

# Tax Alert

## Uganda Issues 2023 Tax Amendment Bills



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Uganda's Minister of Finance Planning and Economic Development tabled Tax Amendment Bills of 2023 and The Convention on Mutual Administrative Assistance in Tax Matters (Implementation) Bill before Parliament of Uganda for debate on 30 March 2023.

The tax amendment Bills tabled were the Income Tax; Value Added Tax; Excise Duty; The Lotteries and Gaming; and the Tax Procedures Code Amendment Bills of 2023.

Once passed into law by the Parliament and assented to by the President of the Republic of Uganda, the Bills will take effect from 01 July 2023.

This Alert summarises the key proposals in each Bill and what it means for you.

### Detailed Discussion

#### A. Income Tax (Amendment) Bill, 2023

##### 1. Taxation of disposal of assets

Currently, tax on disposal of assets is paid on the gains earned on the disposal of business assets (Capital Gains Tax).

The Bill seeks to replace capital gains with the taxation of disposal of assets. Consequently, all provisions of the Income tax Act in respect to taxation of a gain on disposal of business assets are to be repealed and provisions in respect of disposal of assets are to be introduced.

Currently, gains on disposal of business assets are taxed at rates ranging from 0% to 40% for individuals and 30% for companies. Disposal of any other asset by a non-resident person is taxed at a rate that ranges, from 0 to 40%; and 10% of the gross payment is collected through the withholding tax mechanism.

The Bill seeks to remove the taxation of gains on capital and replace it with taxation of disposal of assets at a final tax rate of 5% of the gross payment.

Tax on disposal of assets will not apply to:

- a) transfer of assets between spouses;
- b) a transfer of assets between a former spouse as part of a divorce settlement or bona fide separation agreement;
- c) an involuntary disposal of an asset to the extent to which the proceeds of the disposal are reinvested in an asset of a like kind within one year of the disposal;
- d) the transmission of an asset forming the estate of the deceased taxpayer to a trustee or beneficiary; or
- e) the sale of the investment interest of a registered venture capital fund, if at least fifty percent of the proceeds on sale is reinvested within the year of income.

The Bill seeks to define, an asset to mean a resource with economic value that is expected to provide a future benefit to its holder but does not include trading stock.

### Implication

- i. The proposed provision imposes tax on ALL disposals of assets (whether they are business assets or not) that are purchased in Uganda, except for trading stock.
- ii. A person who purchases an asset situated in Uganda shall withhold tax on the gross amount of the payment, at 5%.
- iii. The withholding tax of 5% is a final tax and the seller of the asset will not be expected to pay any other additional tax.
- iv. The tax of 5% is payable on the gross payment and not on the gain.
- v. Sellers who incur losses on the disposal of the assets will also pay income tax.

### Removal of the Definition of "Petroleum Agreement" from the Interpretation Section

The Interpretation Section of the Income Tax Act currently defines a "petroleum agreement" under Section 2 (yya) to mean an *agreement for the grant of a licence for petroleum exploration, development and production between the Government and a contractor.*

There is a proposal to remove that subsection from the interpretation section of the Income Tax Act.

The purpose of the removal is to avoid the duplication and the contradiction caused by that subsection alongside the more detailed and specific definition of a petroleum agreement under Part IXA of the Income Tax Act that specifically deals with the taxation of petroleum operations.

A petroleum agreement is defined under Part IXA to mean *an agreement entered by the Government of Uganda with another person in accordance with the Petroleum (Exploration, Development, and Production) Act, 2013, or the Petroleum (Refining, Conversion, Transmission, and Midstream Storage) Act, 2013.*

### 2. Taxation of a gain from the disposal of a right or option to acquire shares under an employee share acquisition scheme

Currently, Section 19 (h) of the Income Tax Act includes the amount of any gain derived by an employee on disposal of a right or option to acquire shares under an employee share acquisition scheme in employment income and as such employment income tax (PAYE) is payable on that income. The rates of tax range from 0% to 40% of the employment income.

However, the income tax amendment bill seeks to exclude any gain from the disposal of a right or option to acquire shares under an employee share acquisition scheme from employment income.

The disposal of a right or option to acquire shares under an employee share acquisition scheme will be taxed as a disposal of assets at the rate of 5%.

### 3. Taxation of profits on contributions made to collective investment schemes

The Bill seeks to tax the profit on contribution paid or credited to a participant of a collective investment scheme. The profit, if the proposal is passed by parliament, will be taxed at rates indicated below:

Item	Contribution of the participant	Rate of Tax
a.	Not exceeding UGX 100,000,000	5% of the total profit paid or credited to the participant of the collective investment scheme
b.	exceeding UGX 100,000,000 shillings	15% of the total profit paid or credited to the participant of the collective investment scheme

The tax on this profit is a final tax and as such no further tax is payable. In addition, the profit is not included in any other income and the expenses incurred in the production of that profit are not deductible for income tax purposes.

The tax on the profit on contributions made to a collective investment scheme will be collected through the withholding tax mechanism. Under this mechanism, a person who credits or makes payment of a profit on the contribution to a participant of a collective investment scheme shall withhold tax on that payment at the rates indicated above.



Furthermore, a participant who contributes to more than one collective investment scheme and whose contribution, in aggregate, exceeds UGX 100,000,000 within a year of income, shall furnish a return and pay tax at the rate indicated above. The tax withheld on that person's profit shall be used to offset any tax payable. Where the person has paid less tax through the withholding tax mechanism, that person will be required to pay a top up.

Currently, the law is silent on the taxation of the profits paid out to or credited to participants of a collective investment scheme but specifically exempts the income of a collective investment scheme to the extent of which the income is distributed to participants in the collective investment scheme.

### Implication

- a) Taxation of profits earned by participants from contributions made to collective investment schemes has been a grey area for many entities that engage in that business. The proposed amendment gives guidance on how the profits paid or credited to participants in collective investment schemes such as Unit Trusts and Investment Trusts will be taxed.
- b) The proposed amendment may discourage people from participating in collective investment schemes as the returns on investment will be reduced by the tax.
- c) Persons whose contribution exceeds UGX 100,000,000 will be required to file returns and top up in case less tax was withheld on the profits paid or credited to them was less than 15%.
- d) Persons making payments and crediting the participants in those schemes will be required to withhold tax and remit it to URA,

#### 4. Inclusion of micro-finance Deposit taking and Tier 4 micro-finance institutions

The proposed Bill seeks to add the words "microfinance deposit taking institution and tier 4 micro-finance institution" as entities that will be allowed to claim all the interest incurred in respect of all debts as a deduction for tax purposes.

### Implication

Microfinance Deposit taking and Tier 4 microfinance institutions will be allowed to claim the full interest incurred on debts while computing the income tax due for the year. However, money lenders will still cap the interest deduction to the equivalent of 30% of EBITDA.

#### 5. Removal of Initial Allowance

The proposed Bill seeks to repeal Section 27A that provides for initial allowance deductions for a given year, of an amount equal to fifty percent of the cost base of eligible property put into service for the first time outside a radius of fifty kilometres from the boundaries of Kampala.

The Bill also proposes to repeal Section 27 (16) of the Principal Act which provides for deferment of a deduction for the depreciation of an asset that qualifies for initial allowance to the next year of income.

Furthermore, the Bill proposes to repeal Section 29 (1a) which provides for deferment of a deduction for the depreciation of an industrial building that qualifies for initial allowance under section 27A (4) to the next year of income.

### Implication

Once the Bill is passed as is, taxpayers would no longer enjoy the benefits of claiming 50% deductions in the assets' first year of use. This would eventually lead to a higher chargeable income and higher tax payable.

#### 6. Capping of Carried Forward Losses

The Bill seeks to cap the carrying forward of tax losses to 50% at the beginning of the following year of income in the subsequent years of income for a taxpayer who after a period of five years of income carries forward assessed losses.

### Implication

Taxpayers who carry forward tax losses for a period of 5 years will only claim 50% of the tax loss carried forward in the each of the subsequent years of income.

Limitation of time on the carry forward of tax losses may discourage investors in business with very high initial capital input but a slow return on capital, where profits will be expected after more the fifth year.

#### 7. Taxation of Digital Services provided by Non-Residents

The proposed Bill introduces Section 86A to the Principal Act which expressly provides for taxation of non-residents providing digital services at the rate of 15%.

The Bill further proposes to prescribe tax withheld on digital services of 15% to be a final tax.

We however note that the Bill does not amend the law to provide for who has the obligation to withhold on the payments to non-residents for digital services.

### Implication

The proposal expressly provides for the taxation of digital services at the rate of 15%.

#### 8. Amendment of the provision for Withholding tax on payments for winnings of Betting or Gaming

Section 118 C of the Principal Act provides for Withholding of tax on payments for winnings of betting or gaming and states that a person who makes payment for winnings of betting or gaming shall withhold tax on the gross amount of the payment at 15%.

The bill seeks to limit the withholding tax to payments for winnings of betting.

### Implication

Therefore, winnings from gaming would no longer be subject to withholding income tax.

#### 9. Relocation of waiver of interest in excess of principal tax and penalty provision to the TPC

Section 136 (8) of the Principal Act currently provides for waiver of interest due and in excess of the aggregate of principal tax and penalty as at 30 June 2017.

The Bill proposes to relocate this provision to the Tax Procedures Code Act (TPC).

#### 10. Changes to institutions listed in the First Schedule of the Income Tax Act

The proposed Bill adds ZEP-RE (PTA Reinsurance Company) on the list of organisations whose income is exempted from tax under the First Schedule of the Income Tax Act.

This implies that the income of ZEP-RE will be exempt from income tax.

### B. Excise Duty (Amendment) Bill, 2022

#### 1. Definition of "Fruit-Juice", "un-denatured spirits" and "vegetable juice"

The Bill proposes to include the following definitions under Section 2 of the Excise Duty Act:

- a) "Fruit juice" to mean unfermented liquid extracted from the edible part of a fresh fruit, whether the extracted liquid is diluted or not.
- b) "Un-denatured spirits" to mean spirits that are not mixed with any substance to render the spirit unfit for human consumption or capable of being rendered unfit for human consumption and includes neutral spirits or alcoholic beverages made from neutral spirits that are fit for human consumption.
- c) "Vegetable juice" to mean unfermented liquid extracted from the edible part of a vegetable, whether the extracted liquid is diluted or not.

By including definitions of these excisable items, the proposal seeks to provide for their meaning when referred to in the Act.

Currently, the ordinary English meaning of those terms is being used when defining them.







## 2. Amendment of Schedule 2 of the Excise Duty Act, 2014

The Bill proposes to amend Schedule 2 of the Excise Duty Act, 2014 to substitute certain items in respect of certain excisable goods as follows;

Item	Excisable good or services	Current Duty (2022/2023)	Proposed Duty (2023/2024)
<b>Beer</b>			
	Opaque beer	20% or Shs. 230 per litre, whichever is higher	12% or Shs 150 per litre; whichever is higher
<b>Spirits</b>			
a)	Un-denatured spirits of alcoholic strength by volume of <u>80% or more made</u> from locally produced raw materials	60% or Shs. 1500 per litre, whichever is higher.	60% of Shs. 1,500 per litre, whichever is higher.  <i>(Proposed Change: Prescribing the Alcoholic Volume. Currently, no alcoholic volume is prescribed)</i>
b)	Undenatured spirits of alcoholic strength by volume of 80% or more made from imported raw materials	100% or Shs. 2500, whichever is higher	100% or Shs. 2,500 per litre, whichever is higher  <i>(Proposed Change: Prescribing the alcoholic volume. Currently, no alcoholic volume is prescribed)</i>
c)	Any other un-denatured Spirits:  That are locally produced of alcoholic strength by volume of less than 80%; or That are imported of alcoholic strength by volume of less than 80%	-	80% or Shs. 1,700 per litre, whichever is higher  100% or Shs. 2,500 per litre, whichever is higher
d)	Undenatured spirits made from locally produced raw materials that is used in the production of disinfectants and sanitizers for the prevention of the spread of COVID 19 of alcoholic content by volume not less than 70%	-	NIL
<b>Non- Alcoholic</b>			
	Fruit Juice and Vegetable juice, except juice made from at least 30% pulp or at least 30% juice by weight or volume of the total composition of the drink from fruits and vegetables grown locally.	12% or shs.250 per litre, whichever is higher	12% or Shs. 250 per litre, whichever is higher.  <i>(Proposed Change: removal of the phrase “and vegetables grown in Uganda” that was a repetition and caused confusion)</i>
	Any other non- alcoholic beverage locally produced other than a beverage referred to in paragraph (a) made out of fermented sugary tea solution with a combination of yeast and bacteria	12% or Shs. 250, whichever is higher	12% or Shs. 150 per litre, whichever is higher.
<b>Telecommunication Services</b>			
	Incoming international calls, except calls from the Republic of Kenya, the United Republic of Tanzania, the Republic of Rwanda and the Republic of South Sudan	USD 0.09 per minute	USD 0.09 per minute  <i>(Proposed Change: Inclusion of the United Republic of Tanzania in the exception countries)</i>
<b>Any other fermented beverages</b>			
	any other fermented beverages including cider, perry, mead or near beer produced from locally grown or produced raw materials	30% or Shs 550 per litre; whichever is higher	30% or Shs. 550 per litre whichever is higher  <i>(Proposed Change: inclusion of any other fermented beverages produced <b>from locally grown or produced raw materials</b>)</i>
<b>26</b>	<b>Construction Materials</b>		
	Construction materials of a manufacturer, other than a manufacturer referred to in Item 21, whose investment capital is at least USD 35M in case of a foreigner or USD 5M in case of a citizen	NIL	NIL  <i>(Proposed Change: Reducing the investment capital threshold for foreigners from USD 50M to 35M)</i>



## C. Lotteries and Gaming (Amendment) Bill, 2023

### Increase in the rate of Tax payable for Gaming Activities

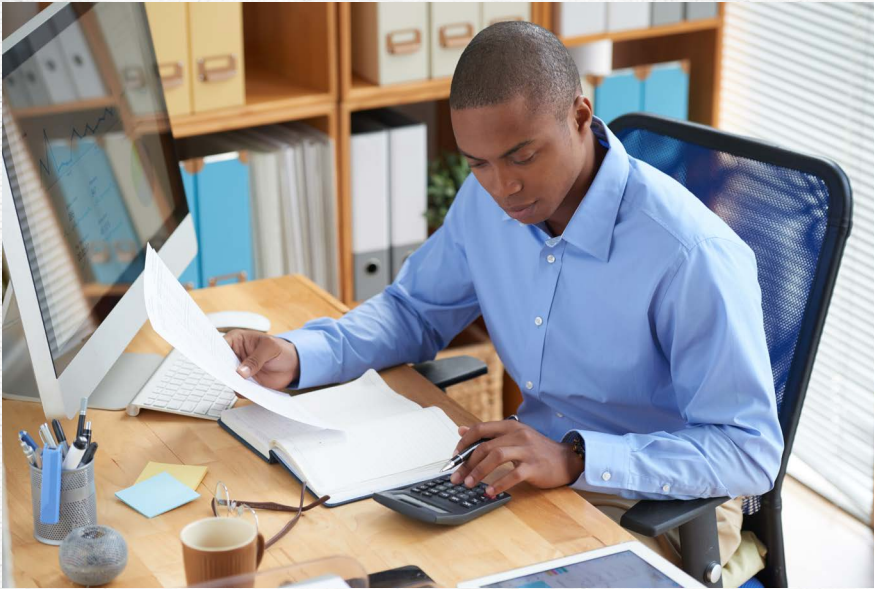
Currently, Schedule 4 (Rate of Tax) of the Lotteries and Gaming Act, prescribes that the gaming tax rate applicable to an operator of a casino, gaming or betting activity issued with a license under the same Act is 20 percent of the total amount of money staked less the pay outs (winnings) for the period of filing returns.

The Bill seeks to substitute the above section with:

- a) 20% of the total amount of money staked less the pay outs (winnings) for the period of filing returns for a betting activity.
- b) 30% of the total amount of money staked less the pay outs (winnings) for the period of filing returns for the gaming activity.

If this amendment is passed into law, the gaming tax payable for gaming activities will increase from twenty percent (20%) to thirty percent (30%) while that for betting activities will remain at twenty percent (20%).

## D. Value Added Tax (Amendment) Bill, 2023



### 1. Expanding the scope for a supply of goods.

The Bill proposes to include the supply of goods by auction as a taxable supply of goods made by the auctioneer as the supplier in the course of auctioning goods.

If passed into law, this implies that auctioneers will be obligated to register for VAT and account for VAT on the sale of goods by auction where their turnover meets the VAT threshold. It should, however, be noted that the supply of goods by auction is separate from the supply of auctioning services by the auctioneer.

### 2. Expounding on the Place of Supply of Services

The Bill proposes to amend Section 16 (2) of the VAT Act to read as 'a supply of services by a person who carries on business outside Uganda and who does not have a place of business in Uganda shall take place in Uganda if the recipient of the supply is not a taxable person or a person who makes a supply with a total annual value in excess of UGX 150 million or a government entity that is not registered.

In addition to the above, the Amendment seeks to grant powers to the Minister of Finance, Planning and Economic Development to set the rules of determining that **electronic services** are delivered to a person in Uganda.

Currently, that part of Section 16 (2) provides that a supply is made in Uganda if the recipient of the supply is not a taxable person.

These amendments are aimed at ensuring that more of the services provided by non-residents to persons in Uganda are taxable for VAT purposes.

### 3. Expanding the scope for electronic services

The Bill seeks to amend the definition of electronic services to mean services supplied through an online or digital network by a supplier from a place of business outside Uganda to a recipient in

Uganda including—

- a) websites, web-hosting or remote maintenance of programs and equipment;
- b) software and the updating of software;
- c) images, text and information;
- d) access to databases;
- e) self-education packages;
- f) music, films and games; including games of chance;
- g) political, cultural, artistic, sporting, scientific and other broadcasts and events; including television;
- h) advertising platforms;
- i) streaming platforms and subscription-based services;

- j) cab-hailing services;
- k) cloud storage;
- l) data ware housing; and
- m) any other service as the Minister may by statutory instrument determine.

Currently, electronic services as specified by the VAT Act, however, they do not include: advertising platforms; streaming platforms and subscription based services; cab-hailing services; cloud storage; data ware housing; and any other service as the Minister may by statutory instrument determine.

The services included in the definition of electronic services will attract VAT even when provided by a non-resident.

### 4. Restriction on the Credit for Input Tax

The Bill proposes that a taxpayer will not qualify for input tax credit in respect of;

- a) payment for entertainment made by a taxable person for membership of a person in a club, association or society of a sporting, social or recreational nature; or
- b) goods or services incurred by a taxable person for the supply of services in Uganda if the recipient of the supply is not a taxable person.

The Bill also proposes to limit the input credit claimable to that incurred for "business use" or "use in the business" purposes to apply only to the related business, generating a taxable supply.

This implies that any input credit incurred for purchases used in generating exempt supplies may not be claimable by a taxpayer going forward.

In addition, where a taxable person supplies those goods to a person who is not registered for tax, then the supplier will not be entitled to claim input VAT.

### 5. Requirement to file VAT return

The Bill seeks to impose an obligation to every person whose annual turnover is UGX 150 million and imports services to file a tax return. This return will be filed within fifteen days after the end of the tax period in which the service was imported.

Currently there is no obligation to file returns with respect to imported services, however, there is an obligation to pay value added tax on imported services.

If this proposal is passed into law, any person who makes supplies equivalent to UGX 150 million in a year will be required to file a return and declare the services imported.

We note that the obligation to pay VAT on imported services for persons whose turnover is less than 150 million remains.

### 6. Utilization of Overpaid Tax

Currently, the VAT Act provides that the Commissioner may, **with consent of the taxable person**, offset the input VAT credit that exceeds five million shillings against the future liability of that taxable person, or apply the excess in reduction of any other tax not in dispute due from the taxpayer.

The Bill proposes to exclude the need for the Consent of a taxpayer for the Commissioner General to offset the excess input tax credit. The proposed amendment seeks to leave the discretion of offsetting the excess input tax credit to the Commissioner General.

If the proposal is passed into law, a taxpayer will have to apply for a tax refund where the commissioner general does not offset the excess input tax credit.

### 7. Waiver of Interest on Unpaid Tax

Currently, the VAT Act waives interest in excess of the aggregate of the principal and penal tax payable as at 30<sup>th</sup> June 2017.

The Bill proposes to relocate that provision to the Tax Procedures Code Act.

### 8. Provision to file VAT returns and pay tax in United States Dollars

This amendment proposes to allow a taxpayer to file VAT returns and pay the resultant tax in United States Dollars.

This implies that where a taxpayer's transactions for the month are denominated in the United States Dollars currency, there will be no requirement for the conversion of the transaction amounts into Uganda shillings using the VAT exchange rates provided by URA for purposes of filing the monthly VAT returns.

### 9. Change in the list of Public International Organisations

The Bill proposes to amend the First Schedule to include Zep-Re (PTA Reinsurance Company) as a public International Organisation.

This means that Zep-Re may be refunded the value added tax borne or paid by them relating to transactions concluded for its official purposes.



## 10. Changes in certain supplies exempted from VAT

The Bill seeks to substitute some of the supplies previously exempted by the Second Schedule.

These include;

- a) diapers;
- b) the supply of animal feeds and premixes; and
- c) the supply of all production inputs into iron ore smelting into billets and the supply of billets for further value addition in Uganda.

The above supplies will be substituted for the following supplies respectively, if the proposal is passed into law;

- a) adult diapers;
- b) the supply of animal feeds, premixes, concentrates and seed cake; and
- c) the supply for billets for further value addition in Uganda.

## 11. Removal of certain services from the Exempt supplies schedule

The Bill seeks to amend the Second Schedule to exclude some of the previously exempted supplies from the list of the exempt supplies.

The following are proposed to be removed from the list of exempt supplies;

- the supply of all production inputs necessary for processing of hides and skins into finished leather products in Uganda and the supply of leather products wholly made in Uganda;
- supply of cotton seed cake.

Where the Bill is passed into law, the above supplies will not be exempted from VAT and as such suppliers of these items will be required to register and account for VAT on them if they meet the turnover threshold.

## E. Tax Procedures Code (Amendment) Bill, 2023

### 1. Penal Tax relating to Tax Stamps Machines

The Bill proposes to introduce a fine not exceeding UGX 30 Million or imprisonment not exceeding ten (10) years to any person who makes an unauthorised interference to, or tampers with, a digital tax stamps machine, upon conviction.

Currently, the Tax Procedures Code Act (TPCA) only penalizes taxpayers for offences committed in relation to tax stamps and not tax stamp machines.

### 2. Recovery of Interest on Unpaid Tax.

The Bill proposes to provide for interest due and payable as at 01 July 2017 under a tax law which is in excess of the aggregate of the principal tax and the penal tax

This provision is being reallocated to the Tax Procedures Code Act from the Income Tax Act and the Value Added Tax Act.

### 3. Waiver of Interest upon Payment of Principal Tax

The Bill proposes to waive the payment of interest and the penalty by a taxpayer where the taxpayer voluntarily pays all the principal tax outstanding at 30 June 2023 by 31 December 2023.

The Bill further proposes to waive payment of interest and penalty on a pro rata basis, where the taxpayer voluntarily pays part of the principal tax outstanding at 30 June, 2023, by 31 December, 2023.

This presents an opportunity for taxpayers who voluntarily pay all or part of the principal tax that was due on 30 June 2023 by 31 December 2023, to pay less interest and penalties.

The proposal is meant to incentivise taxpayers to voluntarily pay principal tax due in this financial year by 31 December 2023.

### 4. Limitation on presenting new information at objection or ADR

The Bill seeks to prohibit taxpayers from providing any information not submitted upon request by the Commissioner for the purpose of administering any provision of the tax law, during objection or alternative dispute resolution proceedings.

If passed into law, this implies that information requested by the Commissioner but not provided by the taxpayer during the tax review/ audit process will not be considered by URA when making any tax decisions at the Objections or Alternative Dispute Resolution (ADR) levels of tax review.

## Penalty for Fixing Tax Stamp on Wrong goods, Brand or Volume

The amendment proposes to introduce a fine not exceeding UGX 750,000 or imprisonment not exceeding three (3) years or both applicable to a taxpayer who upon conviction, commits an offence of fixing and activating a tax stamp on a wrong good, brand or volume other than that for which the tax stamp is created.

## F. The Convention on Mutual Administrative Assistance in Tax Matters (Implementation) Bill, 2023



The object of the Bill is to give the force of law in Uganda, to the Convention on Mutual Administrative Assistance in Tax Matters; and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information among others.

The Uganda Ratification of Treaties Act Cap. 204 provides for forms of ratification of a Convention or agreement to be either by Cabinet approval or by Parliament resolution where the treaty relates to armistice or peace or would lead to the amendment of the Constitution. A ratified treaty can then be domesticated to form part of the laws of a country by being tabled before Parliament and the President for approval.

The Bill was tabled before the Parliament of Uganda, being a member and signatory to the Convention, in a bid to domesticate the Convention and make it a law locally in Uganda pursuant to Article 123 (2) of 1995 Constitution of the Republic of Uganda.

The Convention on Mutual Administrative Assistance that came into force on 01 June 2011 aims to ensure assistance between member States on administrative issues regarding taxes such as:

- a) exchange of information including tax examinations and participation in tax examinations abroad which includes the parties exchanging any information which is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by the Convention;
- b) assistance in recovery including measures of conservancy where at the request of the applicant State, the requested State shall take the necessary steps to recover tax claims of the applicant State as if they were its own tax claims and
- c) service of documents where at the request of the applicant State, the requested State shall serve upon the addressee documents including those relating to judicial decisions which emanate from the applicant State and which relate to a tax covered by the Convention.

This Alert summarises the key proposals in the Bill and what it means for you.

### 1. Enforcement Provisions

Section 3 of the Bill gives the Convention on Mutual Administrative Assistance in Tax Matters force of law in Uganda inclusive of all the rights, liabilities, obligations and restrictions, remedies and procedures provided under the Convention shall be enforceable in Uganda.

Section 4 gives force of law to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information inclusive of all the rights, liabilities, obligations and restrictions, remedies and procedures provided under the Convention shall be enforceable in Uganda.

Section 5 gives force of law to the Common Reporting Standards specified in Schedule 4 of the Bill.



## 2. Commencement of obligations

Section 6 requires that a reporting financial institution shall apply the due diligence procedure prescribed under Common Reporting Standards with effect from 01 January 2024.

Additionally, an account holder or a controlling person shall notify the reporting financial institution when there is a change in circumstances, including a change in the residence of the account holder or controlling person for tax purposes, within thirty days from the occurrence of the change.

Section 7 of the Bill requires that a reporting financial institution shall submit a return to the competent authority providing the information on the account held by a non-resident person or on a reportable account for the year ending 31<sup>st</sup> December in every calendar year and by the 31<sup>st</sup> day of May of the following year.

## 3. Offenses under the Bill

The Bill creates offenses related to the automatic exchange of information inclusive of:

- a) Failing to file a return on the due date for purposes of the automatic exchange of information creates a liability of two hundred and fifty currency points for each day of default.
- b) Failing to maintain information obtained in the process of conducting a due diligence required under the Act creates a liability of five hundred currency points and twenty currency points for each day of default in case of continuous violation.
- c) Making a false or misleading Statement in a return for purposes of the automatic exchange of information creates a liability of two thousand five hundred currency points or imprisonment for a term not exceeding ten years or both.
- d) Submitting a false or misleading self-certification to a reporting financial institution creates a liability of two thousand five hundred currency points or imprisonment not exceeding ten years or both.
- e) Omitting from a Statement made in a return for purposes of the automatic exchange of information, creates a liability of two thousand five hundred currency points or imprisonment for a term not exceeding ten years or both.

## G. Multilateral Competent Authority Agreement on Automatic Exchange of Financial Accounting Information (Schedule 3 of the Bill)

The parties to this agreement are signatories to the Convention on Mutual Administrative Assistance in Tax Matters. Therefore, prior to any financial account information exchange, the parties ought to be parties to the Convention on Mutual Administrative Assistance.

The essence of the agreement is to create terms for jurisdiction financial institutions which refers to any financial institution in a particular jurisdiction to report information regarding certain accounts and follow related due diligence procedures for tax purposes.

The common terms used are *Reporting financial institutions* means any jurisdiction financial institution that is not a non-reporting financial institution and a *Reportable account* which is one maintained by a reporting financial institution and that pursuant to due diligence procedures has been identified as an account that is held by one or more persons that are reportable persons.

### Implication

With the coming into force of this Act, the following will be implemented:

- i. Reporting financial institutions in Uganda will be required to provide information annually on reportable accounts to other competent authorities in other jurisdictions in compliance with the common reporting standard on reporting and due diligence for financial account information
- ii. The Commissioner of the Uganda Revenue Authority will have an obligation to exchange information with other competent authorities in other jurisdictions upon request of an applicant State
- iii. The Commissioner of the Uganda Revenue Authority will have an obligation to ensure that there is no breach of confidentiality of the information shared by other competent authorities.
- iv. An individual or entity that is a resident in other countries other than Uganda, that are members of the Convention, is protected from double taxation of their incomes or assets by virtue of the Conventions.
- v. An individual or entity in Uganda with the intention of evading taxes by transferring assets or properties to other jurisdictions that are member States of the Convention, may be prevented from doing so through the competent authorities in the other jurisdictions.

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