

OFFICE OF THE CLERK TO PARLIAMENT
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REPUBLIC OF UGANDA



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**REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND
ECONOMIC DEVELOPMENT ON THE INCOME TAX (AMENDMENT) BILL
2024**

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1.0 Introduction

The Income Tax (Amendment) Bill, 2024 was, at the 18th Sitting of the 3rd Meeting of the 3rd Session of the 11th Parliament of Uganda held on Thursday 28th March, 2024, presented for First Reading and referred to the Committee on Finance, Planning and Economic Development for further scrutiny.

Rt. Hon. Speaker, the Committee considered the Bill through consultations with different stakeholders, and hereby reports.

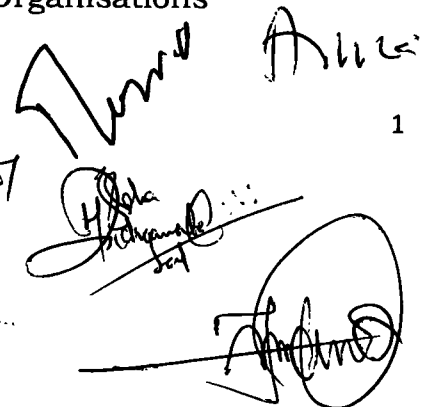
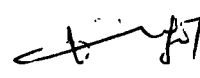
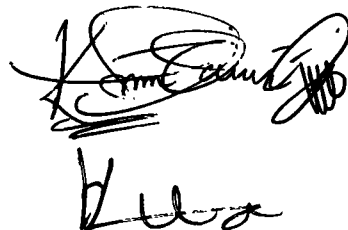
2.0 Object of the Bill

The object of this Bill is to amend the Income Tax Act, Cap. 340; to expand the definition of the retirement fund; to impose a tax on the disposal of non-business assets; to exempt income derived from or by private equity or venture capital fund, the manufacture of electric vehicle and electric vehicle charging equipment, operation of a specialised hospital facility; to replace reference to a branch with permanent establishment for purposes of international taxation; to provide for withholding tax on commission paid to a payment service provider; to amend the First Schedule to provide for African Reinsurance Corporation (Africa Re), International Regulatory Board of the East African Power Pool and Islamic Cooperation for the Development of the Private Sector as listed institutions 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) Uganda Law Society
- v) Southern and Eastern Africa Trade Information and Negotiations Institution (SEATINI-Uganda)
- vi) Private Sector Foundation Uganda
- vii) Uganda Manufacturers Association and its Member Organisations
- viii) Price Waterhouse Coopers
- ix) Uganda Bankers Association



- x) Institute of Certified Public Accounts of Uganda
- xi) Kampala City Traders Association (KACITA)

4.0 Observations and Recommendations of the Committee

The Committee made the following observations and recommendations based on the Minister's proposals and the stakeholders' views;

4.1 General Observations and Recommendations

i. Revenue and Certificates of Financial Implication

Section 76 (2) of the Public Finance Management Act 2015 (PFMA) requires that the Certificate of Financial Implication of any given Bill should indicate the estimates of revenue and expenditure over a period of not less than two (2) years after coming into effect.

The Committee noted that the Certificate of Financial Implication issued for the Bill was inadequate in as far as detailing the estimates of revenue for the each of the next two (2) financial years.

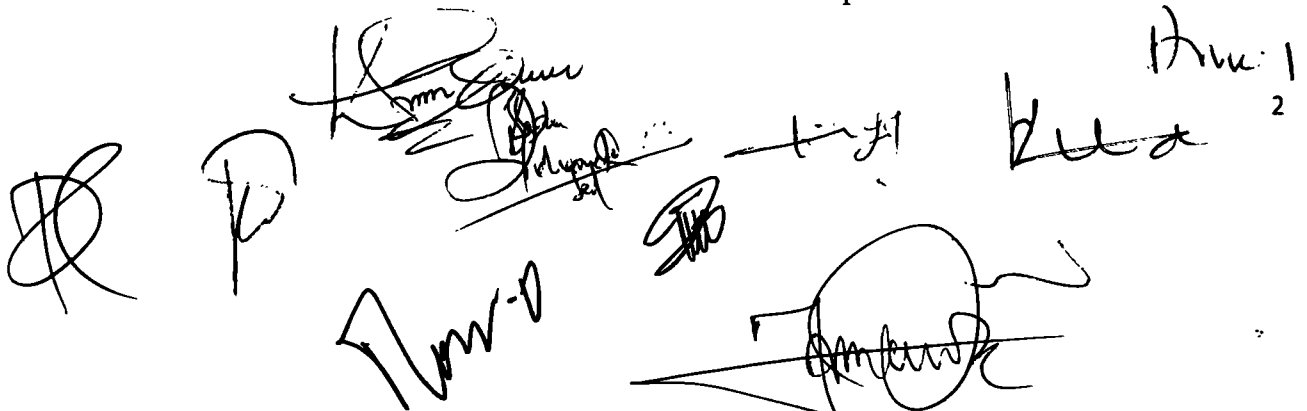
Additionally, the Certificate did not indicate the impact of the Bill on the economy. This is inconsistent with Section 76 (3) of the PFMA. None the less, the certificate of financial implication presented indicated that the revenue projected from the tax amendments is **Uganda Shillings Seventy-Four Billion (UGX 74,000,000,000)**.

ii. Generation of tax proposals

While the Committee received briefs on the proposed tax amendments in the Bill, there were no research reports availed to the Committee. The briefs do not highlight the cost of implementation, the yield in terms of revenue and the general impact on the economy.

The Committee also noted with concern as reported in the Domestic Revenue Mobilization Strategy Annual Monitoring Plan for FY2022/23 that:

- a) Majority of the tax law amendments are not informed by tax related analytical briefs; and
- b) Weak partnerships between the Tax Policy Department in the MFPED and URA. This undermines evidence-based tax development mechanisms.



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The Committee further notes that the Ministry responsible for Finance failed to adhere to a previous recommendation of Parliament while considering Bills for the FY 2023/24 that every Bill should be accompanied by stand-alone evaluation or regulatory impact assessment.

iii. Stability of the tax regime

The Committee observed that the frequent amendment of tax laws has caused challenges to both the tax payer and Uganda Revenue Authority while administering the taxes. The Committee attributed this to the absence of a comprehensive tax policy.

Recommendation

The Committee recommends that the Ministry of Finance establishes a comprehensive taxation policy to address among others, stability of the tax regime.

iv. Silence on new International Tax Measures

The Committee observed that whereas the Minister presented new tax policy measures in the 2024 Tax Bills, with the exception of the levy on petroleum products, there was a notable absence of measures covering international trade taxes. At the same time, the projected tax collections under international taxes was projected to decline slightly, on a year-on-year basis.

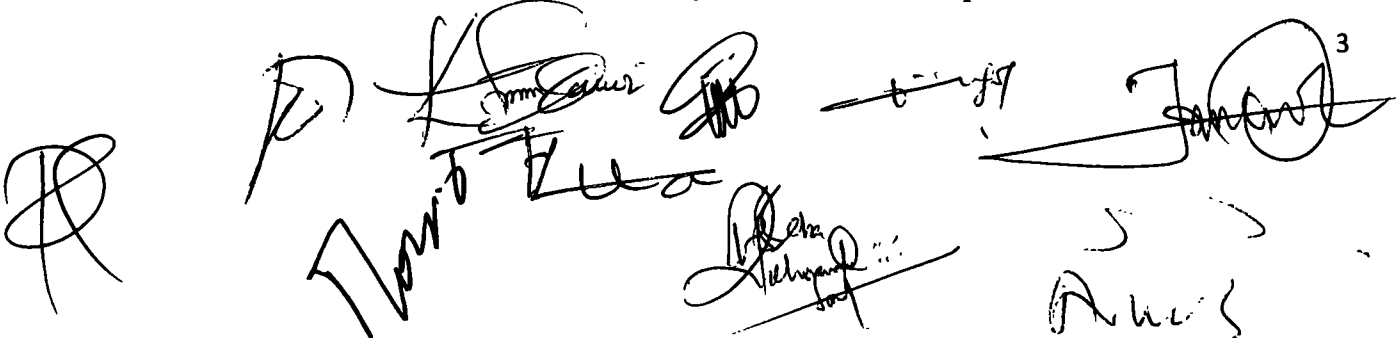
The Committee further established that tax policy on international trade is agreed jointly by a council of East African Community Ministers responsible Finance. Accordingly, Parliament is never given its constitutional duty to scrutinise tax policies under this category.

Committee Recommendation.

The Committee recommends that the Minister should always report to Parliament at the earliest opportunity after the meeting of the EAC Finance Ministers in order to afford the House an opportunity for an input into all new tax measures.

4.2 Clause 2: Amendment of Section 2 of the Act

The proposed amendment seeks to amend section 2(III) which provides for the definition of a “retirement fund” to mean a pension or provident fund established as a permanent fund and maintained solely for either the provision of benefits for

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members of the fund in the event of retirement; or the provision of benefits for dependants of members in the event of the death of the member.

Section 1 of the Uganda Retirement Benefits Regulatory Authority Act defines a “retirement benefits scheme” to mean a legally binding agreement or arrangement other than a contract for life assurance whether established by a written law or by any other instrument , under which members are entitled to benefits in the form of annuity or a lump sum payable upon retirement, or upon death, termination of service or upon the occurrence of an event specified in the written law, agreement or arrangement;

The Committee observed that this amendment is intended to align the definition of a retirement fund in the Income Tax Act with that in the Uganda Retirement Benefits Regulatory Authority Act to include, accessing benefits by members upon the termination of employment with their respective employers. Under the current definition of retirement fund in the Income Tax Act, a pension or provident fund is only intended for the provision of benefits upon a member’s retirement or death.

Recommendation;

The Committee recommends that Clause 2 of the Bill be adopted.

4.3 Clause 3; Insertion of section 5A to the Act

The provision seeks to introduce a tax on disposal of non-business assets at a rate of 5% on the gain upon disposal. Non-business assets for purposes of this section are limited to disposal of shares in a private company, land in cities or municipalities other than the principal place of residence and rental property that is subject to rental tax under Section 5 but does not include an involuntary disposal of non-business assets through auction, court order, mortgages, divorce settlement or spousal separation agreement the transmission of non-business assets of the deceased to a trustee or beneficiary; or arising from the disposal of investment interest of a registered venture capital fund or private equity.

In addition, the Bill proposes additional obligations on the tax payer to pay the tax within fifteen (15) days after the disposal or transfer of the non-business asset, and also requires a tax payer to notify the Commissioner General in writing within fifteen (15) days from the date of disposal.

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The Committee noted that the Hon. Minister responsible for Finance withdrew the proposals providing for the disposal of shares of a private company from constituting non-business assets and the involuntary disposal of non-business assets through auction and mortgages.

The Committee further noted there are a number of arguments in support of comprehensive taxation of capital gains.

First, on equity grounds, a capital gain represents an increase in wealth to the same extent as income from all factors of production i.e. labour, property, or business. On grounds of horizontal equity, individuals in the same economic circumstances should bear the same tax burden, irrespective of the form of the income or gains derived. Therefore, taxpayers should bear similar tax burdens, irrespective of whether their income is received in the form of wages, interest income, or capital gains. In this context, partial taxation, or the exclusion of capital gains from the income tax base, fundamentally undermines the horizontal equity of the tax system, particularly as high wealth individuals are more likely to derive capital gains. For example, a high wealth individual can structure their affairs to primarily derive capital gains on which no tax is payable. An individual deriving a similar amount as income is fully taxed on the income.

On grounds of vertical equity, taxpayers with higher incomes should bear a greater tax burden. International experience also indicates that the biggest share of Capital Gains Tax revenues can be attributed to the wealthiest individuals. Hence, taxing capital gains contributes to the progressivity of the income tax system.

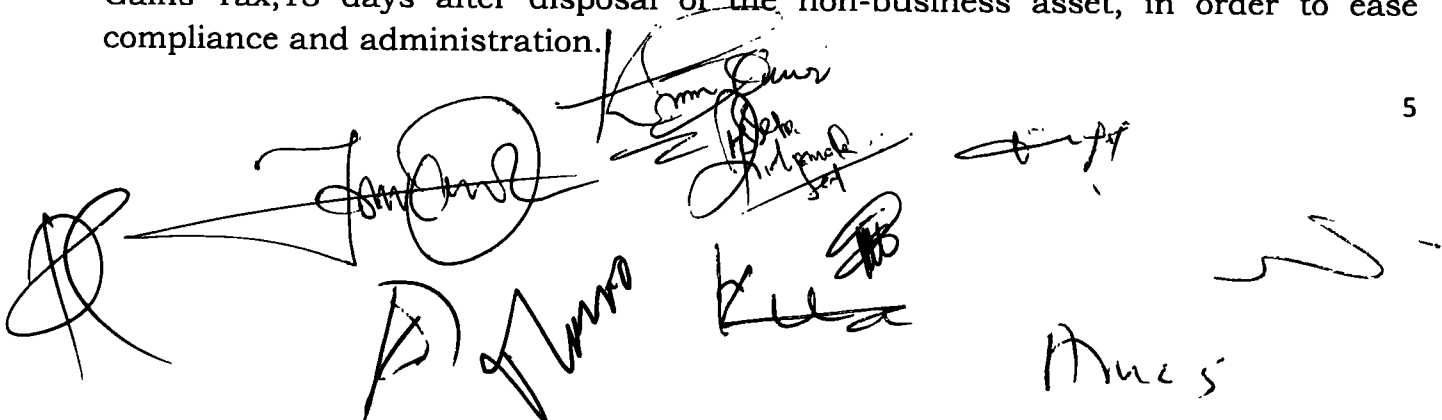
Therefore, the absence of a comprehensive Capital Gains Tax encourages tax planning through the structuring of transactions to derive tax-free capital gains rather than income.

The scope for this Capital Gains Tax

The proposal intends to expand Capital Gains Tax to cover sales of the following:

- a) Shares of a private company;
- b) Land in cities, and municipalities; and
- c) Rental property

The second aspect of this reform is to impose a due date for payment of this Capital Gains Tax; 15 days after disposal of the non-business asset, in order to ease compliance and administration.



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The third aspect of this reform is, to oblige the buyer of the liable asset to notify the Commissioner General immediately after the transaction has taken place or else they are liable to pay both the tax liability and penalty.

The Committee observed that the taxation of capital gains is already catered for under Section 21 of the Income Tax Act.

In addition, the Committee observed that the proposal for the expansion of the scope of capital gains tax to include land in cities and municipalities does not fall within the principles of vertical or horizontal equity in taxation and as such should not stand part of the Bill.

The Committee further observed the difference between the cost of administration of the tax and expected revenue was not so significant to warrant the proposal in its current form.

Committee Recommendation

The Committee recommends that Clause 3 of the Bill should be rejected.

4.4 Clause 4 and 5: Amendment of Section 21 of the Act

Section 21 of the Act provides for categories of exempt income. The proposal seeks to include the following new exemptions under Section 21 of the Act;

- a) Income derived from or by private equity or venture capital fund regulated under the Capital Markets Authority Act, Cap. 84;
- b) Disposal of government securities;
- c) manufactures of electric vehicle, electric battery or electric vehicle charging equipment or fabricates the frame and body of an electric vehicle; and
- d) Specialised hospital facilities.

The Committee observed that the proposed amendment is intended to attract investment in the provision of specialized medical services. This is expected to support potential investors in specialized hospital facilities by reducing on the burden of borrowing and profitability. The proposal has the potential to promote the development of specialized services in Uganda which will reduce medical tourism and support tourism in Uganda from patients coming from neighbouring countries.

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Recommendation

The Committee recommends that;

- i. Clause 4 of the Bill be passed;**
- ii. Section 2 of the Act be amended to define a specialised hospital facility as “a hospital facility that is established to diagnose, treat, and manage complex medical conditions in a specific area of medicine.”**
- iii. Section 2 of the Act be amended to define “complex medical conditions”**

4.5 Clauses 6, 7, 8 and 9: Insertion of Section 78A and 78B and Amendment of Sections 79 and 83 of the Act

Clause 6 and 7 seek to introduce new provisions Sections 78A and 78B to provide for permanent establishment and calculation of chargeable income of permanent establishment. The amendment further seeks to broaden the category of pension or annuity that constitutes income derived from sources in Uganda to include the annuity paid by a permanent establishment.

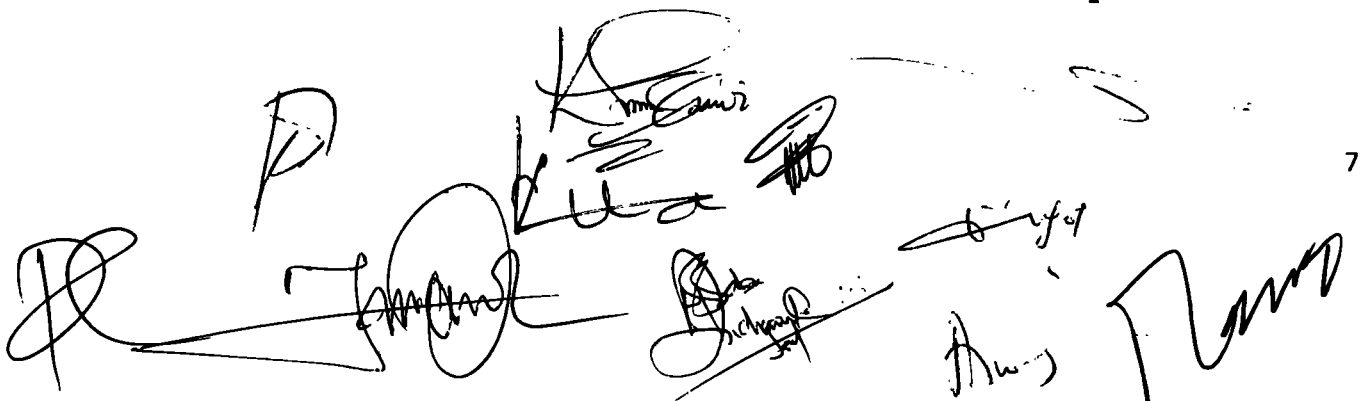
The Committee observed that the proposal seeks to align the definition of “branch” to the definition of a Permanent Establishment under the UN Model Double Taxation Agreement and Uganda’s Double Taxation Agreements.

The concept of “permanent establishment” is used to determine the right of a State to tax the profits of an enterprise of the other State. Specifically, the profits of an enterprise of one State are taxable in the other State only if the enterprise maintains a permanent establishment in the latter State and only to the extent that the profits are attributable to the permanent establishment.

The Committee further observed that the proposals expand the tax base by imposing a tax at a rate of 15% on every non-resident deriving an annuity from sources in Uganda. It is aligned with proposed tax on annuities to be paid by permanent establishment under the proposed sections 78A and 78B and therefore a consequential amendment.

Recommendation

The Committee recommends that Clauses 6, 7, 8 and 9 stand part of the Bill.



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4.6 Clause 9; Amendment of Section 83(5): Interest on debentures

Section 83 provides for tax on international payments and it inter alia, imposes a tax on every non-resident person who derives any dividend, interest, royalty, rent, natural resource payment, or management charge from sources in Uganda.

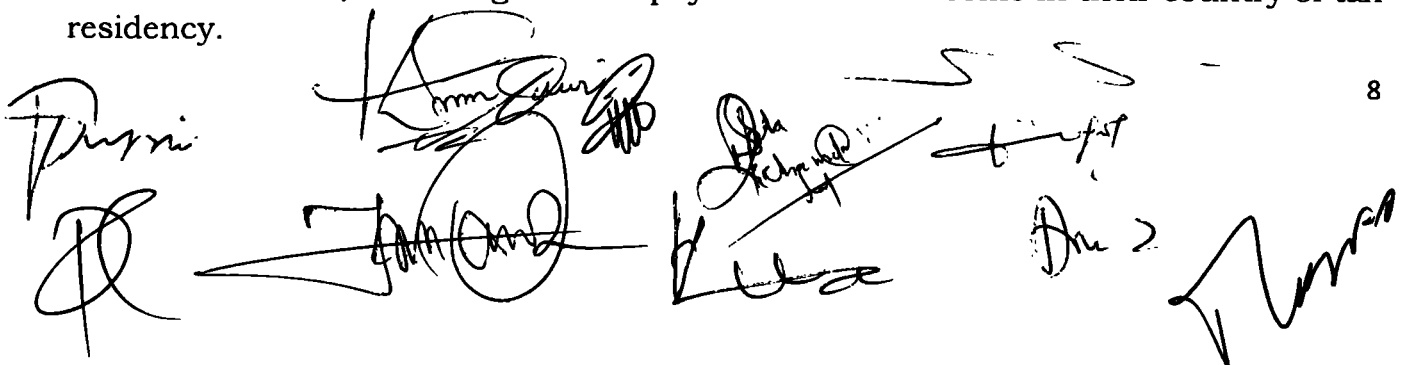
The proposed amendment in Clause 9(a) aims to expand the scope of taxation under Section 83(1) of the principal Act to include annuities derived by non-resident persons. This amendment is intended to update the international taxation rules in the Income Tax Act to align with international best practices. It is, therefore, a consequential amendment arising from the amendment of section 78 and introduction of clauses 78A and 78(B) in line with the Uganda Double Taxation Agreements Policy, and the EAC Model Double Tax Treaty Policy, and specifically article 5 of the United Nations Model Tax Convention, Uganda's Model and the EAC Model Tax Treaty.

Clause 9(b) seeks to amend Section 83 of the principal Act by providing that the interest paid by a resident person in respect of debentures is subject to tax at a rate prescribed in Part IV of the Third Schedule where the following conditions are satisfied- the interest is paid by a resident person to a financial institution; the financial institution referred to in (a) is unrelated to, and dealing wholly independently with, the resident person that is the borrower; and the interest is not paid as part of an arrangement involving a back-to-back loan or other arrangement that is economically equivalent and intended to have a similar effect to a back-to-back loan. The objective of this amendment is to reduce the cost of Government borrowing.

According to the third schedule, the withholding rate for interest payment by resident persons in respect to debentures is 2% of the interest paid. The provision however exempts interest paid by Government to a non-resident person in respect to debentures.

The Committee observed that the objective of the amendment is to mitigate revenue leakages arising from the taxation of Uganda-sourced interest income in other jurisdictions while the interest income is tax-exempt in Uganda. Under the United Nations Model Tax Convention, Uganda's Model, and the EAC Model Tax Treaty, best practice is an exemption of Government borrowing.

Currently, an exemption from Withholding Tax results in loss of revenue in Uganda to the extent that, the foreign lender pays tax on this income in their country of tax residency.



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To prevent this transfer of revenue to other jurisdictions, Uganda would have to exercise its right to tax the interest income, as a source jurisdiction, at the same rate as the foreign jurisdiction. Since it is difficult to determine the applicable tax treatment in the lender's country of residence, the Committee proposes to tax the interest income at a low rate. The proposed rate at which all interest income would be taxed is prescribed in Part IV of the Third Schedule

The Committee was informed that non-resident financial institutions were taking advantage of the Ugandan tax policy under section 83 of the Act.

Under the principle of worldwide taxation, whereas Uganda exempts the interest on borrowing, other countries still demand for that tax which simply amounts to the transfer of revenue which is sourced in Uganda. The proposed amendment implies that the tax, which was not being collected initially by the Ugandan Government, shall now be collected. This proposal is in line with global taxation principles.

Recommendation

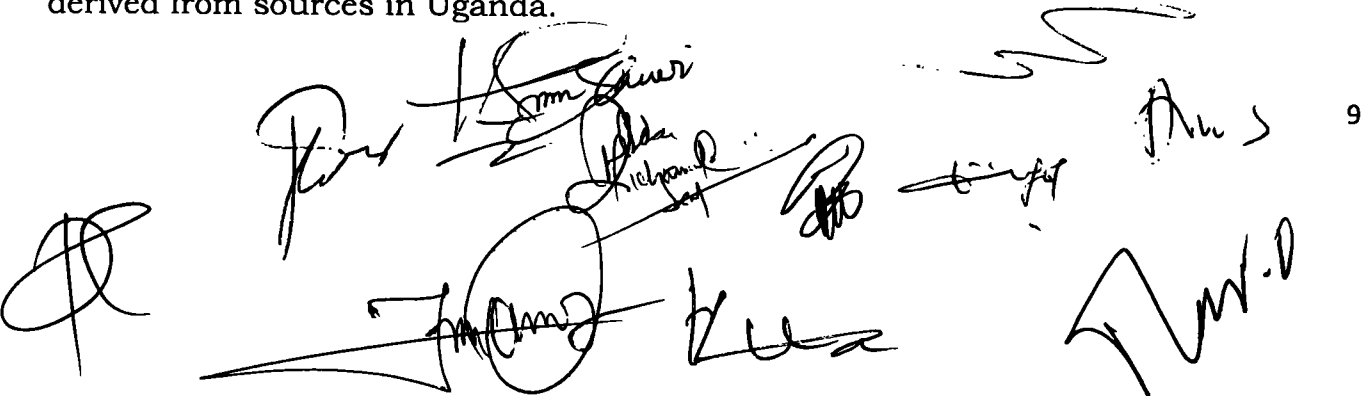
The Committee recommends that the proposed amendment stand part of the Bill to facilitate compliance with best international practice, ease government borrowing, and facilitate revenue collection of gains made in Uganda.

4.7 Clauses 10 and 11; Amendment of section 85 and Part IX of the Act

Section 85 of the Act provides for tax on payments to non-resident contractors or professionals. The proposed amendment provides for an exemption to an amount attributable to the activities of a permanent establishment of the non-resident in Uganda.

The Committee observed that the proposal aligns the provision related to non-resident service contracts to the definition of permanent establishment under Section 78A.

The proposed amendment excludes an amount attributable to the activities of a permanent establishment of the non-resident in Uganda sourced in Uganda from being subject to gross taxation as the permanent establishment shall be treated and charged to tax in the terms provided by Section 17 of the Act. Section 17(2)(b) provides that the gross income of a non-resident persons includes only income derived from sources in Uganda.



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Clause 11 is a general consequential amendment replacing the word branch with permanent establishment throughout the Act.

Recommendation

The Committee recommends that Clauses 10 and 11 stand part of the Bill.

4.8 Clause 12; Amendment of Section 90 of the Act

Section 90 of the Act provides for transactions between associates. The Act defines associates to mean any person, not being an employee, acting in accordance with the directions, requests, suggestions or wishes of another person, whether or not they are in a business relationship, and whether those directions, requests, suggestions or wishes are communicated to the first mentioned person, both persons are treated as associates of each other.

The Committee observed that the amendment is intended to enhance tax administration under the category of business between associates. More specifically, the proposed amendment will create a requirement for all persons who are part of Multinational Enterprises to submit information on associate dealings at the time of submitting their self-assessed returns. The reporting format will be prescribed by the Commissioner and shall include information such as the nature of transactions, the country of residence of the associates, the amount involved and the transfer pricing method adopted, among others.

This amendment is also intended to enhance the tax compliance of Multinational Enterprises to whom Sections 90 and 89 I of the Income Tax Act apply by requiring them to file their transfer pricing documentation at the time of filing their returns to allow tax administrators to verify which transactions were at arm's length, conduct quick risk profiling and in-time transfer pricing reviews.

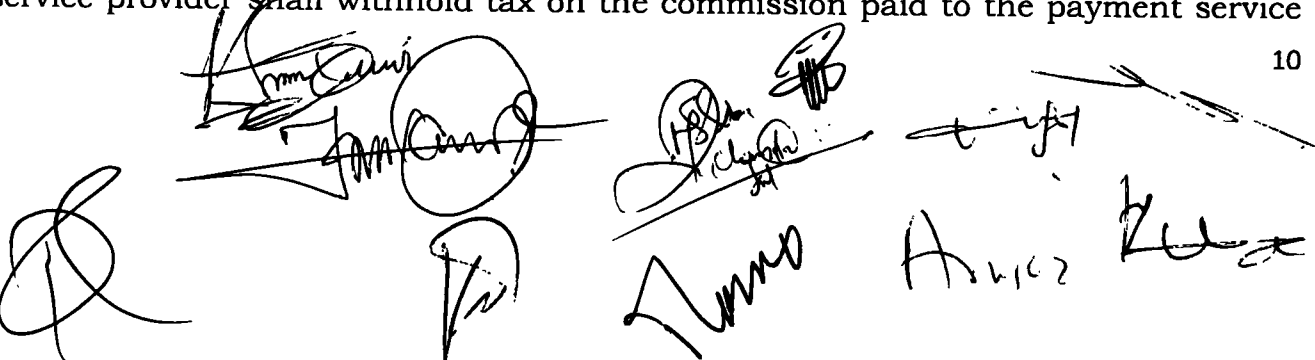
Recommendation

The Committee recommends that Clause 12 stands part of the Bill

4.9 Clause 13; Insertion of Section 118 I of the Act

The proposed amendment introduces a new provision to provide for withholding tax paid to payment services providers.

The provision is to the effect that a person who pays a commission to a payment service provider shall withhold tax on the commission paid to the payment service

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provider at the rate prescribed in Part XVI of Third Schedule. This section shall apply to commission paid to banking agents or any other agent offering financial services. The payment service agents will be expected to file tax returns annually, with a credit allowed for the 10% advance tax withheld.

The Committee observed that the purpose of this amendment is to bring payment service providers within the scope of Withholding tax regulations. Currently there is no Withholding tax on commissions paid to payment service providers. This amendment aims to broaden the tax base, enhance tax compliance and revenue collection.

The Committee further observed that the proposed amendment would be an unfair punishment on tax payers who are forced to take on the role of tax administrators on behalf of Uganda Revenue Authority.

Recommendation

The Committee recommends that Clause 13 stand part of the Bill.

4.10 Clause 14; Amendment of the First Schedule to the Act

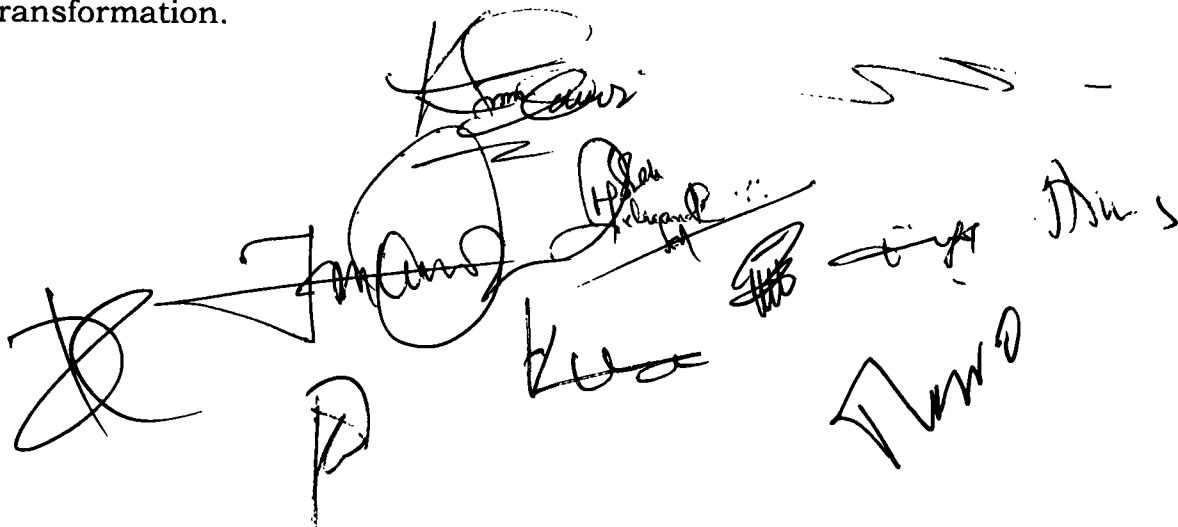
The First Schedule of the Act provides for listed institutions. The proposed amendment seeks to add on the listed institutions exempted under Section 21 which provides for exempt income, and these are the following;

- African Re Insurance Corporation (Africa Re);
- International Regulatory Board of the East African Power Pool; and
- Islamic Cooperation for the Development of the Private Sector.

The Committee observed that the proposed amendment exempts the income tax liability of the three institutions under Section 21 of the Act. The purpose of the proposed amendments is;

a) African Reinsurance Corporation (Africa Re);

To incentivize the development of the insurance and reinsurance industry in Africa, to promote growth of national, sub-regional and regional underwriting and retention capacity and to support African economic development with the ultimate objective of facilitating and enabling the African economic development agenda and social transformation.

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International Regulatory Board of the East African Power Pool; Government has committed to promote investment in the power sector and facilitate smooth cross-border energy initiatives within the East African region.

Islamic Cooperation for the Development of the Private Sector; Government has committed to support growth and investment within the Private Sector, fostering collaboration with international organizations in economic development initiatives, promotion of Islamic Finance and encouraging increased funding towards projects and initiatives aimed at private sector development.

Recommendation

The Committee recommends that Clause 14 stands part of the Bill.

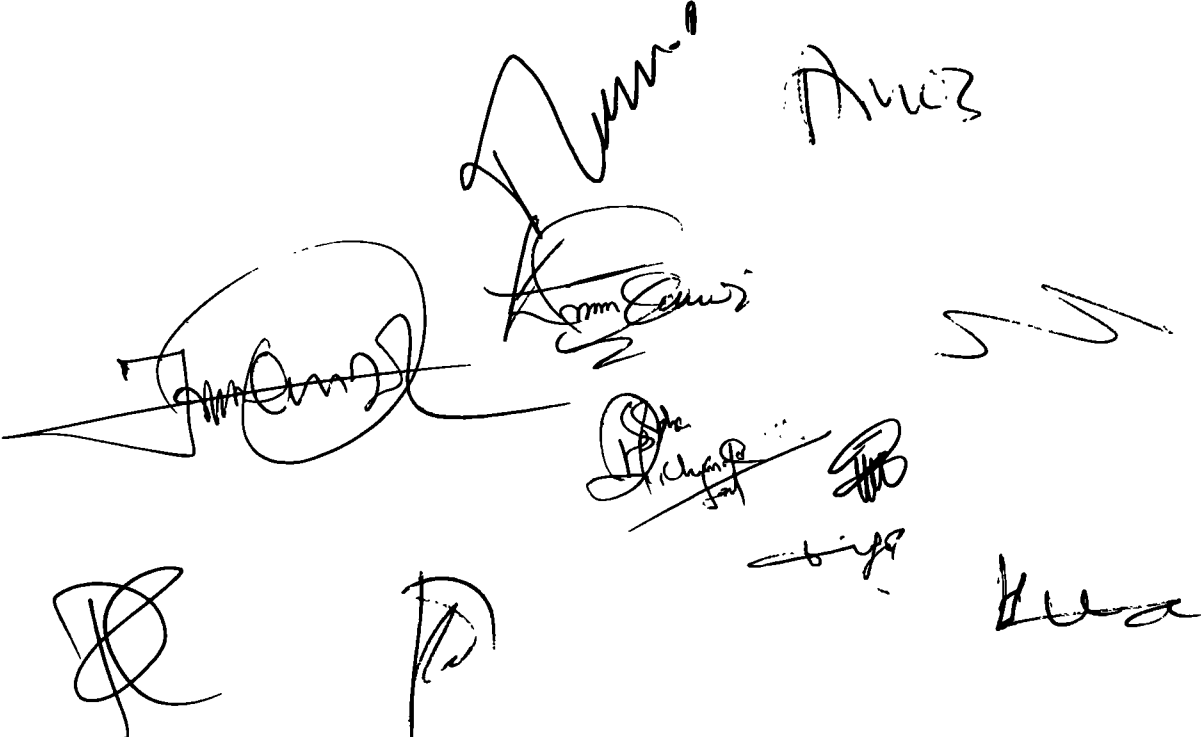
4.11 Clause 15; Amendment of the Third Schedule to the Act

The proposed amendment seeks to amend the third schedule to the Act which provides for rates of tax applicable under the following categories of persons;

- a) Under Part IV, which provides for income tax rates for non-resident persons by providing for the withholding rate for interest payment by resident persons in respect of debentures under Section 83 (5) at 2% of the interest paid;
- b) Under Part XIII, which provides for the withholding tax and commissions paid to the payment service provider at a rate of 10%;

Recommendation

The Committee recommends that Clause 15 stand part of the Bill.

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THE INCOME TAX (AMENDMENT) BILL, 2024

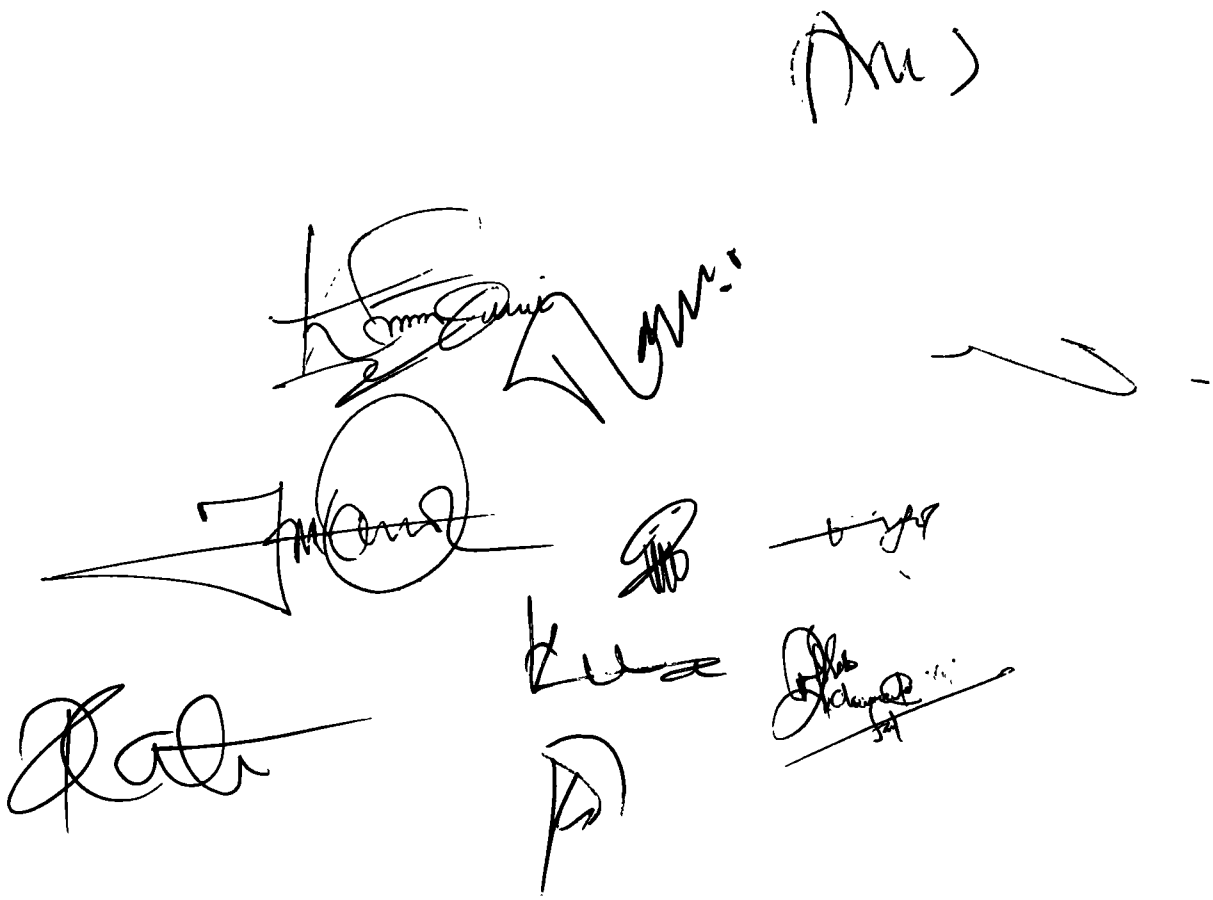
Clause 3: Insertion of section 5A to principal Act

Delete clause 3

Justification


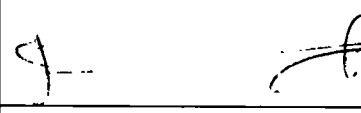

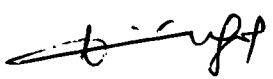
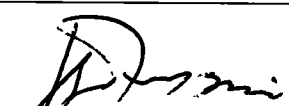
1. There is already capital gains tax arising from the sale of shares in a private limited liability company provided under section 21(k) of the Income Tax Act. Imposing a rate of 5% will cause a conflict in the implementation of the provision.
2. Land being a factor of production should not be subjected to tax since it has the effect of increasing the cost of doing business.
3. The proposal is discriminatory and not equitable since it proposes to tax land in cities or municipalities
4. The proposal imposes challenges of tax administration and pauses challenges of under declaration.
5. Capital gains is on capital assets used in business and as such, land is not a business asset.
6. Rental property is subject to rental tax under section 5 of the Act, the proposal to impose a 5% tax upon disposal is unjustifiable and ambiguous.

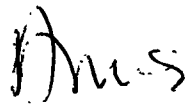
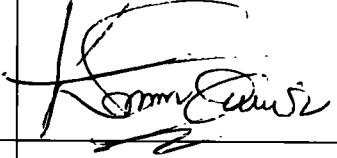
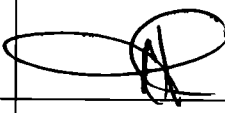


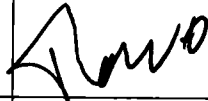
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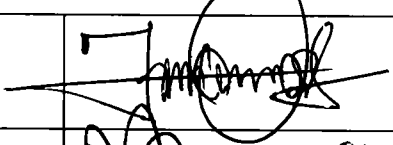
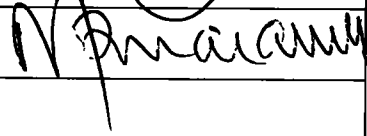
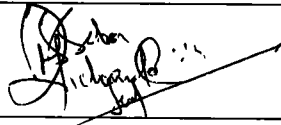


The lower half of the page contains several handwritten signatures and initials in black ink. At the top right is a signature that appears to be '(M)'. Below it, there are several other signatures, including one that looks like 'K. S. Singh', another that is more stylized and possibly 'K. S.', and several others that are less legible. There are also some initials and marks scattered around, such as 'P' at the bottom center and 'S' at the bottom right.

MEMBERS OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE INCOME TAX (AMENDMENT) BILL, 2024

NO	NAME	CONSTITUENCY	SIGNATURE
1	Hon. Kankunda Amos Kibwika CP	Rwampara County	
2	Hon. Avur Jane Pacuto D/CP	DWR Pakwach	
3	Hon. Opolot Patrick Isiagi	Kachumbala County	
4	Hon. Wamakuyu Ignatious Mudimi	Elgon County	
5	Hon. Dicksons Kateshumbwa	Sheema Municipality	
6	Hon. Dr. Kugonza Emely	Buyanja East	
7	Hon. Mbabazi Jenepher Kyomuhendo	Kagadi	
8	Hon. Bataringaya Basil	Kashari North County	
9	Hon. Asimwe K Enosi	Kabula County	
10	Hon. Aleper Moses	Chekwii County	
11	Hon. Katwesigye Oliver Koyekyenga	Buhweju	
12	Hon. Tayebwa Herbert Musasizi	Kashongi County	

13	Hon. Okot John Amos	Agago North County	
14	Hon. Kyooma Xavier Akampurira	Ibanda County North	
15	Hon. Nakut Faith Loru	DWR Napak	
16	Hon. Nangoli Gerald	Elgon North County	
17	Hon. Katali Loy	DWR Jinja	
18	Hon. Ochai Maximus	West Budama County North	
19	Hon. Wanda Richard	Bungokho Central	
20	Hon. Ogwal M. Goli	Dokolo North	
21	Hon. Nabukeera Hanifa	DWR Mukono	
22	Hon. Muwanga Kivumbi	Butambala County	
23	Hon. Ssenyonyi Joel	Nakawa West	
24	Hon. Nandala Mafabi	Budadiri West County	
25	Hon. Nabagabe Kalule Flavia	Kassanda WDR	
26	Hon. Akol Anthony	Kilak North	
27	Hon. Luttamaguzu Semakula P.K	Nakaseke South	

28	Hon. Ocan Patrick	Apac Municipality	
29	Hon. Omara Paul	Otuke County	
30	Hon. Agnes Atim Apea	DWR - Amolatar	
31	Hon. Mpindi Bumali	PWD. Rep	
32	Hon. Richard Sebalama	Bukoto Central	
33	Hon. Masaba Karim	Mbale, Industrial Division	
34	Hon. Kinshaba Patience Nkunda	DWR - Kanungu	