

# TAX ALERT

June 2022

## TAX AMENDMENT ACTS 2022

On 2<sup>nd</sup> June 2022, His Excellency Yoweri Kaguta Museveni assented to the Tax (Amendment) Acts for the financial year 2022/23. The amendments are geared towards full monetization of Uganda's economy through commercial agriculture, industrialization, expanding and broadening services, digital transformation and market access as presented in the 2022/2023 budget speech. These amendments shall come in to force effective 1st July 2022 and below are the key highlights of the amendments to the following laws.

- a) The Income Tax (Amendment) Act, 2022;
- b) The Value Added Tax (Amendment) Act, 2022;
- c) The Stamp Duty (Amendment) Act, 2022; and
- d) The Tax Procedures Code (Amendment) Act, 2022

## The Income Tax (Amendment) Act, 2022

- a) Modification of the term beneficial owner. A "beneficial owner" is defined as the natural person who ultimately owns or controls a customer or the natural person on whose behalf a transaction is conducted and includes a person who exercises ultimate control over a legal person or arrangement;
  - For a company, a beneficial owner is the natural person who either directly or indirectly holds at least 10% of the shares or voting rights;
  - For trusts, the beneficial owner is the settlor; trustee; protector; the

beneficiary or the individual benefitting from the trust who is yet to be determined; and any other natural person exercising ultimate control of the trust.

**The amendment is targeting mitigating tax avoidance schemes intended to benefit from exemptions or reduced tax rates by exploiting existing tax treaties through transactions with no economic substance.**

- b) Introduction of a 0% rental income tax rate for individuals earning annual gross rental income below US\$ 2,820,000 and 12% for gross rental income exceeding the threshold.
- c) Companies have been granted a deduction of 50% of rental income as

expenditure and losses incurred in the production of rental income for that year of income. The applicable tax rate is 30%. There is uncertainty regarding the treatment of tax losses from previous years and future treatment of the non-deductible 50% of expenditures of the current year. There is an inconsistency between the law on carry forward losses which permits indefinite carrying forward of losses and the new restrictions in the amendment.

- d) Rental income of a partnerships is allocated and taxed on the Partners based on the partnership allocation ratios.
- e) **Tax exemptions:**
  - Extension of income tax exemption for Bujagali Hydro Power project to June 2023. The extension is aimed at maintaining the electricity tariffs at an affordable rate.
  - Income tax exemption for research institutions whose object is not for profit. For a research institution to benefit from the exemption, it is required to obtain a written ruling from the Uganda Revenue Authority (URA) stating that it is an exempt organization and none of its incomes or assets may confer a private benefit to any person.
- f) Exclusion from tax on income derived by nonresidents from the carriage of passengers, cargo or mail which is not embarked in Uganda as this is not derived from a Ugandan-source service contract. The amendment exempts incomes earned by foreign transporters

on carriage of passengers, mail or cargo embarked outside Uganda.

- g) A petroleum operations licensee who fails to furnish a return or provide any other document within the time prescribed is liable to a penalty of not less than USD 50,000 and not exceeding USD 500,000

## **V**alue Added Tax (Amendment) Act, 2022

- a) Reinstatement of VAT on imported services used in the provision of an exempt supply. VAT exempt suppliers importing services are mandated to account for 18% VAT on the services. This reverses the 2020/21 amendment which exempted the supply of the services.
- b) Introduction of cash basis accounting for government suppliers. The amendment is aimed at cushioning government suppliers from significant cashflow constraints due to consistent delays in payments.
- c) **Introduction of VAT exemptions:**
  - Oxygen cylinders or oxygen for medical use.
  - Supply of services to conduct a feasibility study, design and construction; the supply of locally produced materials for the construction of premises and other infrastructure, machinery and equipment or

furnishings and fittings to a hospital facility developer whose investment capital is at least USD 5 million with capacity to provide specialized medical care

- Supply of assistive devices for persons with disability
- supply of airport user services charged by the Civil Aviation Authority.

The VAT exemptions reduce the cost of the supplies to the final consumers.

d) **Introduction of VAT zero rating:**

- supply of educational materials including educational materials manufactured in a Partner State of the East African Community
- supply of sanitary towels, menstrual cups, tampons, and the inputs for their manufacture.  
Suppliers of zero-rated supplies claim input VAT on all vatable purchases with no restriction.

## **S** **tamp duty (Amendment) Act, 2022**

The Act is amending stamp duty rates and expanding on particular items in the Second Schedule to the principal Act;

- a) The stamp duty rate for agreements relating to deposit of title, deeds, pawn pledge of the total value has been revised from 1% to Nil;

b) Introduction of stamp duty rate of 0% or Nil for agricultural insurance policies;

c) The stamp duty rate for 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 of security bond or mortgage deed executed by surety to secure a loan or credit facility of entry total value has been revised from 1% to Nil.

d) The investment capital of a manufacturer with capacity to use at least 70% of locally sourced raw materials and employs at least 70% of citizens with an aggregate wage of at least 70 % of the total wage bill has been reduced from USD 50 M to USD 35 M. The reduction of the required capital to benefit from tax incentives is aimed at attracting more investors to support government efforts in import substitution and export promotion.

e) The amendment has expanded the instrument relating to trusts to include a trust concerning any property made by any writing including a transfer from a holder of letters of administration or probate orders to a beneficiary and to provide for related matters.

# **T**ax Procedure Code (Amendment) Act, 2022

- a) Introduction of a time frame limitation for which tax agent registration remains in force from 12 months from when the certificate of registration is issued to 31<sup>st</sup> December of each year of issue. The amendment will align the tenure of tax agent registration status to a calendar year.
- b) A new requirement for persons engaged in the construction or extractive industry to disclose names of the persons contracted during performance of the contract. The requirement allows the URA access to information related to persons subcontracted in the construction or extractive industry to facilitate tracking of tax compliance. The URA is expected to issue guidance on how and when the required information is to be gathered and transmitted to it.
- c) Introduction of penalties to any taxpayer who fails to activate tax stamps.
- d) Temporary closure of business where a taxpayer is not compliant with the requirements of electronic receipting and invoicing or tax stamps. The URA shall open a taxpayer's business where the taxpayer has fulfilled the required obligations.
- e) Penalties for failure to affix or activate tax stamps, printing over or defacing of tax stamps, forgery of tax stamps, failure to use an electronic receipting or invoicing, forgery of electronic receipt or invoice interference with the electronic fiscal device or the electronic dispensing control device. The amendments will support the URA efforts in enforcing compliance with Electronic Fiscal Receipting and Invoicing for eligible taxpayers to eliminate existing loopholes.
- f) Payment to informers for providing information leading to identification or recovery of any tax or duty. This amendment is intended to enforce tax compliance by encouraging whistleblowers to assist the URA identify and collect revenue while managing the costs incurred by the URA in the whistleblowing process.

*This tax alert has been prepared for general informational purposes only, and it is not intended to provide, and should not be relied on for, tax, legal or accounting advice. You should obtain professional advice before engaging in any transaction.*

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