

BILLS SUPPLEMENT

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Bill No. 5 *Value Added Tax (Amendment) Bill* **2011**

THE VALUE ADDED TAX (AMENDMENT) BILL 2011

MEMORANDUM

The object of this Bill is to amend the Value Added Tax Act, Cap. 349—

- (a) to repeal the words “thermal and electrical energy, heating, gas, refrigeration, air conditioning and water,”;
- (b) to repeal the words “in Uganda” in section 4(a);
- (c) to substitute section 5(c) with a new paragraph to cater for supply of imported services;
- (d) to substitute section 15 of the Act with a new section to provide place of supply of goods;
- (e) to substitute section 16 of the Act with a new section to provide place of supply of services;
- (f) to provide for VAT representatives of non-resident persons;
- (g) to provide for amendment of Second Schedule to the VAT Act—
 - (i) in paragraph 1(f) by deleting the word “sale”;
 - (ii) in paragraph 1(q) by inserting immediately after the word “equipment” the words “and ambulances”;

ARRANGEMENT OF SECTIONS

Section

1. Commencement.
2. Amendment of section 1.
3. Amendment of section 4.
4. Amendment of section 5.
5. Amendment of section 10.
6. Amendment of section 11.
7. Amendment of section 15.
8. Amendment of section 16.
9. Amendment of section 18.
10. Insertion of new section 20A.
11. Insertion of new section 70A.
12. Amendment of Second Schedule.

- (iii) inserting immediately after paragraph 1(t) a new paragraph providing for the supply of power generated by solar; and
- (iv) repealing paragraphs (gg) and (jj).

MARIA KIWANUKA,
Minister of Finance, Planning and Economic Development.

- (a) in paragraph (a), by repealing the words “in Uganda”; and
- (b) by substituting paragraph (c), the following—

“the supply of imported services other than an exempt service by any person”

4. Amendment of section 5.

Section 5 of the principal Act is amended by substituting for paragraph (c) the following—

“(c) in the case of a supply of imported services, other than an exempt service, is to be paid by the person receiving the supply.”

5. Amendment of section 10.

Section 10 of the principal Act is amended by repealing subsection (2).

6. Amendment of section 11.

Section 11 of the principal Act is amended in subsection (1) by inserting immediately after paragraph (c) the following—

“(d) the provision of thermal and electrical energy, heating, gas, refrigeration, air conditioning and water.”

7. Amendment of section 15.

The principal Act is amended by substituting for section 15 the following—

“15. Place of supply of goods.

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.”

8. Amendment of section 16.

The principal Act is amended by substituting for section 16 the following—

A BILL for an Act

ENTITLED

THE VALUE ADDED TAX (AMENDMENT) ACT, 2011

An Act to amend the Value Added Tax Act, Cap 349 to provide for place of supply of goods in Uganda; to provide for place of supply of services including telecommunications services and electronic services; to provide for VAT representatives of non-resident persons and other related matters.

BE IT ENACTED by Parliament as follows:

1. Commencement.

This Act shall come into force on 1st July 2011.

2. Amendment of section 1.

Section 1 of the Value Added Tax Act in this Act referred to as the principal Act is amended in paragraph (h), by repealing the words “thermal and electrical energy, heating, gas, refrigeration, air conditioning and water,”.

3. Amendment of section 4.

Section 4 of the Principal Act is amended—

- (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

“16. Place of supply of services.

(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 the 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;

- (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.”

12. Amendment of Second Schedule to the VAT Act.

The principal Act, is amended in the Second Schedule—

- (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.”

9. Amendment of section 18.

Section 18 of the principal Act is amended in subsection (1) by inserting immediately after the word “made” the words “in Uganda.”

10. Insertion of new section 20A.

the principal Act is amended by inserting immediately after section 20 a new section as follows—

“20 A. An import of a service is an exempt import if the service would be exempt had it been supplied in Uganda.”

11. Insertion of new section 70A

The principal Act is amended by inserting immediately after section 70 a new section as follows—

“70A. VAT representatives of non-resident persons.

(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) in paragraph 1(f) (i), (ii), (iii), (iv) and (v) by deleting the word “sale”;
- (b) in paragraph 1(q) by inserting immediately after the word “equipment” the words “and ambulances”;
- (c) by inserting immediately after paragraph 1(t) the following—
 - “(ta) Supply of power generated by solar;”
- (d) by repealing paragraph (gg); and
- (e) by repealing paragraph (jj).

- (a) in paragraph 1(f) (i), (ii), (iii), (iv) and (v) by deleting the word “sale”;
- (b) in paragraph 1(q) by inserting immediately after the word “equipment” the words “and ambulances”;
- (c) by inserting immediately after paragraph 1(t) the following—

“(ta) Supply of power generated by solar;”
- (d) by repealing paragraph (gg); and
- (e) by repealing paragraph (jj).