PARLIAMENT OF UGANDA

MINORITY REPORT ON THE INCOME TAX (AMENDMENT) BILL, 2024

APRIL, 2024

1.0 INTRODUCTION

The Income Tax (Amendment) Bill 2024 tabled in Parliament on March 28th, 2024 proposes new taxes and tax exemptions.
We disagree with the exemptions as well as some of the new tax proposals in the Bill.

1. NON COMPLIANCE WITH THE LAW

The Public Finance Management Act makes it a requirement that every Bill presented to Parliament shall be accompanied by a Certificate of Financial Implication.
This Certificate under Section 76 of the Act, "shall indicate the estimates of revenue and expenditure over a period of not less than two years after the coming into effect of the Bill when passed."
The Certificate "shall indicate the impact of the Bill on the economy." This in simple terms means, total amount to be spent on implementation of the law and expected revenue. In this case, the cost of collecting the new taxes Vis-a'-Vis amount realized.
The Certificate of Financial Implications, Finance Minister Matia Kasaija issued dated March 27th 2023 a day, before the Bill was presented for first reading, is to say the least a chit (short letter or note).
It reads, funding is going to be through overall Government budgetary allocations to Uganda Revenue Authourity (URA). The minister doesn't know how much it will cost to collect the new tax. If he knows, he doesn't want to tell Parliament as it is required in the law.
He then reveals a Shs 40 billion figure that is not scientifically arrived at or mathematically calculated.
The Certificate doesn't show the overall impact of the new tax proposals on the economy. Please take note that the law also seeks to exempt some people. The amount foregone as a result of these exemptions is not revealed. Mind you, tax exemptions has become a huge cost to the economy as we will illustrate later.
Parliament must not allow this minister to turn it into a garbage tin, where you dump anything. Even if you are a loyalist of the ruling family, there is no way, you will validate this fake Certificate of Financial Implications.
Remember, the President himself refused to assent to several tax bills last Financial Year. The Minister why the President refused to assent to tax proposals approved by a cabinet that he chairs.

2. NO STUDY, NO RESEARCH

The Domestic Revenue Mobilization Strategy Annual Monitoring Plan for Financial Year 2022/23 observed that; Majority of the tax law amendments are not informed by tax related analytical briefs.

It further noted a weak partnership between the Tax Policy Department in the Ministry of Finance and Uganda Revenue Authourity (URA). This, the report says "undermines evidence based tax development mechanism."

The Committee collectively observed that the Ministry of Finance failed to adhere to previous recommendations by Parliament i.e. that every Bill should be accompanied by stand-alone evaluation or regulatory impact assessment.

This Committee on Finance is very kind. It attempted to soften the language of observation in our April 29th meeting in East Committee Room but the documents submitted failed it. One colleague even suggested that if we maintained the observation, then the Bill collapses.

Rt. Hon. Speaker and Hon. Members this Bill has already collapsed. You cannot resurrect it. It doesn't meet the requirements of the Public Finance Management Act, it is based on no studies. It is speculation. I ask you Hon. Members not to be conscripted in passage of a law that meets no requirement, not even common sense. The pain of death cannot be reduced by pain killers. Please allow this Bill to die peacefully.

3. BILL PROPOSING SAME TAX AS ALREADY PROVIDED

Northing illustrates lack of seriousness and the casual way in which this government is handling public affairs like clause 3 in the Bill. This clause introduces a capital gain tax on sell of non-business asset such as land, shares in a private company and rental property. Already a higher tax is provided for under the same law in section 21(lk). The Minister Hon. Musasizi withdraw the component of sell of shares in private company. He later with his team withdrew the whole clause when the Committee informed him of the existence of a similar provision that provides the same.

We leave this matter to all of you to make a conclusion and judgement. That a Minister can table a law to propose the same thing already provided. Oh Allah bless Uganda.

4. TAX EXEMPTIONS

Of course with no study presented, the Minister is asking Parliament in Clause 4, to exempt tax on income made by manufacturer of electric vehicle, electric battery, and electric vehicle charging battery and frame/body as well as proprietors of specialized hospitals.

Like many similar proposals aimed at attracting Direct Foreign Investment (DFI), this on its face looks a good proposals. The arguments are similar to those advanced during debate on cashing Lubowa Specialized Hospital promissory notes. Uganda would save $220 million which government is incurring annually to treat VIPs outside the country.

The only study this Parliament can rely on to exempt taxes again, is the report of the Auditor General for the Financial Year closing June 2023.

The Auditor General reports on page 178 of his report as follows;

Although the tax incentives and exemptions are expected to free up the capital, so as to enable those companies employ more staff, a total of 22 companies out of the 36 that obtained the incentives, were performing below the 50% threshold and thus had not fully achieved the desired employment levels.

I noted that over the period under review, taxes waived by government amounted to UGX. 1.417 trillion. These comprised of UGX. 1.293 trillion waived under the Gazette by Parliament, direct waivers by the Minister of Ugx. 118.5 bn as well as the tax exemptions as per the Income Tax Act under section 21 granted by the Commissioner General of Ugx. 5.576 bn.

There is also suspicion as to who will benefit from this exemption. There are two investors who are currently constructing specialized hospitals; Aga Khan at Nakawa near Makerere Business School and Enrica Pinetti at Lubowa. The electric vehicles, are now only being manufactured by KIIRA MOTORS CORPORATION.

It looks like this is a Pinetti, Aga Khan, Kirra Motor tax exemption law. Moreover all these three have benefited from free land, tax holidays etc. Can government table a list of who currently qualifies for this incentive before consideration of this Bill?

5. TIMING OF NEW TAX PROPOSALS

Rt. Hon. Speaker, there is already instability in the tax sector. Traders have just reopened their shops. There is a general feeling of over taxation with very little to show in terms of social services. Roads in Kampala City and Kampala metropolitan districts of Wakiso, Mukono, Mpigi have completely broken down. There is a general cry that leaders are swimming in luxury at the expense of taxpayers. This needs to be addressed before any new tax measure.

Stability is a key principle in taxation. If the country is still crying with implementation of existing taxes, is your answer to impose new taxes. Why don't we first deal with leakage (corruption) and use the savings to finance the budget rather than thinking of new tax measures. You Parliament, you are going to be blamed for new taxes as you are blamed for the old ones. For once you can say no.

Conclusion

Parliament should reject the Bill. In the alternative at least reject the clauses on tax exemptions

We submit.

MINORITY REPORT ON THE INCOME TAX (AMENDMENT) BILL, 2024

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CERTIFICATE OF FINANCIAL IMPLICATIONS FOR THE INCOME TAX (AMENDMENT) BILL 2024

Made under Section 76 of the Public Finance Management Act, 2015 (as amended)

THIS IS TO CERTIFY that the Bill entitled, the Income Tax (Amendment) Bill 2024, has been examined as required under Section 76 of the Public Finance Management Act, 2015 (as amended). I wish to report as follows: -

1) Object of the Bill:

The main object of the Bill is to increase resources available to Government, attract investments and improve compliance.

2) Specific objectives of the Bill are:

i. To expand the definition of the retirement fund;
ii. To impose a tax on the disposal of non-business assets;
iii. To exempt income derived from or by private equity or venture capital fund, the manufacture or fabrication of electric motor vehicles, electric motorcycles and electric vehicle charging equipment, operation a specialised hospital facility;
iv. To replace reference to a branch with permanent establishment for purposes of international taxation;
v. To provide for withholding tax on commission paid to a payment service provider;
vi. 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) That it is expected to achieve the following outputs:

i. To derive revenue from tax on the disposal of non-business assets;
ii. To improve compliance and ease tax administration.

4) That the expenditure plan by major components for the next two years.

Since this is an amendment to the existing tax provisions, there is no expenditure plan specifically different from the overall allocation of Shs. 619.99 Billion for FY 2024/25 and Shs. 534.1 billion for FY 2025/26 to Uganda Revenue Authority.

4) That the funding and budgetary implications are the following:

Funding is going to be through overall Government budgetary allocations to Uganda Revenue Authority.

5) Expected savings and/or revenue to Government:

Revenue gain expected from the Bill is estimated to be **Shs. 40 billion** annually.

Matia Kasaija (MP)
MINISTER OF FINANCE PLANNING AND ECONOMIC DEVELOPMENT

March 2024.

Witnessed by:

Name: Ramathan Ggoobi

Title: Permanent Secretary/Secretary to the Treasury

Signature: ....

Date: 27/03/2024

Received

By: ....

Date: ....

4.1.8 VALUE FOR MONEY AUDIT REPORT ON THE MANAGEMENT OF TAX INCENTIVES AND EXPENDITURE IN UGANDA BY THE MINISTRY OF FINANCE PLANNING AND ECONOMIC DEVELOPMENT

The Government of Uganda offers a number of investment incentives including tax holidays, exemptions, waivers for tax payments and paying and refunding of various taxes as stipulated in various tax laws, agreements and memoranda of understanding with the beneficiary entities. This is done in order to enable implementation of the National Development Plan III (NDP III) financing strategy that provides for revenue mobilization plans to address tax policy and design deficiencies including reviewing the presumptive taxes; individual tax incentives and; changing the tax regime to attract more investors in manufacturing. It is also done to provide a tax policy that incentivizes formalization and supports Medium and Small Enterprises, through the Ministry of Finance, Planning and Economic Development (MoFPED) to increase investment and production in key strategic industries or sectors. The benefits are granted based on intended objectives that include promotion of economic growth, increasing employment and facilitation for extension of social services among others.

I undertook a Value for Money study on the effectiveness of tax incentives and expenditure in Uganda, in respect to expected outcomes such as investment in fixed assets, sales revenues and employment. The following key findings and recommendations were made;

Key Findings

Although the Investment Incentives and Tax expenditures under the Ministry of Finance, Planning and Economic Development have been recognized for notable accomplishments in creating employment opportunities and improving trade deficit through export promotion and import substitution, the following key areas of improvement were identified;

a) Investments and Provision of Employment opportunities

Although the tax incentives and exemptions are expected to free up the capital, so as to enable these companies employ more staff, a total of 22 companies out of the 36 that had obtained the incentives, were performing below the 50% threshold and thus had not fully achieved the desired employment levels.

b) Cost of tax waivers to Government

I noted that over the period under review, taxes waived by government amounted to UGX.1.417Tn. These comprised of UGX.1.293Tn waived under the Gazette by Parliament, direct waivers by the Minister of UGX.118.5Bn as well as tax exemptions as per the Income Tax Act under Section 21 granted by the Commissioner General of UGX.5.576Bn. I however noted that there was no evidence that the other written-off taxes outside the Gazette, were communicated to Parliament for retrospective authorization. The amount of taxes exempted are revenues that are foregone resulting into revenue loss on the side of Government.

c) **Tax Commitments**

The Ministry of Finance, Planning and Economic Development committed to pay taxes totaling to UGX.553Bn on behalf of several taxpayers for the period under study. The commitments were not paid in time and have led to accumulation of domestic arrears.

d) **Lack of a framework for the management and monitoring of Tax Incentives and Expenditures**

At the time of audit, MoFPED did not have an approved Framework to guide the management and monitoring of the different Tax Incentives and Expenditures.

e) **Utilization of Tax Incentives and Exemptions**

An analysis of the Memoranda of Understanding (MoUs) for the various beneficiaries of Investment incentives and Tax exemptions revealed that several companies have not achieved the outputs as stipulated in the signed MOUs and several incentives remained un-utilized, such as the Corporation Income Tax holidays for some companies.

GENERAL RECOMMENDATIONS

The following general recommendations have been proposed;

a) **Following up Companies to ensure that commitments are realized**

The Ministry should follow up the beneficiaries of the incentives to ensure that the benefits of the incentives such as job creation are realized.

b) **Regularly assessing Benefits relating to Tax incentives**

The benefits of the Tax incentives should continuously and realistically be measured to ensure that the intended benefits are realized, and to guide future decision making.

c) **Limiting the number of Tax Exemptions to businesses that qualify under the Tax Laws**

The Ministry of Finance, Planning and Economic Development was advised to establish a criteria for approval of beneficiaries of tax incentives and expenditures. This will eliminate ambiguity in regard to eligibility and the assessment of the expected benefits, while assessing the performance of each beneficiary. Besides, the Taxpayers that seek exemptions due to inability to pay, should have proven beyond doubt that they are financially incapacitated. This will also limit the accumulation of domestic arrears.

Letter from the Minister of Finance, Planning and Economic Development

I am glad to present to you this document on the Domestic Revenue Mobilisation Strategy (DRMS) as a summary of our discussions and statements of the intentions of various players. This document recognises the importance of having a medium-term strategy for government revenues, to guarantee a reasonable, realistic, and practical approach to sustainable resource mobilisation. The strategy set out in this document represents the next step in our government's fiscal policy, which has historically been highly successful in empowering the economic development of Uganda.

For this development to continue, there is a need to have a stronger and more certain revenue flow in order for the government to meet its expenditure needs and encourage foreign investment. This calls for a commitment to a prudent and sound medium-term strategy for financing our plans, to give confidence and certainty to our people and our investors. This Domestic Revenue Mobilisation Strategy brings transparency to the direction of tax policy in Uganda for the next five years and will strengthen the administrative effort to support it.

In order to achieve our revenue potential, we will move away from *ad hoc*, annual tax policy changes. These piecemeal adjustments, with little alignment to an over-arching strategy, have created a high degree of unpredictability and uncertainty in our tax policy direction. The DRMS will address this, as well as ensure that our future tax policy embodies the principles of simplicity, fairness, citizen welfare, and sustainability. Going forward, we will involve taxpayers more fully in the tax policy formulation process, restoring ownership and public confidence in the tax system by the way people pay their taxes. We will continue to provide a business-friendly tax environment and support investment; however, we will reduce unproductive revenue leakages from exemptions and publish a full tax expenditure framework to better understand the fiscal cost of supporting investment and social welfare.

Revenue generation does not happen in a policy vacuum. The tax administration has a key role to play, and it is here that we anticipate the most significant gains to be made. We will enhance the Uganda Revenue Authority's administrative capacity to collect taxes efficiently through additional staff recruitment, better training, and the modernisation of their technological infrastructure and systems. We will focus more explicitly on promoting compliance with existing laws from a higher proportion of businesses and individuals, particularly through more focussed taxpayer services and education.

Finally, it is important to recognise the role played by all arms of Government and Ugandan society in securing our financial independence. Future resource mobilisation efforts depend on Ugandans perceiving a closer link between taxes paid and public services enjoyed by citizens. As Government, we have a responsibility to strengthen this fiscal-social contract and redouble our efforts to stamp out corruption at every level. In return, we are expecting everyone with the means to pay their taxes.

We have set ourselves on the path towards creating a uniquely Ugandan tax system, one that respects our culture, our traditions, our ways of living, and our entrepreneurial spirit. This is an original document of our country's revenue strategy that will meet our financing needs for the future. We therefore urge everyone to play their part in ensuring the success of the Domestic Revenue Mobilisation Strategy.

Matia Kasaija (MP)
Minister of Finance, Planning, and Economic Development

Annex 2: Medium Term Revenue Projections FY 2021/22 - FY 2028/29

Motor vehicle lubricants	-	5	5	6	7	8	8	9
Other furnitures	-	0	0	0	0	0	1	1
VAT	3,296	3,960	4,596	5,577	6,377	7,302	8,346	9,539
Manufacturing	-	-	-	-	-	-	-	
Cigarettes	1	3	0	0	0	0	0	0
Beer	153	163	190	224	254	288	326	369
Spirits/Waragi	87	129	180	212	240	272	308	349
Wines	0	0	0	0	0	0	0	0
Soft Drinks	89	137	145	171	194	220	249	282
Sugar	137	167	165	197	226	259	296	339
Bottled water	24	31	28	33	38	44	50	57
Cement	147	123	142	169	194	222	254	291
Milk	-	-	-	-	-	-	-	-
Others	1,264	1,495	1,823	2,280	2,611	2,993	3,425	3,918
Services	-	-	-	-	-	-	-	-
Electricity	195	226	260	310	355	407	465	532
Phone talk time	249	237	275	327	375	429	491	562
Water	40	41	65	78	89	102	117	133
Insurance services	86	100	117	139	159	182	208	239
Other financial services	70	67	82	97	111	127	146	167
Agriculture	10	143	22	26	30	34	39	45
Other sub-sectors	-	-	-	-	-	-	-	
Construction	108	127	159	189	217	249	284	[illegible]
Wholesale & retail trade; repairs	339	422	502	598	684	785	898	1,027
Hotels & restaurants	72	105	122	145	167	191	218	250
Transport & communications	53	46	58	69	79	90	103	118
Real estate activities	124	162	208	247	283	324	371	425
Public administration & defence	34	13	18	22	25	28	32	37
Mining & quarrying	12	23	29	35	40	46	52	60
Oil and Gas	4	1	7	8	9	11	12	14
INTERNATIONAL TRADE	8,434	9,327	9,676	9,307	8,946	8,897	9,536	9,505
Petroleum	2,686	2,825	3,275	3,141	3,004	2,985	3,227	3,227
Import Duty	1,557	1,983	1,972	1,902	1,833	1,823	1,946	1,946
Excise Duty	269	268	240	232	223	222	237	237
VAT	3,292	3,527	3,445	3,313	3,192	3,176	3,390	3,359

Annex 2: Medium Term Revenue Projections FY 2021/22 - FY 2028/29

WHT	168	205	210	203	195	194	207	207
Surchage	257	256	277	267	258	256	274	274
Temporary road license	79	123	118	114	110	109	117	117
Infrastructure levy	114	118	118	114	110	110	117	117
Export levy on Fish, Hides & skins levy & tobacco, minerals	12	21	20	21	21	21	21	21
Stamp Duty & embossing	113	112	112	131	149	168	188	210
Tax Refunds	- 440	- 543	- 692	- 823	- 942	- 1,080	- 1,080	- 1,236
Total NTR	1,406	1,834	2,193	2,493	2,606	2,865	3,151	3,438
Net Tax Revenues	20,426	23,733	26,000	29,081	31,384	34,509	39,033	43,178
Total Revenues	21,831	25,567	28,194	31,574	33,990	37,374	42,184	46,615
Nominal growth in revenue		3,736	2,626	3,381	2,416	3,384	4,810	4,431
Annual Growth in revenue		16.2%	9.6%	11.8%	7.9%	10.0%	13.1%	10.6%
GDP	162,883	184,895	200,462	219,200	245,616	275,546	307,249	343,210
[illegible] GDP	13.4%	13.8%	14.1%	14.4%	13.8%	13.6%	13.7%	13.6%