

PARLIAMENT OF UGANDA

REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE INCOME TAX (AMENDMENT) BILL, 2016

OFFICE OF THE CLERK TO PARLIAMENT
APRIL 2016

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1.0 Introduction

The Income Tax (Amendment) Bill, 2016 was read for the first time on 10th March, 2016 and referred to the Committee on Finance, Planning and Economic Development in accordance with Rule 118 of the Rules of Procedure of Parliament.

2.0 Object of the Bill

The Object of the Bill is to amend the Income Tax Act Cap 340 to provide for carry forward of losses in respect to mergers and acquisitions; to provide for the rate of tax payable by a non-resident person deriving rent from Uganda; to exclude public listed companies from the shareholding requirements as regards accessing benefits provided in an international agreement; to amend the definition of petroleum taxation; to impose an obligation on persons employed by diplomatic institutions and institutions with diplomatic privileges to file returns of income with URA; to provide for any person making payments to non-residents to withhold tax from the payments; to add the International Centre for Research in Agro-Forestry and international Potato Centre to the listed ; and to amend the second schedule to the Income Tax Act to remove clinics from the business or trades paying tax and to revise the tax payable relating to drug shops.

3.0 Methodology

The Committee held meetings and received memoranda from the following:

- (i) Minister of Finance, Planning and Economic Development
- (ii) Ministry of Works and Transport
- (iii) Uganda Revenue Authority
- (iv) Price Waterhouse Coopers

- (v) Uganda Manufacturers Association
- (vi) SportPesa
- (vii) Civil Society Budget advocacy Group (CSBAG)

4.0 Observations by members

The Committee observed that:

- (i) The Bill seeks to allow carry forward of losses where a tax payer's income during a year is less than the deductions, which is referred to as a loss. The tax payer will be allowed to carry forward the loss and deduct it from his income for the following year.
- (ii) In Clause 3, the government seeks to amend section 83 of the Principal Act to include the term "rent". There has been ambiguity when determining the rate of tax applicable to non-resident persons who derive income in form of rent from Uganda.
- (iii) Section 88 of the Income Tax Act recognizes double taxation agreements entered into between Uganda and another Country. The agreements have effect as if they were contained in the Income tax Act. The Bill seeks to amend section 88 (5) to prevent abuse by restricting the benefits to a resident of a country with which Uganda has a treaty. The resident must be undertaking substantive economic activity in that country to benefit from the agreement. Also, where the tax payer is a publically listed company, the requirement of 50% ownership by persons in the country Uganda has entered into a contract with should not apply. This is because the public listed company can have shareholders in many countries but its place of effective management remains one. This proposal will restructure the currently restrictive General Anti Abuse Rule in section 88 (5) of the Income Tax Act,

The bottom of the page is covered with numerous handwritten signatures and scribbles in blue ink. Some legible names include 'Anake', 'Kempner', 'Ameykhal', and 'Dinesh'. There are also several large, stylized signatures and a central scribble that appears to be a signature or initials.

which denies treaty benefits unless the underlying owners are resident individuals of the country with which Uganda has entered into a double taxation agreement who own at least a 50% of the person who is resident in that state.

(iv) Allowable deductions for a licensee granted a petroleum exploration license after 31st December 2015 are being subjected to the limitations on deductions specified in the Production Sharing Agreements in this Bill. A licensee who undertakes an operation in a contract area in a year of income shall be allowed a deduction only against gross income derived by the licensee from the operations in the contract area for that year. The amendment is intended to streamline taxation with other sectors. The oil industry is however unique with lots of uncertainty on future cash flows, therefore doing away with a limit on deductions implies pushing into the unknown future government income from corporation tax. It is therefore important that the annual deductions are capped in line with the limits provided in the PSAs.

(v) (a) In 2014, Parliament imposed a withholding tax on the gross amount of any payments for winnings of sports betting or pool betting. However, research has shown that this measure is counterproductive and didn't not generate the anticipated revenue; rather it has encouraged the Agents to avoid regulation. It is now proposed that the measure should be redirected so that the incidence of tax falls on the operator of a casino, gaming or betting activity.

(b) The Committee will move an amendment in the Finance Bill 2016, to amend the Lotteries and Gaming Act, 2015 to increase the rate of gaming tax paid from 20% to 30% of the total amount of money staked less the pay outs (winnings) for the period of filing returns.

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(c) It is also important to note that these companies will pay a Gaming Tax is paid in addition to other taxes prescribed by law like corporation tax.

(d) This will make compliance easy, reduce on the tax administration costs and raise more revenue for government.

(vi) Diplomatic missions employ Ugandans but do not withhold PAYE from the salaries they pay them. This is because under the Diplomatic Privileges Act, they are not obliged to withhold tax. The proposed amendment will provide a mechanism for Ugandans who work in diplomatic missions and listed institutions to pay taxes due on their salaries.

5.0 Recommendation

The Committee recommends that the Income tax (Amendment) Bill, 2016 be passed into law subject to the proposed amendments.

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PROPOSED AMENDMENTS

- Insert a new clause immediately after clause 8 as follows;

Repeal of section 118C of the principal Act


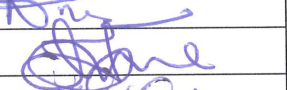
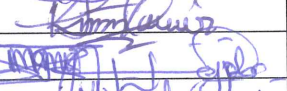
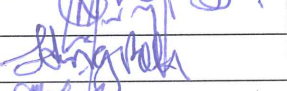
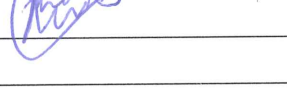

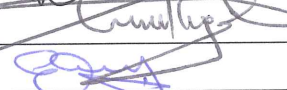
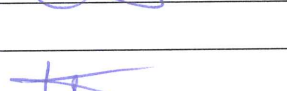
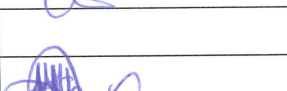

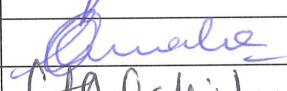

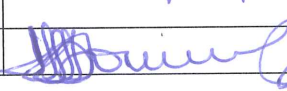






Section 118C of the principal Act is repealed.

Justification.

1. In 2014, Parliament imposed a withholding tax on the gross amount of any payments for winnings of sports betting or pool betting. However, research has shown that this measure is counterproductive and didn't not generate the anticipated revenue; rather it has encouraged the Agents to avoid regulation. It is now proposed that the measure should be redirected so that the incidence of tax falls on the operator of a casino, gaming or betting activity.
2. The Committee will move an amendment in the Finance Bill 2016, to amend the Lotteries and Gaming Act, 2015 to increase the rate of gaming tax paid from 20% to 30% of the total amount of money staked less the pay outs (winnings) for the period of filing returns.
3. It is also important to note that these companies will pay a Gaming Tax is paid in addition to other taxes prescribed by law like corporation tax.

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REPORT OF COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE INCOME TAX (AMENDMENT) BILL, 2016

	NAME	CONSTITUENCY	SIGNATURE
1	Hon. Kasule Robert	Kyadondo North	
2	Hon. Okello Anthony	Kioga County	
3	Hon. Musasizi Henry	Rubanda East County	
4	Hon. Kyooma Xavier	Ibanda North County	
5	Hon. Sejjoba Isaac	Bukoto Mid-West	
6	Hon. Lwanga Timothy	Kyamuswa County	
7	Hon. Adong Lilly	Nwoya District	
8	Hon. Katoto Hatwib	Katerera County	
9	Hon. Amos Lugoloobi	Ntenjeru South	
10	Hon. Emma Boona	Mbarara District	
11	Hon. Ayepa Micheal	Labwor County	
12	Hon. Mugabi M. Martin	Buzaaya County	
13	Hon. Geoffrey Ekanya	Tororo County	
14	Hon. Nathan N Mafabi	Budadiri West County	
15	Hon. Odo Tayebwa	Bushenyi-Ishaka Mun	
16	Hon. Mathias Nsubuga	Bukoto South County	
17	Hon. Judith Franca Akello	Agago District	
18	Hon. Maxwell Akora	Maruzi County	
19	Hon. Ssasaga Isaiah	Budadiri East County	
20	Hon. Kevinah Taaka	Busia Municipality	
21	Hon. Jack Sabiiti	Rukiiga County	
22	Hon. Bagoole John	Luuka County	
23	Hon. Capt. Lakot Susan	UPDF	
24	Hon. Ochwa David	Agule County	