
BILLS

SUPPLEMENT No. 5

30th March, 2023

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Bill No. 5

Income Tax (Amendment) Bill

2023

THE INCOME TAX (AMENDMENT) BILL, 2023

MEMORANDUM

The object of this Bill is to amend the Income Tax Act, Cap. 340 to streamline the imposition of capital gains tax on the purchase of assets, to expand the exceptions to the provision for limiting interest deduction to include micro-finance deposit taking institutions and tier 4 micro-finance institutions; to provide for ZEP-RE (PTA Reinsurance Company) as a listed institution and for related matters.

MATIA KASAIJA (MP),
Minister of Finance, Planning and Economic Development.

THE INCOME TAX (AMENDMENT) BILL, 2023

ARRANGEMENT OF CLAUSES

Clause

1. Commencement
2. Amendment of Cap. 340
3. Amendment of section 18 of principal Act
4. Amendment of section 19 of principal Act
5. Amendment of section 20 of principal Act
6. Amendment of section 21 of principal Act
7. Amendment of section 22 of principal Act
8. Amendment of section 25 of principal Act
9. Amendment of section 27 of principal Act
10. Repeal of section 27A of principal Act
11. Amendment of section 29 of principal Act
12. Amendment of section 38 of principal Act
13. Repeal of sections 49, 50 and 54 of principal Act
14. Amendment of section 77 of principal Act
15. Amendment of section 79 of principal Act
16. Insertion of section 86A of principal Act
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18. Amendment of section 89A of principal Act
19. Amendment of section 89GC of principal Act
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21. Amendment of section 89O of principal Act
22. Substitution of section 118B of principal Act
23. Repeal of section 118C of principal Act
24. Insertion of section 118I in principal Act
25. Amendment of section 122 of principal Act

26. Amendment of section 136 of principal Act
27. Amendment of First Schedule to principal Act
28. Amendment of Third Schedule to principal Act

A Bill for an Act

ENTITLED

THE INCOME TAX (AMENDMENT) ACT, 2023

An Act to amend the Income Tax Act, Cap. 340 to streamline the imposition of capital gains tax on the purchase of assets; to expand the exceptions to the provision for limiting interest deduction to include micro-finance deposit taking institutions and tier 4 micro-finance institutions; to provide for ZEP-RE (PTA Reinsurance Company) as a listed institution and for related matters.

BE IT ENACTED by Parliament as follows:

1. Commencement

This Act shall come into force on 1st July, 2023.

2. Amendment of Cap. 340

The Income Tax Act, in this Act referred to as the principal Act, is amended in section 2—

- (a) by repealing paragraph (yya); and
- (b) in paragraph (mmm), by repealing subparagraph (ii).

3. Amendment of section 18 of principal Act

Section 18 of the principal Act is amended—

- (a) in subsection (1) by substituting for paragraph (a) the following—

“(a) the amount of any gain on the satisfaction or cancellation of a business debt, whether or not the asset or debt was on revenue account.”; and

- (b) by repealing subsection (4).

4. Amendment of section 19 of principal Act

Section 19 of the principal Act is amended in subsection (1) by repealing paragraph (h).

5. Amendment of section 20 of principal Act

Section 20 of the principal Act is amended—

- (a) in subsection (1) by inserting immediately after paragraph (b) the following—

“(ba) the profit on the contribution paid or credited to a participant of a collective investment scheme;”

- (b) in subsection (1) (d) by deleting the words “including winnings derived from sports betting and pool betting,”;

- (c) by inserting immediately after subsection (2) the following—

“(3) The income under section 20 (1) (ba) shall be charged a tax in accordance with section 118I of this Act at the rate prescribed in Part IX of the Third Schedule to this Act.”

6. Amendment of section 21 of principal Act

Section 21 of the principal Act is amended—

- (a) in subsection (1) by repealing paragraph (k); and
- (b) by substituting for paragraph (t) the following—
 - “(t) the income of a collective investment scheme, subject to section 20 (1) and (3) of this Act;”.

7. Amendment of section 22 of principal Act

Section 22 of the principal Act is amended—

- (a) in subsection (1), by repealing paragraph (b); and
- (b) by repealing subsection (5);

8. Amendment of section 25 of principal Act

Section 25 of the principal Act is amended in subsection (3) by inserting immediately after the words “financial institution” the words “micro-finance deposit taking institution, tier 4 micro-finance institution”.

9. Amendment of section 27 of principal Act

Section 27 of the principal Act is amended—

- (a) by substituting for subsection (4) the following—
 - “(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 the assets added to the pool during the year of income.”; and

- (b) by repealing subsections (5), (13), (14) and (16).

10. Repeal of section 27A of principal Act

The principal Act is amended by repealing section 27A.

11. Amendment of section 29 of principal Act

Section 29 of principal Act is amended by repealing subsection (1a).

12. Amendment of section 38 of principal Act

Section 38 of the principal Act is amended by inserting immediately after subsection (5), the following—

- “(5a) Notwithstanding the provisions of this section, a taxpayer who after a period of five years of income carries forward assessed losses shall only be allowed a deduction of fifty percent of the loss carried forward at the beginning of the following year of income in determining the taxpayer’s chargeable income in the subsequent years of income.”

13. Repeal of sections 49, 50 and 54 of principal Act

The principal Act is amended by repealing sections 49, 50 and 54.

14. Amendment of section 77 of principal Act

Section 77 of principal Act is amended in subsection (2) by substituting for paragraph (d) the following—

- “(d) section 118B shall not apply on the cancellation of the transferee’s shares in the liquidated company.”

15. Amendment of section 79 of principal Act

Section 79 of the principal Act is amended—

- (a) in paragraph (j) by repealing subparagraph (iii); and
- (b) by inserting immediately after paragraph (j) the following—

“(ja) an amount arising from the disposal of industrial property or intellectual property used in Uganda;”.

16. Insertion of section 86A of principal Act

The principal Act is amended by inserting immediately after section 86 the following—

“86A. Taxation of non-residents providing digital services

(1) A tax is imposed on every non-resident person deriving income from providing digital services in Uganda to a customer in Uganda at the rate prescribed in Part IV of the Third Schedule to this Act.

(2) For the purposes of subsection (1), income is derived from providing a digital service in Uganda to a customer in Uganda, if the digital service is delivered over the internet, electronic network or an online platform.

(3) For the purposes of this section “digital service” includes—

- (a) online advertising services;
- (b) data services;
- (c) services delivered through an online market place or intermediation platform, including an accommodation online market place, a vehicle hire online market place and any other transport online market place;
- (d) digital content services, including accessing and downloading of digital content;
- (e) online gaming services;
- (f) cloud computing services;

- (g) data ware housing;
- (h) services, other than those services in this subsection, delivered through a social media platform or an internet search engine; and
- (i) any other digital services as the Minister may prescribe by statutory instrument made under this Act.

17. Amendment of section 87 of principal Act

Section 87 of principal Act is amended—

- (a) in the headnote by inserting immediately after number “86” number “86A”; and
- (b) in subsection (1) by inserting immediately after number “86 (4)” the number “86A”.

18. Amendment of section 89A of principal Act

Section 89A of the principal Act is amended in subsection (4) by deleting the reference to subsection “(3)”.

19. Amendment of section 89GC of principal Act

Section 89GC of the principal Act is amended in subsection (4) by inserting immediately after the words “section 27”, the words “or 31”.

20. Amendment of section 89GE of principal Act

Section 89GE of the principal Act is amended in subsection (1) (a) by deleting the words “the whole or”.

21. Amendment of section 89O of principal Act

Section 89O of the principal Act is amended in subsection (1) (a) by deleting the word “(b)”.

22. Substitution of section 118B of principal Act

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

“118B. Withholding of tax by the purchaser of an asset

(1) A person who purchases an asset situated in Uganda shall withhold tax on the gross amount of the payment, at the rate prescribed in Part VIII of the Third Schedule to this Act.

(2) Subsection (1) shall not apply to—

- (a) transfer of assets between spouses;
- (b) a transfer of assets between a former spouse 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 of the disposal are reinvested in an asset of a like kind within one year of the disposal;
- (d) the transmission of an asset forming the estate of the deceased tax payer to a trustee or beneficiary;
or
- (e) the sale of the investment interest of a registered venture capital fund, if at least fifty percent of the proceeds on sale is reinvested within the year of income.

(3) For purposes of this section, “asset” means a resource with economic value that is expected to provide a future benefit to its holder but does not include trading stock.”

23. Substitution of section 118C of principal Act

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

“118C. Withholding of tax on payments for winnings of betting

A person who makes payment for winnings of 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.”

24. Insertion of section 118I in principal Act**“118I. Withholding tax on profit paid or credited to a participant of a collective investment scheme**

(1) A person who credits or makes payment of a profit on the contribution to a participant of a collective investment scheme shall withhold tax on the profit at the rate prescribed in Part XIV of the Third Schedule to this Act.

(2) Notwithstanding subsection (1), a participant who contributes to more than one collective investment scheme and whose contribution, in aggregate, exceeds one hundred million shillings within a year of income, shall furnish a return and pay tax at the rate prescribed in Part XIV of the Third Schedule to this Act and section 128 (3) shall apply.

(3) For purposes of this section “contribution” includes deposits made by a participant to a collective investment scheme and undistributed profits, if any.”

25. Amendment of section 122 of principal Act

Section 122 of the principal Act is amended by inserting immediately after paragraph (ab) the following—

(aba) tax has been withheld under sections 118B and 118I, on the purchase of the asset and payment of a profit on contribution to a participant of a collective investment scheme respectively;”.

26. Amendment of section 136 of principal Act

Section 136 of the principal Act is amended by repealing subsection (8).

27. Amendment of First Schedule of principal Act

The First Schedule to principal Act is amended by inserting the following in its appropriate alphabetical position—

“ZEP-RE (PTA Reinsurance Company)”

28. Amendment of Third Schedule to principal Act

The Third Schedule to the principal Act is amended—

(a) in Part IV, by inserting immediately after item 2 the following—

“3. The income tax rate applicable to a non-resident deriving income from digital services is 5%.”;

(b) in Part VIII item 2, by substituting the word “10%” with the word “5%”;

(c) in Part VIII, by repealing item 3;

(d) in Part X by deleting the words “or gaming”; and

(e) by inserting immediately after Part XIII the following—

sections 20 (ab) and 118I

“Part XIV

Withholding tax rate on profit payable to participants of collective investment schemes

Item	Contribution of participant to a collective investment scheme	Rate of tax
(a)	Contribution of a participant to collective investment scheme not exceeding one hundred million shillings	5% of the total profit paid or credited to the participant of the collective investment scheme
(b)	Contribution by a participant of a collective investment scheme exceeding one hundred million shillings	15% of the total profit paid or credited to the participant of the collective investment scheme