AF MPANGA
EXCEEDING THE IMPOSSIBLE

APRIL, 2024

TAX ALERT

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BACKGROUND

On 28th March 2024, the Parliament published the tax and revenue bills for the financial year 2024/2025. The bills will be discussed through public consultations by various taxpayers, the committee and Parliament. Once approved and assented to by the President, these bills will take effect from 1st July 2024.

We highlight the proposed amendments to the following tax laws which we believe may have an impact on your business;

1. The Income Tax (Amendment) Bill 2024
2. The Value Added Tax (Amendment) Bill 2024
3. The Excise Duty (Amendment) Bill 2024
4. The Tax Procedure Code (Amendment) Bill 2024
5. The Stamp Duty (Amendment) Bill 2024

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INCOME TAX (AMENDMENT) BILL 2024

S/N	PROPOSED AMMENDMENT	BRIEF DESCRIPTION
1	Introduction of tax on the gains arising from the disposal of non-business assets	**The bill proposes to introduce a tax on the gains arising from the disposal of a non- business asset at a rate of 5%.** The disposal of the following non-business assets will attract tax; a) Shares of a private company b) Land in cities or municipalities except the principal place of residence; and c) Rental property that is subject to rental tax. **The 5% tax shall not apply to gains from the disposal of non-business assets-** a) By involuntary disposal of non- business assets through auction, court order, mortgages, divorce settlement or spousal separation agreement; b) The transmission of non- business assets of the deceased to a trustee or beneficiary; or c) Arising from the disposal of investment interest of a registered venture capital fund or private equity. **The 5% tax is a final tax and separate from any other tax imposed under the Income Tax Act.** A taxpayer who has disposed the qualifying non business assets is required to pay the tax within 15 days upon disposal, failure of which will attract interest of 2% per month of the unpaid amount until when payment is paid. The bill further imposes an obligation on the taxpayer to notify the Commissioner General in writing of the details of the disposal within 15 days from the date of disposal. This proposal introduces a shift from the traditional understanding of taxable income by introduction of a tax on non-business assets. The Capital gains regime currently targets only business assets.
2	Exemption of income from the private equity or venture capital firms and	The bill proposes to exempt any income derived from or by private equity or venture capital funds that are regulated under the Capital Markets Authority Act. This proposal targets obtaining foreign direct investment for Ugandan business and is therefore positive for Uganda's investment climate.

3	Expansion of the exemption regime	• The bill proposes to exempt income from the disposal of government securities on the secondary market. • The bill proposes to accord the exemption currently available to an operator in an industrial park or any other person carrying on business outside the industrial park or free zone that meet the capital requirements, to manufacturers of electric vehicles, batteries, vehicle charging equipment or fabricates the frame and body of an electric car as well as persons operating a specialised hospital facility. This exemption proposal seeks to boost manufacture of environment friendly equipment that is in line with the climate change transition requirements for Uganda.
4	Repeal of definition of a branch and substitution with a comprehensive scope of a Permanent Establishment	The bill proposes to repeal the definition of a branch and substitute it with substantiative provisions on Permanent Establishment. Permanent establishment has been defined to mean a place of management, a branch, an office, a factory, a workshop, a warehouse in relation to a person providing storage facilities to others, a mine, an oil or gas well, a quarry or any other place of exploration for or extraction or exploration of natural resources; a farm, plantation or other place where agricultural, forestry plantation or related activities are carried on; a sales outlet; a building site or construction, installation or assembly project, or supervisory activities in connection with the site, project or activity that lasts for at least 90 days in any twelve months period; the furnishing of services, including consultancy services, by a person through employees or other personnel engaged by the person for such purposes provided that such activities continue in Uganda for a period of, or periods amounting in aggregate to, 183 days or more in any twelve month period that commences or ends during the year of income; or substantial equipment or machinery that is operated or is available for operation in Uganda for a period amounting to or in aggregate to 90 days or more in a twelve month period that commences or ends during the year of income. Preparatory and Auxiliary activities Where the activities are merely of preparatory or auxiliary character, they will not constitute a Permanent Establishment.

4	Repeal of definition of a branch and substitution with a comprehensive scope of a Permanent Establishment	**Activities of an agent** The activities of a dependent agent who habitually concludes contracts without material modification by the principal unless the activities are preparatory or auxiliary in character will constitute a permanent establishment. **Force of attraction rules** The income of a non- resident person attributable to activities of a PE shall be taxed in Uganda including- a) Income derived from the sale of goods or merchandise in Uganda of same or similar kind as those sold through a PE; or b) The income of other business activities carried on in Uganda that are of the same or similar kind as those carried out through the permanent establishment. **Deductions** A PE shall not be allowed a deduction in respect of amounts paid to the head office or any of its other offices by way of royalties, fees or similar payments in return for use of patents or other rights, commission, interest except in case of financial institution. The PE shall be allowed to deduct other expenses it incurs for its business. **Separate legal Entity** The bill proposes to consider a PE as a distinct and separate entity from the non- resident person and the transactions between the PE and the non-resident are considered transactions between associates which should be arm's length. This proposal seeks to align Uganda's international tax regime to the Organisation for Economic Cooperation and Development Model Tax Convention by replacing the term 'Branch' with 'Permanent Establishment'. The proposal however modifies the definition under model convention by pointing out the specific instances under which a PE would be established in Uganda.
5	Interest on debentures	The bill proposes to substitute the provision on exemption of debentures to only cover interest paid by Government to a non-resident person in respect to debentures to be exempt from tax. Interest paid by a resident in respect of debentures is subject to tax at 2% where the following conditions are satisfied- a) The interest is paid by a resident person to a financial institution; b) The financial institution is unrelated to the resident borrower; and c) The interest is not paid as part of an arrangement involving back- to-back loan or other arrangement that us economically equivalent and intended to have a similar effect to a back- to back loan. This proposal seeks to introduce a 2% WHT on interest payments on debentures issued by resident companies to non-resident companies which was previously exempt. The amendment now only exempts interest paid by government. This proposal is likely to increase the cost of foreign direct investment in Uganda through this introduction of a 2% tax on interest payments.

6	Introduction of requirement to submit transfer pricing documentation to the Commissioner	The bill proposes to introduce a requirement for companies to submit transfer pricing information to the Commissioner at the time of filing returns. Currently, the Transfer Pricing Regulations require a taxpayer to have the transfer pricing documentation in place by the due date of filing the applicable tax returns. This proposal now creates an obligation to submit the Transfer pricing policy. This will also impact the compliance costs of Multinational entities.
7	Introduction of Withholding tax obligation on commission to payment service providers	The bill proposes a Withholding tax obligation on persons that pay commissions to a payment service provider on the commission paid at a rate of 10%. It is proposed that this will apply to banking agents or any other agent offering financial services. Previously, there was no WHT provision on this in a bid to deepen financial inclusion. The proposal, therefore, widens the WHT tax base to include commission income to payment service providers.

VALUE ADDED TAX (AMENDMENT) BILL 2024

S/N	PROPOSED AMMENDMENT	BRIEF DESCRIPTION
1	Supply of goods through auction	The bill proposes to classify the supply of good through an auction by an auctioneer as a supply of goods by the recipient of the proceeds of the auction. Furthermore, the bill proposes that in case of a supply of goods through auction, the tax is to be paid by the recipient of the proceeds of the auction.
2	Expansion of what amounts to a taxable supply.	The bill proposes to include a supply of goods or services by an employer to an employee, for no consideration as a taxable supply for consideration as part of the person's business activities.
3	Increased threshold for tax offsets	The bill proposes to increase the offset amount from UGX 5,000,000 to UGX 10,000,000
4	Penalty for failure to withhold tax	The bill proposes to impose a penalty equivalent to the tax that should have been withheld where a withholding agent fails to withhold. The tax paid is recoverable from the person from whom they should have withheld.
5	Expansion of the exemption regime	**The bill proposes that the following shall be exempted from VAT;** i. Hoes ii. the supply of an electric vehicle locally manufactured or supply of frame and body of an electric vehicle locally fabricated; iii the supply of electric vehicle charging equipment or supply of charging services of an electric vehicle; iv. the supply of pesticides; v the supply of fertilizers, seeds and seedlings; vi. the supply of cooking stoves, that use fuel ethanol, assembled in Uganda, up to 30th June, 2028

EXCISE DUTY AMENDMENT BILL 2024

Introduction of definitions

The Bill proposes to include definitions for the following;

- **Fruit Juice**
  Fruit juice means unfermented liquid extracted from the edible part of a fresh fruit whether the extracted liquid is diluted or not.
- **Vegetable juice**
  Vegetable juice means unfermented liquid extracted from the edible part of a vegetable whether the extracted liquid is diluted or not.

Varying of Excise Duty Rates

No.	Item	Current Excise Duty Rate	Proposed Excise Duty rate
1.	Fruit juice and vegetable juice, except juice made from at least 30% pulp or at least 30% pulp or at least 30% juice by weight or volume of the total composition of the drink from fruits and vegetables grown locally	12% or shs.250 per litre, whichever is higher	12% or shs.250 per litre, whichever is higher
2.	Any other non- alcoholic beverage locally produced other than the beverage referred to in paragraph (a) made out of fermented sugary tea solution with a combination of yeast and bacteria	12% or shs.250 per litre, whichever is higher	12% or shs.150 per litre, whichever is higher
3.	Mineral water, bottled water and other water purposely for drinking	10%	10% or shs. 75 per litre whichever is higher
4.	Motor spirit (gasoline)	Shs. 1450 per litre	Shs. 1550 per litre

TAX PROCEDURE CODE (AMENDMENT) BILL, 2024

S/N	PROPOSED AMMENDMENT	BRIEF DESCRIPTION
1	Credit for destruction of goods.	The bill proposes the imposition an obligation on a taxpayer who intends to claim a deduction or credit for goods destroyed as a result; damage and expiry of trading stock, damage and expiry of manufactured stock or obsolete stock to inform the Commissioner in writing before destroying the goods. Where the taxpayer fails to inform the Commissioner of the destruction, they shall not claim a deduction/credit for the destroyed goods.

STAMP DUTY ACT, 2024

S/N	PROPOSED AMMENDMENT	BRIEF DESCRIPTION
1	Expansion of exemption form stamp duty	• The bill proposes to exclude from duty the shares acquired by investors in a private equity or venture capital fund regulated under the Capital markets Authority Act, Cap 84. • The bill proposes an exemption from duty on nominal share capital or increase acquired by an investor in a private equity or venture capital fund.
2	Clarification on requirements for the Strategic investment projects exemption	**The bill proposes that this exemption will be available among the other requirements;** • where at least seventy percent of the company's employees are citizens earning an aggregate wage of at least seventy percent of the total wage bill and the company uses at least seventy percent of the locally produced raw materials, subject to availability. • The bill proposes to remove the requirement for the hospital under the strategic investment project invest to be at the level of a national referral hospital.
3	Inclusion of manufacturers of electric cars and their equipment under the Strategic Investment project exemption.	**The bill proposes to include a manufacturer of electric vehicles, electric battery or electric vehicle charging equipment or fabricator of the frame and body of an electric vehicle under the strategic investment project in case;** • They have a minimum investment capital of ten million United States Dollars in case of a foreigner and three hundred for a citizen or one hundred fifty Thousand in case a citizen invests up country. • Uses at least seventy percent of the locally produced raw materials. Employs at least seventy percent of its employees being citizens earning an aggregate wage bill of at least 70 percent of the total wage bill. • Provides for substitution of thirty percent of the value of imported products.

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