of a gain or loss equivalent to the percentage of reinvested proceeds.

Repeal of definition of a branch for international tax purpose

Clause 6 of the ITAB 2024, if passed by parliament, will repeal the definition of a branch.

Introduction of Permanent Establishment into the domestic tax laws

The phrase “permanent establishment” is key in the application of tax treaties. Under tax treaties, business profits (active income) of an enterprise of a contracting state cannot be taxed by states where the income is sourced unless the enterprise has a permanent establishment in the latter state.

The principles pertaining to the permanent establishment are, therefore, necessary in establishing taxing rights of a country in respect of the business profits of the non-resident enterprises, usually in cases where the taxing rights are limited by the presence of a tax treaty.

Clause 7 of the ITAB 2024 seeks to introduce an extended definition of a permanent establishment by inserting a new section 78A into the Income Tax Act. The clause also seeks, in the intended section 78B, to impose a tax on a non-resident person’s income attributable to a permanent establishment in Uganda.

Under the new regime, proposed under the ITAB 2024, the word branch will be repealed from every section contained in part IX of the Income Tax Act (which deals with international taxation) and replaced with the words permanent establishment.

Sourcing of income in respect of annuity and insurance premium by non-residents in Uganda

The ITAB 2024 seeks to provide that an annuity is derived from sources in Uganda if the same is paid by a non-resident person as expenditure of a business carried on by the non-resident person through a permanent establishment in Uganda.

Under the regime proposed by the ITAB 2024, a non-resident person is treated as having derived income from sources in Uganda to the extent that the income is derived from the payment of insurance premium, if the premium relates to the insurance or reinsurance of a risk in Uganda.

Taxation of interest derived from sources in Uganda

The ITAB 2024 seeks to amend taxation of interest earned by non-residents in Uganda. Clause 9 of the ITAB 2024, if passed in its current form, will amend section 83 of the Income Tax Act by substituting subsection 5. The proposed regime will impose a 2% withholding tax on interest paid by a resident person to a non-resident person where the following conditions are satisfied:

- the interest is paid by a resident person to a financial institution;
- the financial institution referred to above is unrelated to, and dealing wholly independently with, the resident person that is the borrower; and
- the interest is not paid as part of an arrangement that is economically equivalent and intended to have a similar effect to a back-to-back loan.

Under the proposed regime, interest paid by government to a non-resident person in respect to debentures is exempt from tax.

Mandate to file transfer pricing information

The ITAB 2024 seeks to impose an obligation on all taxpayers engaged in related party transactions to submit transfer pricing information at the time of filing returns.

The ITAB 2024 does not define the phrase “transfer pricing information”. This might significantly increase operation costs for small groups of companies.

Withholding tax on commission paid to bank agents and agents offering financial services

The ITAB 2024 will, if passed by parliament in its current form, introduce a 10% withholding tax on a person who pays a commission to a payment service provider.

Payment service providers include banking agents or any other agent offering financial services.

Increment of listed organisations

The ITAB 2024 seeks to increase the listed companies, whose income is exempt from income tax, by adding the following;

- African Reinsurance Corporation (Africa Re).
- International Regulatory Board of the East African Power Pool.
- Islamic Cooperation for the Development of the Private Sector.

2. VALUE ADDED TAX (AMENDMENT) BILL, 2024.

The stated object of the Value Added Tax (Amendment) Bill 2024 (“VATAB 2024”) is to amend the Value Added Tax Act to classify the supply of goods or services by an employer to an employee at no consideration as a taxable supply; to increase the threshold for the offset in case of overpaid tax from five million shillings to ten million shillings; to amend the first schedule; and to exempt supplies for purposes of VAT exemption regime.

Supply of goods through auction

Clause 4 of the VATAB 2024 seeks to classify the supply of goods through auction by an auctioneer in the course of auctioning goods as a supply of goods by the recipient of the proceeds of the auction. It also seeks to amend section 5 of the Value Added Tax Act to provide that in the case of supply of goods through auction, the tax is to be paid by the recipient of the proceeds of the auction.

Goods supplied by an employer to an employee

The proposed regime under the VATAB 2024 shall treat a supply of goods or services by an employer who is a taxable person to an employee, for no consideration, as the supply of goods or services for consideration as part of the person’s business activities.

New VAT refund threshold

The VATAB 2024 proposes to increase the VAT refund threshold from Uganda Shillings Five Million to Uganda Shillings Ten Million.

Liability for failure to withhold VAT

The VATAB 2024 seeks to hold withholding tax agents personally liable for the non-withheld VAT. However, the withholding agent will be entitled to recover the value added tax from the person initially liable.

Amendment of schedule one

The VATAB 2024 seeks to amend the first schedule to include in the list the following;

- African Reinsurance Corporation (Africa Re).
- International Regulatory Board of the East African Power Pool.
- Islamic Cooperation for the Development of the Private Sector.

New exemptions

Under the regime proposed by the VATAB 2024, the following shall be exempted from VAT:

- supply of hoes.
- the supply of electric vehicles locally manufactured or supply of their frames and body that are locally fabricated.
- the supply of electric vehicle charging equipment or electric vehicle charging services.
- the supply of pesticides.

- the supply of fertilizers, seeds and seedlings.
- the supply of cooking stoves, that use fuel ethanol, assembled in Uganda, up to 30th June 2028.

3. STAMP DUTY (AMENDMENT) BILL 2024.

The object of the Stamp Duty (Amendment) Bill 2024 (“SDAB 2024”) is to amend the Stamp Duty Act, 2014, to prescribe stamp duty rate for the nominal share capital or any increase of share, acquired by an investor in a private equity or venture capital fund, for the transfer of shares or other securities, to or by an investor in a private equity or venture capital fund, and for an instrument executed by or on behalf of a company or government in respect of manufacturer of an electric vehicle or electric charging equipment.

The proposed regime under the SDAB 2024 will exempt from stamp duty the following:

- nominal share capital or any increase of share capital acquired by an investor in a private equity or venture capital fund regulated under the Capital Markets Authority Act, Cap. 84.
- any transfer of shares or other securities to or by an investor in a private equity or venture capital fund regulated under the Capital Markets Authority Act, Cap. 84.
- manufacturers of electric motor vehicles and electric charging equipment or fabricator of the frame and body of an electric vehicle.

4. THE EXCISE DUTY (AMENDMENT) BILL, 2024.

The object of the Excise Duty (Amendment) Bill, 2024 (“EDAB 2024”) is to amend the Excise Duty Act, 2014, to provide for the definition of “fruit juice”, “un-denatured spirits”, “vegetable juice” and “powder for reconstitution into beers”; and to revise the excise duty on certain excisable goods and services.

New definitions

Under the proposed regime,

- “Fruit juice” means unfermented liquid extracted from the edible part of a fresh whether the extracted liquid is diluted or not.
- “Powder for reconstitution into beer” means a powder, crystal or any other dry substance which after being mixed with water or any non-alcoholic beverage ferments to or otherwise becomes an alcoholic beverage.
- “Un-denatured spirits” mean spirits that are not mixed with any substance to render the spirit unfit for human consumption or capable of being rendered unfit for human consumption and includes neutral spirits or alcoholic beverages made from neutral spirits that are fit for human consumption.
- “Vegetable juice” means unfermented liquid extracted from the edible part of a vegetable whether the extracted liquid is diluted or not.

Imposition of excise Duty

Under the proposed regime,

- opaque beer will be subjected to an excise duty of 12% or shs 150 per litre whichever is higher.
- any other alcoholic beverage locally produced will be subjected to an excise duty of 12% or shs 150 per litre whichever is higher.
- powder for reconstruction of beer shall be subjected to an excise duty of shs 2500 per kg.
- un-denatured spirits of alcoholic strength of 80% or more made from locally produced raw materials shall be taxed at a rate of 60% or shs 5000 per litre whichever is higher.
- un-denatured spirits of alcoholic strength of 80% or more made from imported raw materials shall be taxed at a rate of 100% of shs 5000 per litre whichever is higher.

- un-denatured spirits that are locally produced of alcoholic strength by volume of less than 80% shall be taxed at a rate of 80% or shs 1700 per litre whichever is higher.
- un-denatured spirits that are imported of alcoholic strength by volume of less than 80% shall be taxed at a rate of 100% or shs 5000 per litre whichever is higher.
- wines made from imported raw materials shall be taxed at the rate of 100% or shs 10,000 per litre whichever is higher.
- fruit juice and vegetable juice, except juice made from at least 30% pulp or at least 30% juice by weight or volume of the total composition of the drink from fruits and vegetables locally grown will be taxed at a rate of 12% or shs 250 per litre, whichever is higher.
- any other non-alcoholic beverage locally produced (other than fruit juice and vegetable juice) made out of fermented sugary tea solution with a combination of yeast and bacteria will be taxed at a rate of 12% or shs 150 per litre whichever is higher.
- mineral water, bottled water and other water purposely for drinking will be taxed at the rate of 10% or shs 75 per litre whichever is higher.
- cement, adhesives, grout, white cement or lime will be taxed at a rate of shs 500 per 50 kgs.
- motor spirit (gasoline) will be taxed at a rate of shs 1550 per litre.
- cas oil (automotive, light, amber for high-speed engine) will be taxed at shs 1230 per litre.
- illuminating kerosene will be taxed at the rate of shs 500 per litre.
- incoming international calls from burundi and tanzania will not be subjected to the current tax of usd 0.09 per minute. these two join the other members of the east african community (south sudan, kenya and rwanda) which hitherto enjoyed the exemption.
- a tax of 0.5% of the valuation of the transaction will be imposed on a payment service of withdrawals of cash provided through a payment system but does not include withdrawal services provided by a financial institution or a micro finance deposit taking institution.
- fermented beverages including cedar, perry, mead or near beer produced from locally grown or produced raw materials will be taxed at the rate of 30% or shs 550 per litre whichever is higher.

- construction materials of a manufacturer of an electric vehicle, electric battery or electric vehicle charging equipment or fabricator of the frame and body of an electric vehicle whose investment capital is, at least thirty-five Million United States Dollars in case of a foreigner or five million United States Dollars in the case of a citizen will be exempted from excise.

5. TAX PROCEDURES CODE (AMENDMENT) BILL, 2024

The purpose of the Tax Procedures Code (Amendment) Bill 2024, (“TPCAB 2024”) is to amend the Tax Procedures Code Act, 2014, to require a taxpayer who intends to claim a deduction of or credit for the goods destroyed to inform the commissioner before the destruction of the goods.

Under the proposed regime, a taxpayer who intends to claim a deduction of or credit for the goods destroyed as a result of damage of stock, expiry of trading, damage of manufactured stock, expiry of manufactured stock, or obsolete stock, must inform the commissioner in writing using a prescribed form, before destroying the goods.

Where a taxpayer fails to inform the commissioner before the destruction of the goods, he or she will not be allowed to claim for a deduction or credit for the destroyed goods.

CONCLUSION

The tax bills do not reflect the current tax regime in Uganda. They will only become law if passed by parliament and assented to by the President of the Republic of Uganda. Any changes in the tax laws will be captured in our subsequent tax updates.

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