GUIDE – UGANDA – PRELIMINARY TAX PROPOSALS RELEASED
Contents

04 Introduction
06 Income Tax Proposals
10 VAT Proposals
12 Stamp Duty Proposals
13 Excise Duty Proposals
14 Key Contacts
The Government has released its preliminary tax proposals that have been tabled before Parliament for debate. These include the Income Tax Amendment Bill 2020, the Value Added Tax Amendment Bill 2020, the Excise Duty Amendment Act 2020 as well as the Stamp Duty Amendment Bill 2020. The Bills shall now undergo a process of public consultation with the Parliamentary Public Finance Committee before being read in Parliament for debate and passage. Amidst the COVID-19 Pandemic, the bills primarily focus on closing existing revenue gaps, increasing rates on specific production items and combating tax avoidance. We highlight below some of the key proposals for each tax head.
Minimum tax rate of 0.5%

The bill proposes to impose a minimum tax rate of 0.5% of gross turnover of a taxpayer if their declared tax liability for a consecutive period of five years is less than an arithmetic average of 0.5% of the gross income. This rate 0.5% shall be applicable starting in the 6th year.

This proposal is another attempt by the government to impose a tax liability on companies posting consistent tax loss positions. A somewhat similar proposal was defeated in parliament last financial year. The proposal does not recognise loss making positions of taxpayers and essentially seeks to impose current income tax based on historical performance of a business. It also does not take cognizance of any withholding tax that the business may have incurred in loss making period.

Rental tax rate for individuals increased to 30% from 20%;

The bill proposes that the rental tax rate for individuals be increased to 30% (from 20%) bringing it in line with other persons whose rate has been 30%. Coupled with the increase in allowable deductions discussed below, this is likely to result in lower rental tax liability for individuals.

Allowable expenses for rental income up to 50% of gross rent.

Currently, 20% of the rental income is allowed as a deduction for individuals with rental income. Other persons (other than individuals) are allowed all incurred expenses in full. The bill proposes an allowable deduction of 50% (fifty percent) of the gross rental income to cater for expenditures and losses incurred by all persons in the production of rental income, effectively removing the distinction between treatment of individuals and other persons for purposes of rental income. It has further proposed to repeal the deduction allowed for individuals for interest on mortgages from financial institutions. The understanding seems to be that this will be covered by the increase in blanket allowable deductions to 50%. The standardization of this deduction may actually result in lower tax liability for landlords with minimal rental expenses.

Rental income for partnerships

In respect to a partnership that receives rental income, the bill proposes that the tax shall be imposed on the individual partners as part of their individual income tax filing. The rate applicable would be in accordance to the scheduled income tax rates applicable to individuals.

Property owners to account for rental tax for each building separately

The bill provides that a person owning more than one building shall account and pay for taxes from each building separately. For persons in real estate business, this requirement is likely to increase the compliance burden of accounting for rental tax separately for each property. We note that a similar proposal was considered and dropped by parliament in the last financial year.
The income of the Deposit Protection Fund exempted from income tax

The bill proposes that the Income of the Deposit Protection Fund established under section 108 of the Financial Institutions Act, 2016 shall be exempted from Income tax.

Expenses from a supplier designated to use e-invoicing system

The bill provides that expenses of a person who purchases goods or services from a supplier who is designated to use the e-invoicing system SHALL NOT be allowed unless the expenses are supported by e-invoices or e-receipts. We however note that there is currently no legal designation for taxpayers to use e-invoices.

Withholding tax on purchase of land which is not a business asset

The bill proposes that a resident person who purchases land, other than land which is a business asset, from a resident person, shall withhold tax at a rate of 0.5% of the purchase price. Currently the purchase of any asset by a resident from a non-resident person is subject to 10% withholding tax.

We also note that under section 21(k) of the Income Tax Act, a gain derived from a disposal of a non-business asset (except commercial buildings and shares in a private company) is exempt from tax. It follows that the proposed amendment is attempting to impose a withholding obligation on income which is exempt from tax without removing the exemption. This ought to be properly addressed when the proposals are finalized.

Introduction of 10% Withholding tax on commission paid to an insurance agent

The bill introduces a 10% withholding tax on the gross commission paid to an insurance agent by an insurance service provider. It is important to note that the URA had previously sought to impose PAYE on insurance agents on the basis that they were employees. This position was defeated in the high court in Uganda Insurers Association and 27 others vs Uganda Revenue Authority CA No. 29 of 2018. This proposal unambiguously instructs how insurance agents shall be treated for income tax purposes.

Introduction of 10% Withholding of tax on commission paid to an advertising agent

The bill introduces a 10% withholding tax on the gross commission paid to an advertising agent.

Reinstatement of withholding tax on agricultural supplies

The Income Tax (Amendment) Act, 2019 had suspended the application of withholding tax (which was at a rate of 1%) under section 119 of the Income tax Act with respect to agricultural supplies.

This bill now proposes to reinstate its application. In case the proposal is adopted, agricultural supplies shall be subject to a withholding tax of 6%.
**Tax Clearance certificate for passenger and freight service vehicles**

The bill proposes that a taxpayer providing passenger service transport or freight service were goods vehicle used has a loading capacity of at least two tonnes shall obtain a tax clearance certificate before their operational licence is renewed.

**New tax regime for small business taxpayers**

The Bill introduces a new tax regime for small business taxpayers as follows:

<table>
<thead>
<tr>
<th>GROSS TURNOVER</th>
<th>TAX RATE PER ANNUM WITHOUT RECORDS ‘USHS’</th>
<th>TAX RATE PER ANNUM WITH RECORDS ‘USHS’</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the gross turnover of the taxpayer does not exceed ten million shillings per annum.</td>
<td>NIL</td>
<td>NIL</td>
</tr>
<tr>
<td>Where the gross turnover of the taxpayer exceeds ten million shillings but does not exceed thirty million shillings per annum.</td>
<td>80,000</td>
<td>0.4 % of the annual turnover in excess of ten million shillings</td>
</tr>
<tr>
<td>Where the gross turnover of the taxpayer exceeds thirty million shillings but does not exceed fifty million shillings per annum.</td>
<td>200,000</td>
<td>Shs 80,000 plus 0.5% of the annual turnover in excess of thirty million shillings.</td>
</tr>
<tr>
<td>Where the gross turnover of the taxpayer exceeds fifty million shillings but does not exceed eighty million shillings per annum.</td>
<td>400,000</td>
<td>Shs 180,000 plus 0.6% of the annual turnover in excess of fifty million shillings.</td>
</tr>
<tr>
<td>Where the gross turnover of the taxpayer exceeds Eighty million shillings but does not exceed one hundred and fifty million shillings per annum.</td>
<td>900,000</td>
<td>Shs 360,000 plus 0.7% of the annual turnover in excess of eighty million shillings.</td>
</tr>
</tbody>
</table>
**Withholding Tax Return filings**

The bill introduces the filing of withholding tax returns by a withholding agent making international payments, payment of interest to a resident person or payment for goods or services. These returns, just like the other monthly returns are to be filed not later than 15 days after the end of every month to which the withholding relates. Although taxpayers have been filing these returns as a matter of practice, there has been no legal requirement to do so, with the existing requirement only limited to payment.

**Exemption of Income for operators in a free Industrial Parks, Free Trade Zone other qualifying persons**

Bill proposes to introduce new qualifying factors to the exemption available to operators of industrial parks, free zones or any other person qualifying persons whose investment capital is USD 10 million in the case of a foreigner and USD 1 million in the case of a citizen. The proposed new changes include:

- They must be employing at least 100 citizens instead of 60% citizens under the current law;

- The scope qualifying businesses includes the manufacture of tyres, footwear, mattresses or toothpaste;

- They must declare in their tax return for a year of income, the qualifying income and its related expenses.

The bill includes formulae for deriving qualifying income and expenses which was an area of ambiguity when the provision was first introduced in 2019.
VAT accounting for commercial building owners

Clause 2 of the Bill, among others, provides for amendments on claiming input VAT credits under Section 28 VAT Act to the effect that an owner of more than one commercial building shall account for tax for each commercial building separately and shall not claim tax credits on inputs used in the construction of an incomplete building against the tax collected from a completed commercial building.

This proposal seems to seek to limit commercial building owners from claiming input VAT before they start making corresponding taxable supplies on a building, as well as curtailing the ability to offset the huge VAT cost incurred during construction against output VAT on completed projects.

Apart from the obvious increase in compliance burden for tax payers with many commercial buildings, this amendment is likely to create significant cash flow constraints during construction of new commercial buildings as the VAT cash paid to the government would not be accessible until a particular building is actually generating rent, or possibly longer in case a refund is sought from the URA. The amendment also does not offer a definition for “commercial building”. Whether rentals for residential purposes are commercial buildings for this purpose is not clear.

Use of e-invoices and on supplies to designated persons

The amendment also proposes to only allow input credit supported by a taxable person from supplies to a person who is designated to use the e-invoicing system supported by only e-invoices. We note that the e-invoicing system is not yet operational.

Pre-registration input claims for manufacturers

Currently under section 28(3) of VAT Act, a person is allowed a credit for input VAT on capital goods incurred up to six months prior to the date of registration so long as the goods are on hand for use in the business. The bill proposes to extend this period for manufacturers to one year, in recognition of the longer time it may take to put a factory in place before actual operations begin.

The Islamic Development Bank

It is proposed that the Islamic development be included on the list of Public international Organizations in the 1st schedule to the Act.

Exemption of specified supplies

The following supplies are proposed to be exempted from VAT:

- Accommodation in tourist hotels located up country
- Combine Harvesters
- Cotton seed cake
- Digital tax stamps
• Imported services for (i) software and equipment instalment services for manufacturers (ii) services incidental to tele-medical services (iii) royalties paid for agricultural technology
• Liquefied gas
• Processed Milk
• Trailers for Agricultural purposes

**VAT exemption for strategic investments**

The supply of services to conduct feasibility studies and design: the supply of locally produced materials for the construction of a warehouse or a factory and the supply of locally produced raw materials, machinery and equipment to an operator within a free zone, industrial park or any other person carrying on business outside the industrial park and whose investment capital is 10 million USD for a foreigner and 1 million USD for a citizen for a period of 10 years and subject to availability, uses 50% locally sourced raw materials and employs at least 100 citizens and does any of the following:

• Processes Agricultural goods
• Manufactures or assembles medical appliances, medical sundries, pharmaceuticals, building materials, automobiles and household appliances
• Manufactures pulp, paper, printing and publishing materials
• Establishes or operates a vocational or technical institute
• Logistics, warehousing, information technology or commercial farming
• The manufacture of tyres, footwear mattresses or toothpaste.
Stamp Duty Proposals

It is proposed that Schedule 2 of the Stamp Duty Act, 2014 is amended by imposing a stamp duty rate of UGX 100,000 on a Professional licence and certificate. The Bill does not define who is a professional and what a professional licence is, which may create uncertainty on payment of the proposed duty.

The Bill also provides that for a tax payer to qualify for stamp duty exemption on strategic investments projects, the tax payer ought to have capacity to at least source fifty percent of the locally produced raw materials, and also have capacity to employ a minimum of one hundred citizens.
The bill proposes to amend excise duty rates in respect of the following excisable goods:

<table>
<thead>
<tr>
<th>#</th>
<th>ITEM</th>
<th>CURRENT EXCISE DUTY</th>
<th>PROPOSED EXCISE DUTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Locally manufactured soft cap cigarettes</td>
<td>Shs 55,000 per 1000 sticks</td>
<td>Shs 75,000 per 1000 sticks</td>
</tr>
<tr>
<td>2</td>
<td>Imported soft cap cigarettes</td>
<td>Shs 55,000 per 1000 sticks</td>
<td>Shs 75,000 per 1000 sticks</td>
</tr>
<tr>
<td>3</td>
<td>Locally manufactured hinge lid cigarettes</td>
<td>Shs 80,000 per 1000 sticks</td>
<td>Shs 120,000 per 1000 sticks</td>
</tr>
<tr>
<td>4</td>
<td>Imported hinge lid</td>
<td>Shs 100,000 per 1000 sticks</td>
<td>Shs 120,000 per 1000 sticks</td>
</tr>
<tr>
<td>5</td>
<td>Malt beer</td>
<td>60% or Shs 1860 per litre whichever is higher</td>
<td>60% or Shs 2,050 per litre whichever is higher</td>
</tr>
<tr>
<td>6</td>
<td>Beer whose local raw materials content, excluding water, is at least 75% by weight of its constituent</td>
<td>30% or Shs 650 per litre whichever is higher</td>
<td>30% or Shs 790 per litre whichever is higher</td>
</tr>
<tr>
<td>7</td>
<td>Beer produced from barley grown and malted in Uganda</td>
<td>30% or Shs 950 per litre whichever is higher</td>
<td>30% or Shs 1,115 per litre whichever is higher</td>
</tr>
<tr>
<td>8</td>
<td>Ready to drink spirits</td>
<td>80% or Shs 1500 per litre whichever is higher</td>
<td>80% or Shs 1700 whichever is higher</td>
</tr>
<tr>
<td>9</td>
<td>Wine made from locally produced raw materials</td>
<td>20% or Shs 2,000 per litre whichever is higher</td>
<td>20% or Shs 2,300 whichever is higher</td>
</tr>
<tr>
<td>10</td>
<td>Un denatured spirits made from locally produced raw materials</td>
<td>60% or Shs 2,000 per litre whichever is higher</td>
<td>60% or Shs 1,500 per litre whichever is higher</td>
</tr>
<tr>
<td>11</td>
<td>Non-alcoholic beverages not including fruit or vegetable juices</td>
<td>12% or Shs 200 per litre whichever is higher</td>
<td>12% or Shs 250 per litre whichever is higher</td>
</tr>
<tr>
<td>12</td>
<td>Fruit juice and vegetable juice, except juice made from at least 30% of pulp from fruit and vegetables grown in Uganda</td>
<td>13% or Shs 300 per litre whichever is higher</td>
<td>12% or Shs 250 per litre whichever is higher</td>
</tr>
<tr>
<td>13</td>
<td>Motor spirit (gasoline)</td>
<td>Shs 1200 per litre</td>
<td>Shs 1350 per litre</td>
</tr>
<tr>
<td>14</td>
<td>Gas oil (automotive, light, amber for high speed engine)</td>
<td>Shs 880 per litre</td>
<td>Shs 1030 per litre</td>
</tr>
<tr>
<td>15</td>
<td>Gas oil for power generation to national grid</td>
<td>Shs 630 per litre</td>
<td>NIL</td>
</tr>
<tr>
<td>16</td>
<td>Illuminating kerosene</td>
<td>Shs 200 per litre</td>
<td>Shs 300 per litre</td>
</tr>
<tr>
<td>17</td>
<td>Sacks and bags of polymers of ethylene and other plastics under its HS codes 3923.21.00 and 3923.29.00 except vacuum packaging bags for food, juices, tea and coffee. Sacks and bags for direct use in the manufacture of sanitary pads.</td>
<td>120%</td>
<td>120% or Shs. 10,000 per kilogram of the plastic bags</td>
</tr>
<tr>
<td>18</td>
<td>Lubricants HS codes 2710.19.51, 2710.19.52, 3403.19.00 and 3403.99.00 including motor vehicle lubricants except aircraft Lubricant</td>
<td>NIL</td>
<td>15%</td>
</tr>
</tbody>
</table>

It can be noted that there is a proposed increase on almost all listed items including essential items like fuel and paraffin and consumables like beverages which will lead to either an inevitable increase in price or in the production cost for those businesses in manufacturing. In the context of the current outbreak of COVID-19 and the economic turmoil that is likely to follow, a price increase amidst less purchasing power may lead to less production which in turn will lead to lower revenue collection by the government.
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