

Laid on 03/04/2018 by Hon David Bahati

**BILLS
SUPPLEMENT No. 2**

29th March, 2018.

BILLS SUPPLEMENT

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Bill No. 10 *Value Added Tax (Amendment) Bill* **2018**

THE VALUE ADDED TAX (AMENDMENT) BILL, 2018

MEMORANDUM.

The object of this Bill is to amend the Value Added Tax Act, Cap. 349; to provide for withholding tax on payment for goods and services; to empower the Minister to make regulations for the tax treatment of supplies made in Islamic financial transactions; to provide a new definition of electronic services; to require taxpayers to file tax returns; to provide for the due date of payment of tax; to include the African Trade Insurance Agency on the list of public international organisations; to provide tax incentives to investors by exempting certain supplies from Value Added Tax; to amend the definition of educational materials; to prescribe the rate of interest chargeable as penalty; and for related matters.

MATIA KASAIJA, (MP)

Minister of Finance, Planning and Economic Development.

THE VALUE ADDED TAX (AMENDMENT) BILL, 2018

ARRANGEMENT OF CLAUSES

Clause

1. Commencement
2. Amendment of the Value Added Tax Act.
3. Amendment of section 12 of principal Act.
4. Amendment of section 16 of principal Act
5. Amendment of section 24 of principal Act
6. Insertion of new section 31A in principal Act
7. Insertion of new section 34A in principal Act
8. Amendment of section 44 of principal Act.
9. Repeal of section 82 of principal Act
10. Amendment of section 76 of principal Act.
11. Amendment of First Schedule to principal Act.
12. Amendment of Second Schedule to principal Act
13. Amendment of Third Schedule to principal Act.

A Bill for an Act

ENTITLED

THE VALUE ADDED TAX (AMENDMENT) ACT, 2018.

An Act to amend the Value Added Tax Act, Cap. 349; to provide for withholding tax on payment for goods and services; to empower the Minister to make regulations for the tax treatment of supplies made in Islamic financial transactions; to provide a new definition of electronic services; to require taxpayers to file tax returns; to provide for the due date of payment of tax; to include the African Trade Insurance Agency on the list of public international organisations; to provide tax incentives to investors by exempting certain supplies from Value Added Tax; to amend the definition of educational materials; to prescribe the rate of interest chargeable as penalty; and for related matters.

BE IT ENACTED by Parliament as follows:

1. Commencement.

This Act shall come into force on 1st July, 2018.

2. Amendment of the Value Added Tax Act, Cap. 349.

The Value Added Tax Act, in this Act referred to as the principal Act, is amended in section 5—

- (a) by renumbering the current provision as subsection (1);

- (b) by inserting immediately after subsection (1) following subsection—

“(2) The Minister shall, by notice in the Gazette, designate persons who shall withhold tax on a payment for a taxable supply and the persons designated shall remit to the Uganda Revenue Authority fifty percent of the tax payable.

(3) A person designated under subsection (2) shall withhold tax where a person is registered or where a person who is not registered but who is required to be registered, makes a supply for an amount equivalent to one quarter of the annual registration threshold under section 7(2).”.

3. Amendment of section 12 of principal Act.

Section 12 of the principal Act is amended by inserting immediately after subsection (4) the following subsection—

“(5) The Minister shall make regulations for the tax treatment of supplies made in Islamic financial transactions.”.

4. Amendment of section 16 of principal Act.

Section 16 of the principal Act is amended—

- (a) in subsection (5) by substituting for paragraph (a) the following paragraph—

“(a) “electronic services” includes the following when provided or delivered remotely by or through—

- (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;”.

5. Amendment of section 24 of principal Act.

Section 24 of principal Act is amended by inserting immediately after subsection (8) the following subsections—

“(9) The tax payable on the following taxable supplies shall not be deemed to have been paid under subsections (5) and (6)—

- (a) a passenger automobile, and the repair and maintenance of that automobile; or
- (b) entertainment.

(10) In this section—

- (a) “passenger automobile” means a motor vehicle designed solely for the transport of persons with a seating capacity of not more than eight persons;
- (b) “entertainment” means the provision of food, beverages, tobacco, accommodation, amusement, recreation, or hospitality of any kind;”.

6. Insertion of new section 31A in principal Act.

The principal Act is amended by inserting immediately after section 31 the following section—

“31A. 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 tax 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 by the Commissioner General.

(3) In addition to a return required under subsection (1), the Commissioner General may require any person, whether that person is a taxable person or not, to lodge with the Commissioner General, further or other returns in the prescribed form, on that person’s own behalf or as agent or trustee of another person.”

7. Insertion of section 34A in principal Act.

The principal Act is amended by inserting immediately after section 34 the following section—

“34A. 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 remains due and payable and may be recovered, notwithstanding that objection or appeal.

(4) Upon a 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 the Commissioner General 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) The production of a certificate signed by the Commissioner General stating that the tax has been paid or secured shall be sufficient proof of payment of tax specified in the certificate referred to in subsection (5) and shall be authority for allowing that person to leave Uganda.

(8) Notwithstanding subsection (1), the Minister may, by regulations, prescribe the terms and conditions of payment of tax on plant and machinery.”

8. Amendment of section 44 of principal Act.

Section 44 of the principal Act is amended by inserting immediately after subsection (4) the following—

“(5) Notwithstanding subsections (1), (2) and (4) the interest due and payable on over payments and late refunds shall not exceed the principal tax.”

9. Amendment of section 76 of principal Act.

Section 76 of the principal Act is amended by inserting immediately after subsection (2) the following subsection—

“(3) Where an international agreement entered into between the Government of Uganda and the Government of a foreign country or an international organisation, provides tax relief to the foreign Government or international organisation, the provisions relating to tax reliefs or benefits shall take effect—

- (a) upon the ratification of the agreement by Cabinet; and
- (b) upon approval by Parliament.”.

10. Repeal of section 81 of principal Act.

The principal Act is amended by repealing section 81.

11. Amendment of First Schedule to principal Act.

The First Schedule to the principal Act is amended by inserting immediately after the words “African Development Foundation” the following—

“African Trade Insurance Agency”.

12. Amendment of Second Schedule to principal Act.

The Second Schedule is amended—

- (a) by inserting immediately after paragraph(1)(kk) the following—

- “(ll) the supply of Bibles and Qu’rans;
- (mm) the supply of services to conduct a feasibility study, design and construction to a developer of an industrial park or free zone whose investment is at least two hundred million United States Dollars;
- (nn) the supply of earth moving equipment and machinery for development of an industrial park or free zone to a developer of an industrial park or free zone whose investment is at least two hundred million United States Dollars;
- (oo) the supply of construction materials for development of an industrial park or free zone to a developer of an industrial park or free zone whose investment is at least two hundred million United States Dollars;
- (pp) the supply of services to conduct a feasibility study and design; the supply of locally produced materials for the construction of a factory or a warehouse and the supply of locally produced raw materials and inputs or machinery and equipment to an operator within an industrial park, free zone or an operator with a single factory or other business outside the industrial park or free zone who meets the following requirements—
- (i) a minimum investment capital of thirty million United States Dollars in the case of a foreigner or ten million United States Dollars in the case of a citizen;
- (ii) carries on business in agro processing, food processing, medical appliances, building materials, light industry, automobile manufacturing and assembly, household appliances, furniture, logistics and ware-housing, information technology or commercial farming;

- (iii) seventy percent of the raw materials used are sourced locally, subject to their availability;
- (iv) directly employs a minimum of one hundred citizens; and
- (v) provides for substitution of thirty percent of the value of imported products;
- (tt) the supply of services to conduct a feasibility study, design and construction; the supply of locally produced materials for construction of premises, infrastructure, machinery and equipment or furnishings and fittings which are not available on the local market to a hotel or tourism facility developer whose investment capital is fifteen million United States Dollars with a room capacity exceeding one hundred guests;
- (qq) the supply of services to conduct a feasibility study, design and construction; the supply of locally produced materials for the construction of premises and other infrastructure, machinery and equipment or furnishings and fittings to a hospital facility developer whose investment capital is at least ten million United States Dollars and who develops a hospital at the level of a national referral hospital with capacity to provide specialised medical care;
- (rr) the supply of movie production.

13. Amendment of Third Schedule to principal Act.

The Third Schedule to the principal Act is amended by substituting for paragraph 4(a) the following—

- “(a) “educational materials” means locally produced materials which are suitable for use in public libraries or for educational services as defined in paragraph (2)(a) of the Second Schedule to this Act, and which shall be prescribed by the Minister by regulations.”.