PARLIAMENT OF THE REPUBLIC OF UGANDA

FOR GOD AND MY COUNTRY

A REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE INCOME TAX (AMENDMENT) BILL, 2021

OFFICE OF THE CLERK TO PARLIAMEN

APRIL, 2021

A REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE INCOME TAX (AMENDMENT) BILL, 2021

1.0 INTRODUCTION

The Income Tax (Amendment) Bill, 2021 was read for the first time on 1st April, 2021 and referred to the Committee on Finance, Planning and Economic Development in accordance with Rule 128 of the Parliamentary Rules of Procedure.

2.0 OBJECT OF THE BILL

The object of the Bill is to amend the Income Tax Act, Cap 340 to redefine "beneficial owner"; to revise the tax rate applicable to individuals and companies for purposes of rental income; to provide for a formula for deductible expenses on rental income; to provide for incentives to manufacturers; to define the date for submitting applications for tax refund; to provide for the due date of payment of income tax; to discontinue the concurrent deduction of initial allowance and deductions on depreciation of assets.

3.0 METHODOLOGY

The Committee held meetings with and received memoranda from the following;

1. The Minister for Finance, Planning and Economic Development
2. Uganda Revenue Authority
3. The Civil Society Budget Advocacy Group
4. Private Sector Foundation Uganda
5. Coca Cola Beverages, Africa
6. Uganda Breweries Ltd
7. Nile Breweries Ltd
8. Tax Justice Alliance Uganda

9. SEATINI, Uganda
10. Unwanted Witness

4.0 COMMITTEE OBSERVATIONS

The Committee observed that;

I. Clause 2 (a) proposes to amend section 2 to introduce a new definition of "beneficial owner".
This is due to the fact that current definition falls short of the internationally agreed definition of "beneficial owner" as per the Organization for Economic Cooperation and Development (OECD). Other jurisdictions within the East African region which have adopted a similar definition in their legislation include Kenya. Therefore, Uganda should adopt this definition in order to align with the internationally agreed definition.

II. Clause 2 (b)proposes to introduce a definition of "consideration".
The purpose is to eliminate any ambiguity as regards what amounts to consideration under the Income Tax Act.

III. Clause 2 (c) proposes to clarify the definition of an 'exempt organization' to include a religious, charitable or educational institution whose object is not for profit.
This will provide a wording that is clearer than the current wording of the law. The current law provides that the institution should be of a public character which is subjective in interpretation.

IV. Clause 3 proposes to amend section 5 of the Principal Act to provide that a person who earns rental income from more than one rental building shall account for the income and expenses of the buildings and shall pay tax for each of the buildings separately.

Whereas the proposal is meant increase revenue raised from rental income by stopping the practice of comingling of income or expenses from one building with anotherthe proposal is bound to present administrative difficulties since tax payers shall have to develop policies for apportioning common expenses to each property.

V. Clause 4 proposes to repeal paragraph (z) of Section 21(1) of the Principal Act which provides for an income tax exemption for agro-processors.

This proposal is meant to eliminate duplication of the same exemption because a similar exemption is already provided for under Section 21(1)(af) of the Income Tax Act.

VI. Clause 4 (b) proposes to introduce additional sectors to the list of strategic sectors qualifying for the ten-year income tax incentive;manufactures of chemicals for agricultural and industrial use, textiles, glassware, leather products, industrial machinery and electrical equipment, sanitary pads and diapers.

This is meant to encourage investment in the specified sectors.

VII. Clause 4 (c)proposes to introduce a ten-year income tax exemption for a manufacturer whose investment capital is at least fifty million United States Dollars.

The Committee noted that over the past three years there have been varying tax exemptions/incentives to investors. The Committee therefore noted that there is need to further study the various tax exemptions being offered to create certainty and predictability in doing business

VIII. Clause 5 proposes to amend Section 22(1)(c) of the Principal Act to provide a cap of sixty percent on allowable deductions in case of rental income of the rental income as expenditure and losses incurred by a person in the production of such income.

This proposal will remove distortions in the rental tax regime which arise from capping the allowable deductions for a year of income of individual rental taxpayers, but allows unlimited deductions for non-individual rental taxpayers.

This reform will remove the incentive for individual property owners to own properties through companies in order to claim fictitious deductions. This reform therefore provides for equitable taxation of rental income irrespective of the legal nature of the person deriving income.

Where the verified expenditure is below the sixty percent cap, a deduction will accordingly be granted for the actual expenditure incurred. Where verified expenditure is above the sixty percent cap, only sixty percent of gross income will be granted and the excess deferred to be deducted in the subsequent years of income.

IX. Clause 6 proposes to amend Section 27(2) of the Principal Act by substituting for the word "four" with the word "three" as a consequential amendment to amending Part I of the Sixth Schedule.

In this regard, a proposal is made to reduce the classes of assets for depreciation purposes from four to three.

Clause 6 in addition proposes a deduction for the depreciation of an asset that qualifies for initial allowance under section 27A (1) to be deferred to the next year of income. This proposal will discontinue concurrent deduction of initial allowances and depreciation in the first year of use of the qualifying asset.

The purpose of this proposal is to make the depreciation deduction regime less generous, increasing chargeable income and tax payable for the first year of income in which the depreciable assets are first used.

X. Clause 7 proposes to amend section 29 of the Principal Act to provide for deferral of a deduction for the depreciation of an industrial building that qualifies for initial allowance under section 27A (4) to the next year of income.

This is meant to make the regime for deduction of depreciation of an industrial building less generous, increasing chargeable income and tax payable for the first year of income in which the industrial building is first used.

XI. Clause 8 proposes to amend section 50 of the Principal Act to provide for indexation in the calculation of capital gains tax in order to account for inflation. However, indexation shall not apply to an asset that is sold within twelve months from the date of purchase.

This proposal is intended to reduce the gain arising on sale of business assets by the amount of inflation. This will eliminate over-taxation of tax payers and encourage investment.

XII. Clause 9 (a) proposes to amend section 54 of the Principal Act to provide for preferential treatment of capital gains tax for a venture capital fund registered under the Capital Markets Authority Act.

Venture capital is a form of private equity and a type of financing that investors provide to startup companies and small businesses that are believed to have long-term growth potential.

This proposal will reduce the cost of capital by promoting investment into high risk enterprises.

XIII. Clause 10 proposes to amend section 88 of the Principal Act to provide that where an international agreement provides for automatic exchange of information for tax purposes, the Commissioner shall in accordance with the regulations made by the Minister facilitate the automatic exchange of information.

This proposal will facilitate automatic exchange of information of non-resident and resident persons with their tax residence jurisdictions, in accordance with the OECD (Organization of Economic Co-operation and Development) Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

This proposal will further enable analysis of reports on financial account information available domestically with what is submitted in tax returns to ensure proper tax reporting of Financial Institutions and their clients.

Uganda will therefore be able to access financial account information from offshore Financial Institutions by exchanging reciprocal financial account data with mutual treaty partners under Section 6 of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters which came into effect on 1st Sept 2016.

This proposal will be expected to generate approximately Ushs 45 billion in revenue from information generated both domestically and from reciprocal information obtained from treaty partners.

XIV. Clause 11 proposes to amend section 93A to re-introduce the payment due date for income tax purposes.

This provision was previously contained in the Income Tax Act but was repealed with the coming into force of the Tax Procedures Code Act and the same was never replaced. This proposal will provide for a due date of filling returns since the law is silent on the due date of tax payment.

The absence of a due date in the law has resulted into taxpayers taking their time to pay the taxes with no reservations of interest accruing from delayed payment of tax.

XV. Clause 12 proposes to amend section 113 of the Principal Act to provide that a taxpayer shall be deemed to have submitted an application for refund on the date the application is received by the Commissioner. However, where the Commissioner requests for additional information, the application for refund shall be deemed to have been submitted on the date when the additional information is received by the Commissioner.
This is meant to cater for situations where the delay in refund is due to the delay in the taxpayer submitting the requisite documents for verification.

XVI. Clause 13 proposes to amend section 118B by exempting a person who the Commissioner is satisfied has regularly complied with their tax obligations from the application of Section 118B of the Income Tax Act.
This is in line with similar treatment for compliant taxpayers under Section 119(5)(f) and 118A(2) of the Income Tax Act.
To note is the omission of a time frame in which a Commissioner may request for additional information from the tax payer.

XVII. Clause 14 proposes to amend the First Schedule of the Principal Act to introduce the African Export – Import Bank and the International and Union for Conservation of Nature in the First Schedule to the Income Tax Act.

African Export – Import Bank **(AFREXIMBANK)**
AFREXIMBANK is an international organization whose host agreement with GOU entitles it to exemption.

International and Union for Conservation of Nature
is an international organisation whose members are by agreement obliged to provide it with exemption and Uganda is a member.

XVIII. Clause 15 proposes to amend the Third Schedule of the Principal Act to increase the rental income tax rate from 20% to 30%.

This proposal is consequential to the increase in the cap on deductions from 20% to 60%.

In addition, this proposal will ensure that there is no revenue loss from the increase in the cap.

XIX. Clause 16 proposes to amend the Sixth Schedule of the Principal Act to provide for three classes for purposes of depreciation.

This proposal will make the depreciation allowance regime for assets less generous, by reducing the rate of depreciation of class 2 and class 3 assets other than plant and machinery used in farming, manufacturing and mining.

This will increase chargeable income and tax payable for the first year of income in which the depreciable assets are first used. Additionally it is a consequential amendment.

5.0 COMMITTEE RECOMMENDATIONS

I. The Committee recommends that Government considers review of tax legislation from annually to at least three

II. The Committee recommends that Government undertake a study of the tax exemption proposals with the objective to establish a criteria in which both international and local companies will be considered to qualify for tax exemptions.

III. The Committee recommends that the Income Tax (Amendment) Bill, 2021 be passed into law with the subsequent amendments.

INCOME TAX (AMENDMENT) BILL, 2021

Clause 2: Amendment of Income Tax Act

Clause 2 is amended by substituting for paragraph (a), the following-

"(a) by substituting for the definition of beneficial owner" the following-

(ea) beneficial owner-

(a) means a natural person who has final ownership or control of another person or a natural person on whose behalf a transaction is conducted, and includes a natural person who exercises absolute control over a legal person."

Justification

To remove the ambiguity brought about by the distinction in the definition of reference to natural and legal person.

Clause 3: Amendment of section 5 of principal Act

Delete clause 3

Justification

The proposal is contrary to the accounting principles and is bound to present administrative difficulties since tax payers shall have to develop policies for apportioning common expenses to each property.

Clause 4: Amendment of section 21 of principal Act

Clause 4 is amended by deleting paragraph (c)

Justification

There is need to further study the various tax exemptions/incentives to be given to various investors to achieve certainty and predictability in doing business

Clause 12: Amendment of section 113 of principal Act

Clause 12 is amended by adding a new sub section (4c) immediately after the proposed subsection (4b)

(4c). Notwithstanding subsection (4), a refund shall be paid by the Commissioner to a taxpayer within a period of six months from the date on which the application by the tax payer is received by the Commissioner.

Clause 13: Amendment of section 118B of principal Act

Delete clause 13

Justification

The provision gives the Commissioner wide discretion to decide on whom withholding tax may not apply.

A REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE INCOME TAX (AMENDMENT) BILL, 2021

No	NAME	SIGNATURE
1	**Hon. Musasizi Henry, C/P**	
2	**Hon. Avur Jane Pacuto,D/CP**	
3	Hon. Lugoloobi Amos	
4	Hon. Asiku Elly Elias	
5	Hon. Bategeka Lawrence N	
6.	Hon. Abala David	
7	Hon. Katoto Hatwib	
8	Hon. Opolot Isiagi Patrick	
9	Hon. Tumuramye Genensio	
10	Hon. Stella Kiiza	
11	Hon. Ilukor Charles	
12	Hon. Lokii John Baptist	
13	Hon. Walyomu Muwanika Moses	
14	Hon. Mulindwa Isaac Ssozi	
15	Hon. Odur Jack Lutanywa	
16	Hon. Achia Remigio	
17	Hon. Mukula Francis	
18	Hon. Kakooza James	
19	Hon. Migadde Robert	
20	Hon. Nathan Nandala-Mafabi	
21	Hon. Akol Anthony	
22	Hon. Mukoda Julie Zabwe	
23	Hon. LuttamaguziSemakula	
24	Hon. Akello Judith Franca	
25	Hon. Ochan Patrick	
26	Hon. Syda Bbumba	

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PARLIAMENT OF UGANDA

MINORITY REPORT ON THE INCOME TAX (AMENDMENT) BILL, 2021

APRIL 2021

1.0 INTRODUCTION

The Income Tax (Amendment) Bill, 2021 was tabled in Parliament on 1st April, 2021 and referred to the Parliamentary Committee on Finance, Planning and Economic Development in accordance with Rule 128 of the Parliamentary Rules of Procedure.

2.0 OBJECT OF THE BILL

The Object of the Bill is to amend The object of the Bill is to amend the Income Tax Act, Cap 340 to redefine "beneficial owner"; to revise the tax rate applicable to individuals and companies for purposes of rental income; to provide for a formula for deductible expenses on rental income; to provide for incentives to manufacturers; to define the date for submitting applications for tax refund; to provide for the due date of payment of income tax; to discontinue the concurrent deduction of initial allowance and deductions on depreciation of assets.

3.0 THE GIST OF THE MINORITY REPORT

1. Clause 5 proposes to amend section 22(1)(c) of the principle Act to provide a cap of sixty percent on allowable deductions in case of rental income as expenditure and losses incurred by a person in the production of such income.

Observation

Housing is one of Sustainable Development Goals 2 which recognizes the need to make cities and human settlements inclusive, safe, resilient and sustainable.

"By 2030, ensure access for all to adequate safe and affordable housing, basic services and upgrade of slums. Integrated housing frameworks support economic, social and environmental policy planning and infrastructure linkages across the urban-rural ecosystem and building increased resiliency"

Uganda has a housing deficit of 2.4 million and 2.1million according to UN Habitat and Uganda Bureau of Statistics respectively. About 60% of the population do not have access to adequate housing with about 12 million people having no place to call home while 24 million are living in substandard homes.

Mortgage facilities in Uganda range between 15% to 22% interest rates while the payback period for real estate ranges between 15 to 25 years. Its important to note that commercial banks are among the Top 50 tax payers in Uganda and this placement is highly attributed to mortgage with the other accolades going to Building construction materials manufacturing and utility companies as shown in the table below;

Rank	Company	Tax
5.	Stanbic Bank	102 billion
6.	Tororo cement	82 billion
10.	Umeme limited	66 billion
12.	Centenary Bank	61 billion
14.	Standard Chartered Bank	56 billion
15.	Hima cement	54 billion
23.	National water & sewage co	37 billion
25.	Baclays Bank	30 billion
25.	DFCU	27 billion
41.	Roofings Ltd	14 billion
42.	Sadolin paints	11 billion
43.	Roofing rolling	10 billion
44.	Uganda clays ltd	5 billion

Implication of the proposed tax

a) Scale down construction and thus indirect tax from the above
b) Increase rental rates
c) Development of slums
d) Disposal of mortgaged properties by banks

Our recommendations;

We propose amendment of section 22(1)(c) of the principle Act to provide a cap of 75 percent on allowable deductions in case of rental income as expenditure and losses incurred by a person in the production of such income against the committee and Government proposal of sixty percent to incentivize the construction sector.

MINORITY REPORT ON THE INCOME TAX (AMENDMENT) BILL, 2021

NO.	NAME	CONSTITUENCY	SIGNATURE
1.	Migadde Robert Ndugwa	Buvuma Islands	[signature]
2.	Kagoro Hatibu	Kitgum County	[signature]
3.	Kaboyo James	Kabula	[signature]
4.	Wafyomu Muwanika Moses	Kagoma County	[signature]
5.			
6.			
7.			