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KAMPALA

REPUBLIC OF UGANDA



PARLIAMENT OF UGANDA

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

Office of the Clerk to Parliament
Parliament Building
Kampala-Uganda

April 2024

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

1.0 Introduction

The Value Added Tax (Amendment) Bill, 2023 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 Value Added Tax Act, Cap. 349 (herein referred to as "the Act") to expand the definition of electronic services; to provide for a limit on input tax to activities related to output tax being accounted for and disallow input tax credit to a registered foreign supplier; to provide for the declaration of value added tax on imported services by large unregistered persons and unregistered government entities; to provide for ZEP-RE (PTA Reinsurance Company) as a listed institution; 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.
- viii) Price Waterhouse Coopers.

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

a) 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

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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.

b) 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.

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.

c) 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.

d) 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.

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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 Clauses 2 and 4: Amendment of Sections 5 and 10 of the principal Act

Section 5 of the Act provides for persons who are liable to pay tax, and these include in the case of a taxable person, the person making the supply, in the case of an input of goods, the importer, and in the case of the supply of imported services other than imported services the person receiving the supply.

Section 10 of the Act provides for supply of goods by auction, and was amended in 2023 to treat a supply of goods made by the auctioneer as the supplier in the course of auctioning goods.

The Committee therefore noted that the proposed amendment is intended to clarify that the recipient of the proceeds of the auctioned goods is responsible for accounting for the VAT on the sale of goods under Section 5.

The Committee further noted that the amendment of Sections 5 and 10 of the principal Act is intended to clarify that where a debtor's property is disposed off through a sale, then the supply is treated as made by the debtor and not the auctioneer/creditor. Further, the auctioneer/creditor is not entitled to a credit for any input tax incurred against the output tax and shall be liable to pay the output tax payable on the supply.

Recommendations;

The Committee recommends that the proposal be maintained in the Bill since it provides clarity and eliminates ambiguity in the treatment of auctioned goods;

4.3 Clause 3: Amendment of Section 7 of the principal Act

Clause 3 proposes to amend Section 7 of the principal Act in subsection (4a), by repealing paragraph (c).

Section 7 (4a) (c) of the Principal Act states that a person supplying goods or services for consideration as part of his or her business activities, but who is not required by subsection (1) or (5) to apply for registration, may apply to the Commissioner General to be registered in accordance with Section 8.

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The Committee observed that Section 7(4a)(c) of the VAT Act allows persons engaged in commercial farming to register for VAT despite the fact that their supplies are exempt from VAT. They are therefore allowed to claim input VAT without charging output VAT on their supplies.

The Committee further observed removing commercial farmers from the list of persons who may apply to the Commissioner General to be registered in accordance with Section 8 of the Act denies them the opportunity to claim input credit.

The Committee further observed that the removal of commercial farmers from the list of persons who may apply to the Commissioner General to be registered for VAT undermines the contribution of commercial farming to the Ugandan economy.

Recommendation

The Committee recommends that;

- i) URA should strengthen tax education;**
- ii) The proposed amendment should be rejected and Section 7(4a) (c) be maintained as in the Act.**

4.4 Clause 5: Amendment of section 18 of principal Act

Section 18 of the Act provides for taxable supply.

Clause 5 of the Bill seeks to amend Section 18 of the Act by inserting paragraph 18(9) to include that the supply of goods or services by an employer to an employee for no consideration is considered a taxable supply except where the employer was not entitled to input tax credit.

The Committee was informed that employers are using the avenue to give free taxable goods to their employees without consideration but claim input credit for the goods supplied. This is an abuse of the law since URA on the other hand cannot recover output VAT.

Through the proposed amendment, the taxable supply shall be treated as having been made for a consideration equal to the fair market value of the supply and shall only apply to employee benefits which are taxable supplies under the law.

Recommendation

The Committee recommends that Clause 5 of the Bill be passed.

4.5 Clause 6; Amendment of section 42 of Act

Section 42 of the Act provides for refund of overpaid tax. The proposed amendment seeks to amend the provision by increasing the threshold for claiming for refund of overpaid tax from Uganda Shillings Five million (UGX 5,000,000) to Uganda Shillings Ten million (UGX 10,000,000).

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- ii. **the imposition of 6% withholding tax on VAT is inconsistent with the VAT Act and therefore the Ministry should harmonise the regulations.**

4.7 Clause 8; Amendment of the First Schedule to the Act

Clause 8 seeks to amend the First Schedule to the Act to include African Reinsurance Corporation (Africa Re); International Regulatory Board of the East African Power Pool; and Islamic Cooperation for the Development of the Private Sector.

The Committee notes that Africa Re is an African Union Institution established in 1976, by the AU member states and the African Development Bank. Uganda was among the founder signatory states, with 22 shares and thus receives dividends. Article 51 of the establishment agreement states that, “each member State shall undertake to waive and refrain from imposing any administrative, practical and financial restrictions that would hinder in any manner the smooth functioning of the activities of the Corporation.” It also provides that each member state shall exempt the corporation from all duties and taxes arising from the corporation’s activities in the Member State’s National territory.

The Committee further noted that Islamic Cooperation for the Development of the Private Sector is a part of the Islamic Development Bank (IsDB) Group which is already exempt in the first Schedule of the VAT Act. It is a multilateral development financial institution that supports the economic development of its member countries by providing financing to the private sector projects, promote competition and entrepreneurship, and encourage cross border investments. The proposed amendment is intended to clarify that Islamic Cooperation for the Development of the Private Sector as an arm of the Islamic Development Bank, is also entitled to a VAT exemption to avoid disruption of its services to the private sector in Uganda.

The Committee further noted that under the 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.

The Committee observed that the effect of the proposed amendment is to expand the refund of tax to international organisations under Section 45 of the Act to include African Reinsurance Corporation (Africa Re); International Regulatory Board of the East African Power Pool; and Islamic Cooperation for the Development of the Private Sector.

Recommendation

The Committee recommends that Clause 8 be passed.

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4.8 Clause 9: Amendment of Second Schedule of the Act

The proposed amendment seeks to amend the list of exempted supplies under the Second Schedule of the Act by;

A. Repealing

- postage stamps;
- software and equipment installation services to manufacturers;

The Committee observed that the repeal of postage stamps and software and equipment installation services to manufacturers from the list of exempted supplies is intended to broaden the tax base.

B. Including the following items;

- "seed cake" that does not include cat or dog food;
- hoes;
- the supply of electric vehicles locally manufactured or supply of frame and body of electric vehicle locally fabricated;
- the supply of electric vehicle charging equipment or supply of charging services of an electric vehicle;
- the supply of pesticides;
- the definition of pesticides;
- the supply of fertilizers, seeds and seedlings;
- the supply of cooking stoves that use fuel ethanol, assembled in Uganda, up to 30th June, 2028;
- the supply of safety head gear;
- manufacturers of an electric vehicle, electric battery or electric vehicle charging equipment or fabricates the frame and body of an electric vehicle.

The Committee observed that the proposed amendments are intended to boost local production, public safety and environmental sustainability.

- ##### C. Excluding goods and services used for personal and domestic use by contractors and sub-contractors of hydro-electric power, solar power, geothermal power or biogas and wind energy.

The Committee observed that the proposed amendment is intended to limit abuse of the exemption regime.

Recommendation

The Committee recommends that Clause 9 be passed.

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4.9 Clause 10: Amendment of the Third Schedule of the Act

The proposed amendment seeks to amend the Third Schedule which provides for zero-rated supplies by repealing the supply of seeds, fertilizers and hoes pesticides.

The Committee observed that this proposal is intended to achieve consistent treatment of all agricultural inputs which have been exempted in the Second Schedule.

Recommendation

The Committee recommends that Clause 10 be passed.

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Clause 3: Amendment of section 7 of principal Act

Delete clause 3

Justification

The removal of commercial farmers from the list of persons who may apply to the Commissioner General to be registered for VAT undermines the contribution of commercial farming to the Ugandan economy.

Although most of the plant and machinery used by commercial farmers are listed in the second schedule as exempt supplies, the registration under section 7 (4a) is not compulsory but optional and does not make the provision redundant.

Clause 7: Insertion of 66A in principal Act



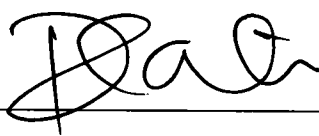
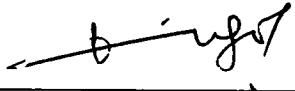
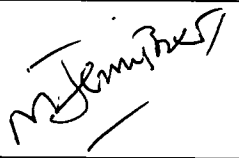
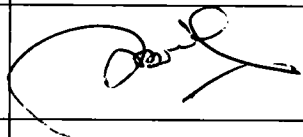
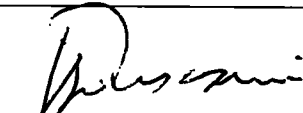
Delete clause 7

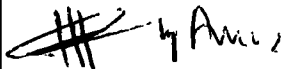






Justification

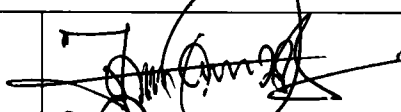
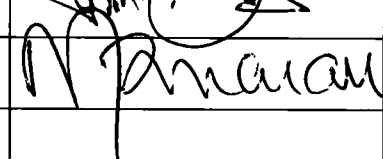
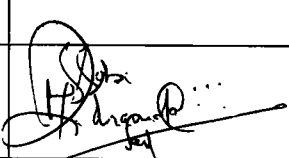
Not all tax agents are withholding agents under section 5 of the Act and this makes the ground not leveled. In addition, all VAT registered taxpayers are required to issue EFRIS receipts or invoices and this gives Uganda Revenue Authority visibility of transactions by such tax payers and yet both Uganda Revenue Authority and the tax payers incur administrative costs to implement the VAT withholding regime.

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MEMBERS OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE VALUE ADDED 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	
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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	
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20	Hon. Ogwal M. Goli	Dokolo North	
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22	Hon. Muwanga Kivumbi	Butambala County	
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33	Hon. Masaba Karim	Mbale, Industrial Division	
34	Hon. Kinshaba Patience Nkunda	DWR - Kanungu	