UGANDA - TAX PROPOSALS FOR FINANCIAL YEAR 2016/2017

1. Proposals under Income Tax Act (ITA)

- **Carry forward of tax losses** - *S. 38(1)*

Taxpayers who merge or acquire loss-making businesses and continue to operate this same business after this transaction, will be allowed tax relief for such losses in order to promote Uganda's investment climate and facilitate mergers and acquisitions. Therefore, the change in underlying shareholding takes precedence over the general loss carry forward provisions.

- **WHT on rent derived by a non-resident** - *S. 83(2)*

Rent derived by a non-resident from a source in Uganda is included amongst the payments to non-residents that are subject to the tax rate of 15%. Rent for this purpose means a payment for the use of properties located in Uganda.

- **Entitlement to tax treaty benefits** - *S. 88(5)*

Section 88(5) regarding the entitlement to benefit from a tax exemption or reduced tax rate under a Double Taxation Agreement (DTA) is reworded to restrict the eligibility for the tax incentive. The exemption is not available to any person who:-

  - receives the income in a capacity which is other than that of a beneficial owner, within the meaning accorded to that term by the relevant international agreement, and who does not have full and unrestricted ability to enjoy that income and to determine its future uses; and

  - does not possess economic substance in the country of residence".

- **Income tax returns for persons employed by diplomatic missions** - *S. 93(b)(i)*

Introduced a requirement for resident individuals employed by diplomatic missions and other prescribed organisations entitled to diplomatic immunities and privileges to file income tax returns.

Note: Currently such individuals (along with employees generally) are not required to file an income tax return if their sole income comprises employment income derived from a single employer from which tax is withheld at source (via the PAYE system).

- **Withholding tax on payments to international carriers and telecommunication providers** - *S. 120(1)*

Payments made to non-residents who derive income from sources in Uganda from international carriage and telecommunications services are subject to withholding tax.

Currently, tax at a rate of 2% is imposed on every non-resident person carrying on the business of ship operator, charterer or air transport operator who derives income from the carriage of passengers or cargo which is embarked in Uganda, and on road transport operators who derive income from the carriage of cargo or mail embarked in Uganda.

Currently, tax at a rate of 5% is imposed on a non-resident person who carries on the business of transmitting messages by cable, radio, optical fibre or satellite, in respect of income from the transmission of messages by apparatus located in Uganda or the provision of direct-to-home pay TV or internet connectivity services to Ugandan subscribers.

- **Additions to the list of exempt institutions for purposes of Income Tax**

The International Centre for Research in Agroforestry (ICRAF) and the International Potato Centre are to be included as listed Institutions in the First Schedule to the ITA.

- **Presumptive tax**

Clinics as a separate category of business subject to specific rates of presumptive tax. Therefore, persons in the business of providing medical or dental services are not eligible to account for taxes under the presumptive tax system.

Petroleum and Mining (taxation provisions under Income Tax Act) - *S. 89A, 89GA, 89GD*

- Redefined a licensee to mean "*a person who has been granted a mining right or a person who the Government has entered into a petroleum agreement as defined in the Petroleum (Exploration Development and Production) Act 2013, or a person licensed under the Petroleum (Refining, Conversion, Transmission, and Midstream) Act 2013*"

- The definition of "petroleum exploration information" is repealed. This definition is redundant as it is not applied anywhere else in Part IXA of the Act.

- For petroleum exploration licenses issued after 31 December 2015, a new provision will limit the deduction of expenditure against petroleum operations to the extent such limitation is specified in the petroleum sharing agreement (PSA). This will enable the Government to agree and enforce special deduction terms in each individual PSA.

- Repeal section 89GD(4)(b) which provides that a surplus in a decommissioning fund that is returned to the licensee upon completion of decommissioning is included in the licensee's gross income. This provision is redundant as such returns are already captured as income under subparagraph (a).

2. Proposals under Value Added Tax Act (VAT)

- **VAT registration for midstream operators** - *S. 7(4A)(d)*

Persons undertaking midstream operations in the petroleum sector (such as refining, conversion, transmission and storage) will be entitled to apply for voluntary VAT registration regardless of whether they are currently making taxable supplies.

- **No exemption for imported LED lamps** - *S. 20(a)*

LED lamps and bulbs which are exempt from import duty in accordance with the Fifth Schedule of the EAC Customs Management Act will be specifically excluded from the normal parallel exemption for import VAT. This means that the import of such items are subject to standard VAT at 18%.

- **VAT relief for aid-funded projects** - *S. 24(6)*

VAT relief will be granted in respect of supplies procured from the domestic market for aid-funded projects, in order to cure the imbalance suffered by domestic suppliers and producers.

The Bill introduces unique VAT treatment on taxable supplies made by a supplier to a contractor executing an aid funded project, whereby:

- The VAT on the supply is deemed to have been paid by the contractor to the supplier;
- The supplier does not account for the deemed VAT payment as output tax.

To qualify, the supply must be used by the contractor solely and exclusively for the aid funded project.

Note: The proposal will prevent VAT charged by subcontractors and other suppliers to entities carrying aid-funded projects from becoming an additional cost to the project. This is consistent with the general intention of international donors for aid funds to be wholly applied to the specific project rather than diverted to other uses through the tax system.

- **Input credit for business process outsourcing services** - *S. 28(1)(b)*

VAT imposed on imported services used by Business Process Outsourcing (BPO) companies will be refunded at the time of export or offset if the services are consumed in Uganda. The aim would be to mitigate reverse-charge VAT becoming an additional cost to a local BPO service provider where they subcontract some or all of the services to a foreign supplier.

Note: Although the term BPO is not defined, but this is generally taken to mean the contracting out of a specific business process to a third party.

- **Removal of exemption for solar power**

Supply of solar power is removed from the list of exempt supplies in the Second Schedule to the VAT Act.

This means that supplies of solar-generated power will now be subject to VAT at the standard rate of 18%, in the same way as other sources of electricity (such as hydro and thermal). This will enable solar power producers to register for VAT purposes and claim VAT on their operating costs.

- **Exemption for solar and geothermal power projects**

The supply of any goods and services to the contractors and subcontractors of solar power or geothermal power projects is VAT exempt.

Implication is that VAT will not apply to construction and other pre-operation costs incurred by such projects up to the point that they commence commercial production. This will prevent pre-operation VAT from becoming an additional cost.

- **New exemptions for agricultural machinery**

The following to the list of agricultural machinery, tools and implements are proposed to fall under the Second Schedule which supplies are exempt from VAT:-

- hullers;
- oil presses;
- grain dryers;
- manure spreaders;
- fertiliser distributors;
- transplanters;
- juice presses and crushers;
- seed and grain shellers;
- silage chopper machines;
- colour sorters for coffee;
- coffee roasters.

3. Proposals under Stamp Duty Act

The Bill amends the Stamp Duty Act 2014 to double the duty rates on certain instruments

- **Exchange of property**

The Bill increases the stamp duty on an exchange of property from 1% to 2% of the value of the property.

- **Transfer of property**

The stamp duty on a transfer of property similarly increases from 1% to 2% (budget speech affirmed 1.5%) of the total value of the property.

- **Fixed base rate**

The Bill increases the current Ush 5,000 base rate of fixed stamp duty for a wide range of instruments to Ush 10,000.

4. Proposals under Excise Duty Act

- **Refund of excise duty on conversion of healthcare and medical products**

The Bill allows a manufacturer to claim a refund of excise duty which was previously paid on excisable goods that are converted into approved healthcare or medical products.

Approved healthcare or medical products are products that have been approved by the Minister responsible for Finance in consultation with the Minister responsible for Health, in accordance with specific regulations.

- **Repeal of duty on incoming international calls**

The Bill removes the existing 9 US cents per minute duty on incoming international calls.

- **Exemption for hospital furniture**

Specialised hospital furniture will be exempted from the 10% excise duty on furniture (as introduced in 2015).

- **New duty on ready to drink spirits**

The Bill introduces a new excise duty of 80% on ready to drink spirits.

The Bill does not define the term "ready to drink spirits", and in a general sense this could include any spirit. However in the industry, ready to drink beverages (often referred to as RTDs) are taken to mean those sold in a prepared or pre-mixed form, ready for immediate consumption. Alcoholic RTDs can include alcopops, flavoured beers and those that are a mixture of a particular spirit and a soft drink or fruit juice.

- **Increases in excise duty rates**

The Bill increases the excise duty rates on tobacco, cement, sugar, petrol, diesel, motor vehicle lubricants and confectionary. However the duty rates for alcohol (other than RTD spirits) remain unchanged.

5. Proposals under Finance Act

- **Environmental levy increase on used clothes**

The Bill proposes to increase the environmental levy on used clothes, shoes and other articles from 15% to 20% of CIF value.

- **Introduction of new five year driving permit**

The Bill introduces a new driving permit that is valid for five years, in addition to the existing categories valid for one and three years.

- **Increase in fees**

There are increases proposed in various fees under the Traffic and Road Safety Act.

- **Notification period for change of ownership of motor vehicles**

The Bill proposes to amend the Traffic and Road Safety Act to extend the period within which a vendor must notify the URA of the sale or disposition of a motor vehicle, from 14 days to 3 months.

Failure to provide such notification within three months is now an offence which, upon conviction, is liable to a fine not exceeding Ush 300,000 and/or imprisonment up to six months.

- **URA to issue Certificates of Origin**

The responsibility for issuing Ugandan Certificates of Origin in accordance with section 111 of the EAC Customs Management Act will now fall on the URA.

Currently such Certificates are issued by the Uganda Chamber of Commerce.

Manufacturers will now apply to the URA which will verify the products and production processes to determine whether they meet the new origin rules (which entails meeting various minimum local content or value addition percentages). The Certificate of Origin will entitle the exporter to take advantage of EAC tariff rates when exporting goods within the EAC, as well as equivalent concessions in other countries.

- **Waiver of tax arrears for SACCOs**

The Finance Bill proposed a waiver of taxes for Savings and Credit Co-operative Organisations (SACCOs) up to 31 December 2015.

SACCOs that engage in investment of membership funds derive investment income which is subject to income tax, and they also have obligations in respect of other taxes heads.