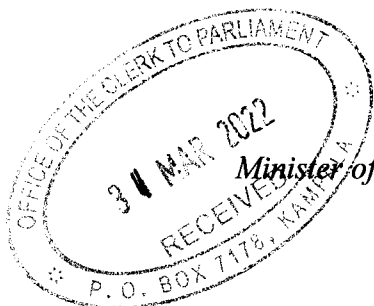

BILLS**SUPPLEMENT No. 3****30th March, 2022****BILLS SUPPLEMENT***to The Uganda Gazette No. 15, Volume CXV, dated 30th March, 2022*

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Bill No. 3*Income Tax (Amendment) Bill***2022****THE INCOME TAX (AMENDMENT) BILL, 2022****MEMORANDUM**

The object of this Bill is to amend the Income Tax Act, Cap. 340 to substitute the definition of “beneficial owner”; to revise the definition of “exempt organisation”; to revise the tax rate applicable to individuals and companies for purposes of rental income; to provide for a ceiling on deductible expenses on rental income for non-individuals; to provide for the extension of the tax holiday for Bujagali Hydro Power Project for five years; to provide for the harmonisation of the scope of qualifying sectors for tax incentives and related investment thresholds under the Income Tax Act, Cap. 340, Value Added Tax Act, Cap. 349, Excise Duty Act, 2014 and Stamp Duty Act, 2014; to provide for exclusion of income from transportation of cargo embarking outside Uganda; to clarify the apportionment of income qualifying for exemption under the ten year tax holiday; to provide for the definition of “business asset” for the purposes of section 118B (2); to provide for the International Development Law Organisation as a listed institution and for related matters.

**MATIA KASAIJA (MP),***Minister of Finance, Planning & Economic Development.*

THE INCOME TAX (AMENDMENT) BILL, 2022**ARRANGEMENT OF CLAUSES***Clauses*

1. Commencement
2. Amendment of Income Tax Act
3. Amendment of section 5 of the principal Act
4. Amendment of section 21 of the principal Act
5. Amendment of section 22 of the principal Act
6. Amendment of section 85 of the principal Act
7. Amendment of section 89GB of the principal Act
8. Amendment of section 89P of the principal Act.
9. Amendment of section 89QA of the principal Act
10. Amendment of section 118B of the principal Act
11. Amendment of First Schedule to principal Act
12. Amendment of Third Schedule to principal Act

A Bill for an Act

ENTITLED

THE INCOME TAX (AMENDMENT) ACT, 2022

An Act to amend the Income Tax Act, Cap. 340 to substitute the definition of “beneficial owner”; to revise the definition of “exempt organisation”; to revise the tax rate applicable to individuals and companies for purposes of rental income; to provide for a ceiling on deductible expenses on rental income for non-individuals; to provide for the extension of the tax holiday for Bujagali Hydro Power Project for five years; to provide for the harmonisation of the scope of qualifying sectors for tax incentives and related investment thresholds under the Income Tax Act, Cap. 340, Value Added Tax Act, Cap. 349, Excise Duty Act, 2014 and Stamp Duty Act, 2014; to provide for exclusion of income from transportation of cargo embarking outside Uganda; to clarify the apportionment of income qualifying for exemption under the ten year tax holiday; to revise the definition of “business asset”; to provide for the international development law organisation as a listed institution and for related matters.

BE IT ENACTED by Parliament as follows:

1. Commencement

This Act shall come into force on 1st July, 2022.

2. Amendment of the Income Tax Act

The Income Tax Act, in this Act referred to as the principal Act, is amended in section 2—

- (a) by substituting for the definition of “beneficial owner” the following—

“(ea) “beneficial owner” means the natural person who ultimately owns or controls a customer or the natural person on whose behalf a transaction is conducted and includes a person who exercises ultimate control over a legal person or arrangement and—

- (a) in relation to a legal person includes—

- (i) the natural person who either directly or indirectly holds at least ten percent of shares or voting rights of the legal person;
- (ii) the natural person who exercises control of the legal person through other means including personal or financial superiority; and
- (iii) the natural person who has power to make or influence decisions of a legal person;

- (b) in relation to trusts includes—

- (i) the settlor;
- (ii) the trustee;
- (iii) the protector;
- (iv) the beneficiary or the individual benefitting from the trust who is yet to be determined; and

- (v) any other natural person exercising ultimate control of the trust; and
 - (c) in relation to other legal arrangements similar to trusts, the natural person who holds positions equivalent to those referred to in subparagraph (b);” and
- (b) in section 2 (bb) by substituting for paragraph (B) the following—
- “(B) a religious, charitable, educational institution or research institution whose object is not for profit;”.

3. Amendment of section 5 of the principal Act

Section 5 of the principal Act is amended in subsection (3)—

- (a) by repealing paragraph (b);
- (b) by substituting for paragraph (c) the following—

“(c) the expenditures and losses incurred by a person, other than an individual or partnership, in the production of rent shall be allowed as a deduction for any year of income only as provided for in section 22 (1) (c);
- (c) by repealing paragraph (d);
- (d) by inserting immediately after paragraph (d) the following—

“(e) the expenditures incurred or gross rent derived by a partnership shall be allocated to the partners in accordance with section 67 (5) and (7) of this Act.”

4. Amendment of section 21 of the principal Act

Section 21 of the principal Act is amended—

- (a) in subsection (1) (ac) by substituting “2022” with “2027”;
- (b) by inserting immediately after subsection (1) (ah) the following—

“(ai) the income of a manufacturer, other than a manufacturer referred to in paragraph (af), whose investment capital is, for over a period of at least ten years from the date of commencement of business, at least thirty-five million United States Dollars for a foreign investor or five million United States Dollars for an investor who is a citizen, who has—

- (i) capacity to source at least fifty percent of the locally produced raw materials, subject to availability; and
 - (ii) capacity to employ a minimum of one hundred citizens;
- (aj) the income of a developer of a hospital facility, whose investment capital is, for over a period of at least ten years from the date of commencement of business, is at least five million United States Dollars;”;

- (c) in subsection (1b) by substituting for paragraph (A) the following—

“A= the total amount of investment made by the investor from the beginning of the year of income in which the tax incentive was established by this Act;”.

5. Amendment of section 22 of the principal Act

Section 22 of the principal Act is amended in subsection (1)—

(a) by substituting for paragraph (c) the following—

“(c) in case of rental income, the expenditure and losses incurred by a person other than an individual or partnership in the production of such income subject to subsection (1a);”;

(b) by repealing paragraph (ca); and

(c) by inserting immediately after subsection (1) the following—

“(1a) Where the expenditure and losses incurred by a person other than an individual or partnership in the production of rental income exceeds fifty percent of the rental income, the allowable deduction shall be fifty percent of the rental income for that year of income and any excess of the expenditure and losses shall be carried forward to the subsequent year of income.”

6. Amendment of section 85 of the principal Act

Section 85 of the principal Act is amended by inserting immediately after subsection (4) the following—

“(5) For avoidance of doubt income derived from the carriage of passengers who do not embark or cargo or mail which is not embarked in Uganda is not income derived from a Ugandan-source service contract.”

7. Amendment of section 89GB of the principal Act

Section 89GB of the principal Act is amended by substituting for subsection (2) the following—

“(2) If the cost of acquiring an intangible asset is treated as petroleum exploration expenditure, section 31 applies to the asset on the basis that the intangible asset is amortised at the rate of one hundred percent.”

8. Amendment of section 89P of the principal Act.

Section 89P of the principal Act is amended by substituting for paragraph (a) the following—

“(a) mining or petroleum revenues and other taxes charged in any assessment shall be payable on the due date of furnishing a return.”

9. Amendment of section 89QA of the principal Act

Section 89QA of the principal Act is amended by substituting for subsection (1) the following—

“(1) Notwithstanding the provisions of sections 48 and 49A of the Tax Procedure Code Act, 2014 a licensee who fails to furnish a return or provide any other document within the time prescribed by this Act is liable to a penalty of not less than fifty thousand United States Dollars and not exceeding five hundred thousand United States Dollars.”

10. Amendment of section 118B of the principal Act

Section 118B of the principal Act is amended by inserting immediately after subsection (2) the following—

“(3) For the purposes of this section, “business asset” means land, whether the whole or any part of the land, which is used or held for use in any business except land held as a trading stock and includes—

- (a) land that is used in business to generate income other than land of an individual that is subject to rental tax; and

- (b) land owned by a company, trust or partnership.
- (4) This section shall not apply to—
 - (a) a seller where the Commissioner is satisfied that the seller has regularly complied with the obligations imposed on that person under this Act; or
 - (b) the disposal of any property by means of gift, bequest, devise or inheritance that does not generate a gain included in business, employment or property income.

11. Amendment of First Schedule to principal Act

The First Schedule to the principal Act is amended—

- (a) by inserting the following appropriately—

“International Development Law Organisation (IDLO);”
and
- (b) by substituting “Department for International Development (DFID)” with “Foreign, Commonwealth and Development Office (FCDO)”.

12. Amendment of Third Schedule to principal Act

The Third Schedule to the principal Act is amended by substituting for Part VI the following—

“Part VI

Rate of Rental Tax applicable to an individual

The tax rate applicable to an individual for the purposes of section 6 (2) is 12% of the gross rental income.”

