



# TAX LAW

## OVER VIEW OF UGANDA'S TAX AMENDMENTS 2021

- BACKGROUND
- INCOME TAX AMENDMENT BILL 2021.
- TAX PROCEEDURE CODE (AMENDMENT) BILL 2021
- VALUE ADDED TAX
- EXCISE DUTY (AMENDEMENT) BIL, 2021
- STAMP DUTY (AMENDMENT) BILL 2021
- EXTERNAL TRADE (AMENDMENT) BILL
- MINING (AMENDMENT) BILL
- FISH (AMENDMENT) BILL 2021
- TOBACCO CONTROL (AMENDMENT) BILL 2021
- TRAFFIC & ROAD SAFELY (AMENDMENT) BILL
- TAX APPEALS TRIBUNAL (AMENDEMENT ACT) 2021

## BACKGROUND

The Minister of Finance Planning and Economic Development tabled before parliament various tax amendment bills under which government proposes several budget measures for the year 2021/2022. Once the proposed amendment bills are passed by parliament they will be sent to The President for assent, once assented to, they will become laws effective 1 July 2021.

We have analyzed the various proposed tax amendments and their implication to the Ugandan economy and tax payers.

### 1. INCOME TAX AMENDMENT BILL 2021.

The bill proposed to revise rate applicable to individuals and companies for rental income, provide incentive to manufacturers, define date of submission of application for refund, due date of payment of income tax, discontinue the concurrent deduction of initial allowance and depreciation of assets.

#### a. Definition of beneficial owner (S.2(ae))

A beneficial owner is defined to mean a natural person who is an individual and not a company and in case of a legal person, an individual who owns at least 10% shares or voting right

#### b. Exempt organization to be those that are nonprofit making (S.2(bb)).

The bill clarifies what organization qualifies to be an exempt organization as a religious, charitable or educational institution whose object is "not for profit"

#### c. Rental income for individuals increased from 20% to 30% (part 6 third schedule).

The tax rate applicable for purposes of sec 6(2) (rental tax) is 30% of chargeable income which is the same as for companies.

#### d. Rental income to be charged on each building separately. (The building to be the tax payer (S.5 (2bb) and S.22(1)(c).

The bill proposes that 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." And will be allowed a deduction of **60%** (previous act allowed 20% for individual taxpayers) of the rental income as expenditure and losses incurred by that person.

#### e. Extended incentives for a 10 years' tax exemption to other manufacturers to boost the manufacturing industry. (S.21(af) (vii) and (ai))

The Bill proposes to provide an exemption to manufacturers of chemicals for agricultural use, textiles, glassware, leather products, industrial machinery, electrical equipment, sanitary pads and for diapers. (In addition to listed manufacturers in the current law), and also any other manufacturer not listed whose investment capital is at least **USD 50M** or makes an **additional investment equivalent to USD 50M, with** capacity to at **least use 50% locally produced raw materials** and Employees at least a minimum of 100 citizens.

- f. Reclassification of all depreciable assets into 3 classes (from 4); All automobiles, vehicles to be under one class (6<sup>th</sup> schedule part 1)

**The bill proposes 3 classes for depreciable assets as below,**

| Class | Asset included  | Rate |
|-------|---|------|
| 1     | Computers and data handling   | 40%  |
| 2     | Plant and machinery used in farming, manufacturing and mining   | 30%  |
| 3     | 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; <b>any depreciable asset not included in another class.</b> | 20%  |

- g. Discontinue the concurrent deduction of initial allowance and deduction on depreciation of assets (s.29(1a)).

The bill proposes that where a building qualifies for initial allowance deduction under S.27A, and depreciation in the same year, a deduction for the depreciation **shall** be deferred to the next year of income.

- h. Cost base of an asset attracting Capital gains tax will be indexed using BOU consumer index rates.

The bill introduces a formula for calculating the cost base of an asset on disposal.

- i. No gain or loss arising from the sale of investment interest of a registered venture capital fund S.54(1)(e)

The bill proposes that no gain or loss is taken into account to determine chargeable income in relation to the sale of investment interest of a registered venture capital fund if at least 50% of the proceeds on sale is reinvested within the year of income; A registered venture capital fund shall however be entitled to a non-recognition of a gain or loss equivalent to the percentage of reinvested proceeds

- j. Commissioner's power to automatically exchange information S.88(3a).

The bill proposes that 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 and the Minister may make regulations to provide for the automatic exchange of information for tax purposes."

- k. **Due date of payment of Tax harmonized with due date of filing an abjection s.93A**  
The bill proposes that tax due shall be payable; in the case of a taxpayer under section 20 of the TPCA, (On self-assessment), the due date for furnishing of the return of income to which the assessment relates and in any other case, within forty-five days from the date of service of the notice of assessment.
- l. **Date of application for Refund extended to date when final information is received by the Commissioner S.113(4)(a).**  
The bill proposes that "A taxpayer shall be deemed to have submitted an application for refund, on the date on which the application is received by the Commissioner. And 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.
- m. **Introducing Withholding tax exemption on the seller of a business or a business asset (Sect 118B(2a)).**  
The bill proposes that where the Commissioner is satisfied that a person under s.118B (2) (Purchases a business asset to withhold 6% of gross payment) has regularly complied with the obligations imposed on that person under this Act

## **2. TAX PROCEDURE CODE (AMENDMENT) BILL 2021**

The bill to define tax decision, impose an obligation on local authority, government institutions or regulatory body to issue a license to only a person who has a tax identification number, provide for penal tax relating to tax stamp, provide for Alternative dispute resolution mechanism for tax objections, prescribe the powers of the commissioner during investigations, and to revise offenses and penalties.

### **a. Tax decision defined S.3**

The bill defines a tax decision as; 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 **(The following are not tax decisions)**

- (i) a decision made in relation to a tax assessment(objections)
- (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 component of an offence under any tax law;
- (v) or a decision to refuse, issue or revoke a private ruling or an omission to issue or revoke a private ruling

### **b. No TIN no business license s.5(9)**

The bill proposes that A local authority, Government institution or regulatory body shall not issue a license or any form of authorization necessary for purposes of conducting any business in Uganda to any person who does not have a tax identification number."

c. Penal tax relating to tax stamps.s.19B (5)

- i. Where the offender under subsection (4) (Person acquiring or affixes a stamp without commissioner’s authority) sells 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 (10M) or to imprisonment for a term not exceeding five years or both.
- ii. Affixing the stamp on the goods other than those approved the offender is liable to double the tax due on the goods or 500 currency points (10M) whichever is higher.

d. Increased period of filling an amended self-assessment to 3 years s.23(3).

The bill proposes that a tax payer who has furnished a self-assessment other than a tax payer whose return is being investigated may upon discovering an error within three years (from one year) after the date of filing the return apply to the commissioner for leave to make an additional assessment.

e. Introduced Alternative dispute resolution (ADR) procedure sec 24(11 and 12)

The bill proposes to introduce Alternative dispute resolution to any tax payer who is dissatisfied with a decision of commissioner. The minister to make regulations to provide for ADR for tax purposes.

f. No requirement for applying payment to oldest liability first s.32

The bill proposes to repeal s.32(2) which **provides that if a tax payer has more than one tax liability at the time of making a payment, the payment applies to the oldest liability first.**

g. Powers of a commissioner expanded during investigations s.41a

The bill proposes to gives more powers to the commissioner during investigations as follows;

- 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.”

h. On Conviction of Offences, applicable penalties have been increased

| Section         | Offence  | Current penalty & Fine                    | Proposed fine.                              |
|-----------------|--|---|---|
| <b>S.54 (1)</b> | Failure to furnish a tax return by the due date                        | Twenty five currency points (Ugx 500,000) | Fifty currency points (Ugx 1,000,000)       |
| <b>54 (2)</b>   | On conviction Failure to furnish return on the date specified by court | Fifty currency points(Ugx 1,000,000)      | One hundred currency points (Ugx 2,000,000) |

|                 |   |  |  |
|-----------------|---|--|--|
| <b>S.55</b>     | Failure to comply with obligations under the act                          | Twenty five currency points (Ugx 500,000)  | One Hundred currency points(2,000,000)   |
| <b>S.56</b>     | Failure to maintain proper records  | Forty eight currency points (Ugx 960,000) or imprisonment for two years or both.                   | One hundred currency points (2,000,000)  |
| <b>S.60</b>     | Aiding or abetting, counsels OR induce a tax offence                      | Same offence as an offender  | Fine double the tax evaded or not exceeding two hundred and fifty currency points (5M) or 5years imprisonment. |
| <b>S.61</b>     | Offences relating to recovery of tax<br>Failure to apply for registration | 50 Currency points (1M)<br>Or imprisonment not exceeding two years or both.                        | 100 currency points (2M) Or Two years imprisonment or both   |
| <b>S.63 (1)</b> | Receiving payment or reward by a tax officer which is not lawful.         | Not exceeding forty eight currency points (960,000) or imprisonment not exceeding 2 years or both. | One hundred and Fifty Currency points (3M)<br>Or imprisonment not exceeding six years or both.                 |
| <b>S.63 (6)</b> | Impersonating a tax officer   | fine not exceeding 50 currency points (1m) or imprisonment not exceeding 2 years or both           | fine not exceeding 100 currency points (2m) or imprisonment not exceeding 6 years or both                      |

### 3. VALUE ADDED TAX

**A bill is to amend the value added tax to provide timelines within which to apply for input tax credit, provide for the refund of tax for use of electronic receipts or invoice, impose strict liability for violation under penal tax and provide tax incentives to investors by exempting certain supplies from VAT.**

- a. **Introduces time limit to claim VAT input tax credit to 6months from the date of the invoice S.28(14a)**  
The bill proposes that A taxable person shall apply for input tax credit within six months from the date of the invoice.
- b. **Suppliers of Vatable services to nontaxable persons in Uganda to lodge their returns within 15 days after 3 consecutive calendar months. S.31A (1a)**  
The Bill proposes that a taxable person who supplies services under section **16 (2)** (where e recipient is not a taxable person.....), shall lodge a tax return with the



Commissioner General within fifteen days after the end of three consecutive calendar months.”

c. **Introduced an incentive to NON VAT registered persons to Refund of 5% of VAT EFRIS invoices worth 10M within 30 consecutive days.**

The bill proposes that “A person other than a taxable person who purchases goods or services from a taxable person and is issued with an electronic invoice or several electronic invoices worth 10m shs within a period of 30 consecutive days, shall be entitled to a refund of 5% of the tax paid.

d. **Exempt supplies**

The bill proposes to amend the second schedule and exempt the supply of liquefied gas, exempts any manufacturers with investment capital of 50M Dollars, with capacity to employ 70% citizens of Uganda, uses at least 70% locally sourced raw materials subject to availability

e. **Zero rated Supplies–**

The bill proposes zero% as a tax rate for the following supplies – The supply of leased aircraft, aircraft engines, spare parts for aircraft, aircraft maintenance equipment and repair services.

**4. EXCISE DUTY (AMENDMENT) BIL, 2021**

A bill to amend the excise duty act 2014 to repeal section 5 subsections on renewal of certificate of registration of manufacturers, importers or providers of excisable goods and services, provide for rebates on excise duty paid on plastic packaging, amend schedule two to vary excise duty on opaque beer, locally manufactured nonalcoholic beverages, plastic, airtime, value added services and internet and to provide for incentives to manufacturers.

a. **No requirement to renew certificate of registration annually.**

The bill proposes to repeal **S. 5(10, 11 and 12) On requirement of manufacturers, importers and providers of excisable goods and services to renew certificate of registration within 30 days before expiry.**

b. **Remission of excise duty paid on plastic packaging. S.10(3a)**

**The bill proposes that** the commissioner may if satisfied that excise duty was paid on plastic packaging for exported goods, Medicaments, manufactured from recycled plastics, remit the excise duty paid.

But no remission shall be made on plastic packaging manufactured from recycled plastic unless the recycled plastic used in manufacture of plastic packaging is equivalent to at least 50% of the raw materials used.

c. Introduced Excise duty on listed products including plastics, alcoholic ,non alcoholic locally produced beverages and repealed OTT among others

| Item   | Current excise duty rate                   | Proposed excise duty rate.                                     |
|--|--|--|
| 2 (d) opaque beer  | 30% or shs.650 per litre; whichever higher | 30% or shs.230 per litre; whichever is higher                  |
| (e) any other alcoholic beverage locally produced  |  | 30% or shs.230 per litre; whichever is higher                  |
| 5 (d) any other non-alcoholic beverage locally produced other than the beverage referred to in subparagraph (a) made out of fermented sugary tea solution with a combination of yeast and bacteria.  |  | 12% or shs.250 per liter whichever is higher;                  |
| Plastic packaging  | 120% or Shs.10,000 per kg of plastic bags  | 5% or USD 150 per ton, whichever is higher;                    |
| Plastic granules   |  | 5% or USD 100 per ton, whichever is higher;                    |
| internet data, except data for provision of medical services and education services  | NIL  | 12% of the fee charged;  |
| Over the top services (OTT)  | Shs.200 per user per day of access         | <b>Repealed excise duty on OTT services of shs.200 per day</b> |
| value added services for telecommunication   | 20%  | 12% of the fee charged;  |
| any other fermented beverages including cider, perry, mead, spears or near beer  |  | 60% or shs.950 per litre; whichever is higher                  |
| construction materials of a manufacturer, other than a manufacturer referred to in item 21, whose investment capital is, at least fifty million United States Dollars or, in the case of any other manufacturer, who makes an additional investment equivalent to fifty million United States Dollars; |  | Nil  |
| Wheat grain  |  | Shs.100 per kilogram   |



## 5. STAMP DUTY (AMENDMENT) BILL 2021

The bill is to amend the principle act to Provide for an incentive to a manufacturer whose investment capital is at least 15M USD, and to clarify the requirement for incentives on strategic investment projects.

### a. Strategic investment projects that attract NIL excise duty.

The Bill proposes in second schedule Item 60A (iii) that the manufacturer should have capacity to use at least fifty percent of the locally produced raw materials, subject to availability, capacity to employ a minimum of one hundred citizens;

And all other manufacturers, that makes an additional investment equivalent to fifty million United States Dollar shall attract nil stamp duty on debentures, mortgage deeds, lease of land, transfer, increase of share capital.

## 6. EXTERNAL TRADE (AMENDMENT) BILL

A bill to impose an export levy on wheat bran, cotton cake, maize bran or other by products of the milling industry.

### a. Levy on wheat bran, cotton cake, maize bran or other by-products of the milling industry.

The bill proposes a levy on wheat bran, cotton cake, maize bran and other by-products of the milling industry at the **rate of USD 0.4 per kg**, which is exported out of Uganda.

The levy shall be paid by the exporter to URA at the time of export of the product out of Uganda.

## 7. MINING (AMENDMENT) BILL

A bill to impose an export levy on processed gold and unprocessed minerals.

### a. Levy on processed gold (s.116A)

The bill proposes to charge a levy on processed gold at the rate of USD 200 per kilogram which is exported out of Uganda. This shall be paid by the exporter to the URA at the time the processed gold is exported out of Uganda.

### b. Levy on unprocessed minerals S.116B

The bill proposes to charge a levy on unprocessed minerals, at the rate of 1%of the value of the unprocessed minerals which is exported out of Uganda.

This shall be paid by the exporter to URA at the time when the unprocessed minerals is exported out of Uganda.

## 8. FISH (AMENDMENT) BILL 2021

The bill to impose an export levy on fish maw.

### a. Levy on fish maw (dried swim bladders of large fish) S. 30A

The bill proposes to charge a levy on fish maw at the rate of Shs.70,000 per kilogram of fish maw which is exported out of Uganda.

2). This shall be paid by the exporter to URA at the time the fish maw is exported out of Uganda.

## **9. TOBACCO CONTROL (AMENDMENT) BILL 2021**

A bill to define the term unprocessed tobacco.

### **a. Levy on leaf tobacco**

The bill proposes a levy on leaf tobacco at the rate of USD 0.8 per kg of leaf tobacco which is exported out of Uganda. This shall be paid by the exporter to URA at the time the leaf tobacco is exported out of Uganda.

For the purposes of this section "leaf tobacco" shall not include cutrag, threshed stem, threshed strips, threshed loose leaves or threshed lamina.

## **10. TRAFFIC & ROAD SAFELY (AMENDMENT) BILL**

An act to provide for a licence payable for possession of a motor vehicle, introduce an annual licence fee for all motor vehicles and repeal the third schedule to the act.

### **a. License for possession of motor vehicle s.14**

The bill proposes that "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".

A person who contravenes the subsection above commits an offence and is liable, on conviction, to a fine not exceeding 100 currency points or imprisonment for a term not exceeding one year or both.

### **b. Re-introduce Motor Vehicle Annual License Fees S.14 B**

The bill proposes that "A person who owns or possess a motor vehicle, trailer or engineering plant or uses it on a road, shall pay an annual fee on or behalf before or on the 31<sup>st</sup> day of **January of every year as the minister may prescribe.**

Penalty for nonpayment of the annual fee shall be ten currency points (200,000 shillings). The unpaid annual fee and penalty shall be a debt owed to the government of Uganda by the defaulter.

## **11. TAX APPEALS TRIBUNAL (AMENDEMENT ACT) 2021**

An act to amend the tax appeals tribunal act to provide for the right of appeal from the decision of the high court to the court of appeal and the supreme court.

### **a. Appeals to court of appeal from decision of High court S.27A**

A party to proceeding before the high court may within 30 days after being notified of the decision of the highcourt lodge a notice of appeal to court of appeal and serve a copy of the Notice of appeal on the other party to the proceedings before the high court.

An appeal to the court of appeal may be on question of law only and the notice of appeal shall state the question or questions of law that will be raised on appeal.

**b. Appeal to Supreme Court from decision of court of appeal S.27B**

A party to proceedings before court of appeal may with leave of court lodge a notice of appeal to supreme court and serve a copy to a party to the proceeding before the court of appeal.

An appeal to supreme court may be on questions of law and the notice shall state the questions of law to be raised on the appeal.

**c. Powers to stay execution of a decision lower court introduced s.28**

A reviewing body may make an order staying the operation or implementation of the decision under review or appeal.

**PLEASE NOTE THAT;**

1. This Tax Alert is written in general terms for guidance purposes only and is not a substitute for professional advice. We have exercised every care in ensuring the accuracy of information contained herein, however, we will not accept any responsibility for any errors or omissions or for any action taken, or refraining from action without appropriate professional advice.
2. This analysis is written in general terms and not exhaustive or conclusive, it's a highlight of sections that will impact the economy and should be read as a guide.
3. We have however excised due care to ensure accuracy of information contained herein, no responsibility shall however be attributed in case of an omission or errors made in application based on the contents of this analysis without seeking professional tax advice and guidance. In case of any further clarity refer to the relevant amended law.

***For more information or assistance, regarding the above or any matter related to tax, please contact us on the address below.***

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**CORPORATE  
SECRETARIAL**



**BUSINESS  
PROCESS  
SUPPORT**



6th Floor Lourdel Towers  
Plot 1 Lourdel Road, Nakasero  
P.O. Box 10216, Kampala



+256 200 905 167  
+256 772 461 707  
+256 704 009 920  
+256 701 604 863



[info@rka.ug](mailto:info@rka.ug)



[www.rka.ug](http://www.rka.ug)