

REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE TAX PROCEDURE CODE (AMENDMENT) BILL, 2023

1.0 Introduction

The Tax Procedure Code (Amendment) Bill, 2023 was presented for the first time on Thursday 30th March, 2023, presented for First Reading and referred to the Committee on Finance, Planning and Economic Development for further scrutiny.

Rt. Hon. Speaker and Colleagues, the Committee considered the Bill through consultations with different stakeholders, hence this report.

2.0 Object of the Bill

The object of this Bill is to amend the Tax Procedures Code Act, 2014 to provide for a penalty for the unauthorised interference or tampering with a digital tax stamps machine; to cap the recovery of interest on unpaid tax; to provide for the repeal of section 40A; to provide for a penalty for fixing and activating a tax stamp on a wrong product, brand or volume; and for related matters.

3.0 Methodology

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

- i) Minister of Finance, Planning and Economic Development.
- ii) The Attorney General.
- iii) Uganda Revenue Authority.
- iv) Grant Thornton
- v) Southern and Eastern Africa Trade Information and Negotiations Institution (SEATINI-Uganda)
- vi) Uganda Manufacturers Association.

4.0 Stakeholders' Views, Observations and Recommendations

4.1 Notice to obtain information or evidence

MFPED submitted that a tax payer should not be allowed to provide information at objection to a tax decision or during alternative dispute resolution procedure proceedings where they fail despite a notice being issued, where that information was requested for and not provided during tax audit.

Currently taxpayers are under no obligation to provide all required information to tax auditors at the audit stage. This causes delays in completing tax audits,

The bottom of the page contains several handwritten signatures and initials. On the left, there is a large, stylized signature. To its right, there are several smaller signatures and initials, some of which appear to be crossed out or written over. The signatures are in black ink and vary in style, including some that look like 'J...', 'W...', and 'D...'. There are also some initials that look like 'M...' and 'S...'. The overall appearance is that of a collection of personal or official marks.

affects quality of audit assessments, causes delays in collection of due taxes, turns objection and appeals procedure into an audit function as the objections officer would be required to review fresh information presented during objections hearings, and delays cases in court. Furthermore, there is a risk that the information provided at later stages is not authentic. The measure is therefore mitigating these risks, and will reduce both administrative and compliance costs.

The Committee observed that the principles of natural justice and fair hearing cannot allow for denial of presentation of evidence. In order to avoid delay in completing tax audits, URA should apply other measures including digitalization of its processes and legal compliance department in order to strengthen its audit function of tax administration.

Recommendation

The Committee recommends that the proposal to prohibit the availing of evidence at objection to a tax decision or during alternative dispute resolution procedure proceedings be rejected.

4.2 Tampering with digital tax stamps machines

MFPE informed the Committee that this proposal is justified by the fact that there have been instances where manufacturers of gazetted products are implicated in damaging DTS machines in an attempt to stop monitoring production. The purpose of the measure is therefore to protect the integrity of the DTS system.

The Committee welcomed the proposal and observed that the penalty being imposed is not deterrent enough. They proposed that the penalty is increased from one thousand five hundred currency points to five thousand currency points.

Recommendation

The Committee recommends that the proposal is maintained, and the penalty for tampering with digital stamps increased from one thousand five hundred currency points to five thousand currency points.

Handwritten mark

4.3 Fixing a stamp on a wrong good

MFPE informed the Committee that It is not uncommon to find stamps meant for different products (e.g., bottled water) being placed on different products (e.g., juices), which leads to loss of revenue. For

Handwritten signatures and marks

instance, affixing a stamp for 300mls bottle on a 1-liter bottle of spice gin results in tax loss of 990,000/= per bottle. The challenge is that currently there are no penalties for the taxpayer for wrongful application of stamps on different products.

The purpose of the measure is thus to penalize wrongful affixation of digital stamps.

The Committee welcomed the proposal and observed that the penalty being imposed is not deterrent enough. They proposed that the penalty is increased from five hundred currency points to five thousand currency points, and the term of imprisonment increased from three years to five years.

Recommendation

The Committee recommends that the proposal is maintained, and the penalty for fixing a stamp on wrong good increased from five hundred currency points to five thousand currency points and the term of imprisonment from three years to five years.

4.4 Waiver of interest on payment of principal tax

MFPE submitted that the interest and the penalty of a tax payer, where the tax payer voluntarily pays the principal tax outstanding as at 30th June, 2023, by 31st December, 2023, should be waived by the Commissioner General. The Ministry added that the purpose of the proposal is to limit the waiving of penalty and interest on principal tax arrears to only compliant taxpayers that voluntarily pay their tax arrears. This would encourage compliance and ease the tax burden during this period when the economy is recovering from the effects of COVID. This is more of a tax amnesty cognizant of the effects that COVID 19 had on businesses.

PWC noted that there have been challenges with the implementation of Section 40C of the principal Act which also provides for waiver of principal and penalty. They noted that in practice, URA's e-system currently applies Section 40C together with Section 38 which essentially compounds the outstanding principal as inclusive of any interest and penalty outstanding. They therefore noted that the proposed amendment should be introduced along with clear and practical implementation guidelines.

A collection of handwritten signatures and scribbles in black ink, scattered across the bottom half of the page. Some are clearly legible, while others are more abstract marks.

The Committee observed that Section 38 of the principal Act provides for priority of withholding Tax and Vat by a taxable person. However, the provision does not clarify that the principal, interest and payment shall be paid on a prorated basis. There is therefore need to amend the principal Act to clarify the same.

The Committee further observed that Section 40D of the Bill extends the waiver of penalty and interest for a taxable person who pays the principal due by 31st December 2023. The Committee proposes that the waiver be extended to 31st March, 2024.

Recommendation

The Committee recommends that

- i. Section 38 of the principal act be amended to ensure that any interest and penalty outstanding as at 30th June 2023 is waived where the taxpayer pays all the outstanding principal tax by 31st December 2023;**
- ii. For avoidance of any doubt, any payment in tax should be applied to principal first until it is extinguished before interest and waiver are compounded to the outstanding principal;**

4.5 Remission of Tax

MFPED proposed a repeal of the entirety of Section 40 of the principal Act, which provides that where the Commissioner is of the opinion that the whole or any part of the tax payable under a tax law by a taxpayer cannot be effectively recovered by reason of hardship, impossibility, undue difficulty or the excessive cost of recovery, the Commissioner may refer the taxpayer's case to the Minister, who may remit in whole or part the tax payable by the taxpayer.

MFPED justified the above proposal noting that the provision as it stands is subject to abuse as it is a discretionary power of the Minister.

The Committee observed that the Minister's powers should be subject to Parliamentary checks and balances, thus requiring approval from Parliament before such remission is executed by the Minister.

Recommendation

The Committee recommends that Section 40 of the principal Act be amended to provide for Parliamentary approval before such remission of a tax by a Minister is undertaken.

AS

PROPOSED AMENDMENTS TO THE TAX PROCEDURE CODE (AMENDMENT) BILL, 2023

Clause 3: Amendment of Tax Procedure Code Act, 2014

Clause 3 is substituted with the following-

“(6a) A person who makes an unauthorised interference to or tampers with a digital tax stamps machine commits an offence and is liable on conviction, to pay the amount of tax lost as a result of the tampering and a fine not exceeding five thousand currency points or imprisonment not exceeding ten years”.

Justification

To increase the penalty for the offence of tampering with digital tax stamps machines and to recover any loss of tax that may have been occasioned as a result of the tampering.

Insertion of new clause

The Bill is amended by inserting a new clause immediately after clause 3 to read as follows-

“Amendment of section 38 of principal Act

Section 38 of the principal Act is amended-

(a) in subsection (1)(a) by inserting the words “outstanding at the date of payment” immediately after the word “tax”; and

(b) By inserting a new sub clause immediately after subsection (2) the following-

“(3) For the avoidance of doubt, any payment by a taxpayer shall be applied to the principal tax first, until it is fully paid up.”

Justification

To clarify that priority of payment is given first to the principal amount outstanding at the date of payment.

Handwritten signatures and initials at the bottom of the page. From left to right: a large signature, a signature with the word 'Keerthi' written above it and a small '1' below it, and a signature with the word 'NS' written above it.

Clause 4: Amendment of section 39 of principal Act

Delete clause 4

Justification

Clause 4 contradicts clause 5 which grants a total waiver of interest and penalty outstanding as at 30th June 2023 where a taxpayer pays by the 31st of December 2023.

Insertion of new clause in the Bill

The Bill is amended by inserting a new clause to read as follows-

"Amendment of section 40 of principal Act.

Section 40 of the principal Act is amended by substituting for subsection (2) the following-

"(2) Where a tax payer's case is referred to the Minister under subsection (1) and the Minister is satisfied that the tax due cannot be effectively recovered, the Minister shall, with the approval of Parliament, remit in whole or part of the tax payable by the tax payer""

Clause 5: Amendment of section 40D to principal Act

Clause 5 is substituted with the following-

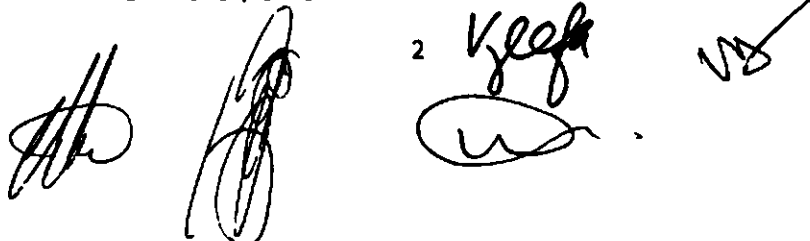
"40D: Waiver of interest and penalty on payment of principal tax

(1) "any interest and penalty outstanding as at 30th June 2023 shall be waived where the tax payer pays the principal tax by the 31st December 2023.

(2) where the tax payer pays part of the principal tax outstanding as at 30th June 2023 by the 31st December 2023, the payment of interest and penalty shall be waived on a pro-rata basis."

Justification

1. To remove the powers to waive tax on interest and penalty from the commissioner General; and

The image shows four handwritten signatures or initials. From left to right: a stylized signature, a signature with a large loop, a signature with the number '2' above it, and a signature with the number '10' above it.

2. To increase the time frame within which the principal tax is to be paid.

Clause 6: Amendment of section 42 of principal Act

Clause 6 is amended-

- a) By substituting for the figure (4) with (3a);
- b) By inserting immediately after (3a) the following-

"(3b) subsection (3a) shall not apply to the information requested by the Commissioner where the information is more than three years from the date the document was authored or for the past three financial years."

Justification

To create an exception where the taxpayer may be allowed to adduce evidence at the point of objection.

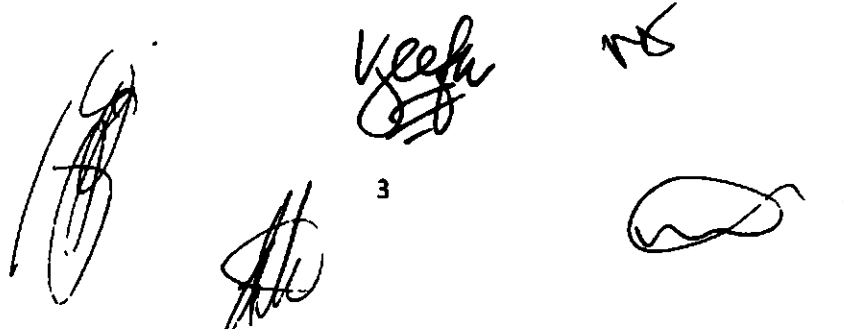
Clause 7: Insertion of section 62H of principal Act

Clause 7 is amended-

- (a) by re numbering the proposed section as 62 I
- (b) by substituting for the word "hundred" the word "thousand"
- (c) by substituting for the word "three" the word "ten"

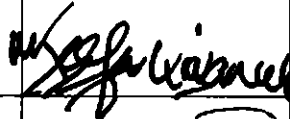



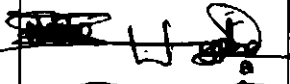
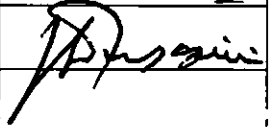


Justification


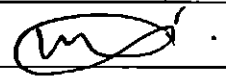
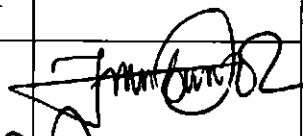
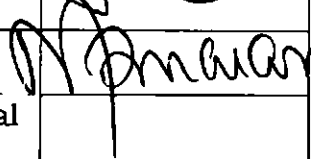
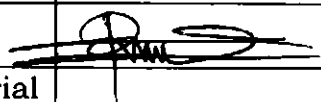
- 1) The correct typing error and give it the right reference; and
- 2) To make the punishment more deterrent.



Handwritten signatures and initials at the bottom of the page. From left to right: a large, stylized signature; a smaller signature; the word "Keep" written above a signature; the number "3" written below the signature; the initials "MS"; and a large, stylized signature.

MEMBERS OF THE COMMITTEE FINANCE, PLANNING AND ECONOMIC DEVELOPMENT; THE TAX PROCEDURE CODE (AMENDMENT) BILL OF 2023

| NO | NAME | CONSTITUENCY | SIGNATURE |
|-----------|--------------------------------|--------------------------|---------------------------------------------------------------------------------------|
| 1 | Dr. Keefa Kiwanuka C/P | Kiboga East County |  |
| 2 | Hon. Avur Jane Pacuto D/CP | DWR Pakwach |  |
| 3 | Hon. Wamakuyu Ignatious Mudimi | Elgon County | |
| 4 | Hon. Kankunda Amos Kibwika | Rwampara County | |
| 5 | Hon. Atima Jackson | Arua Central |  |
| 6 | Hon. Bataringaya Basil | Kashari North County | |
| 7 | Hon. Asimwe K Enosi | Kabula County | |
| 8 | Hon. Aleper Moses | Chekwii County |  |
| 9 | Hon. Ssejoba Isaac | Bukoto CountyMid West |  |
| 10 | Hon. Tayebwa Herbert Musasizi | Kashongi County |  |
| 11 | Hon. Lematia John | Ayivu West County | |
| 12 | Hon. Kyooma Xavier Akampurira | Ibanda County North | |
| 13 | Hon. Nakut Faith Loru | DWR Napak | |
| 14 | Hon. Nangoli Gerald | Elgon North County | |
| 15 | Hon. Katali Loy | DWR Jinja | |
| 16 | Hon. Ochai Maximus | West Budama County North |  |
| 17 | Hon. Opolot Patrick Isiagi | Kachumbala County | |
| 18 | Hon. Wanda Richard | Bungokho Central |  |

| | | | |
|----|-------------------------------|----------------------------|---------------------------------------------------------------------------------------|
| 19 | Hon. Okwir Samuel | Moroto County |  |
| 20 | Hon. Nabukeera Hanifa | DWR Mukono |  |
| 21 | Hon. Muwanga Kivumbi | Butambala County | |
| 22 | Hon. Ssenyonyi Joel | Nakawa West | |
| 23 | Hon. Nandala Mafabi | Budadiri West County | |
| 24 | Hon. Kalule Flavia | Jinja West County | |
| 25 | Hon. Akol Anthony | Kilak North | |
| 26 | Hon. Luttamaguzu Semakula P.K | Nakaseke South | |
| 27 | Hon. Ocan Patrick | Apac Municipality |  |
| 28 | Hon. Omara Paul | Otuke County |  |
| 29 | Hon. Muhammad Nsereko | Kampala Central Division | |
| 30 | Hon. Aciro Paska Menya | DWR Pader |  |
| 31 | Hon. Masaba Karim | Mbale, Industrial Division | |