

BILLS SUPPLEMENT

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Bill No. 5 *Income Tax (Amendment) (No. 2) Bill* **2017**

THE INCOME TAX (AMENDMENT) BILL, 2017

MEMORANDUM

The object of this Bill is to amend the Income Tax Act Cap.340 to provide for the exemption from payment of income tax on income accrued by a body established by an Act of Parliament to regulate the conduct of professionals; to provide for the exemption from tax of the income of Bujagali Hydro Power Project up to the year 2033; to provide for deduction of initial allowance for certain capital investments outside a radius of fifty kilometres from Kampala; to provide for transactions between associates to reflect the chargeable income realised in an arm's length transaction; to empower the minister to issue estimates of rent for the purposes of assessing rental tax; to provide for withholding tax on winnings of sports betting or pool betting; to provide for advance tax in respect of specified transport services; to provide for a requirement to report financial transactions; to provide for a limit on the interest payable on unpaid tax; to provide for a rate of withholding tax on winnings from gaming and pool betting; to amend the formula for assessing the value of the benefit of a vehicle provided to an employee wholly or partly for a private purpose; and for related matters.

MATIA KASAIJA, (MP)

Minister of Finance, Planning and Economic Development.

THE INCOME TAX (AMENDMENT) (NO. 2) BILL, 2017

ARRANGEMENT OF CLAUSES

Clause

1. Commencement.
2. Amendment of the Income Tax Act, Cap.340.
3. Amendment of section 5 of principal Act.
4. Amendment of section 21 of principal Act.
5. Insertion of section 27A in principal Act
6. Amendment of section 90 of principal Act.
7. Amendment of section 118C of principal Act.
8. Insertion of section 123A in principal Act.
9. Insertion of section 130A in principal Act.
10. Amendment of section 136 of principal Act.
11. Amendment of Second Schedule to principal Act.
12. Amendment of Third Schedule to principal Act.
13. Amendment of Fifth Schedule to principal Act.

A Bill for an Act

ENTITLED

THE INCOME TAX (AMENDMENT) ACT, 2017

An Act to amend the Income Tax Act, Cap. 340 to provide for the exemption from payment of income tax on income accrued by a body established by an Act of Parliament to regulate the conduct of professionals; to provide for the exemption from tax of the income of Bujagali Hydro Power Project up to 30th June 2033; to provide for deduction of initial allowance for certain capital investments outside a radius of fifty kilometres from Kampala; to provide for transactions between associates to reflect the chargeable income realised in an arm's length transaction; to empower the minister to issue estimates of rent for the purposes of assessing rental tax; to provide for advance tax in respect of specified transport services; to provide for a requirement to report financial transactions; to provide for a limit on the interest payable on unpaid tax; to provide for a rate of withholding tax on winnings from gaming and pool betting; to amend the formula for assessing the value of the benefit of a vehicle provided to an employee wholly or partly for a private purpose; and for related matters.

BE IT ENACTED by Parliament as follows:

1. Commencement.

This Act shall come into force on 1st July, 2017.

2. Amendment of the Income Tax Act, Cap. 340.

The Income Tax Act, in this Act referred to as the principal Act is amended in section 2 by inserting immediately after paragraph (bb) (C) the following—

“(D) a body established by law for the purpose of regulating the conduct of professionals;”

3. Amendment of section 5 of principal Act.

Section 5 is amended by inserting immediately after subsection (3), the following new subsections—

“(4) For the purposes of assessing rental tax under this section, the Minister shall, by statutory instrument, prescribe estimates of rent based on the rating of the rental property in a specific location.

(5) A Statutory Instrument made under subsection (4) shall only apply to a person who fails to file a return in accordance with subsection (1) or whose return is misleading on the face of it and has been contested by the Commissioner.”

4. Amendment of section 21 of principal Act.

Section 21 of the principal Act is amended in subsection (1) by inserting immediately after paragraph (ab), the following—

“(ac) the income of Bujagali Hydro Power Project up to 30th June, 2033.”

5. Insertion of section 27A in principal Act.

The principal Act is amended by inserting a new section 28 as follows—

“27A. Initial allowance.

(1) A person who places an item of eligible property into service for the first time outside a radius of fifty kilometres from Kampala, during a year of income is allowed a deduction for that year for an amount equal to fifty percent of the cost base of the property at the time it was placed into 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 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) 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 industrial 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 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 subsection (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."

6. Amendment of section 90 of principal Act.

Section 90 of the principal Act is amended by substituting for subsection (1) the following—

"(1) In any transaction between associates or persons who are in an employment relationship, the Commissioner may distribute, apportion or allocate income, deductions or credits between the associates or persons who are in an employment relationship, as the case may be, as is necessary to reflect the chargeable income realised by the taxpayer in an arm's length transaction."

7. Amendment of section 118C of principal Act.

The principal Act is amended by substituting for section 118C the following—

"118C. Payments for winnings of sports betting or pool betting.

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."

8. Insertion of section 123A in principal Act.

The principal Act is amended by inserting immediately after section 123 a new section 123A as follows—

“123A. Advance tax for transport services.

A taxpayer who provides a passenger transport service or a freight transport service where the goods vehicle used has a loading capacity of at least two tonnes shall pay an advance tax at the rates specified in Part III of the Second Schedule.”

9. Insertion of section 130A in principal Act.

The principal Act is amended by inserting immediately after Section 130 the following new section-

“130A. Requirement to report financial transactions.

A Financial Institution, Micro Finance Institution, Forex Exchange Bureau and Money Transferring Institution shall report any transaction exceeding one thousand currency points to the Commissioner every month not later than fifteen days after the end of the month to which the transaction relates or as may be required by the Commissioner.”

10. Amendment of section 136 of principal Act.

Section 136 of the principal Act is amended by inserting immediately after subsection (6) the following—

“(7) The interest due and payable under subsection (1) which exceeds the aggregate of the principal tax and the penal tax shall be waived.

(8) For the avoidance of doubt, where interest due and payable as at 30th June 2017 exceeds the aggregate of the principal tax and the penal tax, the interest in excess of the aggregate shall be waived.”

11. Amendment of Second Schedule to principal Act.

The Second Schedule to principal Act is amended in Part III—

- (a) by substituting for the reference to “ 134(e)” in the head note, the reference “123A”; and

- (b) in paragraph (b), by substituting for the words “per person” the words “per seat.”

12. Amendment of Third Schedule to principal Act.

The Third Schedule to the principal Act is amended by inserting after Part 1X the follows—

“Part X

S.118C

Withholding tax rate for winnings from sports betting and pool betting

The withholding tax rate applicable to winnings from sports betting and pool betting is 15%”.

13. Amendment of Fifth Schedule to principal Act.

The Fifth Schedule to the principal Act is amended by substituting for paragraph (3) the following—

“(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, depreciated on a reducing balance basis at a rate of 35% per annum for the subsequent years
- 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.”