PARLIAMENT OF UGANDA

MINORITY REPORT ON THE TAX PROCEDURES CODE (AMENDMENT) BILL, 2024

APRIL, 2024

1. INTRODUCTION

Rt. Hon Speaker and Hon. Members, the Tax Procedures Code (Amendment) Bill, 2024 was read for the first time on March 28th 2024 and referred to the committee on Finance for scrutiny.

The committee collected views from Kampala City Traders Association (KACITA), Private Sector Foundation Uganda, Uganda Revenue Authority, and Minister of Finance among others.

The committee held a retreat at Speke Resort Munyonyo on April 13th -15th, 2024 and considered the Bill clause by clause.

This Bill is intended to amend the Tax Procedures Code Act, 2014, to require a taxpayer who intends to claim a deduction or credit for goods destroyed to inform the Commissioner in writing before the destruction of the goods. (While a tax credit lowers a taxpayer's tax bill, a tax deduction lowers the taxable income of the taxpayer)

The proposed amendment is for the insertion of section 18(A) immediately after section 18 to the effect that a taxpayer who intends to destroy goods due to;

(a) damage of trading stock;

(b) expiry of trading stock;

(c) damage of manufactured stock;

(d) expiry of manufactured stock; or

(e) obsolete stock should inform the Commissioner, in writing, before the goods are destroyed, using a form prescribed under section 70 of the Tax Procedures Code Act. Section 70 of the Act generally provides for forms, notices, and authentication of notices for purposes of tax, and such forms are determined by the Commissioner.

In the proposed amendment, informing the Commissioner about a taxpayer's intention to destroy goods is a prerequisite requirement for one to claim for deduction of the destroyed goods or credit for the destroyed goods.

2. 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, doesn't meet these requirements.

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

The minister doesn't know how much it will cost to collect the new taxes. If he knows, he doesn't want to tell Parliament as it is required in the law.

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. This is what this Kasaija certificate confirms.

The Certificate doesn't show the overall impact of the new tax proposals on the economy.

Moreover, Parliament recommended that in addition every Bill should be accompanied by stand-alone evaluation or regulatory impact assessment

MEMBERS OF THE FINANCE COMMITTEE WHO SIGNED THE MINORITY REPORT ON THE TAX PROCEDURES CODE THE (AMENDMENT) BILL, 2024.

SN	Name	Signature
1	Ssemujju Ibrahim	
2	Nabukeera Hanifa Husein	
3.	Muwanga Kivumbi Muhammad	

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

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.

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	-	-	-	-	-	-	-	[illegible]
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	3,577	3,445	3,313	3,192	3,176	3,390	3,359

Annex 2: Medi[illegible] Term R[illegible] 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 & [illegible] 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]	13.4%	13.8%	14.1%	14.4%	13.8%	13.6%	13.7%	13.6%