



**BDO EAST AFRICA**

# Tax Amendment Bills 2022

April 2022

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The Minister of Finance has tabled Tax Amendment Bills in Parliament.

This brief is a summary of the tax and administrative changes that will take effect on 1st July 2022 if passed by Parliament and assented to by the President.

It is important to emphasize that these are tax proposals, they are not yet law – they are subject to review and approval by Parliament.

- ✓ **Income Tax Amendment Bill, 2022**
- ✓ **Value Added Tax Amendment Bill, 2022**
- ✓ **Excise Duty Amendment Bill, 2022**
- ✓ **Stamp Duty Amendment Bill, 2022**
- ✓ **Tax Procedures Code Amendment Bill, 2022**
- ✓ **Tax Appeals Tribunal Amendment Bill, 2022**
- ✓ **Uganda Revenue Authority Amendment Bill, 2022**





# Income Tax (Amendment) Bill 2022



## Definition of beneficial owner - Amendment of Section 2

The Bill proposes amending the definition of “beneficial owner”. The amendment:

- ✘ Replaces the “final ownership” and “absolute control” tests with the “ultimate control or ownership” test.
- ✘ Clarifies that a legal person includes a natural person who directly or indirectly holds at least 10% of the of shares or voting rights; a natural person exercising control of the legal person through other means including personal or financial superiority; or the natural person who has power to make or influence a decision of the legal person.
- ✘ Expands the scope of trust relationships that are considered to constitute beneficial ownership.

This amendment seems to be directed at persons who set up opaque structures where it has been difficult to identify who the “real” owners are for tax purposes. This is likely to reduce aggressive tax planning and avoidance of the tax man’s radar.

## Definition of exempt organisations - Amendment of Section 2

The Bill seeks to include research institutions which have a not-for-profit object among the entities that qualify for income tax exemption upon satisfying the requirements stated in the Income Tax Act .

This proposition implies that research institutions that are not profit motivated will be able to enjoy the income tax exemption incentive.

## Extending the exemption of the income of Bujagali project

The bill proposes to extend the income tax exemption of Bujagali Hydro Power Project for five more years – the exemption expiry is being moved from 30th June 2022 to 30th June 2027.

## More manufacturers to benefit from income tax exemption

The bill proposes income tax exemption for a manufacturer whose investment capital is, for over a period of at least ten years from the date of commencement of business, at least USD 35 million for a foreign investor or USD 5 million for a citizen investor who;

- ✘ Has capacity to source at least fifty percent of the locally produced raw materials, subject to availability; and
- ✘ Has capacity to employ a minimum of one hundred citizens.

This exemption opens more doors for manufacturers to benefit from income tax exemption. The current income tax exemption for manufacturers is limited to specified products such as mattresses, footwear, etc.

## Income tax Exemption for Hospitals

The bill seeks to exempt the income of a hospital facility developer whose investment capital is at least USD 5 million for over a period of at least ten years from the date of commencement of business.

This proposition is meant to foster investment in the health sector.

## Qualifying income for persons who are eligible for Income Tax holiday

In July 2020, the Income Tax Act introduced a formular whereby existing businesses that make additional investment that qualifies for the ten-year income tax holiday are only exempted in respect of qualifying investments made from the time they qualified for the tax holiday.

The 2022 bill seeks to adjust parameter "A" in the formular by providing that when computing income qualifying for exemption, investment should be determined from the time the incentive was established in the Act.



## ☞ Taxation of rental income - Amendment of Sections 5, 22 and the Third Schedule

The Bill seeks to amend taxation of rental income as follows:

### a) Individuals

- ✘ Tax at 12% will be charged on gross rental income.
- ✘ There will no threshold – regardless of how low the rental income is, the tax of 12% will apply.
- ✘ Deductions including interest on mortgage will no longer be allowed.
- ✘ Tracking of expenses incurred for tax purposes will not be required.

### b) Non-individuals (companies, trusts, retirement funds)

- ✘ Tax at 30% will be applied on chargeable income.
- ✘ Expenses incurred in respect of rental income will be allowed.

- ✘ Capital allowances attributable to rental income will be allowed.
- ✘ However, total allowable expenses and deductions will be capped at 50% of the gross rental income and the excess shall be carried forward. This effectively implies a minimum tax rate of 15% of gross rental income.

### c) Partnerships

- ✘ Expenses incurred or gross rent derived by a partnership will be allocated to the partners according to the partner's percentage interest in the income of the partnership as set out in the partnership agreement.
- ✘ Where the agreement is silent on sharing proportions, rental income and expenses will be shared according to

the partner's percentage interest in the capital of the partnership.

Once these allocations are done, tax will be applied as follows:

- ✘ For a partner who is an individual, the gross rental income will be taxed at 12%.
- ✘ For a partner who is a non-individual, 30% tax rate will apply on the chargeable income with deductions capped at 50% of gross rental income and the excess carried forward.
- ✘ Where all the partners are individuals, apportionment of expenses/deductions is not necessary as it has no effect on the tax treatment.



## ☛ **Taxation of non-residents providing international transport - Amendment of Section 85**

The Bill seeks to amend Section 85 of the Income Tax Act to clarify that income by a non-resident from carriage of passengers or cargo or mail not embarked in Uganda is excluded from income sourced under a Uganda-Source services contract and therefore not subject to 15% withholding tax.

This amendment comes following the Tax Appeals Tribunal's decision in Roche Transport & Logistics Uganda Limited v URA TAT Application No. 94 of 2020 wherein the Tribunal agreed with URA that such income is subject to 15% withholding tax under Section 85 of the Income Tax Act.

If passed into law, this proposed amendment would have the effect of rendering that decision inapplicable going forward.



## **Capital Allowance on Intangible Assets -Amendment of Section 89GB**

The proposal under Section 89GB seeks to clarify that the rate of amortisation for the qualifying intangible assets treated as petroleum exploration expenditure is 100%.

While this has been the understanding under the current provision, the Bill's proposition, if passed into law, shall leave no doubt.

## **Due date of payment of Mining or Petroleum Revenues and other taxes -Amendment of Section 89P**

The proposed amendment seeks to change the due date of payment of mining and petroleum revenues and taxes from 7 days after the due date of furnishing the return to simply the due date of furnishing the return.

## **Penalty for failure to furnish returns by a licensee -Amendment of Section 89QA**

Section 89QA of the Income Tax Act is being amended to clarify that for licensees, the penalty for failure to timely file a return or any other document is at least USD 50,000 but not exceeding USD 500,000 notwithstanding the penalties imposed under the Tax Procedures Code Act.

The Income Tax Act and the Tax Procedures Code Act currently prescribe different penalties for failure by a licensee to timely furnish a return or any other information and there was no clarity as to which penalty is applicable given that both penalties cannot be applied for the same offence – this ambiguity will be resolved by the amendment.

## WHT on purchase of a Business Asset - Amendment of Section 118B

For some time, Section 118B has been problematic as URA was expecting every resident buyer of land to deduct 6% withholding tax when paying the seller and the law did not provide clarity on exceptions applicable.

The Bill proposes to define a business asset to mean land, 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 -

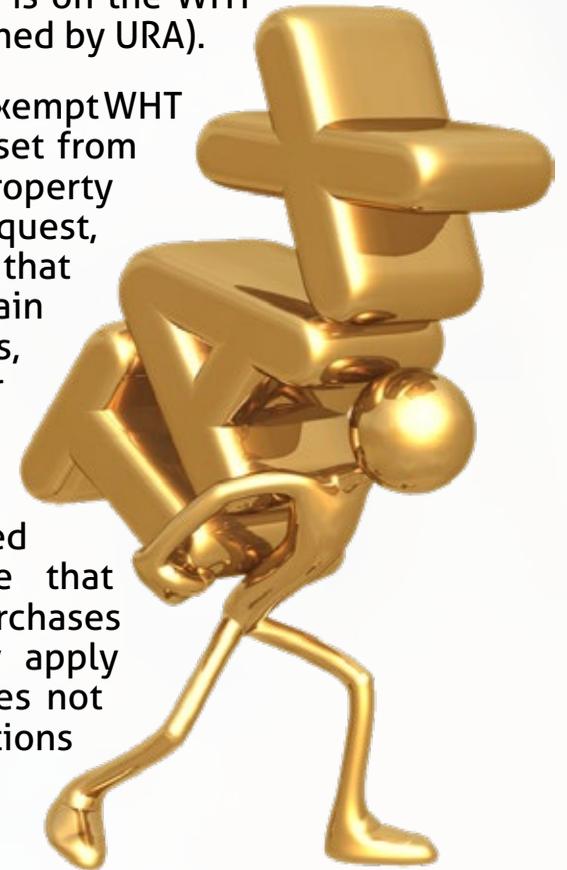
- ✘ land that is used in business to generate income other than land of an individual that is subject to rental tax; or
- ✘ land owned by a company, trust or partnership.

The Bill further proposes that WHT on purchase of an asset does not apply

to a seller who complies with tax obligations (one who is on the WHT exemption list published by URA).

The Bill also seeks to exempt WHT on purchase of an asset from 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.

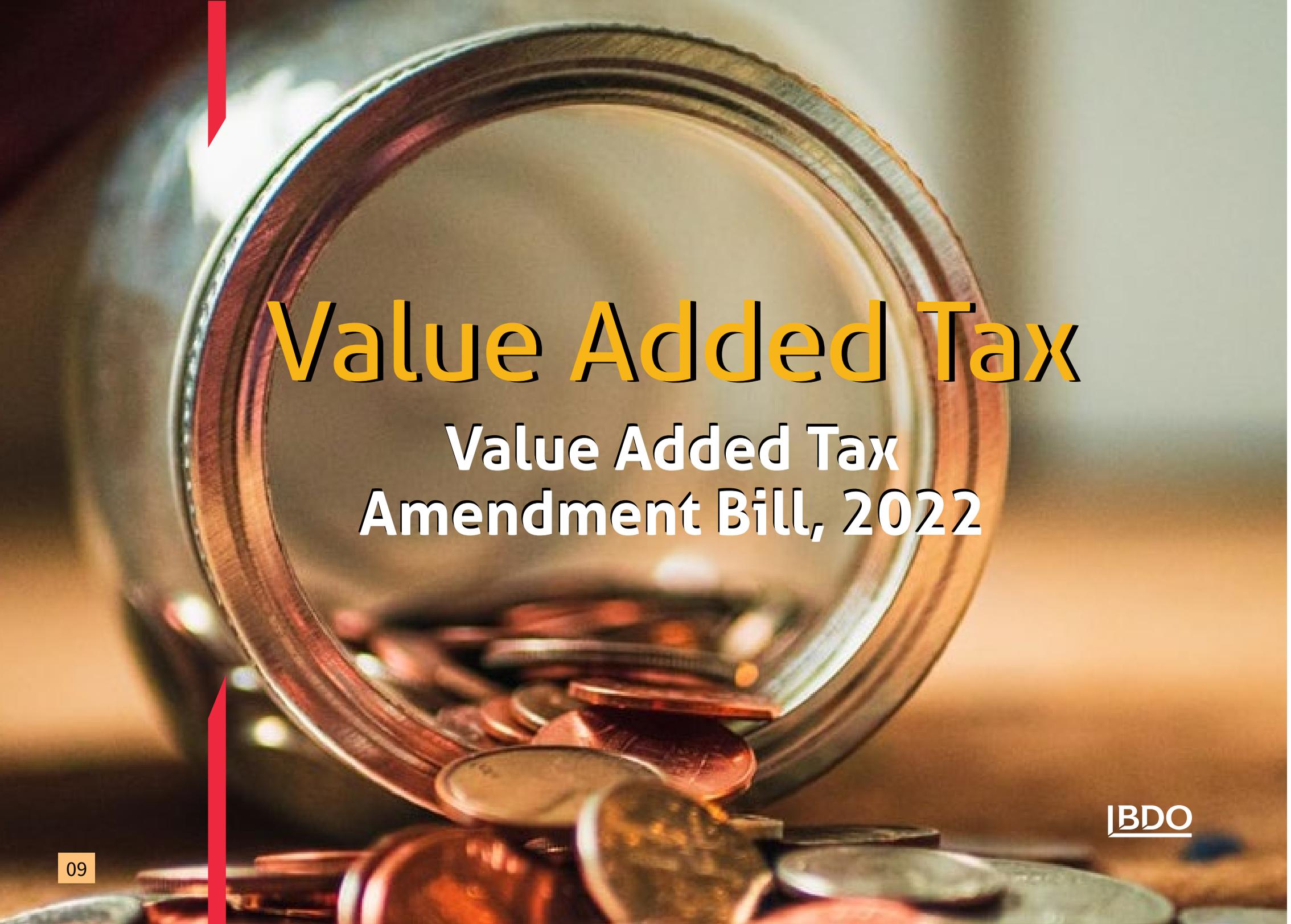
The effect of this amendment, if passed into law, would be that when a resident purchases land, WHT will only apply if the transaction does not fit within the exceptions mentioned.



## Amendment of the First Schedule

The First Schedule lists International Organisations that are exempt from income tax.

- ✘ International Development Law Organisation (IDLO) is being added to the First Schedule.
- ✘ The First Schedule is being updated to replace “Department for International Development (DFID)” with “Foreign, Commonwealth and Development Office (FCDO)” to reflect changes in the name.



# Value Added Tax

Value Added Tax  
Amendment Bill, 2022

## 👉 Exempt Imported service - Amendment of Section 20.

Effective 1<sup>st</sup> July 2021, an amendment was introduced to exempt from VAT an imported service that is used to provide an exempt supply.

The Bill now seeks to repeal this exemption.

## 👉 Amendment to the First Schedule

The bill proposes the following;

- ✘ To include International Development Law Organisation (IDLO) amongst the list of exempt organisation.
- ✘ To substitute Department for International Development (DFID)" with Foreign, Commonwealth and Development Office (FCDO).

Organisations listed under the First Schedule are entitled to a refund of the VAT they incur.

## 👉 Amendment of the Second Schedule

The second schedule lists items that are exempt from VAT.

### Items added

The Bill proposes to include the following:

- ✘ oxygen cylinder or oxygen for medical use
- ✘ the supply of assistive devices for persons with disability
- ✘ the supply of airport user services charge by Civil Aviation Authority



Items excluded from the Second Schedule  
The Bill proposes to exclude the following

- ✘ the supply of menstrual cups. This has been transferred to the Third Schedule and this will make them more affordable.
- ✘ supply of cotton seed cake – this will make it taxable.
- ✘ Remove the word phrase “at the level of a national referral hospital” from paragraph 1(rr). This is meant to clarify that a hospital facility does not have to be at a level of a national referral hospital for supplies mentioned in paragraph 1(rr) of the second schedule of the VAT law to qualify for VAT exemption.

✎ **Amendment of the Third Schedule**

The Third Schedule lists items that are taxable at zero percent.

The proposal seeks to amend this schedule to include the following;

- ✘ the supply of education materials manufactured in a partner state of the East African Community.
- ✘ the supply of menstrual cups and input for their manufacture.

This is meant to bring down the cost of the above items.





# Tax Procedures Code Amendment Bill



### ☛ **Amendment to section 9(4)-Tax agent registration**

The bill seeks to fix the validity of certificate of every registered tax agent to 31st December every calendar year from the date of registration.

This implies that the registration of a Tax agent shall be valid up to 31st December every calendar year and the tax agent will be required to apply for renewal after that.

### ☛ **Amendment to section 19(B)- Penal tax relating to tax stamps.**

Subsection (1) is being amended to include “or activate”

*Subsection 1 reads “A taxpayer who fails to affix a tax stamp on goods prescribed under section 19A (3) is liable to pay a penal tax equivalent to double the tax due on goods or fifty million shillings, whichever is higher.*

This proposal seeks to impose penal tax on taxpayers who fail to activate an affixed tax stamp.

### ☛ **Amendment to section 33-Temporary closure of Business**

The Bill seeks to extend the power of the Commissioner to notify the person the intention to close down part or the whole of the person’s business premises for failure to comply with the requirements of electronic receipting and invoicing or tax stamps.

The Bill also proposes to grant the Commissioner or authorized officer power to issue an order to close down part or the whole of the business premises of a person who fails to comply with the requirements of electronic receipting and invoicing or tax stamps.

The purpose of this amendment is to grant power to the Commissioner to enforce compliance with the requirements of electronic receipting and invoicing or tax stamps.





### 👉 **Amendment of Section 42 - Notice to obtain information or evidence.**

The Bill proposes to compel a person engaged in the construction or extractive industry to disclose to the Commissioner, the names of persons contracted in the course of performance of their duties or business within seven days from the date of signing the contract.

Further, the Bill seeks to impose a penalty of Ushs 20 Million on a person who fails to provide the above information within the time stipulated.

This amendment will give URA visibility of contracts signed by the construction and the extractive sectors and therefore be able to check the completeness of their tax declarations – these sectors generally deal in high value transactions.

### 👉 **Amendment to section 58- Fine for making false or misleading statements.**

The Bill seeks to increase the fine to a person who makes a false or misleading statement from Ushs 4,000,000 to Ushs 110,000,000.

This seeks to make the penalty more punitive and deterrent.

However, the Commissioner cannot unilaterally impose this penalty. The penalty applies when the person has been proved to have committed the offence by a competent court of law.

The Bill proposes to prescribe new offences and attendant penalties as follows;

No.	Offence	Penalty
1	Failure to affix or activate tax stamps	Not exceeding Ushs 30 Million or imprisonment not exceeding ten years or both on conviction
2	Prints over or defacing of tax stamps	
3	Forgery of tax stamp	
4	Failure to use an electronic receipting or invoicing	
5	Forgery of electronic receipt or invoice	
6	Interfering with the electronic fiscal device or electronic dispensing control device	
7	Failure to file an information return for purposes of automatic exchange of information.	Not exceeding Ushs 50 Million for each day of default or imprisonment not exceeding ten years or both on conviction
8	Failure to maintain records for purposes of automatic exchange of information	
9	Makes a false or misleading statement in the information return.	
10	Omits from a statement made in the information return	



### 👉 **Amendment to section 74A-Payment of informers**

The Bills proposes that the Commissioner shall pay to a person who provides information leading to;

- ✘ identification of unassessed tax or duty 1% of the tax or duty assessed or fifteen million shillings, whichever is less; or
- ✘ recovery of unassessed tax or duty five percent of the tax or duty recovered or one hundred million shillings whichever is less

The above payments do not apply to a staff of the URA.

The amendment is intended to clarify what payments will be made in case of identification of unassessed tax or duty and where there is recovery of unassessed tax or duty. The amendment also puts a cap on the amount an informer can be paid.





# LOCAL EXCISE DUTY(LED) (Amendment) Bill 2022



TAX

## 👉 Amendment of Section 2 - Definitions

The Bill proposes to include the definition of "fruit juice", "un-denatured spirits" and "vegetable juice" to provide clarity.

- ✘ Fruit Juice refers to unfermented liquid extracted from the edible part of a fresh fruit whether the extracted liquid is diluted or not
- ✘ Un-denatured spirits refers to 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, including neutral spirits or alcoholic beverages made from neutral spirits that are fit for human consumption.
- ✘ Vegetable juice refers to unfermented liquid extracted from the edible part of a vegetable whether the extracted liquid is diluted or not

These are excisable goods and defining them provides clarity on the nature of goods that attract duty.



## The Bill seeks to amend part I of Schedule 2 to the Excise Duty Act to vary excise duty in respect of certain excisable goods as follows;

No.	Item	Current Duty FY 2021/2022	Proposed duty FY 2022/2023
1	Opaque beer	20% or Shs. 230 per litre, whichever is higher	12% or Shs 150 per litre whichever is higher
2	Un-denatured spirits of alcoholic strength by volume of 80% or more made from locally produced raw materials; Note: The phrase "of alcoholic strength by volume of 80% or more" is the proposed addition to this item.	60% or Shs. 1,500 per litre whichever is higher	60% or Shs. 1,500 per litre whichever is higher
3	Un-denatured spirits of alcoholic strength by volume of 80% or more made from imported raw materials Note: The phrase "of alcoholic strength by volume of 80% or more" is the proposed addition to this item.	100% or Shs. 2,500 per litre, whichever is higher	100% or Shs. 2,500 per litre, whichever is higher
4	any other un-denatured spirits— (i) that is locally produced of alcoholic strength by volume of less than 80%; or (ii) that is imported of alcoholic strength by volume of less than 80%.	80% or Shs. 1,700 per litre whichever is higher	(i) 80% or Shs. 1,700 per litre whichever is higher; (ii) 100% or Shs. 2,500 per litre whichever is higher;
5	Un-denatured 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%.	60% or Shs. 1,500 per litre whichever is higher	Nil

No.	Item	Current Duty FY 2021/2022	Proposed duty FY 2022/2023
6	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 locally grown. Note: The phrase "or at least 30% juice by weight or volume of the total composition of the drink " is a new addition.	12% or Shs.250 per litre, whichever is higher.	12% or Shs. 250 per litre, whichever is higher.
7	any other non-alcoholic beverage locally produced other than the beverage referred to in paragraph (a) made out of fermented sugary tea solution with a combination of yeast and bacteria.	12% or shs 250 per litre whichever is higher	12% or shs 150 per litre whichever is higher
8	Sacks and bags of polymers of ethylene and other plastics under HS codes 3923.21.00 and 3923.29.00 except vacuum packaging bags for food, juices, tea and coffee sacks and bags for direct use in the manufacture of sanitary pads.	2.5% or USD 70 per ton, whichever is higher.	40% or Shs 4,000 per kilogram whichever is higher;"
9	Incoming international calls from United Republic of Tanzania.	USD 0.09 per minute	Nil
10	Any other fermented beverages including cider, perry, mead or near beer produced from locally grown or produced raw materials. Note: The wording has changed to provide clarity.	30% or shs 550 per litre; whichever is higher.	30% or shs 550 per litre whichever is higher;
11	Construction materials of a manufacturer, other than a manufacturer referred to in item 21, whose investment capital is, at least thirty five million United States Dollars in case of a foreigner or five million United States Dollars in the case of a citizen. Note: This replaces Item 26. It prescribes investment thresholds for citizens and foreigners and also reduces the threshold from USD 50 million.	Nil	Nil

The background of the slide features a close-up, high-angle shot of numerous gold coins. The coins are scattered and overlapping, with some showing the profile of a person. A prominent gold coin in the center has a white, rectangular stamp with the words "STAMP DUTY" in bold, black, uppercase letters. The stamp is slightly tilted and has a distressed, ink-like texture. The overall color palette is dominated by the warm, metallic tones of the gold coins, set against a dark red background.

# Stamp Duty (Amendment) Bill 2022

The Stamp Duty Act, 2014 is amended in Schedule 2 by revising the stamp duty for the following instruments;

Item No.	Description of instrument	Current Duty (FY 2021/2022)	Proposed Duty (FY 2022/2023)
6	AGREEMENT relating to deposit of title- deeds, pawn pledge – of the total value	1%	Nil
56	SECURITY BOND OR MORTGAGE DEED- executed by way of security for the due execution of an office, or to account for money or other property received by virtue of security bond or mortgage deed executed by surety to secure a loan or credit facility – of entry total value.	1%	Nil
63**	TRUST- concerning any property made by any writing including a transfer from a holder of letters of administration or Probate orders to a beneficiary.  <i>[This amendment expands the scope of item 63 to include the transfer from a holder of letters of administration or Probate orders to a beneficiary].</i>	UGX 15,000	UGX 15,000

Furthermore, the Second schedule (Item 60A (f)) is being amended to reduce the capital investment from USD 50 million to USD 35 million for Strategic Investment Projects to qualify for stamp duty exemption. This amendment will enable more strategic investment projects to qualify for stamp duty exemption.



# The Tax Appeals Tribunal (TAT) Amendment Bill 2022

## 👉 **Increase in the number of members of the Tribunal – Amendment to Section 2**

The Bill proposes to double the number of members of the Tribunal from four to eight.

If enacted into law, it will improve the efficiency of the Tribunal in disposing the cases before it.

In a landmark judgement by the supreme Court, it was ruled that the Tax Appeals Tribunal (TAT) is the tribunal of first instance in all tax disputes, and cases can only go to the high court on appeal.

This ruling meant that the TAT had to deal with many cases yet it had few members. This proposal seeks to provide the TAT with more manpower to enable it handle the many cases it receives.



# The URA (Amendment) Bill 2022

## 👉 Amendment of Section 3 and 11 of the URA Act.

### Power of the Minister - Amendment of Section 3(2).

The Bill proposes to give the Minister of Finance authority to amend the First and the Second schedule.

The First Schedule lists the laws that are administered by the URA while the Second Schedule gives guidance on the meetings of the board.

This proposal implies that the Minister has authority to determine the laws administered by the URA as well as providing guidance on the meeting of the board.

### Appointments by the URA board

Section 11 is being amended by substituting for the word "manager" with the words "assistant commissioner".

The Bill if enacted into law implies that the URA board shall only appoint URA staff from the level Assistant Commissioner and above, Managers will be appointed by the URA Management.



# Key Contacts in Uganda

At BDO, we aim at helping others achieve their dreams. For any assistance, feel free to reach out to any of the following:



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# Disclaimer

The information contained in this document is based on the referenced Tax Bills of 2022.

This document gives a brief guide with only highlights of the key revisions under Tax Bills of 2022 and does not address specific circumstances of any person. Readers are advised to seek professional advice when making decisions regarding the proposed amendments under the said Bills. Whilst every effort has been made to ensure its accuracy, BDO East Africa and its associated companies and entities, nor any of the respective employees, directors and agents, nor any other person shall be liable for any direct, indirect or consequential loss or damage suffered by any person arising out of or in connection with this publication and any such liability is expressly disclaimed.



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