TAX JUSTICE ALLIANCE Uganda

CSO POSITION PAPER ON THE TAX BILLS FOR FY 2023/24

April 2023

Introduction

About Tax Justice Alliance Uganda

Tax Justice Alliance Uganda (TJAU) was established in 2014 following the realization that it was important for Civil Society Organizations (CSOs) in Uganda to come together and deliberate on tax issues and pool human, financial and technological resources for common and/or joint action. Since then, the Alliance has spearheaded civil society debate and engaged different stakeholders on tax issues in Uganda. The Tax Justice Alliance Uganda is a gradually growing network both in membership and the number of issues it covers. It currently has 50 members both at national and regional chapters across the country.

Budget FY 2023/24

Uganda's preliminary resource envelope Financial Year (FY) 2023/24 has been adjusted upwards to UShs 50.871 trillion from UShs 47.328 trillion in FY 2022/23. Of this total, Ush 28.922 trillion is domestic revenues; Ushs 2.471 trillion is budget support; Ushs 2.010 trillion is domestic borrowing; Ushs 8.870 trillion is project support; Ushs 8.358 trillion is domestic refinancing; Ushs 238.5 billion is Appropriation in Aid (AIA) and Ushs 90.39 billion is Non Tax Revenue (NTR)[1].

As part of the efforts to ensure that Government meets its financing obligations, seven tax and revenue bills for the Financial Year 2023/24 have been tabled before the Parliament of Uganda and these include; the Excise Duty (Amendment) Bill 2023, the Income Tax (Amendment) Bill 2023, Value Added Tax (VAT) Amendment Bill 2023, Tax Procedures Code (Amendment) Bill 2023, the Traffic and Road Safety (Amendment) Bill 2023, the Lotteries and Gaming (Amendment) Bill 2023 and the Convention on Mutual Assistance in Tax Matters Implementation Bill 2023. The bills are mainly aimed at strengthening tax administration to enhance compliance and widen the tax base.

During the month of April 2023, TJAU members including CSOs at national and subnational level as well as representatives of the Small and Medium Enterprises met and analysed the tax bills and made the following observations;

1 The second Budget call Circular (2nd BCC) on finalisation of the Budget estimates for Financial Year 2023/2024, Issued on the 15th of February 2023.

CSO Proposals adopted by Ministry of Finance, Planning and Economic Development

Income Tax Act

- **Digital services tax;**
  Imposing a 5% tax on every non-resident person deriving income from providing digital services in Uganda to a customer in Uganda.
- **Capital gains tax regime;**
  CSOs previously called for a reduction of Capital Gains Tax to 15% from 30% as a step towards harmonisation of domestic taxes within EAC partner states. However, the current proposal to completely repeal the Capital Gains Tax regime and replace it with a withholding tax of 5% on business and non-business assets may not address the concerns earlier envisaged.
- **Carry Forward losses;**
  Amendment of the section 38 of the Income Tax Act to cap carry forward of losses to 50% of the losses carried forward after five years. This is a measure to curb tax avoidance within companies.

Automatic Exchange of Information

The introduction of the Convention on Mutual Administrative Assistance in Tax Matters (Implementation) Bill, 2023. This will allow for the facilitates international co-operation for a better operation of national tax laws, while respecting the fundamental rights of taxpayers. It provides for all possible forms of administrative co-operation between states in the assessment and collection of taxes. This co-operation ranges from exchange of information, including automatic exchanges, to the recovery of foreign tax claims.

Excise Duty

A consideration to tax undenatured spirits according to alcohol by volume as opposed to a tax on the total quantity (per litre). This is also a move towards harmonising the administration of this tax with other countries in the region such as Kenya and Tanzania

Streamlining Domestic Tax Laws

- **This has been considered under various tax amendments including among others the Tax Procedures Code under** Section of 39 of the Tax Procedures Code is proposed to be amended by inserting immediately after subsection (3) which is being repealed in

sections 136 of the ITA and section 65Aof the VAT act where it already existed.

- Under the **Lotteries & Gaming Act,** CSOs proposed that the taxes on gaming and betting should all be provided for under the ITA for purposes of uniformity. This has been partially responded to incorporating the betting provision under the income tax amendment in section 118C and the gaming provision in the lotteries and gaming act

General Observations

- **The Committee report on Bujagaali Tax Waiver**; We note that the report of the Ad hoc Committee on Bujjagali tax waiver was concluded in December 2022 and submitted to the office of the Clerk to Parliament in February 2023. One of the issues noted is the haemorrhage and repatriation of resources from Uganda has been modernised through treaties and memoranda of understanding. The committee strongly called upon Parliament to compel the government to renegotiate with Bujagali Energy Limited, the terms in the Public Partnership Agreement, before deciding to extend the tax waiver. We note with concern that the tax bills are silent on the issue yet the extended exemption of one year will expire soon.
- **Tax Harmonisation**: Although, the tax systems of the Partner States are harmonised in terms of design and principle, there are significant differences in definitions of tax bases, tax rates, tax deductions, tax incentives for investments, treatment of capital gains tax across Partner States. We are concerned that un-harmonised excise duties and discriminatory taxes cause distortions in cross-border transactions and investment decisions for businesses as required by *Article 83(2)(e)* of the 1999 Treaty establishing the EAC.
- **The changing International Tax Architecture**: Discussions on tax at the global level are fast changing and are likely to impact tax policy and administration in Uganda. Government is continuously taking part in processes with African Tax Administration Forum (ATAF), Organisation for Economic Co-operation and Development (OECD) and United Nations (UN) to improve DRM in Uganda. One of the contentious issues at the global level is the Two-Pillar Solution, a commitment of 137 members of the Inclusive Framework (Uganda not yet a member), under a mandate from the G20. Each pillar addresses a different gap in the existing rules that allow Multinational Enterprises (MNEs) to avoid paying taxes. First, Pillar One applies to the biggest and most profitable MNEs and re-allocates part of their profit to the countries where they sell their products and provide their services, where their consumers are. Without this rule, these companies can earn significant profits in a market without paying much tax there. Under Pillar Two, a much larger group of MNEs (any company with over EUR 750 million of annual revenue) would now be subject to a global minimum corporate tax. With the new rules, companies organising their affairs in a way that their profits in each jurisdiction (whether in a low-tax jurisdiction or otherwise) are subject to an effective tax rate lower than the minimum rate, those profits would still

be taxed at a minimum rate of 15%. Therefore, it is important that the international tax architecture is put into consideration during the process of reviewing the tax bills.

- **Strategies adopted to improve DRM in Uganda; The core objective of the DRMS is to improve tax** collection and ultimately increase tax to GDP ratio to between 16-18% by 2025. During the next financial year 2023/24, Government intends to meet the target of raising domestic revenues by 0.5% of GDP in line with the NDP III annual revenue enhancement target and the Domestic Revenue Mobilization Strategy (DRMS)[2]. The Public Investment Finance Strategy (PIFS) which was launched in March 2023 explores additional financing from domestic, external, emerging and innovative financing options to meet the increasing development aspirations of Government embedded in the National Development Plans and the Sustainable Development Goals. It also provides a framework for collaboration with the private sector in the implementation and financing of public investments.

  Despite these good initiatives, it should be noted that whereas the resource envelope for FY 2023/24 is expected to increase to Ushs.50.8 trillion, the discretionary resource envelope is expected to reduce by Ush's. 3.3 trillion due to projected increase in the interest obligations and obligations to settle BoU redemptions. Approximately 30% of the revenue expected to be collected this year will go to domestic refinancing. This projection coupled with the commitment from Government not to introduce new taxes implies that more pressure will be exerted on the tax administration to bridge the revenue gap. We hope that this will not translate into a higher tax burden onto the already few and highly burdened taxpayers but bring on board more taxpayers who have previously not been captured in the tax net.

The matrix below analyses the seven amendment Bills in detail and makes recommendations for consideration by the Committee on Finance, Planning and Economic Development.

2 Budget Strategy FY 2023/24, MoFPED, September 2022

LOTTERIES AND GAMING (AMENDMENT) BILL 2023

LOTTERIES AND GAMING (AMENDMENT) BILL 2023			
Proposed Amendment	**Observation**	**Implication**	**Recommendation**
The Lotteries and Gaming Act, 2016 is amended by substituting Schedule 4 which provides for a rate of twenty percent (20%) of the total amount of money staked less the pay outs (winnings) for the period of filing returns.the following— *"Rate of tax* *1. Twenty percent of the total amount of money staked less the payouts (winnings) for the period of filing returns for a betting activity.* *2. Thirty percent of the total amount of money staked less the pay-outs (winnings) for the period of filing returns for the gaming activity."*	This proposed amendment is linked to the proposed amendment of Section 118C of the Income Tax Act which eliminates the 15% withholding tax from gaming. To replace the revenue lost from the removal of WHT, the tax rate on gaming is being increased from 20% to 30%. In practice, the operators of gaming houses are inclined to paying Government the difference between Gaming and Pool Betting Tax (GPBT) and the annual Corporate Income Tax. Secondly, Gaming and Pool Betting services do not attract VAT. Therefore, a higher tax rate can support Government efforts to address this moral hazard alongside attaining increased revenues as well as promoting equity in the tax system.	The amendment will ease administration by removing the withholding tax under Section 118C of the Income Tax Act from gaming in the Casinos and instead provide for a tax rate on betting and gaming from 20% and 30%under the Lotteries and Gaming Act.	Since the current provision proposes to relieve the tax burden on gamblers, we propose that the tax burden is shifted to the gaming houses and therefore increased to 35% for both betting and gaming.

TAX PROCEDURES CODE (AMENDMENT) BILL, 2023

Tax Procedures Code (Amendment) Bill, 2023

Proposed Amendment	Observation	Implication	Recommendation
Amendment of Section 19B *The principal Act is proposed to be amended in section 19B by inserting immediately after subsection (6) the following—* *"(6a) A person who makes an unauthorised interference to, or tampers with, a digital tax stamps machine commits an offence and is liable, on conviction, to a fine not exceeding one thousand five hundred currency points or imprisonment not exceeding ten years."*	This proposed amendment targets manufacturers of gazetted products who are implicated in tampering with DTS machines. However, we note that this amendment requires prosecution, yet the TPC generally has both administrative and prosecution penalties. An administrative penalty is an offence which should not require going to court and can be imposed by URA directly.	URA may have difficulty tracking taxpayers engaging in this non-compliance. Additionally, the proposed penalty **"not exceeding one thousand five hundred currency points"** is very low and may not necessarily deter the habit of tampering with the DTS machines.	Two provisions should be considered. Create an dministrative penalty under 19B which does not require the offender to be taken to court before it is imposed. Another provision should be created/ inserted in Section 62 (I) which deals with tampering with DTS machines. Furthermore, the fine on conviction should be increased to two thousand five hundred currency points as a deterrent.
Amendment of section 39 of principal Act *Section of 39 of the principal Act is proposed to be amended by inserting immediately after subsection (3) the following—* *"(4) For the avoidance of doubt, where interest due and payable under a tax law as at 1st July, 2017 exceeds the aggregate of the principal tax and the penal tax, the interest in excess of the aggregate is waived."*	This provision already exists in Section 136 of the Income Tax Act and Section 65A of the VAT Act. The provision is being repealed in those Acts and transferred to the Tax Procedures Code Act.	This is a housecleaning provision which will ease administration. This harmonises the capping of interest across the different tax legislation that was introduced in 2017.	This is a welcome provision that will ease tax administration by having one provision applicable to all tax statutes.

Insertion of section 40D to principal Act *The principal Act is proposed to be amended by inserting immediately after section 40C the following—* *"40D Waiver of interest on payment of principal tax* *(1) The Commissioner shall waive the payment of interest and the penalty by a taxpayer, where the taxpayer voluntarily pays the principal tax outstanding at 30th June, 2023, by 31st December, 2023.* *(2) The Commissioner shall waive the payment of interest and the penalty by a taxpayer on a pro-rata basis, where the taxpayer voluntarily pays part of the principal tax outstanding at 30th June, 2023, by 31st December, 2023."*	This amendment proposes a waiver of interest and penalty for taxpayers who comply by paying their principal tax. This proposal raises several issues: 1. As a result of the way URA applied the waiver of penalty and interest under Section 40C, the principal tax remains in dispute. This is exhibited in *K-Files v URA* TAT No 69 of 2021 which held that URA was misapplying the waiver under Section 40C by misinterpreting Section 38 of the Tax Procedures Code Act. This amendment does not cure the controversies arising from this misapplication of 40C. An amendment that provides for proper application of Section 40C is more appropriate. Uganda has issued a number of tax amnesties in the past. In 2007 a waiver of interest and penalties for voluntary disclosure was introduced. In 2008 principal tax, duty, interest and penalties on arrears outstanding on or before 30th June 2002 and still outstanding by 30th June 2008 was waived. In 2016 SACCO arrears were waived. In 2019 Government arrears were waived. In 2020 outstanding principal and interest was waived. The impact of these various amnesties remains unclear.	If the provision is implemented as it is, there is likely to be contestation around the principal tax given the ruling in the case of *K-Files v URA* TAT No 69 of 2021. Therefore, this proposed amendment of Section 40D will not have the desired effect. There are a lot of administrative arrears within the URA system that could be written off through this provision. However, this is reliant on acceptability by the taxpayers of the liability. More still, frequent waivers will have a negative impact on tax morale in the country. Taxpayers will be discouraged from being compliant and wait to receive waivers under forthcoming amendments. More still, this is a new tax expenditure, yet Government is supposed to be reducing on tax expenditures. The provision also gives too much power to the commissioner by allowing him to waive taxes.	Another waiver is not needed. What is required is an amendment of Section 40C to give effect to the court ruling in *K-Files v URA* TAT No 69 of 2021 which will compel URA to comply with it. There is a need to study the impact of tax amnesties on tax morale in the country.

Section 42 of the principal Act is proposed to be amended by inserting immediately after subsection (3) the following— "(4) Where a taxpayer fails to provide the information requested under this section, the taxpayer shall not be allowed to provide that information at objection to a tax decision or during alternative dispute resolution procedure proceedings."	In the instance where URA or any authority asks for information that could influence production of evidence to guide the arrival to tax decision as stipulated within the principal act Sec 42. Often this has been neglected and presented at a later stage that challenges the Tax decision the tax authority.	Introduction of this amendment could Improve compliance and responsiveness of the taxpayers to address inquiries made by URA.	This should be adopted as its in in line with Sec 163 of the evidence Act 2000
Insertion of section 62H of principal Act *The principal Act is proposed to be amended by inserting immediately after section 62G the following—* *"62H. Fixing tax stamp on wrong goods, brand or volume* *A taxpayer who fixes and activates a tax stamp on a wrong good, brand or volume other than a good, brand or volume for that tax stamp commits an offence and is liable, on conviction, to a fine not exceeding five hundred currency points or imprisonment not exceeding three years or both."*	This penalises a taxpayer who fixes and activates a tax stamp on a wrong good, brand or volume other than a good, brand or volume.		**The proposal should be adopted**

Other proposals for consideration under the Tax Procedures Code Act			
Amendment of Section 40A of the TPCA to require Government / the minister to account for payments made on behalf of taxpayers.	Section 40A (1) of the TPCA provides that **the Minister shall pay any tax due and payable by Government arising from a commitment made by Government to pay tax on behalf of a person** or owing from Government as counterpart funding for aid funded projects. This provision allows the Minister of Finance to make a commitment to pay taxes on behalf of any taxpayer. This provision was notably used by the Attorney General in his defence of the legality of the Vinci Agreement with Government which gave more incentives than those available in the law. The Vinci Agreement exempted the company from paying PAYE for its employees. There is, however, no means of controlling who the Minister commits to pay for. There is no criteria or guideline to be followed by the Minister in choosing who to commit to pay taxes for. Government paying for a taxpayer is the equivalent of an exemption. There is also currently no requirement that the Minister publicly disclose who is benefiting from this provision of the law. Given that these tax exemptions are tax expenditures which should form part of the budget, it is necessary that they be publicized.	Section 40A (1) of the TPCA contributes to the opacity of the tax incentives regime.	Amend Section 40A to require the Minister to Gazette companies that the Government commits to pay taxes for such that this can be public knowledge. The criteria for selecting these companies should also be stated in the TPCA. Copies of agreements should be made available on the Ministry of Finance Website.

Creation of the office of the Tax Ombudsman where service complaints (as opposed to legal complaints) against the tax authority can be submitted.	The DRMS 2019/20 - 2023/24 observes that "Uganda does not provide a credible avenue for taxpayers to vent their unresolved service, procedural, and administrative complaints, such as a Taxpayer Ombudsman or Advocate." (MoFPED, 2019). DRMS recommends the establishment of "...a separate Taxpayers Ombudsman function to investigate service-related complaints with clear rules, procedures, and implications... This function will improve URA's credibility, transparency, and accountability, as well as give taxpayers the confidence that administering tax laws is an objective process" (MoFPED, 2019). According to the DRMS Road Map in the URA Corporate Plan 2020/21 - 2024/25, a Taxpayers' Ombudsman is to be established in the year 2022/2023 (URA, 2020). However, the 2022 DRMS semi-annual report reveals that no progress had been made towards establishing this office (MoFPED, 2022). The institutions that currently have oversight over URA such as the Ministry of Finance, Office of the Auditor General, the Inspectorate General of Government, the Tax Appeals Tribunal and Parliament are unable to address the challenge of taxpayer service complaints for a number of reasons.	Ensures better service delivery by URA and avoids unnecessary litigation when good service delivery could suffice. The Tax Ombudsman would not have power to override URA decisions but would engage and negotiate with the URA and publish a report at the end of the year.	Create a new Part XVII of the law in the Tax Procedures Code Act to read: Section 79: Establishment of office of Tax Ombudsman There is hereby established an office to be known as Tax Ombudsman which shall be responsible for reviewing and addressing any complaint by a taxpayer regarding service, procedural or administrative matter arising during administration tax laws by the Commissioner. Section 80: Appointment of Tax Ombudsman (1) The Minister shall appoint a person with competent knowledge in tax administration matters to be a Tax Ombudsman. (2) The Tax Ombudsman shall be in charge of and carry out the functions of the Tax Ombudsman Office independently and impartially without interference from any institution, agency or department of the Government or any other person.

			(3) Notwithstanding subsection (2), the Tax Ombudsman's findings shall directly be submitted to the Commissioner General and the Minister as recommendations for the Minister's deliberations and directives. (4) The decisions or recommendations of the Tax Ombudsman shall not bind the Commissioner or the taxpayer whose complaint or matter formed the subject matter of such decision or recommendation. (5) The Tax Ombudsman shall submit a report of cases handled and resolved or pending to the Finance Committee of Parliament on annual basis. Neither the Commissioner nor the Minister will have any editorial control of the report submitted to Parliament.

CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS (IMPLEMENTATION) BILL 2023.

Convention on Mutual Administrative Assistance in Tax Matters (Implementation) Bill			
Clause 2: *of the Convention on Mutual Administrative Assistance in Tax Matters (Implementation) Bill defines beneficial owner* **Clause 3: Convention to have force of law in Uganda.** *Clause 3 of the Bill proposes that the Convention on Mutual Administrative Assistance in Tax Matters specified in Schedule 2 to the Act shall have the force of law in Uganda.* **Clause 4: Agreement to have force of law in Uganda.** *Clause 4 of the Bill proposes that the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information specified in Schedule 3 to the Act shall have the force of law in Uganda.* **Clause 5: Common Reporting Standard to have force of law in Uganda.** *Clause 5 of the Bill proposes that the Common Reporting Standard specified in Schedule 4 shall have the force of law in Uganda.*	In this proposed automatic exchange of information framework, information of persons who are in other jurisdictions but have assets or accounts in Uganda is collected by reporting financial institutions such as banks, insurance companies and others and shared with their respective jurisdictions. In determining whether the assets or accounts should be reported, the beneficial ownership test is used such that indirect ownership of assets in Uganda by persons in other jurisdictions will still be reported. The benefit for Uganda is that other participating jurisdictions will similarly collect information relating to persons in Uganda who hold assets in those jurisdictions based on the same beneficial ownership test and share the information with Uganda, specifically, Uganda Revenue Authority. The bill has been proposed to operationalise two treaties to which Uganda is party. These are; the Multilateral Competent Authority Agreement on Automatic Exchange of Information which Uganda ratified on 18th November 2021; and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters ratified on 6th May 2016.	It is a standard of information sharing with requirements which every member must meet. Eases sharing of information. It will address the issues of reciprocity of sharing/ delay in sharing information. Currently two mechanism exist- Exchange of Information on request; and spontaneous exchange of information which takes longer. The two frameworks will continue in existence. Information of non-residents will be collected, put in a general pool, Uganda can be in position to collect information from of non-residents for tax purposes. It can help to detect of deter money laundering.	The definition for a beneficial owner should be Considered and should be adopted into the other laws since it is broader (Income Tax, Company Act, among others). Taxpayers should be allowed a period of Voluntary asset disclosure of between 6 months to one year prior to use of information accessed through automatic exchange of information. This is a global norm, best practice which has been adopted by some countries including USA, South Africa and Nigeria.

Clause 6: Due diligence *Clause 6(1) of the Bill proposes that a reporting financial institution shall, with effect from 1st January, 2024, apply the due diligence, described in sections II to VII of the Common Reporting Standard as specified in Schedule 4 to the Act.* *Clause 6(2) of the Bill proposes an obligation for an account holder or a controlling person to 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.* *Clause 6 (3) of the Bill proposes that a reporting financial institution shall maintain the information obtained in the process of conducting due diligence under this Act, for the period during which the account is active and for at least five years from the date when the account is closed.*	The proposed definition of a beneficial owner is relevant for determining who qualifies as a controlling person who is in charge of an entity. This proposed definition closely mirrors that in the Income Tax Act. The implication is that in determining whether a company or trust or any other entity qualifies to have its accounts reported under the automatic exchange scheme, regard will be hard to the beneficial ownership of that entity. The Convention on Mutual Administrative Assistance in Tax Matters is proposed to have force of law in Uganda. The Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information is proposed to have force of law in Uganda.		After the stipulated period of voluntary asset disclosure, clear penalties o should be imposed for individuals and financial institutions. For the law to be effective, regulations should be developed to include among others how information will be declared, how to benefit from amnesty, the penalties, among others.

EXCISE DUTY (AMENDMENT) BILL 2023

Excise Duty (Amendment) Bill 2023			
Proposed Amendment	**Observation**	**Implication**	**Recommendation**
The principal Act is proposed to be amended in section 2 by inserting immediately after the definition of "export" the following— *""fruit juice" means unfermented liquid extracted from the edible part of a fresh fruit, whether the extracted liquid is diluted or not;"*	This proposed amendment introduces a definition of q fruit juice. Fruit juice is subject to excise duty under Item 5(b) of Schedule 2 to the Excise Duty Act. The purpose of this amendment is to bring clarity to the law.	The proposal provides clarity on the law	This is recommended
The principal Act is proposed to be amended in section 2 by inserting immediately after the definition of "tribunal" the following— *""un-denatured spirits" means spirits that are not mixed with any substance so as 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;"*	This amendment introduces a definition of undenatured spirits. Undenatured spirits will be taxed in the proposed amendments to Item 3 of Schedule 2 to the Excise Duty Act. The purpose of this amendment is to bring clarity to the law.	The proposal provides clarity on the law	The proposal should be adopted

The principal Act is proposed to be amended in section 2 by inserting immediately after the definition of "value added tax" the following— *""vegetable juice" means unfermented liquid extracted from the edible part of a vegetable, whether the extracted liquid is diluted or not;".*	This amendment introduces a definition of vegetable juice. Vegetable juice is taxed in the proposed amendments to Item 5(b) of Schedule 2 to the Excise Duty Act.	The proposal provides clarity on the law	The proposal should be adopted
Amendment of Item 2(d) of Schedule 2 of the principal Act. *Schedule 2 to the principal Act is proposed to be amended to reduce excise duty on opaque beer from 12% or 230/= per litre, whichever is higher to 12% or 150/= per litre, whichever is higher.*	Opaque beer is made primarily from locally sourced raw materials.	This proposal is therefore intended to promote value addition and use of locally sourced raw materials. It will enhance formalisation and compliance since most of the producers are informal. To enable the producer to benefit, the extractory price per litre should not exceed UGX.1250/=	The proposal should be adopted

Amendment to Item 3 of Schedule 2 to the principal Act *Schedule 2 to the principal Act is proposed to be amended as follows: -* *Item 3(a) - Un-denatured spirits of alcoholic strength by volume of 80% or more made from locally produced raw materials taxed at a rate of 60% or Shs.1500 per litre whichever is higher.* *Item 3(b) - Un-denatured spirits, of alcoholic strength by volume of 80% or more made from imported raw materials taxed at a rate of 100% or Shs. 2500/= per litre, whichever is higher.*	This introduces the use of alcohol strength by volume in determining the tax treatment of un-denatured spirits. This is similar to the concept which is used in Kenya (Excise Duty Act No. 23 of 2015) and Tanzania (The Excise (Management and Tariff) Act) to impose Excise duty based on the alcohol strength. This makes the provision easier to administer as URA can easily measure alcoholic strength by volume. Further, the HS Code uses alcoholic strength by volume description hence ease in administration of the provision proposal.	The amendment will help ease the process of administration for this provision. Furthermore, the differentiation between spirits manufactured with Locally produced raw materials and imported raw materials could contribute to the growth of local producers.	This should be adopted premised on the need to increase competitiveness of our local production on the local market. The amendment should however be treated in line with the EACCMA regulations 5th Schedule
Item 3(c) of Schedule 2 to the principal Act is proposed to be amended as follows: *un-denatured spirits that is locally produced of alcoholic strength by volume of less than 80% is maintained at 80% or UShs.1700/= per litre, whichever is higher;* *un-denatured spirits that is imported of alcoholic strength by volume of less than 80% is taxed at 100% or UShs.2500/= per litre, whichever is higher.*	This replaced the provision dealing with ready to drink spirits. This provision introduces a distinction between the tax rate for un-denatured spirits with alcohol strength by volume when imported (100% or Ushs 2,500) and when locally produced (80% or UShs.1700/=).		This should be adopted premised on the need to increase competitiveness of our local production on the local market. Promotes import substitution/local production. The amendment should however be treated in line with the EACCMA regulations 5th Schedule

Schedule 2 to the principal Act is proposed to be amended by substituting for item 5 (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."*	The current provision suggests that the requirement of 30% applies to the pulp content in the juice instead of the total juice content. The proposed amendment applies the 30% on the total juice content requiring that the pulp be 30% of the total content. It is doubtful that the requirement of 30% pulp by total composition of the juice content from locally sourced fruits is industrially viable as such juice would likely be too expensive. Agriculture being the bone of Uganda, Government has invested a lot of money in the sector through programmes such as Operation Wealth Creation, NAADs among others to boost local production. Despite this investment, juice manufacturers are instead buying more of the imported concentrates as opposed to produce from local farmers in argument that they are cheaper. This amounts to losses for farmers are selling at a loss because there is no/ limited market for their produce, hence the likelihood that the provision will work in their favour. To avoid losses, a higher percentage of the pulp, a higher should be sourced from local farmers.	It appears that this provision is intended to limit the preferential treatment of NIL excise duty to very few players in the industry, if at all any.	Increase the percentage from 30% to 50% of pulp locally sourced to encourage use of local inputs like fruits. The base should be pulp content and not total juice content.

Schedule 2 to the principal Act is proposed to be amended by substituting for item 5 (d): *"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" taxed at the excise duty rate of 12% or 150/= per litre, whichever is higher.*	This reduces the excise duty rate from 12% or shs.250 per litre whichever is higher to 12% or 150/= per litre, whichever is higher. These are non-alcoholic kombucha drinks which are largely manufactured by small scale producers using locally sourced raw materials.	This provision is therefore meant to support local industry growth.	The proposal should be adopted
Schedule 2 to the principal Act is proposed to be amended in item 13 (g), by inserting the words "the United Republic of Tanzania" immediately after the word "Kenya".	This removes excise duty on incoming international call services of USD Cents 0.09 per minute on calls originating from the United Republic of Tanzania. This proposal is intended to facilitate the United Republic of Tanzania to join the one Area Network under the East African Community.	The provision is a move towards harmonising excise duty on incoming international call services across the EAC as part of the One Area Network initiative.	The proposal should be adopted
Amendment to Item 25(b) of Schedule 2 to the principal Act *Schedule 2 to the principal Act is proposed to be amended in item 25 by substituting for paragraph (b) the following:* *"any other fermented beverages including cider, perry, mead or near beer produced from locally grown or locally produced raw materials"*	Initially read "...made from locally grown..." This is to correct an error in the wording of other fermented beverages including cider, perry, mead, spears or near beer produced from locally grown and produced raw materials. This removes ambiguity in the current law.		The proposal should be adopted.

Amendment to Item 26 of Schedule 2 to the principal Act *Schedule 2 to the principal Act is proposed to be amended in item 26 by substituting for item 26 the following:* *"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 the case of a foreigner or five million United States Dollars in the case of a citizen"*	The purpose of this proposed amendment is harmonizing incentives under the domestic laws (VAT) available to both citizen and foreign investors whose capital investment is thirty-five million United States Dollars. It is a reduction from 50 million USD for foreigners and locals (across board).	This creates a coherent incentives framework that cuts across the domestic tax laws.	The proposal should be adopted.

Value Added Tax (Amendment) Bill 2023

Value Added Tax (Amendment) Bill 2023			
Proposed Amendment	**Observation**	**Implication**	**Recommendation**
Amendment of Section 10 *The principal Act is proposed to be amended in section 10 which defines a supply of goods by inserting immediately after subsection (3) the following-* *"(3) The supply of goods by auction is suited as supply of goods made by the auctioneer as the supplier in the course of auctioning goods." and* *(4) For avoidance of doubt, the treatment of the supply of goods by the auctioneer under subsection (3) is separate from the treatment of the supply of the auction services by the auctioneer."*	The current law obliges the auctioneer to account for VAT on the auctioneer services offered by the auctioneer but does not provide for charging VAT on auctioned items by auctioneers. The proposed amendment introduces an obligation for auctioneers to account for VAT on sale of auctioned goods.	It is not clear on what or who the taxable base is. It is also not clear on what the treatment would be like if the person who is auctioned for is exempt.	Should create an exception to target only sales by an auctioneer of goods owned by non-taxable persons.

Amendment of section 16 of principal Act *Section 16 of the principal Act is proposed to be amended by substituting for subsection (2) the following—* *"(2) Notwithstanding subsection (1), 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 the amount specified in section 7(2) or a government entity that is not registered under section 7(5) of this Act and-* *(a) the services are physically performed in Uganda by a person who is in Uganda at the time of the supply;* *(b) the services are in connection with immovable property in Uganda;* *(c) the services are radio or television broadcasting services received at an address in Uganda;* *(d) the services are electronic services delivered to a person in Uganda at the time of the supply;* *(e) the supply is a transfer, assignment or grant of a right to use a copyright, patent, trademark or similar right in Uganda; or*	This provision clarifies when electronic services are delivered in Uganda. This has been a subject of contention in some Tax Appeals Tribunal such as *Ernst and Young v URA* TAT Application No. 30 of 2020. This therefore brings clarity to the law. The provision also empowers the Minister to issue a Statutory Instrument for determining that the electronic services are delivered to a person in Uganda. Rules may include use of the use of the IP address, or the recipient's billing address, or the recipient's bank details, including the account the recipient uses for payment or the billing address held by the bank, or the location of the recipient's fixed land line through which the service is supplied to the recipient.	This amendment separates the Business-to-Business transactions from the Business to Consumer transactions. Business to Business applies where the local person importing the service makes supplies above the threshold even when they are dealing in exempt supplies. Therefore, the reverse charge mechanism will apply to imports of services by hospitals, schools, financial institutions, insurance companies etc. Non-residents will only account for VAT when the supply is Business to Consumer.	This will ease administration of VAT charged and accounted for by non-resident providers of electronic services.

(f) the services are the supply of telecommunications services initiated by a person in Uganda, other than a supply initiated by— *(i) a supplier of telecommunications services; or* *(ii) a person who is roaming while temporarily in Uganda."* *(c) Section 16 of the principal Act is proposed to be amended in subsection (5) by substituting for paragraph (a) the following—* *"(a) electronic services" means services supplied through an online or digital network by a supplier from a place of business outside Uganda to a recipient in Uganda including—* *(i) websites, web-hosting or remote maintenance of programs and equipment;* *(ii) software and the updating of software;* *(iii) images, text and information;* *(iv) access to databases;* *(v) self-education packages;* *(vi) music, films and games; including games of chance;* *(vii) political, cultural, artistic, sporting, scientific and other broadcasts and events; including television;*	This targets mainly financial services and government agencies which are not VAT registered yet importing (and not supplying) Currently, the burden lies on non-residents to account. The current law imposes the obligation to account for VAT on a non-resident supplier of electronic services when they supply a non-taxable person. This assumes a B2C context once the recipient is not VAT registered. However, there are entities that are not VAT registered but importing electronic services in a B2B context such as schools, hospitals, insurance companies and so on. This amendment imposes an obligation on a non-taxable person who makes supplies above the VAT registration threshold to account for VAT when they import electronic services. *(b) Section 16 of the principal Act is proposed to be amended by inserting immediately after subsection (4) the following—* *"(4a) Electronic services shall be delivered to a person in Uganda at the time of supply as referred to in subsection (2)(d). ; and* *(4b) The Minister may by statutory instrument prescribe the rules of determining that the electronic services are delivered to a person in Uganda."; and*	Makes enforcement easier	Adopt the recommendation subject to consideration of the key observations made.

(viii) advertising platforms; *(ix) streaming platforms and subscription-based services;* *(x) cab-hailing services;* *(xi) cloud storage;* *(xii) data ware housing; and* *(xiii) any other service as the Minister may by statutory instrument determine."* **Amendment of section 28 of principal Act** *Section 28 of principal Act is proposed to be amended in subsection (5), by inserting immediately after paragraph (c) the following—* *"(d) 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* *(e) goods or services incurred by a taxable person provided for under section 16 (2) of this Act."*	This provision adds the following services to the definition of electronic services - 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 current VAT law disallows a claim for input tax on entertainment. However, the definition does not extend to payments for club membership fees, association, or society of a sporting, social or recreational nature. This proposed amendment introduces the limitation of input tax claimed by a person on non-business-related expenses. Input credit is also denied to non-residents supplying services that are deemed to be supplied in Uganda under Section 16(2) of the VAT Act.	The proposal provides for an expansion of the definition of entertainment	The proposal should be adopted

Section 28 of principal Act is proposed to be amended in by inserting immediately after subsection (6) the following— *"(6a) For the purposes of subsection (1), (2), or (3) "business use" or "use in the business" applies only to the related business, generating a taxable supply."*	This provision appears to be attempting to limit the claim of input tax to the output of a business stream in which the input was used. Thus, where a taxpayer has multiple business streams, input VAT can only be claimed in relation to the specific business stream in which it was used. This amendment appears to be a reaction to interpretations of the current law such as the recent decision in *Chestnut Uganda Limited v URA* TAT No. 94 of 2019 (decided on 31st March 2021) where Chestnut owned Arena Mall and was in the business of developing, managing and exploiting it. Chestnut was making a taxable supply in the form of renting advertising space to Outdoor Atom Limited and as such was VAT registered. Chestnut made a claim for input tax credit incurred on the construction of Arena Mall while it was still under construction and URA attempted to deny the claim of input. The Tax Appeals Tribunal held in favour of Chestnut stating that: "There is nothing in the VAT Act that requires a taxpayer to restrict credit input tax to only one business. Therefore, for the respondent [URA] to contend that the applicant should only apply VAT input in respect of construction of the Arena mall would be confusing the terms 'commercial activity' with 'business' of a taxpayer." This amendment attempts to overturn this position to restrict input to the specific business stream to which it relates.	There will likely be disputes regarding what amounts to related businesses. While it is clear in some cases that business streams owned by the same person are unrelated, in others it may not be clear.	Need for clarity on the definition of a related business. A practice note should be issued to guide on the implementation of the provision

Amendment of section 31A of principal Act *Section 31A of the principal Act is amended by inserting immediately after section (1a) the following—* *"(1b) Notwithstanding subsection (1), a person who makes a supply of a total annual value in excess of the amount specified in section 7(2) and who imports a service, shall lodge a tax return with the Commissioner General within fifteen days after the end of the tax period in which the service was imported."*	This proposed amendment imposes an obligation to non-taxable persons who make supplies above the registration threshold and imports a service to file a return.	This will ease administration of VAT on services provided by non-residents.	The proposal should be adopted

Amendment of section 42 of principal Act *Section 42 of principal Act is proposed to be amended in subsection (2) (b) by deleting the words "with consent of the taxable person".*	This amendment removes the consent of the taxpayer in deciding whether to offset tax credits or seek a refund. The Commissioner will have full discretion in making that decision. Currently, there is a delayed refund process; the 2019 TADAT report revealed that only 6% of VAT refunds are processed within 30 days. Currently, where the difference between the amount claimed under VAT refund application and the amount determined after a refund audit exceeds 50,000shillings, the taxpayer loses their right to claim interest in case of a delayed refund.	Giving the commissioner full power to decide whether to offset tax credits would hinder effective implementation of the provision.	Therefore, there is need to balance the power with an incentive on the side of URA, the 50,000 shillings should be replaced with a percentage of the amount claimed (5-10%)- to avoid delays during the refund process.
Amendment of section 65A of principal Act *Section 65A of principal Act is proposed to be amended by repealing subsection (2).*	In 2017 the capping of interest was introduced in the different tax legislation. The purpose of this repeal is to have the capping of interest harmonised under the proposed amendment to Section 39 of the Tax Procedures Code Act in the Tax Procedures Code (Amendment) Bill, 2023.	This is a house-cleaning provision	The proposal should be adopted

Amendment of section 73 of principal Act *Section 73 of principal Act is proposed to be amended by inserting immediately after subsection (2) the following—* *"(3) Notwithstanding subsection (1), a taxpayer under section 16 (2) of this Act may file a return and may pay the tax in the return in United States dollars."*	This proposed amendment permits non-resident providers of services who are required to register for VAT to make payment in US dollars.	The proposal eases compliance for non-residents.	The proposal should be adopted
Amendment of First Schedule to principal Act *The First Schedule to the principal Act is amended by inserting the following in its appropriate alphabetical position—* *"ZEP-RE (PTA Reinsurance Company)"* .	This exempts ZEP-RE (PTA Reinsurance Company) from VAT	In the spirit of regional integration and promoting the AfCFTA- already in Kenya and Tanzania- the company provides reinsurance services to promote trade among African countries/ COMESA region	ZEP-RE is a PTA Reinsurance Company established by an Agreement of Heads of State and Government of the COMESA region on 21st November 1990 to promote trade, development and integration in the insurance and re-insurance sector. The company is therefore a regional body and by including it as a listed institution it is being treated like the other regional bodies.
Amendment of Second Schedule to principal Act *The Second Schedule to the principal Act is amended in paragraph 1 in subparagraph (q), by substituting for item (viii) the following—* *"(viii) adult diapers"*	This replaces the exemption of diapers with an exemption of adult diapers. Ordinary baby diapers now become standard rated.	Diapers are a necessity for babies. The proposal is bound to increase hours spent on care work if women are to wash nappies. Given the limited access to soap and water in many communities, hygiene and the health of babies would be negatively impacted.	All diapers should be exempt

The Second Schedule to the principal Act is amended in paragraph 1 by substituting for subparagraph (qa) the following— *"(qa) the supply of animal feeds, premixes, concentrates and seed cake"*	This proposed amendment extends the VAT exemption to premixes, concentrates and seed cake.	The amendment provides clarity on the exemption of inputs for animal feeds	The proposal should be adopted
The Second Schedule to the principal Act is amended in paragraph 1 by substituting for subparagraphs (ww) the following— *"(ww) the supply for billets for further value addition in Uganda"*	This eliminates VAT exemption on the supply of all production inputs into iron ore smelting into billets and leaves the supply for billets for further value addition in Uganda as exempt.	Allows for removal of distortion along the value added tax chain. The supply of all production inputs into iron ore smelting into billets is now exempt. Where the product is exempt, and the inputs are not.	The proposal should be adopted
The Second Schedule to the principal Act is amended in paragraph 1 by repealing subparagraphs (yy) and (fff)	This eliminates VAT exemption on 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. The repeal of (fff)- supply of cotton seed cake- is linked to the proposed amendment of Paragraph 1(qa) which exempts seed cake.	Allows for removal of distortion along the value added tax chain. The supply of all production inputs into iron ore smelting into billets is now exempt. Where the product is exempt, and the inputs are not.	The proposal should be adopted
The Second Schedule to the principal Act is amended in paragraph 1 in subparagraph (ooo) by deleting the words "from cassava"	This proposed amendment leaves only the supply of liquefied gas and denatured fuel ethanol as exempt from VAT.	Allowing for ethanol made using other raw materials to be exempt.	The proposal should be adopted

INCOME TAX (AMENDMENT) BILL 2023

Income Tax Bill (Amendment) Bill 2023

Proposed Amendment	Observation	Implication	Recommendation
Review of the Capital Gains Tax **Substitution of section 118B of principal Act** *The principal Act is proposed to be amended by substituting for section 118B which charges withholding tax of 10% on a resident person who purchases an asset from a non-resident person and withholding tax at a rate of 6% on a resident person who purchases a business or business asset.* *the following—* *"118B. Withholding of tax by the purchaser of an asset* *(1) A person who purchases an asset situated in Uganda shall withhold tax on the gross amount of the payment, at the rate prescribed in Part VIII of the Third Schedule to this Act.* *(2) Subsection (1) shall 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.* *(3) For purposes of this section, "asset" means a resource with economic value that is expected to provide a future benefit to its holder but does not include trading stock."*	This provision combined with the proposed amendments in Sections 2, 18, 19, 21, 22, 27, 49, 50, 54 and 77 of the Act are part of the wider overhaul of the Capital Gains Tax regime. The current regime has a gain determined as the difference between the cost base of an asset and consideration paid for it at disposal. The difference is then added into gross income and any losses can offset other gross income in determining chargeable income. Capital gains is therefore taxed at a rate of 30% for corporations and the graduated rate from 10% to 40% for individuals. Capital gains tax is only applicable on business assets. The sale of assets not included in business income such as the sale of personal property like an owner-occupied residential home is exempt from tax. This reform proposes to expand the assets to which the tax is applied to include all assets generally with the word "asset" meaning a resource with economic value that is expected to provide a future benefit to its holder but does not include trading stock. The rate is reduced to 5% and this is a final withholding tax on the gross payment amount. We note the following about this proposed amendment: 1. The provision ring-fences capital gains from other business income. The reduced rate of 5% will be especially welcome for individuals to whom the 40% applied to the gains which was quite high; 2. The proposed definition of an asset for purposes of Section 118B is extremely ambiguous and wide reaching. Essentially the sale of anything (used furniture, motor vehicles, computers, and all manner of miscellaneous assets) where the seller is not holding it as stock can be subjected to this tax. In practice this will translate into arbitrary application of this provision whenever URA wills it. It creates extreme uncertainty and will result in distortions and disruption of business transactions. 3. The current iteration of Section 118B (2) has previously generated considerable controversy and litigation due to URA attempting to extend it to apply to non-commercial transactions especially the sale of land and use of arbitrary valuation methods - *Luwa Luwa Investments Limited v URA* TAT No 39 of 2021, *Silver Springs Limited v URA* TAT No 43 of 2022, *Mingdong Global Investment Limited v URA* TAT No 104 of 2021, and *Comfort Homes (U) Limited v URA* TAT No 66 of 2020. The proposed amendment will only exacerbate these controversies.	Capital Gains Tax reform would be welcome; However, these are sweeping changes whose effect is not clearly understood. Expanding the base to personal assets rather than just business assets is very problematic. This will be difficult to enforce and will result in selective enforcement and application of the law by URA. The rate of 5% appears to be too low when applied to certain sectors like the extractives and telecom industry. Capital gains tax is a key revenue stream in the extractives sector especially in the oil and gas industry where there is exponential increase in the value of assets between acquisioton and firm down of assets to another company, CGT becomes the best way to get the most out of the value by which their assets or projects have appreciated over time. The reform is further extending existing differences in treatment of business income for tax purposes. This against the 2014 EAC Council of Ministers Directive on Harmonisation of domestic tax laws by partner states. For instance, Tanzania has no separate income tax regime, Rwanda has CGT at 30% for immovable property and 5% for shares while Kenya charges 15% CGT and Burundi 20% CGT. Application of 5% WHT as a final tax on gross income implies that even an asset sold at a loss will be subject tax, this can discourage investment	The amendment should be limited to business assets Exclude telecom and extractive sectors in the application of this provision (should be subjected to the original CGT regime) Another alternative could be to increase the stamp duty on the sale of assets This amendment should be shelved and studied further for its implications to be appreciated.

	4. The proposed repeal of Section 21(1)(k) of the Income Tax Act will make the withholding tax applicable to the sale of shares in publicly listed companies which will discourage the growth of capital markets. It will also extend the withholding tax to apply to personal assets like the sale of owner-occupied residential homes and empty plots of land not used for commercial purposes. The sale of untitled land will, however, be difficult to detect and therefore this measure will have the distortionary effect of favouring dealings in untitled land over titled land.	The proposal imposes on the buyer the burden of collecting WHT and remitting it to URA as opposed to the CGT which required the seller to account for tax. Tracing the buyer for compliance is more cumbersome unless if tagged to Stamp duty at the time of transfer of ownership. The reform may complicate tax administration.	
Amendment Section 2 of the Income Tax Act by repealing paragraph (yya) which defines a petroleum agreement to mean an agreement for the grant of a licence for petroleum exploration, development and production between the Government and a contractor.	Repealing this provision removes duplication in the law as the term 'Petroleum Agreement' is also defined under Part IXA in Section 89A (1) of the ITA to mean an agreement entered into 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. We note that the definition in Section 2(yya) of the ITA was resulting in significant ambiguity. The provision refers to an agreement between "Government and a contractor" because the 2008 ITA amendment which introduced it also defined a contractor in Section 89A to mean a person with whom the Government enters into a petroleum agreement. However, in 2015 the definition of a contractor in Section 89A was amended to mean a person supplying services or goods other than as an employee, to a licensee in respect of mining operations undertaken by the licensee; and a licensee in respect of petroleum operations undertaken by the licensee. The amendment brings clarity to the law relating to petroleum taxation in Uganda.	The proposal provides a clarification of the law	The proposal should be adopted

Amendment of Section 2 of the Income Tax Act by repealing subparagraph (ii) in paragraph (mmm) which defines royalty to include any gain on the disposal of any right or property referred to in the preceding subparagraph (i).	This proposed amendment is part of the wider Capital Gains Tax reform to be discussed in detail under the proposed Section 118B. Section 118B is being amended to apply a final withholding tax to the gross payment for any asset. This aligns the treatment of the disposal of a royalty with the disposal of any other asset under the proposed amendment to Section 118B.	Linked to 118B amendment	
Amendment of Section 18(1) of the principal Act by substituting for paragraph (a) which currently defines business income to include the amount of any gain, as determined under Part VI of the ITA which deals with gains and losses on disposal of assets, derived by a person on the disposal of a business asset, or on the satisfaction or cancellation of a business debt, whether or not the asset or debt was on revenue or capital account; the following— *"(a) the amount of any gain on the satisfaction or cancellation of a business debt, whether or not the asset or debt was on revenue account."* *Section 18(4) which provides that "business asset" does not include trading stock or a depreciable asset is also proposed to be repealed.*	These proposed amendments are part of the wider Capital Gains Tax reform to be discussed in detail under the proposed Section 118B. Section 118B is proposed to be amended to apply a final withholding tax to the gross payment for any asset. This particular amendment removes gains from disposal of business assets from the definition of Business Income because the gains from disposal of the business asset will now be subject to the final withholding tax under the proposed amendment to Section 118B. This carves out capital gains from business income. Further, the repeal of Section 18(4) is a consequential amendment to the substitution of Section 18(1)(a). The consequential amendment is necessary because the word "business asset" appears in Section 18(1)(a) which has now been repealed.	Linked to 118B amendment	

Amendment of section 19 of principal Act *It is proposed to amend Section 19 of the principal Act in subsection (1) by repealing paragraph (h) which provides that employment income 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.*	These proposed amendments are part of the wider Capital Gains Tax reform to be discussed in detail under the proposed Section 118B. Section 118B is proposed to be amended to apply a final withholding tax to the gross payment for any asset. This particular amendment removes the disposal of a right or option to acquire shares under an employee share acquisition scheme (which is an asset) because it will now be subject to the final withholding tax under the proposed amendment to Section 118B.	Linked to 118B amendment	
Amendment of section 20 of principal Act *Section 20 of the principal Act is proposed to be amended in subsection (1) by inserting paragraph (ba) which provides that property income means the profit on the contribution paid or credited to a participant of a collective investment scheme.*	This proposed amendment includes the profit on the contribution paid or credited to a participant of a collective investment scheme in the definition of property income. This provision is linked to the proposed amendment inserting Section 118I in the Act which provides for withholding tax on profit paid or credited to a participant of a collective investment scheme.		
Section 20 of the principal Act is proposed to be amended in subsection (1) (d) by deleting the words "including winnings derived from sports betting and pool betting".	The proposed amendment removes winnings from sports betting and pool betting from being treated as property income.	Linked to 118B amendment	

Section 20 of the principal Act is proposed to be amended by inserting immediately after subsection (2) the following— *"(3) The income under section 20 (1) (ba) shall be charged a tax in accordance with section 118I of this Act at the rate prescribed in Part IX of the Third Schedule to this Act."*	This provision is linked to the proposed amendment inserting Section 118I in the Act which provides for withholding tax on profit paid or credited to a participant of a collective investment scheme.	Linked to amendment of Section 118I	
Proposed amendment of section 21 of principal Act *Section 21 of the principal Act is proposed to be amended in subsection (1) by repealing paragraph (k) which exempts from income tax any capital gain that is not included in business income, other than capital gains on the sale of shares in a private limited liability company or on the sale of a commercial building.*	This proposed amendment is part of the wider Capital Gains Tax reform to be discussed in detail under the proposed Section 118B. Section 118B is proposed to be amended to apply a final withholding tax to the gross payment for any asset. This particular amendment repeals the exemption applicable to sales of non-business assets or personal property such as one's personal home. It also removes the exemption on sale of shares in a publicly listed company.	Linked to amendment of Section 118B	

Section 21 of the principal Act is proposed to be amended in subsection (1) by substituting for paragraph (t) which exempts: "income of a collective investment scheme to the extent of which the income is distributed to participants in the collective investment scheme" *the following—* *"(t) the income of a collective investment scheme, subject to section 20 (1) and (3) of this Act;".*	This provision is linked to the proposed amendment inserting Section 118I in the Act which provides for withholding tax on profit paid or credited to a participant of a collective investment scheme.	Linked to amendment of Section 118B	
Amendment of section 22 of principal Act *Section 22 of the principal Act is proposed to be amended in subsection (1) by repealing paragraph (b) which allows as a deduction the amount of any loss as determined under Part VI, which deals with gains and losses on the disposal of assets, incurred by the person on the disposal of a business asset during the year of income, whether or not the asset was on revenue or capital account.*	This proposed amendment is part of the wider Capital Gains Tax re-form to be discussed in detail under the proposed Section 118B. Section 118B is proposed to be amended to apply a final withholding tax to the gross payment for any asset. This particular proposed amendment disallows any expense on sale of business assets by repealing the provision that was allowing it. This is because the proposed with-holding tax amendment in Section 118B will be a final tax on the gross payment for which there will be no deductions.	Linked to amendment of Section 118B	
Section 22 of the principal Act is proposed to be amended in subsection (1) by repealing subsection (5) which provides that "business asset" does not include trading stock or a depreciable asset.	This is a consequential amendment to the proposed repeal of Section 22(1)(b) of the Income Tax Act which makes reference to a business asset.	Linked to amendment of Section 118B	

Amendment of section 25 of principal Act *Section 25 of the principal Act is proposed to be amended in subsection (3) which excludes financial institutions and insurance companies from the interest deduction cap of 30% applicable to group companies by inserting immediately after the words "financial institution" the words "micro-finance deposit taking institution, tier 4 micro- finance institution"*	Section 25 currently limits the amount of deductible interest in respect of all debts owed by a taxpayer who is a member of a group, other than a financial institution or person carrying on insurance business, to 30% of the tax earnings before interest, tax, depreciation and amortisation. This proposed amendment extends the exclusion to micro-finance deposit taking institutions and tier 4 micro-finance institutions. The interest cap rule is generally a constraint to financial and insurance activities and therefore this relief is necessary.	The proposed amendment expands the exclusion in Section 25(3) to include Micro-finance and Tier 4 institutions.	This is a welcome amendment expanding the exclusions from interest capping to include micro-finance institutions.

Amendment of section 27 of principal Act *Section 27 of the principal Act is proposed to be amended by substituting subsection (4) which provides for calculating the written down value of a pool of assets by reducing the value by the consideration received from the disposal of assets in the pool during the year of income.* *The provision is substituted with the following—* *"(4) The written down value of a pool at the end of a year of income is the total of—* *(a) the written down value of the pool at the end of the preceding year of income after allowing for the deduction under subsection (3) for that year; and* *(b) the cost base of the assets added to the pool during the year of income."* *Section 27 is proposed to be amended by repealing subsections (5), (13), (14) and (16).*	These proposed amendments are part of the wider Capital Gains Tax reform to be discussed in detail under the proposed Section 118B. Section 118B is being amended to apply a final withholding tax to the gross payment for any asset. These particular amendments repeal provisions that relate to disposal of assets in the calculation of depreciation of a pool. This is because the proposed amendment to Section 118B will be a final withholding tax which will replace the existing capital gains tax and the taxation of gains from disposal of assets has been ring-fenced to be dealt with under the proposed Section 118B.	Linked to 118B	

Repeal of section 27A of principal Act *The principal Act is proposed to be amended by repealing section 27A which provides for initial allowance deduction for an item of eligible property placed into service for the first time outside a radius of fifty kilometres from the boundaries of Kampala.*	This proposed amendment would repeal a provision that functions as an investor incentive allowing an investor to claim 50% of the cost base of plant and machinery wholly used in the production of income in the first year that it is put to use. The interpretation of the original provision in the Income Tax Act was considered by the Tax Appeal Tribunal in *Security Group Alarms Ltd v URA* TAT 10 of 2004 (decided on 7 March 2005) which considered the purpose of the provision to be: "...intended to give some incentive to investors who put certain items of eligible property into service for the first time with the exception of goods or passenger transport vehicles." We note that this provision was initially repealed in 2014 and reintroduced with slight modifications in 2017. When it was being reintroduced, the Finance Committee of Parliament stated in its report that: "This is in line with the government policy of industrial free zones, foreign investors bring foreign exchange for the country, it will create employment opportunities for the rural population and this will decongest Kampala City". The question therefore in considering its appeal is whether there has been a shift in Government policy towards attracting investment through attractive capital deductions. It should also be noted that capital deductions are generally considered a better means of granting incentives to investors than outright tax holidays such as those under Section 21(1)(af) of the Income Tax Act. Repealing Section 27A will likely make investors seek to benefit more from the incentives in the nature of ten-year tax holidays available under Section 21(1)(af) of the Income Tax Act.	The measure is an active step by Government towards reducing tax expenditures in Uganda Investors now have to mainly rely on the tax exemptions under Section 21(1)(af) to rely on instead.	This measure should be adopted.

Amendment of section 29 of principal Act *Section 29 of principal Act is proposed to be amended by repealing subsection (1a) which provides that a deduction for the depreciation of an industrial building that qualifies for initial allowance under section 27A (4) shall be deferred to the next year of income.*	This is a consequential amendment to the proposed repeal of Section 27A of the Income Tax Act. Section 29(1a) provides that where an industrial building qualifies for initial allowance under Section 27A, the industrial building deduction is deferred to the next year of income such that the taxpayer does not benefit from both deductions in the same year.	Linked to the amendment of Section 27A	The proposal should be adopted
Amendment of section 38 of principal Act *Section 38 of the principal Act is proposed to be amended by inserting immediately after subsection (5), the following—* *"(5a) Notwithstanding the provisions of this section, a taxpayer who after a period of five years of income carries forward assessed losses shall only be allowed a deduction of fifty percent of the loss carried forward at the beginning of the following year of income in determining the taxpayer's chargeable income in the subsequent years of income."*	We note that this is a version of an alternative minimum tax. It creates a liability for a taxpayer that would ordinarily not have a liability under the normal income tax regime. This proposed amendment caps the carry forward of losses to 50% of the losses carried forward after five years. We note the following about this proposed amendment: 1. The existence of an alternative minimum tax is a regional norm. In Tanzania, Paragraph 3(3) of the First Schedule to the Tanzania Income Tax Act provides that income of a corporation with perpetual unrelieved loss for three consecutive years shall be taxed at the rate of 0.5 percent of the turnover of the third year of perpetual unrelieved loss. In Kenya Section 12D of the Kenya Income Tax Act provides for payment of minimum tax at the rate of 1% of the gross turnover; 2. We, however, note that in Kenya, the Court of Appeal in 2022 found the alternative minimum tax at a rate of 1% of gross turnover to be unconstitutional. In *Kenya Revenue Authority v Waweru & 3 others; Institute of Certified Public Accountants & 2 others (Interested Parties)* (Civil Appeal E591 of 2021) [2022] KECA 1306 the Court of Appeal stated:		

	"...we agree with the respondent that levying of minimum tax on gross turnover as opposed to gains or profit would lead to a situation where a loss making tax payer, would bear a heavier burden than other taxpayers...We share the same sentiments with the respondent on this aspect that punishing entities who are already battling with a stifled economy because of a few miscreants is the epitome of unfairness... Given the nature of the tax, and the circumstances under which it is to be levied, makes the purpose irrational, miscalculated, and does not reflect the spirit of article 201(b)(i) of the Constitution... lumping innocent entities that are in a loss-making position with tax evaders in a bid to expand the tax base violates the innocent taxpayers' constitutional right to fair treatment and dignity." We note, however, that in Tanzania, in the case of *Shoprite Checkers (T) Limited v The Commissioner General, Tanzania Revenue Authority* Civil Appeal No 307 of 2020, the Court of Appeal considered the alternative minimum tax a normal part of the tax system whose purpose is "to reduce the possibility of business establishments avoiding income tax payment by using tax preferences available under the regular system." 3. In 2019 a proposal with a similar effect of imposing a tax on a company in a loss position was attempted. The proposal to have a 0.5% income tax rate applicable to taxpayers who have carried forward losses for seven consecutive years was rejected by Parliament. The Minority Report of the Finance Committee of Parliament which was adopted by the full house of Parliament during the plenary session rejected the proposed amendment stating:	The proposed amendment as currently drafted is ambiguous. It is unclear whether the losses should be carried forward for five consecutive years in order for the losses to be capped or whether any period of five years of income in which some losses have been claimed would trigger its application; This proposed amendment will make tax holiday incentives under Section 21(1)(af) of the Income Tax Act more attractive to investors as a means of avoiding taxation while incurring losses. There is no relief available for small businesses which may continue to operate while making genuine losses for various reasons. The proposed amendment is targeting businesses that may have book entry losses through taking advantage of the tax system. This may make sense for businesses that engage in sophisticated tax planning which are likely to be bigger businesses. However, it is possible that some businesses will have genuine losses, even over a period of more than five years. This proposed amendment would be a challenge especially for small businesses. A provision separating the wheat of legitimate losses claimed from the chaff of book entry losses may be necessary for the proper operationalisation of the provision.	This measure should be adopted subject to considerations of the potential risks and challenges highlighted.

	4. "If this provision is passed, companies that are genuinely making losses will be taxed. Companies that are making losses should not be penalized for making losses. Companies incur losses as a result of business costs as well as investment allowances provided by government in the tax law. To allow a business expense as well as capital allowances a tax deduction and later seek to tax a person/business to which the allowance was given is contradictory and a disincentive for investment promotion... Despite carrying forward losses, these companies employ Ugandans and other nationals who are paying PAYE. In addition, these companies are paying indirect taxes such as Value Added Tax. If we imposed this tax of 0.5% of turnover, some of the companies may be forced out of business.... This does not qualify to be income tax since there is no taxable income. Unless we are creating on Act called Loss Tax Act." This suggests that Parliament may not look favourably on this measure as its effect is essentially that of the previously rejected measure.		
Repeal of sections 49, 50 and 54 of principal Act *The principal Act is proposed to be amended by repealing sections 49, 50 and 54 which provide for rules determining the amount of any gain or loss arising on the disposal of an asset.*	These proposed amendments are part of the wider Capital Gains Tax reform to be discussed in detail under the proposed Section 118B. Section 118B is being amended to apply a final withholding tax to the gross payment for any asset. These amendments repeal provisions that relate to the calculation of the gain or loss on disposal of an asset. As the proposed withholding tax under Section 118B will be a final tax on gross payment, there is no need for provisions computing the gain or loss on disposal of an asset.	Linked to amendment of 118B	

Amendment of section 77 of principal Act *Section 77 of principal Act is proposed to be amended in subsection (2) by substituting for paragraph (d) which provides that no gain or loss is taken into account on the cancellation of the transferee's shares in a liquidated company the following—* *"(d) section 118B shall not apply on the cancellation of the transferee's shares in the liquidated company."*	This proposed amendment is part of the wider Capital Gains Tax reform to be discussed in detail under the proposed Section 118B. Section 118B is being amended to apply a final withholding tax to the gross payment for any asset. This particular amendment replaces the exclusion of capital gains tax in the liquidation of a company under reorganisation with the exclusion of the final withholding tax under the proposed Section 118B amendment.	Linked to the amendment of Section 118B	
Amendment of section 79 of principal Act *Section 79 of the principal Act is proposed to be amended in paragraph (j) by repealing subparagraph (iii) which provides that income is derived from Uganda if it is a royalty arising from the disposal of industrial or intellectual property used in Uganda.*	This is a consequential amendment to the repeal of subparagraph (ii) in paragraph (mmm) of Section 2 of the Income Tax Act which defines royalty to include any gain on the disposal of any right or property referred to in the preceding subparagraph (i).	Linked to the amendment of 118B	

Insertion of section 86A of principal Act *The principal Act is proposed to be amended by inserting immediately after section 86 the following—* *"86A. Taxation of non-residents providing digital services* *(1) A tax is imposed on every non-resident person deriving income from providing digital services in Uganda to a customer in Uganda at the rate prescribed in Part IV of the Third Schedule to this Act.* *(2) For the purposes of subsection (1), income is derived from providing a digital service in Uganda to a customer in Uganda, if the digital service is delivered over the internet, electronic network or an online platform.* *(3) For the purposes of this section "digital service" includes—* *(a) online advertising services;* *(b) data services;* *(c) services delivered through an online market place or intermediation platform, including an accommodation online market place, a vehicle hire online market place and any other transport online market place;* *(d) digital content services, including accessing and downloading of digital content;* *(e) online gaming services;* *(f) cloud computing services;* *(g) data ware housing;* *(h) services, other than those services in this subsection, delivered through a social media platform or an internet search engine; and*	This provision introduces a Digital Service Tax (DST) on non-residents providing online services such as Facebook, Netflix, Google etc. We note the following regarding this provision: 1. It is unclear how it will be implemented, that is, whether by a withholding tax or by the non-resident filing tax returns. If by the latter, the obligation for them to file returns is not clear; 2. URA has only begun implementing the VAT on similar electronic services in 2022. Expanding this to include a DST may be premature; 3. In its 2020 *Suggested Approach to drafting legislation on Digital Services Tax*, the Africa Tax Administration Forum (ATAF) recommends a rate between 1-3% yet Uganda proposes a rate of 5%. This is significantly higher that the recommendation; 4. DST may be of limited utility in circumstances where the non-resident provider of online services is located in a country with which Uganda has a Double Taxation Agreement such as Mauritius or Netherlands;	A high digital services tax rate may discourage investment in the same sector The tax if implemented will raise operational costs of Multi-National Companies consequently affecting the cost of compliance.	DST should be adopted at a lower rate of 1-3%. The measure should be studied further to establish administrative ease and also compare with the potential benefits of Uganda joining the inclusive framework.

(i) any other digital services as the Minister may prescribe by statutory instrument made under this Act." *Part IV of the Third Schedule is proposed to be amended by inserting immediately after item 2 the following—* *"3. The income tax rate applicable to a non-resident deriving income from digital services is 5%."*	5. There is no provision excluding the application of Section 85 which provides for a final withholding tax at a rate of 15% on every non-resident person deriving income under a Ugandan-source services contract when the DST is applied. If both provisions are applied, then the effective rate becomes 20%. This is a conflict that ought to be resolved.		
Amendment of section 87 of principal Act *Section 87 of principal Act is proposed to be amended in the headnote by inserting immediately after number "86" number "86A"; and in subsection (1) by inserting immediately after number "86 (4)" the number "86A".*	This is a housecleaning provision to ensure that the Act reads correctly.	Clarification of the law	The proposal should be adopted
Amendment of section 89A of principal Act *Section 89A of the principal Act is proposed to be amended in subsection (4) by deleting the reference to subsection "(3)".*	The purpose is to create clarity because Section 89A (4) cross refers to Section 22(3) of the ITA yet this is a definition provision. The measure proposes to amend section 89A(4) as follows: "An amount is not treated as "mining exploration expenditure", "mining extraction expenditure", "petroleum exploration expenditure", or "petroleum development expenditure" to the extent that the amount is not allowed as a deduction under section 22 or 23."	Clarification of the law	The proposal should be adopted

Amendment of section 89GC of principal Act *This is a housecleaning provision. Section 89GC of the principal Act is proposed to be amended in subsection (4) by inserting immediately after the words "section 27", the words "or 31".*	This proposed amendment is a housecleaning provision to include section 31 of the Principal Act in the applicability of section 89GC of the Principal Act. Section 31 deals with treatment of intangible assets and ensures that capital deductions in respect of intangibles begin with the commencement of commercial production.	Clarification of the law	The proposal should be adopted
Amendment of section 89GE of principal Act *Section 89GE of the principal Act is proposed to be amended in subsection (1)(a) by deleting the words "the whole or".*	This proposed amendment limits the applicability of Section 89GE to only part farm outs and excludes its applicability to disposal of the whole interest. This implies that the transfer of the whole interest is not a "farm out" but rather a disposal treated under other provisions of the Act.	This is linked to the amendment of section 118B	
Amendment of section 89O of principal Act *Section 89O of the principal Act is amended in subsection (1)(a) by deleting the word "(b)".*	This is a house cleaning provision clarifying that a monthly petroleum return is required in addition to quarterly returns and the annual consolidated return. The current wording of the provision creates ambiguity as to whether a monthly return is required.	Clarification of the law	The proposal should be adopted

Substitution of section 118C of principal Act *The principal Act is proposed to be amended by substituting for section 118C the following—* *"118C. Withholding of tax on payments for winnings of betting* *A person who makes payment for winnings of betting shall withhold tax on the gross amount of the payment at the rate prescribed in Part X of the Third Schedule to this Act."*	The proposed amendment limits the application of the withholding tax to betting by excluding gaming. This amendment follows on the heels of the Tax Appeals Tribunal case of *Fortuna Limited v URA* TAT 132 of 2020 (decided on 7 October 2021) where a casino argued that to apply the withholding tax on gaming the way URA desired would be a challenge as each game would have to be stopped at every round to administer withholding tax for each player who won yet some of the games like slot machines ran up to 20 spins per minute with each spin constituting a separate bet. Further, wins from games are usually wagered over and over again and clients wanted to have lost wagers offset on a wager won prior to being taxed yet the law does not cover that. The Tribunal agreed that the taxing point is at payout when the customer submits the chips in the Casino. The case highlighted the challenges of applying the provision to games in the Casino and is likely the trigger for the proposed amendment which excludes gaming from the withholding tax.		**The proposal should be adopted and the rate should be increased to a rate of 25%**

Insertion of section 118I in principal Act *"118I. Withholding tax on profit paid or credited to a participant of a collective investment scheme* *(1) 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 the profit at the rate prescribed in Part XIV of the Third Schedule to this Act.* *(2) Notwithstanding subsection (1), a participant who contributes to more than one collective investment scheme and whose contribution, in aggregate, exceeds one hundred million shillings within a year of income, shall furnish a return and pay tax at the rate prescribed in Part XIV of the Third Schedule to this Act and section 128 (3) shall apply.* *(3) For purposes of this section "contribution" includes deposits made by a participant to a collective investment scheme and undistributed profits, if any."*	This proposal is creating a withholding tax at the rate of 5% where the contribution to the scheme is less than UGX 100 million and 15% where the contribution exceeds UGX 100 million. URA has issued rulings treating investors in a CIS as separate from CISs and thus extending the exemption in Section 21(1)(t) to the CISs not the investors in the CISs. This clarification of the law provides a lower rate for small savers and clarity on the 15% applicable to large savers.	Whereas there is an expansion of the tax base, the provision could discourage savings and passive investment. Creating two categories of thresholds could prompt one to divide investments to amounts less that 100 million to ensure that their tax payments remain at 5% However, the proposal creates equity in the tax system as other schemes such as SACCOs are paying dividend on interest payments at a rate of 15%.	The proposal should be adopted

Amendment of section 122 of principal Act *Section 122 of the principal Act is proposed to be amended by inserting immediately after paragraph (ab) the following—* *(aba) tax has been withheld under sections 118B and 118I, on the purchase of the asset and payment of a profit on contribution to a participant of a collective investment scheme respectively;".*	This clarifies that the tax withheld under sections 118B and 118I on the purchase of the asset and payment of a profit on contribution to a participant of a collective investment scheme respectively is a final tax.	Provides clarity on amendments under 118B and 118I	The proposal should be adopted
Amendment of section 136 of principal Act *Section 136 of the principal Act is proposed to be amended by repealing subsection (8) which provides that for the avoidance of doubt, where interest due and payable as at 30th June 2017 exceeds the aggregate of the principal tax and the penal tax, the interest in excess of the aggregate shall be waived.*	In 2017 the capping of interest was introduced in the different tax legislation. The purpose of this repeal is to have the capping of interest harmonised under the proposed amendment to Section 39 of the Tax Procedures Code Act in the Tax Procedures Code (Amendment) Bill, 2023.	Provides clarity on the law	The proposal should be adopted

Amendment of First Schedule of principal Act *The First Schedule to principal Act is proposed to be amended by inserting the following in its appropriate alphabetical position—* *"ZEP-RE (PTA Reinsurance Company)"*	The ZEP-RE (PTA Reinsurance Company) will be exempt from income tax under Section 21(1)(a) of the Income Tax Act. ZEP-RE is a PTA Reinsurance Company established by an Agreement of Heads of State and Government of the COMESA region on 21st November 1990 to promote trade, development and integration in the insurance and re-insurance sector. The company is therefore a regional body and by including it as a listed institution it is being treated like the other regional bodies.	In the spirit of regional integration and promoting the AfCFTA- already in Kenya and Tanzania- the company provides reinsurance services to promote trade among African countries/ COMESA region.	The proposal should be adopted

OTHER PROPOSALS FOR CONSIDERATION UNDER THE INCOME TAX ACT 2023

Other proposals for consideration under the Income Tax Act			
Amend Section 119(5)(f) of the ITA to clarify the limits of discretion of the Commissioner regarding WHT Exemption.	In 2022 the Commissioner came up with non-statutory conditions such as minimum payment of UGX 100 million in taxes in one year. This disadvantages small businesses considerably. As a result of these non-statutory hurdles, compliant small businesses have been denied WHT exemption by URA. It is only large businesses some of which may not be fully compliant that are able to benefit from this facility. Yet given the fact that small businesses generally have more cash flow challenges than the big businesses, they need the WHT exemption facility more. The rationale of WHT Exemption is to encourage compliance among businesses which wish to qualify for this facility. It appears that URA is using it as a revenue raising measure instead which defeats its purpose. There is need to limit the discretionary powers of the Commissioner General. The amount paid should not be used as a measure for compliance. The arbitrary nature of the amount selected also creates uncertainty which is not good for investors. If such a criterion should be used then let it be set in statute.	Clarification of the Commissioner's power to exempt from WHT. Allow small businesses to benefit from WHT exemption.	Section 119(5)(f) is amended to expressly bar the Commissioner from considering the amount of tax paid as part of the criteria for satisfaction of compliance. The criteria to be considered should be gazetted as well as put in a Public Notice three months prior to the commencement of the WHT Exemption Applications. Currently URA only issues a generic public notice. We believe that this requirement should be put in the law.

	We recognize that compliance is a moving target which will vary from year to year as URA comes up with new innovations and requirements. Therefore, the Commissioner's power to determine compliance should not be fettered. Nonetheless we consider that allowing the Commissioner to arbitrarily set an amount of tax paid as a requirement from benefiting from this facility disadvantages small businesses and struggling loss making businesses or young businesses which need this facility most. The corporate ETR in Uganda for last year is less than 4%, on average it means that withholding 6% is a big challenge for small businesses.		
Clarify the law on taxation of air transport.	Section 21(1)(x) of the ITA exempts the income of a person derived from the operation of aircraft in domestic and international traffic or the leasing of aircraft. Section 86(1) of the ITA imposes tax 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 who embark, or cargo or mail which is embarked in Uganda and on a road transport operator who derives income from the carriage of cargo or mail which is embarked in Uganda. This is a contradiction that needs to be resolved for purposes of clarity in the law.	The current ambiguity may discourage investment in air transport. The law should be clarified whether it is actually exempted.	Amend Section 86(1) of the ITA to clarify the law.

We the undersigned organisations;

Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI Uganda) | Oxfam in Uganda | Civil Society Budget Advocacy Group (CSBAG) | Advocates Coalition for Development and Environment (ACODE) | Public Services International (PSI) | Uganda Debt Network (UDN) | Water Governance Institute (WGI) | ActionAid International Uganda (AAIU) | Youth For Tax Justice Network (YTJN) | Eastern African Sub-regional Support Initiative for the Advancement of Women (EASSI) | Forum for Women in Democracy (FOWODE) | Uganda Women's Network (UWONET) | Uganda Youth Network (UYONET) | Africa Freedom for Information Center (AFIC) | The Open Forum Initiative (TOFI) | Food Rights Alliance (FRA) | Uganda National Health Consumers Organization (UNHCO) | Rwenzori Anti-Corruption Coalition (RAC) | Transparency International Uganda (TIU) | Twaweza Uganda | Initiative for Social and Economic Rights (ISER) | Kick Corruption Out of Uganda (KICK) | Kanungu Community Efforts for Rural Transformation (KACOERT) | Gulu NGO Forum | Kalangala NGO Forum (KADINGO) | CEED | Forum For Rights Awareness and Monitoring- Uganda (FORAMO) | Mukono NGO Forum | Masaka NGO Forum, Kitgum Women Peace Initiative (KIWEPI) | Yumbe NGO Forum | Nebbi NGO Forum | Arua NGO Forum | Mukono NGO Forum | Public Affairs Center of Uganda (PAC-Uganda) | South Buganda Anti- corruption Organization | Community Empowerment for Rural Development (CEFORD) | West Nile Youth Empowerment Center | Koboko Civil Society Network (KOSCINET) | Advocates in Research and Development (ARID) | Forum for Women in Democracy (FOWODE) | Women & Girl Child Development Association (WEGCDA) | Resource Rights Africa (RRA) | African Center for Trade and Development (ACTADE) | Publish What You Pay (PWYP)-Uganda | Institute for Social Transformation (IST) | Federation for Small and Medium Enterprises (FSME) |The Populace Foundation International (TPFI) | Akina Mama wa Afrika | Jay Mallow Foundation |Touch The Heart Uganda

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