TAX LEGISLATION UGANDA

An up-to-date reproduction of:

- The Income Tax Act
- The Value Added Tax Act

LAWS OF UGANDA

Preface

This Handbook containing an up-to-date reproduction of Uganda's principal tax laws is intended for use by Tax Administrators, Tax Practitioners, Taxpayers, Students and any interested persons.

The tax legislation covered in this reproduction include:

1. The Income Tax Act (ITA), Cap.340, as amended;
2. The Value Added Tax Act (VATA), Cap.349, as amended;
3. Subsidiary Legislation and Legal Notices under the Income Tax Act and the Value Added Tax Act;
4. Practice Notes under the ITA and VATA issued by the Commissioner General of the Uganda Revenue Authority;
5. Statutory Instruments under the Gaming and Pool Betting (Control and Taxation) Act, Cap.292;
6. The East African Community Double Taxation Agreement;
7. A listing of Uganda's Double Taxation Agreements;
8. Extracts from the Finance Acts & Fees under various Enactments;
9. Excise Duty Rates

In reviewing this updated version, the *"Reprint of the Income Tax Act and the Value Added Tax Act"* [as at 19th October 2012] by the Uganda Law Reform Commission was used as an authentic reference for conformity. The reprint consolidates the Income Tax Act, Cap 340, the Value Added Tax Act, Cap 349 and Statutory Instruments made thereunder since the revised edition of the Laws of Uganda 2000.

Disclaimer

This reproduction of Uganda's tax legislation is the personal effort of the undersigned in his capacity as a former employee of Uganda Revenue Authority, and now a Tax and Legal Consultant with **ONYANGO & COMPANY ADVOCATES.**

This Handbook is neither prepared by Order of the Government of Uganda nor does it purport, if printed, to have been printed by the Government Printer or by or under the authority of the Attorney General or Parliament, and cannot therefore, under any circumstances, be a substitute for a Publication by the Government of Uganda.

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In the event that you encounter any errors of omission or commission while making reference to this Handbook, kindly notify the undersigned for corrections.

FOR GOD AND MY COUNTRY

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THE INCOME TAX ACT

Cap. 340 - Laws of Uganda 2000

An Act to consolidate and amend the law relating to income tax and for other connected purposes.

***Commencement*: 1st July 1997**

Arrangement of Sections

PART I – PRELIMINARY

1. Application of the Act
2. Interpretation
3. Associate

PART II – IMPOSITION OF TAX

4. Income tax imposed
5. Rental tax imposed

Rates of Tax

6. Rates of tax for individuals
7. Rate of income tax for companies
8. Rate of income tax for trustees and retirement funds

PART III – RESIDENTS AND NON-RESIDENTS

9. Resident individual
10. Resident company
11. Resident trust
12. Resident partnership
13. Resident retirement fund
14. Non-resident person

PART IV – CHARGEABLE INCOME

15. Chargeable income
16. Chargeable income arising from insurance business
17. Gross income
18. Business income
19. Employment income
20. Property income

Exempt Income

21. Exempt income

Deductions

22. Expenses of deriving income
23. Meals, refreshment and entertainment expenditure
24. Bad debts
25. Interest
26. Repairs and minor capital equipment
27. Depreciable assets
28. Initial allowance
29. Industrial buildings
30. Start-up costs
31. Costs of intangible assets
32. Scientific research expenditure
33. Training expenditure
34. Charitable donations
35. Farming
36. Mineral exploration expenditures
37. Apportionment of deductions
38. Carry forward losses

PART V – TAX ACCOUNTING PRINCIPLES

39. Substituted year of income
40. Method of accounting
41. Cash-basis taxpayer
42. Accrual-basis taxpayer
43. Prepayments

44. Claim of right
45. Long-term contracts
46. Trading Stock
47. Debt obligations with discount or premium
48. Foreign currency debt gains and losses

PART VI – GAINS AND LOSSES ON DISPOSAL OF ASSETS

49. Application of Part VI
50. Gains and losses on disposal of assets
51. Disposals
52. Cost base
53. Special rules for consideration received
54. Non recognition of gain or loss

PART VII – MISCELLANEOUS RULES FOR DETERMINING CHARGEABLE INCOME

55. Income of joint owners
56. Valuation
56A. Other methods of allocating costs and revenue
57. Currency conversion
58. Indirect payments and benefits
59. Finance leases
60. Exclusion of doctrine of mutuality
61. Compensation receipts
62. Recouped expenditure

PART VIII – PERSONS ASSESSABLE

Taxation of Individuals

63. Taxation of individuals
64. Income splitting

Taxation of Partnerships and Partners

65. Principles of taxation of partnerships
66. Calculation of partnership income or loss
67. Taxation of partners

68. Formation, reconstitution or dissolution of a partnership
69. Cost base of partner's interest

Taxation of Trusts and Beneficiaries

70. Interpretation of provisions relating to taxation of trusts and beneficiaries
71. Principles of taxation for trusts
72. Taxation of trustees and beneficiaries
73. Taxation of estates of deceased persons

Taxation of Companies and Shareholders

74. Principles of taxation for companies
75. Change in control of companies
76. Dividend stripping
77. Rollover relief

PART IX – INTERNATIONAL TAXATION

78. Interpretation of Part IX
79. Source of income
80. Foreign employment income
81. Foreign tax credit
82. Taxation of branch profits
83. Tax on international payments
84. Tax on payments to non-resident public entertainers or sports persons
85. Tax on payments to non-resident contractors or professionals
86. Taxation of non-residents providing shipping, air transport, or telecommunications services
87. General provisions relating to taxes imposed under Sections 83, 84, 85, & 86
88. International agreements
89. Thin capitalisation

PART IXA – SPECIAL PROVISIONS FOR THE TAXATION OF [MINING] AND PETROLEUM OPERATIONS

89A. Interpretation

Mining Operations

89B. Taxation of mining licenses
89C. Limitations of deductions relating to mining operations
89D. Mining exploration expenditure
89E. Mining extraction expenditure
89F. Rehabilitation expenditure

Petroleum Operations

89G. Taxation of petroleum licenses
89GA. Limitations of deductions relating to petroleum operations
89GB. Petroleum exploration expenditure
89GC. Petroleum development expenditure
89GD. Decommissioning expenditure

Common Rules applicable to Mining and Petroleum Operations

89GE. Farm-outs
89GF. Indirect transfers of interests
89GG. Taxation of contractors
89H. Withholding tax
89I. Tax accounting principles
89J. Allocation of costs and expenses
89K. The principle of ring fencing
89KA. Valuation and measurement of petroleum
89L. Allowable currencies
89M. Consolidation principle
89MA. Application of sections 111 to 113 of the Act and the Tax Procedures Code Act
89N. Carry forward losses
89O. Returns
89OA. Assessments, objections and appeal
89P. Collection and recovery
89Q. Classification, definition and allocation of costs and expenditures

89QA. Failure to furnish returns
89QB. Making false or misleading statements
89QC. Penal tax and tax offences
89QD. Right of Commissioner to undertake audit

PART X – ANTI-AVOIDANCE

90. Transactions between associates
91. Re-characterisation of income and deductions

PART XI – PROCEDURE RELATING TO INCOME TAX

Returns

92. Furnishing of return of income
93. Cases where return of income not required
94. Extension of time to furnish a return of income

Assessments

95. Assessments
96. Self-assessment
97. Additional assessments
98. General provisions in relation to assessments

Objections and Appeals

99. Objection to assessment
100. Appeal to the High Court or a tax tribunal
101. Appeal to the Court of Appeal
102. Burden of proof

Collection and Recovery of Tax

103. Due date for payment of tax
104. Tax as a debt due to the Government of Uganda
105. Collection of tax from persons leaving Uganda permanently
106. Recovery of tax from persons owing money to the taxpayer
107. Collection of tax by distraint
108. Recovery from agent of non-resident

109. Duties of receivers
110. Security on property for unpaid tax

Provisional Tax

111. Payment of provisional tax
112. Estimated tax payable

Refund of Tax

113. Refunds

PART XII – PROCEDURE RELATING TO RENTAL TAX

114. Rental tax

PART XIII – WITHHOLDING OF TAX AT THE SOURCE

115. Interpretation of Part XIII
116. Withholding of tax by employers
117. Payment of interest to resident persons
118. Payment of dividends to resident shareholders
118A. Withholding tax from professional fees
118B. Withholding of tax by the purchaser of an asset
118C. Payments for winnings of sports betting and pool betting
118D. Withholding Tax on Payments of Re-Insurance Premiums
119. Payment for goods and services
120. International payments
121. Non-resident services contract
122. Withholding as a final tax
123. Payment of tax withheld
124. Failure to withhold tax
125. Tax credit certificates
126. Record of payments and tax withheld
127. Priority of tax withheld
128. Adjustment on assessment and withholding agent's indemnity

PART XIV – RECORDS AND INFORMATION COLLECTION

129. Accounts and records
130. Business information returns
131. Access to books, records and computers
132. Notice to obtain information or evidence
133. Books and records not in the English language

Tax Clearance Certificate

134. Tax clearance certificate

Tax Identification Number

135. Tax identification number

PART XV – OFFENCES AND PENALTIES

Interest

136. Interest on unpaid tax

Offences and Penalties

137. Failure to furnish a return
138. Failure to comply with recovery provision
139. Failure to maintain proper records
140. Failure to comply with sections 121, 129, 130, 131, 132 and 133
141. Improper use of tax identification number
142. Making false or misleading statements
143. Obstructing an officer of the Authority
144. Aiding and abetting
145. Offences by and relating to officers and persons employed to carry out this Act; penalties
146. Offences by companies
147. Officer may appear on behalf of the Commissioner
148. Compounding offences
149. Place of trial
150. Tax charged to be paid notwithstanding prosecution

Penal Tax

151. Penal tax for failure to furnish a return of income
152. Penal tax in relation to records
153. Penal tax in relation to false or misleading statements
154. Penal tax for understating provisional tax estimates
155. Recovery of penal tax

PART XVI – ADMINISTRATION

156. Delegation
157. Official secrecy

Forms and Notices

158. Forms and notices; authentication of documents
158A. Use of information technology
158B. Cancellation of registration
158C. Offences
159. Service of notices and other documents

Rulings

160. Practice notes
161. Private rulings

Remission of Tax

162. Remission of tax

PART XVII – MISCELLANEOUS

163. Interpretation of Part XVII
164. Regulations
165. Amendment of monetary amounts and Schedules
166. Transitional

SCHEDULES

First Schedule	Listed institutions
Second Schedule	Small business taxpayers tax rates
Third Schedule	Rates of tax
Fourth Schedule	Chargeable income arising from short-term insurance business
Fifth Schedule	Valuation of benefits
Sixth Schedule	Depreciation rates and vehicle depreciation ceiling
Seventh Schedule	Currency point
Eighth Schedule	Classification, definition and allocation of costs and expenditure [Petroleum and Gas]

SUBSIDIARY LEGISLATION
(Regulations & Notices)

- The Income Tax (Withholding Tax) Regulations, 2000
- The Income Tax (Distraint) Rules, 2000
- The Income Tax (Approved Industrial Buildings) Regulations, 2003
- The Income Tax (Tax Incentives for Exporters of Finished Consumer and Capital Goods) Regulations, 2009
- The Income Tax (Transfer Pricing) Regulations, 2011
- The Income Tax (Designation of Payers) Notice, 2013
- Practice Notes by URA

PART I – PRELIMINARY

1. Application of the Act

This Act applies to years of income commencing on or after 1st July, 1997.

2. Interpretation

In this Act, unless the context otherwise requires –

(a) "amateur sporting association" means an association whose sole or main object is to foster or control any athletic sport or game and whose members consist only of amateur sports persons or affiliated associations, the members of which consist only of amateur sports persons;

(b) "approved" means approved by the Minister under regulations made under Section 164;

(c) "assessed loss" has the meaning in Section 38;

(d) "assessment" means –

(i) the ascertainment of the chargeable income of, and the amount of tax payable on it, by a taxpayer for a year of income under this Act, including a deemed assessment under Section 96;

(ii) the ascertainment of the rental income of, and the amount of tax payable on it by an individual for a year of income under this Act;

(iii) the ascertainment of the amount of penal tax payable by a person under this Act; or

(iv) any decision of the Commissioner which, under this Act, is subject to objection and appeal;

(e) "associate" has the meaning in Section 3;

(f) "building society" means a building society registered under the Building Societies Act;

(g) "business" includes any trade, profession, vocation or adventure in the nature of trade, but does not include employment;

(h) "business asset" means an asset which is used or held ready for use in a business, and includes any asset held for sale in a business and any asset of a partnership or company;

(i) "business debt" means –

(i) in the case of a debtor –

(A) a debt obligation, the proceeds of which are used to acquire a business asset or to incur an expense of a business;

(B) a debt obligation arising, as a result of being given time to pay, on the acquisition of a business asset or the incurring of an expense of a business; or

(C) any debt obligation of a partnership or company; or

(ii) in the case of a creditor, any debt obligation owed to the creditor that was entered into or arose in the course of the creditor's business;

(j) "business income" has the meaning in Section 18;

(k) "chargeable income" has the meaning in Section 15;

(l) "chargeable trust income" has the meaning in Section 70;

Inserted by IT (Am) Act 2005

(la) "Collective Investment Scheme" has the meaning assigned to it by Section 3 of the Collective Investment Schemes Act.

(m) "Commissioner" means the Commissioner General appointed under the Uganda Revenue Authority Act;

(n) "company" means a body of persons corporate or unincorporated, whether created or recognised under the law in force in Uganda or elsewhere, and a unit trust, but does not include any other trust or a partnership;

(o) "cost base", in relation to an asset, has the meaning in Section 52;

(p) "court" means a court of competent jurisdiction;

(q) "currency point" represents the amount in Uganda Shillings prescribed in the Seventh Schedule to this Act;

(r) "debenture" includes any debenture stock, mortgage, mortgage stock, loan, loan stock or any similar instrument acknowledging indebtedness, whether secured or unsecured;

(s) "debt obligation" means an obligation to make a repayment of money to another person, including accounts payable and the obligations arising under promissory notes, bills of exchange and bonds;

(t) "dependant", in relation to a member of a retirement fund, means a spouse of the member, any child, including an adopted child of the member who is under the age of eighteen years, or any other relative of the member who the Commissioner is satisfied relies on the member for support;

(u) "depreciable asset" means any plant or machinery, or any implement, utensil or similar article, which is wholly or partly used, or held ready for use, by a person in the production of income included in gross income and which is likely to lose value because of wear and tear, or obsolescence;

(v) "disposal" has the meaning in Section 51;

(w) "dividend" includes –

(i) where a company issues debentures or redeemable preference shares to a shareholder –

(A) in respect of which the shareholder gave no consideration, an amount equal to the greater of the nominal or redeemable value of the debentures or shares; or

(B) in respect of which the shareholder gave consideration which is less than the greater of the nominal or redeemable value, an amount equal to the excess;

(ii) any distribution upon redemption or cancellation of a share, or made in the course of liquidation, in excess of the nominal value of the share redeemed, cancelled, or subject to liquidation;

(iii) in the case of a partial return of capital, any payment made in excess of the amount by which the nominal value of the shares was reduced;

(iv) in the case of a reconstruction of a company, any payment made in respect of the shares in the company in excess of the nominal value of the shares before the reconstruction; or

(v) the amount of any loan, the amount of any payment for an asset or services, the value of any asset or services provided, or the amount of any debt obligation released, by a company to, or in favour of, a shareholder of the company or an associate of a shareholder to the extent to which the transaction is, in substance, a distribution of profits, but does not include a distribution made by a building society;

Inserted by IT (Am) Act 2013

(vi) the issue of bonus shares to shareholders. However, bonus shares shall only be taxable upon disposal.

(x) "employee" means an individual engaged in employment;

(y) "employer" means a person who employs or remunerates an employee;

(z) "employment" means –

(i) the position of an individual in the employment of another person;

(ii) a directorship of a company;

(iii) a position entitling the holder to a fixed or ascertainable remuneration; or

(iv) the holding or acting in any public office;

(aa) "employment income" has the meaning in Section 19;

(bb) "exempt organisation" means any company, institution, or irrevocable trust –

(i) which is –

(A) an amateur sporting association;

(B) a religious, charitable or educational institution of a public character; or

(C) a trade union, employees' association, an association of employers registered under any law of Uganda or an association established for the purpose of promoting farming, mining, tourism, manufacturing, or commerce and industry in Uganda; and

(ii) which has been issued with a written ruling by the Commissioner currently in force stating that it is an exempt organisation; and

(iii) none of the income or assets of which confers, or may confer, a private benefit on any person;

Inserted by IT (Am) Act 2015

(iv) or the National Medical Stores

(cc) "farming" means pastoral, agricultural, plantation, horticultural or other similar operations;

(dd) "financial institution" means any person carrying on the business of receiving funds from the public or from members through the acceptance of money deposits repayable upon demand, after a fixed period, or after notice, or any similar operation through the sale or placement of bonds, certificates, notes or other securities, and the use of such funds either in whole or part for loans, investments or any other operation authorised either by law or by customary banking practices, for the account and at the risk of the person doing such business;

(ee) "foreign-source income" means any income which is not derived from sources in Uganda;

(ff) "gross income" has the meaning in Section 17;

(gg) "gross turnover", in relation to a resident taxpayer for a year of income, means –

(i) the amount shown in the recognised accounts of the taxpayer as the gross proceeds derived in carrying on a business or businesses during the year of income, including the gross proceeds arising from the disposal of trading stock, without deduction for expenditures or losses incurred in deriving that amount; and

(ii) the amount, if any, shown in the recognised accounts of the taxpayer as the amount by which the sum of the gains derived by the taxpayer during the year of income from the disposal of business assets, other than trading stock, exceeds the losses incurred by the taxpayer during the year in respect of the disposal of such assets;

(hh) "incapacitated person" means a resident individual adjudged under a law in Uganda to be in a state of unsoundness of mind;

(ii) "incapacitated person's trust" means a trust established for the benefit of an incapacitated person;

(jj) "industrial building" means any building which is wholly or partly used, or held ready for use, by a person in –

(i) manufacturing operations;

(ii) research and development into improved or new methods of manufacture;

(iii) mining operations;

(iv) an approved hotel business;

(v) an approved hospital; or

Inserted by Finance Act 2001

(vi) approved commercial buildings.

(kk) "interest" includes –

(i) any payment, including a discount or premium, made under a debt obligation which is not a return of capital;

(ii) any swap or other payments functionally equivalent to interest;

(iii) any commitment, guarantee, or service fee paid in respect of a debt obligation or swap agreement; or

(iv) a distribution by a building society;

(ll) "life insurance business" has the meaning in Section 16 (3);

(mm) "listed institution" means an institution listed in the First Schedule to this Act;

(nn) "local authority" means any public body established under a law of Uganda and having control over the expenditure of revenue derived from rates or taxes imposed by law upon the residents of the areas for which that body is established;

(oo) "local council" has the same meaning as in the Local Governments Act;

(pp) "manufacturing" means the substantial transformation of tangible movable property, including power generation and water supply;

(qq) "mineral" has the same meaning as in the Mining Act;

(rr) "mining operations" includes every method or process by which any mineral is won from the soil or from any substance or constituent of the soil;

(ss) "Minister" means the Minister responsible for finance;

(tt) "natural resource payment" means –

(i) a payment, including a premium or like payment, made as consideration for the right to take minerals or a living or non-living resource from the land; or

(ii) a payment calculated in whole or in part by reference to the quantity or value of minerals or a living or non-living resource taken from the land;

(uu) "nominal value", in relation to a share or debenture, means the paid-up amount of the share or face value of the debenture, including any premium paid in respect of the share or debenture;

(vv) "non-resident person" has the meaning in Section 14;

(ww) "partnership" means an association of persons carrying on business for joint profit;

(xx) "payment" includes any amount paid or payable in cash or kind, and any other means of conferring value or benefit on a person;

(yy) "person" includes an individual, a partnership, a trust, a company, a retirement fund, a government, a political subdivision of a government and a listed institution;

Inserted by IT (Am) Act 2 2008

(yya) "petroleum agreement" means an agreement for the grant of a licence for petroleum exploration, development and production between the Government and a contractor;

(zz) "property income" has the meaning in Section 20;

(aaa) "provisional taxpayer" means a person liable for provisional tax under Section 111;

(bbb) "relative", in relation to an individual, means –

(i) an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual, or of a spouse of the individual; or

(ii) a spouse of the individual or of any person specified in subparagraph (i) of this paragraph*;*

(ccc) "rent" means any payment, including a premium or like amount, made as consideration for use or occupation of, or the right to use or occupy, land or buildings;

Substituted by IT (Am) Act, 2014

(ddd) "rental income", in relation to [an individual] *a person* for a year of income, means the total amount of rent derived by the [individual] *person* for the year of income from the lease of immovable property in Uganda [by the individual] with the deduction of any expenditures and losses incurred [by the individual] in respect of the property;

(eee) "resident company" has the meaning in Section 10;

(fff) "resident individual" has the meaning in Section 9;

(ggg) "resident partnership" has the meaning in Section 12;

(hhh) "resident person" means a resident individual, resident company, resident partnership, resident trust, resident retirement fund, the Government of Uganda or a political subdivision of the Government of Uganda;

(iii) "resident retirement fund" has the meaning in Section 13;

(jjj) "resident taxpayer" means a taxpayer who is a resident person;

(kkk) "resident trust" has the meaning in Section 11;

(lll) "retirement fund" means a pension or provident fund established as a permanent fund maintained solely for either or both of the following purposes –

(i) the provision of benefits for members of the fund in the event of retirement; or

(ii) the provision of benefits for dependants of members in the event of the death of the member;

(mmm) "royalty" means –

(i) any payment, including a premium or like amount, made as consideration for –

(A) the use of, or the right to use, any patent, design, trademark, or copyright, or any model, pattern, plan, formula, or process, or any property or right of a similar nature;

(B) the use of, or right to use –

(I) any motion picture film;

(II) any video or audio material, whether stored on film, tape, disc, or other medium, for use in connection with television or radio broadcasting; or

(III) any sound recording or advertising matter connected with material referred to in sub-paragraph (i)(B)(I) or (II) of this paragraph;

(C) the use of, or the right to use, or the receipt of, or right to receive, any video or audio material transmitted by satellite, cable, optic fibre or similar

Inserted by IT (Am) Act 2011

technology for use in connection with television, *internet* or radio broadcasting;

(D) the imparting of, or undertaking to impart, any scientific, technical, industrial or commercial knowledge or information;

(E) the use of, or the right to use, any tangible movable property;

(F) the rendering of, or the undertaking to render, assistance ancillary to a matter referred to in subparagraph (i)(A) to (E) of this paragraph; or

(G) a total or partial forbearance with respect to a matter referred to in subparagraphs (i)(A) to (F); or

(ii) any gain on the disposal of any right or property referred to in subparagraph (i) of this paragraph;

(nnn) "substituted year of income" has the meaning in Section 39;

(ooo) "swap agreement" means an arrangement between a person who has incurred a debt obligation with a floating interest rate and a person who has incurred a debt obligation with a fixed interest rate under which the persons agree to exchange their interest obligations;

(ppp) "swap payment" means a payment made under a swap agreement;

(qqq) "tax" means any tax imposed under this Act;

(rrr) "tax-exempt employer" means an employer whose income is exempt from tax;

(sss) "taxpayer" means any person who derives an amount subject to tax under this Act and includes –

(i) any person who incurs an assessed loss for a year of income; or

(ii) for the purposes of any provision relating to a return, any person required by this Act to furnish such a return;

(ttt) "trading stock" includes anything produced, manufactured, purchased, or otherwise acquired for manufacture, sale, or exchange, as well as consumable stores;

(uuu) "transitional year of income" has the meaning in Section 39;

(vvv) "trust" means any arrangement affecting property in relation to which there is a trustee;

(www) "trustee" includes –

(i) any person appointed or constituted as such by act of the parties, by will, by order or declaration of any court, or by operation of the law;

(ii) an executor, administrator, tutor, or curator;

(iii) a liquidator or judicial manager;

(iv) any person having the administration or control of property subject to a trust;

(v) any person acting in a fiduciary capacity;

(vi) any person having, either in a private or official capacity, the possession, direction, control or management of any property of a person under a legal disability;

(vii) any person who manages assets under a private foundation or other similar arrangement;

(xxx) "underlying ownership", in relation to a person other than an individual, means an interest held in, or over, the person directly or indirectly through interposed companies, partnerships, or trusts by an individual or by a person not ultimately owned by individuals;

(yyy) "unit trust" means a unit trust registered or required to be registered as Parliament may by law prescribe; and

(zzz) "year of income" means the period of twelve months ending on 30th June, and includes a substituted year of income and a transitional year of income.

3. Associate

(1) For the purposes of this Act, where any person, not being an employee, acts in accordance with the directions, requests, suggestions, or wishes of another person whether or not they are in a business relationship and whether those directions, requests, suggestions, or wishes are communicated to the first-mentioned person, both persons are treated as associates of each other.

(2) Without limiting the generality of subsection (1), the following are treated as an associate of a person –

(a) a relative of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions, or wishes of the other person;

(b) a partner of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions, or wishes of the other person;

(c) a partnership in which the person is a partner where the person, either alone or together with an associate or associates under another application of this Section, controls fifty per cent or more of the rights to income or capital of the partnership;

(d) the trustee of a trust under which the person, or an associate under another application of this Section, benefits or may benefit;

(e) a company in which the person, either alone or together with an associate or associates under another application of this Section, controls fifty per cent or more of the voting power in

the company either directly or through one or more interposed companies, partnerships, or trusts;

(f) where the person is a partnership, a partner in the partnership who, either alone or together with an associate or associates under another application of this Section, controls fifty per cent or more of the rights to income or capital of the partnership;

(g) where the person is the trustee of a trust, any other person who benefits or may benefit under the trust; or

(h) where the person is a company –

(i) a person who, either alone or together with an associate or associates under another application of this Section, controls fifty per cent or more of the voting power in the company, either directly or through one or more interposed companies, partnerships, or trusts; or

(ii) another company in which the person referred to in subparagraph (i) of this paragraph, either alone or together with an associate or associates under another application of this Section, controls fifty per cent or more of the voting power in that other company, either directly or through one or more interposed companies, partnerships, or trusts.

PART II – IMPOSITION OF TAX

4. Income Tax imposed

(1) Subject to, and in accordance with this Act, a tax to be known as income tax shall be charged for each year of income and is imposed on every person who has chargeable income for the year of income.

(2) Subject to subsections (4) and (5), the income tax payable by a taxpayer for a year of income is calculated by applying the relevant rates of tax determined under this Act to the chargeable income of the taxpayer for the year of income and from the

resulting amount are subtracted any tax credits allowed to the taxpayer for the year of income.

(3) Where a taxpayer is allowed more than one tax credit for a year of income, the credits shall be applied in the following order-

(a) the foreign tax credit allowed under Section 81; then

(b) the tax credit allowed under Section 128; then

(c) the tax credit allowed under Section 111(8).

Inserted by IT (Am) Act 2011

(4) *Subject to subsection (6a)*, where the gross income of a taxpayer for a year of income consists exclusively of employment income derived from a single employer from which tax has been withheld as required under Section 116, the income tax payable by the taxpayer for the year of income is the amount equal to the sum of the amounts required to be withheld from such income under Section 116.

Substituted by IT (Am) Act 2015

(5) Subject to subsection (7), where the gross turnover of a resident taxpayer for a year of income derived from carrying on a business or businesses is less than one hundred and fifty million shillings, [fifty million shillings] the income tax payable by the taxpayer for the year of income shall be determined in accordance with the Second Schedule to this Act, unless the taxpayer elects by notice in writing to the Commissioner for subsection (2) to apply; and

(a) the tax shall be a final tax on the business income of the taxpayer;

(b) no deductions shall be allowed under this Act for expenditures or losses incurred in the production of the business income; and

(c) no tax credits allowed under this Act shall be used to reduce the tax payable on the business income of the taxpayer, except as provided in the Second Schedule to this Act.

(6) An election under subsection (5) must be lodged with the Commissioner by the due date for the taxpayer's return for the year of income to which it relates.

Inserted by IT (Am) Act 2011

(6a) Section 4(4) shall not apply to a taxpayer for a tax year if the employment income of that taxpayer for that year includes an amount under section 19(1)(h).

(7) Subsection (5) does not apply to a resident taxpayer who is in the business of providing medical, dental, architectural, engineering, accounting, legal, or other professional services, public entertainment services, public utility services, or construction services.

5. Rental Tax imposed

Section 5 Substituted by IT (Am) Act 2014

(1) Subject to, and in accordance with this Act, a tax shall be charged for each year of income and is imposed on every [individual] *person* who has rental income for the year of income.

(2) The tax payable by [an individual] *any person* under this Section for a year of income is - [….calculated by applying the relevant rates of tax determined under Section 6(2) to the rental income derived by the individual for the year.

(a) *where the person is an individual, calculated by applying the relevant rates of tax determined under section 6(2) to the rental income derived by the individual for the year;*

(b) *where the person is a company, calculated by applying the relevant rates of tax determined under section 7(2) to the rental income derived by the company for the year;*

(c) *where the person is a trustee of a trust or a retirement fund, calculated by applying the relevant rates of tax determined under section 8(5) to the rental income derived by the trustee or retirement fund for the year;*

(d) *where the person is a partnership, calculated by applying the relevant rates of tax on the individual partners under section 6(2) to the rental income derived by the partnership for the year.*

(3) The tax imposed under this section on any person is separate from the tax imposed under section 4 and –

(a) the rent derived by a person shall not be included in the gross income of the person which is subject to tax under this Act for any year of income;

(b) expenditures and losses incurred by the individual in the production of the rent shall be allowed as a deduction under this Act for any year of income only as provided for in section 22(1)(c);

(c) *expenditures and losses incurred by a person, other than an individual, in the production of rent shall be allowed as a deduction under this Act for any year of income; and*

(d) *expenditures and losses incurred by a partnership in the production of rent shall be allowed as a deduction under this Act for any year of income only as provided for in section 22(1)(c).*

(3) The tax imposed under this Section on an individual is separate from the tax imposed under Section 4 and –

Substituted by IT (Am) Act 2002

(a) the [rental income of the individual] *rent derived by an* individual shall not be included in the gross income *subject to tax under this Act* of the individual for any year of income;

Substituted by IT (Am) Act 2002

(b) expenditures and losses incurred by the individual in the production of *rent* [rental income] shall be allowed as a deduction under this Act for any year of income *only as provided in Section* 22(1)(c); and

Repealed by IT (Am) Act 1 2008

(c) the tax payable by a resident individual under this Section shall not be reduced by any tax credits allowed to the individual under this Act.

(4) In this Section, "year of income" means the period of twelve months ending on 30th June.]

Rates of Tax

6. Rates of Tax for Individuals

(1) The chargeable income of an individual for a year of income is charged to income tax at the rates prescribed in Part I of the Third Schedule to this Act.

(2) The rental income of a resident individual for a year of income is charged to rental tax at the rate prescribed in Part VI of the Third Schedule.

7. Rate of Income Tax for Companies

(1) The chargeable income of a company for a year of income, is charged to income tax at the rate prescribed in Part II of the Third Schedule to this Act.

Inserted by IT (Am) Act 2014

(2) *The rental income of a company for a year of income is charged to income tax at the rate prescribed in Part II of the Third Schedule to this Act.*

8. Rate of Income Tax for Trustees and Retirement Funds

(1) Subject to subsections (2) and (3), a trustee of a trust is charged to tax at the rate prescribed in Part III of the Third Schedule to this Act on the chargeable trust income of the trust for a year of income.

(2) A trustee of a trust being the estate of a deceased taxpayer who, at the date of death, was a resident individual, is charged to tax on the chargeable trust income of the trust at the rates prescribed in Part I of the Third Schedule to this Act for –

(a) the year of income in which death occurred; and

(b) the following year of income.

(3) A trustee of an incapacitated person's trust is charged to tax at the rates prescribed in Part I of the Third Schedule to this Act on the chargeable trust income of the trust for a year of income.

(4) The chargeable income of a retirement fund for a year of income is charged to tax at the rate prescribed in Part III of the Third Schedule to this Act.

5 – 8 inserted by IT (Am) Act 2014

(5) Subject to subsections (6) and (7), the rental income of a trustee for a year of income is charged to tax at the rate prescribed in Part III of the Third Schedule.

(6) A trustee of a trust being the estate of a deceased taxpayer who, at the date of death, was a resident individual, is charged to tax on the rental income of the trust at the rates prescribed in Part I of the Third Schedule to this Act for –

(a) the year of income in which death occurred; and

(b) the following year of income.

(7) A trustee of an incapacitated person's trust is charged to tax on the rental income of the trust for a year of income at the rates prescribed in Part I of the Third Schedule to this Act.

(8) The rental income of a retirement fund for a year of income is charged to tax at the rate prescribed in Part III of the Third Schedule to this Act.

PART III – RESIDENTS AND NON-RESIDENTS

9. Resident Individual

(1) Subject to subsections (2) and (3), an individual is a resident individual for a year of income if that individual –

(a) has a permanent home in Uganda;

(b) is present in Uganda –

(i) 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

(ii) during the year of income and in each of the two preceding years of income for periods averaging more than 122 days in each such year of income; or

(c) is an employee or official of the Government of Uganda posted abroad during the year of income.

(2) An individual who is a resident individual under subsection (1) for a year of income, in this Section referred to as the "current year of income", but who was not a resident individual for the preceding year of income is treated as a resident individual in the current year of income only for the period commencing on the day on which the individual was first present in Uganda.

(3) An individual who is a resident individual for the current year of income but who is not a resident individual for the following year of income is treated as a resident individual in the current year of income only for the period ending on the last day on which the individual was present in Uganda.

10. Resident Company

A company is a resident company for a year of income if it –

(a) is incorporated or formed under the laws of Uganda;

(b) has its management and control exercised in Uganda at any time during the year of income; or

(c) undertakes the majority of its operations in Uganda during the year of income.

11. Resident Trust

A trust is a resident trust for a year of income if –

(a) the trust was established in Uganda;

(b) at any time during the year of income, a trustee of the trust was a resident person; or

(c) the trust has its management and control exercised in Uganda at any time during the year of income.

12. Resident Partnership

A partnership is a resident partnership for a year of income if, at any time during that year, a partner in the partnership was a resident person.

13. Resident Retirement Fund

A retirement fund is a resident retirement fund for a year of income if it –

(a) is organised under the laws of Uganda;

(b) is operated for the principal purpose of providing retirement benefits to resident individuals; or

(c) has its management and control exercised in Uganda at any time during the year of income.

14. Non-Resident Person

(1) Subject to subsection (2), a person is a non-resident person for a year of income if the person is not a resident person for that year.

(2) Where Section 9(2) or (3) applies, an individual is a non-resident person for that part of the year of income in which the individual is not a resident individual.

PART IV – CHARGEABLE INCOME

15. Chargeable Income

Subject to Section 16, the chargeable income of a person for a year of income is the gross income of the person for the year less total deductions allowed under this Act for the year.

16. Chargeable Income arising from Insurance Business

(1) The chargeable income of a person for a year of income arising from the carrying on of a short-term insurance business is determined in accordance with the Fourth Schedule to this Act.

(2) Where a person to whom subsection (1) applies derives income charged to tax other than income arising from the carrying on of a short-term insurance business for a year of income, the chargeable income determined under subsection (1) is added to that other income for the purposes of determining the person's total chargeable income for the year of income.

(3) In this Section,

(a) "insurance business" means the business of, or in relation to the issue of, or the undertaking of liability under, life policies, or to make good or indemnify the insured against any loss or damage, including liability to pay damages or compensation contingent upon the happening of a specified event;

(b) "life insurance business" means business of any of the following classes

(i) effecting, carrying out, and issuing policies on human life or contracts to pay annuities on human life;

(ii) effecting, carrying out, and issuing contracts of insurance against the risk of the person insured sustaining injury or dying as the result of an accident or an accident of a specific class, or becoming incapacitated in consequence of disease or of diseases of specified classes, being contracts that are expressed to be in effect for a period of not less than five years or without limit of time and either are not expressed to be terminable by the insurer before the expiry of five years from taking effect or are expressed to be so terminable before the expiry of such period only in special circumstances specified in the contract; or

(iii) effecting, carrying out, and issuing of insurance whether effected by the issue of policies, bonds, endowment certificates, or otherwise, whereby, in return for one or more premiums paid to the insurer, an amount or series of amounts is to become payable to the insurer in the future, not being such contracts as fall within subparagraph (i) or (ii) of this paragraph; and

(c) "short-term insurance business" means any insurance business which is not a life insurance business.

Gross Income

17. Gross Income

(1) Subject to this Act, the gross income of a person for a year of income is the total amount of -

(a) business income;

(b) employment income; and

(c) property income,

derived during the year by a person, other than income exempt from tax.

(2) For the purposes of subsection (1) –

(a) the gross income of a resident person includes income derived from all geographical sources; and

(b) the gross income of a non-resident person includes only income derived from sources in Uganda.

(3) Unless this Act provides otherwise, Part V of this Act, which deals with tax accounting principles, applies in determining when an amount is derived for the purposes of this Act.

18. Business Income

(1) Business income means any income derived by a person in carrying on a business and includes the following amounts, whether of a revenue or capital nature –

(a) the amount of any gain, as determined under Part VI of this Act which deals with gains and losses on disposal of assets, derived by a person on the disposal of a business asset, or on the satisfaction or cancellation of a business debt, whether or not the asset or debt was on revenue or capital account;

(b) any amount derived by a person as consideration for accepting a restriction on the person's capacity to carry on business;

(c) the gross proceeds derived by a person from the disposal of trading stock;

(d) any amount included in the business income of the person under any other Section of this Act;

(e) the value of any gifts derived by a person in the course of, or by virtue of, a past, present, or prospective business relationship;

(f) interest derived by a person in respect of trade receivables or by a person engaged in the business of banking or money lending; and

Repealed by IT (Am) Act 2014

(g) rent derived by a person whose business is wholly or mainly the holding or letting of property.

(2) An amount included in business income under subsection (1)(f) or (g) retains its character as interest or rent for the purposes of any Section of this Act referring to such income.

(3) Where, as a result of any concession granted by, or a compromise made with, a taxpayer's creditors in the course of an insolvency, the taxpayer derives a gain on the cancellation

of a business debt, Section 38(3) applies in lieu of including the gain in the business income of the taxpayer under subsection (1).

(4) In this Section, "business asset" does not include trading stock or a depreciable asset.

19. Employment Income

(1) Subject to this Section, employment income means any income derived by an employee from any employment and includes the following amounts, whether of a revenue or capital nature –

(a) any wages, salary, leave pay, payment in lieu of leave, overtime pay, fees, commission, gratuity, bonus, or the amount of any travelling, entertainment, utilities, cost of living, housing, medical, or other allowance;

(b) the value of any benefit granted;

(c) the amount of any discharge or reimbursement by an employer of expenditure incurred by an employee, other than expenditure incurred by an employee on behalf of the employer which serves the proper business purposes of the employer;

(d) any amount derived as compensation for the termination of any contract of employment, whether or not provision is made in the contract for the payment of such compensation, or any amount derived which is in commutation of amounts due under any contract of employment;

(e) any amount paid by a tax-exempt employer as a premium for insurance on the life of the employee and which insurance is for the benefit of the employee or any of his or her dependants;

(f) any amount derived as consideration for the employee's agreement to any conditions of employment or to any changes in his or her conditions of employment;

(g) the amount by which the value of shares issued to an employee under an employee share acquisition scheme at the date of issue exceeds the consideration, if any, given by the employee for the shares including any amount given as consideration for the grant of a right or option to acquire the shares;

(h) the amount of any gain derived by an employee on disposal of a right or option to acquire shares under an employee share acquisition scheme.

(2) Notwithstanding subsection (1), the employment income of an employee does not include –

(a) the cost incurred by the employer of any passage to and from Uganda in respect of the employee's appointment or termination of employment where the employee –

(i) was recruited or engaged outside Uganda;

(ii) is in Uganda solely for the purpose of serving the employer; and

(iii) is not a citizen of Uganda; or

(b) any reimbursement or discharge of the employee's medical expenses;

(c) except where subsection (1)(e) applies, any amount paid as a premium for insurance on the life of the employee and which insurance is for the benefit of the employee or any of his or her dependants;

(d) any allowance given for, and which does not exceed the cost actually or likely to be incurred, or a reimbursement or discharge of expenditure incurred by the employee on –

(i) accommodation and travel expenses; or

Substituted by IT (Am) Act 2009

(ii) meals and refreshment,[while undertaking travel]

while undertaking travel in the course of performing duties of employment;

(e) the value of any meal or refreshment provided by the employer to the employee in premises operated by, or on behalf of the employer solely for the benefit of employees and which is available to all full-time employees on equal terms;

(f) any benefit granted by the employer to the employee during a month, where the total value of the benefits provided by the employer to the employee for the month is less than ten thousand shillings; or

Substituted by IT (Am) Act 2002

(g) any contribution or similar payment *by the employer* made to a retirement fund for the benefit of the employee or any of his or her dependents.

Inserted by IT (Am) Act 2011

(h) the value of a right or option to acquire shares granted to an employee under an employee share acquisition scheme.

(3) For the purposes of this Section, the value of any benefit is determined in accordance with the Fifth Schedule to this Act.

(4) Where the amount to which subsection (1)(d) applies is paid by an employer to an employee who has been in the employment of the employer for ten years or more, the amount included in employment income is calculated according to the following formula –

A x 75%

where, **A is** the total amount derived by the employee to which subsection (1)(d) applies.

(5) For the purposes of subsection (2), a director of a company is only a full-time employee of the company if the director –

(a) is required to devote substantially the whole of his or her time to the service of the company in a managerial or technical capacity; and

(b) does not have an interest of more than five per cent in the underlying ownership of the company.

(6) For the purposes of this Section, an amount or benefit is derived in respect of employment if it –

(a) is provided by an employer or by a third party under an arrangement with the employer or an associate of the employer;

(b) is provided to an employee or to an associate of an employee; and

(c) is provided in respect of past, present, or prospective employment.

(7) An amount excluded from the employment income of an employee under subsection (2) or (4) is exempt income of the employee.

(8) In this Section –

(a) "employee share acquisition scheme" means an agreement or arrangement under which –

(i) a company is required to issue shares in the company to employees of the company or of an associated company; or

(ii) a company is required to issue shares to a trustee of a trust and under the trust deed the trustee is required to transfer the shares to employees of the company or of an associated company; and

(b) "medical expenses" includes a premium or other amount paid for medical insurance.

20. Property Income

(1) Property income means –

(a) any dividends, interest, annuity, natural resource payments, rents, royalties and any other payment derived by a person from the provision, use, or exploitation of property;

(b) the value of any gifts derived by a person in connection with the provision, use, or exploitation of property;

(c) the total amount of any contributions made to a retirement fund during a year of income by a tax exempt employer; and

Substituted by IT (Am) Act 2014

(d) any other income derived by a person *including winnings derived from sports betting and pool betting,* but does not include any amount which is business, employment or exempt income.

(2) An amount included in property income under subsection (1)(a) retains its character as dividends, interest, annuity, natural resource payment, rent, or royalties for the purposes of any Section of the Act referring to such income.

Exempt Income

21. Exempt Income

(1) The following amounts are exempt from tax –

(a) the income of a listed institution;

(b) the income of any organisation or person entitled to privileges under the Diplomatic Privileges Act to the extent provided in the regulations and orders made under that Act;

(c) the official employment income derived by a person in the public service of the government of a foreign country if –

(i) the person is either a non-resident person or is a resident individual solely by reason of performing such service;

(ii) the income is payable from the public funds of that country; and

(iii) the income is subject to tax in that country;

(d) any allowance payable outside Uganda to a person working in a Ugandan foreign mission;

(e) the income of any local authority;

(f) the income of an exempt organisation, other than –

Substituted by IT (Am) Act 2005

(i) property income, except rent received by an exempt organisation in respect of immovable property [which is used by the lessee] *and the rent is used by the lessor* exclusively for the activities of the organisation specified in paragraph (bb)(i) of the definition of "exempt organisation" in Section 2; or

(ii) business income that is not related to the function constituting the basis for the organisation's existence;

(g) any education grant which the Commissioner is satisfied has been made bona fide to enable or assist the recipient to study at a recognised educational or research institution;

(h) any amount derived by way of alimony or allowance under any judicial order or written agreement of separation;

Repealed by IT (Am) Act 2002

(i) *interest payable on Treasury Bills or Bank of Uganda Bills;*

(j) the value of any property acquired by gift, bequest, devise, or inheritance that is not included in business, employment, or property income;

*Substituted by IT (Am) Act 2010 & **IT (Am) Act 2014***

(k) any capital gain that is not included in business income, *other than **capital** gains on the sale of shares in a private limited liability company **or on the sale of a commercial building***;

(l) employment income derived by an individual to the extent provided for in a technical assistance agreement where –

(i) the individual is a non-resident or a resident solely for the purpose of performing duties under the agreement; and

(ii) the Minister has concurred in writing with the tax provisions in the agreement;

(m) foreign-source income derived by –

(i) a short-term resident of Uganda;

(ii) a person to whom paragraph (c) or (l) of this subsection applies; or

(iii) a member of the immediate family of a person referred to in subparagraph (i) or (ii) of this paragraph;

(n) a pension;

(o) a lump sum payment made by a resident retirement fund to a member of the fund or a dependant of a member of the fund;

(p) the proceeds of a life insurance policy paid by a person carrying on a life insurance business;

Inserted by IT (Am) Act 2013

(q) the official employment income of a person employed in the Uganda Peoples' Defence Forces, the Uganda Police Force, *the External Security Organisation, the Internal Security Organisation* or the Uganda Prisons Service, other than a person employed in a civil capacity;

Added by IT (Am) Act 2002

(r) the income of the Government of the Republic of Uganda and the Government of any other country;

Inserted by IT (Am) Act 2003 W.E.F 7/07

(s) the income of the Bank of Uganda;

[t,u,v] Inserted by IT (Am) Act 2005

(t) income of a collective investment scheme to the extent of which the income is distributed to participants in the collective investment scheme;

Repealed by IT (Am) Act 2014

(u) interest earned by a financial institution on a loan granted to any person for the purpose of farming, forestry, fish farming, bee keeping, animal and poultry husbandry or similar operations;

(v) emoluments payable to employees of the East African Development Bank with effect from 1st July 1997;

Inserted by IT (Am) Act 2006 and 2008

(w) the income of an Investor Compensation Fund established under Section 81 of the Capital Markets Act;

Inserted by IT (Am) Act 1 2008 and substituted by IT (Am) Act 2 2008

(x) the income of a person derived from the operation of aircraft in *domestic and* international traffic *or the leasing of aircraft;* [whose place of effective management is not in Uganda;]

(y) the income of a person derived from the exportation of finished consumer and capital goods for a period of ten years, where the person –

Inserted by IT (Am) Act 1 2008

(i) in the case of a new investment, applies in writing to the Commissioner to be issued with a certificate of exemption at the beginning of his or her investment; or

(ii) in the case of an existing investment, applies for a certificate from the Commissioner which is effective from 1st July 2007, and the person -

(aa) exports at least 80% of his or her production of goods;

(ab) has fulfilled such conditions as may be prescribed by Regulations made by the Minister; and

(ac) has been issued with a certificate of exemption prescribed by the Commissioner.

Inserted by IT (Am) Act 2 2008 and substituted by IT (Am) Act 2009, and by IT (Am) Act 2011.

(z) the income of a person for a year of income derived from agro-processing where –

(i) the person or an associate of the person has not previously carried on agro-processing of a similar or related agricultural product in Uganda;

(ii) upon commencement of agro-processing in Uganda, the person applies in writing to the Commissioner for a certificate of exemption which the Commissioner may issue within sixty days of receiving the application;

(iii) the person invests in plant and machinery that has not previously been used in Uganda by any person in agro-processing to process agricultural products for final consumption;

(iv) the person processes agricultural products grown or produced in Uganda;

(v) the person regularly files returns as required under this Act;

(vi) the person regularly fulfils all obligations under this Act relating to that person's investment; and

(vii) the person has been issued with a certificate of exemption for that year of income by the Commissioner.

Inserted by IT (Am) Act 2011

(za) for avoidance of doubt, a certificate of exemption issued under subsection (1)(z)(ii) shall be valid for one year and may be renewed annually.

Inserted by IT (Am) Act 2 2008 and substituted by IT (Am) Act 2009. Repealed by IT (Am) Act 2014

(aa) *business* income derived by a person from managing or running an educational institution; or

Inserted by IT (Am) Act 2 2008 and repealed by IT (Am) Act 2013

(ab) interest earned by a person on deposit auction funds issued by the Bank of Uganda for the purposes of liquidity management.

Inserted by IT (Am) Act 2013

(ab) an award received by a sports person as a reward for winning or participating in a sports competition.

(2) In this Section,

(a) "short-term resident" means a resident individual, other than a citizen of Uganda, present in Uganda for a period or periods not exceeding two years; and

(b) "technical assistance agreement" means a grant agreement between the Government of Uganda and a foreign government or a listed institution for the provision of technical assistance to Uganda.

Inserted by IT (Am) Act 2009

(c) "agro-processing" in relation to agricultural products of pastoral, agricultural, or other farming operations, means an industrial or manufacturing process that substantially transforms or converts raw agricultural produce in order to convert the produce into a different chemical or physical states and includes the activities that take place between slaughter or harvest of the raw product in order to change it or preserve it.

Deductions

22. Expenses of deriving Income

(1) Subject to this Act, for the purposes of ascertaining the chargeable income of a person for a year of income, there shall be allowed as a deduction –

(a) all expenditures and losses incurred by the person during the year of income to the extent to which the expenditures or losses were incurred in the production of income included in gross income;

(b) the amount of any loss as determined under Part VI, which deals with gains and losses on the disposal of assets, incurred by the person on the disposal of a business asset during the year of income, whether or not the asset was on revenue or capital account;

(c) in the case of rental income, twenty per cent of the rental income as expenditures and losses incurred by the individual in the production of such income;

Inserted by IT (Am) Act 2002 and substituted by IT (Am) Act 2 2008

(d) local service tax [graduated tax] paid by an individual; and

Inserted by IT (Am) Act 2 2008 and substituted by IT (Am) Act 2009

(e) 2% of income tax payable under this Act by private employers who prove to Uganda Revenue Authority that 5% of their employees on full time basis are persons with disabilities;

(f) Section 17 of the Persons with Disabilities Act is repealed.

(2) Except as otherwise provided in this Act, no deduction is allowed for –

(a) any expenditure or loss incurred by a person to the extent to which it is of a domestic or private nature;

(b) subject to subsection (1), any expenditure or loss of a capital nature, or any amount included in the cost base of an asset;

(c) any expenditure or loss which is recoverable under any insurance, contract, or indemnity;

(d) income tax payable in Uganda or a foreign country;

(e) any income carried to a reserve fund or capitalised in any way;

(f) the cost of a gift made directly or indirectly to an individual where the gift is not included in the individual's gross income;

Repealed by IT (Am) Act 2002

(g) any allowance given to, or a reimbursement or discharge of expenditure incurred by, an employee, in respect of the employee's housing, and any expenditures incurred in respect of housing provided to an employee;

(h) any fine or similar penalty paid to any government or a political subdivision of a government for breach of any law or subsidiary legislation;

Deleted & Substituted by IT (Am) Act 2005

(i) a contribution or similar payment made to a retirement fund [either for the benefit of the person making the payment or for the benefit of any other person] *by the employee either for the benefit of the employee or for the benefit of any other person;*

(j) a premium or similar payment made to a person carrying on a life insurance business on the life of the person making the premium or on the life of some other person;

(k) the amount of a pension paid to any person; or

(l) any alimony or allowance paid under any judicial order or written agreement of separation.

Inserted by IT (Am) Act 2015

(m) any expenditure above five million shillings in one transaction on goods and services from a supplier who does not have a taxpayer identification number.

(3) In this Section, expenditure of a domestic or private nature incurred by a person includes –

(a) the cost incurred in the maintenance of the person and the person's family or residence;

(b) the cost of commuting between the person's residence and work;

(c) the cost of clothing worn to work, except clothing which is not suitable for wearing outside of work; and

(d) the cost of education of the person not directly relevant to the person's employment or business, and the cost of education leading to a degree, whether or not it is directly relevant to the person's employment or business.

(4) Unless this Act provides otherwise, Part V, which deals with tax accounting principles, applies for the purposes of determining

when an expenditure or loss is incurred for the purposes of this Act.

(5) In this Section, "business asset" does not include trading stock or a depreciable asset.

Inserted by IT (Am) Act 2006 And repealed by IT (Am) Act 2 2008

(6) For the purposes of subsection (1)(a) expenditures and losses incurred by a person during exploration, development or production of petroleum in a contract area shall be allowed as a deduction only against the income of that area included in gross income.]

23. Meals, Refreshment, and Entertainment Expenditure

A deduction is allowed for expenditure incurred by a person in providing meals, refreshment, or entertainment in the production of income included in gross income, but only where –

(a) the value of the meals, refreshment, or entertainment is included in the employment income of an employee under Section 19(1)(b) or is excluded from employment income by Section 19(2)(d) or (e) ; or

(b) the person's business includes the provision of meals, refreshment, or entertainment and the persons to whom the meals, refreshment, or entertainment have been provided have paid an arm's length consideration for them.

24. Bad Debts

(1) Subject to subsection (2), a person, is allowed a deduction for the amount of a bad debt written off in the person's accounts during the year of income;

(2) A deduction for a bad debt is only allowed –

Substituted by IT (Am) Act 2002

(a) if the amount of the debt claim was included in the person's *gross* income in any year of income;

(b) if the amount of the debt claim was in respect of money lent in the ordinary course of a business carried on by a financial

institution in the production of income included in gross income; or

Inserted by IT (Am) Act 1 2008

(c) if the amount of the debt claim was in respect of a loan granted to any person by a financial institution for the purpose of farming, forestry, fish farming, bee keeping, animal and poultry husbandry or similar operations.

(3) In this Section,

(a) "bad debt" means –

(i) a debt claim in respect of which the person has taken all reasonable steps to pursue payment and which the person reasonably believes will not be satisfied; and

(ii) in relation to a financial institution, a debt in respect of which a loss reserve held against presently identified losses or potential losses, and which is therefore not available to meet losses which subsequently materialise, has been made; and

(b) "debt claim" means a right to receive a repayment of money from another person, including deposits with financial institutions, accounts receivable, promissory notes, bills of exchange, and bonds.

25. Interest

(1) Subject to this Act, a person is allowed a deduction for interest incurred during the year of income in respect of a debt obligation to the extent that the debt obligation has been incurred by the person in the production of income included in gross income.

(2) In this Section, "debt obligation" includes an obligation to make a swap payment arising under a swap agreement and shares in a building society.

26. Repairs and Minor Capital Equipment

(1) A person is allowed a deduction for expenditure incurred during the year of income for the repair of property occupied or used by the person in the production of income included in gross income.

Substituted by IT (Am) Act 2005

(2) A person is allowed a deduction for expenditure incurred during the year of income in acquiring a depreciable asset with a cost base of less than [five] *fifty currency points*.

(3) Subsection (2) only applies to a depreciable asset if the asset normally functions in its own right and is not an individual item which forms part of a set.

27. Depreciable Assets

(1) A person is allowed a deduction for the depreciation of the person's depreciable assets, other than an asset to which Section 26(2) applies, during the year of income as calculated in accordance with this Section.

(2) Depreciable assets are classified into four classes as set out in Part I of the Sixth Schedule to this Act with depreciation rates applicable for each class as specified in that Part.

(3) A person's depreciable assets shall be placed into separate pools for each class of asset, and the depreciation deduction for each pool is calculated according to the following formula -

A x B

where –

A is the written down value of the pool at the end of the year of income; and

B is the depreciation rate applicable to the pool.

(4) The written down value of a pool at the end of a year of income is the total of –

(a) the written down value of the pool at the end of the preceding year of income after allowing for the deduction under subsection (3) for that year; and

(b) the cost base of assets added to the pool during the year of income,

reduced, but not below zero, by the consideration received from the disposal of assets in the pool during the year of income.

(5) Where the amount of consideration received by a person from the disposal during a year of income of any asset or assets in a pool exceeds the written-down value of the pool at the end of the year of income disregarding that amount, the excess is included in the business income of the person for that year.

Substituted by IT (Am) Act 1 2008

(6) If the written down value of a pool at the end of the year of income, after allowing for the deduction under subsection (3), is less than [five] *fifty* currency points, a deduction shall be allowed for the amount of that written down value.

(7) Where all the assets in a pool are disposed of before the end of a year of income, a deduction is allowed for the amount of the written down value of the pool as at the end of that year.

(8) Where a person has incurred non-deductible expenditures in more than one year of income in respect of a depreciable asset, this Section applies as if the expenditures incurred in different years of income were incurred for the acquisition of separate assets of the same class.

(9) The cost base of a depreciable asset is added to a pool in the year of income in which the asset is placed in service.

(10) Where a depreciable asset is only partly used during a year of income in the production of income included in gross income, the depreciation deduction allowed under this Section in relation to the asset shall be proportionately reduced.

(11) For the purposes of subsection (4)(b) , the cost base of a road vehicle, other than a commercial vehicle, is not to exceed the amount set out in Part II of the Sixth Schedule.

(12) Where the cost base of a road vehicle for the purposes of subsection (4)(b) is limited under subsection (11), the person is treated as having acquired two assets –

(a) a depreciable asset being a road vehicle with a cost base equal to the amount set out in Part II to the Sixth Schedule to this Act; and

(b) a business asset that is not a depreciable asset with a cost base equal to the difference between the cost base of the asset not taking into account subsection (11), in this Section referred to as the "actual cost base", and the amount set out in Part II of the Sixth Schedule.

(13) Where a road vehicle to which subsection (12) applies is disposed of, the person is treated as having disposed of each of the assets specified under that subsection and the consideration received on disposal is apportioned between the two assets based on the ratio of the cost base of each asset as determined under that subsection to the actual cost base of the asset.

(14) In calculating the amount of any gain or loss arising on disposal of an asset specified in subsection (12)(b), the cost base of the asset as determined under that paragraph is reduced by the depreciation deductions which would have been allowed to the person if the asset –

(a) was a depreciable asset being a road vehicle; and

(b) the asset was the only asset in the pool.

(15) In this Section, "commercial vehicle" means –

(a) a road vehicle designed to carry loads of more than half a tonne or more than thirteen passengers; or

(b) a vehicle used in a transportation or vehicle rental business.

28. Initial Allowance

Repealed by IT (Am) Act 2014

(1) A person who places an item of eligible property into service for the first time during the year of income is allowed a deduction for that year of an amount equal to –

(a) where the asset is placed in service outside an area prescribed in Part IV of the Sixth Schedule to this Act, seventy five per cent of the cost base of the property at the time it is placed in service; or

(b) in any other case, fifty per cent of the cost base of the property at the time it is placed in service.

(2) The cost base of an asset to which subsection (1) applies is reduced by the amount of the deduction allowed under that subsection for the purposes of Section 27(4)(b).

(3) In this Section, "item of eligible property" means plant and machinery wholly used in the production of income included in gross income but does not include –

(a) goods and passenger transport vehicles;

(b) appliances of a kind ordinarily used for household purposes; or

(c) office or household furniture, fixtures and fittings.

[4-8] Inserted by Finance Act 2001

(4) A person who places a new industrial building in service for the first time during the year of income is allowed a deduction for that year of an amount equal to 20% of the cost base of the building at the time it was placed in service.

(5) The cost base of an industrial building to which subsection (4) applies is reduced by the amount of deduction allowed under that subsection for the purposes of Section 29.

(6) Where a person has incurred capital expenditure on the extension of an existing industrial building, this Section applies

as if the expenditure was capital expenditure incurred on the construction of a separate industrial building.

(7) For the purposes of subsections (4) and (6), a new industrial building or extension of an existing industrial building means a building on which construction was commenced on or after 1st July 2000.

(8) In this Section, "industrial building" does not include an approved commercial building.

29. Industrial Buildings

(1) Subject to this Section, where a person has incurred capital expenditure in any year of income on the construction of an industrial building and the building is used by the person during the year of income in the production of income included in gross income, the person is allowed a deduction for the depreciation of the building during the year of income as calculated according to the following formula –

A x B x C/D

where –

A is the depreciation rate applicable to the building as determined under Part III of the Sixth Schedule;

B is the capital expenditure incurred in the construction of the building;

C is the number of days in the year of income during which the asset was used or was available for use in the production of income included in gross income; and

D is the number of days in the year of income.

(2) Subject to subsection (3), where an industrial building is only partly used by a person during a year of income for prescribed uses, the amount of the depreciation deduction allowed under subsection (1) shall be proportionately reduced.

(3) Where an industrial building is only partly used by a person during a year of income for prescribed uses and the capital expenditure incurred in the construction of that part of the building used for other uses is not more than ten per cent of the total capital expenditure incurred on the construction of the building, the building is treated as wholly used for prescribed uses.

(4) Where a person has incurred expenditure in making a capital improvement to an industrial building in a year of income, this Section applies as if the expenditure was capital expenditure incurred in that year in the construction of a separate industrial building.

(5) Where an industrial building is purchased by a person, the person is deemed to have incurred the capital expenditure incurred by the person who constructed the building.

(6) The amount of the deduction allowed under this Section is not to exceed the amount which, apart from making the deduction, would be the residue of expenditure at the end of the year of income.

(7) Where an industrial building has been disposed of by a person during a year of income, the cost base of the building for the purposes of this Act is reduced by any deductions allowed to the person under this Section in respect of the building.

(8) Where an industrial building is bought and sold together with land, the value of the land shall be the difference between the total consideration and the value of the industrial building as defined in subsection (7).

(9) Where subsection (4) applies, the consideration received on disposal of an industrial building shall be reasonably apportioned among the separate industrial buildings identified under that subsection.

(10) In this Section,

(a) "capital expenditure" does not include –

(i) expenditure incurred in the acquisition of a depreciable asset installed in an industrial building; or

(ii) expenditure incurred in the acquisition of, or of any rights in or over, any land;

(b) "prescribed uses" means the uses specified in the definition of "industrial building" in Section 2; and

(c) "residue of expenditure" means the capital expenditure incurred on the construction of an industrial building less any deductions allowed under this Section to any person and any amounts which would have been allowed as deductions if the building was solely used for prescribed uses at all times since construction was completed.

30. Start-Up Costs

Substituted by IT (Am) Act 2002

(1) A person who has incurred expenditure in starting up a business to produce income included in gross income *or in the initial public offering at the stock market* shall be allowed a deduction of an amount equal to twenty five per cent of the amount of the expenditure in the year of income in which the expenditure was incurred and in the following three years of income in which the business is carried on by the person.

Inserted by IT (Am) Act 2014

(2) In this section, "expenditure in starting up a business" means –

(a) in the case of initial public offering, costs incurred in listing the business with the Uganda Stock Exchange;

(b) in any other case, non-recurring preliminary or pre-opening costs, which are associated with setting up a business such as fees of an accountant, registration charges, legal fees, costs for promotional and advertising activities, as well as costs for employee training.

31. Costs of Intangible Assets

(1) A person who has incurred expenditure in acquiring an intangible asset having an ascertainable useful life is allowed a

deduction in each year of income during the useful life of the asset in which the person wholly uses the asset in the production of income included in gross income of an amount calculated according to the following formula –

A/B

where –

A is the amount of expenditure incurred; and

B is the useful life of the asset in whole years.

(2) Where an intangible asset has been disposed of by a person during the year of income, the cost base of the asset is reduced by any deductions allowed under this Section to the person in respect of the asset.

32. Scientific Research Expenditure

(1) A person is allowed a deduction for scientific research expenditure incurred during the year of income in the course of carrying on a business, the income from which is included in gross income.

(2) In this Section –

(a) "scientific research" means any activities in the fields of natural or applied science for the development of human knowledge;

(b) "scientific research expenditure", in relation to a person carrying on business, means the cost of scientific research undertaken for the purposes of developing the person's business, including any contribution to a scientific research institution which is used by the institution in undertaking research for the purposes of developing the person's business, but does not include –

(i) expenditure incurred for the acquisition of a depreciable or intangible asset;

(ii) expenditure incurred for the acquisition of land or buildings; or

(iii) expenditure incurred for the purpose of ascertaining the existence, location, extent, or quality of a natural deposit; and

(c) "scientific research institution" means an association, institute, college, or university which undertakes scientific research.

33. Training Expenditure

(1) An employer is allowed a deduction for expenditure incurred during the year of income for the training or tertiary education, not exceeding in the aggregate five years, of a citizen or permanent resident of Uganda, other than an associate of the employer, who is employed by the employer in a business, the income from which is included in gross income.

(2) In this Section, "permanent resident" means a resident individual who has been present in Uganda for a period or periods in total of five years or more.

34. Charitable Donations

(1) A person is allowed a deduction for a gift made during a year of income to an organisation within Section 2(bb)(i)(A) or (B) of the definition of "exempt organisation".

(2) For the purposes of subsection (1), the value of a gift of property is the lesser of –

(a) the value of the property at the time of the making of the gift; or

(b) the consideration paid by the person for the property.

(3) The amount of a deduction allowed under subsection (1) for a year of income shall not exceed five per cent of the person's

chargeable income, calculated before taking into account the deduction under this Section.

35. Farming

(1) Expenditure incurred by a person in acquiring farm works is included in the person's pool for class 4 assets under Section 27 in the year of income in which the expenditure is incurred and is depreciated accordingly.

Inserted by the IT (Am) Act 2002

(2) Subject to subsection (3), a person carrying on a business of horticulture in Uganda *to produce income included in gross income,* who has incurred expenditure of a capital nature on –

(a) the acquisition or establishment of a horticultural plant; or

(b) the construction of a greenhouse,

shall be allowed a deduction of an amount equal to twenty per cent of the amount of the expenditure in the year of income in which the expenditure was incurred and in the following four years of income in which the plant or greenhouse is used in the business of horticulture carried on by the person.

(3) Expenditure of a capital nature incurred on the establishment of a horticultural plant shall include expenditure incurred in draining or clearing land.

(4) In this Section,

Inserted by IT (Am) Act 2002

(a) "farm works" means any labour quarters and other immovable buildings necessary for the proper operation of a farm, fences, dips, drains, water and electricity supply works, windbreaks, and other works necessary for farming operations *carried on to produce income included in gross income*, but does not include –

(i) farm houses; or

(ii) depreciable assets; and

(b) "horticulture" includes –

(i) propagation or cultivation of seeds, bulbs, spores, or similar things;

(ii) propagation or cultivation of fungi; or

(iii) propagation or cultivation in environments other than soil, whether natural or artificial.

36. Mineral Exploration Expenditures

Inserted by IT (Am) Act 2002

Repealed by IT (Am) Act 2015

A person carrying on mining operations *to produce income included in gross income* is allowed a deduction for any expenditure of a capital nature incurred in searching for, discovering and testing, or winning access to deposits of minerals in Uganda.

37. Apportionment of Deductions

(1) A deduction relating to the production of more than one class of income shall be reasonably apportioned among the classes of income to which it relates.

(2) Where a person derives more than one class of income, the deduction allowed under Section 34 shall be allocated rateably to each class of income.

38. Carry Forward Losses

(1) Subject to this Section, where, for any year of income, the total amount of income included in the gross income of a taxpayer is exceeded by the total amount of deductions allowed to the taxpayer, the amount of the excess, in this Act referred to as an "assessed loss", shall be carried forward and allowed as a deduction in determining the taxpayer's chargeable income in the following year of income.

(2) Where, for any year of income, the total farming income derived by a taxpayer who is an individual is exceeded by the total deductions allowed to the taxpayer relating to the production of that income, the amount of the excess, in this Act referred to as

an "assessed farming loss", may not be deducted against any other income of the taxpayer for the year of income, but shall be carried forward and allowed as a deduction in determining the chargeable farming income of the taxpayer in the following year of income.

(3) The amount of an assessed loss carried forward under this Section for a taxpayer shall be reduced by the amount or value of any benefit to the taxpayer from a concession granted by, or a compromise made with, the taxpayer's creditors *in the course of an insolvency* whereby the taxpayer's liabilities to those creditors have been extinguished or reduced, provided such liabilities were incurred in the production of income included in gross income.

Inserted by IT (Am) Act 2002

(4) Where a taxpayer has more than one class of loss, the reduction in subsection (3) shall be applied rateably to each class of loss.

(5) Subsection (1) shall apply separately to income derived from sources in Uganda and to foreign-source income.

(6) In this Section –

(a) "chargeable farming income" means the total farming income of a taxpayer for a year of income reduced by any deductions allowed under this Act for that year which relate to the production of such income; and

(b) "farming income" means the business income derived from the carrying on of farming operations.

PART V – TAX ACCOUNTING PRINCIPLES

39. Substituted Year of Income

(1) A taxpayer may apply, in writing, to use as the taxpayer's year of income a substituted year of income being a twelve-month period other than the normal year of income and the Commissioner may, subject to subsection (3), by notice in writing, approve the application.

(2) A taxpayer granted permission under subsection (1) to use a substituted year of income may apply, in writing, to change the taxpayer's year of income to the normal year of income or to another substituted year of income and the Commissioner, subject to subsection (3), may, by notice in writing, approve the application.

(3) The Commissioner may only approve an application under subsection (1) and (2) if the taxpayer has shown a compelling need to use a substituted year of income or to change the taxpayer's year of income and any approval is subject to such conditions as the Commissioner may prescribe.

(4) The Commissioner may, by notice in writing to a taxpayer, withdraw the permission to use a substituted year of income granted under subsection (1) or (2).

(5) A notice served by the Commissioner under subsection (1) takes effect on the date specified in the notice, and a notice under subsection (2) or (4) takes effect at the end of the substituted year of income of the taxpayer in which the notice was served.

(6) Where the year of income of a taxpayer changes as a result of subsections (1), (2), or (4), the period between the last full year of income prior to the change and the date on which the changed year of income commences is treated as a separate year of income, to be known as the "transitional year of income".

(7) In this Act, a reference to a particular normal year of income includes a substituted year of income or a transitional year of income commencing during the normal year of income.

(8) A taxpayer dissatisfied with a decision of the Commissioner under subsections (1), (2), or (4) may only challenge the decision under the objections and appeal procedure in this Act.

(9) In this Section, "normal year of income" means the period of twelve months ending on the 30th June.

40. Method of Accounting

(1) A taxpayer's method of accounting shall conform to generally accepted accounting principles.

(2) Subject to subsection (1) and unless the Commissioner prescribes otherwise in a particular case, a taxpayer may account for tax purposes on a cash or accrual basis.

Substituted by IT (Am) Act 2010

(3) A taxpayer *who intends to change* the taxpayer's method of accounting *shall apply in writing to the Commissioner* and the Commissioner may, by notice in writing, approve *the* application *where he or she is satisfied* that the change is necessary to clearly reflect the taxpayer's income.

(4) A taxpayer dissatisfied with a decision under this Section may only challenge the decision under the objection and appeal procedure in this Act.

(5) If the taxpayer's method of accounting is changed, adjustments to items of income, deduction, or credit or to other items shall be made in the year of income following the change, so that no item is omitted and no item is taken into account more than once.

41. Cash-Basis Taxpayer

A taxpayer who is accounting for tax purposes on a cash basis derives income when it is received or made available and incurs expenditure when it is paid.

42. Accrual-Basis Taxpayer

(1) A taxpayer who is accounting for tax purposes on an accrual basis:–

(a) derives income when it is receivable by the taxpayer; and

(b) incurs expenditure when it is payable by the taxpayer.

(2) Subject to this Act, an amount is receivable by a taxpayer when the taxpayer becomes entitled to receive it, even if the time for

discharge of the entitlement is postponed or the entitlement is payable by instalments.

(3) Subject to this Act, an amount is treated as payable by the taxpayer when all the events that determine liability have occurred and the amount of the liability can be determined with reasonable accuracy, but not before economic performance with respect to the amount occurs.

(4) For the purposes of subsection (3), economic performance occurs: –

(a) with respect to the acquisition of services or property, at the time the services or property are provided;

(b) with respect to the use of property, at the time the property is used; or

(c) in any other case, at the time the taxpayer makes payment in full satisfaction of the liability.

43. Pre-payments

Where a deduction is allowed for expenditure incurred on a service or other benefit which extends beyond thirteen months, the deduction is allowed proportionately over the years of income to which the service or other benefit relates.

44. Claim of Right

Substituted by IT (Am) Act 2002

(1) A taxpayer who is accounting for tax purposes on a cash basis shall include an amount in *gross* income when received or claim a deduction for an amount when paid, notwithstanding that the taxpayer is not legally entitled to receive the amount or liable to make the payment, if the taxpayer claims to be legally entitled to receive, or legally obliged to pay the amount.

(2) Where subsection (1) applies, the calculation of the chargeable income of the taxpayer shall be adjusted for the year of income in which the taxpayer refunds the amount received or recovers the amount paid.

Substituted by IT (Am) Act 2002

(3) A taxpayer who is accounting for tax purposes on an accrual basis shall include an amount in *gross* income when receivable or claim a deduction for an amount when payable notwithstanding that the taxpayer is not legally entitled to receive the amount or liable to make the payment, if the taxpayer claims to be legally entitled to receive, or to be legally obliged to pay the amount.

(4) Where subsection (3) applies, the calculation of the chargeable income of the taxpayer shall be adjusted for the year of income in which the taxpayer ceases to claim the right to receive the amount or ceases to claim an obligation to pay the amount.

45. Long-Term Contracts

(1) In the case of an accrual-basis taxpayer, income and deductions relating to a long-term contract are taken into account on the basis of the percentage of the contract completed during the year of income.

(2) The percentage of completion is determined by comparing the total costs allocated to the contract and incurred before the end of the year of income with the estimated total contract costs as determined at the time of commencement of the contract.

Substituted by IT (Am) Act 2002

(3) Where, in the year of income in which the long-term contract is completed, it is determined that the contract has made a final year loss, the Commissioner may allow the loss to be carried back to the preceding years of income and applied against an amount in *gross* income over the period of the contract under subsection (1) for those years starting with the year immediately preceding the year in which the contract was completed.

(4) In this Section,

(a) "final year loss", in relation to a long-term contract, occurs where both the following conditions are satisfied –

(i) the profit estimated to be made under the contract for the purposes of subsection (1) exceeds the actual profit, including a loss, made under the contract; and

(ii) the difference between the estimated profit and the actual profit exceeds the amount included in income under subsection (1) for the year of income in which the contract is completed,

and the amount of the excess referred to in subparagraph (ii) of this paragraph is the amount of the final year loss; and

(b) "long-term contract" means a contract for manufacture, installation, or construction, or, in relation to each, the performance of related services, which is not completed within the year of income in which work under the contract commenced, other than a contract estimated to be completed within six months of the date on which work under the contract commenced.

46. Trading Stock

(1) A taxpayer is allowed a deduction for the cost of trading stock disposed of during a year of income.

(2) The cost of trading stock disposed of during a year of income is determined by adding to the opening value of trading stock for the year, the cost of trading stock acquired during the year, and subtracting the closing value of trading stock for the year.

(3) The opening value of trading stock for a year of income is -

(a) the closing value of trading stock at the end of the previous year of income; or

Substituted by IT (Am) Act 2002

(b) where the taxpayer commenced business during the year of income, the *market* value*, at the time of commencement of the business,* of trading stock acquired prior to the commencement of the business.

(4) The closing value of trading stock is the lower of cost or market value of trading stock on hand at the end of the year of income.

(5) A taxpayer who is accounting for tax purposes on a cash basis may calculate the cost of trading stock on the prime-cost method

or absorption-cost method; and a taxpayer who is accounting for tax purposes on an accrual basis shall calculate the cost of trading stock on the absorption-cost method.

(6) Where particular items of trading stock are not readily identifiable, a tax payer may account for that trading stock on the first-in-first-out method or the average cost method but, once chosen, a stock valuation method may be changed only with the written permission of the Commissioner.

(7) In this Section,

(a) "absorption-cost method" means the generally accepted accounting principle under which the cost of trading stock is the sum of direct material costs, direct labour costs, and factory overhead costs;

(b) "average-cost method" means the generally accepted accounting principle under which trading stock valuation is based on a weighted average cost of units on hand;

(c) "direct labour costs" means labour costs directly related to the production of trading stock;

(d) "direct material costs" means the cost of materials that become an integral part of the trading stock produced;

(e) "factory overhead costs" means the total costs of manufacturing except direct labour and direct material costs;

(f) "first-in-first-out method" means the generally accepted accounting principle under which trading stock valuation is based on the assumption that trading stock is sold in the order of its receipt;

(g) "prime-cost method" means the generally accepted accounting principle under which the cost of trading stock is the sum of direct material costs, direct labour costs, and variable factory overhead costs; and

(h) "variable factory overhead costs" means those factory overhead costs which vary directly with changes in volume.

47. Debt Obligations with Discount or Premium

(1) Subject to subsection (2), interest in the form of any discount, premium, or deferred interest shall be taken into account as it accrues.

(2) Where the interest referred to in subsection (1) is subject to withholding tax, the interest shall be taken to be derived or incurred when paid.

48. Foreign Currency Debt Gains and Losses

(1) Foreign currency debt gains are included in gross income and foreign currency debt losses are deductible only under this Section.

(2) A foreign currency debt gain derived by a taxpayer during the year of income is included in the business income of the taxpayer for that year.

(3) Subject to subsection (4) and (6), a foreign currency debt loss incurred by a taxpayer during a year of income is allowed as a deduction to the taxpayer in that year.

(4) A deduction is not allowed to a taxpayer for a foreign currency debt loss incurred by the taxpayer unless the taxpayer has notified the Commissioner in writing of the existence of the debt which gave rise to the loss by the due date for furnishing of the taxpayer's return of income for the year of income in which the debt arose or by such later date as the Commissioner may allow.

(5) Subsection (4) does not apply to a financial institution.

(6) Where –

(a) a taxpayer has incurred a foreign currency debt loss under a transaction;

(b) the taxpayer or another person has derived a foreign currency debt gain under another transaction; and

(c) either –

(i) the transaction giving rise to the loss would not have been entered into, or might reasonably be expected not to have been entered into, if the transaction giving rise to the gain had not been entered into; or

(ii) the transaction giving rise to the gain would not have been entered into, or might reasonably be expected not to have been entered into, if the transaction giving rise to the loss had not been entered into,

no deduction is allowed to the taxpayer to the extent that the amount of the loss exceeds that part of the gain included in gross income.

(7) Subject to subsection (9), a taxpayer derives a foreign currency debt gain if –

(a) where the taxpayer is a debtor, the amount in Shillings of the foreign currency debt incurred by the taxpayer is greater than the amount in Shillings required to settle the debt; or

(b) where the taxpayer is a creditor, the amount in Shillings of the foreign currency debt owed to the taxpayer is less than the amount in Shillings paid to the taxpayer in settlement of the debt.

(8) Subject to subsection (9), a taxpayer incurs a foreign currency debt loss if –

(a) where the taxpayer is a debtor, the amount in Shillings of the foreign currency debt incurred by the taxpayer is less than the amount in Shillings required to settle the debt; or

(b) where the taxpayer is a creditor, the amount in Shillings of the foreign currency debt owed to the taxpayer is greater

than the amount in shillings paid to the taxpayer in settlement of the debt.

(9) In determining whether a taxpayer has derived a foreign currency debt gain or incurred a foreign currency debt loss, account shall be taken of the taxpayer's position under any hedging contract entered into by the taxpayer in respect of the debt.

(10) A foreign currency debt gain is derived or a foreign currency debt loss is incurred by a taxpayer in the year of income in which the debt is satisfied.

(11) In this Section,

(a) "foreign currency debt" means a business debt denominated in foreign currency; and

(b) "hedging contract" means a contract entered into by the taxpayer for the purpose of eliminating or reducing the risk of adverse financial consequences which might result for the taxpayer under another contract from currency exchange rate fluctuation.

PART VI – GAINS AND LOSSES ON DISPOSAL OF ASSETS

49. Application of Part VI

This Part applies for the purposes of determining the amount of any gain or loss arising on the disposal of an asset where the gain is included in gross income or the loss is allowed as a deduction under this Act.

50. Gains and Losses on Disposal of Assets

(1) The amount of any gain arising from the disposal of an asset is the excess of the consideration received for the disposal over the cost base of the asset at the time of the disposal.

(2) The amount of any loss arising from the disposal of an asset is the excess of the cost base of the asset at the time of the disposal over the consideration received for the disposal.

51. Disposals

(1) A taxpayer is treated as having disposed of an asset when the asset has been

(a) sold, exchanged, redeemed, or distributed by the taxpayer;

(b) transferred by the taxpayer by way of gift; or

(c) destroyed or lost.

(2) A disposal of an asset includes a disposal of a part of the asset.

(3) Where the Commissioner is satisfied that a taxpayer –

(a) has converted an asset from a taxable use to non-taxable use; or

(b) has converted an asset from a non-taxable use to a taxable use,

the taxpayer is deemed to have disposed of the asset at the time of the conversion for an amount equal to the market value of the asset at that time and to have immediately re-acquired the asset for a cost base equal to that same value.

(4) A non-resident person who becomes a resident person is deemed to have acquired all assets, other than taxable assets, owned by the person at the time of becoming a resident for their market value at that time.

(5) A resident person who becomes a non-resident person is deemed to have disposed of all assets, other than taxable assets, owned by the person at the time of becoming a non-resident for their market value at that time.

(6) Where a person to whom subsection (5) would otherwise apply-

(a) intends, in the future, to re-acquire status as a resident person; and

(b) provides the Commissioner with sufficient security to satisfy any tax liability which would otherwise arise under subsection (5),

the Commissioner may, by notice in writing, exempt the person from the application of subsection (5).

(7) In this Section, "taxable asset" means an asset the disposal of which would give rise to a gain included in the gross income of, or a loss allowed as a deduction to, a resident or non-resident taxpayer.

52. Cost Base

(1) Subject to this Act, this Section establishes the cost base of an asset for the purpose of this Act.

Inserted by IT (Am) Act 2002

(2) The cost base of an asset purchased, produced, or constructed by the taxpayer is the amount paid or incurred by the taxpayer in respect of the asset, including incidental expenditures of a capital nature incurred in acquiring the asset, and includes the market value *at the date of acquisition* of any consideration in kind given for the asset.

(3) Subject to subsection (4), the cost base of an asset acquired in a non-arm's length transaction is the market value of the asset at the date of acquisition.

(4) The cost base of an asset acquired in a transaction described in Section 53(2) is the amount of the consideration deemed by that subsection to have been received by the person disposing of the asset.

(5) Where a part of an asset is disposed of, the cost base of the asset shall be apportioned between the part of the asset retained and the part disposed of in accordance with their respective market values at the time of acquisition of the asset.

(6) Unless otherwise provided in this Act, expenditures incurred to alter or improve an asset which have not been allowed as a deduction are added to the cost base of the asset.

(7) Where the acquisition of an asset by a taxpayer represents the derivation of an amount included in gross income, the cost base of the asset is the amount included in gross income plus any amount paid by the taxpayer for the asset.

(8) Where the receipt of an asset represents the derivation of an amount which is exempt from tax, the cost base of the asset is the amount exempt from tax plus any amount paid by the taxpayer for the asset.

53. Special Rules for Consideration Received

Inserted by IT (Am) Act 2002

(1) The consideration received on disposal of an asset includes the market value *at the date of the disposal* of any consideration received in kind.

(2) Where an asset is disposed of to an associate or in a non-arm's length transaction other than by way of transmission of the asset to a trustee or beneficiary on the death of a taxpayer, the person disposing of the asset, in this Section referred to as the "disposer", is treated as having received consideration equal to the greater of –

(a) the cost base of the asset to the disposer at the time of disposal; or

(b) the fair market value of the asset at the date of disposal.

(3) Where two or more assets are disposed of in a single transaction and the consideration paid for each asset is not specified, the total consideration received is apportioned among the assets disposed of in proportion to their respective market values at the time of the transaction.

Repealed by IT (Am) Act 2002

(4) Where a part of an asset is disposed of, the consideration received is apportioned between the part of the asset retained and the part of the asset disposed of in accordance with their respective market values at the time of acquisition of the asset.

54. Non-Recognition of Gain or Loss

(1) No gain or loss is taken into account in determining chargeable income in relation to –

(a) a transfer of an asset between spouses;

(b) a transfer of an asset between former spouses as part of a divorce settlement or bona fide separation agreement;

(c) an involuntary disposal of an asset to the extent to which the proceeds are reinvested in an asset of a like kind within one year of the disposal; or

(d) the transmission of an asset to a trustee or beneficiary on the death of a taxpayer.

(2) Where no gain or loss is taken into account as a result of subsection (1)(a), (b), or (d), the transferred or transmitted asset is deemed to have been acquired by the transferee, or trustee or beneficiary as an asset of the same character for a consideration equal to the cost base of the asset to the transferor or deceased taxpayer at the time of the disposal.

(3) The cost base of a replacement asset described in subsection (1)(c) is the cost base of the replaced asset plus the amount by which any consideration given by the taxpayer for the replaced asset exceeds the amount of proceeds received on the involuntary disposal.

PART VII – MISCELLANEOUS RULES FOR DETERMINING CHARGEABLE INCOME

55. Income of Joint Owners

(1) Income or deductions relating to jointly owned property are apportioned among the joint owners in proportion to their respective interests in the property.

(2) Where the interest of the joint owners in jointly-owned property cannot be ascertained, the interest of such joint owners in the property shall be deemed to be equal.

56. Valuation

(1) For the purposes of this Act and subject to Section 19(1)(b), the value of a benefit in kind is the fair market value of the benefit on the date the benefit is taken into account for tax purposes.

(2) The fair market value of a benefit is determined without regard to any restriction on transfer or to the fact that it is not otherwise convertible to cash.

56A. Other Methods of allocating Costs and Revenue

Inserted by IT (Am) Act 2013

In determining the chargeable income of a person, use of input-output ratios and other methods of allocating costs and revenue may be applied.

57. Currency Conversion

(1) Chargeable income under this Act shall be calculated in Uganda Shillings.

Substituted by IT (Am) Act 2002

(2) Where *an amount taken into account under this Act is* in a currency other than the Uganda Shilling, the amount shall be converted to the Uganda Shilling at the Bank of Uganda mid-exchange rate applying between the currency and the Uganda Shilling on the date that the amount is derived, incurred, or otherwise taken into account for tax purposes.

(3) With the prior written permission of the Commissioner, a taxpayer may use the average rate of exchange during the year of income, or may keep books of account in a currency other than the Uganda Shilling.

58. Indirect Payments and Benefits

The income of a person includes –

(a) a payment that directly benefits the person; and

(b) a payment dealt with as the person directs,

which would have been income of the person if the payment had been made directly to the person.

59. Finance Leases

(1) Where a lessor leases property to a lessee under a finance lease, for the purposes of this Act -

(a) the lessee is treated as the owner of the property; and

(b) the lessor is treated as having made a loan to the lessee, in respect of which payments of interest and principal are made to the lessor equal in amount to the rental payable by the lessee.

(2) The interest component of each payment under the loan is treated as interest expense incurred by the lessee and interest income derived by the lessor.

(3) A lease of property is a finance lease if –

(a) the lease term exceeds seventy-five per cent of the effective life of the leased property;

(b) the lessee has an option to purchase the property for a fixed or determinable price at the expiration of the lease; or

(c) the estimated residual value of the property to the lessor at the expiration of the lease term is less than twenty per cent of its fair market value at the commencement of the lease.

(4) For the purposes of subsection (3), the lease term includes any additional period of the lease under an option to renew.

60. Exclusion of Doctrine of Mutuality

(1) A company which carries on a member's club, a trade association, or a mutual insurance company is treated for the purposes of this Act as carrying on a business subject to tax.

(2) The business income of a company to which subsection (1) applies includes entrance fees and subscriptions paid by members.

(3) Where a company referred to in subsection (1) is operated primarily to furnish goods or services to members, deductions attributable to the furnishing of goods or services to members are allowed only to the extent of the total income derived from the members, with any excess carried forward and allowed as a deduction in the following year of income.

(4) In this Section, "member's club" means a club or similar institution, all the assets of which are owned by or are held in trust for the members of the club or institution.

61. Compensation Receipts

A compensation payment derived by a person takes the character of the item that is compensated.

62. Recouped Expenditure

(1) Where a previously deducted expenditure, loss, or bad debt is recovered by the taxpayer, the amount recovered is deemed to be income derived by the taxpayer in the year of income in which it is recovered and takes the character of the income to which the deduction related.

(2) For the purposes of subsection (1), a deduction is considered recovered upon the occurrence of an event which is inconsistent with the basis for the deduction.

PART VIII – PERSONS ASSESSABLE

Taxation of Individuals

63. Taxation of Individuals

The chargeable income of each taxpayer who is an individual is determined separately.

64. Income Splitting

(1) Where a taxpayer attempts to split income with another person, the Commissioner may adjust the chargeable income of the taxpayer and the other person to prevent any reduction in tax payable as a result of the splitting of income.

(2) A taxpayer is treated as having attempted to split income where –

(a) the taxpayer transfers income, directly or indirectly, to an associate; or

(b) the taxpayer transfers property, including money, directly or indirectly, to an associate with the result that the associate receives or enjoys the income from that property,

and the reason or one of the reasons for the transfer is to lower the total tax payable upon the income of the transferor and the transferee.

(3) In determining whether the taxpayer is seeking to split income, the Commissioner shall consider the value, if any, given by the associate for the transfer.

Taxation of Partnerships and Partners

65. Principles of Taxation for Partnerships

(1) The income and losses arising from activities conducted by a partnership is taxed in accordance with this Act.

(2) The presence or absence of a written partnership agreement is not decisive in determining whether a partnership relationship exists between persons.

(3) A partnership shall be liable to furnish a partnership return of income in accordance with Section 92, but shall not be liable to pay tax on that income.

(4) Any election, notice, or statement required to be filed in relation to a partnership's activities shall be filed by the partnership.

Inserted by IT (Am) Act 2002

(5) Unless the context otherwise requires, partnership assets are treated as owned by the partnership and not the partners.

66. Calculation of Partnership Income or Loss

(1) The partnership income for a year of income is –

(a) the gross income of the partnership for that year calculated as if the partnership were a resident taxpayer; less

(b) the total amount of deductions allowed under this Act for expenditures or losses incurred by the partnership in deriving that income, other than the deduction allowed under Section 38.

(2) A partnership loss occurs for a year of income where the amount in subsection (1)(b) exceeds the amount in subsection (1)(a) for that year; and the amount of the excess is the amount of the loss.

(3) Where the partnership is a non-resident partnership for a year of income, Section 87 applies in calculating partnership income or partnership loss of the partnership for that year.

67. Taxation of Partners

(1) The gross income of a resident partner for a year of income includes the partner's share of partnership income for that year.

(2) The gross income of a non-resident partner for a year of income includes the partner's share of partnership income attributable to sources in Uganda.

(3) A resident partner is allowed a deduction for a year of income for the partner's share of a partnership loss for that year.

(4) A non-resident partner is allowed a deduction for a year of income for the partner's share of a partnership loss, but only to the extent that the activity giving rise to the loss would have given rise to partnership income attributable to sources in Uganda if a loss had not been incurred.

(5) Income derived, or expenditure or losses incurred, by a partnership retain their character as to geographic source and type of income, expenditure, or loss in the hands of the partners, and are deemed to have been passed through the partnership on a pro rata basis unless the Commissioner permits otherwise.

(6) Subject to subsection (7), a partner's share of partnership income or loss is equal to the partner's percentage interest in the income of the partnership as set out in the partnership agreement.

(7) Where the allocation of income in the partnership agreement does not reflect the contribution of the partners to the partnership's operations, a partner's share of partnership income or loss shall be equal to the partner's percentage interest in the capital of the partnership.

68. Formation, Reconstitution, or Dissolution of a Partnership

(1) A contribution to a partnership by a partner of an asset owned by the partner is treated as a disposal of the asset by the partner to the partnership for a consideration equal to –

(a) the cost base of the asset to the partner at the date on which the contribution was made where all the following conditions are satisfied –

(i) the asset was a business asset of the partner immediately before its contribution to the partnership;

(ii) the partner and partnership are residents at the time of contribution;

(iii) the partner's interest in the capital of the partnership after the contribution is twenty five per cent or more;

(iv) an election for this paragraph to apply has been made by the partners jointly;

Inserted by IT (Am) Act 2002

(v) the interest in the partnership received by the partner in return for the contribution equals the market value of the asset contributed at the time of the contribution; or

(b) in any other case, the market value of the asset at the date the contribution was made.

(2) Where subsection (1)(a) applies, the asset retains the same character in the hands of the partnership as it did in the hands of the partner.

(3) Where there is a change in the constitution of a partnership or a partnership is dissolved, the former partnership is treated as having disposed of all the assets of the partnership to the reconstituted partnership or to the partners in the case of dissolution for a consideration equal to -

(a) the cost base of the asset to the former partnership at the date of the change in constitution where all the following conditions are satisfied–

(i) the former partnership and the reconstituted partnership are resident partnerships at the time of the change;

(ii) twenty-five per cent or more of the interests in the capital of the reconstituted partnership are held for twelve months after the change by persons who were partners in the former partnership immediately before the change; and

(iii) an election for this paragraph to apply has been made by the partners of the reconstituted partnership jointly; or

(b) in any other case, the market value of the asset at the date of the change in constitution or dissolution, as the case may be.

(4) Where subsection (3)(a) applies, the asset retains the same character in the hands of the reconstituted partnership as it did in the hands of the former partnership.

(5) An election under this Section shall be made in the partnership return of income for the year of income in which the contribution was made or the constitution of the partnership changed.

69. Cost Base of Partner's Interest

(1) A partner's interest in a partnership is treated as a business asset of the partner for all purposes of this Act.

(2) Subject to subsection (3) and (4), the cost base of a partner's interest in a partnership is [the amount the partner has paid for the interest plus] –

Substituted by IT (Am) Act 2002

(a) *in the case of an interest acquired by contribution of property (including money) to the partnership, the amount of any such money contributed plus –*

(i) the cost base of an asset contributed to the partnership by the partner where Section 68(1)(a) applies; and

(ii) the market value of any asset contributed to the partnership by the partner where Section 68(1)(b) applies; or

(b) *in any other case, the price paid for the interest*.

(3) The cost base of a partner's interest in a partnership determined under subsection (2) is increased by the sum of the partner's share for the year of income and prior years of income of –

(a) partnership income; and

(b) income of the partnership exempt from tax under this Act.

(4) The cost base of a partner's interest in a partnership determined under subsection (2) is reduced, but not below zero, by distributions by the partnership and by the sum of the partner's share for the year of income and prior years of income of partnership losses and expenditures of the partnership not deductible in computing its chargeable income and not properly chargeable to capital account.

Taxation of Trusts and Beneficiaries

70. Interpretation of Provisions relating to Taxation of Trusts and Beneficiaries

In this Section and Sections 71, 72, and 73 –

(a) "chargeable trust income", in relation to a year of income, means:–

(i) the gross income of the trust (other than an amount to which Section 72(1) or 73(1) applies) for that year calculated as if the trust is a resident taxpayer; less

(ii) the total amount of deductions allowed under this Act for expenditures or losses incurred by the trust in deriving that income;

(b) "non-resident trust", in relation to a year of income, means a trust that is not a resident trust for that year;

(c) "qualified beneficiary" means a person referred to in paragraph (d)(i) or (ii) of this Section of the definition of "qualified beneficiary trust";

(d) "qualified beneficiary trust" means –

(i) a trust in relation to which a person, other than a settlor, has a power solely exercisable by that person to vest the corpus or income of the trust in that person; or

(ii) a trust whose sole beneficiary is an individual or an individual's estate or appointees,

but does not include a trust whose beneficiary is an incapacitated person;

(e) "settlor" means a person who has transferred property to, or conferred a benefit on, a trust for no consideration or for a consideration which is less than the market value of the property transferred or benefit conferred *at the date of the transfer or conferral*; and

Inserted by IT (Am) Act 2002

(f) "settlor trust" means a trust in relation to a whole or part of which, the settlor has –

(i) the power to revoke or alter the trust so as to acquire a beneficial entitlement in the corpus or income of the trust; or

(ii) a reversionary interest in the corpus or income of the trust.

71. Principles of Taxation for Trusts

(1) Subject to subsection (5), the income of a trust is taxed either to the trustee or to the beneficiaries of the trust, as provided in this Act.

(2) Separate calculations of chargeable trust income shall be made for separate trusts regardless of whether they have the same trustee.

(3) Income derived, or expenditure or losses incurred by a trust retain their character as to geographic source and type of income, expenditure, or loss in the hands of the beneficiary.

(4) A trust is required to furnish a trust return of income in accordance with Section 92.

(5) A settlor trust or a qualified beneficiary trust –

(a) is not treated as an entity separate from the settlor or qualified beneficiary, respectively; and

(b) the income of such a trust is taxed to the settlor or qualified beneficiary and the property owned by the trust is deemed to

be owned by the settlor or qualified beneficiary, as the case may be.

(6) The trustee of an incapacitated person's trust is liable for tax on the chargeable trust income of the trust.

(7) Trustees are jointly and severally liable for a tax liability arising in respect of chargeable trust income that is not satisfied out of the assets of the trust.

(8) Where a trustee has paid tax on the chargeable trust income of the trust under Sections 72 or 73, that income shall not be taxed again in the hands of the beneficiary.

72. Taxation of Trustees and Beneficiaries

(1) Any amount derived by a trustee for the immediate or future benefit of any ascertained beneficiary, other than an incapacitated person, with a vested right to such amount is treated as having been derived by the beneficiary for the purposes of this Act.

(2) Where a beneficiary has acquired a vested right to any amount referred to in subsection (1) as a result of the exercise by the trustee of a discretion vested in the trustee under a deed of trust, an arrangement, or a will of a deceased person, such amount is deemed to have been derived by the trustee for the immediate benefit of the beneficiary.

(3) For subsection (2) to apply to a beneficiary for a year of income, a trustee must have exercised the discretion by the end of the second month after the end of the year of income.

(4) Where subsections (1) or (2) applies, the beneficiary is treated as having derived the amount at the time the amount was derived by the trustee.

(5) Where any amount to which subsection (1) applies is included in the gross income of the beneficiary for a year of income, the beneficiary shall be allowed a deduction in accordance with this

Act for any expenditure or losses incurred in that year by the trustee in deriving that income.

(6) A trustee of a trust that is a resident trust for a year of income is liable for tax on the chargeable trust income of the trust for that year.

(7) A trustee of a trust that is a non-resident trust for a year of income is liable for tax on so much of the chargeable trust income of the trust for that year as is attributable to sources in Uganda.

(8) This Section is subject to Section 73.

73. Taxation of Estates of Deceased Persons

(1) Any amount derived by a trustee as executor of the estate of a deceased person shall, to the extent that the Commissioner is satisfied that such amount has been derived for the immediate or future benefit of any ascertained heir or legatee of the deceased, be treated as having been derived by such heir or legatee for the purposes of this Act.

(2) Where any amount to which subsection (1) applies is included in the gross income of the heir or legatee for a year of income, the heir or legatee shall be allowed a deduction in accordance with this Act for any expenditure or losses incurred in that year by the trustee in deriving that income.

(3) The trustee of an estate of a deceased person that is a resident trust for a year of income is liable for tax on the chargeable trust income of the estate for that year.

(4) The trustee of an estate of a deceased person that is a non-resident trust for a year of income is liable for tax on so much of the chargeable trust income of that year attributable to sources in Uganda.

(5) The trustee of an estate of a deceased person is responsible for the tax liability of the deceased taxpayer arising for any year of income prior to the year of income in which the taxpayer died.

Taxation of Companies and Shareholders

74. Principles of Taxation for Companies

(1) A company is liable to tax separately from its shareholders.

(2) Subject to subsection (3), a dividend paid to a resident company, other than an exempt organisation, by another resident company is exempt from tax where the company receiving the dividend controls, directly or indirectly, twenty-five per cent or more of the voting power in the company paying the dividend.

(3) Subsection (2) does not apply to –

(a) a dividend paid to a financial institution by virtue of its ownership of redeemable shares in the company paying the dividend; or

(b) a dividend to which Section 76 applies.

75. Change in Control of Companies

Where, during a year of income, there has been a change of fifty per cent or more in the underlying ownership of a company, as compared with its ownership one year previously, the company is not permitted to deduct an assessed loss in the year of income or in subsequent years, unless the company, for a period of two years after the change or until the assessed loss has been exhausted if that occurs within two years after the change –

(a) continues to carry on the same business after the change as it carried on before the change; and

(b) does not engage in any new business or investment after the change where the primary purpose of the company or the beneficial owners of the company is to utilise the assessed loss so as to reduce the tax payable on the income arising from the new business or investment.

76. Dividend Stripping

(1) Where a company takes part in a transaction in the nature of dividend stripping and receives a dividend from a resident company in the transaction, the company receiving the dividend shall include the dividend in its gross income to the extent to which the Commissioner considers necessary to offset any decrease in the value of shares in respect of which the dividend is paid or in the value of any other property caused by the payment of the dividend.

(2) In any such transaction, the Commissioner may also reduce the amount of any deduction arising to the extent to which it represents the decrease in value of the shares or other property.

(3) In this Section, "dividend stripping" includes an arrangement under which–

(a) a company, referred to as the "target company", has accumulated or current-year profits, or both, represented by cash or other readily realisable assets;

(b) another company, referred to as the "acquiring company", acquires the shares in the target company for an amount that reflects the profits of the target company;

(c) the disposal of the shares in the target company gives rise to a tax-free capital gain to the shareholders in the target company;

(d) after the acquiring company has acquired the shares in the target company, the target company pays a dividend to the acquiring company, which in the absence of Section 74(3)(b) would be exempt from tax in the hands of the target company; and

(e) after the dividend is declared, the acquiring company sells the shares for a loss.

77. Roll-Over Relief

(1) Where a resident person, in this subsection referred to as the "transferor", transfers a business asset, with or without any liability not in excess of the cost base of the asset, to a resident company other than an exempt organisation, in this subsection referred to as the "transferee", in exchange for a share in the transferee and the transferor has a fifty per cent or greater interest in the voting power of the transferee immediately after the transfer –

(a) the transfer is not treated as a disposal of the asset by the transferor but is treated as the acquisition by the transferee of a business asset;

(b) the transferee's cost base for the asset is equal to the transferor's cost base for the asset at the time of transfer; and

(c) the cost base of a share received by the transferor in exchange for the asset is equal to the cost base of the asset transferred, less any liability assumed by the transferor in respect of the asset.

(2) Where, as part of the liquidation of a resident company, in this subsection referred to as the "liquidated company", a business asset is transferred to a shareholder being a resident company other than an exempt organisation, in this subsection referred to as the "transferee company", and, immediately prior to the transfer, the transferee company held a fifty per cent or greater interest in the voting power of the liquidated company -

(a) the transfer is not treated as a disposal of the asset by the liquidated company, but is treated as the acquisition of a business asset by the transferee company;

(b) the transferee's cost base for the asset is equal to the liquidated company's cost base for the asset at the time of transfer;

(c) the transfer of the asset is not a dividend; and

(d) no gain or loss is taken into account on the cancellation of the transferee's shares in the liquidated company.

(3) Where a resident company or a group of resident companies is reorganised without any significant change in the underlying ownership or control of the company or group, the Commissioner may -

(a) permit any resident company involved in the reorganisation to treat the reorganisation as not giving rise to the disposal of any business asset or the realisation of any business debt, as the case may be; and

(b) determine the cost base of any business asset held, or business debt undertaken, by the resident company after the reorganisation in order to reflect the fact that no disposal or realisation is treated as having occurred.

(4) For purposes of this section reorganisation means –

4 & 5 inserted by IT (Am) Act 2015

(a) a transaction in which a company transfers its assets to another company that is controlled by the transferor or its shareholders following which the stock of the transferee is distributed; or

(b) a transaction in which a person whether for payment or not is allotted shares in or debentures of a company in respect of and in proportion to, or as nearly as may be in proportion to, their holdings of shares in the company and in any case which there is more than one class of shares and the rights attached to shares of any class are altered;

(c) a merger or amalgamation where all or substantially all the assets and liabilities of one or more transferor companies are transferred to a single transferee company, whereby the transferor company cease to exist by operation of law;

(d) a transaction in which two or more companies transfer their assets and liabilities to a single newly established company;

(e) corporate division; through which all or substantially all the assets of one company are transferred in exchange for shares to at least two or more newly established or pre-existing companies, except where the assets are already in the hands of a subsidiary;

(5) For the avoidance of doubt, a sale of a share from one person to another does not constitute a reorganization for the purposes of this Act.

PART IX – INTERNATIONAL TAXATION

78. Interpretation of Part IX

In this Part,

(a) "branch" means a place where a person carries on business, and includes –

(i) a place where a person is carrying on business through an agent, other than a general agent of independent status acting in the ordinary course of business as such;

Inserted by IT (Am) Act 2011

(ii) a place where a person has, is using, or is installing substantial equipment or substantial machinery *for ninety days or more*; [or]

(iii) a place where a person is engaged in a construction, assembly, or installation project for ninety days or more, including a place where a person is conducting supervisory activities in relation to such a project; or [and]

Inserted by IT (Am) Act 2015

(iv) the furnishing of services, including consultancy services, by a person through employees or other personnel engaged by the person for such purpose, but only if activities of that nature continue for the same or a connected project for a period aggregating more than ninety days in any twelve-month period.

(aa) "immovable property" includes a mining right, petroleum right, mining information, or petroleum information;

(b) "management charge" means any payment made to any person, other than a payment of employment income, as consideration for any managerial services, however calculated.

(c) "mining information", "mining right", "petroleum information", and "petroleum right" have the meanings in section 89A."

79. Source of Income

Income is derived from sources in Uganda to the extent to which it is:

(a) [derived from the sale of goods –

Substituted by IT (Am) Act 2015

(i) in the case of goods manufactured, grown, or mined by the seller, the goods were manufactured, grown, or mined in Uganda; or

(ii) in the case of goods purchased by the seller, the agreement for sale was made in Uganda, wherever such goods are to be delivered.]

(i) derived by a resident person in carrying on a business except to the extent that it is attributable to a business carried on by the person through a branch outside Uganda;

(ii) derived by a non-resident person in carrying on a business through a branch in Uganda;

(b) derived by a resident person in carrying on a business as owner or chatterer of a vehicle, ship, or aircraft, wherever such vehicle, ship, or aircraft may be operated;

(c) employment income or a fee for the provision of services –

Substituted by IT (Am) Act 2015

(i) derived from employment or services exercised or rendered in Uganda;

(ii) paid by a resident person, other than as an expenditure of a business carried on by a person outside Uganda through a branch; or

(iii) paid by non-resident person as an expenditure of a business carried on by a person through a branch in Uganda;

[derived from any employment exercised or services rendered in Uganda]

Repealed by IT (Am) Act 2015

(d) [derived in respect of any employment exercised or services rendered under a contract with the Government of Uganda, wherever the employment is exercised or services are rendered;]

(e) derived by a resident individual from any employment exercised or services rendered as a driver of a vehicle, or an officer or member of a crew of any vehicle, ship, or aircraft, wherever the vehicle, ship, or aircraft may be operated;

(f) derived from the rental of immovable property located in Uganda;

(g) derived from the disposal of an interest in immovable property located in Uganda or from the disposal of a share in a company the property of which consists directly or indirectly principally of an interest or interests in such immovable property, where the interest or share is a business asset;

(h) derived from the disposal of movable property, other than goods, under an agreement made in Uganda for the sale of the property, wherever the property is to be delivered;

(i) an amount –

(i) included in the business income of a taxpayer under Section 27(5) in respect of the disposal of a depreciable asset used in Uganda; or

(ii) treated as income under Section 62, where the deduction was allowed for an expenditure, loss, or bad debt incurred in the production of income sourced in Uganda;

(j) a royalty –

Substituted by IT(Am) Act 2002 and IT (Am) Act 2011

(i) paid by a resident person, other than as an expenditure of a business carried on by the person outside Uganda through a branch;

(ii) paid by a non-resident person as an expenditure of a business carried on by the person through a branch in Uganda; or

(iii) arising from the disposal of industrial or intellectual property used in Uganda.

(k) interest where –

(i) the debt obligation giving rise to the interest is secured by immovable property located, or movable property used, in Uganda;

(ii) the payer is a resident person; or

(iii) the borrowing relates to a business carried on in Uganda;

(l) a dividend or director's fee paid by a resident company;

(m) a pension or annuity where –

(i) the pension or annuity is paid by the Government of Uganda or by a resident person; or

(ii) the pension or annuity is paid in respect of an employment exercised or services rendered in Uganda;

(n) a natural resource payment in respect of a natural resource taken from Uganda;

(o) a foreign currency debt gain derived in relation to a business debt which has arisen in the course of carrying on a business in Uganda;

(p) a contribution to a retirement fund made by a tax-exempt employer in respect of an employee whose employment is exercised in Uganda;

Inserted by IT (Am) Act 2015

(q) a management charge paid by a resident person; *or*

(r) taxable in Uganda under an international agreement; or

(s) attributable to any other activity which occurs in Uganda, including an activity conducted through a branch in Uganda.

80. Foreign Employment Income

(1) Foreign-source employment income derived by a resident individual is exempt from tax if the individual has paid foreign income tax in respect of the income.

(2) A resident individual is treated as having paid foreign income tax on foreign-source employment income if tax has been withheld and paid to the revenue authority of the foreign country by the employer of the individual.

81. Foreign Tax Credit

(1) A resident taxpayer is entitled to a credit, in this Section referred to as a "foreign tax credit", for any foreign income tax paid by the taxpayer in respect of foreign-source income included in the gross income of the taxpayer.

Substituted by IT (Am) Act 2002

(2) The amount of the foreign tax credit of a taxpayer for a year of income shall not exceed the Ugandan income tax payable on the taxpayer's foreign-source income for that year, *calculated* by applying the average rate of Ugandan income tax of the taxpayer for that year to the taxpayer's net foreign-source income for that year.

(3) The calculation of the foreign tax credit of a taxpayer for a year of income is made separately for foreign-source business income and other income derived from foreign sources by the taxpayer during the year.

(4) Foreign income tax paid by –

(a) a partnership is treated as paid by the partners;

(b) a trustee is treated as paid by the beneficiary where the income on which foreign income tax has been paid is included in the gross income of the beneficiary under this Act; or

(c) a beneficiary is treated as paid by the trustee where the income on which foreign income tax has been paid is taxed to the trustee under this Act.

(5) For the purposes of this Section,

(a) "average rate of Ugandan income tax", in relation to a taxpayer for a year of income, means the percentage that the Ugandan income tax, before the foreign tax credit, is of the chargeable income of the taxpayer for the year and, in the case of a taxpayer with both foreign-source business income and other income derived from foreign sources, the average rate of tax is to be calculated separately for both classes of income;

(b) "foreign income tax" includes a foreign withholding tax, but does not include a foreign tax designed to raise the level of the tax on the income so that the taxation by the country of residence is reduced; and

(c) "net foreign-source income" means the total foreign-source income included in the gross income of the taxpayer, less any deductions allowed to the taxpayer under this Act that-

(i) relate exclusively to the derivation of the foreign-source income; and

(ii) in the opinion of the Commissioner, may appropriately be related to the foreign-source income.

82. Taxation of Branch Profits

(1) A tax shall be charged for each year of income and is imposed on every non-resident company carrying on business in Uganda through a branch which has repatriated income for the year of income.

(2) The tax payable by a non-resident company under this Section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the repatriated income of the branch of the non-resident company for the year of income.

(3) The repatriated income of a branch for a year of income is calculated according to the following formula -

$$A + (B - C) - D$$

where –

A is the total cost base of assets, net of liabilities, of the branch at the commencement of the year of income;

B is the net profit of the branch for the year of income calculated in accordance with generally accepted accounting principles;

C is the Ugandan tax payable on the chargeable income of the branch for the year of income; and

D is the total cost base of assets, net of liabilities, of the branch at the end of the year of income.

(4) In calculating the repatriated income of a branch, the total cost base of assets at the end of a year of income is the total cost base of assets at the commencement of the next year of income.

Inserted by IT (Am) Act 2002

(5) The tax imposed under this Section is in addition to any tax imposed by this Act on the chargeable income of the branch *under Section* 4, *but is otherwise treated for all purposes of this Act as a tax on chargeable income.*

83. Tax on International Payments

Inserted by IT (Am) Act 2002

(1) Subject to this Act, a tax is imposed on every non-resident person who derives any dividend, interest, royalty, *rent,* natural resource payment, or management charge from sources in Uganda.

(2) The tax payable by a non-resident person under this Section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the gross amount of the dividend, interest, royalty, natural resource payment, or management charge derived by a non-resident person.

(3) Notwithstanding Section 79(l), a dividend derived by a non-resident person is only treated as income derived from sources in Uganda for the purposes of this Section to the extent to which the dividend is paid out of profits sourced in Uganda.

(4) For the purposes of subsection (3), where a resident company has profits sourced both within and outside Uganda, the company is treated as having paid a dividend out of the profits sourced in Uganda first.

(5) Interest paid by a resident company in respect of debentures is exempt from tax under this Act where the following conditions are satisfied -

Substituted by IT (Am) Act 2002 and IT (Am) Act 2006

(a) the debentures were issued by the company outside Uganda for the purpose of raising a loan outside Uganda;

Inserted by IT (Am) Act 2006

(b) the debentures were *widely* issued for the purpose of raising funds for use by the company in a business carried on in Uganda o*r the interest is paid to a bank or a financial institution of a public character; and*

(c) the interest is paid outside Uganda.

Inserted by IT (Am) Act 2002

(6) Subsection (1) does not apply to an amount attributable to the activities of a branch of the non-resident in Uganda and such amount is subject to the operation of Section 17.

84. Tax on payments to Non-Resident Public Entertainers or Sports Persons

(1) Subject to this Act, a tax is imposed on every non-resident entertainer, sports person, or theatrical, musical, or other group of non-resident entertainers or sports persons who derive income from any performance in Uganda.

(2) The tax payable by a non-resident person under this Section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the gross amount of -

(a) remuneration derived by a non-resident public entertainer or sports person; or

(b) receipts derived by any theatrical, musical, or other group of non-resident public entertainers or sports persons.

(3) Tax is imposed under this Section on any group regardless of whether or not the performance is conducted for the joint account of all or some members of the group.

Inserted by IT (Am) Act 2002

(4) Every member of a group shall be jointly and severally liable for payment of the tax imposed under this Section and, subject to Section 87(1)(c) , shall remit *to the Commissioner* the tax due before leaving Uganda.

85. Tax on Payments to Non-Resident Contractors or Professionals

(1) Subject to this Act, a tax is imposed on every non-resident person deriving income under a Ugandan-source services contract.

(2) The tax payable by a non-resident person under this Section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the gross amount of any payment to a non-resident under a Ugandan- source services contract.

(3) Subsection (1) does not apply to a royalty or management charge charged to tax under Section 83.

(4) In this Section, "Ugandan-source services contract" means a contract, other than an employment contract, under which –

(a) the principal purpose of the contract is the performance of services which gives rise to income sourced in Uganda; and

(b) any goods supplied are only incidental to that purpose.

86. Taxation of Non-Residents providing Shipping, Air Transport or Tele-communications Services in Uganda

Inserted by IT (Am) Act 2002

(1) Subject to this Act, a tax is imposed on every non-resident person carrying on the business of ship operator, charterer, or air transport operator who derives income from the carriage of passengers who embark, or cargo or mail which is embarked in Uganda *and on a road transport operator who derives income from the carriage of cargo or mail which is embarked in Uganda.*

Inserted by IT (Am) Act 2002

(2) The tax payable by a non-resident person under subsection (1) is calculated by applying the rate of tax prescribed in Part VII of the Third Schedule to this Act to the gross amount derived by the person from the carriage *and is treated for all purposes of the Act as a tax on chargeable income.*

(3) Subsection (1) does not apply to any income derived from the carriage of passengers who embark, or cargo or mail which is embarked, solely as a result of trans-shipment.

Inserted by IT (Am) Act 2006 and substituted by IT (Am) Act 1 2008 and *IT (Am) Act 2011*

(4) Where a non-resident person carries on the business of transmitting messages by cable, radio, optical fibre, or satellite communication, or *the business of providing internet connectivity services*, the tax payable by the person shall be five per cent of the gross amount derived by the person in respect of –

(a) the transmission of messages by apparatus established in Uganda;

(b) the provision of direct-to-home pay services to subscribers in Uganda; or

(c) *the provision of internet connectivity services to subscribers in Uganda.*

87. General Provisions relating to Taxes imposed under Sections 83, 84, 85 and 86

(1) The tax imposed on a non-resident person under Sections 83, 84, 85, 86(1) and *86*(4) is a final tax on the income on which the tax has been imposed and –

Substituted by IT (Am) Act 1 2008

(a) *that* income is not included in the gross income of the non-resident person who *derives* the income;

(b) no deduction is allowed for any expenditure or losses incurred by the non-resident person in deriving *that* income; and

(c) the liability of the non-resident person is satisfied if the tax payable has been withheld by a withholding agent under Section 120 and paid to the Commissioner under Section 123.

(2) In this Section, "withholding agent" has the meaning in Section 115.

88. International Agreements

(1) An international agreement entered into between the Government of Uganda and the government of a foreign country or foreign countries shall have effect as if the agreement was contained in this Act.

(2) To the extent that the terms of an international agreement to which Uganda is a party are inconsistent with the provisions of this Act, apart from subsection (5) of this Section and Part X which deals with tax avoidance, *or any other law of Uganda dealing with matters covered by this agreement,* the terms of the international agreement prevail over the provisions of this Act *and any other law of Uganda dealing with matters covered by this agreement*.

Substituted by IT (Am) Act 2014

(3) Where an international agreement provides for reciprocal assistance in the collection of taxes and the Commissioner has received a request from the competent authority of another country pursuant to that agreement for the collection from any person in Uganda of an amount due by that person under the income tax laws of that other country, the Commissioner may, by notice in writing, require the person to pay the amount to the Commissioner by the date specified in the notice for transmission to the competent authority of that other country.

(4) If a person fails to comply with a notice under subsection (3), the amount in question may be recovered for transmission to the competent authority of that other country as if it were tax payable by the person under this Act.

Substituted by IT (Am) Act 2011

(5) Where an international agreement provides that income derived from sources in Uganda is exempt from Ugandan tax or *the application of the treaty results in a reduction in* Ugandan tax, the benefit of that exemption or reduction is not available to any person who, for the purposes of the agreement, is a resident of the other contracting state where fifty per cent or more of the underlying ownership of that person is held by an individual or individuals who are not residents of that other Contracting state for the purposes of the agreement.

(6) In this Section, "international agreement" means –

(a) an agreement with a foreign government providing for the relief of international double taxation and the prevention of fiscal evasion; or

Substituted by IT (Am) Act 2014

(b) a bilateral or multilateral agreement with a foreign government or foreign governments or foreign organisation providing for administrative assistance in tax matters. [an agreement with a foreign government providing for reciprocal administrative assistance in the enforcement of tax liabilities]

89. Thin Capitalisation

Substituted by IT (Am) Act 2015

(1) Subject to subsection (2), where a foreign-controlled resident company, other than a financial institution, has a debt-to-equity ratio in excess of 1.5 to 1 at any time during a year of income, a deduction is disallowed for the interest paid by the company during that year on that part of the debt that exceeds the 1.5 to 1 ratio for the period the ratio was exceeded.

(2) If the debt-to-equity ratio of a foreign-controlled resident company exceeds 1.5 to 1 for a year of income, subsection (1) does not apply if, at all times during the year, the amount of the debt of the company does not exceed the arm's length debt amount.

(3) This section applies to a non-resident company with a branch in Uganda on the basis of the following –

(a) the branch is treated as a foreign-controlled resident company; and

(b) the debt-to-equity ratio of the branch is computed by reference to –

(i) the debt obligations of the non-resident company attributable to the branch; and

(ii) the equity of the non-resident company attributable to the operations of the company conducted through the branch.

(4) For purposes of this section –

"arm's length debt amount", in relation to a foreign controlled resident company, means the amount of debt that a financial institution that is not related to the company would be prepared to lend to the company having regard to all the circumstances of the company;

"debt", in relation to a foreign-controlled resident company, means the greatest amount, at any time during a year of income, of the debt obligations of the company on which interest is

payable as determined according to International Financial Reporting Standards;

"debt obligation" means an obligation to make a repayment of money to another person, including obligations arising under promissory notes, bills of exchange, and bonds, but not including accounts payable or a debt obligation on which no interest is payable;

"equity", in relation to a foreign-controlled resident company, means the greatest amount, at any time during a year of income, of the equity of the company as determined according to International Financial Reporting Standards and includes a debt obligation on which no interest is payable; and

"foreign-controlled resident company" means a resident company in which more than fifty per cent of the underlying ownership or control of the company is held by a non-resident person either alone or together with an associate or associates."

Substituted by IT (Am) Act 2014

(1) [Where a foreign-controlled resident company which is not a financial institution has a foreign debt-to-foreign equity ratio in excess of 1 [2] to 1 at any time during a year of income, a deduction is disallowed for the interest paid by the company during that year on that part of the debt which exceeds the 1 [2] to 1 ratio.

(2) In this Section,

(a) "foreign-controlled resident company" means a resident company in which fifty per cent or more of the underlying ownership or control of the company is held by a non-resident person, in this Section referred to as the "foreign controller", either alone or together with an associate or associates;

(b) "foreign debt", in relation to a foreign-controlled resident company, means the greatest amount, at any time during a year of income, of the sum of –

(i) the balance outstanding at that time on any debt obligation owed by the foreign-controlled resident company to a foreign controller or non-resident associate of the foreign controller on which interest is payable which interest is deductible to the foreign-controlled resident company and is not included in the gross income of the foreign controller or associate; and

(ii) the balance outstanding at that time on any debt obligation owed by the foreign-controlled resident company to a person other than the foreign controller or an associate of the foreign controller where that person has a balance outstanding of a similar amount on a debt obligation owed by the person to the foreign controller or a non-resident associate of the foreign controller; and

(c) "foreign equity", in relation to a foreign-controlled resident company and for a year of income, means the sum of the following amounts –

(i) the paid-up value of all shares in the company owned by the foreign controller or a non-resident associate of the foreign controller at the beginning of the year of income;

(ii) so much of the amount standing to the credit of the share premium account of the company at the beginning of the year of income as the foreign controller or a non-resident associate would be entitled if the company were wound up at that time; and

(iii) so much of the accumulated profits and asset revaluation reserves of the company at the beginning of the year of income as the foreign controller or a non-resident associate of the foreign controller would be entitled if the company were wound up at that time;

reduced by the sum of –

(iv) the balance outstanding at the beginning of the year of income on any debt obligation owed to the foreign-

controlled resident company by the foreign controller or a non-resident associate of the foreign controller; and

(v) where the foreign-controlled resident company has accumulated losses at the beginning of the year of income, the amount by which the return of capital to the foreign controller or non-resident associate of the foreign controller would be reduced by virtue of the losses if the company were wound up at that time]

PART IXA – SPECIAL PROVISIONS FOR THE TAXATION OF [MINING] AND PETROLEUM OPERATIONS [W.E.F 1st July 1997]

Part IXA first inserted by IT (Am) Act 2 2008

89A. Interpretation

(1) In this Part, unless the context otherwise requires –

Ss. 89A – 89G Substituted by IT (Am) Act 2015
Ss. 89G – 89GG Inserted by IT (Am) Act 2015

"commercial production" means –

(a) for mining operations, the first period of thirty (30) consecutive days during which the average level of production of the twenty five (25) highest production days in the thirty-day period reaches a production level deemed to be commercial as determined by the Minister responsible for mining operations;

(b) for petroleum operations, the production of crude oil or natural gas, or both, and delivery of the crude oil or natural gas at the delivery point under a program of regular production and sale.

"contract area" means an exploration area which is a subject of a petroleum agreement, or a development area, as the case may be;

"contractor" means a person supplying services or goods other than as an employee, to the following –

(a) a licensee in respect of mining operations undertaken

by the licensee;

(b) a licensee in respect of petroleum operations undertaken by the licensee;".

"delivery point" means the point at which petroleum passes through the intake valve of the pipeline, vessel, vehicle or craft at a terminal or refinery in Uganda;

"farm-out agreement" is an agreement to which section 89GE applies;

"gross income of a licensee" includes cost oil, licensee's share of profit oil and any credits earned by the licensee from petroleum operations;

"licence area" means the area that is the subject of a mining right;

"licensee" means a person who has been granted a mining right or a person with whom the Government has entered into a petroleum agreement as defined in the Petroleum (Refining, Conversion, Transmission and Midstream) Act, 2013;

"Mining Act" means the Mining Act, 2003;

"mining exploration expenditure" means expenditure incurred by a licensee in undertaking mining exploration operations, and includes the following –

(a) expenditure incurred in acquiring –

(i) an interest in a mining exploration right from the Government or under a farm-out agreement; or

(ii) Mining exploration information from the Government or under a farm-out agreement;

(b) Social infrastructure expenditure incurred in accordance with a mining exploration right;

(c) expenditure incurred to acquire a depreciable asset that is first used in mining exploration operations;

"mining extraction expenditure" means capital expenditure incurred by a licensee in undertaking operations authorised under a mining lease, other than expenditure incurred to acquire a depreciable asset, and includes the following –

(a) expenditure whenever incurred in acquiring –

(i) an interest in a mining right, other than an interest referred to in paragraph (a)(i) of the definition of "mining exploration expenditure"; or

(ii) mining information, other than information referred to in paragraph (a)(ii) of the definition of "mining exploration expenditure;

(b) Social infrastructure expenditure incurred in accordance with a mining lease;

"mining exploration information" means information relating to the search for minerals under a mining exploration right;

"mining exploration operations" means authorised operations under a mining exploration right;

"mining exploration right" means an exploration or retention licence granted under the Mining Act;

"mining extraction operations" means authorised operations under a mining lease;

"mining exploration right" means a prospecting, exploration, or retention licence;

"mining information" means information relating to mining operations;

"mining operations" means authorised operations under a mining right;

"mining revenues" means signature and other bonuses, surface rentals, royalties, and any other duties or fees payable to the Government under the Mining Act or a mining right granted under that Act;

"mining right" means a mining exploration right, or a mining lease;

"non-resident associate", in relation to a licensee, means an associate of the licensee that is a non-resident person;

"non-resident contractor" means a contractor that is not a resident person;

"participation dividend" in relation to a resident licensee, means a dividend paid by the licensee to a non-resident company that has a 10% or greater voting interest in the voting power of the licensee;

"petroleum agreement", means an agreement entered into by the Government of Uganda with another person in accordance with the Petroleum (Exploration, Development and Production) Act, 2013, or the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013;

"petroleum development expenditure" means expenditure incurred by a licensee in undertaking exploration operations authorised under a petroleum production rights;

"petroleum development operations" means authorised operations under a petroleum production licence;

"petroleum exploration expenditure" means expenditure incurred by a licensee in undertaking exploration operations authorized under a petroleum exploration right;

"petroleum exploration information" means information relating to the search for petroleum under a petroleum exploration right;

"petroleum exploration operations" means an authorised

operation under a petroleum exploration right;

"petroleum exploration right" means a reconnaissance permit or petroleum exploration licence;

"petroleum operation" means a petroleum activity as defined in the Petroleum (Exploration, Development and Production) Act;

"petroleum revenues" has the meaning assigned to it in section 3 of the Public Finance Management Act, 2015;

"petroleum right" means a reconnaissance permit, petroleum exploration right, or a petroleum production licence;

"prescribed licensee" means –

(a) a person who has been granted a mining right and, in respect of whom, the Commissioner has notified in writing to be a prescribed licensee; or

(b) a person with whom the Government has entered into a petroleum agreement.

"resident licensee" means a licensee that is a resident company;

"service fee" includes an amount treated as a royalty in section 2(mmm)(i)(E);

"social infrastructure expenditure" means capital expenditure that a licensee is required to incur under a mining right or petroleum agreement on the construction of a public school, public hospital, public road, or similar social infrastructure.

(2) Unless the context otherwise requires, any term that is not defined in this Act but is defined in the Mining Act, 2003 or the Petroleum (Exploration, Development and Production) Act, 2013 as the case may be, has the same meaning as in the Mining Act or Petroleum (Exploration, Development and Production) Act, 2013.

(3) If more than one person has signed a petroleum agreement, each person is treated as a licensee for the purposes of this Part.

(4) An amount is not treated as "mining exploration expenditure", "mining extraction expenditure", "petroleum exploration expenditure", or "petroleum development expenditure" to the extent that the amount is not allowed as a deduction under section 22(3) or 23.

Mining Operations

89B. Taxation of Mining Licenses

(1) This Act applies to a licensee in relation to mining operations subject to the modifications in this Part.

(2) Where there is any inconsistency in the taxation of a licensee referred to in subsection (1), between this Part, other parts of this Act and any agreement, the provisions of this Part shall prevail.

(3) The rate of income tax applicable to a licensee in respect of mining operations is the rate specified under paragraph 1 of Part IX of the Third Schedule.

89C. Limitations on Deductions relating to Mining Operations

(1) Subject to subsection (5), an amount that a licensee may deduct under this Act in relation to mining operations undertaken by the licensee in a licence area in a year of income shall be allowed as a deduction only against the gross income derived by the licensee from the operations in the licence area for that year.

(2) If an amount allowed as a deduction relates partly to mining operations in a licence area and partly to mining operations in another licence area or to some other activity, the deduction shall be apportioned accordingly.

(3) If, in any year of income, the total deductions of a licensee in relation to mining operations undertaken in a licence area exceeds the total gross income arising from those operations in the licence area, the excess is carried forward to the following year of income and shall be deduced in that year against gross income arising from the mining operations in the licence area,

until the excess is fully deducted or the mining operations in the licence area cease.

(4) If a licensee has a loss carried forward for a licence area under subsection (3) for more than one year of income, the loss of the earliest year shall be allowed as a first deduction.

(5) In this section, the licence area for a mining lease includes the area of a mining exploration right provided the licence area for the mining lease is wholly within the area covered by the mining exploration right.

89D. Mining Exploration Expenditure

(1) If the cost of acquiring a depreciable asset is treated as mining exploration expenditure, section 27 applies to the asset on the following basis –

(a) the asset is treated as belonging to a separate pool of depreciable assets; and

(b) the depreciation rate applicable to the pool is 100%.

(2) If the cost of acquiring an intangible asset is treated as mining exploration expenditure, section 31 applies to the asset on the basis that the useful life of the asset is one year.

(3) A licensee shall be allowed a deduction for mining exploration expenditure to which subsection (1) or (2) do not apply in the year of income in which the expenditure is incurred.

89E. Mining Extraction Expenditure

(1) Subject to subsection (4), if the cost of acquiring an intangible asset is mining extraction expenditure, the useful life of the asset is the lesser of –

(a) the expected life of the mining extraction operations to which the asset relates; or

(b) six years.

(2) Subject to subsection (4), a licensee shall be allowed a deduction on a straight-line basis for mining extraction expenditure to which subsection (1) does not apply over the lesser of –

(a) the expected life of the mining extraction operations to which the expenditure relates; or

(b) six years.

(3) Subject to subsection (5), if a depreciable asset for use in mining extraction operations is acquired or constructed by a licensee before the commencement of commercial production, section 27 applies to the asset as if it was acquired or constructed at the time of commencement of commercial production.

(4) Subject to subsection (5), if mining extraction expenditure is incurred before the commencement of commercial production, subsection (2) or section 31, as the case may be, applies to the expenditure as if it was incurred at the time of commencement of the commercial production.

(5) The amount of a deduction for a depreciable asset referred to in subsection (3) or a mining extraction expenditure referred to in subsection (4) for the year of income in which the commencement of commercial production occurs is computed according to the following formula –

A x B/C

where

A is the amount of the cost of the asset or the amount of the expenditure;

B is the number of days in the period beginning on the date of commencement of commercial production and ending on the last day of the year of income in which commercial production commenced; and

C is the number of days in the year of income in which commercial production commenced.

(6) If a licensee disposes of an interest in a mining right (other than under a farm-out agreement), any gain arising on the disposal shall be reduced by any mining extraction expenditure incurred by the licensee to which subsection (2) applies that has not been deducted by the licensee at the time of the disposal.

89F. Rehabilitation Expenditure

(1) A contribution made by a licensee to a rehabilitation fund in accordance with an approved rehabilitation plan in relation to mining operations shall be allowed as a deduction in the year of income in which the contribution was made.

(2) An expenditure incurred by a licensee in carrying out work required by an approved rehabilitation plan in respect of the licensee's mining operations shall be allowed as a deduction in the year of income in which the expenditure is incurred provided that the work is not paid for, directly or indirectly, from money made available out of the licensee's rehabilitation fund for the mining operations.

(3) An amount accumulated in a rehabilitation fund, or an amount withdrawn from a rehabilitation fund to meet expenditure incurred under an approved rehabilitation plan, shall be exempt income.

(4) The following amounts shall be included in the gross income of a licensee –

(a) an amount withdrawn from a rehabilitation fund and returned to the licensee;

(b) any surplus in a rehabilitation fund of a licensee at the time of completion of rehabilitation that is returned to the licensee.

(5) For purposes of this section –

"approved rehabilitation plan" means a plan for rehabilitation of a mine site approved by the Minister responsible for mining operations; and

"rehabilitation fund" means a fund or account required to be established under a mining right to provide for the future payment of remedial work to the licence area covered by the mining right and that is managed jointly by the licensee and the Minister responsible for mining operations.

Petroleum Operations

89G. Taxation of Petroleum Licensees

(1) This Act applies to a licensee in relation to a petroleum operation subject to the modifications in this Part.

(2) Where there is any inconsistency in the taxation of a licensee referred to in clause (1) between this Part, other parts of this Act, and any petroleum agreement, the provisions of this Part shall prevail.

(3) The rate of income tax applicable to a licensee in relation to a licensee in relation to a petroleum operation is the rate specified under paragraph 2 of Part IX of the Third Schedule.

(4) If a licensee has a loss carried forward for a contract area under subsection (3) for more than one year of income, the loss of the earliest year shall be allowed as a first deduction.

(5) In this section, a contract area that is a development area includes an exploration area provided the development area is wholly within the exploration area.

89GA. Limitations of Deductions relating to Petroleum Operations

(1) An amount that a licensee may deduct under this Act in relation to a petroleum operation undertaken by the licensee in a contract area in a year of income shall be allowed as a deduction only against the gross income derived by the licensee from the operations in the contract area for that year.

(2) Where an amount allowed as a deduction relates partly to petroleum operations in a contract area and partly to petroleum

operations in another contract area or to some other activity, the deduction shall be apportioned accordingly.

(3) Where, in any year of income, the total deductions of a licensee in relation to petroleum operations undertaken in a contract area exceeds the total gross income arising from those operations in the contract area, the excess shall be carried forward to the following year of income and shall be deducted in that year against gross income arising from the petroleum operations in the contract area, until the excess is fully deducted or the petroleum operations in the contract area cease.

(4) If a licensee has a loss carried forward for a contract area under subsection (3) for more than one year of income, the loss of the earliest year shall be allowed as a first deduction.

(5) In this section, a contract area that is a development area includes an exploration area provided the development area is wholly within the exploration area.

89GB. Petroleum Exploration Expenditure

(1) If the cost of acquiring a depreciable asset is treated as petroleum exploration expenditure, section 27 applies to the asset on the following basis –

(a) the asset is treated as belonging to a separate pool of depreciable assets; and

(b) the depreciation rate applicable to the pool is 100%.

(2) If the cost of acquiring an intangible asset is treated as petroleum exploration expenditure, section 31 applies to the asset on the basis that the intangible asset is amortised at the same rate as the assets of the petroleum exploration.

(3) A licensee shall be allowed a deduction for petroleum exploration expenditure to which subsection (1) and (2) do not apply in the year of income in which the expenditure is incurred.

89GC. Petroleum Development Expenditure

(1) Subject to subsection (4), if the cost of acquiring an intangible asset is petroleum development expenditure, the useful life of the asset is the lesser of –

(a) the expected life of the petroleum development operations to which the asset relates; or

(b) six years.

(2) Subject to subsection (4), a licensee shall be allowed a deduction on a straight-line basis for petroleum development expenditure to which subsection (1) does not apply over the lesser of –

(a) the expected life of the petroleum development operations to which the expenditure relates; or

(b) six years.

(3) Subject to subsection (5), if a depreciable asset for use in petroleum development operations is acquired or constructed by a licensee before the commencement of commercial production, section 27 shall apply to the asset as if it was acquired or constructed at the time of commencement of the commercial production.

(4) Subject to subsection (5), if petroleum development expenditure is incurred before the commencement of commercial production, subsection (2) or section 27, as the case may be, shall apply to the expenditure as if it was incurred at the time of commencement of the commercial production.

(5) The amount of a deduction for a depreciable asset referred to in subsection (3) or petroleum development expenditure referred to in subsection (4) for the year of income in which the commencement of commercial production occurs shall be computed according to the following formula—

A x B/C

where:

A is the amount of the cost of the asset or the amount of the expenditure;

B is the number of days in the period beginning on the date of commencement of commercial production and ending on the last day of the year of income in which commercial production commenced; and

C is the number of days in the year of income in which the commercial production commenced.

(6) In this section, "commencement of commercial production" means the first day of the period of thirty consecutive days during which production is not less than the level of regular production delivered for sale as determined by Government as part of the approval of, or amendment to a development plan, averaged over not less than twenty five days in the period.

89GD. Decommissioning Expenditure

(1) A contribution made by a licensee to a decommissioning fund in accordance with an approved decommissioning plan in relation to petroleum operations shall be allowed as a deduction in the year of income in which the contribution was made.

(2) An expenditure incurred by a licensee in carrying out work required by an approved decommissioning plan in respect of the licensee's petroleum operations shall be allowed as a deduction in the year of income in which the expenditure is incurred provided that the work is not paid for, directly or indirectly, from money made available out of the licensee's decommissioning fund for the petroleum operations.

(3) An amount accumulated in a decommissioning fund, or an amount withdrawn from a decommissioning fund to meet expenditure incurred under an approved decommissioning plan, shall be exempt income.

(4) The following amounts are included in the gross income of a

licensee –

(a) an amount withdrawn from a decommissioning fund and returned to the licensee;

(b) any surplus in a decommissioning fund of a licensee at the time of completion of decommissioning that is returned to the licensee.

(5) For purposes of this section –

"approved decommissioning plan" means a decommissioning plan approved under the Petroleum (Exploration, Development and Production) Act; and

"decommissioning fund" means a decommissioning fund established under an approved decommissioning plan.

Common Rules applicable to Mining and Petroleum Operations

89GE. Farm-Outs

(1) This section shall apply where the following conditions are satisfied –

(a) a licensee (referred to as the "transferor") has entered into an agreement (referred to as a "farm-out agreement") with a person (referred to as the "transferee") for the transfer of part of the interest of the transferor in a mining right or petroleum agreement;

(b) the consideration given by the transferee for the transferred interest wholly or partly includes the transferee undertaking some or all of the work commitments of the transferor in respect of the part of the interest retained by the transferor.

(2) If this section applies –

(a) the value of any work undertaken by the transferee in relation to the part of the interest retained by the transferor

shall be included in –

(i) the consideration received by the transferor for the transferred interest; or

(ii) the gross income of the transferor; and

(b) the following applies to any amount of money received or receivable by the transferor for the transferred interest –

(i) section 62 applies to the amount of money on the basis that it is a recoupment by the transferor of any deductions allowed for expenditure incurred by the transferor in respect of the transferred interest;

(ii) if the amount of money exceeds the amount of deducted expenditure to which section 62 applies, the excess shall be treated as consideration received for the transferred interest.

89GF. Indirect Transfers of Interest

(1) If there is a change in the underlying ownership of a licensee, the licensee shall immediately notify the Commissioner, in writing, of the change.

(2) If the person disposing of the interest to which a notice under subsection (1) relates is a non-resident person, the licensee shall be liable, as agent for the non-resident person, for any tax payable under this Act by the non-resident person in respect of the disposal.

(3) The interest referred to in subsection (2) is a business asset for the purposes of this Act.

89GG. Taxation of Contractors

(1) Subject to subsection (3), a non-resident contractor who derives a fee for the provision of services (referred to as a "service fee") to a licensee or licensee in respect of mining or petroleum operations is liable to pay non-resident contractor tax at the rate

prescribed in Part IX of the Third schedule.

(2) The tax payable under subsection (1) shall be computed by applying the rate prescribed in Part IX of the Third Schedule to the gross amount of the service fee.

(3) A licensee paying a service fee to a non-resident contractor that is subject to non-resident contractor tax shall withhold tax on the gross amount paid at the rate specified in subsection (1).

(4) A licensee to whom subsection (4) applies shall withhold tax at the earlier of—

(a) at the time the licensee credits the service fee to the account of the non-resident contractor; or

(b) at the time that the fee is actually paid.

(5) A non-resident contractor tax imposed under this section shall be a final tax on the service fee and the fee shall not be included in the gross income of the contractor.

(6) Sections 123 – 128 of the Act and the Tax Procedures Code Act apply to a non-resident contractor on the basis that –

(a) the tax is a tax withheld under Part XIII;

(b) the contractor is a payee; and

(c) the licensee is a withholding agent.

(7) This section shall apply as if the associate is a non- resident contractor providing services to the licensee if the following conditions are satisfied –

(a) a non-resident contractor provides services to a licensee;

(b) the service fee is paid to the contractor by a non-resident associate of the licensee;

(c) the fee is recharged by the associate to the licensee.

(8) If a non-resident contractor provides services for the benefit of a licensee and the fee for the services is paid to the non-resident contractor by a non-resident associate of the licensee, this section applies to any recharge of the fee by the associate to the licensee as if the associate provided the services to the licensee.

89H. Withholding Tax

Substituted by IT (Am) Act 2015

(1) The tax payable for the purposes of Section 83(3) applicable to a participation dividend paid by a resident licensee to a company is calculated by applying the rate prescribed in Part IXA of the Third Schedule to this Act.

Repealed by IT (Am) Act 2015

(2) [The tax payable for the purposes of Section 85(2) by a non-resident subcontractor deriving income under a Uganda-source services contract where the services are provided to a contractor and directly related to petroleum operations under a petroleum agreement is calculated by applying the rate specified in part IXB of the Third Schedule to this Act.

(3) Section 85 applies to an amount treated as a royalty in section 2(nnn)(i)(E), if it is paid by a contractor to a non-resident subcontractor in respect of the use of property in Uganda.]

(4) A licensee is treated as a designated person for the purposes of Section 119 in respect of payments made to a resident contractor.

Substituted by IT (Am) Act 2015

(5) Section 119 applies to an amount treated as a royalty in section 2(mmm)(i)(E), if it is paid by a licensee to any contractor] in Uganda in respect of the use of property in Uganda.

Inserted by IT (Am) Act 2015

(6) For the purposes of this section, "resident contractor" means a contractor that is a resident person.

89I. Tax Accounting Principles

Sections 89I – 89Q Inserted by IT (Am) Act 2009 and Substituted by IT (Am) Act 2010 W.E.F 7/97

(1) A licensee shall account on an accrual basis.

(2) Except as may be otherwise agreed in writing between the Government and a licensee, all transactions shall be accounted for at arm's-length prices, and a licensee shall disclose all non-

arm's-length transactions in a return for a specified period if required to do so by the Commissioner.

(3) A prescribed licensee shall, for purposes of taxation –

(a) maintain accounts for a contract area in Uganda Shillings and in United States Dollars, and in the case of any conflict, the accounts maintained in United States Dollars shall prevail; and

Substituted by IT (Am) Act 2015

(b) use the exchange rates prescribed for conversion of currencies as follows –

(i) the Government or a prescribed licensee shall not experience an exchange gain or loss at the expense of, or to the benefit of, the other; and any gain or loss resulting from the exchange of currency will be credited or charged to the accounts;

(ii) amounts received and costs and expenditures made in Uganda shillings, United States Dollars or any other currency shall be converted into Uganda Shillings or United States Dollars, as the case may be, on the basis of the average of the buying and selling exchange rates between the currencies in question as published by the Bank of Uganda, prevailing on the last business day of the calendar month preceding the calendar month in which the amounts are received, and costs and expenditures are paid.

(iii) in the event of an increase or decrease, one time or accumulative, of ten per cent (10%) or more in the rates of exchange between the Ugandan Shilling, the United States Dollar or the currency in question during any given calendar month, the following rates will be used –

(aa) for the period from the first of the calendar month to the day when the increase or decrease is first reached, the average of the official buying and selling exchange rates between the United States Dollar, the Uganda Shilling or the currency in

question as issued on the last day of the previous calendar month.

(ab) for the period from the day on which the increase or decrease is first reached to the end of the calendar month, the average of the official buying and selling exchange rates between the United States Dollar, the Uganda Shilling or the currency in question as issued on the last day on which the increase or decrease is reached.

(4) A prescribed licensee shall maintain a record of the exchange rates used in converting Uganda Shillings, United States Dollars or any other currency.

89J. Allocation of Costs and Expenses

Repealed by IT (Am) Act 2015

(1) [Costs and expenses incurred by a contractor in respect of activities which would only in part qualify as contract expenses shall be allocated to the books, accounts, records and reports maintained for that purpose, in a manner that –

(a) avoids any duplication of costs;

(b) fairly and equitably reflects the costs attributable to the petroleum operations carried out;

(c) excludes any costs and expenses which would be allocated to those activities which do not constitute petroleum operations.]

Inserted by IT (Am) Act 2010 W.E.F 7/97 and Substituted by IT (Am) Act 2015

(2) Any petroleum exploration expenditure or petroleum expenditure or petroleum development expenditure associated with a unit development involving a discovery area which extends into a neighbouring country or licence or both shall be allocated on the basis of the petroleum reserves attributable to that portion of the discovery area located in Uganda or licence or both.

89K. The Principle of Ring Fencing

Repealed by IT (Am) Act 2010

Any exploration, development or production expenditure associated with a unit development involving a discovery area which extends into a neighbouring country shall be allocated on the basis of the petroleum reserves attributable to that portion of the discovery area located in Uganda.

89KA. Valuation and Measurement of Petroleum

Inserted by IT (Am) Act 2010 W.E.F 7/97

For the purposes of determining the value of petroleum derived from petroleum operations from a contract area, petroleum shall be valued and measured in accordance with the regulations prescribed by the Minister which shall be laid before Parliament.

89L. Allowable Currencies

Repealed by IT (Am) Act 2010

(1) For the purposes of this Part, accounts shall be maintained in both Uganda Shillings and in United States Dollars, but in case of conflict, accounts maintained in United States Dollars shall prevail.

(2) For purposes of conversion of the currencies, the exchange rate shall be the Bank of Uganda rate prevailing on the last business day of the calendar month in which payments are received and costs and expenditures are paid.

89M. Consolidation Principle

Repealed by IT (Am) Act 2010

Subject to Section 89C, the income tax in each year of income shall be assessed on the basis of the aggregate contract revenues derived from, and allowable contract expenditures incurred in, the petroleum operations carried out in a contract area.

89MA. Application of Sections 111 to 113 of the Act and the Tax Procedures Code Act

Inserted by IT (Am) Act 2010 W.E.F 7/97 and Substituted by IT (Am) Act 2015

Sections 111 to 113 of this Act and the Tax Procedures Code Act apply subject to the modifications in this Part, to a licensee in respect of –

(a) mining and petroleum revenues and for that purpose –

(i) such revenues are a "tax"; and

(ii) a consolidated mining revenue return and a consolidated petroleum revenue return required under section 89O are a "tax return";

(b) taxes payable to the Government not included in mining or petroleum revenues, in this Part referred to as "other taxes".

89N. Carry Forward Losses

Repealed by IT (Am) Act 2010

(1) Commencing with the year of income of commencement of commercial production, any deductions in respect of allowable contract expenditures which remain unrecovered in any year of income from contract revenues shall be treated as an operating loss and may be carried forward as an assessed loss to subsequent years of income until fully recovered from the contract revenues.

(2) Not less than thirty days prior to the beginning of each calendar year, a contractor shall furnish to the Government for approval, an estimate by quarters for the proceeding calendar year of –

(a) all contract revenues and contract expenses to be incurred;

(b) income tax of the contractor or each entity comprising the contractor, in respect of the taxable income derived from petroleum operations for such calendar year.

(3) Quarterly updates of the above estimates shall be submitted by the contractor to the Government for approval within thirty days after the end of each year.

89O. Returns

(1) Section 93 of the Act and sections 16 and 19 of the Tax Procedures Code Act apply to a licensee subject to the following modifications –

Substituted by IT (Am) Act 2010 W.E.F 7/2010 And IT (Am) Act 2015

(a) a licensee shall furnish a return not later than seven (7) days after the end of every month in respect of the provisional payments required under section 89P(b);

(b) not less than thirty days before the beginning of a year of income, a contractor shall furnish a return, including particulars for each calendar quarter of the year, estimated to the best of the contractor's judgement, and shall furnish updates of the return within 7 days after the end of each of the first three calendar quarters in the year;

(c) the Commissioner may require a duly appointed agent or trustee of the licensee, whether taxable or not, to furnish a return on the licensee's behalf or as an agent or trustee of the licensee;

(d) in addition to a return furnished on a licensee's own behalf, the Commissioner may require a licensee acting as an operator in a contract area, to furnish a return in respect of that area on behalf of all licensee's with an interest in the petroleum agreement;

(e) a return required under this section shall include particulars of mining or petroleum revenues and other taxes prescribed by the Commissioner;

(f) a return required for any period shall be furnished, whether mining or petroleum [Government] revenues or other taxes are payable for the period or not;

(g) the Commissioner may make provision permitting or requiring a licensee to submit returns electronically.

(2) In addition to a return required under subsection (1), a contractor shall file an annual consolidated mining or petroleum revenue return with the Commissioner at the end of each year of income, not later than ninety days after the expiry of the year of income.

Repealed by IT (Am) Act 2015

(3) [A person who fails to furnish a return of income for a tax period within the time required by this section commits an offence and

is liable to pay a penal tax equal to 2 per cent per annum of the tax payable for that period.]

89OA. Assessments, Objections and Appeal

Inserted by IT (Am) Act 2010 W.E.F 7/2010 and substituted by IT (Am) Act 2015

(1) Part VI of the Tax Procedures Code Act apply to a licensee subject to the following modifications –

(a) an assessment made by the Commissioner on a licensee may relate to mining or petroleum revenues and not only to chargeable income;

Deleted by IT (Am) Act 2015

(b) [the time limit in section 95(1) is three years instead of five years;

(c) section 96(1), (2), (3) and (4) apply to a licensee, notwithstanding that a notice has not been published under section 96(5).]

(2) Objections and appeals relating to mining or petroleum revenues shall be determined in accordance with Part VII of the Tax Procedures Code Act.

89P. Collection and Recovery

Substituted & inserted by IT (Am) Act 2010 W.E.F 7/2010

Sections 111 to 113 of this Act and Part VIII of the Tax Procedures Code Act shall apply to licensees with the following modifications –

(a) mining or petroleum revenues and other taxes charged in any assessment shall be payable within 7 days after the due date for furnishing a return;

(b) a licensee shall, in each calendar quarter, make a provisional payment consisting of –

(i) in the case of income tax, one quarter of the licensee's estimated income tax for the year; and

(ii) in the case of mining or petroleum revenues other than income tax, the amounts payable for the quarter under the Mining Act or mining right, or petroleum agreement.

(c) unless otherwise agreed between the Government and a prescribed licensee, all payments or refunds of mining or petroleum revenues other than those payable in kind and other taxes shall be made in United States Dollars;

(d) all mining or petroleum revenues shall be payable to the Uganda Revenue Authority;

(e) subject to paragraph (f), section 113 shall apply to refunds of mining or petroleum revenues and other taxes payable to the Government;

(f) late payment, or refunds of mining or petroleum revenues and other taxes payable to the Government shall, for each day on which the sums are overdue during any month, bear interest compounded daily at an annual rate equal to the average rates published by the Bank of Uganda plus five percentage points;

(g) where a licensee has paid mining or petroleum revenues in kind and the amount payable subsequently requires to be adjusted for any reason, the adjustment will be made in cash unless otherwise agreed between the Government and a licensee;

(h) a payment of mining or petroleum revenues made by a licensee shall be allocated by the Commissioner against amounts payable in the order in which they become due and in such a way as to minimise any interest or penalties payable by a contractor.

89Q. Classification, Definition and Allocation of Costs and Expenditures

Repealed by IT (Am) Act 2010

For the purposes of this Part, the classification, definition and allocation of costs and expenditures for purposes of determining tax on petroleum revenue shall be in accordance with the Eighth Schedule to this Act.

89QA – D Inserted by IT (Am) Act 2010 W.E.F 7/2010 and substituted by IT (Am) Act 2015

89QA. Failure to Furnish Returns

(1) A licensee who fails to furnish a return or any other document within the time prescribed by this Act is liable to a fine of not less

than 50,000 United States Dollars and not exceeding 500,000 United States Dollars.

Repealed by IT (Am) Act 2015

(2) [A contractor who files false or inaccurate returns commits an offence and is liable on conviction to a fine of not less than 50,000 United States Dollars and not exceeding 500,000 United States Dollars or its equivalent in Uganda Shillings and where there is fraud, a fine of not less than 500,000 United States Dollars or its equivalent in Uganda Shillings.]

(3) Where a licensee convicted of an offence under subsection (2) fails to furnish the return or document to which the offence relates within a period specified by the court, or furnishes false or inaccurate returns, that licensee is liable to a fine not exceeding 100,000 United States Dollars.

89QB. Making False or Misleading Statements

A prescribed licensee or person in relation to a prescribed licensee who is convicted of an offence under section 58 of the Tax Procedures Code Act shall be liable –

(a) when the statement or omission was made knowingly or recklessly, to a fine not less than 1,000,000 United States Dollars or imprisonment for a term not exceeding five years, or both; or

(b) in any other case, to a fine not less than 50,000 United States dollars and not exceeding 500,000 United States dollars."

89QC. Penal Tax and Tax Offences

(1) Part XIV and sections 59, 60, 63, 64, 65, 67 of the Tax Procedures Code Act apply to a licensee in respect of mining or petroleum revenues and other taxes subject to the following modifications –

Substituted by IT (Am) Act 2011 And (Am) Act 2015

(a) interest under section 89P(f) and not penal tax under section 51 of the Tax Procedures Code Act shall be charged where provisional tax is understated;

(b) a licensee shall not be prosecuted or fined under these sections if prosecuted or fined for the same offence under the Mining Act, Petroleum (Exploration, Development and Production) Act or the petroleum agreement.

89QD. Right of Commissioner to undertake Audit

Inserted by IT (Am) Act 2015

Nothing in a *mining right*, petroleum agreement or in any law shall be construed as limiting the right of the Commissioner to execute his or her mandate for purposes of this Act.

PART X – ANTI AVOIDANCE

90. Transactions between Associates

(1) In any transaction between taxpayers who are associates or who are in an employment relationship, the Commissioner may distribute, apportion, or allocate income, deductions, or credits between the taxpayers as is necessary to reflect the chargeable income the taxpayers would have realised in an arm's length transaction.

(2) The Commissioner may adjust the income arising in respect of any transfer or licence of intangible property between associates so that it is commensurate with the income attributable to the property.

(3) In making any adjustment under subsections (1) or (2), the Commissioner may determine the source of income and the nature of any payment or loss as revenue, capital, or otherwise.

91. Re-characterisation of Income and Deductions

(1) For the purposes of determining liability to tax under this Act, the Commissioner may –

(a) re-characterise a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme;

(b) disregard a transaction that does not have substantial economic effect; or

(c) re-characterise a transaction the form of which does not reflect the substance.

(2) A "tax avoidance scheme" in subsection (1) includes any transaction, one of the main purposes of which is the avoidance or reduction of liability to tax.

PART XI – PROCEDURE RELATING TO INCOME TAX

Returns

92. Furnishing of Return of Income

Substituted by IT (Am) Act 2006

(1) Subject to Section 93, every taxpayer shall furnish a return of income for each year of income of the taxpayer not later than [four] *six* months after the end of that year.

(2) A return of income shall be in the form prescribed by the Commissioner, shall state the information required, and shall be furnished in the manner prescribed by the Commissioner.

(3) Subject to subsection (4), a return of income shall be signed by the taxpayer and include a declaration that the return is complete and accurate.

(4) Where a taxpayer is legally incapacitated, the taxpayer's return of income shall be signed, and contain a declaration as to completeness and accuracy, by the taxpayer's legal representative.

(5) A taxpayer carrying on business shall furnish with the taxpayer's return of income a statement of income and expenditure and a statement of assets and liabilities.

(6) A person, other than an employee of the taxpayer, who, for remuneration, prepares or assists in the preparation of a return of income, or a balance sheet, statement of income and expenditure, or any other document submitted in support of a return, shall sign the return certifying that the person has examined the books of account and other relevant documentation of the taxpayer, and that, to the best of the

person's knowledge, the return or document correctly reflects the data and transactions to which it relates.

(7) Where a person refuses to sign a certificate referred to in subsection (6), the person shall furnish the taxpayer with a statement in writing of the reasons for such refusal and the taxpayer shall include that statement with the return of income to which the refusal relates.

(8) Where, during a year of income –

(a) a taxpayer has died;

(b) a taxpayer has become bankrupt, wound-up, or gone into liquidation;

(c) a taxpayer is about to leave Uganda indefinitely;

(d) a taxpayer is otherwise about to cease activity in Uganda; or

(e) the Commissioner otherwise considers it appropriate,

the Commissioner may, by notice in writing, require the taxpayer or the taxpayer's trustee, as the case may be, to furnish, by the date specified in the notice, a return of income for the taxpayer for a period of less than 12 months.

(9) Where any person fails to furnish a return of income as required by this Section, the Commissioner may, by notice in writing, appoint a person to prepare and furnish the return, and the return so furnished is deemed, for all purposes of this Act, to be the return of the person originally required to furnish the return.

(10) Where the Commissioner is not satisfied with a return of income, the Commissioner may, by notice in writing, require the person who has furnished the return to provide a fuller or further return of income.

93. Cases where Return of Income not required

Unless requested by the Commissioner by notice in writing, no return of income shall be furnished under this Act for a year of income –

Substituted by IT (Am) Act 2002

(a) by a non-resident person where *Section* 4(4) *or* Section 87(1)(c) *or both apply* to all the income derived from sources in Uganda by the person during the year of income; or

(b) by a resident individual –

Deleted by IT (Am) Act 2002

(i) to whom Section 4(4) **[**or (5)**]** applies; or

(ii) whose total chargeable income for the year of income is subject to the zero rate of tax under Part I of the Third Schedule to this Act.

94. Extension of Time to furnish a Return of Income

(1) A taxpayer required to furnish a return of income under Section 92 may apply in writing to the Commissioner for an extension of time to furnish the return.

(2) An application under subsection (1) shall be made by the due date for furnishing of the return to which it relates.

(3) Where an application has been made under subsection (1) and the Commissioner is satisfied that the taxpayer is unable to furnish the return by the due date because of absence from Uganda, sickness, or other reasonable cause, the Commissioner may, by notice in writing, grant the taxpayer an extension of time for furnishing the return of a period not exceeding 90 days.

(4) A person dissatisfied with a decision under subsection (3) may only challenge the decision under the objection and appeal procedure in this Act.

(5) The granting of an extension of time under this Section does not alter the due date for payment of tax under Section 103.

Assessments

95. Assessments

Substituted by IT (Am) Act 2006

(1) Subject to Section 96, the Commissioner shall, based on the taxpayer's return of income and any other information available, make an assessment of the chargeable income of a taxpayer and the tax payable *on it* for a year of income within [seven] *five* years from the date the return was furnished.

(2) Where –

(a) a taxpayer defaults in furnishing a return of income for a year of income; or

(b) the Commissioner is not satisfied with a return of income for a year of income furnished by a taxpayer,

the Commissioner may, according to the Commissioner's best judgement, make an assessment of the chargeable income of the taxpayer and the tax payable thereon for that year.

(3) Where the Commissioner has made an assessment under subsection (2)(b), the Commissioner shall include with the assessment a statement of reasons as to why the Commissioner was not satisfied with the return.

(4) In the circumstances specified in Section 92(8), in lieu of requiring a return of income, the Commissioner may, according to the Commissioner's best judgement, make an assessment of the chargeable income of the taxpayer and the tax payable thereon for the year of income.

(5) The Commissioner shall not assess any person for a year of income who, as a result of the operation of Section 93, is not required to furnish a return of income for that year.

(6) Where an assessment has been made under this Section, the Commissioner shall serve a notice of the assessment on the taxpayer stating-

(a) the amount of chargeable income of the taxpayer;

(b) the amount of tax payable;

(c) the amount of tax paid, if any; and

(d) the time, place, and manner of objecting to the assessment.

96. Self-Assessment

(1) Where a taxpayer has furnished a return of income for a year of income, the Commissioner is deemed to have made an assessment of the chargeable income of the taxpayer and the tax payable on that chargeable income for that year, being those respective amounts shown in the return.

(2) Where subsection (1) applies, the taxpayer's return of income is treated as a notice of an assessment served on the taxpayer by the Commissioner on the due date for furnishing of the return or on the actual date the return was furnished, whichever is the later.

(3) Notwithstanding subsection (1), the Commissioner may make an assessment under Section 95 on a taxpayer in any case the Commissioner considers necessary.

(4) Where the Commissioner raises an assessment in accordance with subsection (3), the Commissioner shall include with the assessment a statement of reasons as to why the Commissioner considered it necessary to make such an assessment.

(5) This Section only applies to those taxpayers specified in a notice published by the Commissioner in the *Gazette* as taxpayers to which this Section is to apply for a year of income.

97. Additional Assessments

(1) Subject to subsections (2) and (3), the Commissioner may, within three years after service of a notice of assessment, make an additional assessment amending an assessment previously made.

(2) Where the need to make an additional assessment arises by reason of fraud or any gross or wilful neglect by, or on behalf of the taxpayer, or the discovery of new information in relation to the tax payable for any year of income, the Commissioner may make an additional assessment for that year at any time.

(3) The Commissioner shall not make an additional assessment amending an assessment in respect of an amount, if any previous assessment for the year of income in question has, in respect of that amount, been amended or reduced pursuant to an order of the High Court or the Court of Appeal unless such order was obtained by fraud or any gross or wilful neglect.

(4) An additional assessment shall be treated in all respects as an assessment under this Act.

98. General Provisions in relation to Assessments

(1) As soon as is reasonably practicable after the expiry of the time allowed under the Act for the furnishing of returns of income for a year of income, the Commissioner shall cause to be prepared a list of taxpayers assessed to tax in respect of that year, in this Section referred to as an "assessment list", and the list shall contain in relation to each taxpayer assessed –

(a) the taxpayer's name and address;

(b) the amount of chargeable income upon which the assessment has been made; and

(c) the amount of tax payable.

(2) In any proceedings, whether civil or criminal, under this Act, a document purporting to be an extract from an assessment list and certified by the Commissioner to be a true copy of the relevant entry in the list, shall be *prima facie* evidence of the matters stated therein.

(3) No notice of assessment, warrant, or other document purporting to be made, issued, or executed under this Act -

(a) shall be quashed or deemed to be void or voidable for want of form; or

(b) shall be affected by reason of mistake, defect, or omission therein,

if it is, in substance and effect, in conformity with this Act and the person assessed or intended to be assessed or affected by the document, is designated in it according to common intent and understanding.

(4) Where the Commissioner is satisfied that an order made or document issued by the Commissioner contains a mistake which is apparent from the records and that such mistake does not involve a dispute as to the interpretation of the law or facts of the case, the Commissioner may, for the purposes of rectifying the mistake, amend the order or document any time before the expiry of two years from the date of making or issuing the order or document.

Objections and Appeals

99. Objection to Assessment

(1) A taxpayer who is dissatisfied with an assessment may lodge an objection to the assessment with the Commissioner within forty five days after service of the notice of assessment.

(2) An objection to an assessment shall be in writing and state precisely the grounds upon which it is made.

(3) The Commissioner may, upon application in writing by the taxpayer, extend the time for lodging an objection where the Commissioner is satisfied that the delay in lodging the objection was due to the taxpayer's absence from Uganda, sickness, or other reasonable cause.

Substituted by IT (Am) Act 2002

(4) Where the Commissioner refuses to grant an extension of time under subsection (3), the taxpayer may apply to the Tribunal referred to in Section 100(1)(b) for review of the decision within forty five days after service of notice of decision.

(5) After consideration of the objection, the Commissioner may allow the objection in whole or in part and amend the assessment accordingly, or disallow the objection; and the Commissioner's decision is referred to as an "objection decision".

(6) As soon as is practicable after making an objection decision, the Commissioner shall serve the taxpayer with notice of the decision.

(7) Where an objection decision has not been made by the Commissioner within ninety days after the taxpayer lodged the objection with the Commissioner, the taxpayer may, by notice in writing to the Commissioner, elect to treat the Commissioner as having made a decision to allow the objection.

(8) Where a taxpayer makes an election under subsection (7), the taxpayer is treated as having been served with a notice of the objection decision on the date the taxpayer's election was lodged with the Commissioner.

100. Appeal to the High Court or a Tax Tribunal

(1) A taxpayer dissatisfied with an objection decision may, at the election of the taxpayer –

(a) appeal the decision to the High Court; or

(b) apply for review of the decision to a tax tribunal established by Parliament by law for the purpose of settling tax disputes in accordance with Article 152(3) of the Constitution.

(2) An appeal under subsection (1) to the High Court shall be made by lodging a notice of appeal with the Registrar of the High Court within forty five days after service of notice of the objection decision.

(3) A person who has lodged a notice of appeal with the Registrar of the High Court shall, within five working days of doing so, serve a copy of the notice of appeal on the Commissioner.

(4) An appeal to the High Court under subsection (1) may be made on questions of law only and the notice of appeal shall state the question or questions of law that will be raised on the appeal.

101. Appeal to Court of Appeal

A party to a proceeding before the High Court who is dissatisfied with the decision of the High Court may, with leave of the Court of Appeal, appeal the decision to the Court of Appeal.

102. Burden of Proof

In any objection to an assessment, any appeal of an objection decision to the High Court, any review of an objection decision by a tax tribunal, or any appeal from the decision of the High Court or a tax tribunal in relation to an objection decision, the onus is on the taxpayer to prove, on the balance of probabilities, the extent to which the assessment made by the Commissioner is excessive or erroneous.

Collection and Recovery of Tax

103. Due Date for Payment of Tax

(1) Subject to this Act, tax charged in any assessment shall be payable –

(a) in the case of a taxpayer subject to Section 96, on the due date for furnishing of the return of income to which the assessment relates; or

(b) in any other case, within forty five days from the date of service of the notice of assessment.

(2) Subject to subsection (3), where a taxpayer has lodged a notice of objection to an assessment, the amount of tax payable by the taxpayer pending final resolution of the objection is thirty per cent of the tax assessed or that part of the tax not in dispute, whichever is the greater.

(3) The Commissioner may waive the amount or accept a lesser amount than is required to be paid under subsection (2) in a case where an objection has reasonably been made to an assessment.

(4) Upon written application by the taxpayer, the Commissioner may, where good cause is shown, allow for the payment of tax in instalments of equal or varying amounts as the Commissioner may determine having regard to the circumstances of the case.

(5) Where tax is permitted to be paid by instalments and there is default in payment of any instalment, the whole balance of the tax outstanding shall become immediately payable.

(6) Permission under subsection (5) to pay tax due by instalments does not preclude a liability for interest arising under Section 136 on the unpaid balance of the tax due.

104. Tax as a Debt due to the Government of Uganda

(1) Tax, when it becomes due and payable, is a debt to the Government of Uganda and is payable to the Commissioner in the manner and at the place prescribed.

(2) Tax that has not been paid when it is due and payable may be sued for and recovered in any court of competent jurisdiction by the Commissioner acting in the Commissioner's official name, subject to the general directions of the Attorney-General.

(3) In any suit under this Section, the production of a certificate signed by the Commissioner stating the name and address of the person liable and the amount of tax due and payable by the person shall be sufficient evidence of the amount of tax due and payable by such person.

105. Collection of Tax from Persons leaving Uganda Permanently

(1) Where the Commissioner has reasonable grounds to believe that a person may leave Uganda permanently without paying all tax due under this Act, the Commissioner may issue a certificate containing particulars of the tax due to the Commissioner of

Immigration and request the Commissioner of Immigration to prevent that person from leaving Uganda until that person-

(a) makes payment of tax in full; or

(b) provides a financial bond guaranteeing payment of the tax due.

(2) A copy of a certificate issued under subsection (1) shall be served on the person named in the certificate if it is practicable to do so.

(3) Payment of the tax specified in the certificate to a customs or immigration officer or the production of a certificate signed by the Commissioner stating that the tax has been paid or secured shall be sufficient authority for allowing the person to leave Uganda.

106. Recovery of Tax from Person owing Money to the Taxpayer

(1) Where a taxpayer fails to pay income tax on the date on which it becomes due and payable, and the tax payable is not the subject of a dispute, the Commissioner may, by notice in writing, require any person –

(a) owing or who may owe money to the taxpayer;

(b) holding or who may subsequently hold money for, or on account of, the taxpayer;

(c) holding or who may subsequently hold money on account of some other person for payment to the taxpayer; or

(d) having authority from some other person to pay money to the taxpayer,

to pay the money to the Commissioner on the date set out in the notice, up to the amount of tax due.

(2) The date specified in the notice under subsection (1) must not be a date before the money becomes due to the taxpayer, or is held on behalf of the taxpayer.

(3) At the same time that notice is served under subsection (1), the Commissioner shall also serve a copy of the notice on the taxpayer.

(4) Where a person served with a notice under subsection (1) is unable to comply with the notice by reason of lack of moneys owing to, or held for, the taxpayer, the person shall, as soon as is practicable and in any event before the payment date specified in the notice, notify the Commissioner accordingly in writing setting out the reasons for the inability to comply.

(5) Where a notice is served on the Commissioner under subsection (4), the Commissioner may, by notice in writing –

(a) accept the notification and cancel or amend the notice issued under subsection (1); or

(b) reject the notification.

(6) A person dissatisfied with a decision under subsection (5) may only challenge the decision under the objection and appeal procedure in this Part.

(7) A person making a payment pursuant to a notice under subsection (1) is deemed to have been acting under the authority of the taxpayer and of all other persons concerned and is indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extra-judicial, notwithstanding any provisions to the contrary in any written law, contract, or agreement.

Substituted by IT (Am) Act 2002

(8) An amount due under this Section is treated for all purposes of this Act as if it were tax due.

107. Collection of Tax by Distraint

(1) The Commissioner may recover any unpaid tax by distress proceedings against the movable property of a person liable to pay tax, in this Section referred to as the "person liable", by issuing an order in writing specifying the person against whose property the proceedings are authorised, the location of the

property, and the tax liability to which the proceedings relate, and may require a police officer to be present while distress is being executed.

(2) For the purposes of executing distress under subsection (1), the Commissioner may, at any time, enter any house or premises described in the order authorising the distress proceedings.

(3) The property upon which distress is levied under this Section, other than perishable goods, shall be kept for ten days either at the premises where the distress was levied or at any other place that the Commissioner may consider appropriate, at the cost of the person liable.

(4) Where the person liable does not pay the tax due, together with the costs of the distress –

(a) in the case of perishable goods, within a period that the Commissioner considers reasonable having regard to the condition of the goods; or

(b) in any other case, within ten days after the distress is levied, the property distrained may be sold by public auction or in such other manner as the Commissioner may direct.

(5) The proceeds of a disposal under subsection (4) shall be applied by the auctioneer or seller towards the cost of taking, keeping, and selling the property distrained upon, then towards the tax due and payable, and the remainder of the proceeds, if any, shall be given to the person liable.

(6) Nothing in this Section shall preclude the Commissioner from proceeding under Section 104 with respect to the balance owed if the proceeds of the distress are not sufficient to meet the costs of the distress and the tax due.

(7) All costs incurred by the Commissioner in respect of any distress may be recovered by the Commissioner from the person liable and the provisions of this Act relating to the collection and recovery of tax shall apply as if the costs were tax due under this Act.

(8) The Minister may, with the approval of Parliament by statutory instrument, within three months after the coming into force of this Act, make rules regarding the disposal of properties distrained under this Section.

108. Recovery from Agent of Non-Resident

(1) The Commissioner may, by notice in writing, require any person who is in possession of an asset, including money, belonging to a non-resident taxpayer to pay tax on behalf of the non-resident, up to the market value of the asset but not exceeding the amount of tax due.

(2) The captain of any aircraft or ship owned or chartered by a non-resident person is deemed to be in possession of the aircraft or ship for the purposes of this Section.

(3) The tax payable in respect of an amount included in the gross income of a non-resident partner under Section 67 is assessable in the name of the partnership or of any resident partner of the partnership and may be recovered out of the assets of the partnership or from the resident partner personally.

(4) The tax payable in respect of an amount included in the gross income of a non-resident beneficiary as a result of the operation of Section 72 or 73 is assessable in the name of the trustee and may be recovered out of the assets of the trust or from the trustee personally.

Substituted by IT (Am) Act 2002

(5) A person making a payment pursuant to a notice under subsection (1), (3) or (4) is deemed to have been acting under the authority of the taxpayer and of all other persons concerned and is indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract, or agreement.

Substituted by IT (Am) Act 2002

(6) An amount due under this Section is treated for the purposes of the Act as if it were tax due.

109. Duties of Receivers

(1) A receiver shall, in writing, notify the Commissioner within fourteen days of being appointed to the position of receiver or of taking possession of an asset in Uganda, whichever occurs first.

(2) The Commissioner may, in writing, notify a receiver of the amount which appears to the Commissioner to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the receiver.

(3) A receiver shall not part with any asset in Uganda which is held by the receiver in the capacity as receiver without the prior written permission of the Commissioner.

(4) A receiver –

(a) shall set aside, out of the proceeds of sale of an asset, the amount notified by the Commissioner under subsection (2), or such lesser amount as is subsequently agreed on by the Commissioner;

(b) is liable to the extent of the amount set aside for the tax of the person who owned the asset; and

(c) may pay any debt that has priority over the tax referred to in this Section notwithstanding any provision of this Section.

(5) A receiver is personally liable to the extent of any amount required to be set aside under subsection (4) for the tax referred to in subsection (2) if, and to the extent that, the receiver fails to comply with the requirements of this Section.

(6) In this Section, "receiver" includes any person who, in respect to an asset in Uganda, is –

(a) a liquidator of a company;

(b) a receiver appointed out of court or by any court;

(c) a trustee for a bankrupt;

(d) a mortgagee in possession;

(e) an executor of a deceased's estate; or

(f) any other person conducting the business of a person legally incapacitated.

110. Security on Property for Unpaid Tax

(1) Where any person who is the owner of land or buildings situated in Uganda fails to pay tax when due, the Commissioner may, by notice in writing, notify the person of the intention to apply to the Chief Registrar of Titles, in this Section referred to as the "Chief Registrar", for such land or buildings to be the subject of security for tax as specified in the notice.

(2) If any person on whom a notice has been served under this Section fails to make payment of the whole of the amount of the tax specified in the notice within 30 days of the date of service of the notice under subsection (1), the Commissioner may, by notice in writing, in this Section referred to as a "notice of direction", direct the Chief Registrar that the land or buildings of the person, to the extent of the interest of such person therein, be the subject of security for unpaid tax in the amount specified in the notice.

(3) Where a notice of direction is served on the Chief Registrar under subsection (2), the Chief Registrar shall, without fee, register the direction as if it were an instrument or mortgage over, or charge on, as the case may be, such land or buildings; and thereupon such registration shall, subject to any prior mortgage or charge, operate in all respects as a legal mortgage over or charge on such land or building to secure the amount of the unpaid tax.

(4) Upon receipt of the whole of the amount of tax secured under subsection (3), the Commissioner shall serve notice on the Chief Registrar cancelling the direction made under subsection (2) and the Chief Registrar shall, without fee, record the cancellation at which time the direction shall cease to exist.

Provisional Tax

111. Payment of Provisional Tax

Deleted and substituted by IT (Am) Act 2006

(1) A person who derives or expects to derive any income during a year of income which is not or will not be subject to withholding tax at the source under Section 116, 117, or 118 **[**or subject to tax under Section 5**]** is liable *or subject* to pay provisional tax under this Section.

(2) A provisional taxpayer, other than an individual, is liable to pay two instalments of provisional tax, on or before the last day of the sixth and twelfth months of the year of income, in respect of the taxpayer's liability for income tax for that year.

(3) For the purposes of subsection (2), the amount of each instalment of provisional tax for a year of income is calculated according to the following formula –

Substituted by IT (Am) Act 2002

(50% x A)-B [50% x (A-B)**]**

where –

A is the estimated tax payable by the provisional taxpayer for the year of income; and

B is the amount of any tax withheld under this Act, prior to the due date for payment of the instalment, from any amounts derived by the taxpayer during the year of income which will be included in the gross income of the taxpayer for that year.

(4) A provisional taxpayer who is an individual is liable to pay four instalments of provisional tax, on or before the last day of the third, sixth, ninth, and twelfth months of the year of income, in respect of the taxpayer's liability for income tax for that year.

(5) For the purposes of subsection (4), the amount of each instalment of provisional tax for a year of income is calculated according to the following formula –

Substituted by IT (Am) Act 2003

(25% x A) - B **[25% x (A – B)]**

A is the estimated tax payable by the provisional taxpayer for the year of income; and

B is the amount of any tax withheld under this Act, prior to the due date for payment of the instalment, from any amounts derived by the taxpayer during the year of income which will be included in the gross income of the taxpayer for that year.

(6) Upon written application by the taxpayer, the Commissioner may, where good cause is shown, extend the due date for payment of an instalment of provisional tax or allow for payment of such an instalment in equal or varying amounts.

(7) An instalment of provisional tax, when it becomes due and payable, is a debt due to the Government and the provisions of this Act shall apply for the purposes of the collection and recovery of provisional tax by the Commissioner.

(8) Each instalment of provisional tax shall be credited against the income tax assessed to the provisional taxpayer for the year of income to which the instalment relates.

(9) Where the total of the instalments credited under subsection (8) exceeds the taxpayer's income tax assessed for that year, the excess shall be dealt with by the Commissioner in accordance with Section 113(3).

(10) No instalment of provisional tax paid by a provisional taxpayer shall be refunded to the taxpayer other than in accordance with subsection (9).

(11) In this Section, "estimated tax payable" has the meaning in Section 112;

112. Estimated Tax Payable

(1) A provisional taxpayer's estimated tax payable for a year of income is –

(a) in the case of a taxpayer to whom Section 4(5) applies, the amount determined under the Second Schedule to this Act for that year as the tax payable on the gross turnover of the taxpayer estimated for that year under subsection (2); or

(b) in any other case, the amount calculated by applying the rates of tax in force for that year against the amount estimated under subsection (3) by the taxpayer as the chargeable income of the tax payer for the year.

(2) Every provisional taxpayer to whom Section 4(5) applies shall furnish an estimate of the gross turnover of the taxpayer for each year of income and shall include with the estimate for a year of income, a statement of the actual gross turnover of the taxpayer for the previous year of income.

(3) Every provisional taxpayer, other than a taxpayer to whom Section 4(5) applies, shall furnish an estimate of the chargeable income to be derived by the taxpayer for a year of income in respect of which provisional tax is or may be payable by the taxpayer.

(4) A provisional taxpayer's estimate under subsection (2) or (3) shall be in the form prescribed by the Commissioner and shall be furnished to the Commissioner by the due date for payment of the first instalment of provisional tax for the year of income.

(5) A provisional taxpayer's estimate under subsection (2) or (3) shall remain in force for the whole of the year of income unless the taxpayer furnishes a revised estimate to the Commissioner which revised estimate shall only apply to the calculation of the provisional tax payable by the taxpayer after the date the revised estimate was furnished to the Commissioner.

(6) Where a provisional taxpayer fails to furnish an estimate of gross turnover or chargeable income as required by subsection (2) or (3), the estimated gross turnover or chargeable income of the taxpayer for the year of income shall be such amount as estimated by the Commissioner.

Refund of Tax

113. Refunds

(1) A taxpayer may apply to the Commissioner for a refund, in respect of any year of income, of any tax paid by withholding, instalments, or otherwise in excess of the tax liability assessed to or due by the taxpayer for that year.

(2) An application for a refund under this Section shall be made to the Commissioner in writing within five years of the later of –

(a) the date on which the Commissioner has served the notice of assessment for the year of income to which the refund application relates; or

(b) the date on which the tax was paid.

(3) Where the Commissioner is satisfied that tax has been over paid, the Commissioner shall –

(a) apply the excess in reduction of any other tax due from the taxpayer;

(b) apply the balance of the excess, if any, in reduction of any outstanding liability of the taxpayer to pay other taxes not in dispute or to make provisional tax payments during the year of income in which the refund is to be made; and

Inserted by IT (Am) Act 2002

(c) refund the remainder, if any, to the taxpayer.

(4) Where the Commissioner is required to refund an amount of tax to a person as a result of –

(a) an application made to him or her under this Act;

(b) a decision under Section 99;

Substituted by IT (Am) Act 2002

(c) a decision of the High Court or Tribunal under Section 100; or

(d) a decision of the Court of Appeal under Section 101,

Substituted by IT (Am) Act 2002

the Commissioner shall pay simple interest at a rate of two per cent per month for the period commencing on the date the person [paid the tax refunded] *made the application for refund* and ending on the last day of the month in which the refund is made.

(5) The Commissioner shall, within thirty days of making a decision on a refund application under subsection (1), serve on the person applying for the refund a notice in writing of the decision.

Substituted by IT (Am) Act 2002

(6) A person dissatisfied with a decision referred to in subsection [(6)] *(5)* may only challenge the decision under the objection and appeal procedure in this Act.

PART XII – PROCEDURE RELATING TO RENTAL TAX

114. Rental Tax

*Substituted by IT (Am) Act 2002 & **IT (Am) Act 2009***

(1) *An individual* [A resident individual] charged to tax under Section 5 shall furnish a return of [gross] rental income for each year of income not later than ***six*** [four] months after the end of that year.

(2) Sections 92, 94 to 110 and 113 apply, with the necessary changes made, to the tax imposed under Section 5.

Substituted by IT (Am) Act 2002

(3) For the avoidance of doubt, the Commissioner shall prescribe the form for return of [gross] rental income under this Section.

PART XIII – WITHHOLDING OF TAX AT THE SOURCE

115. Interpretation of Part XIII

In this Part –

(a) "payee" means a person receiving payments from which tax is required to be withheld under this Part; and

(b) "withholding agent" means a person obliged to withhold tax under this Part.

116. Withholding of Tax by Employers

(1) Every employer shall withhold tax from a payment of employment income to an employee as prescribed by regulations made under Section 164.

(2) The obligation of an employer to withhold tax under subsection (1) is not reduced or extinguished because the employer has a right, or is otherwise under an obligation, to deduct and withhold any other amount from such payments.

(3) The obligation of an employer to withhold tax under subsection (1) applies notwithstanding any other law which provides that the employment income of an employee shall not be reduced or subject to attachment.

117. Payment of Interest to Resident Persons

(1) Subject to subsection (2), a resident person who pays interest to another resident person shall withhold tax on the gross amount of the payment at the rate prescribed in Part V of the Third Schedule to this Act.

(2) This Section does not apply to –

(a) interest paid by a natural person;

Inserted by IT (Am) Act 2006

(b) interest*, other than interest from government securities,* paid to a financial institution;

(c) interest paid by a company to an associated company; or

(d) interest paid which is exempt from tax in the hands of the recipient.

(3) In this Section, "associated company", in relation to a company, in this subsection referred to as the "payer company", means –

(a) a company in which the payer company controls fifty per cent or more of the voting power in the company either directly or through one or more interposed companies;

(b) a company which controls fifty per cent or more of the voting power in the payer company either directly or through one or more interposed companies; or

(c) a company, in this subsection referred to as the "payee company", where another company controls fifty per cent of the voting power in the payee and payer companies either directly or through one or more interposed companies.

118. Payment of Dividends to Resident Shareholders

(1) A resident company which pays a dividend to a resident shareholder shall withhold tax on the gross amount of the payment at the rate prescribed in Part V of the Third Schedule to this Act.

(2) This Section does not apply where the dividend income is exempt from tax in the hands of the shareholder.

118A. Withholding Tax from Professional Fees

Inserted by IT (Am) Act 2002 And substituted by ***IT (Am) Act 2010*** *and IT (Am) Act 2013*

(1) A resident person who pays management ***or*** professional fees to a resident [professional] *person* shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule.

(2) This Section does not apply to a [professional] *resident person* who the Commissioner is satisfied has regularly complied with the obligations imposed on that person under this Act.

118B. Withholding of Tax by the Purchaser of an Asset

Inserted by IT (Am) Act 2013

A resident person who purchases an asset from a non-resident person shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule.

118C. Payments for winnings of sports betting or pool betting

Inserted by IT (Am) Act 2014

A person who makes payments for winnings of sports betting or pool betting shall withhold tax on the gross amount of the payment, at the rate prescribed in Part X of the Third Schedule to this Act.

118D Withholding Tax on Payments of Re-Insurance Premiums

Inserted by IT (Am) Act 2014

(1) A resident person who makes a payment of premium for re-insurance services to a non-resident person shall withhold tax on the gross amount of the payment at a rate prescribed in Part XI of the Third Schedule.

(2) Subsection (1) does not apply to re-insurance services provided by –

(a) Uganda Reinsurance Company Limited;

(b) African Reinsurance Corporation;

(c) PTA Reinsurance Company.

119. Payment for Goods and Services

(1) Where the Government of Uganda, a Government institution, a local authority, any company controlled by the Government of Uganda, or any person designated in a notice issued by the Minister, in this Section referred to as the "payer", pays an amount or amounts in aggregate exceeding one million shillings to any person in Uganda –

(a) for a supply of goods or materials of any kind; or

(b) for a supply of any services,

the payer shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule to this Act, and the payer shall issue a receipt to the payee.

(2) Where –

(a) there are separate supplies of goods or materials, or of services and each supply is made for an amount that is one million shillings or less; and

(b) it would reasonably be expected that the goods or materials, or services would ordinarily be supplied in a single supply for an amount exceeding one million shillings,

subsection (1) applies to each supply.

(3) Every person who imports goods into Uganda is liable to pay tax at the time of importation on the value of the goods at the rate prescribed in Part VIII of the Third Schedule to this Act.

(4) The value of goods under subsection (3) shall be the value of the goods ascertained for the purposes of customs duty under the laws relating to customs.

(5) This Section does not apply to –

Deleted by IT (Am) Act 2009 And substituted by IT (Am) Act 2010

(a) a supply or importation of petroleum or petroleum products, including furnace oil, [lubricants] other than *lubricants,* cosmetics and fabrics or yarn manufactured out of petroleum products;

a, b ,c ,d, g Repealed by IT (Am) Act 2015

(b) a supply or importation of plant and machinery;

(c) a supply or importation of human or animal drugs;

(d) a supply or importation of scholastic materials;

(e) importations by organisations within the definition of "exempt organisation" in Section 2(bb)(i)(B);

(f) a supplier or importer –

(i) who is exempt from tax under this Act; or

(ii) who the Commissioner is satisfied has regularly complied with the obligations imposed on the supplier or importer under this Act; or

Inserted by Finance Act 2001

(g) the supply or importation of raw materials.

Substituted by IT (Am) Act 2002

(6) The tax paid under subsections (1) and (3) is treated as tax withheld for the purposes of Section 128.

120. International Payments

(1) Any person making a payment of the kind referred to in Section 83 or 85 shall withhold from the payment the tax levied under the relevant Section.

(2) Any promoter, agent, or similar person –

(a) paying remuneration to a non-resident entertainer or sportsperson; or

(b) responsible for collecting the gross receipts from a performance in Uganda by a theatrical, musical, or other group of non-resident entertainers or sportspersons,

shall withhold from the remuneration or receipts the tax levied under Section 84.

(3) This Section does not apply where the payment is exempt from tax.

121. Non-Resident Services Contract

(1) Every person who enters into an agreement with a non-resident for the provision of services by the non-resident which services give rise to income sourced in Uganda shall, within thirty days of the date of entering into such agreement, notify the Commissioner in writing of –

(a) nature of such agreement;

(b) the likely duration of the agreement;

(c) the name and postal address of the non-resident person to whom payments under the agreement are to be made; and

(d) the total amount estimated to be payable under the agreement to the non-resident person.

(2) The Commissioner may, by notice in writing served on the person who has notified the Commissioner under subsection (1), require that person to withhold tax from any payment made under the agreement at the rate specified by the Commissioner in the notice.

(3) Substituted, (4) & (5) inserted by IT (Am) Act 2011

(3) *Subsection 2* does not apply to a contract to which Section 85 applies.

(4) A person who fails to notify the Commissioner in accordance with subsection (1) is personally liable to pay to the Commissioner the amount of tax that the non-resident is liable for on the income arising under the contract, but the person is entitled to recover this amount from the non-resident.

(5) The provisions of this Act relating to collection and recovery of tax apply to the liability imposed by subsection (1) as if it were tax.

122. Withholding as a Final Tax

Where –

*Inserted by IT (Am) Act 2006 and **substituted** by IT (Am) Act 1 2008*

(a) tax has been withheld under Section 117 on a payment of interest *on treasury bills **or other Government securities** by the Bank of Uganda to any person or* by a financial institution to a resident individual, other than in the capacity of trustee, resident retirement fund, or to an exempt organisation; or

(b) tax has been withheld under Section 118 on a payment of dividends to a resident individual;

the withholding tax is a final tax and –

(c) no further tax liability is imposed upon the taxpayer in respect of the income to which the tax relates;

(d) that income is not aggregated with the other income of the taxpayer for the purposes of ascertaining chargeable income;

Substituted by IT (Am) Act 2002

(e) no deduction is allowed for any expenditure or losses incurred in deriving the income; and

(f) no refund of tax shall be made in respect of the income.

123. Payment of Tax Withheld

(1) Subject to subsection (2), a withholding agent shall pay to the Commissioner any tax that has been withheld or that should have been withheld under this Part within fifteen days after the end of the month in which the payment subject to withholding tax was made by the withholding agent.

(2) Where a person withholds or should have withheld tax as required under Section 120(2), the tax shall be paid to the Commissioner within five days of the performance or by the day before the date the non-resident leaves Uganda, whichever is the earlier.

(3) The provisions of this Act relating to the collection and recovery of tax apply to any amount withheld under this Part as if it were tax.

124. Failure to Withhold Tax

(1) A withholding agent who fails to withhold tax in accordance with this Act is personally liable to pay to the Commissioner the amount of tax which has not been withheld, but the withholding agent is entitled to recover this amount from the payee.

(2) The provisions of this Act relating to the collection and recovery of tax apply to the liability imposed by subsection (1) as if it were tax.

125. Tax Credit Certificates

(1) Subject to subsection (3), a withholding agent shall deliver to the payee a tax credit certificate setting out the amount of payments made and tax withheld during a year of income.

(2) A payee who is required to furnish a return of income shall attach to the return the tax credit certificate or certificates supplied to the payee for the year of income for which the return is filed.

(3) A withholding agent shall at the end of each year of income deliver to the employee to which Section 4(4) applies a certificate setting out the amount of tax withheld during a year of income.

126. Record of Payments and Tax Withheld

(1) A withholding agent shall maintain, and keep available for inspection by the Commissioner, records showing, in relation to each year of income –

(a) payments made to a payee; and

(b) tax withheld from those payments.

(2) The records referred to in subsection (1) shall be kept by the withholding agent for five years of income after the end of the year of income to which the records relate.

(3) The Commissioner may call upon a withholding agent to allow an auditor to examine the agent's records to verify their accuracy against the agent's tax credit certificates.

127. Priority of Tax Withheld

(1) Tax withheld by a withholding agent under this Act –

(a) is held by the withholding agent in trust for the Government of Uganda; and

(b) is not subject to attachment in respect of a debt or liability of the withholding agent,

and in the event of the liquidation or bankruptcy of the withholding agent, an amount withheld under this Act does not form a part of the estate in liquidation, assignment, or

bankruptcy; and the Commissioner shall have a first claim before any distribution of property is made.

(2) Every amount which a withholding agent is required under this Act to withhold from a payment is –

(a) a first charge on that payment; and

(b) withheld prior to any other deduction which the withholding agent may be required to make by virtue of an order of any court or any other law.

128. Adjustment on Assessment and Withholding Agent's Indemnity

(1) The amount of tax withheld under this Part is treated as income derived by the payee at the time it was withheld.

(2) A withholding agent who has withheld tax under this Part and remitted the amount withheld to the Commissioner is treated as having paid the withheld amount to the payee for the purposes of any claim by that person for payment of the amount withheld.

(3) Tax withheld from a payment under this Part is deemed to have been paid by the payee and, except in the case of a tax that is a final tax under this Act, is credited against the tax assessed on the payee for the year of income in which the payment is made.

(4) Where the tax withheld under this Part for a year of income, together with any provisional tax paid under Section 111 for that year, exceeds the liability under an assessment of the taxpayer for that year, the excess shall be dealt with by the Commissioner in accordance with Section 113(3).

(5) Where a person who pays tax in accordance with Section 119(3) is an individual whose only source of income is employment income, the tax shall be refunded on application by that person in accordance with Section 113.

PART XIV – RECORDS AND INFORMATION COLLECTION

129. Accounts and Records

(1) Unless otherwise authorised by the Commissioner, a taxpayer shall maintain in Uganda such records as may be necessary to explain the information provided in a return or in any other document furnished in terms of Section 92 or to enable an accurate determination of the tax payable by the taxpayer.

(2) The Commissioner may disallow a claim for a deduction if the taxpayer is unable without reasonable excuse to produce a receipt or other record of the transaction, or to produce evidence relating to the circumstances giving rise to the claim for the deduction.

Inserted by IT (Am) Act 2002

(3) The record or evidence referred to in this Section shall be retained for five years *after the end of the year of income to which the record or evidence relates*.

130. Business Information Returns

Repealed by IT (Am) Act 2002

(1) Every person carrying on business in Uganda who makes a payment of income sourced in Uganda, being services income, [other than employment income,] interest, royalties, management fees, or other income specified by the Commissioner shall furnish a return of such payments, in this Section referred to as a "business information return", to the Commissioner within sixty days after the end of the year of income in which the payment was made.

(2) A business information return shall be in the form specified by the Commissioner and shall state the information required.

Inserted by IT (Am) Act 2013

(3) Subsection (1) does not apply to the payment of any income subject to withholding of tax at the source under Part XIII, *other than employment income.*

Inserted by IT (Am) Act 2013

(4) Despite subsection (1), a person required to withhold tax under section 116 shall furnish a withholding tax return for every month in the form specified by the Commissioner, not later than

fifteen days after the end of the month to which the withholding tax relates for all employees liable to tax.

131. Access to Books, Records, and Computers

(1) In order to enforce a provision of this Act, the Commissioner, or any officer authorised in writing by the Commissioner –

(a) shall have at all times and without any prior notice full and free access to any premises, place, book, record, or computer;

(b) may make an extract or copy from any book, record, or computer-stored information to which access is obtained under paragraph (a) of this subsection;

(c) may seize any book or record that, in the opinion of the Commissioner or the authorised officer, affords evidence which may be material in determining the liability of any person to tax, interest, penal tax, or penalty under this Act;

(d) may retain any such book or record for as long as it may be required for determining a person's tax liability or for any proceeding under this Act; and

(e) may, where a hard copy or computer disk of information stored on a computer is not provided, seize and retain the computer for as long as is necessary to copy the information required.

(2) No officer shall exercise the powers under subsection (1) without authorisation in writing from the Commissioner and the officer shall produce the authorisation to the occupier of the premises or place to which the exercise of powers relates.

(3) The occupier of the premises or place to which an exercise of power under subsection (1) relates shall provide all reasonable facilities and assistance for the effective exercise of the power.

(4) A person whose books, records, or computer have been removed and retained under subsection (1) may examine them and make

copies or extracts from them during regular office hours under such supervision as the Commissioner may determine.

(5) All records, books, or computers removed and retained under subsection (1) shall be signed for by the Commissioner or an authorised officer and the Commissioner shall return them to the owner.

(6) Where the records, books, or computers referred to in subsection (1) are lost or destroyed in the possession of the Commissioner, the Commissioner shall appropriately compensate the taxpayer for the loss or destruction.

(7) This Section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the production of, or access to documents.

(8) In this Section, "occupier" in relation to premises or a place means the owner, manager, or any other responsible person on the premises or place.

132. Notice to obtain Information or Evidence

(1) The Commissioner may, by notice in writing, require any person, whether or not liable for tax under this Act –

(a) to furnish, within the time specified in the notice, any information that may be required by the notice; or

(b) to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner or by an officer authorised by the Commissioner, concerning the tax affairs of that person or any other person and, for that purpose, the Commissioner or an authorised officer may require the person examined to produce any book, record, or computer-stored information in the control of the person.

(2) Where the notice requires the production of a book, record, or computer- stored information, it is sufficient if such book, record, or computer-stored information is described with reasonable certainty.

(3) A notice issued under this Section shall be served by, or at the direction of the Commissioner *through* a signed copy delivered by hand to the person to whom it is directed or left at the person's last *or* usual place of business or abode, and the certificate of service signed by the person *or his agent or an affidavit when the person to be served was not available to receive service* shall be evidence of the facts stated therein, *or publication as a last resort.*

Inserted by IT (Am) Act 2006

(4) Where the notice is not served personally on the person to whom it is directed, the service shall be witnessed by a member of the executive committee of the local council.

(5) This Section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the production of, or access to documents.

133. Books and Records not in the English Language

Where any book, record, or computer-stored information referred to in Sections 129, 131, or 132 is not in English, the Commissioner may, by notice in writing, require the person keeping the book, record, or computer-stored information to provide, at the person's expense, a translation into English by a translator approved by the Commissioner.

Tax Clearance Certificate

134. Tax Clearance Certificate

A taxpayer –

(a) providing a passenger transport service;

(b) providing a freight transport service where the goods vehicle used has a load capacity of more than 2 tonnes;

(c) supplying goods or services to the Government; or

(d) transferring funds in excess of 2500 currency points from Uganda to a place outside Uganda,

Inserted by IT (Am) Act 2015

(e) to whom paragraphs (a) and (b) apply shall be required to pay advance tax at the rates specified in Part III of the Second Schedule to this Act before renewal of operational licences.

shall obtain a tax clearance certificate from the Commissioner as provided for in regulations made under Section 164.

Taxpayer Identification Number

135. Taxpayer Identification Number

Substituted by IT (Am) Act 2011

(1) For purposes of identification of taxpayers, the Commissioner General shall issue a number to be known as a *taxpayer* identification number to every taxpayer.

(2) The Commissioner General may require a *person* to show *his or her taxpayer* identification number in any return, notice, or other document used for the purposes of this Act.

Inserted by IT (Am) Act 2015

(3) Every local authority, Government institution, or regulatory body shall require a taxpayer identification number from any person applying for a license or any form of authorization necessary for purposes of conducting any business in Uganda.

PART XV – OFFENCES AND PENALTIES

Interest

136. Interest on Unpaid Tax

(1) A person who fails –

(a) to pay any tax, including provisional tax;

(b) to pay any penal tax; or

(c) to pay to the Commissioner any tax withheld or required to be withheld by the person from a payment to another person,

on or before the due date for payment is liable for interest at a rate equal to two per cent per month on the amount unpaid

calculated from the date on which the payment was due until the date on which payment is made.

(2) Interest paid by a person under subsection (1) shall be refunded to the person to the extent that the tax to which the interest relates is found not to have been due and payable.

(3) Where good cause is shown, in writing, by the person liable for payment of interest, the Minister may, on the advice of the Commissioner, remit, in whole or in part, any interest charged under this Section.

(4) Interest charged in respect of a failure to comply with Section 123 is borne personally by the withholding agent and no part of it is recoverable from the person who received the payment from which tax was or should have been withheld under Part XIII which deals with withholding of tax.

(5) Interest charged under this Section shall be simple interest.

(6) The provisions of this Act relating to the collection and recovery of tax apply to any interest charged under this Section as if it were tax due.

Offences and Penalties

137. Failure to Furnish a Return

(1) A person who fails to furnish a return or any other document within fifteen days of being so required under this Act commits an offence and is liable on conviction to a fine not exceeding fifteen currency points.

(2) If a person convicted of an offence under subsection (1) fails to furnish the return or document to which the offence relates within the period specified by the Court, that person commits an offence and is liable on conviction to a fine not exceeding twenty currency points.

138. Failure to comply with Recovery Provision

(1) Any person who fails to comply with –

(a) any notice issued under Section 106; or

(b) the requirements of Section 109,

commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

(2) Where a person is convicted of an offence under subsection (1)(a), the court shall, in addition to imposing a penalty, order the convicted person to pay to the Commissioner the amount to which the failure relates.

(3) A person who notifies the Commissioner in writing under Section 106(4) is considered to be in compliance with any notice served on the person under Section 106(1) until the Commissioner serves the person with a notice under Section 106(5) amending the notice served under Section 106(1) or rejecting the person's notice under Section 106(4).

139. Failure to maintain Proper Records

A person who fails to maintain proper records under this Act commits an offence and is liable on conviction to –

(a) where the failure was deliberate, a fine of not less than fifteen currency points or to imprisonment for a term not exceeding one year; or

(b) in any other case, a fine not exceeding twenty five currency points.

140. Failure to comply with sections 121, 129, 130, 131, 132 and 133

Substituted by IT (Am) Act 2011 & 2014

A person who, without good cause, fails to comply with sections 121, 129, 130, 131, 132, or 133 commits an offence and is liable on conviction to pay a fine of one hundred currency points.

141. Improper use of Taxpayer Identification Number

Substituted by IT (Am) Act 2002

A person who knowingly or recklessly uses a false taxpayer identification number, including the taxpayer identification number of another person, on a return or document prescribed or used for purposes of this Act, commits an offence and is liable on conviction to a fine of not less than twenty-five currency points or to imprisonment for a term not exceeding one year, or to both.

142. Making False or Misleading Statements

(1) A person who –

(a) makes a statement to an officer of the Uganda Revenue Authority that is false or misleading in a material particular; or

(b) omits from a statement made to an officer of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular;

commits an offence and is liable on conviction to –

(c) where the statement or omission was made knowingly or recklessly, a fine of not less than twenty five currency points or to imprisonment for a term not exceeding one year, or to both; or

(d) in any other case, a fine not exceeding twenty five currency points.

(2) It is a defence for the accused person to prove that he or she did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

(3) A reference in this Section to a statement made to an officer of the Uganda Revenue Authority is a reference to a statement made in writing to that officer acting in the performance of his or her duties under this Act, and includes a statement made –

(a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, or furnished under this Act;

(b) in information required to be furnished under this Act;

(c) in a document furnished to an officer of the Uganda Revenue Authority otherwise than pursuant to this Act;

(d) in answer to a question asked of a person by an officer of the Uganda Revenue Authority; or

(e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to an officer of the Uganda Revenue Authority.

143. Obstructing an Officer of the Authority

A person who obstructs an officer of the Uganda Revenue Authority in the performance of duties under this Act commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

144. Aiding and Abetting

Substituted by IT (Am) Act 2002

Any person who aids and abets another person to commit an offence, under this Act, or counsels or induces another person to commit such an offence, commits an offence and is liable on conviction to a fine not exceeding twenty five currency points or to imprisonment for a term not exceeding one year, or to both.

145. Offences by and relating to Officers and Persons employed to carry out the Act; Penalties

(1) Any officer of the Uganda Revenue Authority or any person employed in carrying out the provisions of this Act who –

(a) directly or indirectly asks for, or takes in connection with any of the officer's duties, any payment or reward whatsoever, whether pecuniary or otherwise, or promise or security for

any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or

(b) enters into or acquiesces in any agreement to do or to abstain from doing, permit, conceal, or connive at any act or thing whereby the tax revenue is or may be defrauded or which is contrary to the provisions of this Act or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine not less than twenty-five currency points or to imprisonment for a term of not less than three months.

(2) Any person who –

(a) directly or indirectly offers or gives to any officer payment or reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or

(b) proposes or enters into any agreement with any officer in order to induce the officer to do or to abstain from doing, permit, conceal, or connive at any act or thing whereby tax revenue is or may be defrauded or which is contrary to the provisions of this Act or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine of not less than twenty five currency points or to imprisonment for a term of not less than three months.

(3) Notwithstanding subsection (1), an officer or person employed in carrying out the provisions of this Act who commits an act specified in subsection (1)(a) or (b), and who volunteers information to the Commissioner relating to that act shall –

(a) be exonerated from prosecution; and

(b) receive 20% of the fine that would be imposed on a person convicted of an offence under subsection (1).

(4) Notwithstanding subsection (2), a person who commits an act specified in subsection (2)(a) or (b), and who volunteers information to the Commissioner relating to that act shall -

(a) be exonerated from prosecution; and

(b) be liable to tax only to the extent agreed upon with the officer to whom the offence relates.

(5) An officer convicted of an offence under subsection (1) is, in addition to any penalty imposed under that Section, liable to pay the difference in tax between the tax due and the tax payable by a person under subsection (4)(b); and the amount due under this Section shall be deemed to be tax due from the officer under Section 104.

146. Offences by Companies

(1) Where an offence is committed by a company, every person who, at the time the offence was committed –

(a) was a nominated officer, director, general manager, secretary, or other similar officer of the company; or

(b) was acting or purporting to act in that capacity,

is, without prejudice to the liability of the company, deemed to have committed the offence.

(2) Subsection (1) does not apply where –

(a) the offence was committed without that person's consent or knowledge; and

(b) the person has exercised all diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

147. Officer may appear on behalf of the Commissioner

Notwithstanding anything contained in any written law, any officer duly authorised in writing by the Commissioner may appear in any court on behalf of the Commissioner in any proceedings in which the Commissioner is a party and, subject to the directions of the Attorney-General, that officer may conduct any prosecution for an offence under this Act and, for that purpose, shall have all the powers of a public prosecutor appointed under the Magistrates Courts Act.

148. Compounding Offences

(1) Where any person commits an offence under this Act other than an offence under Section 145, the Commissioner may, at any time prior to the commencement of court proceedings, compound the offence and order the person to pay a sum of money specified by the Commissioner, not exceeding the amount of the fine prescribed for the offence.

(2) The Commissioner shall only compound an offence under this Section if the person concerned admits in writing that the person has committed the offence.

(3) Where the Commissioner compounds an offence under this Section, the order referred to in subsection (1) –

(a) shall be in writing and specify the offence committed, the sum of money to be paid, and the due date for payment, and shall have attached to it the written admission referred to in subsection (2);

(b) shall be served on the person who committed the offence;

(c) shall be final and not subject to any appeal; and

(d) may be enforced in the same manner as a decree of any court for the payment of the amount stated in the order.

(4) Where the Commissioner compounds an offence under this Section, the person concerned shall not be liable for prosecution in respect of that offence or for penal tax.

149. Place of Trial

(1) Any person charged with committing an offence under this Act may be proceeded against, tried, and punished in any place in Uganda in which the person may be in custody for the offence as if the offence had been committed in that place, and the offence shall, for all purposes incidental to or consequential upon the prosecution, trial, or punishment of the offence, be deemed to have been committed in that place.

(2) Nothing in subsection (1) shall preclude the prosecution, trial, and punishment of a person in any place in which, but for this Section, the person might have been prosecuted, tried, and punished.

150. Tax charged to be paid notwithstanding Prosecution

The amount of any tax or interest due and payable under this Act shall not be abated by reason only of the conviction or punishment of the person liable for payment thereof for an offence under this Act or for the compounding of such offence under Section 148.

Penal Tax

151. Penal Tax for Failure to Furnish a Return of Income

Inserted by IT (Am) Act 2006

A person who fails to furnish a return of income for a year of income within the time required under this Act is liable to pay *a* penal tax equal to two per cent of the tax payable for that year *before subtracting any credit allowed to the taxpayer on his or her chargeable income or ten currency points* per month, whichever is the greater, for the period the return is outstanding.

152. Penal Tax in relation to Records

A person who deliberately fails to maintain proper records for a year in accordance with the requirements of this Act is liable to pay a penal tax equal to double the amount of tax payable by the person for the year.

153. Penal Tax in relation to False or Misleading Statements

(1) Where a person knowingly or recklessly –

(a) makes a statement to an officer of the Uganda Revenue Authority that is false or misleading in a material particular; or

(b) omits from a statement made to an officer of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular,

Substituted by IT (Am) Act 2002

and the tax properly payable by the person exceeds the tax that was assessed as payable based on the false or misleading *statement or omission*, that person is liable to pay a penal tax equal to double the amount of the excess.

Substituted by IT (Am) Act 2002

(2) Section 142(3) applies in determining whether a person has made a statement to an *officer* of the Uganda Revenue Authority.

154. Penal Tax for understating Provisional Tax Estimates

(1) A provisional taxpayer whose estimate or revised estimate of chargeable income for a year of income under Section 112 is less than ninety per cent of the taxpayer's actual chargeable income assessed for that year, is liable for penal tax equal to twenty per cent of the difference between the tax calculated in respect of the taxpayer's estimate, as revised, of chargeable income and the tax calculated in respect of ninety per cent of the taxpayer's actual chargeable income for the year of income.

(2) A provisional taxpayer whose estimate or revised estimate of gross turnover for a year of income under Section 112 is less than ninety per cent of the taxpayer's actual gross turnover for that year is liable for penal tax equal to twenty per cent of the difference between the tax calculated in respect of the taxpayer's estimate, as revised, of gross turnover and the tax calculated in respect of ninety per cent of the taxpayer's actual gross turnover for the year of income.

Inserted by IT (Am) Act 2003

(3) This Section does not apply to a taxpayer who is in the business of agricultural, plantation or horticultural farming.

155. Recovery of Penal Tax

(1) Liability for penal tax is calculated separately with respect to each Section dealing with penal tax.

(2) Subject to subsection (3), the imposition of penal tax is in addition to any interest imposed under Section 136 and any penalty imposed as a result of conviction of an offence.

(3) No penal tax is imposed on a person under Section 152 or 153 where the person has been convicted of an offence under Section 139 or 142 respectively for the same act or omission.

(4) If penal tax under Section 152 or 153 has been paid and the Commissioner institutes a prosecution proceeding under Section 139 or 142 respectively in respect of the same act or omission, the Commissioner shall refund the amount of penal tax paid; and that penal tax is not payable unless the prosecution is withdrawn.

(5) Penal tax as assessed by the Commissioner under Sections 151, 152, 153 and 154 shall be treated for all purposes as an assessment under this Act.

(6) Where good cause is shown, in writing, by the person liable to pay penal tax, the Minister may, on the advice of the Commissioner, remit, in whole or in part, any penal tax payable.

PART XVI – ADMINISTRATION

156. Delegation

The Commissioner may delegate to any officer of the Uganda Revenue Authority any duty, power, or function conferred or imposed on the Commissioner under this Act, other than the power to compound offences under Section 148 and the power to delegate conferred by this Section.

157. Official Secrecy

(1) Every person appointed under, or employed in carrying out the provisions of this Act shall regard and deal with all documents and information which may come to the person's possession or knowledge in connection with the performance of duties under this Act as secret and shall not disclose any information or document except in accordance with the provisions of this Act.

Substituted by IT (Am) Act 2002

(2) No person appointed under, or employed in carrying out the provisions of this Act, shall be required to produce any document or communicate any information in *a tribunal referred to in Section* 100(1)(b) or any court which has come into the person's possession or knowledge in connection with the performance *of duties* under this Act except as may be necessary for the purpose of carrying the provisions of this Act into effect.

(3) Nothing in this Section shall prevent the disclosure of information or documents to –

(a) the Minister or any other person where disclosure is necessary for the purposes of this Act or any other fiscal law;

(b) any person in the service of the Government in a revenue or statistical department where such disclosure is necessary for the performance of the person's official duties;

(c) the Auditor-General or any person authorised by the Auditor-General where such disclosure is necessary for the performance of official duties;

(d) the competent authority of the government of another country with which Uganda has entered into an agreement for the avoidance of double taxation or for the exchange of information, to the extent permitted under that agreement; or

Inserted by IT (Am) Act 2 2008

(e) the Minister responsible for petroleum exploration development and production or any person authorised by that Minister to the extent necessary, to ensure that amounts taken into account by a contractor for the purposes of this

Act are consistent with amounts taken into account for the purposes of a petroleum agreement.

(4) Any person receiving documents and information under subsection (2) or (3) is required to keep them secret under the provisions of this Section, except to the minimum extent necessary to achieve the purpose for which the disclosure is necessary.

(5) Documents and information obtained by the Commissioner in the performance of the Commissioner's duties and powers under this Act may be used by the Commissioner for the purposes of any other fiscal law administered by the Commissioner.

(6) Any person who contravenes this Section commits an offence and is liable on conviction to a fine not exceeding twenty-five currency points or to imprisonment for a term not exceeding one year, or to both.

Forms and Notices

158. Forms and Notices; Authentication of Documents

(1) Forms, notices, returns, statements, tables, and other documents required under this Act may be in such form as the Commissioner may determine for the efficient administration of this Act and publication of such documents in the *Gazette* shall not be required.

(2) The Commissioner shall make the documents referred to in subsection (1) available to the public at the Uganda Revenue Authority and at such other locations, or by mail, as the Commissioner may determine.

(3) A notice or other document issued, served, or given by the Commissioner under this Act is sufficiently authenticated if the name or title of the Commissioner, or authorised officer, is printed, stamped, or written on the notice or document.

158A. Use of Information Technology

Sections 158A – C Inserted by IT (Am) Act 2 2008

(1) Subject to such conditions as the Commissioner General shall prescribe, tax formalities or procedures may be carried out by use of information technology.

(2) A person who wishes to be registered as a user of a tax computerised system may apply in writing to the Commissioner General who may –

(a) grant the application subject to such conditions as he or she may impose; or

(b) reject the application.

(3) A person shall not access, transmit to or receive information from any tax computerised system unless that person is a registered user of the system.

158B. Cancellation of Registration

The Commissioner General may at any time cancel the registration of the user where he or she is satisfied that a person who is a user of a tax computerised system –

(a) has failed to comply with a condition of registration imposed by the Commissioner General under Section 158A(1);

(b) has failed to comply with or has acted in contravention of any condition under the regulations; or

(c) has been convicted of an offence under this Act relating to improper access to or interference with a computerised tax system.

158C. Offences

(1) A person commits an offence where he or she –

(a) knowingly and without lawful authority, by any means gains access to or attempts to gain access to any tax computerised system;

(b) having lawful access to any tax computerised system, knowingly uses or discloses information obtained from a computer system for a purpose that is not authorised; or

(c) knowing that he or she is not authorised to do so, receives information obtained from any tax computerised system and uses, discloses, publishes or otherwise disseminates such information.

(2) A person who commits an offence under subsection (1) is liable on conviction-

(a) in the case of an individual, to imprisonment not exceeding two years or a fine not exceeding five hundred thousand shillings or both; or

(b) in the case of a body corporate, to a fine not exceeding two million five hundred thousand shillings

(3) A person commits an offence where he or she knowingly –

(a) falsifies any record or information stored in any tax computerised system;

(b) damages or impairs any tax computerised system; or

(c) damages or impairs any duplicate tape or disc or other medium on which any information obtained from the tax computerised system is held or stored otherwise than with the permission of the Commissioner General,

and is liable on conviction to imprisonment not exceeding three years or a fine not exceeding one million shillings or both.

159. Service of Notices and other Documents

Unless otherwise provided in this Act, a notice or other document required or authorised by this Act to be served –

(a) on a person being a resident individual other than in a representative capacity, is considered sufficiently served if –

(i) personally served on that person;

(ii) left at the person's usual or last known place of abode, office, or place of business in Uganda and the service witnessed by a member of the executive committee of the local council; or

(iii) sent by post to such place of abode, office, or place of business, or to the person's usual or last known address in Uganda; or

(b) on any other person, is considered sufficiently served if –

(i) personally served on the nominated officer of the person;

(ii) left at the registered office of the person or the person's address for service of notices under this Act; or

(iii) left at or sent by post to any office or place of business of the person in Uganda.

Rulings

160. Practice Notes

(1) To achieve consistency in the administration of this Act and to provide guidance to taxpayers and officers of the Uganda Revenue Authority, the Commissioner may issue Practice Notes setting out the Commissioner's interpretation of this Act.

(2) A Practice Note is binding on the Commissioner until revoked.

(3) A Practice Note is not binding on a taxpayer.

161. Private Rulings

(1) The Commissioner may, upon application in writing by a taxpayer, issue to the taxpayer a private ruling setting out the Commissioner's position regarding the application of this Act to a transaction proposed or entered into by the taxpayer.

(2) Where the taxpayer has made a full and true disclosure of the nature of all aspects of the transaction relevant to the ruling and the transaction has proceeded in all material respects as described in the taxpayer's application for the ruling, the ruling shall be binding on the Commissioner with respect to the application to the transaction of the law as it stood at the time the ruling was issued.

(3) Where there is any inconsistency between a Practice Note and a private ruling, priority is given to the terms of the private ruling.

Remission of Tax

162. Remission of Tax

(1) Where the Commissioner is of an opinion that the whole or any part of the tax due under this Act by a taxpayer cannot be effectively recovered by reason of –

(a) considerations of hardship; or

(b) impossibility, undue difficulty, or the excessive cost of recovery,

the Commissioner may refer the taxpayer's case to the Minister.

(2) Where a taxpayer's case has been referred to the Minister under subsection (1) and the Minister is satisfied that the tax due cannot be effectively recovered, the Minister may remit in whole or in part the tax due by the taxpayer.

PART XVIII - MISCELLANEOUS

163. Interpretation of Part XVII

In this Part, "repealed legislation" means the Income Tax Decree, 1974, amendments to it and subsidiary legislation made under it and Section 25 of the Investment Code, 1991.

164. Regulations

(1) The Minister may, by statutory instrument, make regulations for better carrying into effect the purposes of this Act.

(2) Without prejudice to the general effect of subsection (1), regulations made under that subsection may –

(a) contain provisions of a saving or transitional nature consequent on the making of this Act; or

(b) prescribe penalties for the contravention of the regulations not exceeding a fine of twenty five currency points or imprisonment not exceeding six months or both, and may prescribe, in the case of continuing offences, an additional fine not exceeding five currency points in respect of each day on which the offence continues.

165. Amendment of Monetary Amounts and Schedules

The Minister may, with the approval of Parliament, by statutory instrument, amend

(a) any monetary amount set out in this Act; or

(b) the Schedules.

166. Transitional

(1) The repealed legislation continues to apply to years of income prior to the year of income in which this Act comes into force.

(2) All appointments made under the repealed legislation and subsisting at the date of commencement of this Act are deemed to be appointments made under this Act.

(3) Any arrangement between the Government of Uganda and the Government of a foreign country with a view to affording relief from double taxation made under Section 47 of the Income Tax Decree 1974 or its predecessor and which is still in force at 1st July 1997 continues to have effect under this Act.

(4) All forms and documents used in relation to the repealed legislation may continue to be used under this Act, and all references in those forms and documents to provisions of, and expressions appropriate to, the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.

(5) A reference in this Act to a previous year of income includes, where the context requires, a reference to a year of income under the repealed legislation.

(6) Section 3(1)(d) of the Income Tax Decree 1974 continues to apply to an amount referred to in Section 21(1)(h) of this Act if the payer of the alimony, allowance, or maintenance has obtained a deduction for the payment under the Income Tax Decree 1974 prior to the commencement of this Act.

(7) Section 18(1)(a) and 22(1)(b) do not apply to business assets of a capital nature disposed of before 1st April 1998 or to business debts of a capital nature cancelled or satisfied before 1st April 1998.

(8) Where, as a result of the application of this Act, a gain or loss on realisation of a liability is subject to tax being a gain or loss which would not otherwise have been subject to tax, the value of the liability on 31st March 1998 shall be used in the calculation of any income or deduction as from that date.

(9) Subject to subsection (10) and (11), where, as a result of the application of this Act, a gain or loss on disposal of an asset is subject to tax being a gain or loss that would not otherwise have been subject to tax, the cost base of the asset is calculated on the

basis that each item of cost or expense included in the cost base and which was incurred prior to that date is determined according to the following formula -

$$\mathbf{CB} \times \frac{\mathbf{CPID}}{\mathbf{CPIA}}$$

where –

Substituted by IT (Am) Act 2002

CB is the amount of an item of cost or expense incurred on or before *31st March 1998* included in the cost base of the asset;

CPID is the Consumer Price Index number published for the month ending on *31st March 1998*; and

CPIA is the Consumer Price Index number published for the month immediately prior to the date on which the relevant item of cost or expense was incurred.

(10) Where the taxpayer is able to substantiate the market value of an asset on 31st March 1998, the taxpayer may substitute that value for the cost base determined under subsection (9).

(11) Where the asset referred to in subsection (10) is immovable property, the cost base of the property as at 31st March 1998 is equal to the market value of the property as determined by the Chief Government Valuer.

(12) Section 27(4)(b) shall apply to depreciable assets acquired by a taxpayer before 1st July 1997 and held by the taxpayer at that date on the basis that the cost base of the asset is the cost of the asset less any depreciation deductions allowed under the repealed legislation in respect of that cost.

Substituted by IT (Am) Act 2002

(13) For the purposes of Section 29(6), the "residue of expenditure" of an industrial building at 30th June 1997, shall be the residue of expenditure as determined under the Income Tax Decree 1974, at that date.

(14) The amount of a deduction allowed to a taxpayer under Section 38 for the year of income commencing on 1st July 1997, shall be determined under Section 14(4) of the Income Tax Decree 1974.

(15) The amount of a deduction allowed under Sections 30 and 31 in respect of start-up costs incurred or intangible assets acquired before this Act comes into force shall be calculated on the assumption that those Sections had always applied.

(16) For the purpose of applying subsections (7) to (14) to a taxpayer permitted to use a substituted year of income for the first year of income under this Act -

(a) the reference in those subsections to 31st March 1998 is treated as a reference to the day immediately preceding the commencement of the first year of income of the taxpayer under this Act; and

(b) the reference in those subsections to 1st April 1998 is treated as a reference to the first day of the first year of income of the taxpayer under this Act.

(17) A taxpayer entitled to use a substituted year of income under the Income Tax Decree 1974 is permitted to continue to use that period as the taxpayer's substituted year of income under this Act until the Commissioner decides otherwise by notice in writing to the taxpayer.

(18) Where a taxpayer subject to tax under this Act but who was not subject to tax under the Income Tax Decree 1974 is entitled to use a substituted year of income, the taxpayer is treated for the purposes of Section 39(6) of this Act as having a transitional year of income for the period 1st July 1997, to the end of the day immediately preceding the start of the first substituted year of income after that date.

Substituted by IT (Am) Act 2002

(19) Finance leases, as defined in Section 59 of this Act, entered into before 1st July 1997 shall be dealt with in terms of the Income Tax Decree, 1974.

(20) A reference in Section 62 to a previously deducted expenditure, loss or bad debt includes a reference to an expenditure, loss or bad debt deducted under the repealed legislation.

(21) Notwithstanding the repeal of Section 25 of the Investment Code 1991, the holder of a certificate of incentives which is valid at the commencement of this Act may make an election in writing to the Commissioner by 31st December 1997 for the exemption from tax on corporate profits and the exemption from withholding tax paid on dividends and interest paid to resident persons as provided under Section 25 of the Investment Code 1991 to continue until the exemption expires in accordance with that Section, as if that Section had not been repealed.

(22) Notwithstanding the exemption referred to in subsection (21), a holder of a certificate of incentives validly in force at 30th June 1997, and who has made an election under subsection (21) shall furnish a return of income in accordance with Section 92 prepared on the basis that the holder is not exempt from tax for each year of income for which the exemption applies under this Act.

(23) Where an exemption referred to in subsection (21) expires, the following provisions apply to the holder of the certificate of incentives –

Substituted by IT (Am) Act 2002

(a) subsections *(7) to (10)* apply to the person on the basis that the reference in those subsections to 31st March 1998 is treated as a reference to the day on which the exemption expired;

(b) the amount of the deduction allowed under Sections 27, 29, 30 and 31 in respect of depreciable assets, industrial buildings, or intangible assets acquired, or start-up costs incurred, before the exemption expired shall be calculated on the assumption that those Sections had always applied; and

(c) the amount of any assessed loss to be deducted in the first year of income after the exemption has expired is calculated on the basis that this Act and its predecessor has always applied to the person.

(24) Notwithstanding the repeal of Section 25 of the Investment Code 1991, and without prejudice to other relevant provisions of this Section, an investor who, immediately before the commencement of this Act, holds a valid investment licence under the Investment Code 1991, and who but for this Act would be eligible for the grant of a certificate of incentives and whose application had been approved for a certificate of incentives shall be issued with the certificate in accordance with the Investment Code 1991, as if Section 25 of the Code had not been repealed.

(25) Where a person, but for the repeal of Section 25 of the Investment Code 1991, would have been issued with a certificate of incentives under the Investment Code 1991, and the person had placed an item of eligible property, as defined in Section 28(3) into service during the year of income immediately preceding the person's first year of income under this Act, the person shall be treated as having placed the item of eligible property into service during the person's first year of income under this Act.

(26) Subject to subsection (27), where the income of a person is wholly or partly exempt from tax under -

(a) a notice published in the *Gazette* under Section 12(2) of the Income Tax Decree 1974; or

(b) a provision in any agreement

the notice or provision shall have no effect under this Act unless the Minister has concurred in writing by 31st December 1997 with the exemption provided for in the notice or provision.

(27) Subsection (26) does not apply where the exemption is provided for in an agreement between the Government of Uganda and a foreign government or the United Nations or a specialised agency of the United Nations.

SCHEDULES

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FIRST SCHEDULE

S.2

Listed Institutions

African Development Bank

African Development Fund

Aga Khan Foundation

Inserted by IT (Am) Act 2012

Austrian Development Agency (ADA)

Belgian Technical Cooperation (BTC)

Danish International Development Agency (DANIDA)

Department for International Development (DFID)

Deutsche Gesellschaft fur Internationale Zusammenarbeit (GIZ)

East African Development Bank

Eastern and Southern African Trade and Development Bank

European Development Fund

European Investment Bank

European Union

Food and Agriculture Organisation

Inserted by IT (Am) Act 2012

French Development Agency (AFD)

Inserted by IT (Am) Act 2015

Global Fund for AIDS, Malaria and Tuberculosis

Inserted by IT (Am) Act 2012

Icelandic International Development Agency (ICEADA)

International Bank for Reconstruction and Development

International Civil Aviation Organisation

International Development Association

International Finance Corporation

International Labour Organisation

International Monetary Fund

International Telecommunications Union

Inserted by IT (Am) Act 2012

Japan International Cooperation Agency (JICA)

Korea International Cooperation Agency (KOICA)
Kreditanstalt fur Wiederaufbau (KFW)

Norwegian Agency for Development Cooperation (NORAD)

Swedish International Development Agency (SIDA)

United Nations related Agencies and Specialised Agencies

SECOND SCHEDULE

S.4

Small Business Taxpayers Tax Rates

Part I

1. The amount of tax payable for purposes of Section 4(5) is –

Substituted by IT (Am) Act 2003, 2014 & 2015

GROSS TURNOVER	TAX
Where the gross turnover of the taxpayer exceeds Shs.50 million but does not exceed shs.75 million per annum.	Shs.937,500 or 1.5% of the gross turnover, whichever is lower
Where the gross turnover of the taxpayer exceeds Shs.75 million but does not exceed Shs.100 million per annum	Shs.1,312,500 or 1.5% of the gross turnover, whichever is lower
Where the gross turnover of the taxpayer exceeds Shs.100 million but does not exceed Shs.125 million per annum.	Shs.1,687,500 or 1.5% of the gross turnover, whichever is lower
Where the gross turnover of the taxpayer exceeds Shs.125 million but does not exceed Shs.150 million per annum.	Shs.2,062,500 or 1.5% of the gross turnover, whichever is lower

2. The tax payable by a taxpayer under Section 4(5) is reduced by –

   (a) any credit allowed under Section 128(3) for withholding tax paid in respect of amounts included in the gross turnover of the taxpayer; or

(b) any credit allowed under Section 111(8) for provisional tax paid in respect of amounts included in the gross turnover of the taxpayer.

Part II & III Inserted by IT (Am) Act 2015

Part II

1. The amount of tax payable for purposes of section 4(5) where the gross turnover is less than fifty million shillings is –

(i) Kampala City and Divisions of Kampala

BUSINESS TRADE	*With turnover between shs.35m - 50m*	*With turnover between shs.20m – 35m*	*With turnover between 10m -20m*
General Trade	500,000	400,000	250,000
Carpentry/ Metal	500,000	400,000	250,000
Garages (Motor	550,000	450,000	300,000
Hair and Beauty/	550,000	400,000	300,000
Restaurants or Bars	550,000	450,000	300,000
Clinics	550,000	450,000	300,000
Drug Shops	500,000	350,000	100,000
Others	450,000	300,000	200,000

(ii) Municipalities

BUSINESS TRADE	*With turnover between shs.35m - 50m*	*With turnover between shs.20m – 35m*	*With turnover between 10m -20m*
General Trade	400,000	300,000	150,000
Carpentry/ Metal	400,000	300,000	150,000
Garages (Motor	450,000	350,000	200,000
Hair and Beauty/	450,000	350,000	200,000
Restaurants or Bars	450,000	350,000	200,000
Clinics	450,000	350,000	200,000
Drug Shops	400,000	300,000	150,000
Others	400,000	350,000	150,000

(iii) Towns and Trading Centres

BUSINESS TRADE	*With turnover between shs.35m - 50m*	*With turnover between shs.20m – 35m*	*With turnover between 10m -20m*
General Trade	300,000	200,000	100,000
Carpentry/ Metal	300,000	200,000	100,000
Garages (Motor	350,000	250,000	100,000
Hair and Beauty/	350,000	250,000	100,000
Restaurants or Bars	350,000	250,000	100,000
Clinics	350,000	250,000	100,000
Drug Shops	300,000	200,000	100,000
Others	300,000	250,000	100,000

Part III

The rate of advance tax under section 134(e) shall be –

(a) for goods vehicles: fifty thousand shillings per ton per year;

(b) for passenger service vehicles: twenty thousand shillings per passenger per year.

THIRD SCHEDULE

Ss.6, 7, 8, 83, 84, 85, 86, 117, 118,119

Rates of Tax

s.6 (1)

Part I

Income Tax Rates for Individuals

1. The income tax rates applicable to resident individuals are –

Substituted by IT (Am) Act 2012
NB: *Monthly (pm) values my addition.*

CHARGEABLE INCOME	RATE OF TAX
Not exceeding Ushs.2,820,000 *(235,000 pm)*	Nil
Exceeding Ushs.2,820,000 *(235,000 pm)* but not exceeding Ushs.4,020,000 *(335,000 pm)*	10% of the amount by which Chargeable income exceeds Ushs.2,820,000 *(235,000 pm).*
Exceeding Ushs. 4,020,000 *(335,000 pm)* but not exceeding Ushs.4,920,000 *(410,000 pm)*	UShs.120,000 *(10,000 pm)* plus 20% of the amount by which chargeable income exceeds Ushs.4,020,000 *(335,000 pm).*
Exceeding Ushs.4,920,000 *(410,000 pm)*	(a) UShs.300,000 *(25,000 pm)* plus 30% of the amount by which chargeable income exceeds Ushs.4,920,000 *(410,000 pm)*; and (b) Where the chargeable income of an individual exceeds Ushs.120,000,000 *(10,000,000 pm)* an additional 10% charged on the amount by which chargeable income exceeds Ushs.120,000,000 *(10,000,000 pm).*

2. The income tax rates applicable to non-resident individuals are-

Substituted by IT (Am) Act 2012
NB: *Monthly (pm) values my addition.*

CHARGEABLE INCOME	RATE OF TAX
Not exceeding Ushs. 4,020,000 *(335,000 pm)*	10%
Exceeding Ushs. 4,020,000 *(335,000 pm)* but not exceeding Ushs. 4,920,000 *(410,000 pm)*	Ushs.402,000 *(33,500 pm)* plus 20% of the amount by which chargeable income exceeds Ushs.4,020,000 *(335,000 pm)*.
Exceeding Ushs. 4,920,000 *(410,000 pm)*	(a) Ushs.582,000 *(48,500 pm)* plus 30% of the amount by which chargeable income exceeds Ushs. 4,920,000 *(410,000 pm)*; and (b) Where the chargeable income of an individual exceeds shs.120,000,000 *(10,000,000 pm)* an additional 10% charged on the amount by which chargeable income exceeds Ushs.120,000,000 *(10,000,000 pm)*.

S.7

Part II

Income Tax Rate for Companies

1. The income tax rate applicable to companies, other than mining companies, for the purposes of Section 7 is 30%.

2. Subject to paragraphs 3 and 4, the income tax rate applicable to mining companies is calculated according to the following formula –

$$70 - 1500/X$$

where **X** is the number of the percentage points represented by the ration of the chargeable income of the mining company for

the year of income to the gross revenue of the company for that year.

3. If the rate of tax calculated under paragraph 2 exceeds 45%, then the rate of tax shall be 45%.

4. If the rate of tax calculated under paragraph 2 is less than 25%, then the rate of tax shall be 25%.

5. In this Part –

   (a) "gross revenue", in relation to a mining company for a year of income, means –

      (i) the amount shown in the recognised accounts of the company as the gross proceeds derived in carrying on of mining operations during the year of income, including the gross proceeds arising from the disposal of trading stock, without deduction for expenditures or losses incurred in deriving that amount; and

      (ii) the amount, if any, shown in the recognised accounts of the taxpayer as the amount by which the sum of the gains derived by the taxpayer during the year of income from the disposal of business assets used or held ready for use in mining operations, other than trading stock, exceeds the sum of losses incurred by the taxpayer during the year in respect of the disposal of such assets; and

   (b) "mining company" means a company carrying on any mining operations in Uganda.

S.8

Part III

Income Tax Rate for Trustees and Retirement Funds

The income tax rate applicable to trustees and retirement funds for the purposes of Section 8 is 30%.

Ss.82, 83, 84 & 85

Part IV

Income Tax Rate for Non-Resident Persons

Inserted by IT (Am) Act 2013

1. The income tax rate applicable to a non-resident person under Section 82, 83, 84 or 85 *excluding interest on government securities* is 15 per cent.

2. *The* withholding *tax applicable for interest payments on government securities to a non-resident person under section 83 is 20 per cent;*

Ss.117 & 118

Part V

Withholding Tax rate for Interest and Dividends for Resident Persons

Inserted by IT (Am) Act 2012

1. The withholding tax rate applicable for interest and dividend payments to a resident person under Sections 117 and 118, *excluding interest on government securities,* is 15%.

Inserted by IT (Am) Act 2006

2. The withholding tax rate applicable for dividend payments from companies listed on the stock exchange to individuals under Section 118 is 10%.

Inserted by IT (Am) Act 2012

3. The withholding tax rate applicable for interest payments on government securities to a resident person under section 117 is 20%.

Sec.6 (2)

Part VI

Rate of Rental Tax

Substituted by IT (Am) Act 2012

The rate of tax applicable to an individual for the purposes of Section 6(2) is 20% of the chargeable income in excess of *shs.2,820,000* [1,560,000].

S.86 (2)

Part VII

Rate of Tax applicable to Shipping and Aircraft Income

The rate of tax applicable to shipping and aircraft income under Section 86(2) is 2%.

Ss.118A, 118B & 119

Part VIII

Withholding Tax Rate for Goods and Services Transactions

Substituted by IT (Am) Act 2005 & IT (Am) Act 2013

1. The withholding tax rate applicable for goods and services transactions and for imported goods under *Sections 118A and* 119 *is* ***6%.***

2. *The* withholding *tax rate for purposes of section 118B is 10% of the gross payment".*

S.89B, 89G, 89GG

Part IX

Parts IX, IXA & IXB Inserted by IT (Am) Act 2010 W.E.F 7/97 Substituted by IT (Am) Act 2015

Tax Rates for Licensees and Contractors

1. The income tax rate applicable to a licensee under section 89B is 30%.

2. The income tax rate applicable to a licensee under section 89G is 30%.

3. The rate of non-resident contractor tax under section 89GG is 10%";

   [The income tax rate applicable to contractors under section 89B is 30%.]

S.89H (1)

Part IXA

Income Tax Rate for Resident Contractors

The income tax rate payable on a participation dividend paid by a resident contractor to a non-resident company is 15%.

S.89H (2)

Part IXB

Income Tax Rate for Non-Resident Subcontractors

The income tax rate payable by a non-resident subcontractor deriving income under a Uganda sourced services contract is 15%.

S.118C

Part X

Withholding tax rate for winnings from sports betting and pool betting

Inserted by IT (Am) Act 2014

The withholding tax rate applicable to winnings from sports betting and pool betting is 15%.

S.118D

Part XI

Withholding tax on payments of re-insurance premiums

Inserted by IT (Am) Act 2014
Substituted by IT (Am) Act 2015

The withholding tax rate for purposes of section 118D is 10% [15%]

FOURTH SCHEDULE

S.16

Chargeable Income arising from short-term Insurance Business

1. The chargeable income of a resident person for a year of income arising from the carrying on of a short-term insurance business is determined according to the following formula –

A – B

where –

A is the total income derived by the resident person for the year of income in carrying on a short-term insurance business as determined under paragraph 2; and

B is the total deduction allowed for the year of income in the production of income referred to in A as determined under paragraph 3.

2. The total income derived by a resident person for a year of income in carrying on a short-term insurance business is the sum of –

(a) the amount of the gross premiums, including premiums on reinsurance, derived by the person during the year of income in carrying on such a business in respect of the insurance of any risk, other than premiums returned to the insured;

Substituted by IT (Am) Act 2002

(b) the amount of any other income derived by the person during the year of income in carrying on such a business, including any commission or expense allowance derived from reinsurers, any income derived from investments held in connection with *such a business and any gains* derived on disposal of assets of the business; and

(c) the amount of any reserve deducted in the previous year of income under paragraph 3(d).

3. The total deduction allowed for a year of income in the production of income from the carrying on of a short-term insurance business is the sum of –

   (a) the amount of the claims admitted during the year of income in the carrying on of such a business, less any amount recovered or recoverable under any contract of reinsurance, guarantee, security or indemnity;

   (b) the amount of agency expenses incurred during the year of income in the carrying on of such a business;

   (c) the amount of expenditures and losses incurred by the person during the year of income in carrying on that business which are allowable as a deduction under this Act, other than expenditures or losses referred to in paragraphs (a) and (b); and

   (d) the amount of a reserve for unexpired risks referable to such a business at the percentage adopted by the company at the end of the year of income.

4. Where, for any year of total income, the total deduction allowed to a person under paragraph 3 exceeds the income derived by the person as determined under paragraph 2, the excess may not be deducted against any other income of the person for the year of income, but shall be carried forward and deducted in determining the chargeable income of the person arising from the carrying on of a short-term insurance business in the next year of income.

5. The chargeable income of a non-resident person for a year of income arising from the carrying on of a short-term insurance business in Uganda is determined according to the following formula –

$$\mathbf{A - B}$$

where –

A is the total income derived by the person for the year of income in carrying on a short-term insurance business as determined under paragraph 6; and

B is the total deduction allowed for the year of income in the production of income referred to in A as determined under paragraph 7.

6. The total income derived by a non-resident person for a year of income in carrying on a short-term insurance business in Uganda is the sum of –

   (a) the amount of the gross premiums, including premiums on reinsurance, derived by the person during the year of income in carrying on such a business in respect of the insurance of any risk in Uganda, other than premiums returned to the insured;

   (b) the amount of any other income derived by the person during the year of income in carrying on such a business in Uganda including –

      (i) any commission or expense allowance derived from reinsurance of risks accepted in Uganda;

      (ii) any income derived from investment of the reserves referable to such business carried on in Uganda; and

      (iii) any gains derived on disposal of assets of the business, and

   (c) the amount of any reserve deducted in the previous year of income under paragraph 7(d).

7. The total deduction allowed for a year of income in the production of income from the carrying on of a short-term insurance business in Uganda by a non-resident person is the sum of –

   (a) the amount of the claims admitted during the year of income in the carrying on of such a business, less any amount recovered or recoverable under any contract of reinsurance, guarantee, security or indemnity;

   (b) the amount of agency expenses incurred during the year of income in the carrying on of such a business;

(c) the amount of expenditures and losses incurred by the person during the year of income in carrying on that business which are allowable as a deduction under this Act, other than expenditures or losses referred to in paragraphs (a) and (b); and

(d) the amount of a reserve for unexpired risks in Uganda referable to such a business at the percentage adopted by the company at the end of the year of income.

8. Where, for any year of total income, the total deduction allowed to a person under paragraph 7 exceeds the income derived by the person as determined under paragraph 6, the excess may not be deducted against any other income of the person for the year of income, but shall be carried forward and deducted in determining the chargeable income of the person arising from the carrying on of a short-term insurance business in Uganda in the next year of income.

FIFTH SCHEDULE

S.19 (3)

Valuation of Benefits

1. The valuation of benefits for the purposes of Section 19(3) of this Act shall be determined in accordance with this schedule.

2. For the purposes of this Schedule, a benefit provided by an employer to an employee means a benefit that –

   (a) is provided by an employer, or by a third party under an arrangement with the employer or an associate of the employer;

   (b) is provided to an employee or to an associate of an employee; and

   (c) is provided in respect of past, present or prospective employment.

3. Where a benefit provided by an employer to an employee consists of the use, or availability for use, of a motor vehicle wholly or partly for the private purposes of the employee, the value of the benefit is calculated according to the following formula –

$$(20\% \times A \times B/C) - D$$

where –

A is the market value of the motor vehicle at the time when it was first provided for the private use of the employee;

B is the number of days in the year of income during which the motor vehicle was used or available for use for private purposes by the employee for all or a part of the day;

C is the number of days in the year of income; and

D is any payment made by the employee for the benefit.

4. Where a benefit provided by an employer to an employee consists of the provision of a housekeeper, chauffeur, gardener or other domestic assistant, the value of the benefit is the total employment income paid to the domestic assistant in respect of services rendered to the employee, reduced by any payment made by the employee for the benefit.

5. Where a benefit provided by an employer to an employee consists of the provision of any meal, refreshment or entertainment, the value of the benefit is the cost to the employer of providing the meal, refreshment or entertainment, reduced by any consideration paid by the employee for the meal, refreshment or entertainment.

6. Where a benefit provided by an employer to an employee consists of the provision of utilities in respect of the employee's place of residence, the value of the benefit is the cost to the employer of providing the utilities reduced by any consideration paid by the employee for the utilities.

7. Where a benefit provided by an employer to an employee consists of a loan or loans in total exceeding one million shillings at a rate of interest below the statutory rate, the value of the benefit is the difference between the interest paid during the year of income, if any, and the interest which would have been paid if the loan had been made at the statutory rate for the year of income.

8. Where a benefit provided by an employer to an employee consists of a waiver by an employer of an obligation of the employee to pay or repay an amount owing to the employer or to any other person, the value of the benefit is the amount waived.

Substituted by IT (Am) Act 2002

9. Where a benefit provided by an employer to an employee consists of the transfer or use of property or the provision of services, the value of the benefit is the market value of the *property or services at the time the benefit is provided*, reduced by any payment made by the employee for the benefit.

10. Where a benefit provided by an employer to an employee consists of the provision of accommodation or housing, other than where Section 19(1)(a) or (c) applies, the value of the benefit is the lesser of –

(a) the market rent of the accommodation or housing reduced by any payment made by the employee for the benefit; or

(b) 15% of the employment income, including the amount referred to in paragraph (a), paid by the employer to the employee for the year of income in which the accommodation or housing was provided.

Substituted by IT (Am) Act 2002

11. The value of any benefit provided by an employer to an employee which is not covered by the above clauses is the market value of the *benefits, at the time the benefit is reduced* by any payment made by the employee for the benefit.

12. Paragraph 11 does not apply to any benefit expressly covered by Section 19(1)(a) or (c) to (h).

13. In this Schedule, "statutory rate", in relation to a year of income, means the Bank of Uganda discount rate at the commencement of the year of income.

SIXTH SCHEDULE

Ss.27, 28, 29

Depreciation Rates and Vehicle Depreciation Ceiling

Part I

Declining Balance Depreciation Rates for Depreciable Assets

Substituted by IT (Am) Act 2002

CLASS	ASSETS INCLUDED	RATE
1	Computers and data handling equipment	40%
2	Automobiles; buses and mini-buses with a seating capacity of less than 30 passengers; goods vehicles with a load capacity of less than 7 tonnes; construction and earth moving equipment.	35%
3	Buses with a seating capacity of 30 or more passengers; goods vehicles designed to carry or pull loads of *7 tonnes or more;* specialised trucks; tractors; trailers and trailer-mounted containers; plant and machinery used in farming, manufacturing or mining operations.	30%
4	Rail cars, locomotives and equipment; vessels, barges, tugs and similar water transportation equipment; aircraft; specialised public utility plant, equipment and machinery; office furniture, fixtures and equipment; any depreciable asset not included in another class.	20%

Part II

Vehicle Depreciation Ceiling

Substituted by IT (Am) Act 2009

The amount for the purposes of Section 27(11) is *shs. 60,000,000* [30,000,000]

Part III

Straight-line Depreciation Rate for Industrial Buildings

The depreciation rate for the purposes of Section 29 is 5%.

Part IV

Prescribed Areas

The following areas are prescribed for the purposes of Section 28: - Kampala, Entebbe, Namanve, Jinja and Njeru.

SEVENTH SCHEDULE

S. 2

Currency Point

One currency point is equivalent to twenty thousand (20,000) Uganda shillings.

EIGHTH SCHEDULE

Inserted by IT (Am) Act 2009 Repealed by IT (Am) Act 2015

S.89Q

Classification, Definition and Allocation of Costs and Expenditures

1. Exploration Expenditure
2. Development and Production Expenditure
3. Operating Expenses
4. Service Costs
5. General and Administrative Expenses
6. Classification of Expenses for Income Tax purposes
7. Capital Allowances
8. Definition of Allowable Contract Expenditures
9. Costs recoverable without further approval of Government
10. Costs not recoverable under a Petroleum Agreement
11. Duplication of Charges and Credits
12. Meaning of "Affiliated Company"

Cross References

Building Societies Act, Cap. 108

Constitution, 1995

Diplomatic Privileges Act, Cap. 201

Income Tax Decree, Decree 1/1974

Investment Code, Statute 1/1991

Local Governments Act, Cap. 243

Magistrates Courts Act, Cap.16

Mining Act, Cap. 148

Petroleum (Exploration and Production) Act, Cap.150

Uganda Revenue Authority Act, Cap. 196

SUBSIDIARY LEGISLATION

Statutory Instrument 340-1

The Income Tax (Withholding Tax) Regulations 2000

(Under Section 116(1) and 164 of the Income Tax Act, 1997 Cap.340)

In exercise of the powers conferred upon the Minister by Section 164 of the Income tax Act 1997, these Regulations are made this 1st day of June 2000.

1. Short Title and Commencement

These Regulations may be cited as the Income Tax (Withholding Tax) Regulations, 2000, and shall be deemed to have come into force on the 1st day of July 2000.

2. Interpretation

(1) In these Regulations, "Act" means the Income Tax Act, 1997.

(2) Terms and expressions used in these Regulations have, unless the contrary intention appears, the same meaning as they have in the Act.

3. Amount of Tax to be Withheld

(1) Every employer obliged under Section 116 of the Act to withhold tax from a payment of employment income to an employee shall withhold tax in accordance with this regulation.

(2) Subject to sub-regulation (10), where employment income is paid monthly by an employer to an employee and the employee has furnished the employer with an employee declaration, the amount of tax to be withheld from the payment for a month (referred to as the "current month") is calculated according to the following formula –

$$(A - B)/C$$

where –

A is the amount of tax payable calculated –

(a) in the case of an employee who is a resident individual, in accordance with paragraph 1 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with sub-regulation (3); and

(b) in the case of an employee who is a non-resident person, in accordance with paragraph 2 of Part I of the Third schedule to the Act on the annualised employment income of the employee calculated in accordance with sub-regulation (3);

B the amount of tax withheld from payments made to the employee in the previous months of the year of income; and

C is the number of months remaining in the year of income, including the current month.

(3) The annualised employment income of an employee for the purposes of component A of the formula in sub-regulation (2) is calculated in accordance with the following formula -

$$(D + E) \times 12/F$$

where –

D is the amount of employment income paid by the employer to the employee in the current month;

E is the amount of employment income paid by the employer to the employee in the previous months of the year of income; and

F is the number of completed months in the year of income, including the current month.

(4) Subject to sub-regulation (10), where employment income is paid fortnightly by an employer to an employee and the employee has furnished the employer with an employee declaration, the amount of tax to be withheld from a payment for a fortnight (referred to as the "current fortnight") is calculated according to the formula –

(A-B)C

where –

A is the amount of tax payable calculated -

(a) in the case of an employee who is a resident individual, in accordance with paragraph 1 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with sub regulation (5); or

(b) in the case of an employee who is a non-resident individual, in accordance with paragraph 2 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with sub-regulation (5);

B is the amount of tax withheld from payments made to the employee in the previous fortnights of the year of income; and

C is the number of remaining fortnights in the year of income, including the current fortnight.

(5) The annualised employment income of an employee for the purposes of component A of the formula in sub-regulation (4) calculated in accordance with the following formula-

(D+E) x 26/F

where –

D is the amount of employment income paid by the employer to the employee in the current fortnight;

E is the amount of employment income paid by the employer to the employee in the previous fortnights of the year of income; and

F is the number of completed fortnights in the year of income, including the current fortnight.

(6) Subject to sub-regulation (10), where employment income is paid weekly by an employer to an employee and the employee has furnished the employer with an employee declaration, the amount of tax to be withheld from a payment for a week (referred to as the "current week") is calculated according to the following formula –

(A-B)/C

where –

A is the amount of tax payable calculated-

(a) in the case of an employee who is a resident individual, in accordance with paragraph 1 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with sub-regulation (7); or

(b) in the case of an employee who is a non-resident individual, in accordance with paragraph 2 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with sub-regulation (7);

B is the amount of tax withheld from payments made to the employee in the previous weeks of the year of income; and

C is the number of remaining weeks in the year of income, including the current week.

(7) The annualised employment income of an employee for the purposes of component A of the formula in sub-regulation (6) is calculated in accordance with the following formula –

$$(D + E) \times 52/F$$

where –

D is the amount of employment income paid by the employer to the employee in the current week;

E is the amount of employment income paid by the employer to the employee in the previous weeks of the year of income; and

F is the number of completed weeks in the year of income, including the current week.

(8) An employer shall notify the Commissioner, in writing, where the employer pays employment income to an employee on a basis other than monthly, fortnightly, or weekly.

(9) An employer shall notify the Commissioner, in writing, of any change, during a year of income, to the period of payment of employment income to an employee who has furnished an employee declaration to the employer.

(10) Where a notification has been made under sub-regulation (8) or (9), the Commissioner shall advise the employer, by notice in writing, of the amount of tax to be withheld by the employer from the employment income paid by the employer to the employee.

(11) Subject to sub-regulation (13), where an employee has not furnished an employer with an employee declaration under regulation 4, the amount of tax to be withheld from a payment of employment income for any period shall be the standard withholding amount.

(12) An employee who has not furnished an employer with an employee declaration may apply, in writing, to the Commissioner for a statement of the amount of tax to be withheld by the employer from the employment income paid by the employer to the employee.

(13) After considering the application under sub-regulation (1), the Commissioner may, if he or she considers it appropriate, issue the employee with a statement of the amount of tax to be withheld by the employer from the employment income paid by the employer to the employee, and the employee shall furnish the statement to his or her employer and the employer shall withhold tax from payments of employment income to the employee in accordance with the statement.

(14) Where a change occurs in the circumstances affecting the amount of withholding tax specified in a statement referred to in sub-regulation (13), the employee to whom the statement has been issued shall, by notice in writing within seven days of the change occurring, notify the Commissioner of any change occurring and the Commissioner shall issue a new statement accordingly.

(15) In this regulation-

(a) a fortnight is a "completed fortnight", "previous fortnight" or "remaining fortnight", in relation to a year of income, if the pay day for the fortnight occurs during the year of income;

(b) a week is an "completed week", "previous week", or "remaining week", in relation to a year of income, if the pay day for the week occurs during the year of income; and

(c) "standard withholding amount", in relation to payment of employment income to an employee, means

A x B

where –

A is the highest marginal rate specified in the rates of tax in the relevant paragraph of Part I of the Third Schedule; and

B is the amount of employment income paid to the employee.

4. Employee Declaration

(1) Subject to sub-regulation (2), an employee shall furnish an employee declaration to his or her employer for each year of income.

(2) Where an employee has more than one employer at any time during the year of income, the employee shall furnish an employee declaration to only one employer.

(3) An employee declaration shall be-

(a) in the form prescribed by the Commissioner;

(b) signed and dated by the employee; and

(c) furnished to the employer –

(i) unless the Commissioner provides otherwise, by 1 July of the year of income to which the declaration relates; or

(ii) where the employee takes up employment during the year of income, within seven days after the date on which the employment commenced.

5. Secondary Employment Form

(1) Where an employee has more than one employer at any time during a year of income, the employee shall furnish a secondary employment form to each employer other than the employer to

whom an employee declaration has been furnished under regulation 4.

(2) A secondary employment form shall be –

(a) in the form prescribed by the Commissioner, and

(b) signed and dated by the employee.

(3) A secondary employment form shall be furnished to the employer: –

(a) unless the Commissioner provides otherwise, by 1 July of the year of income to which the form relates; or

(b) where the employee takes up employment during the year income, within seven days after the date on which the employment commenced.

6. Declarations and Secondary Employment Forms

(1) An employee declaration or a secondary employment form applies only to amounts of tax to be withheld after the date on which the declaration or form is furnished to the employer and continues in force until –

(a) withdrawn by the employee by notice in writing to the employer;

(b) the end of the year of income to which the declaration or form relates; or

(c) the employee ceases to be in the employment of the employer to whom the declaration or form has been furnished, whichever is the earlier.

(2) Where, after furnishing an employee declaration to an employer, a change occurs in the circumstances affecting the amount of withholding tax calculated under regulation 3, the employee shall, by notice in writing within seven days after the change

occurring, withdraw the declaration and furnish the employer with a new declaration.

(3) An employer shall maintain and keep available for a period of five years, employee declarations and secondary employment forms furnished by employees under regulations 4 and 5 for inspection by the Commissioner.

7. Change of Employment Certificate

(1) An employer shall issue to each employee who leaves the employer's employment during the year of income, a change of employment certificate setting out –

(a) the amount of employment income paid by the employer to the employee during the year of income;

(b) the amount of tax withheld under Section 116 of the Act by the employer from that income; and

(c) the period of the year of income that the employee was employed by the employer.

(2) A change of employment certificate shall be issued to the employee at the time that the employee leaves the employer's employment.

(3) An employee who receives a change of employment certificate shall furnish the certificate to his or her new employer within seven days after he or she commences the new employment.

(4) An employer who has been furnished with a certificate under sub-regulation (3) shall take the amounts set out in the certificate into account in applying regulation 3 to the employment income paid to the employee for the year of income to which the certificate relates.

8. Tax Credit and Employee Withholding Certificate

(1) This regulation applies to the issue of tax credit certificates under Section 125(1) of the Act and employee withholding certificates under Section 125(3) of the Act.

(2) A withholding agent who is required to issue a tax credit certificate or employee withholding certificate to a payee shall sign the certificate and shall issue it by –

(a) causing it to be delivered to the payee personally; or

(b) posting it by prepaid letter addressed to the payee's last known postal address.

(3) Where a tax credit certificate or employee withholding certificate which has been posted in accordance with this regulation is returned to the withholding agent undelivered, the withholding agent shall forward the certificate to the Commissioner within seven days after the date on which the certificate was returned to the withholding agent.

(4) A payee whose tax credit certificate or employee withholding certificate has been lost, stolen or destroyed, may request in writing that the withholding agent issue a duplicate certificate.

(5) Where a request has been made under sub-regulation (4), the withholding agent shall comply with the request and the certificate so issued shall be clearly marked "duplicate".

(6) The personal representative of a payee who dies during the year of income may apply, in writing, to the withholding agent of the deceased payee for a tax credit certificate or employee withholding certificate in respect of that part of the year of income prior to the death of the payee.

(7) A payee who intends to cease to be a resident person may apply in writing, to his or her withholding agent for a tax credit certificate or employee withholding certificate in respect of that part of the year of income prior to the payee ceasing to be a resident person.

(8) Where an application has been made under sub-regulation (6) or (7), the withholding agent shall issue the personal representative or payee with the certificate within seven days after the application is made.

(9) A withholding agent who ceases to carry on business shall issue a tax credit certificate or employee withholding certificate to each payee prior to ceasing business.

9. Offences

(1) An employee who fails to notify any change in circumstances as required by regulation 3(14) commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

(2) An employee who furnishes an employee declaration to an employer in contravention of regulation 4(2) commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

(3) An employer who fails to maintain employee declarations and secondary employment forms as required under regulation 6(3) commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

(4) An employer who fails to issue a change in employment certificate as required by regulation 7 commits an offence and is liable on conviction to a fine not exceeding twenty currency points.

(5) A withholding agent who fails to issue a tax credit certificate or employee withholding certificate as required by regulation 8 commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

History: S.I 52/2000

Statutory Instrument 340-2

The Income Tax (Distraint) Rules

(Under section 107(8) of the Act)

1. Citation.

These Rules may be cited as the Income Tax (Distraint) Rules.

2. Interpretation.

In these Rules, unless the context otherwise requires –

(a) "distrainor" means an officer in the service of the Uganda Revenue Authority authorised to levy distress under a warrant;

(b) "distraint agent" means a person appointed a distraint agent under Rule 3 of these Rules;

(c) "distress" means a distress levied under a warrant;

(d) "distress debt" means the amount of any tax and penalties specified in a warrant;

(e) "goods" means all movable property (other than growing crops and goods which are liable to perish within ten days of attachment) of the distrainee which is liable under the laws of Uganda to attachment and sale in execution of a decree of a court of Uganda;

(f) "warrant" means a warrant issued by the Commissioner under section 107 of the Act.

3. Appointment of Distraint Agent.

(1) The Commissioner may appoint distraint agents to assist distrainors in the execution of warrants for the purposes of section 107 of the Act.

(2) No person shall be appointed a distraint agent unless he or she satisfies the Commissioner—

(a) that he or she is of good repute and financial standing;

(b) that he or she is qualified under the laws of Uganda to levy distress (by way of attachment of movable property) in execution of a decree of a court of Uganda;

(c) that he or she has adequate and secure facilities for the storage of goods; and

(d) that he or she has contracted a policy of insurance in an adequate sum against theft, damage, or destruction by fire of any goods which may be placed in his or her custody by reason of the performance of his or her duties as a distraint agent.

4. Distraint Agent to give Security.

(1) A person appointed a distraint agent shall furnish the Commissioner with security by means of a deposit, or such other security as the Commissioner may approve, of a sum of five hundred thousand shillings and that security shall be refunded or cancelled on the termination of the appointment, unless it is deemed to be forfeited under this Rule.

(2) Where a distraint agent is convicted of an offence involving fraud or dishonesty in connection with any functions performed by him or her as a distraint agent, the court by which he or she is convicted may make an order for the forfeiture of his or her security or part of his or her security deposited with the Commissioner under sub-rule (1) of this Rule.

(3) Section 83 of the Magistrates Courts Act and section 21 of the Trial on Indictments Act, insofar as they relate to forfeiture of recognisance, shall apply, with the necessary modifications, to the forfeiture of any security under this Rule.

5. Execution of Warrant.

(1) A warrant may be executed at any time between 6.00 a.m. and 6.00 p.m., after it has been served on the distrainee in the manner provided by Rule 6 of these Rules.

(2) A warrant shall be executed by attachment of such goods of the distrainee as, in the opinion of the distrainor, are of a value which would, on sale by public auction, realise a sum sufficient to meet the distress debt and the costs and expenses of the distress incurred by the distrainor.

6. Service of Warrant.

(1) Service of a warrant to an individual shall be effected—

(a) by service by the distrainor of a copy of the warrant on the distrainee in person; or

(b) if, after using all due and reasonable diligence, the distrainee cannot be found, by service of a copy of the warrant on an agent of the distrainee empowered to accept service or an adult member of the family of the distrainee who is residing with him or her.

(2) Service of a warrant to a company shall be effected by delivering it to the principal officer, company secretary, general manager or a director of the company.

(3) A person served with a copy of a warrant under this Rule shall endorse and acknowledge service on the original warrant stating the time, date and place of service.

(4) Where a person served with a warrant under sub-rule (3) of this Rule refuses to endorse the warrant, the distrainor shall leave the copy of the warrant stating—

(a) that the person upon whom he or she served the warrant refused to sign the acknowledgement; and

(b) that he or she left, at the time, date and place stated in the warrant, a copy of the warrant with that person and the name and address of the person (if any) by whom the person on whom the warrant was served was identified, and thereupon the warrant shall be deemed to have been duly served.

7. Entry into House and Rooms.

(1) In executing any distress under these Rules, the outer door of a dwelling house shall not be broken open unless that dwelling house is occupied by the distrainee and he or she refuses, or in any way prevents access to it.

(2) When the distrainor executing distress under these Rules has duly gained access to a dwelling house, he or she may break open the door of any room in which he or she has reason to believe any goods of the distrainee to be.

(3) Where a room in a dwelling house is in the actual occupancy of a woman who, according to her religion or local custom does not appear in public, the distrainor shall give notice to her that she is at liberty to leave the room.

(4) After allowing reasonable time for a woman to leave the room under sub-rule (3) of this Rule and giving her reasonable facility for leaving, the distrainor may enter that room for the purpose of attaching any goods in it, using at the same time every precaution consistent with these Rules to prevent their clandestine removal.

8. Receipts and Reports.

As soon as practicable after the attachment of any goods, the distrainor shall—

(a) issue a receipt in respect of the goods distrained; and

(b) forward to the Commissioner a report containing—

(i) an inventory of all the items attached;

(ii) the value of each item as estimated by the distrainor;

(iii) the address of the premises at which the goods are being kept, pending sale;

(iv) the name and address of the distraint agent in whose custody the goods have been placed; and

(v) the arrangements, if any, made or to be made for the sale by public auction of the goods on the expiration of ten days after the date of attachment.

9. Sale by Public Auction.

(1) The goods distrained under Rule 8 of these Rules shall be sold by public auction, and the distrainor shall cause the sale to be stopped when the sale has realised a sum equal to or exceeding the distress debt and the cost and expenses incurred by the distrainor.

(2) Any unsold goods shall, at the cost of the distrainee, be restored to the distrainee, and the proceeds of the sale shall be applied in the manner prescribed under section 107(5) of the Act.

10. Returns to Commissioner.

Immediately after the completion of the sale by public auction of goods attached under these Rules, the distrainor shall make a return to the Commissioner specifying—

(a) the items which have been sold;

(b) the amount realised by the sale; and

(c) the manner in which the proceeds of the sale were applied.

11. Payment or Security.

(1) Where a distrainee has, within ten days after attachment of his or her goods, paid or given security accepted by the Commissioner for the whole of the tax due from him or her together with the

whole of the costs and expenses incurred by the distrainor in executing the distress, the distrainor shall, at the cost of the distrainee, immediately restore the attached goods to the distrainee and return the warrant to the Commissioner who shall cancel it.

(2) Any sum paid by a distrainee under this Rule shall be applied by the Commissioner—

(a) first in settlement of the costs and expenses incurred by the distrainor; and

(b) the balance, if any, in settlement of the distress debt or such part of the debt as the Commissioner shall direct.

12. Attachment of Livestock.

Where any goods attached under these Rules comprise or include livestock, the distrainor may make appropriate arrangements for the transport, safe custody and feeding of the livestock, and any costs and expenses incurred in doing so shall be recoverable from the distrainee under Rule 9 or 11 of these Rules, as the case may be, as costs and expenses incurred by the distrainor.

13. Costs and Expenses.

In addition to a claim for any other costs and expenses which may be incurred by the Commissioner or the distrainor in levying any distress under these Rules, there may be claimed by the distrainor and recovered under Rule 9 or 11 of these Rules, as the case may be, costs at the rate specified in the Schedule to these Rules.

14. Remuneration of Distraint Agent.

The maximum rates of remuneration which a distraint agent is entitled to demand from the distrainor for the distraint agent's assistance in executing a distress under these Rules, and which may be recovered by the distrainor under Rule 11 of these Rules are specified in the Schedule to these Rules.

15. Auctioneer's Commission.

(1) The maximum rate of commission which an auctioneer is entitled to demand from the distrainor as remuneration for the auctioneer's services for the sale by public auction of any goods attached under these Rules, and which may be recovered by the distrainor under Rule 9 of these Rules, is 2 percent of the amount realised on sale.

(2) Where an auctioneer has rendered services as a distraint agent, he or she is entitled, in addition to any commission under sub-rule (1) of this Rule, to remuneration for those services as provided by Rule 14 of these Rules.

16. Remuneration to cover all expenses.

The rates of remuneration specified in the Schedule to these Rules shall be deemed to include all expenses of advertisements, inventories, categories, catalogues and insurance and necessary charges for safeguarding any goods attached under these Rules.

SCHEDULE

Rules 13, 14, 16.

Charges

1. Distraint Charges.

(1) Where no distress is levied and the distress debt and any costs and expenses incurred by the distrainor are paid by the distrainee on demand or within thirty minutes thereafter, the distrainee shall pay the distrainor one hundred thousand shillings.

(2) The distrainee shall, in addition to the payment under subparagraph (1) of this paragraph, pay the distrainee costs incurred in serving or executing a warrant.

2. Distraint Agent Charges.

(1) Where no distress is levied and the distressed debt and any costs and expenses incurred by the distrainor are paid by the distrainee on demand or within thirty minutes thereafter, the distraint agent is entitled to remuneration of one hundred thousand shillings.

(2) For attaching goods or attaching and keeping possession of goods pending sale or for sale of the goods—

TAX RECOVERED OR AMOUNT REALISED ON SALE	CHARGES
Up to 50,000,000 shillings	3% of tax recovered or amount realised on sale
Exceeding 50,000,000 shillings but not exceeding 100,000,000 shillings	1,500,000 shillings plus 2% of the amount by which tax recovered or amount realised on sale exceeds 50,000,000 shillings
Exceeding 100,000,000 shillings	2,500,000 shillings plus 1% of the amount by which tax recovered or amount realised on sales exceeding 100,000,000 shillings

3. Charges on Auction.

Where the goods or part of them have been sold by public auction, the distraint agent's charges shall be calculated by reference to the amount realised on sale after deduction of the auctioneer's commission under Rule 15 of these Rules.

History: S.I. 53/2000.

Cross References
Magistrates Courts Act, Cap. 16.
Trial on Indictments Act, Cap. 23.

Statutory Instrument No.9 of 2003

The Income Tax (Approved Industrial Buildings) Regulations, 2003

(Under Section 29 and 164 of the Income Tax Act, 1997 Cap. 340)

In exercise of the powers conferred upon the Minister by Section 164 of the Income Tax Act 1997, these Regulations are made this 31st day of October 2002.

1. Citation

These Regulations may be cited as the Income Tax (Approved Industrial Buildings) Regulations, 2003.

2. Commencement and Application

(1) Regulations 4 and 5 shall be deemed to have come into force on 1st July 1997 and apply to an approved hotel or approved hospital whose construction commenced on or after 1/7/1997.

(2) Regulation (6) shall be deemed to have come into force on 1st July 2000 and applies to an approved commercial building whose construction commenced on or after 1st July 2000.

3. Approval of Industrial Buildings

For the purposes of Section 29 of the Act, the industrial buildings referred to in regulations 4, 5 and 6 are approved for the purposes specified in those regulations.

4. Approved Hotel

An approved hotel is an industrial building licensed by the appropriate authorities for use, at a price, for boarding and lodging with at least –

(a) ten bedrooms with minimum facilities of bed and bedding, toilet and bath or shower room; and

(b) restaurant or dining room for provision of food and beverages.

5. Approved Hospital

An approved hospital is a specialised institutional industrial building manned by a fully registered specialist and general practitioner for the purpose of treating general patients as outpatients or inpatients, or both, for medical, paediatric, surgical and obstetric or gynaecological conditions, providing treatment and nursing care and equipped with equipment and facilities for specialised establishment.

6. Approved Commercial Building

(1) An approved commercial building is an industrial building which is primarily used by the owner or let out for rent –

(a) for the purpose of carrying on a business, trade or profession;

(b) as an office;

(c) as a warehouse or commercial storage facility; or

(d) as a workshop.

(2) For the avoidance of doubt, an approved commercial building does not include a building let out or used for residential accommodation.

Statutory Instrument No.34 of 2009

The Income Tax (Tax Incentives for Exporters of Finished Consumer and Capital Goods) Regulations, 2009

(Under sections 21 (1)(y)(ab) and 164 of the Income Tax Act, Cap.340)

ARRANGEMENT OF REGULATIONS

Regulation

1. Title
2. Commencement and application
3. Interpretation
4. Application and grant of certificate of Entitlement to Exemption
5. Validity of Certificate of Entitlement to Exemption
6. Conditions for grant of exemption
7. Obligations of the certificate holder
8. Revocation of the Certificate of Entitlement to Exemption
9. Appeals
10. Records
11. Filing returns
12. Register

SCHEDULE

FORMS

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IN EXERCISE of the powers conferred upon the Minister by sections 21(1)(y)(ab) and 164 of the Income tax Act, Cap. 340, these Regulations are made this 11th day of May, 2009.

1. Title

These Regulations may be cited as the Income Tax (Tax Incentives for Exporters of Finished Consumer and Capital Goods) Regulations, 2009.

2. Commencement and Application

These Regulations shall be deemed to have come into force on 1st July 2007 and apply to persons engaged in the exportation of finished consumer and finished capital goods.

3. Interpretation

In these Regulations, unless the context otherwise requires –

"Authority" means the Uganda Revenue Authority;

"Commissioner" means the Commissioner General appointed under the Uganda Revenue Authority Act;

"existing investment" means an investment that was in existence as at 1st July, 2007;

"export" means to take or cause to be taken out of the partner states;

"finished capital goods" means goods other than finished Consumer goods that may be used in the production process;

"finished consumer goods" means finished consumer products ready for consumption without the need for further processing; and in the case of flower exports includes potted plants and chrysanthemum cuttings;

"goods" includes all kinds of articles, wares, merchandise, livestock, and currency;

"investment" means the creation of new business assets and includes the expansion, restructuring or rehabilitation of an existing business enterprise;

"manufacturing" means the substantial transformation of tangible movable property, including power generation and water supply;

"manufacturing under bond" means a facility extended to manufacturers to import plant, machinery, equipment and raw

materials tax free, exclusively for use in the manufacture of goods for export;

"Minister" means the Minister responsible for finance;

"new investment" means an investment that did not exist as at 1st July, 2008;

"production" means a process involving the use of inputs to derive outputs including manufacturing, growing or extraction.

4. Application and Grant of Certificate of Entitlement to Exemption

(1) A person seeking tax exemption on income derived from the export of finished consumer goods and finished capital goods under section 21(1)(y) of the Act shall apply for a Certificate of Entitlement to Exemption in Form 1 set out in the Schedule to the Regulations.

(2) The applicant under sub regulation (1) shall state in the application-

(a) his or her name and address;

(b) the description of the goods;

(c) the tax identification number;

(d) telephone and e-mail contact;

(e) the details of directors;

(f) a declaration that the applicant will export or intends to export at least eighty per cent (80%) per cent of his or her production of finished consumer goods and finished capital goods during the year, whether or not the raw materials are from within Uganda;

(g) details of the manufacturing or production of goods process including graphic presentation of the manufacturing process where applicable.

(3) The Commissioner may request for additional information to ascertain whether a person qualifies for a grant of a Certificate of Entitlement to Exemption, to verify the existence of the investment.

(4) The Commissioner shall, based on the information provided, decide whether or not to grant a certificate of Entitlement to Exemption, and on ascertainment of the existence of an investment, make a decision within thirty working days.

(5) A person who qualifies under sub-regulation (4) shall be issued with a certificate of entitlement to exemption in Form 2 set out in the schedule to these Regulations.

(6) A certificate of entitlement to exemption under these Regulations shall be specific to a person and the income derived from activities resulting in exports.

(7) Where the Commissioner refuses to grant a certificate of entitlement to exemption, the Commissioner shall state in writing the reasons for the refusal.

5. Validity of Certificate of Entitlement to Exemption

(1) Subject to subsection (2), a certificate of entitlement to exemption is valid for a period of ten years starting from the date on which it is issued.

(2) Notwithstanding subsection (1), an exporter is only eligible for the tax exemption in any year in which the exporter fulfils the conditions for the tax exemption specified in Regulation 6.

(3) Where the exporter fails to fulfil the conditions for the tax exemption for a particular year, the tax exemption shall not be granted for that year.

6. Conditions for Grant of Certificate of Entitlement to Exemption

A certificate of entitlement to exemption on income derived from export of finished consumer goods and finished capital goods shall not be granted to an applicant unless the applicant –

(a) keeps proper books of accounts and records required under Regulation 10; and

(b) exports at least eighty per cent (80%) of his or her production of finished consumer goods and finished capital goods of goods during the year, whether or not the raw materials are from within Uganda.

7. Obligations of the Certificate Holder

The holder of the Certificate of Entitlement to Exemption shall, during the period of the tax incentives –

(a) comply with the obligations imposed by the Income Tax Act, Cap. 340;

(b) keep proper books of accounts and records as required by Regulation 7;

(c) export eighty per cent (80%) of the finished consumer goods or finished capital goods produced by him or her;

(d) not transfer the Certificate of Entitlement to Exemption to another person.

8. Revocation of Certificate of Entitlement to Exemption

(1) The Commissioner may revoke a Certificate granted under these Regulations where he or she is satisfied that –

(a) there has been a breach of the terms under which the certificate is granted;

(b) there has been a breach of a condition attached to the certificate;

(c) the application for the Certificate of Entitlement to Exemption was defective in that the holder misrepresented him/herself and failed to rectify the defect within forty five days after being requested to do so;

(d) the holder is bankrupt;

(e) the holder has failed to submit the required information for two years consecutively;

(f) the holder knowingly or negligently gives false or misleading information to the Authority;

(g) the holder refuses or neglects to provide information which the Authority may reasonably require for the purposes of the enforcement of these Regulations;

(h) the holder refuses or neglects to keep proper books of accounts; or

(i) the holder refuses without lawful excuse to admit an officer or an agent of the Authority, after being given reasonable notice, into the premises of his or her business enterprise or otherwise obstructs any inspection by an officer or agent of the Authority in the discharge of its monitoring function.

(2) The Commissioner shall before revoking a certificate under subsection (1) give not less than thirty days' written notice of the intention to revoke the certificate to the holder of the certificate and shall consider any written representations made to the holder of the certificate to the Commissioner within that time.

9. Appeals

(1) A person aggrieved by a decision of the Commissioner may appeal to the Minister by giving written notice to the authority against –

(a) the refusal of the authority to grant a certificate under these regulations ;

(b) the attaching of a condition to a certificate; or

(c) the revocation of the certificate.

(2) An appeal under this Regulation shall be in writing to the Minister within thirty days after the receipt of the decision of the Authority and the appellant shall give notice of the appeal to the Authority.

(3) The Minister shall consider an appeal under this regulation and may –

(a) dismiss the appeal;

(b) require the authority to issue a certificate to the appellant;

(c) quash the revocation of a certificate; or

(d) permit the appellant to make a fresh application for a certificate notwithstanding that the period prescribed for applications has expired and the Authority shall give effect to the determination of the Minister.

10. Records

(1) The holder of a Certificate of Entitlement of Exemption shall maintain records of –

(a) inputs for the exports business;

(b) export sales;

(c) export documents;

(d) goods that have been warehoused;

(e) goods that have been produced;

(f) local sales; and

(g) any other records as may be required by the Commissioner.

11. Filing of returns

(1) The holder of a Certificate of Entitlement to Exemption shall submit an annual return to the Authority, showing a summary of receipts and exports and the return shall contain the following information –

(a) stock at hand at the beginning of the year;

(b) total receipts into the company warehouse;

(c) total annual production;

(d) stock carried forward to the next year; and

(e) total sales in the local market and total sales exported.

(2) The return shall be submitted annually together with the final return of income.

12. Register

(1) The Authority shall maintain a register of all the certificates granted under these Regulations.

(2) The Authority shall cause to be entered in the register in respect of each certificate –

(a) the name of the business enterprise to which the certificate was granted;

(b) the principal place of business of the certificate holder; and

(c) the activities to which the certificate relates.

SCHEDULE

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SCHEDULE

Regulation 4(1)

FORMS

FORM 1

Application for a Certificate of Entitlement to Exemption
(Under section 21 *and* 164 *of the Income Tax Act, 1997 Cap. 340)*

Please enter the information requested in the spaces provided. Please note that any additional information should be attached to this application form.

Business Details:

Name (Company or individual)……
TIN……
Parent Company (If applicable)……
Address (Postal and Physical)……
Contact Telephone Number……
E-Mail address ……
Directors Details (Names and contacts ……
Nature of goods to be manufactured for export……

DECLARATION:

I ……declare that I am exporting or intend to export at least eighty per cent (80%) of my production of finished capital goods or finished consumer goods during the year.

Completed by:
Name …….. Title……
Signature…… Date……

Official Comments.

Details of Verifications and Recommendations:

Verification officer's Signature…… Date……
Supervisor's Signature…… Date……

FORM 2:

Regulation 4 (5)

Certificate of Entitlement to Exemption

This Certificate of Entitlement to Exemption is issued under section 21 *and* 164 *of the Income Tax Act, Cap. 340.*

Name of Business:.....

Address:.....

Physical Location:.....

Nature of Business:.....

Tax Incentives: ***Exemption from Corporation Tax and Withholding Tax.***

The certificate is valid from…….…….…… to…….....

Note:

1. The holder of this Certificate of Entitlement to Exemption shall comply with the requirements of section 21 of the Income Tax Act Cap.340 and these Regulations.

2. The Commissioner may revoke the Certificate if satisfied that there has been a breach of the terms under which the certificate is granted or on a breach of a condition attached to the certificate or if the holder of the certificate is convicted of an offence under the Income Tax Act or other relevant law.

.....
Commissioner

Statutory Instrument No.30 of 2011

The Income Tax (Transfer Pricing) Regulations, 2011

(Under sections 90 and 164 of the Income Tax Act cap 340)

IN EXERCISE of the powers conferred upon the Minister by section 164 of the Income Tax Act Cap. 340, these Regulations are made this 20th day of June 2011.

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

1. Title and commencement
2. Application of regulations
3. Interpretation

PART II—COMPARTIBILITY FACTORS, BRANCH PERSON AND OECD DOCUMENTS

4. Compatibility factors
5. Branch person and headquarter person
6. Application of OECD documents

PART III—CONSISTENCY WITH ARM'S LENGTH PRINCIPLE, DOCUMENTATION, ADVANCED PRICING AGREEMENTS AND CORRESPONDING ADJUSTMENTS

7. Consistency with arm's length principles
8. Documentation
9. Advanced pricing agreements
10. Corresponding adjustments

PART I—PRELIMINARY

1. Title and commencement

These Regulations may be cited as the Income Tax (Transfer Pricing) Regulations 2011, and shall come into force on the 1st day of July 2011.

2. Application of Regulations

The Regulations shall apply to a controlled transaction if a person who is a party to the transaction is located in and is subject to tax in Uganda and the other person who is a party to the transaction is located in or outside Uganda.

3. Interpretation

In these Regulations, unless the context otherwise requires –

"Act" means the Income Tax Act;

"arm's length principle" in relation to a controlled transaction, means the results of the transaction are consistent with the results that would have been realised in a transaction between independent persons dealing under the same conditions;

"associate" has the meaning given to it in section 3 of the Act;

"branch" in relation to a person—

(a) where there is a tax treaty applicable to the person, means a permanent establishment as defined in the treaty; or

(b) in any other case, has the meaning given to it in section 78 of the Act;

"comparability factors" means the factors specified in regulation 4;

"comparable uncontrolled price method" means comparing the price charged in a controlled transaction with the price charged in a comparable uncontrolled transaction;

"comparable uncontrolled transaction" in relation to the application of a transfer pricing method to a controlled transaction, means an uncontrolled transaction which, after taking account of the comparability factors, satisfies the differences, if any, between the two transactions or between the persons undertaking the transactions which do not materially affect the financial indicator applicable under the method or where the differences do materially affect the financial indicator applicable under the method, then reasonably accurate adjustments can be made to eliminate the effects of the differences;

"controlled transaction" means a transaction between associates;

"cost plus method" means comparing the mark up on the costs directly and indirectly incurred in the supply of property or services in a controlled transaction with the mark up on those costs directly or indirectly incurred in the supply of property or services in a comparable uncontrolled transaction;

"financial indicator" means—

(a) in relation to the comparable uncontrolled price method, the price;

(b) in relation to the cost plus method, the mark up on costs;

(c) in relation to the resale price method, the resale margin;

(d) in relation to the transaction net margin method, the net profit margin; or

(e) in relation to the transactional profit split method, the division of profit and loss;

"person" has the meaning given to it in the Act and includes a "branch person" & "headquarters person" referred to in regulation 5;

"resale price method" means comparing the resale margin that a purchaser of property in a controlled transaction earns from reselling the property in an uncontrolled transaction with the resale margin that is earned in a comparable uncontrolled purchase and resale transaction;

"transaction" includes an arrangement, understanding, agreement, or mutual practice whether or not legally enforceable or intended to be legally enforceable, and includes a dealing between a branch of a person and another part of the person;

"transactional net margin method" means comparing the net profit margin relative to the appropriate base including costs, sales or assets that a person achieves in a controlled transaction with the net profit margin relative to the same basis achieved in a comparable uncontrolled transaction;

"transactional profit split method" means comparing the division of profit and loss that a person achieves in a controlled transaction with the division of profit and loss that would be achieved when participating in a comparable uncontrolled transaction;

"transfer pricing method" means—

(a) the comparable uncontrolled price method;

(b) the resale price method;

(c) the cost plus method;

(d) the transaction net margin method; or

(e) the transactional profit split method; and

"uncontrolled transaction" means a transaction that is not a controlled transaction.

PART II—COMPARABILITY FACTORS, BRANCH PERSONS AND OECD DOCUMENTS

4. Comparability factors

In determining whether two or more transactions are comparable the following factors shall be considered to the extent that they are economically relevant to the facts and circumstances of the transactions –

(a) the characteristics of the property or services transferred or supplied;

(b) the functions undertaken by the person entering into the transaction taking account of assets used and risks assumed;

(c) the contractual terms of the transactions;

(d) the economic circumstances in which the transactions take place; and

(e) the business strategies pursued by the associate to the controlled transaction.

5. Branch person and headquarter person

For the purposes of these Regulations—

(a) a branch shall be deemed to be a separate and distinct person referred to as the "branch person" from the person in respect of whom it is a branch referred to as the "headquarters person";

(b) a branch person and headquarters person shall be deemed to be associates; and

(c) a branch person and a headquarter person are located where their activities are located.

6. Application of OECD documents

(1) Subject to sub regulation (2), these Regulations shall be applied in a manner consistent with –

(a) the arm's length principle in Article 9 of the OECD Model Tax Convention on Income and Capital; and

(b) the OECD Transfer Pricing Guidelines for Multi-national Enterprises and Tax Administrations approved by the Council of the OECD for publication on 13 July 1995 (C(95)126/FINAL) as supplemented and updated from time to time.

(2) Where there is any inconsistency between the Act, these Regulations and the OECD documents referred to in sub regulation (1), the Act shall prevail.

PART III—CONSISTENCY WITH ARM'S LENGTH PRINCIPLE, DOCUMENTATION, ADVANCED PRICING AGREEMENTS AND CORRESPONDING ADJUSTMENTS

7. Consistency with the arm's length principle

(1) Where a person has entered into a transaction or a series of transactions to which these Regulations apply, the person shall determine the income and expenditures resulting from the transaction or transactions in a manner that is consistent with the arm's length principle.

(2) Where a person fails to comply with sub regulation (1), the Commissioner may make the necessary adjustments to ensure that the income and expenditures resulting from the transaction or transactions are consistent with the arm's length principle.

(3) In determining whether the result of a transaction or series of transactions is consistent with the arm's length principle, the most appropriate transfer pricing method shall be used taking into account—

(a) the respective strengths and weaknesses of the transfer pricing methods in the circumstances of the case;

(b) the appropriateness of a transfer pricing method having regard to the nature of the controlled transaction determined, in particular, through an analysis of the functions undertaken by each person that is a party to the controlled transaction;

(c) the availability of reliable information needed to apply the transfer pricing methods; and

(d) the degree of comparability between controlled and uncontrolled transactions, including the reliability of

adjustments, if any, that may be required to eliminate differences.

(4) Where a person has used an appropriate transfer pricing method in accordance with sub regulation (3), the Commissioner's examination as to whether income and expenditures resulting from the person's transaction or transactions are consistent with the arm's length principle shall be based on the transfer pricing method used by the person.

(5) A person may apply a transfer pricing method other than those listed in the definition of transfer pricing method under regulation 3, if the person can establish that—

(a) none of the listed methods can reasonably be applied to determine whether a controlled transaction is consistent with the arm's length principle; and

(b) the method used gives rise to a result that is consistent with that between independent persons engaging in comparable uncontrolled transactions in comparable circumstances.

(6) A person who contravenes this regulation is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding twenty five currency points or both.

8. Documentation

(1) A person shall record, in writing, sufficient information and analysis to verify that the controlled transactions are consistent with the arm's length principle.

(2) The documentation referred to in sub regulation (1) for a year of income shall be in place prior to the due date for filing the income tax return for that year.

(3) The Commissioner may, by notice, specify the items of documentation that a person is required to keep for the purposes of this regulation.

(4) A person who fails to comply with this regulation is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding twenty five currency points or both.

9. Advance pricing agreements

(1) A person may request that the Commissioner enter into an advance pricing agreement to establish an appropriate set of criteria for determining whether the person has complied with the arm's length principle for certain future controlled transactions undertaken by the person over a fixed period of time.

(2) A request under sub regulation (1) shall be accompanied by—

(a) a description of the person's activities, controlled transactions, and the proposed scope and duration of the advanced pricing agreement;

(b) a proposal by the person for the determination of the transfer prices for the transactions to be covered by the advanced pricing agreement setting out the comparability factors, the selection of the most appropriate transfer pricing method to the circumstances of the controlled transactions; and the critical assumptions as to future events under which the determination is proposed;

(c) the identification of any other country or countries that the person wishes to participate in the advanced pricing agreement; and

(d) any other information which the Commissioner may require as specified in a practice note on transfer pricing.

(3) The Commissioner shall consider a request made by a person under sub regulation (1) and, after taking account of the matters specified in the request and the expected benefits from an advance pricing agreement in the circumstances of the case, the Commissioner may decide to enter into an advance pricing agreement or to reject the request.

(4) Where the Commissioner agrees to enter into an advance pricing agreement with a person, the Commissioner may—

(a) accept the person's proposal under sub regulation (2)(b);

(b) reject the proposal; or

(c) modify the proposal with the person's consent.

(5) The Commissioner may enter into an advance pricing agreement with the person either alone or together with the competent authorities of the country or countries of the person's associate or associates identified under sub regulation (2)(c).

(6) Where the Commissioner approves a proposal under sub regulation (4)(a) or modifies it with the person's consent under sub regulation (4)(c), the Commissioner shall enter into an advance pricing agreement that will provide confirmation to the person that no transfer pricing adjustment will be made under regulation 7(2) to controlled transactions covered by the agreement where the transactions are consistent with the terms of the agreement.

(7) An advance pricing agreement entered into under sub regulation (6) shall apply to the controlled transactions specified in the agreement that are entered into on or after the date of the agreement and the agreement shall specify the years of income for which the agreement applies.

(8) The Commissioner may cancel an advanced pricing agreement with a person by notice in writing if—

(a) the person has failed to materially comply with a fundamental term of the agreement;

(b) there has been a material breach of one or more of the critical assumptions underlying the agreement;

(c) there is a change in the tax law that is materially relevant to the agreement; or

(d) the agreement was entered into based on a mis-representation, mistake or omission by the person.

(9) Cancellation of an advance pricing agreement under sub regulation (8) takes effect –

(a) in the case of sub regulation (8)(a) and (c), from the date of the notice of cancellation specified by the Commissioner in the notice of cancellation;

(b) in the case of sub regulation (8)(b), from the date that the material breach occurred; and

(c) in the case of sub regulation (8)(d), from the date the agreement was entered into.

(10) The Commissioner shall treat as confidential any trade secrets or other commercially sensitive information or documentation provided to the Commissioner in the course of negotiating an advance pricing agreement.

10. Corresponding adjustments

Where –

(a) an adjustment is made by a competent authority of another country with which Uganda has a double tax treaty to the taxation of a transaction or transactions of a person subject to tax in Uganda; and

(b) the adjustment results in taxation in another country of income or profits that are also taxable in Uganda, the Commissioner shall, upon request by the person subject to tax in Uganda, determine whether the adjustment is consistent with the arm's length principle and where it is determined to be consistent, the Commissioner shall make a corresponding adjustment to the amount of tax charged in Uganda on the income or profits so as to avoid double taxation.

Cross references - Income Tax Act Cap 340

The Income Tax (Designation of Payers) Notice, 2013
Legal Notice No.9 of 2013

(Under Section 119(1) of the Income Tax Act, Cap.340)

IN EXERCISE of the powers conferred upon the Minister by Section 119(1) of the Income Tax Act, this Notice is issued this 28th day of June, 2013.

1. Title

This Notice may be cited as the Income Tax (Designation of Payers) Notice, 2013.

2. Commencement

This Notice shall come into force on the 1st day of July, 2013.

3. Designation of persons as payers

The persons specified in the Schedule to this Notice are designated as payers for purposes of Section 119(1) of the Income Tax Act.

4. Payment for goods and services

(1) Where any person designated in this Notice as a payer pays an amount or amounts in aggregate exceeding one million shillings to any person in Uganda-

(a) for a supply of goods or materials of any kind; or

(b) for a supply of any services,

the payer shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule to the Income Tax Act, and the payer shall issue a receipt to the payee.

(2) Where –

(a) there are separate supplies of goods or materials, or of services and each supply is made for an amount that is one million or less; and

(b) it would reasonably be expected that the goods or materials, or services would ordinarily be supplied in a single supply for an amount exceeding one million shillings, sub-paragraph (1) applies to each supply.

5. Revocation of Legal Notice No.10 of 2012

The Income Tax (Designation of Payers) Notice, 2012 is revoked.

SCHEDULE

1. 23rd Metallurgical Construction of Non-Ferrous Metals
2. A.K. Transporters Ltd.
3. A2z Maintenance And Engineering Services Ltd
4. Abb Limited
5. Abc Capital Bank Limited
6. Acdi/Voca-Usaid Pl480 Title Ii Program
7. Action Aid International Uganda Limited
8. Africa Air Rescue (U) Ltd (Aar)
9. African Medical and Research Foundation
10. African Palliative Care Association Limited by Guarantee
11. African Skies Limited
12. Afsat Communications (Uganda) Limited
13. Agakhan Educaton Service Uganda
14. Ahf Global Immunity
15. Aids Information Centre Posttest Club
16. Airtel Uganda Limited
17. Alcatel-Lucent East Africa Ltd
18. Alexander Forbes (U) Ltd
19. Ambitious Construction Co.Ltd
20. Ambrosoli Limited
21. American Refugee Committee
22. Amnesty International Limited
23. Ankole Coffee Processors
24. Aon Uganda Limited
25. Apolo Hotel Corporation Limited
26. Aponye (U) Ltd
27. Arab Contractors (Uganda) Limited
28. Aurum Roses Limited
29. Avocats Sans Frontiers
30. Avsi Foundation
31. Babcon (U) Ltd
32. Baker Hughes Eho Limited
33. Bank of Africa - Uganda Ltd
34. Bank of Baroda (U) Limited
35. Barclays Bank (U) Ltd.
36. Bata Shoe Co. Uganda Limited
37. Baylor College of Medicine Children's Foundation
38. Bayport Financial Services Uganda Limited
39. Bethany High School Nalya Limited
40. Brac Uganda Limited
41. Brac Uganda Microfinance Limited
42. Britania Allied Industries Limited
43. Budadiri Arabica Coffee Factory Ltd
44. Bugema University
45. Bugisu Cooperative Union Ltd
46. Buildtop Construction Ltd
47. Bujagali Energy Limited
48. Cable Corporation Ltd.
49. Cairo International Bank
50. Canaan Sites Limited
51. Capital Radio Limited
52. Capital Shoppers Ltd
53. Care International in Uganda
54. Catholic Relief Services
55. Cbmi Construction Co Ltd
56. Cementers Limited
57. Centenary Rural Development Bank Ltd
58. Century Bottling Co. Ltd.
59. Chartis (U) Ltd/ Aig
60. Children's Aids Fund
61. China Civil Eng.Construction Co.
62. China Nanjing International (U) Ltd
63. China Road and Bridge Corporation Ltd
64. Chobe Safari Lodges Limited
65. Churchill Safaris and Travel Limited
66. Cinderella Agencies Limited
67. Citibank Uganda Limited
68. City Oil (U) Limited
69. Civicon Limited
70. Coil Limited
71. Colline Hotel Limited
72. Compassion Internat'l
73. Complant Engineering Trade (U) Ltd
74. Construction Put Sarajevo
75. Coronation Developers (U) Ltd
76. Crane Bank Limited
77. Crestanks Ltd.
78. Crown Beverages Limited
79. Dayalbhai Madanji & Co Investments Ltd
80. Deloitte Uganda Limited

81. Delta Petroleum Limited
82. Dfcu Bank Limited
83. Dfcu Limited
84. Dhl Global Forwarding (Uganda) Limited
85. Dhl International (U) Ltd
86. Diamond Trust Bank Ltd
87. Doshi Hardware (U) Ltd
88. Dott Services Limited
89. East African Distributors Limited
90. East African Underwriters Limited
91. East High School-Ntinda Limited
92. Eastern Builders and Engineers Ltd
93. Ecobank Uganda Limited
94. Ecopower Uganda Limited
95. Elgon Terrace Hotel Ltd
96. Elizabeth Glaser Pediatric Aids Foundation
97. Embassy Supermarket (U) Ltd
98. Energo (Uganda) Company Limited
99. Engen Uganda Limited
100. Enjoy (U) Ltd
101. Epicentre / Msf
102. Equator Catering Ltd
103. Equity Bank Uganda Limited
104. Ericsson Ab Uganda Branch
105. Ernst and Young
106. Eskom Uganda Limited
107. Excel Construction Ltd.
108. Ferdsult Engineering Services Ltd
109. Fina Bank Uganda Limited
110. Finca - Uganda
111. First Insurance Co
112. Five Star Insurance Services Ltd
113. Fountain Publishers Limited
114. Fuelex (U) Limited
115. G4s Secure Solutions Uganda Limited
116. Gal Chizar Palace Investments Limited
117. Game Discount World Uganda Limited
118. Gapco Uganda Ltd.
119. Gauff Consultants Uganda Limited
120. Geolodges Uganda Limited
121. Giz
122. Global Trust Bank (U) Limited
123. Gnld International (Pty) Limited
124. Goal Relief And Development Organisation
125. Gold Star Insurance Co. Limited
126. Golden Leaves Hotels & Resort Ltd
127. Golf Course Group Limited
128. Golf Course Holdings Limited
129. Golf Course Hotel Limited
130. Grant Thornton
131. Greenhill Holdings Ltd
132. Gulfstream Investments Uganda Limited
133. Hana Mixed Secondary School Limited
134. Hared Petroleum Limited
135. Hashi Energy (U) Limited
136. Hass Petroleum (U) Limited
137. Heifer Project Inter
138. Heritage Coffee Company Limited
139. Heritage Sites Ltd
140. Hilton High School Mukono
141. Hima Cement Ltd
142. Hl Construction Ltd
143. Hospice Africa Uganda Limited
144. Hossana Real Estates Ltd
145. Hotel Africana Ltd
146. Hotel Paradise On The Nile Limited
147. Housing Finance Bank Limited
148. Huawei Technologies Uganda Co Limited
149. Imperial Bank (Uganda) Limited
150. Imperial Group Of Hotels Limited
151. Infocom Limited
152. Innscor Uganda Limited
153. Insurance Company of East Africa
154. International Hiv/Aids Alliance Uganda
155. International Law Institute
156. International Rescue Committee Inc.
157. International School Of Uganda Limited
158. Inter-Religious Council Of Uganda
159. IucnLiason Office
160. J.P Cuttings Limited
161. Jacobsen Uganda Power Plant Co. Ltd
162. Jamani Investments Limited
163. Jambo Roses Ltd
164. Jazz Supermarkets Limited
165. Jesani Construction Ltd
166. Jiemke Ltd
167. Jomayi Property Consultant Limited
168. Jomayi Stones And Concrete Products
169. Jsi Research And Training Institute Inc.
170. Kabira Country Club Limited
171. Kakira Sugar Limited
172. Kakiri Stone Quarry Limited
173. Kampala International University Limited
174. Kampala Aeroclub Training Centre
175. Kampala International School Uganda Limited
176. Kark Technical Services Ltd
177. Karmic Foods Limited
178. Kayonza Growers Tea Factory Limited
179. Kcb Bank Uganda Limited
180. Kenfreight U Ltd
181. Kengrow Industries Limited
182. Kenjoy Enterprises
183. Kensington Africa Limited
184. Kijura Tea Company Limited
185. Kinyara Sugar Limited
186. Knight Frank Uganda Limited
187. Kobil Uganda Limited
188. Kpmg Peat Marwick
189. Krishna Construction Company Limited
190. Lake Victoria Hotel Limited

191. Leads Insurance Limited
192. Libra Energy Limited
193. Libya Oil Uganda Limited
194. Link Community Development Limited
195. Lion Insurance Co. Limited
196. Lutheran World Federation
197. M.K Publishers Uganda Limited
198. M.T.N. Uganda Limited
199. Mabale Growers Tea Factory Limited
200. Mada Holdings (U) Limited
201. Madhvani Group Limited
202. Malaria Consortium East Africa
203. Mantrac (Uganda) Limited
204. Marie Stopes Uganda Limited
205. Mbale Resort Hotel Limited
206. McleodRussel Uganda Limited
207. Medicins Sans Frontier Holland
208. Medicins Sans Frontiers-Spain
209. Mega Supermarket Limited
210. Merchantile Credit Bank Limited
211. Merryland High School
212. Metroplex Shopping Mall Ltd
213. Metropole Holdings Ltd
214. Metropolitan Properties Ltd
215. Mgs International (U) Ltd
216. Microcare Health Limited
217. Mildmay International
218. Moil (U) Limited
219. Monitor Publications Ltd
220. Mpanga Growers Tea Factory Ltd
221. Mu-Jhu Care Ltd
222. MuljibhaiMadhivan Foundation
223. MuljibhaiMadvani Co. Ltd
224. Multichoice Uganda Limited
225. Multitech Management and AcountancyProgramme
226. Mulusa Academy Wobulenzi Limited
227. Munyonyo Common Wealth Resort Limited
228. Nakumatt (Uganda) Ltd
229. Namirembe Hillside High School Ltd
230. Nation Media Group Limited
231. National Bank of Commerce (U) Limited
232. National Contracting Company Limited
233. National Forestry Authority
234. National Insurance Corporation Ltd.
235. Ndejje University
236. Nestle Equatorial African Region Limited
237. New Oasis Esso Service Station Ltd.
238. Newplan Limited
239. Nice House of Plastics Limited
240. Nicontra Limited
241. Nile Breweries Ltd
242. Nkumba University
243. Nokia Siemens TietoliikenneOy
244. North Bukedi Cotton Company Limited
245. Northern Uganda Rehabilitation Programme
246. Ntinda View Academy Limited
247. Oil and Gas Exploration Company Krakow Ltd
248. Omega Construction Ltd
249. Opportunity (U) Limited
250. Orange Uganda Limited
251. Orient Bank Ltd
252. Oxfam Gb In Uganda
253. Pancon Engineers Ltd
254. Paraa Safari Lodge Limited
255. Pdm (Uganda) Limited
256. Pearl Development Group Limited
257. Pearl Flowers Ltd.
258. Pearson Longman (U) Limited
259. Petro Uganda Limited
260. Petrocity Enterprises (Uganda) Limited
261. Phoenix Petroleum Uganda Limited
262. Picfare Industries Ltd.
263. Pine Investments
264. Pioneer Construction Ltd
265. Pkf Consulting Limited
266. Pkf Taxation Services
267. Pkf Uganda
268. Plan International
269. Polaris Seismic International Limited
270. Post Bank Uganda Limited
271. Premier Academy Limited
272. Pricewater House Coopers
273. Pricewater House Coopers Limited
274. Pride Micro Finance Limited
275. Private Sector Foundation Uganda
276. Program For Accessible Health Communication And Education
277. Property Services Limited
278. Protea Hotels Uganda Ltd
279. Protecting Families Against Hiv/Aids (Prefa)
280. Qg Saatchi & Saatchi Ltd
281. Quality Uganda Limited
282. Queen Elizabeth National Park
283. Rabbai Real Estates
284. Rainbow International School (2003) Limited
285. Rakai Health Science Program
286. Raz Entertainment Limited
287. Reach Out Mbuya Parish Hiv/Aids Initiative
288. Red Chilli Hideaway Limited
289. Research Triangle Institute
290. Reynolds Construction Company
291. Ridar Hotel Ltd
292. Rio Insurance Company Limited
293. Roko Construction Limited
294. Roofings Limited

295. Roofings Rolling Mills Limited
296. Royal Van Zanten Limited
297. S.S Constructions Limited
298. SaliniConstruttori Spa
299. Sameer Agriculture & Livestock Limited
300. Sanlam Life Insurance (U) Limited
301. Save The Children International
302. Schlumberger Oilfield
303. SdvTransami (Uganda) Limited
304. Seeta High School Ltd
305. Sema Properties Ltd
306. Senana Investments Ltd
307. Seroma Christian High Ltd
308. Seyani Brothers & Co. (U) Limited
309. Shell Malindi (Uganda) Limited
310. Shell Uganda Ltd.
311. Shoprite Checkers Uganda Limited
312. Snv Netherlands Development Organization
313. Sobetra Uganda Limited
314. SogeaSatom Ltd
315. Sos Children's Villages Uganda
316. Southern Range Nyanza Limited
317. SpedagInterfreight Uganda Limited
318. Speke Hotel (1996) Limited
319. Spencon Services Ltd
320. Srs (Uganda Limited
321. St Lawrence Citizens' High School Limited
322. Stanbic Bank (U) Ltd.
323. Standard Chartered Bank Uganda Limited
324. Standard Supermarkets Limited
325. Statewide Insurance Co
326. Stirling Civil Engineering Ltd - Uganda Branch
327. Stone Construction Limited
328. Straight Talk Foundation Limited
329. Strategic Logistics Ltd
330. Sugar Corporation Of Uganda Limited
331. Sunrise Commodities & Millers Uganda
332. Sunset Hotel International Limited
333. Super Supermarket Limited
334. Target Well Control Uganda Limited
335. Team Business College Limited
336. The Aids Support Organisation (Taso)
337. The Aids Support Organisation (Taso) - Central Region
338. The Emin Pasha Limited
339. The Human Rights and Good Governance Programme
340. The Infectious Diseases Institute Limited
341. The Johns Hopkins University Center for Communications Programmes
342. The Jubilee Insurance Co Ltd
343. The New Vision Printing and Publishing Corporation
344. The Registered Trustees of Kampala Archdiocese
345. The Registered Trustees of Reproductive Health Uganda
346. Tibbett & Britten International Limited
347. Tilda Uganda Limited
348. Toro Mityana Tea Co. Ltd.
349. Tororo Cement Ltd
350. Total Uganda Limited.
351. Tps (Uganda) Limited
352. Transafrica Assurance Co Ltd
353. Tronder Power Uganda Limited
354. Tropical African Bank Limited
355. Tusker Mattresses Uganda
356. Uap Insurance Uganda Limited
357. Uchmi Super Markets (Uganda) Limited
358. Ugacof Limited
359. Uganda Baati Ltd
360. Uganda Breweries Ltd
361. Uganda Christian University
362. Uganda Development Bank Ltd
363. Uganda Finance Trust Limited
364. Uganda Health Marketing Group Limited
365. Uganda Inflight Services Ltd
366. Uganda Martyrs University
367. Uganda Red Cross Society
368. Uganda Telecom Limited
369. Ugarose Flowers Limited
370. Ugma Engineering Corporation Ltd
371. Umeme Limited
372. Unilever Uganda Limited
373. United Bank for Africa (Uganda) Limited
374. United Healthcare Distributors Ltd
375. Uvan Ltd
376. Valley View Estates Limited
377. Vambeco Enterprises Limited
378. Venus Flowers (U) Limited
379. Victoria Construction Company Ltd
380. Victoria Pumps Ltd
381. Vienna College Namugongo Limited
382. Viral Services Limited
383. Wagagai Limited
384. Wanno Engineering Ltd
385. Warid Telecom Uganda Limited
386. Water Aid
387. Watoto Childcare Ministries
388. Weatherford Services & Rentals Limited
389. Western Uganda Cotton Company Limited
390. Xclusive Cuttings Uganda Limited
391. XclusiveKalanchoe (U) Limited
392. Zion Constructions

Revoked Designation of Payers Notices

Revoked by Legal Notice No.10 of 2012 & Legal Notice No.9 of 2013

The Income Tax (Designation of Payers) Notice, 2006;

The Income Tax (Designation of Payers) (Am) Notice, 2007;

The Income Tax (Designation of Payers) Notice 2012;

(Intentionally left blank)

PRACTICE NOTES

(Under Section 160 of the Income Tax Act)

These Practice Notes, which are binding on all URA officers unless altered or revoked, were issued to achieve consistency in the administration of the Income Tax Act and to provide guidance to taxpayers and officers of the Uganda Revenue Authority.

Practice Notes – 2001

ISSUE DATE	**:**	2nd November 2001
EFFECTIVE DATE	**:**	1st July 2001
ISSUED BY	**:**	Annebritt Aslund - CG

1. Recruitment Expenses

All expenses genuinely incurred by taxable employers in the recruitment of employees should be treated as incurred in the production of income under Section 22 of the ITA and allowed as a deduction.

2. Deduction of Bad Debts

(a) For persons other than financial institutions, a bad debt is allowed as a deduction only if all reasonable steps for recovery have been taken and there is reasonable ground that the debt will not be recovered.

(b) For financial institutions, specific reserves for identified losses or potential losses are allowable as a deduction. For this purpose in respect of financial institutions, bad debts provided for in accordance with the Bank of Uganda Regulations are allowable as a deduction. [Refer to Prudential Norms on Asset Quality for Financial Institutions – Paragraph 12(1) to (6)]

(c) Paragraph 12(7) of the same Bank of Uganda Regulations provides for 1% general provision on the total outstanding credit facilities. This 1% general provision does not satisfy the requirements of Section 25 of the ITA and is therefore not deductible.

(d) Any recoveries of previously written off bad debts will be treated as income and taxed in the year in which the recoveries are made.

3. Initial Allowance

Placing *"an item of eligible property into service for the first time…"* should be interpreted to mean for the first time in the taxpayer's business. Therefore where taxpayer 'B' buys equipment which has been used by taxpayer 'A' in his business, taxpayer 'B' is entitled to initial allowance in the first year in which he puts the same equipment to use notwithstanding that 'A' got initial allowance in respect of the same equipment.

4. Carry Forward of Losses by Companies enjoying Tax Holidays under Certificate of Incentives – Section 166(23)

The meaning of this subsection is that in respect of companies enjoying tax holidays, a tax computation will be done under Section 166(23)*(c)* for each of the tax holiday years as if the company was not exempt, and notional deductions made for Sections 27, 29, 30 and 31 under Section 166(23)*(b)* so that any loss in the final tax holiday year may be carried forward for deduction in the first year after expiration of the tax holiday and subsequently in accordance with Section 38.

5. Valuation of Benefits – Housing provided to Domestic Workers within the same Compound as the Person they work for (commonly referred to as "Boys' Quarters")

Workers quarters of this nature have no market value in terms of rent. Consequently, no benefit should be attached to such accommodation for domestic workers under paragraph 10 of the Fifth Schedule.

6. Valuation of Benefits – Provision of Security Guards

An employer's provision of security guards is not classified as a taxable benefit under the Fifth Schedule.

7. Computer Software

Computer software is an integral part of computers and therefore a class 1 depreciable asset under the Sixth Schedule of the ITA.

8. Withholding Tax on Professional Fees paid to Residents

Revoked by Practice Note issued on 1st September 08

In respect of Section 119(A), the following professionals will be deemed to have regularly complied with the obligations imposed under the Income Tax Act –

A. All Professionals who are registered for VAT purposes;

B. Doctors, Dentists or Nurses with a fixed place of business and registered for income tax purposes.

Professionals not covered by the above may, on application to the Commissioner General, be granted exemptions.

9. Any assessments that have become final and conclusive as at 1st July 2001 shall not be re-opened on account of variance with these Practice Notes.

Practice Notes – 2002

ISSUE DATE :
EFFECTIVE DATE :
ISSUED BY : Annebritt Aslund - CG

1. Foreign Currency Debt Gains and Losses – Section 48(4)

This Section requires notification of foreign currency debt to be given to the Commissioner in writing before a foreign currency loss in respect thereof can be allowed as a deduction.

Information relating to foreign currency gains and losses must be available in the accounts. Therefore the notification requirement is deemed to be satisfied when the accounts have been submitted. If any further details are necessary, they should be provided when requested.

2. Withholding Tax on Professional Fees – Section 119A *[Now 118A]*

This Section requires deduction of withholding tax from management or professional fees paid to resident professionals.

Professional here shall have the same meaning as under Section 4(7), namely "a resident taxpayer who is in the business of providing medical, dental, architectural, engineering, accounting, legal or other professional services".

Other professional services shall be limited to persons belonging to a vocation or calling that involves some advanced learning or science with a minimum qualification of a Diploma or Degree, or its equivalent.

Practice Notes – 2006

ISSUE DATE	**:**	24th July 2006
EFFECTIVE DATE	**:**	
ISSUED BY	**:**	Allen Kagina (Mrs) **-** CG

1. Treatment of Expenses and Losses incurred by Financial Institutions on Loans given out for Agricultural purposes

The Income Tax (Amendment) Act 2005 inserted a provision under Section 21 that exempts from tax interest earned by financial institutions on loans granted for agricultural purposes.

Under Section 22(1)(a) ITA, expenses and losses are allowed only to the extent to which the expenditures or losses were incurred in the production of income included in gross income. Expenses and losses incurred in producing income that is exempt from tax are therefore not allowable for tax purposes.

Below is the recommended tax treatment of expenses related to deriving exempt bank interest, and procedures to be followed:

(a) Direct Finance Cost (Interest on borrowed funds)

(i) Interest payable by a Financial Institution on borrowed funds should be apportioned between loans for agricultural purposes and loans for other purposes using the formula –

Interest relating to agricultural loans =

$$\frac{A+B}{C+D} \times E$$

where,

A loans (principal) for agricultural purposes outstanding at the beginning of the Year;

B loans (principal) for agricultural purposes outstanding at the end of the year;

C borrowed funds at the beginning of the year;

D borrowed funds at the end of the year;

E the total interest cost for the year.

(ii) The portion of interest obtained using the formula above is not tax allowable.

(b) Provisions for Bad and Doubtful Debts

Specific provisions as well as general provisions made in respect of agricultural loans are not allowable for tax purposes as per provisions of Section 22(1)(a).

(c) Overheads and other Expenses

(i) Overheads are allowed wholly because they cannot be directly traced to agricultural loans, and possible bases of apportionment are highly subjective.

(ii) Administrative and other establishment expenses are also allowed wholly because of the difficulty in obtaining a suitable base for apportionment.

(d) Any other expenses that can be separately identified and is wholly related to agricultural loans is not allowable for tax purposes.

(e) Transitional Loans

This refers to loans that had already been advanced by financial institutions for agricultural purposes before 1st July 2005.

Interest accruing to a financial institution out of this category of loans after 1st July 2005 is exempt, while the related expenses are not allowable for tax purposes.

(f) Financial Institutions should submit with their final returns and accounts the following information –

(i) A breakdown of specific provisions between those made against loans for agricultural purposes and those made against loans for other purposes;

(ii) Total interest cost for the year;

(iii) Opening and closing balances of the principal in respect of loans advanced for agricultural purposes; and

(iv) Opening and closing balances of total interest-incurring funds available to the financial institution for lending.

(g) Definitions

"Agricultural loan" means a loan for primary production purposes of farming, forestry, fish farming, bee keeping, animal and poultry husbandry, or similar operations.

"Financial Institution" is defined in the ITA.

2. Exemption of Income of a Collective Investment Scheme

The income of a Collective Investment Scheme (CIS) is exempt from tax under Section 21(1)(t) of the ITA to the extent of which the income is distributed to participants in the Collective Investment Scheme.

A Collective Investment Scheme is defined in Section 3 of the Collective Investment Scheme Act to mean –

> "…any arrangement with respect to property of any description, including money, the purpose or effect of which is to enable persons taking part in the arrangement, whether by becoming owners of the property or any part of it or otherwise, to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income."

This definition is adopted for purposes of the ITA under Section 2.

To qualify as a CIS under the above definition, the following conditions must be satisfied:

(a) The participants in the scheme must not have day to day control over the management of the property in question;

(b) The participant's contributions and ultimate income/profits in relation to a property as a whole (not as separate parts unless there's free exchange or rights) must be pooled;

(c) The property must be managed as a whole by the operator of the scheme or on his behalf.

Arrangements that do not meet the above conditions and those outlined under Section 3(5) of the CIS Act do not constitute a CIS for the purposes of the ITA and would not enjoy the exemption.

3. Exempt Organisation

For purposes of the definition of exempt organisation in Section 2 of the ITA, in order to be considered –

(a) "charitable" – an organisation must be proved to provide services for public benefit falling under any of the following categories:

(i) the relief of poverty;

(ii) the advancement of education;

(iii) the advancement of religion; or

(iv) other purposes beneficial to the community within the legal understanding of charity.

Whereas the public benefit in the above categories can easily be assumed, an organisation claiming to be charitable under category (iv) shall positively demonstrate the public benefit provided.

(b) "an institution of public character" – the benefit provided must be to the public at large or at least to a sufficient section of the community.

4. Widely Issued – Section 83(5)(a)

For interest paid by a resident person in respect of debentures to be exempt from tax, the "public offer test" must be met. This means the debentures, debenture stock, mortgage stock, loans, loan stock or similar instrument acknowledging indebtedness whether secured or not, must have been issued –

(a) to a reasonable number of people operating in a capital market;

(b) to several investors with a history of previous acquisition of debt instruments or debentures;

(c) as a result of negotiations for the loan in a public forum used by financial markets dealing in debt instruments; or

(d) to a dealer, manager or underwriter for the purpose of placement of the debt instrument.

The issuance of debentures should therefore be non-exclusive and preferably in a capital market arrangement that caters for public involvement.

5. "Partly Used" – Section 27(10) and 2(u)

The phrase "partly used" relates to use of assets for both business and non-business purposes.

Practice Notes – 2007

ISSUE DATE	**:**	18th June 2007
EFFECTIVE DATE	**:**	
ISSUED BY	**:**	Allen Kagina (Mrs) **-** CG

1. Withholding Tax on Payments for Goods and Services – Meaning of "aggregate" and "gross amount" under Section 119(1) ITA.

(a) For purposes of Section 119(1) ITA, the word "aggregate" is interpreted to mean the total payments to a supplier in respect of a supply of goods or services as provided for in a contract. The threshold of one million shillings is therefore in respect of the total contract value. This implies that separate supplies which constitute one contract of one million shillings and above are subject to 6% WHT irrespective of whether the amount paid at any given time in respect of the supply is less than the threshold provided under Section 119(2).

(b) Gross amount of the payment under Section 119(1) refers to the actual consideration for goods or services exclusive of any tax (i.e. VAT or Excise Duty)

2. Exemption for 6% WHT on Sales by Insurance Brokers/Agents

Section 119(1) gives the Government of Uganda, a Government Institution, a local authority, any company controlled by the GOU or

any person designated in a notice issued by the Minister the mandate to withhold at a rate of 6% on the gross amount payable to any person in Uganda for the services or goods supplied. This includes payments to insurance brokers/agents.

In exercising this provision, the WHT agents have been withholding tax at 6% from payments of premiums to brokers/agents. Inevitably, the WHT is levied on the gross payments to the agent who may be entitled only to a part of the sale proceeds as a commission, yet the WHT credit can only be claimed by the agent and not the principal on whose behalf the sales are made.

Therefore, in order to iron out the anomaly, 6% WHT shall not apply on payment of insurance premiums.

3. 6% WHT on Sale of Air Tickets

Section 86 ITA imposes tax on every non-resident person carrying on the business of air transport operator who derives income from the carriage of passengers who embark in Uganda at a rate of 2% of the gross income. Section 87 provides that the tax is a final tax if the tax payable has been withheld by a withholding agent under Section 120 and paid to the Commissioner under Section 123.

Section 119(1) gives the Government of Uganda, a Government Institution, a local authority, any company controlled by the GOU or any person designated in a notice issued by the Minister the mandate to withhold at a rate of 6% on the gross amount payable to any person in Uganda for the services or goods supplied. This includes payments to travel agents.

However, it is noted that travel/ticketing agents receive money for air tickets on behalf of the airlines which are already taxed under a different arrangement.

Therefore, in order to iron out this anomaly, 6% WHT shall not apply on payments for air tickets.

Practice Notes – 2008

ISSUE DATE	:	18th April 2008
EFFECTIVE DATE	:	1st May 2008
ISSUED BY	:	Allen Kagina (Mrs) - CG

1. Cessation of Tax Credit Certificates in respect of Final Withholding Tax

Section 128 (3) provides that tax withheld by a withholding agent from a payee is deemed to have been paid by the payee/supplier and is credited against the tax assessed on the payee/supplier for the year of income in which the payment is made. The payee/supplier is entitled to a Tax Credit Certificate (TCC) with which he/she makes claim of the tax withheld.

However, in respect of withholding tax that is final tax under section 122 of the Income Tax, the tax withheld cannot be claimed as credit against any other tax liability in Uganda.

Therefore, with effect from 1st May 2008, URA will no longer issue Tax Credit Certificates in respect of final tax namely;

(a) Tax that is withheld on payment of interest by a financial institution to a resident individual, unless the individual receives it in the capacity of a trustee (section 117);

(b) Tax that is withheld on payment of interest by a financial institution to resident retirement fund (section 117);

(c) Tax that is withheld on payment of interest by a financial institution to an institution or organization which the Commissioner General has exempted from income tax under section 2*(bb)*;

(d) Tax that is withheld on payment of interest on treasury bills (where the interest is payable on Treasury Bills that mature/matured on or after 1st July 2006); and

(e) Tax that is withheld on payment of dividends to a resident individual (section 118);

2. Boundaries of Kampala and Entebbe Areas for Income Tax Purposes

Section 28 of the Income Tax Act provides for Initial allowance and subsection (1)*(a)* provides that;

> "where the asset is placed in service outside an area prescribed in part IV of the sixth Schedule to this Act, seventy five per cent of the cost base of the property at the time it is placed in service: or
>
> (b) in any other case, fifty per cent of the cost base of the property at the time it is placed in service."

And Part IV of the sixth schedule provides as hereunder,

> "The following areas are prescribed for the purposes of section 28 - **Kampala, Entebbe, Namanve, Jinja, and Njeru."**

It has been noted that there has been a contention as to the boundaries of Kampala and Entebbe areas for purposes of the above quoted provision. This therefore is to clarify on what Kampala and Entebbe Tax Districts are composed of.

Kampala area for Income Tax purposes and in particular the above quoted provision is composed of the five political divisions namely;

1) Kampala Central;

2) Nakawa;

3) Rubaga;

4) Makindye and

5) Kawempe

Any area outside the above does not comprise Kampala for purposes of the Income Tax Act provision quoted above.

Entebbe area for tax purposes shall comprise of the administrative divisions of Entebbe Municipality which are divisions A and B. The divisions are further divided into four parishes that is,

1) Kigungu Parish;

2) Kiwafu Parish;

3) Central Parish and

4) Katabi Parish

Any area outside the above does not comprise Entebbe for purposes of tax.

For purposes of uniformity, ease in operation and implementation of Section 28 of the Income Tax Act, Kampala and Entebbe areas shall be defined as above.

ISSUE DATE : 1st September 2008
EFFECTIVE DATE : 1st September 2008
ISSUED BY : Allen Kagina (Mrs) - CG

Withholding tax on management or professional fees paid to residents (section 119A *[Now 118A]***)**

This PN revokes the practice note issued on November 2nd, 2001 on the application of section 119A *[Now 118A]* of the Income Tax Act 1997, Cap 340.

In respect of Section 119A *[Now 118A]*(Amendment Act 2001) of the Income Tax Act 1997, Cap 340, any professional meeting the following requirements will be deemed to have regularly complied with the obligations imposed under the Income Tax Act –

i) Is registered with URA;

ii) Has submitted the Provisional, Final/Self-Assessment Returns for the company and individuals (including directors); and monthly PAYE and VAT returns by the due dates for the three preceding years;

iii) Has submitted all the directors' returns (for companies only);

iv) Has fully settled all the taxes by the due dates for the three preceding years of income;

v) Has fully complied with the obligations to withhold tax under the Act;

vi) Has paid all the customs dues to date;

vii) Has entered and honours an arrangement to pay any URA arrears of tax due; and

viii) Has complied with any notice or any requirement to provide information under the Income Tax Act.

URA will administratively review the professionals in the data base and issue a list of those deemed to be compliant as per section 119A (2) *[Now 118A]* of the Income Tax Act 1997 as amended. All professionals already appearing on the recently published list of exempt persons are deemed to be compliant. Professionals not exempted shall require clearance from URA.

Any assessments that have become final and conclusive as at 1st September 2008 shall not be re-opened on account of variance with this Practice Note.

Practice Notes 2009

ISSUE DATE : 16th March 2009
EFFECTIVE DATE : 1st July 2008
ISSUED BY : Allen Kagina (Mrs) - CG

No. URA/IT/PN 1/09: Exempt Income derived by a person from managing or running an Educational Institution

1. Background to the exemption

The Minister of Finance, Planning and Economic Development proposed the exemption in his Budget Speech for the Financial Year

2008/2009 in order to encourage investment in the education sector. The proposal was subsequently passed into law and is provided for in section 21(1)(aa) of the Income Tax (Amendment) Act 2008. It is expected that the tax foregone would be re-invested in the institutions to provide better facilities and improve curricula for the betterment of Ugandans.

2. Effective date of exemption

The exemption applies to years of income commencing on or after 1st July 2008. Therefore income derived by a person from managing or running an education institution whose year of income commenced before 1st July 2008 is not exempt even if the accounting date falls after 1st July 2008.

3. Education institution

There are three broad categories that constitute education institutions i.e.

(i) a school,

(ii) a tertiary institution and;

(iii) a university.

The meaning of the above mentioned categories obtained form the Ministry of Education and Sports/The Education Acts indicated below shall be adopted for the purposes of this exemption.

School

A school means a nursery school, a primary school, a senior secondary school, a technical, a business or a vocational school providing some form of training to a group of learners. This category covers pre-primary, primary and post primary sub sectors.

Tertiary institution

A tertiary institution means a post-secondary or post ordinary level business, technical or vocational education and training institution or

a degree awarding institution duly registered and gazetted by the National Council for Higher Education.

University

A university means an institution, school, Institute or centre of Higher Education, other than a tertiary institution, which provides post-secondary education offering courses of study leading to the award of certificates, diplomas and degrees and conducting research and publish.

4. Beneficiaries of the exemption

Generally, all institutions provided for by the Education (Pre-primary, Primary and Post-primary) Act 2008, the Business, Technical, Vocational Educational and Training (BTVET) Act 2008 and the Universities and Other Tertiary Institutions Act 2003 may be referred to as educational institutions falling under section 21(1)(aa) of the Income tax Amendment Act 2008.

5. Income derived from running or managing education institution

Income that may be derived from running or managing an education institute constitute the following:

(i) Fees levied on the students

(ii) Donations

(iii) Legacies

(iv) Grants

(v) Income from development al projects of the institution such as a farm, hire of institutional premises and equipment , research, and consultancy

(vi) Income generated by production units in Technical and vocational schools, institutes and colleges when they take on contracts or produce goods and services under **"Training With Production"** training strategy, especially under the following trades;

- ✓ Food and nutrition(baking),
- ✓ Motor vehicle mechanics,
- ✓ Carpentry and joinery,
- ✓ Electronics,
- ✓ Welding and fabrication,
- ✓ Tailoring, designing and cutting of garments,
- ✓ Farming, and
- ✓ Electrical installation

(vii) Any other income that is generated by an education institution to help in the provision and advancement of education and training and, is reflected in the income and expenditure books of accounts of the institution.

It should be noted that the following income is not exempted:

a) Employment income to staff including management staff and directors;

b) Dividends to shareholders,

c) Business/investment income that is not related to the functioning of the education institution and

d) Income from the institution's subsidiary enterprises and investments.

6. Obligations of education institutions

Education institutions still have the following obligations:

1. Each education institution shall present evidence of recognition by the Ministry of Education and Sports or its relevant agencies to attest its legal existence and to the fact that it was founded for purposes of providing education i.e. by means of a license, registration certificate or charter.

2. Filing of Income tax returns,

3. Filing of Pay As You Earn (PAYE) returns and payment of the tax thereof,

4. Payment of tax on income that is not exempt,

5. Payment of other taxes imposed under the:-

- Value Added Tax Act Cap 349
- The East African Community Customs Management Act 2004
- Taxes, fees, imposed under the Traffic and Road Safety Act Cap 361
- Taxes under the Stamps Act Cap 342
- Taxes, levies, fees or duties imposed by any other statute recognized under the laws of Uganda.

ISSUE DATE	**:**	31st March 2009
EFFECTIVE DATE	**:**	1st July 2008
ISSUED BY	**:**	Allen Kagina (Mrs) - CG

No. URA/IT/PN 2/09: DEDUCTION ALLOWED TO PRIVATE EMPLOYERS EMPLOYING PERSONS WITH DISABILITIES

The Commissioner General of Uganda Revenue Authority hereby issues practice notes under Section 160 of the Income Tax Act, Cap 340 for the guidance of officers of URA and the Public on the effective date as per the Income Tax (amendment) Act 2008 under section 22(1)(e) which allows as a deduction 15% percent of tax payable to all private employers who employ ten or more persons with disabilities. The practice notes also define key terms in the provision.

Section 22(1) (e) provides that…….

> ”private employers who employ ten or more persons with disabilities either as regular employees, apprentices or learners on full time basis shall be entitled to tax deduction of fifteen percent of all payable tax upon proof to the Uganda Revenue Authority”

Effective date of the amendment

This amendment applies to **years of income commencing on or after 1st July 2008.**

Implication of the amendment

A deduction of 15% of tax payable by a private employer who employs 10 or more persons with disabilities shall be allowed in ascertaining chargeable income.

Illustration

If Chargeable Income ascertained of a corporate body is;

1,000,000 - Tax thereon at 30%_____300,000

15% deduction allowed_____15%*300,000
= 45,000

Therefore the chargeable Income after deduction under section 2(1)(e)
1,000,000 - 45,000 = 955,000

Tax thereon a 30%_____30%*955,000
= 286,000

The meanings below shall be attached to the terms as in the provision:-

"apprentices or learners on full time basis" means a person who has agreed to work for a skilled employer for a fixed period usually for a low wage in return for being taught that persons skill.

"disability" means a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment which substantially limits one or more of the major life activities of that person.

"private employer" means an employer other than government or government controlled entities liable to income tax.

Note

An entity partly owned by Government but to less than 51% stands to benefit from the deduction.

"regular employees" means employees are following a constant definite pattern, done or happening often, lasting or happening over a long period.

Practice Notes 2012

ISSUE DATE	**:**	5th May 2012
EFFECTIVE DATE	**:**	1st July 2011
ISSUED BY	**:**	Allen Kagina (Mrs) - CG

Transfer Pricing Documentation to Be Kept By Taxpayers

The Honourable Minister of Finance, Planning and Economic Development by virtue of the powers conferred upon her under Section 164 of the Income Tax Act, Cap. 340, Laws of Uganda, issued Statutory Instrument No. 30 of 2011 titled The Income Tax (Transfer Pricing) Regulations, 2011 effective 1st July 2011.

Documentation

In accordance with Sub Regulation 3 of Regulation 8 of the Regulations, the Commissioner General hereby notifies the general taxpaying public that the following documentation shall be required for transfer pricing purposes.

1. These documentation requirements shall apply to controlled transactions for Multi National Enterprises (MNEs); or

2. Controlled Transactions in aggregate equal to or exceeding 25,000(Twenty five thousand) currency points in a year of income.

Note: For purpose of this Practice Notes, MNEs are defined as enterprises that manage production, deliver services or generate sales and profits in more than one country and includes hybrid arrangements and relationships through shared shareholders.

This list is neither intended to be exhaustive nor meant to apply to all types of businesses. The taxpayer should maintain documents of sufficient quality so as to accurately and completely describe the transfer pricing analysis conducted and efforts to comply with the arm's length principle.

A. Company details:

i) Ownership and organizational structure showing linkages between the associated parties. This shall include -

   a) description of the taxpayers worldwide organizational structure (including an organizational chart) covering all associated parties;

   b) The identification of participants in related party dealings ; and

   c) Brief history and any significant changes in relationships between the parties including dates of incorporation, shareholding at the time of the changes.

ii) Operational aspects of business including details of functions performed, risks assumed and assets employed relevant to the transactions.

iii) Assumptions and information regarding factors that influenced the setting of prices or the establishment of policies for the taxpayer and the related party group as a whole

B. Transaction details.

i) A description of controlled transactions that identifies the transactions which have been entered into, the names of the participants, the scope, type, timing, frequency of and value of transactions e.g. purchase of raw material or fixed assets, sale of finished goods, borrowing of funds, the currency of the

transactions should also be stated, identification of internal data relating to the controlled transactions, terms and conditions of the transactions including copies of relevant intercompany agreements relating to the transactions such as –

a) Technical assistance fees.

b) Management fees.

c) Marketing fees and branding arrangements.

d) Recruitment fees, or other services provided.

e) Royalties and licences payable.

f) Purchase or rental of equipment or other assets.

g) Handling charges.

h) Loans, including loans advanced by a related company to the associate through independent parties.

i) Allocation of overhead expenses or any specific expenses (e.g. promotional or advertising) borne by the foreign entity or associated enterprise.

j) Other forms of payment made to associates. And

k) In regard to payments made above, where the payment made by an associate to a third party will result in an offset of obligations due by the third party to an associate or non-associate.

ii) Comparables, description of the comparables including, for tangible property, the physical features, availability and quality of tangible property, for services the nature and extent of the services, and for intangible property, the form of the transaction, type of intangible, the rights to use the intangible that are assigned, and anticipated benefits from use of the intangible. Also,

- Identify factors taken into account by the taxpayer to evaluate comparability including the characteristics of the property or service transferred.

- The functions performed (and the significance of those functions in terms of their frequency, nature and value to the respective parties), the assets employed (taking into consideration their age, market value, location, etc.)

- the risks assumed (including risks such as market risk, financial risk, and credit risk).

- Identification of any internal comparables, adjustments made if any, criteria used in selecting comparables etc.

- Aggregation analysis (grouping of transactions for comparability).

- Extension of the analysis over a number of years with reasons for the years chosen, where relevant.

iii) Economic conditions during the time of transactions including differences surrounding controlled firms transactions and uncontrolled transactions to which it is compared in terms of –

a) Geographical location.

b) Business plans to the extent to which they relate to the nature and purpose of the controlled transactions.

c) Description of internal procedures and internal controls in place at the time of controlled transactions.

d) Economic and legal factors affecting the pricing of the taxpayer property and services.

e) Description of intangible property potentially relevant to the pricing of the taxpayers' property or services in the controlled transactions.

f) Market size and Market share to the extent differences affect price.

g) Regulatory framework.

h) Description of the structure, intensity and dynamics of the relevant Industry competitive environment.

i) Trends, risks and key players, etc.

j) Availability of substitute goods and services.

k) Levels of supply and demand.

l) Any other special circumstances.

C. Determination of arm's length price.

i) Description of the method selected and the reasons why it was selected (The pricing methodology adopted, showing how the arm's length price is derived. Also indicate why that method is chosen over other methods and a description of the measures taken to ensure that the measure of profit for taxation purposes is derived from arm's length pricing of relevant transactions. This would include –

- An analysis of the controlled transaction using the five (5) comparability factors as contained in Regulation 4 of the Transfer Pricing Regulations.

- Searches and databases and criteria used in selection of comparables including economic considerations.

- A description of the transactions selected as comparables, including an analysis of those transactions (using the five comparability factors) and an explanation of why the selected comparables are considered sufficiently reliable.

- A description of any comparability adjustments considered appropriate.

- A description of how comparable pricing or margins is applied to the tested transaction.

- Intangible property, the form of the transaction, the type of intangible, the rights to use the intangible that are assigned, and the anticipated benefits from its use, Documentation of assumptions and judgments made in the course of determining an arm's length outcome.

- Documentation of calculations made in applying the selected method and any adjustments made. Assumptions and information regarding factors that influenced the setting of prices or the establishment of any pricing policies for the taxpayer and the related party group as a whole.

ii) Functional analysis of the risks assumed (including risks such as market risk, financial risk, credit risk, foreign exchange risk, liability risk, assets employed (taking into account consideration of their age, market value, location etc.) and functions performed by entity in relation to risks, assets and functions and performed by the associated entities that are party to the transaction and the significance of those functions in terms of their frequency, nature and value to the respective parties involved in or related to the transaction.

iii) Cost Contribution arrangements (CCA) including copies of the CCA agreements and relevant amendments, list of arrangement participants and beneficiaries, extent of use of CCA property by associated parties who are non-parties to CCA, duration of CCA, description of the scope of the activities to be undertaken, including any intangible or class of intangibles in existence or intended to be developed, interest of each participant, identification of benefits accruing to each party and any material differences between expectations and actual benefits and all other rights and obligations of each associated enterprise under the CCA, contribution borne by each participant, description of the method used to determine each parties share of the contribution consequences of a participant entering or withdrawing from the agreement.

iv) Management strategy/policy and/or corporate business plans to the extent they give an insight into the nature of special circumstances under which the taxpayer business is conducted, for example to enter a new market, increase share in existing market, to introduce new products into market, or to fend off increasing competition, set off transactions, distribution channel selection and management strategies that influenced determination of transfer price.

v) Where applicable, financial information relevant in comparing profit and loss between associated entities with whom the taxpayer has transactions subject to transfer pricing rules.

vi) If a comparability analysis results in a range of arm's length outcomes, please document all the outcomes. Reasons for choosing that particular arm's length price from the range of outcomes must be documented. If a range is used, documentation supporting the establishment of the range should be evidenced; and

vii) An explanation of the capital relationship eg. balance and source of debt and equity funding) relevant to the transactions.

<u>When to submit documents:</u>

Documents pertaining to transfer pricing are NOT to be physically submitted with Return Forms, BUT must be in place prior to the due date for filing the Income Tax Return for the relevant year, must be in the English language or translated into the English language, prepared at the time the transfer price is established.

D. Summary and Conclusion

A summary and conclusion as to whether the controlled transactions comply with arm's length principle and whether any transfer pricing adjustments are required.

E. Note - A person who fails to comply with this regulation is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding twenty five currency points or both.

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THE VALUE ADDED TAX ACT

Cap.349 - Laws of Uganda 2000

An Act to provide for the imposition and collection of Value Added Tax, and for other purposes connected to that tax.

Commencement: 1st July 1996

Arrangement of Sections

PART I – PRELIMINARY

1. Interpretation
2. Interpretation of fair market value
3. Interpretation of associate

PART II – CHARGE OF TAX

4. Charge of tax
5. Person liable to pay tax

PART III – TAXABLE PERSONS

6. Taxable person
7. Persons required or permitted to register
8. Registration
9. Cancellation of registration

PART IV – SUPPLIES OF GOODS AND SERVICES

10. Supply of goods
11. Supply of services
12. Mixed supplies
13. Supply by agent
14. Time of supply
15. Place of supply of goods
16. Place of supply of services
17. Imports

PART V – TAXABLE SUPPLIES

18. Taxable supply
19. Exempt supply
20. Exempt import [of goods]
20A. Exempt import of services

PART VI – TAXABLE VALUE

21. Taxable value of a taxable supply
22. Adjustments
23. Taxable value of an import of goods

PART VII – CALCULATION OF TAX PAYABLE

24. Calculation of tax payable on a taxable transaction
25. Calculation of tax payable by a taxable person for a tax period
26. Cash basis accounting
27. Consequences of a change in accounting basis
28. Credit for input tax
29. Tax invoices
30. Credit and Debit notes

PART VIII – PROCEDURE AND ADMINISTRATION OF TAX

Returns and Assessments

31. Returns
32. Assessments
33. General provisions relating to assessments

PART VIIIA - OBJECTIONS AND APPEALS

33A. Interpretation
33B. Objections to assessments
33C. Appeals to Tax Appeals Tribunal
33D. Appeals to High Court
33E. Burden of proof

Collection and Recovery of Tax

34. Due date for payment of tax
35. Tax as a debt due to Government
36. Security
37. Preferential claim to assets
38. Seizure of goods
39. Closure of business and distress proceedings
40. Recovery of tax from third parties
41. Duties of receivers

Refund of Tax

42. Refund of overpaid tax
43. Refund of tax for bad debts
44. Interest on overpayments and late refunds
45. Refund of tax to diplomats and diplomatic and consular missions and international organizations

Records and Investigation Powers

46. Records
47. Access to books, records and computers
48. Notice to obtain information or evidence
49. Books and records not in English language

Taxpayer Identification Number

50. Taxpayer identification number

Offences and Penal Tax

51. Offences related to registration
52. Offences related to tax invoices, credit notes and debit notes
53. Failure to lodge a return
54. Failure to comply with recovery provision
55. Failure to maintain proper records
56. Failure to provide reasonable assistance
57. Failure to comply with Section 48 or 49 notice
58. Improper use of taxpayer identification number

59. False or misleading statements
60. Obstructing an officer of the Authority
61. Offences by officers and other persons
62. Offences by companies
63. Officer may appear on behalf of Commissioner General
64. Compounding of offences
65. Penal tax
66. Recovery of penal tax
67. Remission of tax

PART IX – GENERAL PROVISIONS

68. Form, authentication and availability of documents
68A. Use of information technology
68B. Cancellation of registration
68C. Offences
69. Service of notices and other documents
70. Nominated person
70A. VAT representatives of non-resident persons
71. Application of Act to partnerships and unincorporated associations
72. Trustee
73. Currency conversion
74. Prices quoted to include tax
75. Schemes for obtaining undue tax benefits
76. International agreements
77. Priority of Schedules
78. Regulations and amendment of Schedules
78A. Supremacy of Act
79. Practice notes
80. Private rulings
81. International agreements

SCHEDULES

First Schedule	Public international organizations
Second Schedule	Exempt supplies
Third Schedule	Zero-rated supplies
Fourth Schedule	Formulae, tax invoices, credit notes and debit notes
Fifth Schedule	Calculation of interest penalty

SUBSIDIARY LEGISLATION

Value Added Tax Regulations, 1996

The Value Added Tax (Rate of Tax) Order 2006 - SI No.29, 2006

The Value Added Tax (Rate of Tax) Order 2007

The Value Added Tax (Deferment of Tax on Plant and Machinery) Regulations 2013

PRACTICE NOTES

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PART I - PRELIMINARY

1. Interpretation

In this Act, unless the context otherwise requires -

Substituted by VAT (Am) Act 1 2008

(a) "application to own use", in relation to goods *or services*, means applying the goods *or services* to personal use, including personal use by a relative, or any other non-business use;

Inserted by VAT (Am) Act 2010

(aa) "biodegradable packaging material" means packaging material which can undergo a breakdown of its entire composition and by naturally existing micro-organisms in the presence of air and water at specific temperatures into smaller constituent components within a given time of usually not more than six months;

(b) "Commissioner General" means the Commissioner General of the Uganda Revenue Authority;

(c) "company" means a body corporate or un-incorporate, whether created or recognized under a law in force in Uganda or elsewhere, but does not include a partnership or trust;

(d) "consideration", in relation to a supply of goods or services, means the total amount in money or kind paid or payable for the supply by any person, directly or indirectly, including any duties, levies, fees, and charges paid or payable on, or by reason of, the supply other than tax, reduced by any discounts or rebates allowed and accounted for at the time of the supply;

(da) "contractor" means a person supplying goods or services other than as an employee to the following –

Inserted by VAT (Am) Act 2015

(i) A licensee in respect of mining operations undertaken by the licensee; or

(ii) A licensee in respect of petroleum operations undertaken by the licensee.

(e) "exempt import" has the meaning in Section 20;

(f) "exempt supply" means a supply of goods or services to which Section 19 applies;

(g) "finance lease", in relation to goods, includes the lease of goods where –

(iii) the lease term exceeds 75 per cent of the expected life of the goods;

(iv) the lessee has an option to purchase the goods for a fixed or determinable price at the expiration of the lease; or

(v) the estimated residual value of the goods to the lessor at the expiration of the lease term, including the period of any option to renew, is less than 20 per cent of its fair market value at the commencement of the lease;

Substituted by VAT (Am) Act 2011

(h) "goods" includes all kinds of movable and immovable property, [thermal and electrical energy, heating, gas, refrigeration, air conditioning and water] but does not include money;

(i) "hire purchase agreement" means an agreement that is a hire purchase agreement in terms of hire purchase law in Uganda;

(j) "import" means to bring, or to cause to be brought, into Uganda from a foreign country or place;

(k) "importer", in relation to an import of goods, includes the person who owns the goods, or any other person for the time being possessed of or beneficially interested in the goods and, in relation to goods imported by means of a pipeline, includes the person who owns the pipeline;

(l) "input tax" means the tax paid or payable in respect of a taxable supply to or an import of goods or services by a taxable person;

(la) "licensee" means a person granted a mining right or a person with whom the Government has entered into a petroleum agreement;

(lb) "mining operations" includes every method or process by which any mineral is won from the soil or from any substance or constituent of the soil and includes mining exploration operations;

(la – ld) Inserted by VAT (Am) Act 2015

(lc) "petroleum operations" means an authorised operation under a petroleum agreement for petroleum exploration, development, production and export including, planning, installation, transportation of petroleum, storage or decommissioning, and for the construction of a pipeline or petroleum refinery.

(ld) "petroleum agreement" means an agreement entered into by the Government of Uganda with another person in accordance with the Petroleum (Exploration, Development and Production) Act, 2013, or the Petroleum (Refinery, Conversion, Transmission and Midstream Storage) Act 2013.

(m) "Minister" means the Minister responsible for Finance;

(n) "money" includes –

(i) coins or paper currency that the Bank of Uganda has issued as legal tender;

(ii) coins or paper currency of a foreign country which is used or circulated as currency;

(iii) a bill of exchange, promissory note, bank draft, postal order, or money order, other than a coin or paper currency that is a collector's piece, investment article or an item of numismatic interest;

(o) "output tax" means the tax chargeable under Section 4 in respect of a taxable supply;

Inserted by VAT (Am) Act 2006

(p) "person" includes an individual, a partnership, company, trust, government, and any public or local authority;

(q) "public international organization" means an organization listed in the First Schedule to this Act;

(r) "reduced consideration has the meaning in Section 18(7);

(s) "relative", in relation to an individual, includes an ancestor of the individual, a descendant of the individual's grandparents, or the spouse of the individual or of any of the foregoing;

(t) "services" means anything that is not goods or money;

(u) "tax" means the value added tax chargeable under this Act;

(v) "tax fraction" means the fraction calculated in accordance with the formula;

$$\frac{\mathbf{r}}{\mathbf{r + 100}}$$

in which formula **"r"** is the rate of tax applicable to the taxable supply;

(w) "tax period" means the calendar month;

(x) "taxable person" has the meaning in Section 6;

(y) "taxable supply" has the meaning in Section 18;

(z) "taxable transaction" means a taxable supply or an import of goods or services that is subject to tax under this Act;

(aa) "taxable value", in relation to a taxable supply or an import of goods or services is determined under Part VI of this Act;

(bb) "trust" means any relationship where property is under the control or management of a trustee;

(cc) "trustee" includes –

(i) an executor, administrator, tutor or curator;

(ii) a liquidator or judicial manager;

(iii) a person having or taking on the administration or control of property subject to another person having a beneficial

interest in the property;

(iv) a person acting in a fiduciary capacity;

(v) a person having possession, control or management of the property of a person under a legal disability.

2. Interpretation of Fair Market Value

(1) For the purposes of this Act, the fair market value of a taxable supply at any date is the consideration in money which a similar supply would generally fetch if supplied in similar circumstances at that date in Uganda, being a supply freely offered and made between persons who are not associates.

(2) Where the fair market value of a taxable supply cannot be determined under subsection (1), the fair market value of the supply shall be the amount that, in the opinion of the Commissioner General having regard to all the circumstances of the supply, is the fair market value of the supply.

(3) In this Section, "similar supply", in relation to a taxable supply, means a supply that is identical to, or closely or substantially resembles, the taxable supply, having regard to the characteristics, quality, quantity supplied, functional components, reputation of, and materials comprising the goods and services which are the subject of the taxable supply.

3. Interpretation of Associate

(1) For the purposes of this Act, "associate", in relation to a person, means any other person who acts or is likely to act in accordance with the directions, requests, suggestions or wishes of the person whether or not they are communicated to that other person.

(2) Without limiting the generality of subsection (1), the following are treated as an associate of a person –

(a) a relative;

(b) a partner, an associate of a partner under another application of this Section or a partnership in which the person is a partner;

(c) the trustee of a trust under which the person, or an associate under another application of this Section, benefits or is capable of benefiting;

(d) a company in which the person either alone, or together with an associate or associates under another application of this Section, controls directly or indirectly 50% or more of the voting power in the company, or which is accustomed or may reasonably be expected to act in accordance with the directions or wishes of the person or an associate of the person;

(e) where the person is a partnership, a partner in the partnership, an associate of the partner under another application of this Section, or another partnership in which the person or an associate is a partner;

(f) where the person is the trustee of a trust, any other person or an associate of such other person under another application of this Section who benefits or is capable of benefiting under the trust; or

(g) where the person is a company, a person who either alone or together with an associate or associates under another application of this Section controls directly or indirectly 50% or more of the voting power of the company, or in accordance with whose directions or wishes the company is accustomed or may reasonably be expected to act.

PART II - CHARGE OF TAX

4. Charge of Tax

A tax, to be known as a value added tax, shall be charged in accordance with this Act on –

Substituted by VAT (Am) Act 2011

(a) every taxable supply [in Uganda] made by a taxable person;

(b) every import of goods other than an exempt import; and

(c) the supply of *imported services, other than an exempt service, by any person.* [any imported services by any person]

5. Person Liable to Pay Tax

Except as otherwise provided in this Act, the tax payable –

(a) in the case of a taxable supply, is to be paid by the taxable person making the supply;

(b) in the case of an import of goods, is to be paid by the importer;

Substituted by VAT (Am) Act 2011

(c) in *the* case of *a supply of imported services, other than an exempt* service, [an import of services] is to be paid by the person receiving the supply.[recipient of the imported services.]

PART III - TAXABLE PERSONS

6. Taxable Person

(1) A person registered under Section 7 is a taxable person from the time the registration takes effect.

Substituted by VAT (Am) Act 1 2008

(2) A person who is not registered, but who is required to be registered or to pay tax under this Act, is a taxable person from the beginning of the tax period immediately following the period in which the duty to apply for registration or to pay tax arose.

7. Persons required or permitted to register

(1) A person who is not already a registered person shall apply to be registered in accordance with Section 8 –

(a) within twenty days of the end of any period of three calendar months if during that period the person made taxable supplies, the value of which exclusive of any tax exceeded one-quarter of the annual registration threshold set out in subsection (2); or

(b) at the beginning of any period of three calendar months where there are reasonable grounds to expect that the total value exclusive of any tax of taxable supplies to be made by the person during that period will exceed one-quarter of the annual registration threshold set out in subsection (2).

Inserted by VAT (Am) Act 2014

(c) at the beginning of any tax period of more than three calendar months where there are reasonable grounds to expect that the total value exclusive of any tax of taxable supplies to be made by the person will exceed the annual threshold set out in subsection (2).

Substituted by VAT (Am) Act 2015

(2) The annual registration threshold is *one hundred and fifty million shillings* [fifty million shillings].

(3) In determining whether the registration threshold is exceeded for the period specified in subsection (1), it is to be assumed that the person is a taxable person during that period.

(4) A person supplying goods or services for consideration as part of his or her business activities, but who is not required by subsection (1) or (5) to apply for registration, may apply to the Commissioner General to be registered in accordance with Section 8.

(4A) Notwithstanding subsection (4), the following persons may apply to the Commissioner General to be registered in accordance with section 8 –

Inserted by VAT (Am) Act 2015

(a) a licensee undertaking mining or petroleum operations;

(b) a person undertaking the construction of a petroleum refinery or petroleum pipeline; and

(c) a person engaged in commercial farming.

(5) Notwithstanding subsection (1), a person being a national, regional, local or public authority or body which carries on business activities shall apply for registration at the date of commencement of those activities.

Inserted by VAT (Am) Act 2014

(6) The registration under paragraph (c) of subsection (1) shall be valid only for purposes of accessing terms and conditions of payment of tax on plant and machinery as provided under section 34(8).

Inserted by VAT (Am) Act 2002 and repealed by VAT (Am) Act 1 2008

(6) An engineer, lawyer, economist, architect, publisher, auctioneer, estate agent, valuer, accountant, auditor, clearing and forwarding agent or other professional supplying goods or services for consideration as part of his or her business, but who is not required by subsection (1) or (2) to apply for registration , shall apply to be registered in accordance with Section 8, without regard to the eligibility requirement under subsection (2).

8. Registration

(1) An application for registration under Section 7 shall be in the form prescribed by the Commissioner General, and the applicant shall provide the Commissioner General with such information as the Commissioner General may require.

(2) The Commissioner General shall register a person who applies for registration under Section 7 and issue to that person a certificate of registration including the VAT registration number unless the Commissioner General is satisfied that that person is not eligible for registration under this Act or, in the case of an application under section 7(4) –

(a) the person has no fixed place of abode or business; or

(b) the Commissioner General has reasonable grounds to believe that that person –

(i) will not keep proper accounting records relating to any business activity carried on by that person;

(ii) will not submit regular and reliable tax returns as required by Section 31; or

(iii) is not a fit and proper person to be registered.

(3) Registration under this Section takes effect –

Substituted by VAT (Am) Act 2002

(a) in the case of an application under *Section* 7(1), (5) *or* (6) from the beginning of the tax period immediately following the period in which the duty to apply for registration arose; or

(b) in the case of an application under Section 7(4), from the beginning of the tax period immediately following the period in which the person applied for registration.

(4) A certificate of registration shall state the name and other relevant details of the taxable person, the date on which the registration takes effect, and the taxpayer identification number.

(5) The Commissioner General shall establish and maintain a register containing the relevant details of all taxable persons.

(6) The Commissioner General may register a person if there are reasonable grounds for believing that the person is required to apply for registration under Section 7 but has failed to do so, and that registration shall take effect from the date specified in the certificate of registration.

(7) The Commissioner General shall serve a notice in writing on a person of the decision to refuse to register the person under subsection (2) within one month of receiving the application.

(8) The Commissioner General shall serve a notice in writing on a person of a decision to register the person under subsection (6) within one month of making the decision.

(9) A person dissatisfied with a decision made under subsection (8) may only challenge the decision under Part VIII of this Act on the basis that the decision is an assessment.

(10) A taxable person shall notify the Commissioner General in writing of any change

(a) in the name or address of that person;

(b) in circumstances where the person no longer satisfies the grounds for registration; or

(c) of a material nature in business activities or in the nature of taxable supplies being made,

and the notification shall be made within fourteen days after the change has occurred.

9. Cancellation of Registration

(1) A taxable person shall apply in writing for the cancellation of the registration if that person has ceased to make supplies of goods or services for consideration as part of the business activities of the person.

(2) Subject to subsection (3), a taxable person may apply in writing to have his or her registration cancelled if, with respect to the most recent period of three calendar months, the value of his or her taxable supplies exclusive of tax does not exceed one-quarter of the annual registration threshold specified under Section 7(2) and if the value of his or her taxable supplies exclusive of tax for the previous twelve calendar months does not exceed seventy five per cent of the annual registration threshold.

(3) In the case of a taxable person who applied for registration under Section 7(4), an application under subsection (2) may only be made after the expiration of two years from the date of registration.

(4) The Commissioner General may cancel the registration of –

(a) a person who has applied for cancellation under subsection (1) or (2); or

(b) a person who has not applied for cancellation of registration but in respect of whom the Commissioner General is satisfied that he or she is neither required nor entitled under Section 7 to apply for registration.

(5) The Commissioner General may cancel the registration of a person who is not required to apply for registration under Section 7 where the person –

(a) has no fixed place of abode or business;

(b) has not kept proper accounting records relating to any business activity carried on by him or her;

(c) has not submitted regular and reliable tax returns as required by Section 31; or

(d) is not, in the opinion of the Commissioner General, a fit and proper person to be registered.

(6) The Commissioner General shall serve a notice in writing on a taxable person of a decision to cancel or refuse to cancel the registration under this Section within fourteen days of making the decision.

(7) The cancellation of registration shall take effect from the end of the tax period in which the registration is cancelled.

(8) Where the registration of a person is cancelled, the Commissioner General shall remove that person's name and the details described in Section 8 from the register.

(9) A taxable person whose registration has been cancelled under this Section shall be regarded as having made a taxable supply of all goods on hand (including capital goods) and shall be liable for output tax, at the time the registration is cancelled, on all goods in respect of which he or she received input tax credit, the output tax payable being based on the fair market value of the goods at the time his or her registration was cancelled.

(10) The obligations and liabilities of a person under this Act, including the lodging of returns required under Section 31, in respect of anything done or omitted to be done by that person while a taxable person shall not be affected by cancellation of the person's registration.

PART IV - SUPPLIES OF GOODS AND SERVICES

10. Supply of Goods

Inserted by VAT (Am) Act 2009

(1) Except as otherwise provided under this Act, a supply of goods means any arrangement under which the owner of the goods parts or will part with possession of the goods, including *a lease or* an agreement of sale and purchase.

Repealed by VAT (Am) Act 2011

(2) A supply of electrical or thermal energy, heating, gas, refrigeration, air conditioning or water is a supply of goods.

(3) The application of goods to own use is a supply of the goods.

11. Supply of Services

(1) Except as otherwise provided under this Act, a supply of services means a supply which is not a supply of goods or money, including:–

(a) the performance of services for another person;

(b) the making available of any facility or advantage;

(c) the toleration of any situation or the refraining from the doing of any activity; or

Inserted by VAT (Am) Act 2011

(d) *the provision of thermal and electrical energy, heating, gas, refrigeration, air conditioning and water.*

(2) A supply of services made by an employee to an employer by reason of employment is not a supply made by the employee.

12. Mixed supplies

(1) A supply of services incidental to the supply of goods is part of the supply of goods.

(2) A supply of goods incidental to the supply of services is part of the supply of services.

(3) A supply of services incidental to the import of goods is part of the import of goods.

(4) Regulations made under Section 78 may provide that a supply is a supply of goods or services.

13. Supply by Agent

(1) A supply of goods or services made by a person as agent for another person being the principal is a supply by the principal.

(2) Subsection (1) does not apply to an agent's supply of services as agent to the principal.

14. Time of Supply

(1) Except as otherwise provided under this Act, a supply of goods or services occurs –

(a) where the goods are applied to own use, on the date on which the goods or services are first applied to own use;

(b) where the goods or services are supplied by way of gift, on the date on which ownership in the goods passes or the performance of the service is completed; or

(c) in any other case, on the earliest of the date on which –

(i) the goods are delivered or made available, or the performance of the service is completed;

(ii) payment for the goods or services is made; or

(iii) a tax invoice is issued.

(2) Where –

(a) goods are supplied under a rental agreement; or

(b) goods or services are supplied under an agreement or law which provides for periodic payments,

the goods or services are treated as successively supplied for successive parts of the period of the agreement or as determined by that law, and each successive supply occurs on the earlier of the date on which payment is due or received.

(3) For the purposes of this Section, where two or more payments are made or are to be made for a supply of goods or services other than a supply to which subsection (2) applies, each payment shall be regarded as made for a separate supply to the extent of the amount of the payment on the earlier of the date the payment is due or received.

(4) A person making a supply to which subsection (1)(a) or (b) applies shall keep a record of the date on which the supply occurred as determined under this Section.

(5) In this Section, "rental agreement" means any agreement for the letting of goods including a hire-purchase agreement or finance lease.

15. Place of Supply of Goods

Substituted by VAT (Am) Act 2011

A supply of goods shall take place in Uganda if the goods are delivered or made available in Uganda by the supplier, or if the delivery or making available involves transportation, the goods are in Uganda when the transportation commences.

(1) Except as otherwise provided under this Act, a supply of goods takes place where the goods are delivered or made available by the supplier.

(2) A supply of thermal or electrical energy, heating, gas, refrigeration, air conditioning, or water, takes place where the supply is received.

16. Place of Supply of Services

Substituted by VAT (Am) Act 2011

(1) A supply of services shall take place in Uganda if the business of the supplier from which the services are supplied is in Uganda.

(2) Notwithstanding subsection (1), a supply of services shall take place in Uganda if the recipient of the supply is not a taxable person and –

(a) the services are physically performed in Uganda by a person who is in Uganda at the time of supply;

(b) the services are in connection with immovable property in Uganda;

(c) the services are radio or television broadcasting services received at an address in Uganda;

(d) the services are electronic services delivered to a person in Uganda at the time of supply;

(e) the supply is a transfer, assignment, or grant of a right to use a copyright, patent, trademark or similar right in Uganda; or

(f) the services are telecommunication services initiated by a person in Uganda other than a supply initiated by –

(i) a supplier of telecommunications services; or

(ii) a person who is roaming while temporarily in Uganda.

(3) For the purposes of subsection (2)(f), the person who initiates a supply of telecommunications services shall be the person who first does any of the following –

(a) the person who –

(i) controls the commencement of the supply;

(ii) pays for the services;

(iii) contracts for the supply; or

(b) the person to whom the invoice for the supply is sent.

(4) Where the supplier of a telecommunications service cannot identify any of the persons referred to in subsection (3) because it is impractical to determine the physical location of a person due to the type of service or to the class of customer to which the person belongs, the supplier shall, in respect of all supplies of telecommunications services made for that type of service or that class of customer, treat the supply as being made where the physical residence or business address for the person receiving invoices from the supplier is located.

(5) In this section –

(a) "electronic services" means any of the following, when provided or delivered on or through a telecommunications network –

(i) websites, web-hosting or remote maintenance of programs and equipment;

(ii) software and the updating of software;

(iii) images, text and information;

(iv) access to databases;

(v) self-education packages;

(vi) music, films and games including games of chance; or

(vii) political, cultural, artistic, sporting, scientific and other broadcasts and events including television; and

(b) "telecommunications services" means the transmission, emission, or reception of signals, writing, images, sounds, or information of any kind by wire, radio, optical, or other electromagnetic systems and includes –

(i) the related transfer or assignment of the right to use capacity for such transmission, emission, or reception; and

(ii) the provision of access to global or local information networks,

but does not include the supply of the underlying writing, images, sounds, or information.

(1) Except as otherwise provided under this Act, a supply of services takes place where the services are rendered.

(2) A supply of services in connection with immovable property takes place where the immovable property is located.

(3) A supply of services of, or incidental to, transport takes place where the transport commences.

(4) A supply of services to which clause 1(a) of the Third Schedule applies shall be regarded as having been made in Uganda.

Substituted by Finance Act 2001

(5) Where a person is required to pay a fee for receiving a signal or service for a supply of television, radio, telephone or other communication services, the supply takes place where that person receives the signal or service, *or where a supply involves an agent or any other person of whatever description, the supply takes place at that person's place of business.*

17. Imports

An import of goods takes place –

(a) where customs duty is payable, on the date on which the duty is payable; or

(b) in any other case, on the date the goods are brought into Uganda.

PART V - TAXABLE SUPPLIES

18. Taxable Supply

Inserted by VAT (Am) Act 2011

(1) A taxable supply is a supply of goods or services, other than an exempt supply, made *in Uganda* by a taxable person for consideration as part of his or her business activities.

(2) A supply is made as part of a person's business activities if the supply is made by him or her as part of, or incidental to, any independent economic activity he or she conducts, whatever the purposes or results of that activity.

(3) The business activities of an individual do not include activities carried on by him or her only as part of his or her hobby or leisure activities.

(4) A supply is made for consideration if the supplier directly or indirectly receives payment for the supply, whether from the person supplied or any other person, including any payment wholly or partly in money or kind.

Substituted by VAT (Am) Act 2009

(5) The application to own use by a taxable person of goods *and services* supplied to *a person* for the purposes of *the person's* business activities shall be regarded as a supply of those goods *and services* for consideration as part of *the person's* business activities.

Inserted by Finance Act 2001 and substituted by VAT (Am) Act 2009

(5a) For the purposes of subsection (5), a supply of business goods *and services* for no consideration is an application to own use.

Substituted by VAT (Am) Act 2009

(6) Where goods *and services* have been supplied to a taxable person for the purposes of *the person's* business activities, the supply of those goods *and services* for reduced consideration shall be regarded as a supply for consideration unless the goods *and services* are supplied or used only as trade samples.

(7) A supply is made for reduced consideration if the supply is made between associates for no consideration or between associates for a consideration that is less than the fair market value of the supply.

(8) Notwithstanding subsection(1) a supply of services by a foreign person for consideration as part of the person's business activities is treated as a taxable supply if the services are considered as taking place in Uganda under Section 16.

Inserted by VAT (Am) Act 2003 and Amended by VAT (Am) Act 2006

(9) Subject to Section 19 and the Second Schedule, the sale or disposal of a business asset *by a taxable person* is a taxable supply.

19. Exempt Supply

(1) A supply of goods or services is an exempt supply if it is specified in the Second Schedule.

(2) Where a supply is an exempt supply under paragraph 1(k) of the Second Schedule, both the transferor and transferee shall, within 21 days of the transfer, notify the Commissioner General in writing of the details of the transfer.

20. Exempt Import *[of Goods]* – *Addition mine*

An import of goods is an exempt import if the goods –

Substituted by VAT (Am) Act 2005 & (AM) Act 2015

(a) are exempt from customs duty under the Fifth Schedule of the **East African Community Customs Management Act, 2004** *except compact fluorescent bulbs with a power connecting cap at the end*; or

(b) would be exempt had they been supplied in Uganda.

20A. Exempt Import *[of]* Service – *Addition mine*

Inserted by VAT (Am) Act 2011

An import of a service is an exempt import if the service would be exempt had it been supplied in Uganda.

PART VI - TAXABLE VALUE

21. Taxable Value of a Taxable Supply

(1) Except as otherwise provided under this Act, the taxable value of a taxable supply is the total consideration paid in money or in kind by all persons for that supply.

(2) The taxable value of –

(a) a taxable supply of goods by way of an application to own use;

(b) a taxable supply for reduced consideration; or

(c) a taxable supply described in Section 9(9),

is the fair market value of the goods and services at the time the supply is made.

(3) Where a taxable supply is made without a separate amount of the consideration being identified as a payment of tax, the taxable value of that supply is the total amount of the consideration paid excluding tax.

(4) The taxable value of a taxable supply of goods under a rental agreement, as defined in Section 14, is the amount of the rental payments due or received.

Inserted by VAT (Am) Act 1 2008

(5) The taxable value of a taxable supply of goods or services where the Government has provided a subsidy is the consideration paid in money or in kind by all persons for that supply less the subsidy.

22. Adjustments

(1) This Section applies where, in relation to a taxable supply by a taxable person –

(a) the supply is cancelled;

(b) the nature of the supply has been fundamentally varied or altered;

(c) the previously agreed consideration for the supply has been altered by agreement with the recipient of the supply, whether due to an offer of a discount or for any other reason; or

(d) the goods or services or part of the goods or services have been returned to the supplier,

and the taxable person making the supply has –

(e) provided a tax invoice in relation to the supply and the amount shown in the invoice as the tax charged on the supply is incorrect as a result of the occurrence of any one or more of the above-mentioned events; or

(f) filed a return for the tax period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply as a result of the occurrence of any one or more of the above-mentioned events.

(2) Where subsection (1) applies, the taxable person making the supply shall make an adjustment as specified in subsection (3) or (4).

(3) Where the output tax properly chargeable in respect of the supply exceeds the output tax actually accounted for by the taxable person making the supply, the amount of the excess shall be regarded as tax charged by the person in relation to a taxable supply made in the tax period in which the event referred to in subsection (1) occurred.

(4) Subject to subsection (6), where the output tax actually accounted for exceeds the output tax properly chargeable in relation to that supply, the taxable person making the supply shall be allowed a credit for the amount of the excess in the tax period in which the event referred to in subsection (1) occurred.

(5) The credit allowed under subsection (4) shall, for the purposes of this Act, be treated as a reduction of output tax.

(6) No credit is allowed under subsection (4) where the supply has been made to a person who is not a taxable person, unless the amount of the excess tax has been repaid by the taxable person to the recipient, whether in cash or as a credit against any amount owing to the taxable person by the recipient.

23. Taxable Value of an Import of Goods

The taxable value of an import of goods is the sum of –

(a) the value of the goods ascertained for the purposes of customs duty under the laws relating to customs;

(b) the amount of customs duty, excise tax, and any other fiscal charge other than tax payable on those goods; and

(c) the value of any services to which Section 12(3) applies which is not otherwise included in the customs value under paragraph (a).

PART VII -CALCULATION OF TAX PAYABLE

24. Calculation of Tax Payable on a Taxable Transaction

(1) Subject to subsection (2), the tax payable on a taxable transaction is calculated by applying the rate of tax to the taxable value of the transaction.

(2) Where the taxable value is determined under Section 21(2) or (3), the tax payable is calculated by the formula specified in Section 1(a) of the Fourth Schedule.

(3) Subject to subsection (4), the rate of tax shall be as specified in Section 78(2).

(4) The rate of tax imposed on taxable supplies specified in the Third Schedule is zero.

Inserted by VAT (Am) Act 2015

(5) The tax payable on a taxable supply made by a contractor to a licensee to undertake mining or petroleum operations is deemed to have been paid by the licensee to the contractor provided the supply is for use by the licensee solely and exclusively for mining or petroleum operations.

25. Calculation of Tax Payable by a Taxable Person for a Tax Period

Amended by VAT (Am) Act 2015

(1) Subject to Section 26, the tax payable by a taxable person for a tax period is calculated according to the formula specified in Section 1(b) of the Fourth Schedule.

(2) & (3) inserted by VAT (Am) Act 2015

(2) For a contractor, component X of the formula in paragraph 1(b) of the Fourth Schedule for a tax period does not include the amount of tax that the licensee is deemed to have paid to the contractor under section 24(5) for the period.

(3) For a licensee, component Y of the formula in paragraph 1(b) of the Fourth Schedule for a tax period does not include the amount

of tax that the licensee is deemed to have paid to the contractor under section 24(5) for the period.

26. Cash Basis Accounting

Substituted by VAT (Am) Act 2015

(1) This Section applies to a taxable person, the annual value of whose taxable supplies does not exceed *five hundred million shillings* [two hundred million shillings].

(2) A taxable person to whom this Section applies may elect to account for tax purposes on a cash basis.

(3) An election under subsection (2) shall be made in writing to the Commissioner General by the due date for the first return in which the taxable person seeks to use the method of accounting specified in subsection (2).

(4) Where a taxable person makes an election under subsection (2), that person must account for both the output tax payable and the input tax credited on a cash basis.

(5) A taxable person who has made an election under subsection (2) shall determine the tax payable for a tax period according to the formula specified in Section 1(c) of the Fourth Schedule.

(6) An election made under subsection (2) remains in force until –

(a) withdrawn by the taxable person by notice in writing to the Commissioner General; or

(b) the Commissioner General, by notice in writing to the taxable person, requires the person to determine the tax payable for a tax period in accordance with Section 25.

(7) A taxable person who has made an election under subsection (2) may not withdraw the election within two years after making the election unless the person is no longer a person to whom this Section applies.

27. Consequences of a Change in Accounting Basis

(1) Every taxable person whose accounting basis is changed is liable for tax, if any, as determined under this Section in the tax period in which the change occurred.

(2) Where a taxable person changes from the method of accounting provided under Section 25 (referred to as the "invoice basis") to the method of accounting provided under Section 26 (referred to as the "cash basis"), the tax payable under subsection (1) is determined in accordance with the formula specified in Section 1(d) of the Fourth Schedule.

(3) Where a taxable person changes from a cash basis to an invoice basis of accounting, the tax payable under subsection (1) is determined in accordance with the formula specified in Section 1(e) of the Fourth Schedule.

(4) If the amount determined in accordance with subsection (2) or (3) is negative, it shall be refunded to the taxable person in accordance with Section 42(1).

28. Credit for Input Tax

(1) Where Section 25 applies for the purposes of calculating the tax payable by a taxable person for a tax period, a credit is allowed to the taxable person for the tax payable in respect of –

(a) all taxable supplies made to that person during the tax period; or

Repealed by VAT (Am) Act 2012 & inserted by (AM) Act 2015

(b) all imports of goods [and services] made by that person *or import of services made by a contractor or licensee* during the tax period,

if the supply or import is for use in the business of the taxable person.

(2) Where Section 26 applies for the purposes of calculating the tax payable by a taxable person for a tax period, a credit is allowed to the taxable person for any tax paid in respect of taxable supplies

to, or imports by, the taxable person where the supply or import is for use in the business of the taxable person.

(3) A credit is allowed to a taxable person on becoming registered for input tax paid or payable in respect of –

(a) all taxable supplies of goods, including capital assets, made to the person prior to the person becoming registered; or

(b) all imports of goods, including capital assets, made by the person prior to becoming registered,

Substituted and Repealed by Finance Act 2001

where the supply or import was for use in the business of the taxable person, provided the goods are on hand at the date of registration and provided that the supply or import occurred not more than *six months* prior to the date of registration. [or, in the case of capital goods, not more than six months before the date of registration.]

(4) An input tax credit –

(a) under subsection (1) arises on the date the goods or services are supplied to, or imported by, the taxable person;

(b) under subsection (2) arises on the date the tax is paid; or

(c) under subsection (3) arises on the date of registration.

(5) A taxable person under this Section shall not qualify for input tax credit in respect of a taxable supply or import of –

(a) a passenger automobile, and the repair and maintenance of that automobile, including spare parts, unless the automobile is acquired by the taxable person exclusively for the purpose of making a taxable supply of that automobile in the ordinary course of a continuous and regular business of selling or dealing in or hiring of passenger automobiles;

(b) entertainment unless the taxable person –

(i) is in the business of providing entertainment; or

(ii) supplies meals or refreshments to his or her employees in premises operated by him or her, or on his or her behalf, solely for the benefit of his or her employees; or

(c) telephone services, to the extent of 10 per cent of the input tax on those services.

(6) Subject to subsection (7), where a taxable supply to, or an import of goods by, a taxable person is partly for a business use as set out in subsection (1), (2), or (3) and partly for another use, the amount of the input tax allowed as a credit is that part of the input tax that relates to the business use.

Substituted by VAT (Am) Act 2014

(7) Subject to subsections *(8) and (9)* [(9) and (10)], the input tax that may be credited by a taxable person for a tax period is –

(a) where all of the taxable person's supplies for that period are taxable supplies, the whole of the input tax specified in subsection (1) or (2); or

(b) where only part of the taxable person's supplies for that period are taxable supplies, the amount calculated according to the formula specified in Section 1(f) of the Fourth Schedule.

(8) Where the fraction B/C in Section 1(f) of the Fourth Schedule is less than 0.05, the taxable person may not credit any input tax for the period.

(9) Where the fraction B/C in section 1(f) of the Fourth Schedule is more than 0.95, the taxable person may credit all input tax for the period.

(10) Notwithstanding subsection (7)(b), the Commissioner General may approve a proposal by a taxable person for the apportionment of input tax credit where the taxable person makes both taxable and exempt supplies.

(11) Subject to subsection (13), an input tax credit allowed under this Section may not be claimed by the taxable person until the tax period in which the taxable person has –

(a) an original tax invoice for the taxable supply; or

Substituted by VAT (Am) Act 2014

(b) a bill of entry or other document prescribed under the *East African Community Customs Management Act, 2004* evidencing the amount of input tax.

(12) Where a taxable person does not have a tax invoice evidencing the input tax paid, the Commissioner General may allow an input tax credit in the tax period in which the credit arises where the Commissioner General is satisfied that –

(a) the taxable person took all reasonable steps to acquire a tax invoice;

(b) the failure to acquire a tax invoice was not the fault of the taxable person; and

(c) the amount of input tax claimed by the taxable person is correct.

(13) Where a taxable person has made a calculation under subsection (7) for any tax period of a calendar year, he or she shall, in the first tax period of the following year, make a calculation based on the annual value of taxable and exempt supplies.

(14) Where –

(a) the calendar year credit exceeds the return credit, the excess shall be claimed as a credit in the first tax period of the following calendar year; or

(b) the return credit exceeds the calendar year credit, the excess shall be regarded as tax charged by the taxable person in relation to a taxable supply made in the first tax period of the following calendar year.

(15) In this Section –

(a) "calendar year credit" means the total input tax payable, where Section 25 applies, or paid, where Section 26 applies for the calendar year;

(b) "entertainment" means the provision of food, beverages, tobacco, accommodation, amusement, recreation, or hospitality of any kind;

(c) "passenger automobile" means a road vehicle designed solely for the transport of sitting persons;

(d) "return credit" means the total of the input tax claimed as a credit in each tax period of the calendar year; and

(e) "telephone services" does not include telephone call services supplied to a hotel, lodge or similar establishment where output tax has been accounted for by the establishment on the supply of that service to their customers.

29. Tax Invoices

(1) A taxable person making a taxable supply to any person shall provide that other person, at the time of supply, with an original tax invoice for the supply.

(2) A taxable person making a taxable supply shall retain one copy of the tax invoice referred to in subsection (1).

(3) Where a supplied person loses the original tax invoice, the supplier may provide a duplicate copy clearly marked 'COPY'.

(4) An original tax invoice shall not be provided in any circumstance other than that specified in subsection (1).

(5) A person –

(a) who has not received a tax invoice as required by subsection (1); or

(b) to whom Section 28(3) applies,

may request a person, who has supplied goods or services to him or her, to provide a tax invoice in respect of the supply.

(6) A request for a tax invoice under subsection (5) shall be made –

(a) in the case of a request under subsection (5)(a), within thirty days after the date of the supply;

(b) in the case of a request under subsection (5)(b), within thirty days after the date of registration.

(7) A taxable person who receives a request under subsection (5) shall comply with the request within fourteen days after receiving that request.

(8) A tax invoice is an invoice containing the particulars specified in Section 2 of the Fourth Schedule.

30. Credit and Debit Notes

(1) Where a tax invoice has been issued in the circumstances specified in Section 22(1)(e) and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the supply, the taxable person making the supply shall provide the recipient of the supply with a credit note containing the particulars specified in Section 3 of the Fourth Schedule.

(2) Where a tax invoice has been issued in the circumstances specified in Section 22(1)(e) and the tax properly chargeable in respect of the supply exceeds the amount shown as tax charged in that tax invoice, the taxable person making the supply shall provide the recipient of the supply with a debit note containing the particulars specified in Section 4 of the Fourth Schedule.

PART VIII - PROCEDURE AND ADMINISTRATION OF TAX

Returns and Assessments

31. Returns

(1) A taxable person shall lodge a tax return with the Commissioner General for each tax period within fifteen days after the end of the period.

(2) A tax return shall be in the form prescribed by the Commissioner General and shall state the amount of tax payable for the period, the amount of input tax credit refund claimed, and such other matters as may be prescribed.

(3) In addition to any return required under subsection (1), the Commissioner General may require any person, whether a taxable person or not, to lodge (whether on that person's own behalf or as agent or trustee of another person) with the Commissioner General such further or other return in the prescribed form as and when required by the Commissioner General for the purposes of this Act.

(4) Upon application in writing by a taxable person, the Commissioner General may, where good cause is shown by the taxable person, extend the period in which a tax return is to be lodged.

32. Assessments

(1) Where –

(a) a person fails to lodge a return under Section 31;

(b) the Commissioner General is not satisfied with a return lodged by a person; or

(c) the Commissioner General has reasonable grounds to believe that a person will become liable to pay tax but is unlikely to pay the amount due,

the Commissioner General may make an assessment of the amount of tax payable by that person.

(2) An assessment under subsection (1) –

(a) where fraud, or gross or wilful neglect has been committed by, or on behalf of, the person, may be made at any time; or

(b) in any other case, shall be made within 5 years after the date on which the return was lodged by the person.

(3) The Commissioner General may, based on the best information available, estimate the tax payable by a person for the purposes of making an assessment under subsection (1).

(4) Where a person is not satisfied with a return lodged by that person under this Act, that person may apply to the Commissioner General to make any addition or alteration to the return.

(5) An application under subsection (4) shall be in writing and shall specify in detail the grounds upon which it is made and shall be made within three years after the date on which the return was lodged by the person.

(6) After considering an application under subsection (4), the Commissioner General shall make an assessment of the amount that, in the Commissioner General's opinion, is the amount of tax payable under this Act.

(7) Where an assessment has been made under this Section, the Commissioner General shall serve notice of the assessment on the person assessed, which notice shall state –

(a) the tax payable;

(b) the date the tax is due and payable;

(c) an explanation of the assessment; and

(d) the time, place, and manner of objecting to the assessment.

(8) The Commissioner General may, within the time limits set out in subsection (9), amend an assessment as the Commissioner General considers necessary, and the Commissioner General shall serve notice of the amended assessment on the person assessed.

(9) The time limit for amending an assessment is –

(a) where fraud, or gross or wilful neglect has been committed by, or on behalf of, the person assessed in respect of the period of assessment, any time; and

(b) in any other case, within 3 years after service of the notice of assessment.

(10) An amended assessment is treated in all respects as an assessment under this Act.

33. General Provisions relating to Assessments

(1) The production of a notice of assessment or a certified copy of a notice of assessment shall be received in any proceedings as conclusive evidence of the due making of the assessment, and except in proceedings relating to objections and appeals relating to the assessment, that the amount and all particulars of the assessment are correct.

(2) No assessment or other document purporting to be made, issued, or executed under this Act shall be –

(a) quashed or deemed to be void or voidable for want of form; or

(b) affected by reason of mistake, defect, or omission in it,

if it is, in substance and effect, in conformity with this Act and the person assessed, or intended to be assessed, or affected by the document is designated in it according to common understanding.

PART VIIIA - OBJECTIONS AND APPEALS

33A. Interpretation

Sections 33A-E Inserted by Finance Act 2001

In this Part –

(i) "Tax Appeals Tribunal" means the Tax Appeals Tribunal established by the Tax Appeals Tribunal Act;

(ii) "objection decision" means a decision made by the Commissioner General under Section 33B(4) or (6).

33B. Objections to Assessment

Substituted by VAT (Am) Act 2006

(1) A person who is dissatisfied with an assessment may, within forty five days after receipt of the notice of the assessment decision, lodge an objection to the Commissioner General.

(2) The objection referred to in subsection (1) shall be in writing and shall specify in detail the grounds upon which it is made.

(3) Where the Commissioner General is satisfied that a person was prevented from lodging an objection within the time specified in subsection (1) owing to –

(a) absence from Uganda;

(b) sickness; or

(c) other reasonable cause; and

there has not been any unreasonable delay by the person in lodging the objection after the expiration of the time specified in subsection (1), the Commissioner General may accept the objection.

(4) The Commissioner General may, within thirty days after receiving the objection, consider it and allow the objection in whole or in part and amend the assessment accordingly.

(5) The Commissioner General shall serve the person objecting with notice in writing of the objection decision within thirty days after receiving the objection.

Substituted by VAT (Am) Act 2006

(6) Where the Commissioner General has not made a decision within thirty days after the lodging of the objection, the taxpayer may by notice in writing to the Commissioner General, elect to treat the Commissioner General as having made the decision to allow the objection.

Inserted by VAT (Am) Act 2006

(7) Where a taxpayer makes an election under subsection (6), the taxpayer is treated as having been served with a notice of the

objection decision on the date the taxpayer's election was lodged with the Commissioner General.

33C. Appeals to Tax Appeals Tribunal

Substituted by VAT (Am) Act 2003

(1) A person dissatisfied with an objection decision may, within thirty days after being served with notice of the objection decision, lodge an application with the Tax Appeals Tribunal for review of the objection decision and shall serve a copy of the application on the Commissioner General.

(2) An appeal lodged under subsection (1) shall be conducted in accordance with the Tax Appeals Tribunal Act 1997 and Rules and Regulations made under it.

(3) A person shall, before lodging an application with the Tribunal, pay to the Commissioner General, thirty per cent of the tax in dispute or that part of the tax assessed not in dispute, whichever is the greater.

33D. Appeals to High Court

(1) A party who is dissatisfied with the decision of the Tax Appeals Tribunal may, within thirty days after being notified of the decision, lodge a notice of appeal with the Registrar of the High Court and the party so appealing shall serve a copy of the notice of appeal on the other party to the proceedings before the Tribunal.

(2) An appeal to the High Court shall be made on a question of law only and the notice of the appeal shall state the question or questions of law that are to be raised on the appeal.

33E. Burden of Proof

The burden of proving that an assessment is excessive is on the person objecting.

Collection and Recovery of Tax

34. Due Date for Payment of Tax

(1) Tax payable under this Act is due and payable –

(a) in the case of a taxable supply by a taxable person in respect of a tax period, on the date the return for the tax period must be lodged;

(b) in the case of an assessment issued under this Act, on the date specified in the notice of assessment; or

(c) in any other case, on the date the taxable transaction occurs as determined under this Act.

(2) The tax payable by a taxable person under subsection (1) shall be determined in accordance with Part VII of the Act.

(3) Where an objection to or a notice of appeal against an assessment has been lodged, the tax payable under the assessment is due and payable, and may be recovered, notwithstanding that objection or appeal.

(4) Upon written application by a person liable for tax, the Commissioner General may, where good cause is shown, extend the time for payment of tax beyond the date on which it is due and payable, or make such other arrangements as appropriate to ensure the payment of the tax due.

(5) Where the Commissioner General has reasonable grounds to believe that a person may leave Uganda permanently without paying all tax due under this Act, the Commissioner General may issue a certificate containing particulars of the tax to the Commissioner of Immigration and he or she may request the Commissioner of Immigration to prevent that person from leaving Uganda until that person makes –

(a) payment in full; or

(b) an arrangement satisfactory to the Commissioner General for the payment of the tax.

(6) A copy of a certificate issued under subsection (5) shall be served on the person named in the certificate if it is practicable in the circumstances to do so.

(7) Payment of the tax specified in the certificate to a customs or immigration officer or the production of a certificate signed by the Commissioner General stating that the tax has been paid or secured shall be sufficient authority for allowing that person to leave Uganda.

Inserted by VAT (Am) Act 2003

(8) Notwithstanding subsection (1), the Minister may, by regulations, prescribe the terms and conditions of payment of tax on plant and machinery.

35. Tax as a Debt Due to Government

(1) Tax due and payable under this Act is a debt due to the Government and is payable to the Commissioner General by the person specified in Section 5.

(2) Except where the contrary intention appears, the customs and excise law applicable in Uganda in relation to imported goods shall, with such exceptions, modifications, and adaptations as the Minister may by Regulations prescribe, apply, so far as relevant, in relation to any tax chargeable on the import of goods.

(3) The Commissioner General may, under subsection (2), exercise any power conferred on him or her by the customs and excise laws applicable in Uganda as if the reference to customs duty or excise tax in those laws included a reference to tax charged on imported goods under this Act.

(4) If a person fails to pay tax when it is due and payable, the Commissioner General may file, with a court of competent jurisdiction, a statement certified by the Commissioner General setting forth the amount of the tax due, and that statement shall be treated for all purposes as a civil judgment lawfully given in that

court in favour of the Commissioner General for a debt in the amount set forth.

(5) The statement under subsection (4) may be filed with the court having jurisdiction over that person, notwithstanding any provision of the legislation establishing that court to the contrary.

36. Security

Where it appears to the Commissioner General necessary to do so for the protection of the revenue, the Commissioner General may require any taxable person, as a condition of the person making a taxable supply, to give security of an amount and in a manner that the Commissioner General may determine for the payment of tax which is or may become due by the person.

37. Preferential Claim to Assets

From the date on which tax is due and payable, the Commissioner General has a preferential claim against other claimants upon the assets of the person liable to pay the tax until the tax is paid.

38. Seizure of Goods

(1) The Commissioner General may seize any goods in respect of which he or she has reasonable grounds to believe that the tax that is due and payable in respect of the supply or import of those goods has not been, or will not be, paid.

(2) Goods seized under subsection (1) shall be stored in a place approved by the Commissioner General.

(3) Immediately after the seizure of the goods, a written statement should be obtained from the owner of the goods or the person who has custody or control stating the quantity and quality of the goods.

(4) Where goods have been seized under subsection (1), the Commissioner General shall, within 10 days after the seizure, serve on the owner of the goods or the person who had custody or

control of the goods immediately before the seizure, a notice in writing –

(a) identifying the goods;

(b) stating that the goods have been seized under this Section and the reasons for the seizure; and

(c) setting out the terms for the release or disposal of the goods.

(5) The Commissioner General is not required to serve a notice under subsection (4) if, after making reasonable enquiries, he or she does not have sufficient information to identify the person on whom the notice should be served.

(6) Where subsection (5) applies, the Commissioner General may serve a notice under subsection (4) on a person claiming the goods, provided that person has given sufficient information to enable the notice to be served.

(7) The Commissioner General may authorize any goods seized under subsection (1) to be delivered to the person on whom a notice under subsection (4) has been served where that person has paid, or gives security for the payment of, the tax due and payable or that will become due and payable in respect of the goods.

(8) Where subsection (7) does not apply, the Commissioner General shall detain the goods seized under subsection (1) –

(a) in the case of perishable goods, for a period that he or she considers reasonable having regard to the condition of the goods; or

(b) in any other case, for at least –

(i) twenty days after the seizure of the goods; or

(ii) twenty days after the due date for payment of the tax.

(9) Where the detention period in subsection (8) has expired, the Commissioner General may sell the goods in the manner specified

in Section 39(6) and apply the proceeds of sale as set out in that Section.

39. Closure of Business and Distress Proceedings

(1) Where a person liable for tax has failed to remit the amount payable by him or her within the prescribed time, the Commissioner General may lock up and seal the business premises of that person; and thereafter the goods in those business premises shall be deemed to be attached and at the disposal of the Commissioner General.

(2) The Commissioner General may recover unpaid tax by distress proceedings against the movable property of the person liable to pay the tax, by issuing an order in writing, specifying the person against whose property the proceedings are authorized, the location of the property, and the tax liability to which the proceedings relate; and he or she may require a police officer to be present while the distress is being executed.

(3) For the purposes of executing distress under subsection (2), the Commissioner General may at any time enter any house or premises described in the order authorizing the distress proceedings.

(4) Property upon which a distress is levied under this Section, other than perishable goods, shall be kept for ten days either at the premises where the distress was levied or at any other place that the Commissioner General may consider appropriate, at the cost of the person liable.

(5) Where the person liable does not pay the tax due, together with the costs of the distress –

(a) in the case of perishable goods, within a period that the Commissioner General considers reasonable having regard to the condition of the goods; or

(b) in any other case, within ten days after the distress is levied,

the property distrained upon may be sold by public auction, or in such other manner as the Commissioner General may direct.

(6) The proceeds of a disposal under subsection (5) shall be applied by the auctioneer or seller first towards the cost of taking, keeping, and selling the property distrained upon, then towards the tax due and payable, and the remainder of the proceeds, if any, shall be given to the person liable.

(7) Nothing in this Section shall prelude the Commissioner General from proceeding under Section 35 with respect to any balance owed if the proceeds of the distress are not sufficient to meet the costs of the distress and the tax due.

(8) All costs incurred by the Commissioner General in respect of any distress may be recovered by him or her from the person liable as tax due under this Act.

40. Recovery of Tax from Third Parties

(1) Where a person liable fails to pay tax on the due date, the Commissioner General may by notice in writing require any person:–

(a) owing or who may owe money to the person liable;

(b) holding or who may subsequently hold money for, or on account of, the person liable; or

(c) having authority from some other person to pay money to the person liable,

to pay the money to the Commissioner General on the date set out in the notice, up to the amount of the tax due.

(2) The date specified in the notice under subsection (1) shall not be a date before the money becomes due to the person liable to pay tax, or held on the person's behalf.

(3) A copy of a notice issued under subsection (1) shall be forwarded to the person liable.

(4) A person making a payment pursuant to a notice under subsection (1) is deemed to have been acting under the authority of the person liable and of all other persons concerned and is indemnified in respect of that payment.

Inserted by VAT (Am) Act 2006

(5) An amount due under this Section is treated for all purposes as if it were a tax due under this Act from the person making the payment.

41. Duties of Receivers

(1) A receiver shall in writing notify the Commissioner General within fourteen days after being appointed to the position of receiver or taking possession of an asset in Uganda, whichever first occurs.

(2) The Commissioner General may in writing notify a receiver of the amount which appears to the Commissioner General to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the receiver.

(3) A receiver shall not part with any asset in Uganda, which is held by the receiver in his or her capacity as receiver without the prior written permission of the Commissioner General.

(4) A receiver –

(a) shall set aside, out of the proceeds of the sale of an asset, the amount notified by the Commissioner General under subsection (2), or such lesser amount as is subsequently agreed on by the Commissioner General;

(b) is liable to the extent of the amount set aside for the tax of the person who owned the asset; and

(c) may pay any debt that has priority over the tax referred to in this Section notwithstanding any provision of this Section.

(5) A receiver is personally liable to the extent of any amount required to be set aside under subsection (4) for the tax referred to in

subsection (2) if, and to the extent that, the receiver fails to comply with the requirements of this Section.

(6) In this Section, "receiver" includes a person who, with respect to an asset in Uganda, is –

(a) a liquidator of a company;

(b) a receiver appointed out of court or by a court;

(c) a trustee for a bankrupt person;

(d) a mortgagee in possession;

(e) an executor of a deceased person; or

(f) any other person conducting the business of a person legally incapacitated.

Refund of Tax

42. Refund of Overpaid Tax

(1) If, for any tax period, a taxable person's input tax credit exceeds his or her liability for tax for that period, the Commissioner General shall refund him or her the excess within one month of the due date for the return for the tax period to which the excess relates, or within one month of the date when the return was made if the return was not made by the due date.

(2) Notwithstanding subsection (1), the Commissioner General –

Substituted by VAT (Am) Act 2015

(a) shall, where the taxable person's input credit exceeds his or her liability for tax for that period by less than five million shillings, except in the case of a licensee [an investment trader] or person providing mainly zero rated supplies, offset that amount against the future liability of the taxable person; and

Substituted by VAT (Am) Act 2002

(b) may, with consent of the taxable person, where the taxable person's input credit exceeds his or her liability for tax for

that period by five million shillings or more, offset that amount against the future liability of the taxable person, or apply the excess in reduction of any other tax not in dispute due from the taxpayer.

Inserted by Finance Act 2001 And substituted by VAT (Am) Act 2013

(2a) If for any tax period taxable supplies in stock or stock in transit are lost due to theft, fire, accident, or force majeure and input tax has been paid on those goods, the Commissioner General may grant a refund or allow credit for the input tax paid on those goods if there is evidence that the goods are destroyed or lost and cannot be recovered. [Where goods in stock are lost due to theft or fire and input tax has been paid on those goods, the Commissioner General may grant a refund or allow credit for the input tax paid on those goods if there is evidence that the goods are lost and cannot be recovered.]

(3) A person may claim a refund of any output tax paid in excess of the amount of tax due under this Act for a tax period.

(4) A claim for a refund under subsection (3) shall be made in a return within three years after the end of the tax period in which tax was overpaid.

(5) Where a person has claimed a refund under subsection (3) and the Commissioner General is satisfied that the person has paid an amount of tax in excess of the amount of tax due, the Commissioner General shall refund immediately the excess to the taxable person.

(6) Where a person claiming a refund is required by the Commissioner General to provide accounts or records to substantiate the claim and fails to do so in a manner satisfactory to the Commissioner General within seven days of being requested, the time period specified in subsection (1) for making the refund shall not be binding on the Commissioner General.

(7) The Commissioner General shall serve on a person claiming a refund a notice in writing of a decision in respect of the claim.

(8) A person dissatisfied with a decision under subsection (6) may only challenge the decision under Part IV of the Tax Appeals Tribunal Act.

(9) No refund shall be made under subsection (5) in relation to a taxable supply that has been made to a person who is not a taxable person, unless the Commissioner General is satisfied that the amount of the excess tax has been repaid by the taxable person to the recipient, whether in cash or as a credit against an amount owing to the taxable person by the recipient.

43. Refund of Tax for Bad Debts

(1) Where a taxable person has supplied goods or services for a consideration in money, and has –

(a) paid the full tax on the supply to the Commissioner General, but has not within two years after the supply received payment, in whole or in part from the person to whom the goods or services are supplied; and

(b) taken all reasonable steps to the satisfaction of the Commissioner General, to pursue payment and he or she reasonably believes that he or she will not be paid,

that person may seek a refund of that portion of the tax paid for which he or she has not received payment.

(2) If a refund is taken under subsection (1) and the taxable person later receives payment in whole or in part, in respect of the debt, he or she shall remit to the Commissioner General, with his or her next tax return, a sum equal to the portion of the payment that represents the tax refunded.

(3) A registered supplier who fails to remit the tax in accordance with subsection (2) with his or her next return, commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings, in addition to the payment of the full amount of the undeclared tax plus a penal tax on that outstanding tax calculated at the rate specified in the Fifth Schedule.

44. Interest on Overpayments and Late Refunds

(1) Where the Commissioner General is required to refund an amount of tax to a person as a result of –

(a) a decision under Section 33B;

Substituted by VAT (Am No.2) Act 2002

(b) a decision of the Tax Appeals Tribunal; or

(c) a decision of the High Court, the Court of Appeal or the Supreme Court,

he or she shall pay interest at a rate of 2% per month compounded on the tax to be refunded.

Substituted by VAT (Am No.2) Act 2002

(2) Where the Commissioner General fails to make a refund required under Section 42(1) within the time specified in that Section, he or she shall pay interest at a rate of 2% per month compounded on the amount of refund for the period.

Substituted by VAT (Am No.2) Act 2002

(3) Where the Commissioner General finds, after conducting an investigation of any amount shown as an excess in terms of Section 42(1), that the excess amount of input tax credit is greater than the true amount due in excess of not less than fifty thousand shillings, no interest shall be payable under subsection (2) where there has been a delay in making the refund.

Inserted by VAT (Am No.2) Act 2002

(4) Notwithstanding subsection (1), a taxpayer who causes delay in determining a correct refund payable to him or her, and leading to a belated refund process, is only entitled to interest with effect from sixty days from the date on which he or she filed his or her delayed return, lodged an application with the Tax Appeals Tribunal or the High Court, or submitted to the Commissioner General all necessary and satisfactory information required in relation to the refund in question, whichever is the later.

45. Refund of Tax to Diplomats and Diplomatic and Consular Missions and International Organisations

(1) The Minister may, with the concurrence of the Minister responsible for Foreign Affairs, authorise the granting of a refund in respect of tax paid or borne by –

(a) any person enjoying full or limited immunity, rights or privileges under any local or international laws applicable in Uganda or under recognised principles of international law; or

(b) any diplomatic or consular mission of a foreign country or any public international organisation established in Uganda or listed in the First Schedule to this Act relating to transactions concluded for its official purposes.

(2) The refund provided for in subsection (1)(a) shall not be available to any citizen or permanent resident of Uganda.

(3) Any claim for a refund of tax under this Section shall be made in such form and at a time that the Commissioner General may prescribe and shall be accompanied by proof of payment of tax.

(4) The Minister may make regulations specifying conditions to be met or restrictions to apply for claiming or granting of tax refunds under this Section.

Records and Investigation Powers

46. Records

(1) A person liable for tax under this Act shall maintain in Uganda in the English language –

(a) original tax invoices, copy tax invoices, credit notes, and debit notes received by the person;

(b) a copy of all tax invoices, credit notes, and debit notes issued by the person;

(c) customs documentation relating to imports and exports by the person; and

(d) such other accounts and records as may be prescribed by the Commissioner General.

(2) Records required to be maintained under subsection (1) shall be retained for at least six years after the end of the tax period to which they relate.

47. Access to Books, Records and Computers

(1) In order to enforce a provision of this Act, the Commissioner General, or an officer authorised in writing by the Commissioner General –

(a) shall have at all times during normal working hours and without any prior notice to any person, full and free access to any premises, place, book, record, or computer;

(b) may make an extract or copy from any book, record, or computer-stored information to which access is obtained under paragraph (a);

(c) may seize any book or record that, in his or her opinion, affords evidence that may be material in determining the liability of any person under this Act;

(d) may retain any such book or record for as long as is required for determining a person's liability or for any proceeding under this Act; and

(e) may, where a hard copy or computer disk of information stored on a computer is not provided, seize and retain the computer for as long as is necessary to copy the information required.

(2) No officer shall exercise the powers under subsection (1) without authorisation in writing from the Commissioner General, and the officer shall produce the authorisation on request by the occupier of the premises or place.

(3) The owner, manager, or any other person on the premises or at the place entered or proposed to be entered under this Section shall provide all reasonable facilities and assistance for the effective exercise by the Commissioner General or Officer of the powers under this Section.

(4) A person whose books, records, or computer have been removed and retained under subsection (1) may examine them and make copies or extracts from them during regular office hours under such supervision as the Commissioner General may determine.

48. Notice to Obtain Information or Evidence

(1) The Commissioner General may, by notice in writing, require any person, whether or not liable for tax under this Act –

(a) to furnish any information that may be required by the notice; or

(b) to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner General or by an officer authorised by the Commissioner General, concerning the tax affairs of that person or any other person, and for that purpose the Commissioner General or an authorised officer may require the person examined to produce any book, record, or computer-stored information in the control of the person.

(2) Where the notice requires the production of a book or record, it is sufficient if that book or record is described in the notice with reasonable certainty.

(3) A notice issued under this Section shall be served by or at the direction of the Commissioner General by a signed copy delivered by hand to the person to whom it is directed, or left at the person's last and usual place of business or abode, and the certificate of service signed by the person serving the notice shall be evidence of the facts stated in the certificate.

49. Books and Records not in English Language

Where any book or record referred to in Section 47 or 48 is not in English, the Commissioner General may, by notice in writing, require the person keeping the book or record to provide at that person's expense a translation into English by a translator approved by the Commissioner General.

Taxpayer Identification Number

50. Taxpayer Identification Number

(1) For purposes of identification of taxpayers, the Commissioner General shall issue a number to be known as a taxpayer identification number to every tax payer.

(2) The Commissioner General may require a person to show his or her taxpayer identification number in any return, notice or other document used for the purposes of this Act.

Offences and Penal Tax

51. Offences related to Registration

(1) A person who fails –

(a) to apply for registration as required under Section 7;

(b) to notify the Commissioner General of a change in circumstances as required under Section 8(10);

(c) to apply for cancellation of registration as required by Section 9(1),

commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction –

(a) where the failure is deliberate or reckless, to a fine not exceeding five hundred thousand shillings or to

imprisonment for a term not exceeding two years, or to both; or

(b) in any other case, to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

52. Offences related to Tax Invoices, Credit Notes, and Debit Notes

(1) A taxable person who fails to provide a tax invoice under Section 29(1) or (6), or a credit or debit note under Section 30 commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

(2) A person who provides a tax invoice otherwise than as provided under Section 29(1) or (6), or a credit or debit note otherwise than as is provided for in Section 30 commits an offence and is liable on conviction to –

(a) where the act is deliberate or reckless, a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both; or

(b) in any other case, a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

53. Failure to Lodge a Return

(1) A person who fails to lodge a return or any other document under this Act within 15 days of being so required commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(2) If a person convicted of an offence under subsection (1) fails to lodge the return or document within the period specified by the Commissioner General, that person commits an offence and is liable on conviction to a fine of fifty thousand shillings for each

day during which the failure continues and imprisonment for three months without the option of a fine in lieu of imprisonment.

54. Failure to Comply with Recovery Provision

(1) A person who fails to comply with –

(a) a notice under Section 40; or

(b) the requirements of Section 41,

commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

(2) Where a person is convicted of an offence under subsection (1)(a), the Court may, in addition to imposing a penalty, order that person to pay to the Commissioner General an amount not exceeding the amount that person failed to pay as required by Section 40.

55. Failure to Maintain Proper Records

A person who fails to maintain proper records under this Act commits an offence and is liable on conviction to –

(a) where the failure was deliberate or reckless, a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both; or

(b) in any other case, a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

56. Failure to Provide Reasonable Assistance

A person who fails to provide the Commissioner General or authorised officer with all reasonable facilities and assistance as required under Section 47(3) commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or

to imprisonment for a term not exceeding six months, or to both.

57. Failure to Comply with Section 48 or 49 Notice

A person who fails to comply with a notice issued under Section 48 or 49 commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

58. Improper Use of Taxpayer Identification Number

(1) A person who knowingly uses a false taxpayer identification number, including the taxpayer identification number of another person, on a return or document prescribed or used for the purposes of this Act commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

(2) Subsection (1) does not apply to a person who has used the taxpayer identification number of another person with the permission of that other person on a return or document relating to the tax affairs of that other person.

59. False or Misleading Statements

(1) A person who –

(a) makes a statement to an officer of the Uganda Revenue Authority that is false or misleading in a material particular; or

(b) omits from a statement made to an officer of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular,

commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction to –

(a) where the statement or omission was made knowingly or recklessly, a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years, or to both; or

(b) in any other case, a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(3) It is a defence to the accused person to prove that he or she did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

(4) A reference in this Section to a statement made to an officer of the Uganda Revenue Authority is a reference to a statement made orally, in writing, or in any other form to that officer acting in the performance of his or her duties under this Act, and includes a statement made –

(a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, or furnished under this Act;

(b) in information required to be furnished under this Act;

(c) in a document furnished to an officer of the Uganda Revenue Authority otherwise than under this Act;

(d) in answer to a question of a person by an officer of the Uganda Revenue Authority; or

(e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to an officer of the Uganda Revenue Authority.

60. Obstructing an Officer of the Authority

A person who obstructs the Commissioner General or an authorised officer in the performance of his or her duties under this Act commits an offence and is liable on conviction to a fine not exceeding five

hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

61. Offences by Officers and other Persons

(1) Any officer or any other person employed in carrying out the provisions of this Act who –

(a) directly or indirectly asks for, or takes in connection with any of the officer's duties, any payment or reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or

(b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal, or connive at any act or thing whereby the tax revenue is or may be defrauded or which is contrary to this Act or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years, or to both.

(2) Any person who –

(a) directly or indirectly offers or gives to any officer payment or reward, whether pecuniary or otherwise, or any promise or security for such payment or reward; or

(b) proposes or enters into any agreement with any officer in order to induce him or her to do or to abstain from doing, permit, conceal or connive at any act or thing whereby tax revenue is or may be defrauded or to do any act or thing which is contrary to this Act or the proper execution of the duty of that officer,

commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

62. Offences by Companies

(1) Where an offence is committed by a company, every person who at the time of the commission of the offence –

(a) was a nominated officer, director, general manager, secretary, or other similar officer of the company; or

(b) was acting or purporting to act in that capacity,

is deemed to have committed the offence.

(2) Subsection (1) does not apply where –

(a) the offence was committed without that person's consent or knowledge; and

(b) the person exercised all diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

63. Officer may appear on behalf of Commissioner General

Notwithstanding anything contained in any written law, any officer duly authorised in writing by the Commissioner General may appear in any Court on his or her behalf in any proceedings in which he or she is a party and subject to the directions of the Attorney-General, that officer may conduct any prosecution for an offence under this Act and for that purpose shall have all the powers of a public prosecutor appointed under the Magistrates Courts Act.

64. Compounding of Offences

(1) Where any person commits an offence under this Act other than an offence under Section 62, the Commissioner General may at any time prior to the commencement of the court proceedings, compound the offence and order the person to pay a sum of money specified by the Commissioner General, not exceeding the amount of the fine prescribed for the offence.

(2) The Commissioner General shall only compound an offence under this Section if the person concerned admits in writing that the person has committed the offence.

(3) Where the Commissioner General compounds an offence under this Section, the order referred to in subsection (1) –

(a) shall be in writing and specify the offence committed, the sum of money to be paid, and the due date for the payment, and shall have attached the written admission referred to in subsection (2);

(b) shall be served on the person who committed the offence;

(c) shall be final and not subject to any appeal; and

(d) may be enforced in the same manner as a decree of a court for the payment of the amount stated in the order.

(4) When the Commissioner General compounds an offence under this Section, the person concerned shall not be liable for prosecution in respect of that offence or for penal tax under Section 65.

65. Penal Tax

(1) A person who fails to apply for registration as required by Section 7(1) or (5) is liable to pay a penal tax equal to double the amount of tax payable during the period commencing on the last day of the application period in Section 7(1) until either the person files an application for registration with the Commissioner General or the Commissioner General registers the person under Section 8(6).

(2) A person who fails to lodge a return within the required time under this Act is liable to pay a penal tax amounting to whichever is the greater of the following:

(a) two hundred thousand shillings; or

(b) an interest charge for the period the return is outstanding calculated according to the formula specified in the Fifth Schedule.

(3) A person who fails to pay tax imposed under this Act on or before the due date is liable to pay a penal tax on the unpaid tax at a rate specified in the Fifth Schedule for the tax which is outstanding.

(4) If a person pays a penal tax under subsection (3) and the tax to which it relates is found not to have been due and payable by the person and is refunded, then the penal tax, or so much of the penal tax as relates to the amount of the refund, shall also be refunded to that person.

(5) A person who fails to maintain proper records in a tax period in accordance with the requirements of this Act is liable to pay a penal tax equal to double the amount of tax payable by the person for the tax period.

(6) Where a person knowingly or recklessly –

Substituted by VAT (Am) Act 2 2008

(a) makes a statement or declaration to an official of the Uganda Revenue Authority that is false or misleading in a material particular; or

(b) omits from a statement made to an official of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular, and

(i) the tax properly payable by the person exceeds the tax that was assessed as payable based on the false or misleading information;

(ii) the amount of the refund claimed was false; or

(iii) the person submitted a return with an incorrect offset claim,

that person is liable to pay penal tax equal to double the amount of the excess tax, refund or claim.

(7) Section 59(4) applies in determining whether a person has made a statement to an official of the Uganda Revenue Authority.

66. Recovery of Penal Tax

(1) Where good cause is shown, in writing, by the person liable to pay a penal tax, the Commissioner General may remit in whole or part any penal tax payable other than the penal tax imposed or payable under Section 65 for late payment.

(2) Subject to subsection (3), the imposition of a penal tax is in addition to any penalty imposed as a result of a conviction for an offence under Sections 51 to 64.

(3) No penal tax is payable under Section 65 where the person has been convicted of an offence under Section 51, 55, or 59 in respect of the same act or omission.

(4) If a penal tax under Section 65 has been paid and the Commissioner General institutes a prosecution proceeding under Section 51, 55 or 59 in respect of the same act or omission, the Commissioner General shall refund the amount of penal tax paid; and that penal tax is not payable unless the prosecution is withdrawn.

(5) Penal tax shall for all purposes of this Act be treated as a tax of the same nature as the output tax to which it relates and shall be payable in and for the same tax period as that output tax.

(6) Penal tax shall be assessed by the Commissioner General in the same manner as the output tax to which it relates and an assessment of penal tax shall be treated for all purposes as an assessment of tax under this Act.

67. Remission of Tax

(1) Where the Commissioner General is of the opinion that the whole or any part of the tax due under this Act from a taxpayer cannot be effectively recovered by reason of –

(a) considerations of hardship; or

(b) impossibility, undue difficulty, or the excessive cost of recovery,

the Commissioner General may refer the taxpayer's case to the Minister.

(2) Where the taxpayer's case has been referred to the Minister under subsection (1) and the Minister is satisfied that the tax due cannot be effectively recovered, the Minister may remit or write off, in whole or part, the tax due from the taxpayer.

PART IX - GENERAL PROVISIONS

68. Form, Authentication and Availability of Documents

(1) Forms, notices, returns, statements, tables, and other documents prescribed or published by the Commissioner General may be in such form as the Commissioner General may determine for the efficient administration of this Act and publication of documents in the *Gazette* shall not be required.

(2) The Commissioner General shall make the documents referred to in subsection (1) available to the public at the Uganda Revenue Authority and at any other locations, or by mail, as the Commissioner General may determine.

(3) A notice or other document issued, served, or given by the Commissioner General under this Act is sufficiently authenticated if the name or title of the Commissioner General, or authorised officer, is printed, stamped, or written on the document.

68A. Use of Information Technology

Sections 68A – C Inserted by VAT (Am) Act 2 2008

(1) Subject to such conditions as the Commissioner General shall prescribe, tax formalities or procedures may be carried out by the use of information technology.

(2) A person who wishes to be registered as a user of a tax computerised system may apply in writing to the Commissioner General and the Commissioner General may –

(a) grant the application subject to such conditions as he or she may impose;

(b) reject the application.

68B. Cancellation of Registration

The Commissioner General may at any time cancel the registration of the user where he or she is satisfied that a person who is a user of a tax computerised system –

(a) has failed to comply with a condition of registration imposed by the Commissioner General under Section 68A(1);

(b) has failed to comply with or has acted in contravention of any condition under the regulations; or

(c) has been convicted of an offence under this Act relating to improper access to or interference with a tax computerised system.

68C. Offences

(1) A person commits an offence where he or she –

(a) knowingly and without lawful authority by any means, gains access to or attempts to gain access to any tax computerised system;

(b) having lawful access to any tax computerised system, knowingly uses or discloses information obtained from the computer system for a purpose that is not authorised; or

(c) knowing that he or she is not authorised to do so, receives information obtained from any tax computerised system and uses, discloses, publishes or otherwise disseminates such information.

(2) A person who commits an offence under subsection (1) is liable on conviction –

(a) in the case of an individual, to imprisonment not exceeding two years or a fine not exceeding five hundred thousand shillings or both; or

(b) in the case of a body corporate, to a fine not exceeding two million five hundred thousand shillings.

(3) A person commits an offence where he or she knowingly –

(a) falsifies any record or information stored in any tax computerised system;

(b) damages or impairs any tax computerised system; or

(c) damages or impairs any duplicate tape or disc or other medium on which any information obtained from a tax computerised system is held or stored otherwise than with the permission of the Commissioner General,

and is liable on conviction to imprisonment not exceeding three years or a fine not exceeding one million shillings or both.

69. Service of Notices and Other Documents

Unless otherwise provided in this Act, a notice or other document required or authorised under this Act to be served –

(a) on a person being an individual other than in a representative capacity, is considered sufficiently served if –

(i) personally served on that person;

(ii) left at the person's usual or last known place of abode, office or place of business in Uganda; or

(iii) sent by registered post to such place of abode, office or place of business, or to the person's usual or last known address in Uganda; or

(b) on any other person, is considered sufficiently served if –

(i) personally served on the nominated officer of the person;

(ii) left at the registered office of the person or the person's address for service of notices under this Act; or

(iii) left at or sent by registered post to any office or place of business of the person in Uganda.

70. Nominated Person

(1) Every taxable person being a partnership, trust, company, non-resident individual or resident individual who is outside Uganda for more than one tax period shall have a nominated person for tax purposes who is a resident individual.

(2) The name of the nominated person shall be notified to the Commissioner General –

(a) in the case of a partnership, trust, company or non-resident individual, in the first tax period in which the partnership, trust, company or individual becomes a taxable person; or

(b) in the case of a resident individual who is outside Uganda, in the first tax period in which the individual is outside Uganda.

(3) Where a taxable person fails to comply with subsection (2), the Commissioner General shall specify a nominated person for that taxable person.

(4) A taxable person may, by notice in writing to the Commissioner General, change the nominated person.

(5) Subject to Section 71, the nominated person is responsible for any obligation imposed on the partnership, trust, company or individual under this Act.

70A. VAT Representatives of Non-Resident Persons

Inserted by VAT (Am) Act 2011

(1) The Commissioner General may require a non-resident person to apply for registration under section 8 of the Act.

(2) A non-resident person who is required to apply for registration but who does not have a fixed place of business in Uganda shall:–

(a) appoint a VAT representative in Uganda; and

(b) if required to do so by the Commissioner General, lodge a security with the Commissioner General in accordance with section 36.

(3) If a non-resident person does not appoint a VAT representative within 30 days after being required to apply for registration, the Commissioner General may appoint a VAT representative for the non-resident person.

(4) The VAT representative of a non-resident person shall—

(a) be a person ordinarily residing in Uganda;

(b) have the responsibility for doing all things required of the non-resident under this Act; and

(c) be jointly and severally liable for the payment of all taxes, fines, penalties, and interest imposed on the non-resident under this Act.

(5) The registration of a VAT representative shall be in the name of the non-resident person.

(6) A person may be a VAT representative for more than one non-resident person, in which case that person shall have a separate registration for each non-resident person.

(7) The Commissioner General may prescribe the mode, manner, and requirements for appointment of a VAT representative and the responsibilities of the representative.

(8) In this section, "non-resident person" has the same meaning as in the Income Tax Act."

71. Application of Act to Partnerships and Unincorporated Associations

(1) This Act applies to a partnership as if the partnership were a person, but with the following changes –

(a) obligations that would be imposed on the partnership are imposed on each partner, but may be discharged by any of the partners;

(b) the partners are jointly and severally liable to pay any amount that would be payable by the partnership; and

(c) any offence under this Act that would otherwise be committed by the partnership is taken to have been committed by each of the partners.

(2) This Act applies to an unincorporated association as if it were a person, but the obligations that would be imposed on the association are imposed on each member of the committee of management of the association, but may be discharged by any of those members.

(3) In a prosecution of a person for an offence that the person is taken to have committed under subsection (1)(c), it is a defence if the person proves that he or she –

(a) did not aid, abet, counsel, or procure the relevant act or omission; and

(b) was not in any way knowingly concerned in, or party to, the relevant act or omission.

72. Trustee

A person who is a trustee in more than one capacity is treated for the purposes of this Act as a separate person in relation to each of those capacities.

73. Currency Conversion

(1) For the purposes of this Act, all amounts of money are to be expressed in Uganda shillings.

(2) Where an amount is expressed in a currency other than Uganda shillings, the amount shall be converted into the Uganda shillings using the weighted selling rates of the previous month for the currency concerned.

74. Prices Quoted to include Tax

Any price advertised or quoted for a taxable supply shall include tax and the advertisement or quotation shall state that the price includes the tax.

75. Schemes for obtaining Undue Tax Benefits

(1) Notwithstanding anything in this Act, if the Commissioner General is satisfied that a scheme has been entered into or carried out where –

(a) a person has obtained a tax benefit in connection with the scheme; and

(b) having regard to the substance of the scheme, it would be concluded that the person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person to obtain the tax benefit,

the Commissioner General may determine the liability of the person who has obtained the tax benefit as if the scheme had not been entered into or carried out, or in a manner as in the circumstances the Commissioner General considers appropriate for the prevention or reduction of the tax benefit.

(2) In this Section –

(a) "scheme" includes any agreement, arrangement, promise, or undertaking whether express or implied and whether or not

enforceable, or intended to be enforceable, by legal proceedings, and any plan, proposal, course of action, or course of conduct;

(b) "tax benefit" includes –

(i) a reduction in the liability of any person to pay tax;

(ii) an increase in the entitlement of a person to a credit or refund; or

(iii) any other avoidance or postponement of liability for the payment of tax.

76. International Agreements

(1) To the extent that the terms of a treaty or other international agreement to which Uganda is a party are inconsistent with the provisions of this Act, apart from Section 75, the terms of the treaty or international agreement prevail over the provisions of this Act.

(2) In this Section, "international agreement" means an agreement between Uganda and a foreign government or a public international organisation.

77. Priority of Schedules

Where a supply of goods or services may be covered by both the Second Schedule and the Third Schedule, the supply shall be treated as being within the Third Schedule.

78. Regulations and Amendment of Schedules

(1) The Minister may make regulations for the better carrying into effect of the provisions and purposes of this Act.

(2) The Minister may by Statutory Order specify the rates of tax payable under this Act; and the Order shall cease to have effect unless it is introduced into Parliament within three months from

the date of its publication and Parliament approves a resolution confirming that Order.

(3) The Minister may, with the approval of Cabinet, make regulations amending the First, Second and Third Schedules.

78A. Supremacy of the Act

Inserted by Finance Act 2001

Where there is any inconsistency between this Act and any other law prescribing a rate of tax, this Act shall prevail.

79. Practice Notes

Inserted by VAT (Am) Act 2005

(1) To achieve consistency in the administration of this Act and to provide guidance to taxpayers and officers of the Uganda Revenue Authority, the Commissioner General may issue practice notes setting out the Commissioner General's interpretation of this Act.

(2) A practice note is binding on the Commissioner General until revoked.

(3) A practice note is not binding on a taxpayer.

80. Private Rulings

Inserted by VAT (Am) Act 2005

(1) The Commissioner General may, upon application in writing by a taxpayer, issue to the taxpayer a private ruling setting out the Commissioner General's position regarding the application of this Act to a transaction proposed or entered into by the taxpayer.

(2) Where the taxpayer has made a full and true disclosure of the nature of all aspects of the transaction relevant to the ruling and the transaction has proceeded in all material respects as described in the taxpayer's application for the ruling, the ruling shall be binding on the Commissioner General with respect to the application to the transaction of the law as it stood at the time the ruling was issued.

(3) Where there is any inconsistency between a practice note and a private ruling, priority shall be given to the terms of the private ruling.

81. International Agreements

Where an international agreement entered into between the Government of Uganda and the government of a foreign country or an international organisation, provides tax reliefs or benefits to a foreign government or an international organisation, the provisions relating to tax reliefs or benefits shall have effect –

(a) on the ratification of the agreement by Cabinet; and

(b) upon approval by Parliament.

FIRST SCHEDULE

Ss.1 & 45

Public International Organisations

Inserted by VAT (Am) Act 2005

African Development Bank (ADB)

Inserted by Finance Act 2001

African Development Foundation (ADF)

Inserted by VAT (Am) Act 2 2008

African Union (AU)

Aga Khan Development Network, Uganda, and the following agencies –

Inserted by VAT (Am) Act 2003

(i) Aga Khan Foundation, Uganda;

(ii) Aga Khan Education Service, Uganda;

(iii) Aga Khan Health Service, Uganda;

(iv) Aga Khan Trust for Culture; and

(v) Aga Khan University, Uganda.

Inserted by VAT (Am) Act 2012

Austrian Development Agency (ADA)

Inserted by VAT (Am) Act 2 2008

Belgian Technical Cooperation (BTC)

Inserted by VAT (Am) Act 2012

Danish International Development Agency (DANIDA)

Department for International Development (DFID)

Desert Locust Control Organisation for Eastern Africa (DLCOEA)

Substituted by VAT (Am) Act 2012

Deutsche Geselleschaft fur Internationale Zusammenarbeit (GTZ)

Inserted by VAT (Am) Act 2003

Common Market for East and Southern Africa (COMESA)

Inserted by VAT (Am) Act 2005 and substituted by VAT (Am) Act 2013

East African Community, its Organs and Institutions

East African Development Bank (EADB)

Eastern and Southern Africa Management Institute (ESAMI)

European Union (EU)

Food and Agricultural Organisation (FAO)

Inserted by VAT (Am) Act 2012 and substituted by VAT (Am) Act 2013

French Development Agency (Agence Française de Development) (FDA)

Inserted by VAT (Am) Act 2015

Global Fund to fight AIDS, Malaria and Tuberculosis

Inserted by VAT (Am) Act 2003

Icelandic International Development Agency (ICEADA)

Inserted by VAT (Am) Act 2 2008

IGAD Regional HIV and AIDS Partnership Programme (IRAPP)

International Atomic Agency (IAA)

International Civil Aviation Organisation (ICAO)

International Committee of the Red Cross (ICRC)

Inserted by VAT (Am) Act 2 2008

International Criminal Court (ICC)

International Labour Organisation (ILO)

International Monetary Fund (IMF)

Inserted by VAT (Am) Act 2003

International Organisation for Migration (IOM)

International Telecommunications Union (ITU)

Substituted by VAT (Am) Act 2012

Japan International Cooperation Agency (JICA)

Inserted by VAT (Am) Act 2012

Korea International Cooperation Agency (KOICA)

Kreditanstalt fur Wiederaufbau (KFW)

Medical Research Council

Netherlands Development Organisation (SNV)

Inserted by VAT (Am) Act 2003

Nile Basin Initiative

Substituted by VAT (Am) Act 2012

Norwegian Agency for Development *Cooperation* (NORAD)

Repealed by VAT (Am) Act 2 2008

[Organisation of African Unity (OAU)]

Inserted by VAT (Am) Act 2012

Swedish International Development Agency (SIDA)

Inserted by VAT (Am) Act 2015

Uganda Red Cross Society

Union of National Radio and Television Organisations of Africa (UNRTNA–PEC)

United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI)

United Nations Children's Fund (UNICEF)

United Nations Development Programme (UNDP)

United Nations Fund for Population Activities (UNFPA)

United Nations High Commission for Refugees (UNHCR)

United States Agency for International Development (USAID)

Universal Postal Union (UPU)

World Bank

World Food Programme (WFP)

World Health Organisation (WHO)

World Meteorological Organisation (WMO)

SECOND SCHEDULE

S.19

Exempt Supplies

1. The following supplies are specified as exempt supplies for the purposes of Section 19 –

Substituted by VAT (Am) Act 2013

(a) the supply of *livestock,* unprocessed foodstuffs and unprocessed agricultural products *except wheat grain;* [and livestock]

(b) the supply of postage stamps;

(c) the supply of financial services;

Substituted by VAT (Am) Act 2014

(d) the supply of [insurance services]

i) health insurance services *[wef 1/7/2014]*

ii) life insurance services *[wef 1/7/2014]*

iii) micro insurance services *[wef 1/11/2014]*

iv) re-insurance services *[wef 1/11/2014]*

Inserted by Finance Act 2001

(e) the supply of unimproved land;

NB: *The supply of residential dwelling units was a taxable supply at 5% from July 2007 to June 2009*

(f) a supply by way of *sale,* leas*ing* or letting of immovable property, other than –

(i) a *sale,* lease or letting of commercial premises;

(ii) a *sale,* lease or letting *for parking or storing cars or other vehicles;*

Substituted by VAT (Am) Act 2009

(iii) a *sale,* lease or letting *of hotel or holiday accommodation;*

(iv) a *sale,* lease or letting for *periods not exceeding three months;* or

(v) a *sale,* lease or letting of service apartments;

(g) the supply of education services;

Inserted by VAT (Am) Act 1 2008

(h) the supply of *veterinary,* medical, dental, and nursing services;

(i) the supply of social welfare services;

Repealed by VAT (Am) Act 2011 And reinstated by VAT (Am) Act 2012

(j) *the supply of betting, lotteries, and games of chance*;

(k) the supply of goods as part of the transfer of a business as a going concern by one taxable person to another taxable person;

(l) the supply of burial and cremation services;

(m) the supply of precious metals and other valuables to the Bank of Uganda for the State Treasury;

(n) the supply of passenger transportation services (other than Tour and Travel operators);

Substituted by VAT (Am No.2) Act 2002 & (Am) Act 2 2008

(o) the supply of petroleum fuels subject to excise duty, (motor spirit, kerosene and gas oil), spirit type jet fuel, kerosene type jet fuel and residual oils for use in thermal power generation to the national grid;

Repealed by VAT (Am) Act 2002

(p) the supply of milk, including milk treated in any way to preserve it

Inserted by VAT (Am) Act 2011 and substituted by VAT (Am) Act 2013

(q) the supply of dental, medical, *and* veterinary *goods* [equipment *and ambulances*] *and for the purposes of this subparagraph "goods" means:*

(i) dental, medical and veterinary equipment;

(ii) ambulances;

(iii) contraceptives of all forms;

(iv) maternity kits (mama kits);

(v) medical examination gloves;

(vi) medicated cotton wool;

(vii) mosquito nets, acaricides, insecticides and mosquito repellent devices; and

(viii) diapers.

Inserted by Finance Act 2001 & repealed by VAT (Am) Act 2014

(r) the supply of feeds for poultry and livestock;

Inserted by Finance Act 2001& Substituted by VAT (Am) Act 2014

(s) the supply of machinery [used for the processing of agricultural or dairy products], tools and implements suitable for use only in agriculture, and for the purposes of this subparagraph, "machinery, tools and implements" means;

i) knapsack sprayers;
ii) ox ploughs;
iii) drinkers and feeders for chicken;
iv) agricultural tractors (including walking tractors);
v) disk harrows;
vi) cultivators;
vii) ploughs;
viii) weeders;
ix) seeders;
x) planters;
xi) subsoilers;
xii) seed drills;
xiii) threshers;
xiv) bale wrappers;
xv) milking machinery;
xvi) milk coolers;
xvii) maize mills;
xviii) wheat flour mills;
xix) homogenisers;
xx) dairy machinery;
xxi) grain cleaners and sorters;
xxii) feed grinders hatcheries; and
xxiii) implements used for artificial insemination in animals.

Inserted by Finance Act 2001 and substituted by VAT (Am) Act 2005, VAT (Am) Act 2006

(t) the supply of photosensitive semiconductor devices, including photovoltaic devices, whether or not assembled in modules or made into panels; light emitting diodes; solar water heaters, solar refrigerators and solar cookers.

Inserted by VAT (Am) Act 2011

(ta) supply of power generated by solar;

Added by VAT (Am) Act 2002, Substituted by VAT (Am) Act 2003 & 1 2008. Deleted by VAT (Am) Act 1 2008. Repealed by VAT (Am) Act 2014.

(u) the supply of accommodation in tourist lodges and hotels outside Kampala District; [and Entebbe]

Substituted by VAT (Am No.2) Act 2002, (Am) Act 2005, (Am) Act 2 2008 & (Am) Act 2009. Repealed by Am Act 2014.

(v) supply of new –

(i) computers

(ii) desktop printers; and

(iii) computer parts and accessories.

Inserted by (Am) Act 2003 & substituted by (Am) Act 2010. Repealed by Am Act 2014

(w) the supply of computer software *and software licences*;

Inserted by VAT (Am) Act 2003 and substituted by VAT (Am) Act 2005

(x) the supply of lifejackets, lifesaving gear, headgear and speed governors;

Inserted by VAT (Am) Act 2003 & deleted by VAT (Am) Act 2005

(y) the supply of Mobile toilets and Ekoloo toilets made form polyethylene;

Inserted by VAT (Am) Act 2003, (Am) Act 2006 & (Am) Act 1 2008. Repealed by VAT (Am) Act 2013

(z) the supply of mosquito nets, insecticides and acaricides;

Inserted by VAT (Am) Act 2005, (Am) Act 2006, (Am) Act 1 2008, (Am) Act 2 2008 & (Am) Act 2009. Repealed by Am Act 2014

(aa) the supply of specialised vehicles, plant and machinery, feasibility studies, engineering designs, consultancy services and civil works related to hydro-electric power, roads and bridges construction, public water works, agriculture, education and health sectors.

Inserted by VAT (Am) Act 2006. Repealed by VAT (Am) Act 2013

(bb) the supply of contraceptive sheaths and examination gloves;

Inserted by VAT (Am) Act 2006. Repealed by Am Act 2014

(cc) the supply of Liquefied Petroleum Gas.

Inserted by VAT (Am) Act 1 2008 & Repealed by VAT (Am) Act 2013

(dd) the supply of any goods and services to the contractor of the Bujagaali hydro-electric power project;

Inserted by VAT (Am) Act 2 2008.

(dda) the supply of any goods and services to the contractors and subcontractors of hydro-electric power projects;

Inserted by VAT (Am) Act 1 2008 & Repealed by VAT (Am) Act 2013

(ee) the supply of diapers.

Inserted by VAT (Am) Act 2 2008 & repealed by Am Act 2014

(ff) the supply of salt;

Inserted by Am Act 2 2008 and repealed by VAT (Am) Act 2011

(gg) the supply of motor vehicles or trailers of a carrying capacity of 3.5 tonnes or more designed for the transport of goods;

(hh) & (ii) inserted by VAT (Am) Act 2009 & repealed by Am Act 2014

(hh) the supply of packing materials exclusively used by the milling industry for packing milled products;

(ii) the supply of packing materials exclusively used by the dairy industry for packing milk;

Inserted by VAT (Am) Act 2010 And repealed by VAT (Am) Act 2012

(jj) the supply of biodegradable packaging materials.

Inserted by VAT (Am) Act 2012 W.E F 1/10/2012 and Repealed by VAT (Am) Act 2013

(kk) the supply of water for domestic use excluding mineral water and aerated waters which contain sweetening matter or flavour.

2. In this Schedule –

(a) "education services" means education provided by –

(i) a pre-primary, primary, or secondary school;

(ii) a technical college or university;

(iii) an institution established for the promotion of adult education, vocational training, technical education, or the education or training of physically or mentally handicapped persons;

(b) "financial services" means –

(i) granting, negotiating, and dealing with loans, credit, credit guarantees, and any security for money, including management of loans, credit, or credit guarantees by the grantor;

Inserted by VAT (Am) Act 2006

(ii) transactions concerning deposit and current accounts, payments, transfers, debts, foreign currency sales and purchases, cheques, and negotiable instruments, other than debt collection and factoring;

(iii) transactions relating to shares, stocks, bonds, and other securities, other than custody services;

(iv) management of investment funds; but does not include provision of credit facilities under a hire-purchase or finance lease agreement;

(c) "passenger transportation services" means the transportation of fare-paying passengers, and their personal effects by road, rail, water, or air, but does not include passenger transport services provided by a registered tour operator; and

(d) "social welfare services" means –

(i) care for the elderly, sick, and disabled, including care in a hospital, aged person's home, and similar establishments; or

(ii) care and welfare services provided for the benefit of minors.

(e) "transfer of a going concern" includes the disposal of any part of a business which is capable of separate operation;

Inserted by VAT (Am) Act 2009

(f) insurance services include brokerage.

Substituted by VAT (Am) Act 1 2008

3. For the purposes of paragraph 1(a) of this Schedule, the term "unprocessed" includes low value added activity such as sorting, drying, salting, filleting, deboning, freezing, chilling, or bulk

packaging, *where, except in the case of packaging,* the value added does not exceed 5% of the total value of the supply.

Inserted by VAT (Am) Act 2014

4. Paragraph 1(aa) shall continue to apply to contracts that were entered into prior to its repeal until the contracts are completed or are terminated.

THIRD SCHEDULE

S.24(4)

Zero-Rated Supplies

1. The following supplies are specified for the purposes of Section 24(4) –

(a) a supply of goods or services where the goods or services are exported from Uganda as part of the supply;

Substituted by VAT (Am No.2) Act 2002

(b) the supply of international transport of goods or passengers and tickets for their transport;

(c) the supply of drugs and medicines;

Substituted by VAT (Am No.2) Act 2002 & VAT (Am) Act 2014

(d) the supply of educational materials [and the supply of printing services for educational materials];

(e) the supply of seeds, fertilisers, pesticides, and hoes;

Substituted by VAT (Am) Act 2013. Repealed by Am Act 2014

(f) the supply of cereals where the cereals are grown *and* milled [or produced] in Uganda;

Inserted by Finance Act 2001. Repealed by Am Act 2014

(g) the supply of machinery, tools and implements suitable for use only in agriculture;

Added by VAT (Am) Act 2002. Repealed by Am Act 2014

(h) the supply of milk, including milk treated in any way to preserve it;

Inserted by VAT (Am) Act 2011 And repealed by VAT (Am) Act 2012

(ha) the supply of water, excluding mineral water and aerated waters containing sweetening matter or flavoured;

Inserted by VAT (Am) Act 2005 And repealed by VAT (Am) Act 2012

(i) the supply and installation of Mobilet Toilets, Ekoloo Toilets, and components made from polythene with effect from 1st July 2004;

Inserted by VAT (Am) Act 2005 and substituted by VAT (Am) Act 2009

(j) the supply of sanitary towels and tampons and inputs for their manufacture; and

Inserted by VAT (Am) Act 2 2008

(k) the supply of leased aircraft, aircraft engines, spare engines, spare parts for aircraft and aircraft maintenance equipment.

(l) & (m) inserted by VAT (Am) Act 2 2015 W.E.F 1/1/2015

(l) the supply of cereals, where the cereals are grown and milled in Uganda;

(m) the supply of handling services provided by the National Medical Stores in respect of medical supplies, funded by donors.

2. For the purposes of paragraph 1(a), goods or services are treated as exported from Uganda if –

(a) in case of goods, the goods are delivered to, or made available at an address outside Uganda as evidenced by documentary proof acceptable to the Commissioner General; or

Inserted by VAT (Am) Act 2006

(b) in the case of services, the services were supplied by a person engaged exclusively in handling of goods for export at a port of exit or were supplied for use or consumption outside Uganda as evidenced by documentary proof acceptable to the Commissioner General.

3. For the purposes of paragraph (1)(b), international transport of goods or passengers occurs where goods or passengers are transported by road, rail, water, or air –

(a) from a place outside Uganda to another place outside Uganda where the transport or part of the transport is across the territory of Uganda;

(b) from a place outside Uganda to a place in Uganda; or

(c) from a place in Uganda to a place outside Uganda.

4. In this Schedule –

Inserted by VAT (Am) Act 2013

(a) "educational materials" means materials, *whether printed or audio,* suitable for use only in public libraries and educational establishments specified in paragraph 2 of the Second Schedule to this Act;

(b) "pesticides" means insecticides, rodenticides, fungicides and herbicides but does not include pesticides packaged for personal or domestic use.

FOURTH SCHEDULE

Ss. 24 - 30

Formulae, Tax Invoices, Credit Notes and Debit Notes

1. (a) For the purposes of Section 24(2), the following formula shall apply –

A x B

where,

A is the taxable value as determined under Section 21(2) or (3); and

B is the tax fraction.

(b) For the purposes of Section 25, the following formula shall apply –

X – Y

where,

X is the total of the tax payable in respect of taxable supplies made by the taxable person during the tax period; and

Y is the total credit allowed to the taxable person in the tax period under the Act.

(c) For the purposes of Section 26(5), the following formula shall apply –

S – T

where,

S is the total output tax received by the taxable person during the tax period in respect of taxable supplies made by the person and

T is the total input tax credit allowed to the taxable person in the tax period under the Act.

(d) For the purposes of Section 27(2), the following formula shall apply –

M – N

where,

M is the total amount of input tax credited in relation to amounts due by the taxable person at the time of change in the accounting basis; and

N is the total amount of output tax accounted for in relation to amounts due to the taxable person at the time of change in the accounting basis.

(e) For the purposes of Section 27(3), the following formula shall apply –

O – P

where,

O is the total amount of output tax that would have been accounted for on amounts due to the taxable person at the time of change in accounting basis if the taxable person had been accounting for tax on an invoice basis; and

P is the total amount of input tax that would have been credited on amounts due by a taxable person at the time of change in accounting basis if the taxable person had been accounting for tax on an invoice basis.

(f) For the purposes of Section 28(7)(b), the following formula shall apply –

A x B/C

where,

A is the total amount of input tax for the period; and

B is the total amount of taxable supplies made by the taxable person during the period; and

C is the total amount of all supplies made by the taxable person during the period other than an exempt supply under paragraph 1(k) of the Second Schedule.

2. A tax invoice as required by Section 29 shall, unless the Commissioner General provides otherwise, contain the following particulars –

(a) the words "tax invoice" written in a prominent place;

(b) the commercial name, address, place of business, and the taxpayer identification and VAT registration numbers of the taxable person making the supply;

(c) the commercial name, address, place of business, and the taxpayer identification number and VAT registration number of the recipient of the taxable supply;

(d) the individualised serial number and the date on which the tax invoice is issued;

(e) a description of the goods or services supplied and the date on which the supply is made;

(f) the quantity or volume of the goods or services supplied;

(g) the rate of tax for each category of goods and services described in the invoice; and

(h) either –

(i) the total amount of the tax charged, the consideration for the supply exclusive of tax and the consideration inclusive of tax; or

(ii) where the amount of tax charged is calculated under Section 24(2), the consideration for the supply, a statement that it includes a charge in respect of the tax and the rate at which the tax was charged.

3. A credit note as required by Section 30(1) shall, unless the Commissioner General provides otherwise, contain the following particulars –

(a) the words "credit note" in a prominent place;

(b) the commercial name, address, place of business, and the taxpayer identification and VAT registration numbers of the taxable person making the supply;

(c) the commercial name, address, place of business, and the taxpayer identification and VAT registration numbers of the recipient of the taxable supply;

(d) the date on which the credit note was issued;

(e) the rate of tax; and

(f) either –

(i) the taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference; or

(ii) where the tax charged is calculated under Section 24(2), the amount of the difference between the taxable value shown on the tax invoice and the correct amount of the taxable value and a statement that the difference includes a charge in respect of the tax;

(g) a brief explanation of the circumstances giving rise to the

issuing of the credit note; and

(h) information sufficient to identify the taxable supply to which the credit note relates.

4. A debit note as required by Section 30(2) shall, unless the Commissioner General provides otherwise, contain the following particulars –

(a) the words "debit note" in a prominent place;

(b) the commercial name, address, place of business, and the taxpayer identification and VAT registration numbers of the taxable person making the supply;

(c) the commercial name, address, place of business, and the taxpayer identification and VAT registration numbers of the recipient of the taxable supply;

(d) the date on which the debit note was issued;

(e) the rate of tax; and

(f) either –

(i) the taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference; or

(ii) where the tax charged is calculated under Section 24(2), the amount of the difference between the taxable value shown on the tax invoice and the correct amount of the taxable value and a statement that the difference includes a charge in respect of the tax;

(g) a brief explanation of the circumstances giving rise to the issuing of the debit note;

(h) information sufficient to identify the taxable supply to which the debit note relates.

FIFTH SCHEDULE

Secs.43 & 65

Calculation of Interest Penalty

The rate of interest chargeable as penalty shall be 2% per month, compounded.

Cross References

East African Customs and Transfer Tax Management Act, Laws of the Community, 1970 Revision, Cap. 27.

East African Community Customs Management Act, 2004 (Act No.1 of 2005).

Finance Act, 2000, Act 1/2001.

Magistrates Courts Act, Cap. 16.

Tax Appeals Tribunal Act, Cap. 345.

Customs Tariff Act, Cap. 337.

SUBSIDIARY LEGISLATION

(Statutory Instruments and Regulations)

Statutory Instrument 349-1

Value Added Tax Regulations, 1996

(Under Section 78 of the ACT)

1. Citation and Commencement

These Regulations may be cited as the Value Added Tax Regulations.

2. Contracts entered into before and after 1st July 1996

(1) Where a contract was concluded between two or more parties before the 1st July 1996, and no provision relating to tax was made in the contract, the supplier shall recover tax due on any taxable supplies made under the contract after 1st July 1996.

(2) Where a contract concluded after 1st July 1996 does not include a provision relating to tax, the contract price shall be deemed to include the tax and the supplier under the contract shall account for the tax due.

3. Tax paid on Capital Goods and Stock on Hand

Where after the 1st July 1996, a person being registered has in stock plant and machinery and other goods on which tax was paid prior to being registered, that person shall be entitled to claim a credit of the tax on the goods which were purchased within four months before the date of registration, and in the case of plant and machinery, within six months before the date of registration.

4. Display of Registration Certificate

A registered taxpayer shall display the registration certificate issued under the Act at his or her principal place of business.

5. New Investors

Substituted by VAT (Am) Regulations 2003

(1) A person who is approved by the Uganda Investment Authority as an investor and who plans to make taxable supplies in due course, may apply to the Commissioner General to be registered as an investment trader [for a period not exceeding four years] for a period of four years, renewable for another period of four years. [Effective 1st July 2002]

Revoked by VAT (Am) Regulations 2011

(2) A person shall not be registered as an Investment Trader unless that person gives the Commissioner General an undertaking and security that the Commissioner General may require, guaranteeing the repayment of any tax refunded to that person, if that person does not make any taxable supply within the period during which that person was registered as an Investment trader.

(3) An Investment Trader may claim input tax deduction in respect of expenditure on inputs, whether imported or locally procured, relating to the planned taxable business activities and that trader shall be entitled to a refund of the input tax on those purchases.

(4) An Investment Trader shall abide by all the duties and obligations of a registered person, including the keeping of proper books of accounts and the filing of regular returns.

(5) A person shall cease to be an Investment Trader immediately after making a taxable supply in the course of business.

6. Tax on Construction Services

(1) Where a taxable supply is building and construction services, tax shall be collected at each stage of the work when an invoice is issued or when payment is received or becomes due, whichever is the earliest, in respect of each stage completed.

(2) Where an invoice or a claim for payment by a contractor requires certification by an architect, building consultant or other person, the invoice or claim shall not be effective for tax purposes until it is certified as required, and the time of supply shall be the time of certification, and for purposes of the tax any claim or invoice

under this regulation shall be certified within 30 days of the date of the invoice or claim.

(3) Where a contractor varies the cost of a contract during the course of execution, the variations to the original contract shall be deemed to include tax, and the tax shall become due and payable at the time payment is made for each stage completed.

7. Relief for Diplomats, etc.

(1) The relief provided for under Section 45 of the Act relating to diplomatic missions and accredited personnel shall be administered as follows –

(a) in the case of imported goods and services, the diplomatic mission or accredited personnel shall be exempted from tax;

Substituted by VAT (Am) Regulations 2011

(b) in the case of services provided by *persons providing utility services,* the diplomatic mission or accredited personnel shall be exempted from tax;

(c) in the case of other procurements, the tax shall be payable and the diplomatic missions or accredited personnel entitled to relief may claim a refund of the tax paid on the following conditions –

(i) the diplomatic mission or accredited personnel shall produce evidence of procurement and of payment of the tax;

(ii) individual transactions of less than 50,000/=, excluding tax, shall not be eligible for a refund;

(iii) the total value of transactions for any claim period shall not be less than 200,000/=, excluding tax;

(iv) diplomatic missions or accredited personnel may be required to provide evidence of entitlement to relief by producing the official card issued by the Ministry responsible for Foreign Affairs.

(2) The relief provided under Section 76 relating to Public International Organisations in the First Schedule of the Act shall be administered as follows:

(a) the organisation may be required to provide evidence of entitlement to relief in terms of a valid agreement with the Government of Uganda;

(b) the organisation shall be exempted from tax in the case of imported goods and services;

(c) in the case of locally procured goods and services, tax shall be payable and the organisation entitled to relief may claim a refund of the tax on the following conditions –

(i) the organisation shall produce evidence of procurement and of payment of the tax;

(ii) individual transactions of less than 50,000/=, excluding tax, shall not be eligible for a refund;

(iii) the total value of transactions for any claim period shall not be less than 200,000/=, excluding tax;

(3) The Commissioner General may prescribe the forms to be used for refund claims and may specify the frequency of submitting and processing claims in any individual case, which frequency shall not be less than a month.

8. Records to be kept by a Registered Person

(1) A *registered* person shall keep records and accounts of all supplies received or made by that person in the course of business, including zero-rated and exempt supplies.

(2) For the purpose of accounting for input tax and output tax, the following records shall be kept by a registered person –

(a) tax accounts and records, which shall include total output tax and input tax in each period and net tax payable or the excess credit of tax refundable at the end of the tax period;

(b) purchase records, showing details of all local purchases on which tax has been paid, on all imports on which tax has been paid, and of all purchases made without payment of tax, including original tax invoices for all local purchases from registered suppliers, invoices for local purchases from unregistered suppliers and certified customs entries of all imports;

(c) sales records showing exempt and taxable sales and, where tax is chargeable, the rates of tax applicable for each sale, including copies of tax invoices and receipts issued in respect of sales;

(d) exports records showing details of goods and services exported from Uganda, including, in the case of goods, certified copies of customs export documents and evidence of exportation;

(e) debit and credit notes issued and received;

(f) cash records including cash books, petty cash vouchers and other accounts records showing daily takings such as till rolls or copy receipts;

(g) computer records;

(h) in the case of a person making exempt and taxable supplies, details of input tax calculations;

(i) transitional relief claims and all related documents and records;

(j) stock records showing movements of goods into or out of stock including, in the case of a manufacturer, manufacturing stock records.

(3) In addition to the records kept under paragraph (2), a registered person with a taxable turnover exceeding 100 million shillings per annum shall keep the following records –

(a) orders and delivery notes;

(b) relevant business correspondence;

(c) appointment and job books;

(d) annual accounts including trading, profit and loss accounts and balance sheet; and

(e) bank statements and pay-in-slips.

(4) All records shall be kept by the taxpayer for a period of six years and shall be available to the Commissioner General for audit or inspection if required.

9. Simplified Tax Invoices

(1) Notwithstanding the basic requirements in respect of tax invoices, as specified in the Fourth Schedule to the Act, registered persons with a taxable turnover below 100 million shillings per annum may issue a simplified tax invoice for taxable supplies made to another registered person, provided the value of any individual item on the invoice does not exceed 50,000/= and the total invoice does not exceed one hundred thousand shillings.

(2) A simplified tax invoice shall contain the following particulars –

(a) the commercial name, address, taxpayer identification number and registration number of the person making the supply;

(b) the date the invoice is issued;

(c) the description of the goods;

(d) the quantity of the goods; and

(e) the value of the supply inclusive of tax and a statement that tax is included in the price.

(3) Zero-rated supplies and exempt supplies shall not be included on a simplified tax invoice.

10. Treatment of Cash-Basis Accounting Taxpayer

Substituted by Finance Act 1999

(1) This Section shall apply to registered persons whose annual taxable supplies do not exceed *two hundred million shillings*.

(2) Where a registered person sells only goods liable at the positive rate of tax, sales may be calculated on the basis of the daily gross takings recorded from the cash register or cash box and a sales day book record and any cash removed from the cash register or box must be recorded and included in the daily gross takings total; then the output tax is calculated by applying the tax fraction to the total of the daily gross takings for the tax period.

(3) Where a registered person makes zero-rated or exempt supplies, in addition to supplies at the positive rate, sales may be recorded on the basis of daily gross takings at each tax rate, and the different tax categories shall be separately identified at the point of sale either by means of a cash register or by keeping separate cash boxes for each category, together with a sales day book record, or in some other manner acceptable to the Commissioner General; then the output tax is calculated by applying the tax fraction to the total gross takings at the positive rate for the tax period.

11. Export of Goods

(1) Where goods are supplied by a registered taxpayer to a person in another country and the goods are delivered by a registered taxpayer to a port of exit for export, the goods may be invoiced at the zero rate, provided the registered taxpayer obtains documentary proof set out in this Section and the goods are removed from Uganda within 30 days of delivery to a port of exit.

Inserted by VAT (Am) Regulations 2011

(1a) For the purposes of sub regulation (1), the Commissioner General may require goods for export specified in a notice in the Uganda Gazette to be distinctively labelled by the registered taxpayer.

(1b) The Commissioner General shall issue guidelines to specify the colour, nature, size and type of labels referred to in sub-regulation (1a).

(2) For an export transaction to qualify for zero-rating, a registered taxpayer shall obtain and be able to show as proof of export for every export transaction the following –

(a) a copy of the bill of entry or export certified by the Customs authorities;

(b) a copy of the invoice issued to the foreign purchaser with tax shown at the zero rate;

(c) evidence sufficient to satisfy the Commissioner General that the goods have been exported, in the form of an order from, or signed contract with, a foreign purchaser, or transport documentation which identify the goods such as –

(i) transit order or consignment note issued by the Uganda Railways Corporation for goods exported by rail;

(ii) copy of a bill of lading for goods exported by water;

(iii) copy of an airway bill for goods exported by air; or

(iv) copy of a transport document for goods exported by road.

12. Export of Service

Where services are supplied by a registered taxpayer to a person outside Uganda, the services shall qualify for zero rating only if the taxpayer can show evidence that the services are used or consumed outside Uganda, which evidence can be in the form of a contract with a foreign purchaser and shall clearly specify the place of use or consumption of the service to be outside Uganda or that the service is provided for a building or premises outside Uganda.

13. Imported Services

(1) A registered taxpayer who receives a supply of services from a foreign supplier shall account for the tax due on the supply, and the taxpayer shall account for that tax when performance of the service is completed, or when payment for the service is made, or when the invoice is received from the foreign supplier, whichever is the earliest.

(2) The value for calculating the amount of tax payable under paragraph (1) shall be the total consideration paid to the foreign supplier and the registered person receiving the services shall apply the tax rate to the total consideration to calculate the tax due and he shall enter both the value and the tax calculated in his Tax Return.

(3) Tax accounted for on imported services may be claimed as a credit under the provision of Section 28 of the Act, provided the recipient of the service prepares a self-billed tax invoice to account for tax due on the supply; the claim for credit is subject to the conditions specified in Section 28 of the Act.

Substituted by VAT (Am) Regulations 2011

(1) A person who receives imported services other than an exempt service shall account for the tax due on the supply, and the taxpayer shall account for that service when performance of the service is completed, or when payment for the service is made, or when the invoice is received from the foreign supplier, whichever is the earliest.

(2) The value for calculating the amount of tax payable under paragraph (1) shall be the taxable value of the supply determined under section 21 of the VAT Act and the taxable person receiving the services shall apply the tax rate to the taxable value to calculate the tax due and he shall enter both the value and the tax calculated in his Tax Return.

Inserted by VAT (Am) Regulations 2011

(3) If a taxable person carries on a business both in and outside Uganda, and there is an internal provision of services from the part outside Uganda to the part in Uganda, then, in relation to those services, the following applies for the purposes of the Value Added Tax Act and these Regulations –

(a) that part of the business carried on outside Uganda is treated as if it were carried on by a person (referred to as the "overseas person") separate from the taxable person;

(b) the overseas person is not a taxable person; and

(c) the internal provision of services is treated as a supply of services made outside Uganda by the overseas person to the taxable person for reduced consideration.

14. Credit for Input Tax for Persons making Taxable and Exempt Supplies

(1) Where a registered taxpayer who is making taxable and exempt supplies is disadvantaged by the provisions of Section 28(7)(b) of the Act, the Commissioner General may approve an alternative method for calculating the input tax to be credited, as described in paragraphs (2) and (3), which shall be known as the Standard Alternative Method.

(2) The registered taxpayer may directly attribute input tax separately to the exempt and taxable supplies in so far as this is possible and may claim credit for all the input tax related to taxable supplies and for none of the input tax related to exempt supplies.

(3) The balance of input tax which cannot be attributed to taxable or exempt supplies shall be apportioned under the provisions of Section 28(7)(b) of the Act; however, the provisions of Section 28(13) and (14) of the Act shall be complied with in respect of the non-attributable input tax.

(4) Where a registered taxpayer wishes to use the Standard Alternative Method, or any other method which is not provided for in Section 28(7)(b) of the Act, that taxpayer must seek the written approval of the Commissioner General.

History: S.I 38/1996; S.I 29/1999; S.I 80/2003; S.I 26/2002; S.I 29/2011

The Value Added Tax (Rate of Tax) Order 2006

SI No.51 of 2005 and No.29 of 2006

(Under Section 78 of the Value Added Tax Act, Cap.349)

IN EXERCISE of the powers conferred upon the Minister by Section 78 of the Value Added Tax Act, this Order is made this 15th day of June 2006.

1. Title

This Order may be cited as the Value Added Tax (rate of Tax) Order 2006.

2. Commencement

This Order shall come into force on the 1st day of July 2005.

3. Rate of Tax

The rate of tax for –

(a) every taxable supply made in Uganda by a taxable person;

(b) every import of goods other than an exempt import; and

(c) the supply of any imported services by any person,

is 18% of the taxable value as defined in Sections 21 and 23 of the VAT Act.

4. The rate of tax prescribed in paragraph 3 does not apply to taxable supplies specified in the Third Schedule of the Act.[i.e. Zero-rated goods and services]

Revoked by
The VAT (Rate of Tax)
(Revocation) Order 2009

The Value Added Tax (Rate of Tax) Order 2007

(Under Section 78 of the Value Added Tax Act, Cap.349)

IN EXERCISE of the powers conferred upon the Minister by Section 78 of the Value Added Tax Act, this Order is made this 15th day of June 2007.

1. Title

This Order may be cited as the Value Added Tax (Rate of Tax) Order 2007.

2. Commencement

This Order shall come into force on the 1st day of July 2007.

3. Application Of Order

This Order applies to a taxable supply which is part of a commercial venture of a taxable person who builds for rent or sale.

4. Rate of Tax

The rate of tax for every taxable supply of a residential dwelling unit made by a taxable person is 5% of the taxable value as defined in Sections 21 and 23 of the Act.

Statutory Instrument No.30 of 2009

The Value Added Tax (Rate of Tax)(Revocation) Order, 2009

(Under section 78 of the VAT Act)

IN EXERCISE of the powers conferred upon the Minister by section 78 of the VAT Act, this Order is made this 11th day of June 2009.

1. Title

This Order may be cited as the Value Added Tax (Rate of Tax)(Revocation) Order 2009

2. Revocation

The Value Added Tax (Rate of Tax Order) 2007, S.I No.21 of 2007 is revoked.

The Value Added Tax (Deferment of Tax on Plant and Machinery) Regulations, 2013.

(Under section 34 (8) of the Value Added Tax Act Cap. 349) - SI 2013 No. 28

ARRANGEMENT OF REGULATIONS

Regulation.

1. Title.
2. Commencement.
3. Interpretation.
4. Application for deferment.
5. Period of deferment.
6. Conditions for approval.
7. Sale of plant and machinery during or after the deferment period.
8. Inspection.
9. Termination of deferment.
10. Payment of tax due.

IN EXERCISE of the powers conferred upon the Minister by section 34(8) of the Value Added Tax Act, these Regulations are made this 28th day of June, 2013.

1. Title.

These Regulations may be cited as the Value Added Tax (Deferment of Tax on Plant and Machinery) Regulations 2013.

2. Commencement.

These Regulations shall come into force on 1st July 2013.

3. Interpretation.

In these Regulations unless the context otherwise requires—

"Act" means the Value Added Tax Act; and

"deferment" means postponement of payment of the value added tax under the Act in respect of imported plant and machinery.

4. Application for deferment.

(1) An importer of plant and machinery may apply to the Commissioner General to defer the payment of tax due in respect of imported plant and machinery.

(2) An application for deferment shall be in the form prescribed by the Commissioner General and shall be accompanied with a declaration by the applicant that the goods are for use in the business of the applicants and shall not be disposed of during the deferment period without prior approval by the Commissioner General.

(3) Subject to regulation 5, the Commissioner General may if satisfied that the imported plant and machinery is for use in the manufacture of goods or provision of value added services defer the payment of the tax to a specified period.

(4) Where an application is in respect of phased importation of plant and machinery, the application shall be accompanied with a schedule indicating the phases and the list of the plant and machinery included in each phase.

5. Period of deferment.

(1) The period of deferment shall, in the case of—

(a) a person making taxable supplies, be fifteen days after the tax period;

(b) a person not yet making taxable supplies, be one year from the commencement of the deferment; and

(c) of phased importations, be fifteen days after the tax period.

(2) A person under subsection 1(b) may apply for extension of time to the Commissioner General not exceeding one year.

6. Conditions for approval.

(1) The Commissioner General shall not approve an application for deferment unless—

(a) the applicant is registered under Part III of the Act;

(b) the plant and machinery in respect of which the application is made is imported for use in the business of the applicant;

(c) the tax due and in respect of which a deferment is sought is at least USD 4,000; and

(d) the applicant has complied with section 31 of the Act.

(2) The Commissioner General may require the applicant to furnish security for the tax proposed to be deferred before approving the deferment.

7. Sale of plant and machinery during or after the deferment period.

Where the plant and machinery that is the subject of deferment is sold, re- exported or disposed of before or after expiry of the deferment period or utilized for any other purpose other than the purpose declared in the application, the importer shall pay in addition to any tax for which he or she is liable on such sale, re-export or disposal, the outstanding deferred amount and interest in accordance with the VAT Act.

8. Inspection.

(1) The Commissioner General may at any time during the period of deferment, inspect the plant and machinery specified in the application for deferment to ascertain whether it is duly installed and utilised for the purpose specified in the application.

(2) Where the Commissioner General ascertains that the plant and machinery is installed or utilised for the purpose specified in the application for deferment, the Commissioner General shall allow

the taxable person to cause adjustments to the respective returns to reflect that the deferred tax has been accounted for.

9. Termination of deferment.

Deferment shall terminate -

(a) when the period of deferment specified in accordance with regulation 5 ends; or

(b) where the Commissioner General ascertains under regulation 8 that the imported machinery is not installed or utilised for the purpose specified in the application.

10. Payment of tax due.

Where the period of deferment terminates in accordance with these Regulations, the tax due shall become payable in accordance with the Act.

EACCMA EXEMPTION REGIME

5TH Schedule - East African Community Customs Management Act (EACCMA)

The following goods which are exempt from Customs Duties under the 5th Schedule of the EACCMA are also VAT exempt at importation by virtue of section 20 of the VAT Act. However, if and when these items are sold locally, they attract VAT at 18%.

Note: This is an abridged listing and may not contain all the details of the exempted items as contained in the 5th Schedule (as amended)

PART A – SPECIFIC EXEMPTIONS

SN	BENEFICIARY	GOODS/ITEMS	W.E.F
1.	The Presidency	All goods	Jan 2005
2.	The Armed Forces, Police and *Prison services*	All goods	Jan 2005 & *July 2015*
3.	Commonwealth Armed forces and Naval vessels	All goods	Jan 2005
4.	Diplomats and their dependants, the UN and its agencies, High Commissions, Foreign Embassies, Diplomatic Missions; and their accredited employees	Household and personal effects, one motor vehicle, goods for official use and project support.	Jan 2005
5.	Donor Agencies with bilateral or multilateral Agreements and their accredited personnel and dependants.	Household and personal effects, one motor vehicle.	Jan 2005
6.	International and Regional Organisations	All goods for official use.	Jan 2005
7.	The War Graves Commission	All goods for the establishment and maintenance of war cemeteries, except office supplies and personal effects.	Jan 2005

8.	The disabled, Blind and physically handicapped	Specially designed materials, articles and equipment, and one motor vehicle.	Jan 2005
9.	Rally Drivers	One rally motor vehicle and spare parts.	Jan 2005
10.	Aid Funded Projects	All goods and equipment for the projects.	Jan 2005
11.	National Red Cross Societies	All goods for official use in provision of relief services.	Jul 2009

PART B – GENERAL EXEMPTIONS

SN	BENEFICIARY	GOODS/ITEMS	W.E.F
1.	Aircraft Operators and Ground Handlers	Aircrafts, parts and accessories, specialised equipment, Apron buses	Jan 2005 & Modified in Jul 2011
2.	Importer	Containers, boxes, tins, bottles, jars and any ordinary trade packages, pallets, pre-packing slings, export packing materials, [gas cylinders] and inputs for their manufacture.	Jan 2005 & Jul 2010. Deleted July 2015.
3.	Consignee of Deceased Person's effects	Used personal effects of the deceased, including one motor vehicle.	Jan 2005
4.	Importer	Fresh Fish, Crustaceans and Malluscs (dead or alive), chilled or frozen caught and landed in Uganda.	Jan 2005
5.	Arriving Passengers, first arrivals or returning residents above the age of 18.	Accompanied baggage, personal and previously used household effects, including one motor vehicle and goods up to the value of USD 500, liquors up to 1 ltr, wine up to 2 lts, perfumes up to ¼ ltr, and cigarettes up to 250g.	Jan 2005 & Jul 2010
6.	Importer	Samples and miscellaneous articles with no commercial value	Jan 2005

7.	Importer	Ships and other vessels	Jan 2005
8.	Importer	Preparations for cleaning dairy apparatus	Jan 2005
9.	Importer	Mosquito nets and materials for their manufacture	Jan 2005
10.	Approved importer by Ministry of Agriculture	Seeds and cut plants for sowing and planting and specially treated inputs use in processing and preservation of seeds for sowing.	Jan 2005 & Jul 2014
11.	Approved importer by Ministry of Agriculture	Chemically defined compounds used as fertilizers	Jan 2005
12.	National Museums	Exhibits, specimens, scientific equipment, chemicals, reagents, films, visual aids.	Jan 2005
13.	Importer	Diapers, urine bags and hygienic bags for medical use.	Jan 2005
14.	Approved Importer	Diagnostic reagents and equipment for use in hospitals, clinics and diagnostic laboratories	Jan 2005, Jul 2006 & Jul 2008
15.	Persons engaged in agriculture, horticulture, floriculture, poultry, bee keeping	Inputs and gear.	Jan 2005, Sep 2005, Nov 2009, Jul 2010 & Jul 2012
16.	Importer	Packaging materials and raw materials for manufacture of medicaments.	Jan 2005
17.	Importer	Educational articles and materials	Jan 2005
18.	Manufacturer	Splints for manufacturing matches	Jan 2005
19.	Manufacturer	Inputs for manufacturing agricultural equipment	Jan 2005
20.	Government, an approved agent, NGO, relief agency	Relief goods for emergency use in disaster areas.	Jul 2006

Deleted by Legal Notice EAC/23/2014

21.	Licensed Hotel	Engraved or marked washing machines, kitchen ware, cookers, fridges, freezers, air conditioning systems, cutlery, TVs, carpets, furniture, linen, curtains, gym equipment	Sep 2005 & Jul 2008
22.	Importer	Refrigerated trucks, insulated tankers, heat insulated milk tanks and aluminium cans for dairy industry	Sep 2005, Jul 2008, Nov 2009 & Jul 2012
23.	Importer	Speed governors	Sep 2005
24.	Approved railway operator	Wagons, coaches, locomotives and parts, equipment and accessories for the construction, repair and maintenance of railway infrastructure	Jul 2013
25.	Importer	Electrical energy saving bulbs and LED bulbs.	Jul 2006, Jul 2008 & Jul 2010
26.	Importer	Specialised Solar and Wind Energy Equipment, including accessories, spare parts and solar power deep cycle batteries.	Jul 2006,Jul 2010 & Jul 2014
27.	Importer	Plastic bag biogas digesters	Jul 2013
28.	Licensed Hospitals	Engraved or marked shadow-less lamps, blood freezers, kitchenware and equipment, laundry equipment, mattresses and linen, bedside screens, air conditioners, uniforms, water heating equipment, trolleys and stretchers, furniture.	Jul 2007
29.	Local authorities or their contractors	Motor vehicles specially designed for garbage collection and disposal	Jul 2008
30.	Licenced company	Machinery, spares and equipment used in oil, gas and mining operations.	Nov 2009 & Jul 2012
31.	Registered manufacturers	Replacement spare parts for industrial machinery under chapters 84 & 85 of the CET.	Jul 2009
32.	Licenced and recommended Tour operators	Specially designed motor vehicles for transportation of tourists.	Jul 2009

33.	Importer	Examination gloves for laboratory and medical use.	Jul 2010
34.	Importer	Tsetse fly traps	Jul 2011
35.	Importer	Security equipment like metal detectors, CCTV cameras, bomb detectors and under carriage mirrors	Jul 2011
36.	Importer	Battery operated vehicles for use in hotels, hospitals and airports.	Jul 2011
37.	Approved manufacturers	Inputs for use in manufacturing medical diagnostic kits.	Jul 2012
38.	Importer	Water treatment effluent plant	Jul 2013

PRACTICE NOTES

(Under Section 79 of the VATA)

These Practice Notes, which are binding on all URA officers unless altered or revoked, were issued to achieve consistency in the administration of the Value Added Tax Act and to provide guidance to taxpayers and officers of the Uganda Revenue Authority.

Practice Notes – 2007

ISSUE DATE : 18th June 2007
EFFECTIVE DATE :
ISSUED BY : Allen Kagina (Mrs) - Commissioner General

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1. Definition of the Terms "Medical, Dental and Veterinary Equipment" for VAT Purposes.

Paragraph 1(q) of the Second Schedule to the VAT Act provides that the supply of dental, medical and veterinary equipment is an exempt supply.

Definition of Equipment

(a) The Act does not define the term equipment. This PN is therefore intended to provide the meaning of what should be treated as medical, dental and veterinary equipment.

(b) Medical, Dental and Veterinary equipment is any equipment or device which has features or characteristics that identify it as having been designed to be used alone or in combination for a medical, dental or veterinary purpose or function such as the diagnosis, prevention, monitoring, treatment, alleviation of or compensation for an injury and alleviation of disease in human beings and animals.

(c) The equipment/device will usually be durable although certain disposable items such as syringes may still be equipment.

(d) Based on the above definition, medical, dental and veterinary equipment covers a wide range of goods from simple items like bandages and syringes, to complex machinery such as X-ray machines as well as parts and accessories for use with the equipment.

(e) Parts and accessories will be treated as medical equipment/device if they are intended specifically by manufacturers to be used together with the parent medical device.

(f) Parts are integral components without which the equipment is not complete; while accessories are optional extras which can be used to improve the operation of the equipment or enable it to be used to better effect. Accessories do not include items which have an independent function.

(g) For purposes of clarity, medical, dental and veterinary equipment shall include articles under heading 9018 – 9022 of the Harmonized Systems Code (HS Code), contact lenses, spectacle lenses (excluding frames) and those that will be treated as such based on the classification given by the National Drug Authority.

Exclusions

(a) Excluded from the definition are chemical reagents and medicines, mosquito nets, cleaning and sterilizing fluids, disinfectants, cotton wool (other than sterilized), hospital linen, blankets, drug trolleys, gloves (other than surgical), gymnasium equipment (other than specialized physiotherapy equipment), clothing (other than specialized ones such as surgical masks and gowns), lockers, bathroom scales.

(b) This definition shall also exclude general use items used to equip or facilitate a medical facility or items that can be put to diverse uses which are not necessarily medical uses e.g. television sets, telephone sets or a fan used in a medical ward will not be considered medical equipment.

2. Definition of Medicines and Drugs for VAT purposes

(a) Paragraph 1(c) of the Third Schedule VAT Act provides that the supply of drugs and medicines is a zero-rated supply. However, drugs and medicines are not defined.

(b) Medicines and drugs shall be interpreted to be any substance or article (not being an equipment/device, instrument, apparatus or appliance) which is for use wholly or mainly in either or both of the following ways –

(i) by being administered to human beings or animals internally or externally for medical purposes; or

(ii) as an ingredient in the preparation of a substance or article to be so administered.

(c) Therefore, medicines and drugs are any substance, preparation or mixture of substances used or intended for use in diagnosing, or treating of disease, disorder or abnormal physical state or the symptoms thereof in human beings or animals.

(d) The World Customs Organisation (WCO) uses the term "medicament" in reference to medicines and drugs.

(e) A medicament is an agent that promotes recovery from injury or ailment. Medicaments are impregnated or coated with pharmaceutical substances for therapeutic or prophylactic use in medical, surgical, dental or veterinary purposes.

(f) For purposes of VAT and clarity, medicines and drugs shall include surgical dressings, biological products such as vaccines and blood products, as well as items under headings 3004 and 3005 of the HS Code.

<u>Exclusions</u>

(a) The definition of medicines and drugs shall not include preparations commonly used for toilet purposes, or in connection with the care of the human body, whether for cleansing, deodorizing, beautifying, preserving or restoring whether or not

possessing therapeutic or prophylactic properties e.g. medicated soaps, shampoos, toothbrushes, dental pastes and creams, facial and body creams, hair removing creams, aromatherapy oils, mouth washes, lip balms, deodorants, antiperspirants, disinfectants. [The definition shall also not include lozenges and all items under headings 3301 to 3307 of the HS Code]

(b) Nutrition/Food supplements are not drugs or medicines for VAT purposes because they are intended to supplement one's dietary requirements and do not contain active pharmaceutical substances and as such shall be treated as taxable supplies for VAT purposes.

ISSUE DATE	**:**	14th November 2007
EFFECTIVE DATE	**:**	
ISSUED BY	**:**	Allen Kagina (Mrs) - CG

VAT on Imported Rice

1. Paragraph 1(a) of the Second Schedule of the VAT Act provides that the supply of unprocessed agricultural products and livestock is an exempt supply.

2. Paragraph 3 of the same Schedule states that

   "for purposes of paragraph 1(a)…unprocessed includes low value added activity such as sorting, drying, salting, filleting, deboning, freezing, chilling, or bulk packaging, where, except in the case of packaging, the value added does not exceed 5% of the total value of the supply.

3. All imported rice shall be considered to be unprocessed agricultural produce for purposes of the VAT Act and therefore falls under the provisions of the Second Schedule which provides for exempt goods.

Practice Notes – 2008

ISSUE DATE	:	23rd April 2008
EFFECTIVE DATE	:	
ISSUED BY	:	Allen Kagina (Mrs) - CG

1. VAT treatment of Computer Printers

Paragraph 1(v) of the second schedule of the VAT Act provides that, "the supply of computers, printers, parts and accessories falling under heading 84.71 and 84.73 of the harmonized coding system of the customs law is exempt;"

Following the recent changes in the Customs coding system i.e. from the Harmonized Commodity Description and Coding System 2002 (HS 2002) version to HS 2007, computer printers became classifiable under two tariff headings- 84.71 (when presented with a computer) and 84.43(when presented separately), with specific HS codes as 8471.60.00 and 8443.32.00.

As a result of the new coding, the current provisions of paragraph 1 (v) of the second schedule, exclude computer printers classified under HS Code 8443.32.00.
This position is a mismatch arising from the change in the Customs coding system, but not a change in policy.

Therefore, the purpose of this practice note is to clarify that, the supply of printers as provided for in paragraph 1 (v) of the second schedule of the VAT Act, includes desktop printers or printers presented separately specifically under subheading 8443.32.00 of the East African Community Common External Tariff.

2. Boundaries of Kampala District for VAT purposes

The Value Added Tax (Amendment Act) 2008 deleted "and Entebbe" from the Second Schedule paragraph (u) under Exempt Supplies to read –

> "the supply of accommodation in tourist lodges and hotels outside Kampala District;"

This practice note is intended to clarify on what constitutes Kampala District for VAT purposes to bring about uniformity and ease the administration of VAT collection.

Kampala District shall constitute the five political divisions namely;

1. Kampala Central; 2) Nakawa; 3) Rubaga; 4) Makindye; and 5) Kawempe.

Any area outside the above political divisions does not fall under Kampala District for VAT purposes.

ISSUE DATE	**:**	2nd June 2008
ISSUED BY	**:**	Allen Kagina (Mrs) - CG

VAT treatment of supply of goods as part of the transfer of a business as a going concern

Paragraph 1(k) of the second schedule of the VAT Act provides that, "the supply of goods as part of the transfer of a business as a going concern by one taxable person to another taxable person is exempt."

The "transfer of going concern" is defined in paragraph 2 (e) of the second schedule to include "the disposal of any part of a business which is capable of separate operation." However, this definition is not sufficient in explaining what a sale of a business as a going concern entails.

The purpose of this practice note therefore, is to clarify what constitutes the supply of goods as part of the transfer of a business as a going concern for purposes of section 19 and paragraph 1 (k) of Schedule II of the VAT ACT, Cap 349.

The supply is VAT exempt if all of the following requirements are met;

1. The supplier disposes of any part of a business which is capable of separate operation (for example a branch of a business).

2. Both the seller and the buyer must be registered as taxable persons for VAT.

3. The Agreement of Sale which should be duly executed must make it absolutely clear that the property is a whole or part of the Seller's business which is being sold as a going concern.

4. Activities of the business must continue after the business is transferred to the purchaser for at least two (2) years.

5. The supplier supplies to the recipient all of the facilities that are necessary for the continued operation of the enterprise being sold. This may include premises, plant & equipment, stock in trade, intangible assets such as goodwill, contacts and licenses, and all the operating structure and process of the enterprise.

6. The supplier carries on or will carry on the business until the day of the supply (whether or not as a part of a larger business carried on by the supplier) and that the nature of the business will not change after the transaction.

7. The transferor and transferee shall within 21 days of the transfer, notify the Commissioner General in writing of the details of the transfer in accordance with section 19 (2) of the VAT Act, Cap.349.

Note: A mere disposal of an asset used by the business is not a supply of a going concern.

Practice Notes – 2010

ISSUE DATE	**:**	**4th March 2010**
EFFECTIVE DATE	**:**	**1st July 2009**
ISSUED BY	**:**	Allen Kagina (Mrs) - CG

Exemption of VAT in accordance with section 19 and paragraph 1(aa) of the Second Schedule to the VAT Act.

Paragraph 1(aa) of the Second Schedule to the VAT Act was amended by the VAT(amendment) Act 2009 to provide as hereunder;

> "The following supplies are specified as exempt supplies for the purpose of section 19 –
>
> the supply of specialized vehicles, plant and machinery, feasibility studies, engineering designs, consultancy services and civil works related to hydro- electric power, roads and bridges construction, public water works, agriculture, education and health sectors"

Definitions:

The meaning below shall be attached to the terms as used in the provision:-

"specialized vehicles" means vehicles manufactured for a particular task other than for the ordinary use of transportation of goods and passengers.

"plant and machinery" includes whatever apparatus is used by a business man for carrying on his business – not his stock in trade which he buys or makes for sale, but all goods and chattels, fixed or moveable, live or dead, which he keeps for the permanent employment in his business.

"feasibility studies" means an investigation to determine whether a particular project system, process etc. is desirable, practicable. It is an analysis designed to establish the practicability and cost justification of a given project. It is a preliminary study undertaken to determine and document project viability. The term feasibility study is also used

to refer to the resulting documents or artefact.

"engineering designs" it is the result of a process used by engineers to help develop products. The engineering design is defined as the result of the process of servicing a system, component or process to meet desired deeds. It is a result of a decision – making process in which the basic sciences, mathematics, and engineering sciences are applied to convert resources optimally to meet a stated objective. It comes as a result of defining the problem, conducting research, narrowing the research and analysing set criteria.

"Consultancy services" means expert advice on a particular project or activity.

"civil works" relates to services in building/construction of hydro-electric power projects, roads and bridges construction, public water works, agriculture, education and health. It involves all the activities involved in the construction process starting from clearing of land to the completion of the project. However civil works does not include the goods used in the construction/projects.

"agriculture" the science or practice of cultivating the land and keeping or breeding animals.

"education" a process of training and instruction especially of children and young people in schools, colleges, universities and other education institution which is designed to give knowledge and develop skills.

"health" Provision of medical care. It deals with the prevention, treatment and management of illness and the preservation of mental and physical well-being through the services offered by the medical and allied health professions.

Implication of the amendment

The provision above exempts VAT on the supplies of goods or services of specialized vehicles, plant and machinery, feasibility studies, engineering designs, consultancy services and civil works related to hydro- electric power, roads and bridges construction, public water works. The exemption has also been extended to the

agriculture, education and health sectors.

This means that suppliers of the goods and services highlighted above as goods or services related to hydro–electric power projects, roads, bridges construction, public water works, agriculture, education and health sectors should not charge VAT on these supplies.

In the same spirit, the suppliers shall not claim input tax incurred in the process of making the supplies of the listed services to the above named sectors.

The suppliers must maintain a record of evidence of the provision of the services to the listed projects/sectors. The contractors shall also be required to provide the Commissioner, Domestic Taxes office and their respective stations a list of suppliers and services offered reflecting quantity and values in Uganda Shillings. This shall be in both soft and hard copy.

NB: This exemption is on the supply of the services or goods listed in the provision related to the sectors therein mentioned and not to the contractors.

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Reference Number: PN2014090300922 Effective Date: 02/09/2014

Subject: **REVOCATION OF PRACTICE NOTES ON VAT ON RICE (issued on 14th November 2007)**

Tax Type Value Added Tax

Description

Clause 4 of the VAT (Amendment) Bill 2014 repealed Paragraph 1(f) of the Third Schedule to the VAT Act which Zero Rated the supply of cereals, where the cereals are grown, milled or produced in Uganda. This implies that all cereals grown, milled and produced in Uganda shall attract VAT at 18%. Furthermore Paragraph 1(a) of the Second Schedule to the VAT Act exempts the supply of unprocessed foodstuffs, unprocessed agricultural products and livestock from VAT.

Paragraph 3 of the Second Schedule to the VAT Act defines "unprocessed" to include low value added activity such as sorting, drying, salting, filleting, deboning, freezing, chilling or bulk packaging, where except in the case of packaging, the value added does not exceed 5% of the total value of the supply.

We have established that, the value addition to rice after drying i.e. the processes of hulling, milling, polishing, grading, sorting and packaging exceeds the stipulated 5%. This implies that rice does not fall within the provisions of Paragraph 1(a) of the Second Schedule to the VAT Act nor does it fall under the Third Schedule.

This also applies to imported rice.

In light of the above, our Practice Notes issued on the 14th November 2007 on imported rice are hereby revoked.

THE GAMING AND POOL BETTING (CONTROL AND TAXATION) ACT - A Brief

Legislation

Gaming and Pool Betting tax is provided for in "The Gaming and Pool Betting (Control and Taxation) Act of 1968, Cap. 292.

IN THE ACT,

'GAMING' is interpreted to mean the playing of a game of chance for winnings in money or money's worth;

'POOL BET' means any stake or wager in a pool, whether in money or money's worth.

'POOL' is defined to mean any competition organised for the gain of the promoter in which for a monetary or other material regard, the public are invited to foretell the result of any game, race or event.

Imposition of the Tax

Section 4 of the Act imposes a tax on every promoter of gaming and pools promoted within Uganda, and on every principal agent of every promoter of gaming and pools promoted outside Uganda.

The Act further provides in the same section that –

- The tax shall be such amount as may, from time to time, be fixed by the Minister responsible for Finance. This is to be done by Statutory Order;

- The tax shall be paid within such periods or at such intervals and in such manner as prescribed by the Minister in Regulations.

A penalty equal to 1% of the tax due for each week or part thereof, during which the default continues, is imposed on a person who fails to pay the whole amount of tax due by the due date.

Revoked by the Gaming and Pool Betting Order 2010

THE GAMING AND POOL BETTING (CONTROL AND TAXATION) (GAMING AND POOL BETS TAX) ORDER, 2009

(Under section 4 of the Act, Cap.292)

Revoked by the Gaming and Pool Betting Order 2012

THE GAMING AND POOL BETTING (CONTROL AND TAXATION) (GAMING AND POOL BETS TAX) ORDER, 2010

(Under section 4 of the Act, Cap.292)

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THE GAMING AND POOL BETTING (CONTROL AND TAXATION) (GAMING AND POOL BETS TAX) ORDER, 2012

(Under section 4 of the Act, Cap.292) SI No.45 of 2012

IN EXERCISE of the powers conferred on the Minister by section 4(1) of the Gaming and Pool Betting (Control and Taxation) Act, Cap.292, this Order is made this 29th day of June 2012.

1. Title

This Order may be cited as the Gaming and Pool Betting (Control and Taxation) (Gaming and Pool Bets Tax) Order, 2012.

2. Commencement

This Order shall come into force on the 1st day of July, 2012.

3. Rate of Tax

Every promoter of gaming and pools promoted within Uganda and every principal agent of a promoter of gaming and pools promoted outside Uganda shall pay a tax calculated at the rate of 20% of the total amount of money staked less pay outs (winnings) for the return period.

4. Revocation of S.I No.3 of 2010

The Gaming and Pool Betting (Control and Taxation) (Gaming and Pool Bets Tax) Order, 2010 is revoked.

DOUBLE TAXATION AGREEMENTS (DTA'S)

Overview

If an individual or a corporate entity is resident in another country but has income from a source in Uganda, such a person may be liable to pay tax in Uganda and in that other country where the person is resident. This is because each country has a sovereign right to tax income using its own set of tax rules and this could lead to a situation where the same income may suffer tax twice. This state of affairs is referred to as "international double taxation". In order to mitigate the effects of international double taxation, countries normally enter into an agreement for the avoidance of double taxation on a bilateral basis.

Double taxation agreements, sometimes known as double taxation treaties, are designed to protect against the risk of double taxation i.e. where an individual or a corporate entity is taxed twice by virtue of the same income being taxable in two states.

The main objective of a DTA is to provide certainty regarding when and how tax is to be imposed in the country where the income-producing activity is conducted or payment is made. The agreements are normally two pronged, namely –

(i) It normally requires that the country where the gain arises deducts taxation at source ("withholding tax") and the taxpayer receives a compensating foreign tax credit in the country of residence to reflect the fact that tax has already been paid; or in some cases, it is provided that the tax is to be paid in the country of residence and be exempt in the country in which it arises or partial relief is granted.

(ii) It requires the two countries to exchange information about such declarations and investigate any anomalies that might indicate tax evasion.

Relationship between a Tax Treaty and Domestic Law (ITA)

A term defined in a DTA takes precedence over a similar term in the tax law of a contracting state. Terms not defined have the meaning which it has under the tax law of a contracting state.

As a general drafting rule, the provisions of tax treaties are intended to take precedence over any conflicting or inconsistent provisions in domestic tax law. Section 88 of the Income Tax Act provides that international agreements between the Government of Uganda and the government of a foreign country shall have effect as if the agreement was contained in the Act, and the terms of the international agreement prevail over the provisions of the Act to the extent to which the terms of the agreement are inconsistent with the provisions of the Act. The only exception to the superiority of international agreements over domestic tax law relates to anti-avoidance provisions under section 88(5), 90 and 91.

Section 88(5) denies the benefits of a DTA to a tax planning scheme of treaty shopping executed by interposing a company between two other companies so as to obtain a tax advantage. It provides that a person who must benefit from concessions offered by a DTA is the beneficial owner of the privileged receipt.

In brief, the DTAs provide for the taxation of different categories of income as follows:

1) **Business Profits** – Taxed at source (Uganda)only if the business of a non-resident person is carried on through a Permanent Establishment in Uganda.

2) **Tax on Dividends, Interest, Royalties and Technical fees** is taxed at source (Uganda) by way of withholding but the rate is normally capped as per the table below.

3) **Income from Immovable Property** – Taxed at source (Uganda) if the immovable property is situated in Uganda and a credit allowed in the country of residence.

4) **Capital Gains** – Taxed where the immovable property is situated. The rules on movable property vary from DTA to DTA. Refer to specific DTAs.

5) **Shipping and Air Transport** – Profits derived from the operation of aircraft or ships in "international traffic" are taxed in the country of residence.

6) **Independent Personal Services** (i.e. Physicians, Lawyers, Engineers, Architects, Accountants etc.) – Taxed on the basis of Residence or Non-residence.

7) **Dependent Personal Services** (i.e. Employment, other than pensions, Director's fees and remuneration for government services) – Taxed on the basis of where the employment is exercised, or where services are provided.

Note that Provisions in each DTA may differ. The above notes only provide a summary of the general principles in the key articles of a typical DTA. You may want to refer to the relevant DTAs for specific provisions.

Stages in the Development of a DTA:

1) Negotiation – Usually carried out by representatives from the contracting countries i.e. officials from Ministry of Finance, Treasury or Tax authority.

2) Initialling – Terms of a DTA agreed to by the negotiating team is initialled and submitted for approval at the political level.

3) Signature – Once approved at the political level by both governments, it is formally signed.

4) Ratification – This completes the formal process of approval and involved embodying the DTA into each country's domestic law by parliamentary approval or regulation. The ratification instruments are then exchanged between the states.

5) Entry into force – This occurs on the date the DTA a legal obligation binding both states, normally after a specified number of days after exchange of ratification instruments.

6) Effective date – The date a DTA takes effect is normally specified in the DTA itself. The date a DTA comes into force may not be its effective date.

The table below provides a snap shot of the exemptions and reliefs granted under each of the concluded DTAs.

COUNTRY	Dividends	Interest	Royalty	Mgt Fees	Effective Date
Denmark	10%	10%	10%	10%	**1/1/2002**
India	10%	10%	10%	10%	**1/7/2005**
Italy	10%	10%	10%	10%	**1/1/1998**
Mauritius	10%	10%	10%	10%	**1/7/2005**
Netherlands	10%	10%	10%	10%	**1/7/2007**
Norway	10%	10%	10%	10%	**1/1/2002**
South Africa	10%	10%	10%	10%	**1/1/2002**
UK	15%	15%	15%	15%	**1/1/1994**
Zambia	Exempt	Exempt	Exempt	N/A	**1/1/1964**

THE EAST AFRICAN COMMUNITY (EAC) DTA

[**NB:** Pending Ratification]

Agreement between the Governments of the Republic of Kenya, Burundi, Rwanda, Uganda and the United Republic Of Tanzania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

TABLE OF CONTENTS

ART. 1 Personal Scope
ART. 2 Taxes Covered
ART. 3 General Definitions
ART. 4 Resident
ART. 5 Permanent Establishments
ART. 6 Income from Immovable Property
ART. 7 Business profits
ART. 8 Shipping Inland waterways, Railways and Air Transport
ART. 9 Associated Enterprises
ART. 10 Dividends
ART. 11 Interest
ART. 12 Royalties
ART. 13 Management or Professional Fees
ART. 14 Capital Gains
ART. 15 Independent Personal Services
ART. 16 Dependent Personal Services
ART. 17 Director's Fees
ART. 18 Artists and Sportspersons
ART. 19 Pensions, Annuities and Social Security Payments
ART. 20 Remuneration and Pensions in respect of gov't Service
ART. 21 Professors and Teachers
ART. 22 Students and Business Apprentices
ART. 23 Other Income
ART. 24 Elimination of Double Taxation
ART. 25 Non Discrimination
ART. 26 Mutual Agreement procedure
ART. 27 Exchange Of Information
ART. 28 Assistance in the Collection of Taxes
ART. 29 Diplomatic Agents and Consular Officers
ART. 30 Entry into Force
ART. 31 Termination

The Governments of the Republics of Kenya, Burundi, Rwanda, Uganda and the United Republic of Tanzania desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

1. Personal Scope

This agreement shall apply to persons who are residents of one or any of the other Contracting States.

2. Taxes Covered

(1) This agreement shall apply to taxes on income imposed on behalf of a Contracting State or its political subdivisions, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income all taxes imposed on total income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on the total amounts of wages or salaries paid by enterprises.

(3) The existing taxes to which this Agreement shall apply are:

(a) in Kenya the income tax chargeable in accordance with the provisions of the Income Tax Act, Cap. 470;

(b) in Tanzania the tax on income chargeable under the Income Tax Act, Cap 332;

(c) in Uganda the tax on income chargeable under the Income Tax Act, Cap 340;

(d) in Rwanda the income tax chargeable under the Law No. 16/2005 of 18/08/2005 on direct taxes on income and the tax on rent of immovable as provided under Law No. 17/2005 establishing the source of revenue for districts and towns and its management; and

(e) in Burundi the tax on income chargeable in accordance with the provisions of the Income Tax Acts of 1963.

(4) This Agreement shall apply to any other taxes of identical or substantially similar character which are imposed by any of the Contracting States after the date of signature of this Agreement in addition to, or in place of, the existing taxes.

(5) The Competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws, and if it seems desirable to amend any Article of this agreement, without affecting the general

principles thereof, the necessary amendments may be made by mutual consent by means of an Exchange of Notes.

3. General Definitions

(1) In this Agreement, unless the context otherwise requires:

(a) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;

(b) the term "competent authority" means;

(i) in Kenya, the Minister for the time being responsible for Finance or his authorized representative;

(ii) in Tanzania, the Minister for the time being responsible for Finance or his authorised representative;

(iii) in Uganda, the minister for the time being responsible for Finance or his authorised representative;

(iv) in Rwanda, the Minister for the time being responsible for Finance or his authorised representative; and

(v) in Burundi, the Minister for the time being responsible for Finance or his authorised representative.

(c) the term "international traffic" means any transport by water, railway or air, operated by an enterprise which has its place of effective management in a Contracting State, except when the transport is operated solely between places within a Contracting State;

(d) the term "national" means any individual having the citizenship of a Contracting State and any legal person, partnership, association or other entity deriving its status as such from the laws in force in a Contracting State;

(e) the term "person" includes an individual, a partnership, a company, an estate, a trust and any other body of persons which is treated as an entity for tax purposes.

(2) In the application of the provisions of this Agreement by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that State in relation to the taxes which are the subject of this Agreement.

4. Resident

(1) For the purposes of this Agreement, the term "resident" of a Contracting State means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of effective management, place of incorporation or any other criterion of a similar nature. This term does not include any person who is liable to tax in respect only of income from sources in that State.

(2) Where by reason of the provision of paragraph 1 of this Article an individual is a resident of more than one of the Contracting States, then his status shall be determined in accordance with the following rules:

(a) He shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available to him in two or more States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interest);

(b) If the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in any of the Contracting States, he shall be deemed to be a resident of the State in which he has an habitual abode;

(c) If he has an habitual abode in two or more States or none of them, he shall be deemed to be a resident of the State in which he is a national;

(d) If he is a national of two or more States or of none of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph 1 of this Article a person other than an individual of two or more Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

5. Permanent Establishment

(1) For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall include –

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a warehouse, in relation to a person providing storage facilities for others;

(g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and

(h) an installation or structure used for the exploration of natural resources.

(3) The term "permanent establishment" likewise encompasses:

(a) a building site or a construction, installation [other than the installations referred to in 2(h)] or assembly project, or

supervisory activities in connection therewith only if the site, project or activity lasts for more than 6 months;

(b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel engaged in the other Contracting State, provided that such activities continue for the same or a connected project for a period or periods aggregating more than 6 months within any 12-month period.

(4) Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include-

(a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise; or for collecting information for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; and

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(5) Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a person acting in a Contracting State on behalf of an enterprise of any other Contracting States (other than an agent of

an independent status to whom paragraph 6 of this Article applies) notwithstanding that he has no fixed place of business in the first-mentioned State shall be deemed to have a permanent establishment in that State if –

(a) he has, and habitually exercises, a general authority in the first-mentioned State to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

(b) he maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise on behalf of the enterprise.

(6) Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

(7) An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

(8) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of any of the other Contracting States, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

6. Income from Immovable Property

(1) Income derived by a resident of a Contracting State from immovable property, including income from agriculture or

forestry, is taxable in the Contracting State in which such property is situated.

(2) The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

(3) The provision of paragraph 1 of this Article shall apply to income derived from the direct use, letting or use in any other form of immovable property and to income from the alienation of such property.

(4) The provisions of paragraphs 1 and 3 of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

7. Business Profits

(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in any of the other Contracting States through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

(2) Subject to the provisions of paragraph 3 of this Article, where an enterprise of a Contracting State carries on business in any of the other Contracting States through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate

enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In determining the profits of a permanent establishment –

(a) there shall be allowed as deduction expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. Nothing in this paragraph shall require a Contracting State to allow the deduction of any expenditure which, by reason of its nature, is not generally allowed as a deduction under the taxation laws of that State; and

(b) no account shall be taken of amounts charged, by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

(4) In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by

the same method year by year unless there is good and sufficient reason to the contrary.

(7) Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

8. Shipping, Inland Waterways, Railway and Air Transport

(1) Profits of an enterprise from the operation or rental of ships, trains or aircrafts in the international traffic and the rental of containers, wagons, coaches, tankers and related equipment which is incidental to the operation of ships, trains or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(3) If the place of effective management of a shipping enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

(4) The provisions of paragraphs 1 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

9. Associated Enterprises

(1) Where:

(a) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or

(b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting States, and in either case conditions are made or imposed between the enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any income which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the income of that enterprise and taxed accordingly.

(2) Where a Contracting State includes in the income of an enterprise of that State – and taxes accordingly – profits on which an enterprise of any of the other Contracting States has been charged to tax in that State and the profits so included are income which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on that income. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall f necessary consult each other.

(3) A Contracting State shall not change the income of an enterprise in the circumstances referred to in paragraph 1 of this Article after the expiry of the time limits provided in its national laws.

(4) The provisions of paragraph 3 of this Article shall not apply in the case of fraud, wilful default or neglect.

(5) The provisions of paragraph 9(2) shall not apply were judicial, administrative or other legal proceedings have resulted in a final ruling that by actions giving rise to an adjustment of profits under paragraph 1, one of the enterprises concerned is liable to penalty with respect to fraud, gross negligence or wilful default.

10. Dividends

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of any of the other Contracting States may be taxed in that other State.

(2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of dividends, the tax so charged to the beneficial owner shall be fixed at 5% of the gross amounts of the dividends. The competent authorities of the Contracting States shall settle the mode of application of these limitations by mutual agreement.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from the shares by the laws of the Contracting State of which the company making the distribution is a resident.

(4) The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in any of the other Contracting States of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in any of the other States independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

(5) Where a company which is a resident of a Contracting State derives profits or income from any of the other Contracting States, no tax may be imposed on the beneficial owner in that other State on the dividends paid by the company except in so far

as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

11. Interest

(1) Interest arising in a Contracting State and paid to a resident of any other Contracting States may be taxed in that other Contracting State.

(2) However, subject to the provisions of paragraph 3 of this Article, such interest may also be taxed in the Contracting State in which it arises and according to the law of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall be fixed at 10 per cent of the gross amount of the interest.

(3) Interest arising in a Contracting State shall be exempt from tax in that State if is derived and beneficiary owned by –

(a) the Government, a political subdivision or a local authority of the other Contracting State; or

(b) any institution, body or board which is wholly owned by the Government, a political subdivision or a local authority of the other Contracting State.

(4) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures including premiums and prizes attaching to such securities, bonds or debentures.

The term "interest" shall not include any item which is treated as a dividend under the provisions of Article 10 of this Agreement.

(5) The provisions of paragraphs 1, 2 and 3 of this Article shall not apply if the beneficial owner of the interest , being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

12. Royalties

(1) Royalties arising in a Contracting State and paid to a resident of any of the other Contracting States may be taxed in that other Contracting State.

(2) However, such royalties may also be taxed in the Contracting State in which they arise, and according to the law of that State,

but if the beneficial owner is a resident of the other Contracting State, the tax so charged shall be fixed at 10% of the gross amount of the royalties.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films, tapes or discs for radio or television broadcasting), any patent, trade mark, design or model, computer programme, plan, secret formula or process, or for the use of, or the right to use industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

(4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the Contracting State in which the royalties arise, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that state itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base with which the right or property in respect of which the royalties are paid is effectively connected, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(6) Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the

amount which would have been agreed upon by the payer and beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

13. Management or Professional Fees

(1) Management or professional fees arising in a Contracting State which are derived by a resident of any of the other Contracting States may be taxed in that other State.

(2) However, such management or professional fees may also be taxed in the Contracting State in which they arise, and according to the law of that State; but where the beneficial owner of such management or professional fees is a resident of the other Contracting State, the tax so charged shall be fixed at 10% of the gross amount of the management or professional fees.

(3) The term "management or professional fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial, professional or consultancy nature not covered under any other Article of this Agreement.

(4) The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the management or professional fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the management or professional fees arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the management and professional fees are effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 15 shall apply.

(5) Management or professional fees shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where,

however, the person paying the management or professional fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the management or professional fees was incurred, and such management or professional fees are borne by that permanent establishment or fixed base, then such management or professional fees shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(6) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the management or professional fees paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

14. Capital Gains

(1) Gains derived by a resident of a Contracting State from the alienation of immovable property, referred to in Article 6, and situated in any of the Contracting States may be taxed in that other Contracting State.

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

(3) Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the

Contracting State in which the place of effective management of the enterprise is situated.

(4) Gains from the alienation of any property other than that mentioned in paragraph 1, 2 and 3 of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

15. Independent Personal Services

(1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in any of the other Contracting States for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other state but only so much of it as is attributable to that fixed base. For the purpose of this provision, where an individual who is a resident of a Contracting State stays in of the other Contracting States for a period or periods exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned or was present in that other State in the fiscal year concerned and in each of the two preceding years for periods exceeding in aggregate more than 122 days in each such year, he shall be deemed to have a fixed base regularly available to him in that other State and the income that is derived from his activities that are performed in that other State shall be attributed to that fixed base.

(2) The term "professional services" includes independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists, accountants and economists.

16. Dependent Personal Services

(1) Subject to the provisions of Article 17, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in any of the other Contracting States. If the employment is so exercised,

such remuneration as is derived there from may be taxed in the State in which the employment is exercised.

(2) Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in any of the other Contracting States shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and

(b) the remuneration is paid by or on behalf of an employer who is not a resident of the other State; and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

17. Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of any of the other Contracting States may be taxed in the State in which the company is resident.

18. Artistes and Sports persons

(1) Notwithstanding the provisions of Article 7, 15, and 16, income derived by a resident of a Contracting State as an entertainer such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his or her personal activities as such, may be taxed in the Contracting State in which these activities are exercised.

(2) Where income in respect of personal activities exercised by an entertainer or a sportsperson in his or her capacity as such accrues not to the entertainer or sportsperson himself or herself but to another person, that income may, notwithstanding the provisions of Article 7, 15 and 16, be taxed in the Contracting State n which the activities of the entertainer or sportsperson are exercised.

(3) The provisions of paragraph 2 of this Article shall not apply if it is established that neither the entertainer or the sportsman nor persons related thereto, participate directly or indirectly in the profits of the person referred to in that paragraph.

(4) Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived from activities referred to in paragraph 1 performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by funds of any of the Contracting States or local authority.

19. Pensions, Annuities and Social Security Payments

(1) Subject to the provisions of paragraph 2 of Article 20, pensions, annuities and similar payments arising in a Contracting State and paid in consideration of past employment to a resident of any of the other Contracting States, shall be taxable only in the Contracting State in which the payments arise.

(2) However, such pensions and other remuneration may also be taxed in any of the other Contracting States if the payment is made by a resident of any of the other Contracting States, or a permanent establishment situated therein.

(3) Notwithstanding the provisions of paragraphs 1 and 2 of this Article, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

20. Remuneration and Pension in Respect of Government Service

(1) Remuneration, other than a pension, paid by, or out of funds created by, one of the Contracting States or a political subdivision, local authority or statutory body thereof in the discharge of governmental functions shall be taxable only in that State. Such remuneration shall be taxable only in any of the other Contracting States creating the funds if the services are rendered in that other State and the individual is a resident of that State and:

(a) is a national of that State; or

(b) did not become a resident solely for the purpose of rendering the services.

(2) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision, local authority or statutory body thereof to an individual in respect of services rendered to that State or sub-division, authority or body in the discharge of governmental functions shall be taxable only in that State.

(3) The provisions of Article 16, 17 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State, or a political subdivision, local authority or statutory body thereof.

21. Professors and Teachers

(1) Notwithstanding the provisions of Article 16, a professor or teacher who makes a temporary visit to any of the Contracting States for a period not exceeding two years for the purpose of teaching or carrying out research at a university, college, school or other educational institution and who is, or immediately before such visit was, a resident of another Contracting State shall, in respect of remuneration for such teaching or research, be exempt from tax in the first-mentioned State, provided that such remuneration is derived by him from outside that State and such remuneration is subject to tax in the other State.

(2) The provisions of this Article shall not apply to income from research if such research is undertaken not in the public's interest but wholly or mainly for the private benefit of a specific person or persons.

22. Students and Business Apprentices

A student or business apprentice who is a present in a Contracting State solely for the purpose of his education or training or who is, or immediately before being so present was, a resident of any of the other Contracting States shall be exempt from tax in the first-mentioned State on payments received from outside that first-mentioned State for purpose of his maintenance, education and training.

23. Other Income

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement in respect of which he is subject to tax in that State, shall be taxable only in that State.

(2) The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property, if the recipient of such income, being a resident of a Contracting State, carries on business in any of the other Contracting States through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

(3) Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

24. Elimination of Double Taxation

(1) Where a resident of any of the Contracting States derives income which in accordance with the provisions of this Agreement may be taxed in the other Contracting States, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in that other State. Provide that such deduction shall not exceed that part of the income tax as computed before the deduction is give, which is attributable as the case may be to the income which may be taxed in that other State.

(2) Where in accordance with any provision of this Agreement income derived by a resident of a Contracting State is exempt from tax in that State such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

25. Non-Discrimination

(1) The nationals of a Contracting State shall not be subjected in any of the other Contracting States to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the other States in the same circumstances are or may be subjected.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in any of the other Contracting States shall not be less favourably levied in that other State than the taxation levied on enterprises of any of the other States carrying on the same activities.

(3) An enterprise of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more of any of the other Contracting States, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

(4) Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of any of the other Contracting States any personal allowances, reliefs and deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

(5) In this Article the term "taxation" means taxes which are the subject of this Agreement.

26. Mutual Agreement Procedure

(1) Where a person considers that the actions of one or more of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case may be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of any of other Contracting States, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement.

(4) The competent authorities of the Contracting States may through consultations develop appropriate procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article. In addition, a competent authority may devise appropriate procedures,

conditions, methods and techniques to facilitate the above-mentioned actions and the implementation of the mutual agreement procedure.

27. Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic law of the Contracting States concerning taxes covered by this Agreement in so far as the taxation there under is not contrary to the Agreement, in particular for the prevention of fraud, or evasion of such taxes. The exchange of information is not restricted to by Article 1. Any information so exchanged shall be treated as secret in the same manner as information obtained under the domestic law of that State and shall be disclosed only to persons or authorities (including courts or administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

(2) In no case shall the provisions of paragraph 1 of this Article be construed as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws or the administrative practice of that or of any of the other Contracting States;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of any of the other Contracting States;

(c) to supply information which would disclose any trade, business, industrial, commercial [or professional secret or

trade process] or information, the disclosure of which would be contrary to public policy.

28. Assistance in the Collection of Taxes

(1) The Contracting States agree to lend each other assistance and support with a view to the collection, in accordance with their respective laws or administrative practice, of the taxes to which this Agreement shall apply and of any administrative penalties, interests and costs pertaining to the said taxes.

(2) At the request of the applicant Contracting State, the requested Contracting State shall recover tax claims of the first-mentioned State in accordance with the law and administrative practice for the recovery of its own tax claims. However, such claims do not enjoy any priority in the requested State and cannot be recovered by imprisonment for debt of the debtor. The requested State shall not be obliged to taken any executor measures, which are not provided for in the laws of the applicant State.

(3) When a tax claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that tax claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That tax claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement of and collection of its own taxes as if the tax claim were a tax claim of that other State.

(4) When a tax claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that tax claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that tax claim in accordance with the provisions of its Income Tax law as if the tax claim were a tax claim of that other State even if, at the time when such measures are applied, the tax claim is not

enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

(5) Where, at any time after a request has been made by a Contracting State under paragraph 3 and 4 and before the other Contracting State has collected and remitted the relevant tax claim to the first-mentioned State, the relevant tax claim shall cease to be –

(a) in the case of a request under paragraph 3, a tax claim of the first-mentioned State that is enforceable under the law of that State and is owed by a person who, at the time, cannot, under the law of that State, prevent its collection; or

(b) in the case of a request under paragraph 4, a tax claim of the first-mentioned State in respect of which that State may, under its law, take measures of conservancy with a view to ensuring its collections.

The competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

(6) The requested State shall not be obliged to accede to the request:

(a) If the applicant State has not notified the requested State that it has pursued all means available in its own territory, except where recourse to such means would give rise to disproportionate difficulty;

(b) If and in so far as it considers the tax claim to be contrary to the provisions of this Agreement or of any other agreement to which both of the States are parties;

(7) The Contracting State in which tax is recovered in accordance with the provisions of this Article shall forthwith remit to the Contracting State on behalf of which the tax was collected the amount so recovered.

(8) The applicant State shall in any event remain responsible towards the requested State for the pecuniary consequences of acts of recovery, which have been found unjustified in respect of the reality of the tax claim concerned.

(9) The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the provisions of this Article.

(10) In this Article the term "tax claim" means an amount owed in respect of taxes covered by this Agreement together with interest, administrative penalties and costs of collection or conservancy related to such amount.

29. Diplomatic Agents and Consular Officers

Nothing in this Agreement shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

30. Entry into Force

(1) The Contracting States shall notify each of the completion of the procedures required by their laws for entry into force of this Agreement. The Agreement shall enter into force on the date of the last of these notifications.

(2) The provisions of this Agreement shall apply to income for any year of income beginning on or after the first day of January next following the date upon which this Agreement enters into force.

31. Termination

(1) This Agreement shall remain in force indefinitely but any of the Contracting States may terminate the Agreement through diplomatic channels, by giving to the other Contracting States written notice of termination not later than 30th June of any calendar year starting five years after the year in which the Agreement entered into force.

(2) In such event the Agreement shall cease to have effect on income for any year of income beginning on or after the first day of January next following the calendar year in which such notice is given.

IN WITNESS WHEREOF the undersigned being duly authorized, have signed this Agreement.

Done at Arusha this **30th day of November 2010.**

EXTRACTS FROM FINANCE ACTS

THE FINANCE ACT, 1993 – Cap. 181

Commencement: 1 July, 1992

Stock Exchange Dividends.

A person earning dividends from a company which came into existence through stock exchange shall be exempted from the payment of income tax.

THE FINANCE ACT (No. 2), 1994 – Cap 183

Commencement: 17 June, 1994

PART II—MISCELLANEOUS PROVISIONS

6. Recovery of tax from successor and duty to notify discontinuance of business.

(1) Where a person carrying on any business liable to duty, levy or tax has been succeeded by another person, and when the duty, levy or tax due and payable by the person succeeded cannot be recovered from him or her, it shall be payable by and recovered from the person succeeding him or her.

(2) If the person succeeding fails to pay the duty, levy or tax on the date fixed by the Commissioner General, then the provisions of the law relating to the collection and recovery of duty, levy or tax shall apply to the collection and recovery of the amount due as if it were the duty or tax due and payable by the person succeeding.

(3) Any person intending to discontinue any business liable to duty or tax shall give to the Commissioner General a notice of his or her intention thirty days before the date of discontinuance, and where a person fails to give the notice required by this section, the Commissioner General may direct that a sum not exceeding two hundred thousand shillings be recovered from that person by way of penalty.

THE FINANCE ACT (No. 1), 1999 – Cap 187

7. Reward to persons or officer relating to tax or duty.

Repealed by Finance Act 2008

The Commissioner General shall reward any person who provides information leading to recovery of tax or who seizes any goods or by whose aid goods are seized under any law relating to tax or duty, with a reward of 10 per cent of the tax recovered.

THE FINANCE ACT, 2006.

Commencement: 8th December, 2006.

PART II—REMISSION OF GOVERNMENT ARREARS OF TAXES

2. Remission of Government arrears of taxes

(1) All arrears of import duties, excise duties, value added tax and withholding tax owed by Government to Uganda Revenue Authority are remitted.

(2) The remission under subsection (1) includes arrears of value added tax of local authorities where Government committed to meet the tax.

(3) The remission under subsection (1) does not include arrears of tax withheld from -

(a) a payment of employment income under section 116 of the Income Tax Act; and

(b) a supplier of goods or services or both under section 119(1) of the Income Tax Act.

THE FINANCE ACT 2007

Commencement 1st July 2007

PART V – WAIVER OF INTEREST AND PENALTIES ON VOLUNTARY DISCLOSURE OF TAX LIABILITY

4. Waiver for voluntary disclosure

(4) Where a taxpayer voluntarily discloses his or her duty or tax obligations and pays the principal duty or tax to the Uganda Revenue Authority, the interest and penalties due and owing on the principal tax shall be waived.

(5) Subsection (1) shall apply to disclosures made to the URA on or before the 31st day of December 2007.

(6) In this section, "tax" includes income tax, value added tax; and "duty" includes stamp duty, excise duty and import duty.

PART VI – REMISSION OF VAT ARREARS OF LOCAL GOVERNMENTS

5. Remission of VAT arrears of local governments

All arrears of VAT owed by local governments to Uganda Revenue Authority as at 30th June 2006 are remitted.

THE FINANCE ACT 2008

Commencement: 1st July 2008

PART VI – WAIVER OF TAX ARREARS

5. Waiver of tax, duty, interest and penalties on arrears outstanding on or before 30th June 2002 and still outstanding by 30th June 2008.

(1) All arrears of VAT, income tax, excise duty, import duty, penal tax and interest shall be waived.

(2) Subsection (1) applies to arrears due on or before the 30th day of June 2002, and still outstanding by 30th June 2008.

6. Repeal of section 7 of the Finance (No.1) Act, 1999

Section 7 of the Finance (No.1) Act, 1999 is repealed. [i.e. 10% reward to informers].

THE FINANCE (NO.2) 2002 (AM) ACT 2011

Commencement: 1st July 2011

10. Publication of Practice Notes

Where the Commissioner General of the Uganda Revenue Authority issues a Practice Note, the Commissioner General shall cause that practice note to be published in the Uganda Gazette.

THE FINANCE ACT 2013

Commencement 1st July 2013

SCHEDULE

Fees Payable under Specified Enactments

	ITEM	FEES (UGX/USD)
	1. Business Names Registration Act, Cap.109	**UGX**
	a) For certified copy of certificate of registration (per copy)	5,000
	2. Registration of Titles Act, Cap.230	
	a) Registration fees in respect of transfer of land	30,000
	b) Consent to transfer land	20,000
	c) Application for extension of lease	20,000
	d) Registration of court order	20,000
	3. Mortgage Act, 2009 (Act No. 8 Of 2009)	
	a) Registration fees	40,000
	b) Certification of a mortgage	4,000
	4. Uganda Citizenship And Immigration Control Act, Cap 66	
	Part I - Passports	
	a) Diplomatic	300,000
Substituted by Finance Act 2015	b) Official	250,000
	c) Ordinary	150,000
	d) East African	80,000
	e) Conventional Travel Documents (CTDs)	120,000
	f) Passports processed within 2 working days	300,000
	Part II - Work Permits	

		FEES IN USD ($)			
		6 mths	*12 mths*	*24 mths*	*36 mths*
Substituted by Finance Act 2014	a) Class B (Agriculture)	800	2500	4000	5000
	b) Class C (Mining)	800	2500	4000	5000
	c) Class E (Manufacturing)	800	2500	4000	5000
	d) Class F(Professional)	800	2500	4000	5000
	e) Class G (Expatriate employment)	800	2500	4000	5000

Other Finance Act 2015 amendments (Not under this Schedule)
- Single entry visa = $ 100
- Non-refundable prepayment fee on application for work permit = $ 1500

	Part III - Certificate of Residence	
	a) 5 years	USD 2500
	b) 10 years	USD 2000
	c) 15 years	USD 2500
	d) For life	USD 2500
	e) Due to marriage	USD 500
	Part IV - Other Fees	
	a) Temporary movement permit	UGX 10,000
	b) Illegal stay (per day)	USD 100
	c) Airlines or carriers fine for inadmissible	USD 3000

5.	The Companies Act, 2012 (Act No. 1 of 2012) - Fees Payable to the Registrar (in UGX)	
	a) On making request to the registrar to approve and reserve any name for registration of a company or change of name of a company	20,000
	i) For the registration of a company whose nominal share capital does not exceed Shs. 5,000,000.	50,000
	ii) For the registration of a company whose nominal share capital exceeds Shs. 5,000,000	1% of nominal share capital
	iii) For the registration of a company without nominal share capital	80,000
	b) For any resolution required to be filed under the companies Act	
	i) 3 copies	20,000
	ii) Every extra copy	10,000
	c) For the filling of amended Articles of Association and Memorandum of Association.	
	i) 3 copies	
	ii) Every extra copy	
	d) For registration of annual return of a company, including a copy of the balance sheet or a certificate that no invitation has been made to the public to subscribe to its shares;	
	i) 3 copies	50,000
	ii) Every extra copy	10,000
	e) For registration of the annual return of a company without a nominal share capital	
	i) 3 copies	30,000
	ii) Every extra copy	10,000
	f) For registration of any application to the Registrar under the Company Act	20,000
	g) For registration of any Notice or Order required to be delivered, sent or forwarded to the registrar	20,000
	h) For the certification of any company document	
	i) 3 copies	20,000
	ii) Every extra copy	10,000
	i) For the registration of any increase of share capital made after the first registration of the company	1% of the amount by which the increased share capital exceeds the share capital on the preceding registration
	j) For the registration of any document effecting a transfer of shares	
	i) 3 copies	20,000
	ii) Every extra copy	10,000
	k) For registering a certified copy of the charter, statue or memorandum and articles of the company or other instrument constituting or defining the constitution of the company	USD 250
	i) 3 copies	USD 250
	ii) Every extra copy	USD 10
	l) For registering any other document required to be delivered to the registrar under part X of the Act.	
	i) 3 copies	USD 55
	ii) Every extra copy	USD 10
	m) For registering under part IV of the Act, any charge required to be registered by a company	50,000
	n) For registering particulars of a series of debentures under the Act.	50,000
	o) For registering the appointment of a receiver or manager of the property of a company under section 103 of the Act.	25,000

	p) For inspecting the register of charges for each inspection	25,000
	q) For inspecting the register of companies in respect of any one company or for each inspection of a company's file	25,000
	r) For the issue of a license by the Minister dispensing with the word limited.	50,000

THE FINANCE ACT 2014

6. Remission of Government Arrears of Taxes

All tax arrears owed by the Government to Uganda Revenue Authority, excluding Pay As You Earn and Withholding tax, as at 30th June 2014 are remitted.

8. Payment to Informers

The Commissioner General shall pay to a person who provides information leading to the recovery of a tax or duty, the equivalent of ten percent (10%) of the principal tax or duty recovered.

EXCISE DUTY RATES
(Under the Excise Duty Act, 2014)

Excise Duty is imposed under the Excise Duty Act, 2014 (previously under the East African Excise Management Act, 1970, Cap.28 - Laws of the East African Community; and the Excise Tariff Act, Cap. 338 - Repealed). The list of Excisable goods and Services are contained in the Schedule to the Act.

EXCISE DUTY ACT - SCHEDULE 2

	EXCISABLE GOOD OR SERVICE	DUTY RATE	
		2014/2015	2015/2016
1.	**Cigarettes**		
	a) Soft cup [Other soft cup]	Shs.35,000 per 1,000 sticks	Shs.45,000 per 1,000 sticks
	b) Hinge Lid	Shs.69,000 per 1,000 sticks	Shs.75,000 per 1,000 sticks
	c) Cigars, cheroots, cigarillos containing tobacco	160%	160%
	d) Smoking tobacco, whether or not containing tobacco substitutes in any proportion	160%	160%
	e) Homogenised or reconstituted tobacco	160%	160%
	f) Other	160%	160%
2.	**Beer**		
	a) Malt beer	60%	60%
	b) Whose local raw material content, excluding water, is at least 75% by weight of its constituent	20%	30%
	c) Beer produced from barley grown and malted in Uganda	40%	30%
3.	**Spirits**		
	a) Made from locally produced raw materials	60%	60%
	b) Undenatured spirits	Shs.4000 per litre or 140%, whichever is higher	Shs.2500 per litre or 100%, whichever is higher *[WEF 1/7/2014]*
	c) Other	70%	70%
4.	**Wine**		
	a) Made from locally produced raw materials	20%	20%
	b) Other wines	70%	80%
5.	Non-alcoholic beverages, excluding natural fruit juice drinks and/or vegetable juice drinks containing not less than 10% by mass of standardized fruit and/ or vegetable juice	13%	13%
6.	Mineral water, bottled water and other water purposely for drinking	10%	10%
7.	Cement	Shs.500 per 50kgs	Shs.500 per 50kgs

8.	**Fuel**		
	a) Motor spirit (gasoline)	Shs.950 per litre	Shs.1000 per litre
	b) Gas oil (automotive, light, amber for high speed engine)	Shs.630per litre.	Shs.680 per litre.
	c) Other gas oils	Shs.630 per litre	Shs.630 per litre
	d) Gas oil for thermal power generation to national grid	Nil	Nil
	e) Illuminating kerosene	Ushs. 200 per litre	Ushs. 200 per litre
	f) Jet A1 and aviation fuel	Shs.630 per litre	Shs.630 per litre
	g) Jet A1 and aviation fuel imported by registered airlines, companies with designated storage facilities or with contracts to supply airlines	Nil	Nil
9.	Cane or beet sugar and chemically pure sucrose in solid form	Shs.50 per kg	Shs.50 per kg
10.	Cane or beet sugar for industrial use	0%	0%
11.	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.	120%	120%
12.	Cosmetics and perfumes	10%	10%
13.	**Telecommunication Services**		
	a) Value added services	20%	20%
	b) Incoming international call services, *except calls from the Republic of Kenya, the Republic of Rwanda and the Republic of South Sudan.*	USD 0.09 per minute	USD 0.09 per minute *[WEF 1/1/2015]*
	c) Money transfer or withdrawal services, including transfers and withdraw services by the operators licensed or permitted to provide communications or money transfer or withdrawal but not including transfer and withdraw services provided by banks.	10% of the fees charged	10% of the fees charged
	d) Other usage of airtime		
	i) Mobile cellular	12%	12%
	ii) Landlines and public pay phones	5%	5%
14.	Ledger fees, ATM fees, withdrawal fees and periodic charges and other transaction and non-transaction charges, excluding loan related charges periodically charged by financial institutions.	10% of the fees charged	10% of the fees charged
15.	Motor vehicle lubricants	-	5%
16.	Chewing gum, sweets and chocolates	-	10%
17.	Furniture	-	10%

Substituted by Excise Duty (Am) Act 2015 WEF 1/1/2015

STAMP DUTY ON INSTRUMENTS

(Under Schedule 2 of the Stamp Duty Act 2014)

Stamp Duty is charged on any instrument listed below which is executed in or outside Uganda, and which relates to property situated in Uganda or to a matter or thing done or to be done in Uganda. Instruments executed by, on behalf of, or in favour of the Government of Uganda are exempted. The exemption also extends to various international organisations as listed in the tax laws. Instruments are expected to be stamped within 45 days of the execution if executed in Uganda, and within 30ndays of being received in Uganda if executed outside Uganda.

	Description of Instrument	Stamp Duty
1.	ACKNOWLEDGEMENT of a debt exceeding shs.100,000	NIL
2.	(a) ADMINISTRATION BOND	5000/=
	(b) CUSTOMS BONDS - of the total value	0.05 %
3.	ADOPTION DEED	5000/=
4.	AFFIDAVIT including an affirmation or declaration	5000/=
5.	AGREEMENT OR MEMORANDUM of an agreement.	5000/=
6.	AGREEMENT relating to deposit of title - deeds, pawn pledge - of the total value	1 %
7.	APPOINTMENT IN EXECUTION of a power, whether of trustees or of property	5000/=
8.	APPRAISMENT OR VALUATION made otherwise than under an order of court - of the total value.	NIL
9.	APPRENTICESHIP DEED	5000/=
10.	ARTICLES OF ASSOCIATION OF A COMPANY	10,000/=
11.	ASSENT TO BEQUEST WHETHER UNDER HAND OR SEAL	5,000/=
12.	AWARD by arbitrator or umpire	5,000/=
13.	BILL OF EXCHANGE not being a bond, bank note or currency note	5,000/=
14.	BILL OF LADING (including a thorough bill of lading)	NIL
15.	BILL OF SALE	5,000/=
16.	BOND (not being a debenture)	5,000/=
17.	CANCELLATION - instrument of	5,000/=
18.	CAPITAL DUTY (a) on nominal share capital or any increase of it of any company incorporated in Uganda with limited liability - of the total value.	0.5 %
	(b) on increase of share capital of any company when the increase is a condition precedent for disbursement of loan funds for a development project.	NIL
	(c) on becoming public through the operation of the stock exchange.	NIL
19.	CAVEAT (under the Registration of Titles Act or any other law relating to the registration of title to land)	5,000/=

20.	CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold)	5,000/=
21.	CHARTER PARTY (instrument for charter hire or vessel or part of it)	5,000/=
22.	CHEQUE	NIL
23.	COMPOSITION DEED (instrument of conveyance of property by a debtor for the benefit of his creditors) - of the total value	1 %
24.	CONVEYANCE (not being transfer) - of the total value	5,000/=
25.	COPY OF EXTRACT	5,000/=
26.	COUNTERFEIT OR DUPLICATE of an instrument chargeable with duty and in respect of which the property duty has been paid.	5,000/=
27.	DEBENTURE - whether a mortgage debenture or not, being of a marketable security - of the total value.	1 %
28.	DEED	5,000
29.	DIVORCE - (any instrument by which any person effects the dissolution of marriage)	5,000
30.	EQUITABLE MORTGAGE - of the total value	0.5 %
31.	EXCHANGE OF PROPERTY – of the total value	5,000/=
32.	EXTRACT	5,000/=
33.	FURTHER CHARGE - any instrument imposing a further charge on mortgaged property - of the total value	0.5 %
34.	GIFT - Instrument of not being a settlement or will or transfer – of the total value	1 %
35.	HIRE PURCHASE AGREEMENT - of the total value	1 %
36.	INDEMNITY BOND	1 %
37.	INSTRUMENT – for a loan not exceeding Uganda shillings three million	NIL
38.	LEASE - of the total value	1 %
39.	LETTER OF CREDIT - an instrument by which one person authorizes another to give credit to the person in whose favour it is drawn	5,000/=
40.	LETTER OF LICENSE - any agreement between a debtor and his creditors that the latter shall for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion	5,000/=
41.	MEMORANDUM OF ASSOCIATION OF A COMPANY	10,000/=
42.	(a) Mortgage deed - of the total value A MORTGAGOR who gives a power of attorney to collect rents or a lease of the property mortgaged is deemed to give possession within the meaning of this item.	0.5 %
	(b) Where a collateral or auxiliary or additional or substituted security is given by way of further assurance where the principal or primary security is duly stamped.	5,000/=
43.	MORTGAGE OF A CROP—including any instrument endorsement, note, attestation, certificate or entry not being PROTEST OF A BILL OF NOTE, made or signed by a Notary Public in the execution of the duties of his office or by other person lawfully acting as Notary Public	5,000/=
44.	NOTARIAL ACT - made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public	5,000/=
45.	NOTE OR MEMORANDUM - sent by a broker or agent to his principal intimating the purchase or sale on account such principal of any goods stock or marketable security.	5,000/=
46.	PARTITION	
47.	(a) PARTNERSHIP	5,000/=
	(b) DISSOLUTION OF PARTNERSHIP.	5,000/=
48.	(a) POLICY OF INSURANCE	35,000/=
	(b) LIFE INSURANCE	NIL
	(c) INSURANCE PERFORMANCE BOND	50,000/=
49.	POWER OF ATTORNEY	5,000/=

50.	PROMISSORY NOTE	5,000/=
51.	PROTEST OF BILL OR NOTE - any declaration in writing made by a Notary Public, attesting the dishonour of a bill of exchange or promissory note.	5,000/=
52.	RECEIPT - as defined by section 2 for any money or other property the amount of value exceeds Shs.50,000	
53.	RECONVEYANCE OF MORTGAGED PROPERTY - of the total value.	5,000/=
54.	RELEASE - Any instrument not being such a release as is provided for by section 26(2) by which a person renounces a claim upon another person or against any specified property	5,000/=
55.	RESPONDENTIA BOND - any instrument securing a loan on the cargo laden on board a ship and making repayment contingent on the arrival of the cargo at the port of	5,000/=
56.	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 thereof or executed by surety to secure the due performance of a contract - of the total value	1 %
57.	SETTLEMENT (a) INSTRUMENT OF – (including a deed of dower)	5,000/=
	(b) REVOCATION OF -	5,000/=
58.	SHARE WARRANTS - to bearer issued under the Companies Act - of the total value	1 %
59.	SHIPPING ORDER - for or relating to the conveyance of goods on board any vessel	5,000/=
60.	SOLEMN OR STATUTORY DECLARATION	5,000/=
61.	SURRENDER TO LEASE	5,000/=
62.	TRANSFER - (a) of the total value	1 %
	(b) transfer of shares in an incorporated company listed on the stock exchange, arising from the trading of those shares on the stock exchange.	0.5 %
	(c) of assets to special purpose vehicles for the purpose of issuing asset backed securities	NIL
63.	TRUST - concerning any property made by any writing not being a will.	5,000/=
64.	Any other provision not specifically mentioned	5,000/=