

Our Ref: MDA/016

19 April 2021

To:

The Sectoral Committee on
Finance, Planning and Economic Development

Thru:

The Clerk to Parliament,
Parliament of Uganda,
KAMPALA.
clerk@parliament.go.ug

Dear Madam,

COMMENTS ON THE TAX (AMENDMENTS) BILLS, 2021

The above subject refers.

Please, find enclosed Comments on the proposed tax (amendments) Bills, 2021 from the Institute of Certified Public Accountants of Uganda (ICPAU).

Should there be an opportunity to clarify on our submissions, we shall be happy to do so.

Yours faithfully,


CPA Derrick Nkajja
SECRETARY / CEO

Encl (Comments)

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INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF UGANDA

COMMENTS ON THE TAX (AMENDMENT) BILLS, 2021

APRIL 2021

Comments by ICPAU

	ISSUE	OBSERVATION	COMMENT
INCOME TAX (AMENDMENT) BILL, 2021			
1.	Clause 3 Amendment of section 5 of principal Act	<p>Rental Income</p> <p>The bill proposes that property owners who earn rental income from more than one rental building shall account for the income and expenses of the rental buildings separately and pay tax for each rental buildings separately.</p> <p><u>Observations:</u></p> <p>We observe that;</p> <p>(a) There will be no grossing up of income and the property owners/businesses will no longer be able to offset tax losses of one rental building against the profits of another.</p> <p>(b) Where a person centrally manages costs related to the different rental buildings, it may be difficult to ensure apportionment of such costs.</p>	<p><u>Our proposals</u></p> <p>We propose that the amendment be dropped and the policymakers consider the following proposals:</p> <ol style="list-style-type: none"> 1. Stamp duty or excise duty for every rental agreement be introduced. 2. We propose that rental expense be an allowable deduction for individual tax payers, and each mandated to disclose their rental particulars as they file a tax return. This will expand the identification of all possible rental income sources.

		<p>(c) The proposed amendment will increase the cost doing business and a burden to the taxpayers since they will have to account for taxes on each of their properties separately.</p> <p>(d) The administrative burden on the URA will also increase as it will have to design complex forms for taxpayers to account for income, expenses, profit/losses, and income taxes for each rental building separately.</p> <p>(e) This particular amendment was initially brought in 2019, but it was dropped due to its impracticability to rental business.</p> <p>(f) The term “rental building” is undefined - will it be determined based on separate tenancy, separate legal title or separate location?</p> <p>While this proposal intends to raise additional tax revenue for the government, it is likely to lead to a shortage of rental properties and, ultimately, an increase in rent and lower economic growth. The proposal to have separate accounting will only increase compliance costs, drive costs of doing business and discourage investment in the sector.</p>	<p><u>Justification</u> To ease the compliance burden on the side of a taxpayer.</p>
2.	<p>Clause 4 Amendment of section 21 of principal Act</p>	<p>Introduction of additional exemption regime: USD 50 Million requirements as investment capital.</p> <p>The bill proposes tax exemptions for among others;</p> <p>“(ai) the income of a manufacturer other than a manufacturer referred to in Paragraph (af) for a period of 10 years -</p> <p>(i) in the case of a new manufacturer, whose investment capital is, at least USD 50 Million who, subject to availability uses at least 70% of the locally produced raw materials, and employs at least 70% citizens with an aggregate wage of at least 70% of the total wage bill of the new manufacturer; or</p>	<p><u>Our proposals</u></p> <p>a. We propose deletion of the proposal. The current exemptions are fairly fine for all investment sizes.</p> <p>b. We also propose a full review of the exemption regime/process and the benefits accruing from the previous exemptions to the economy.</p>

		(ii) in the case of an existing manufacturer, from the date on which the manufacturer makes an additional investment equivalent to USD 50 Million for a period of 10 years from the date of commencement of business who, subject to availability, uses at least 70% of the locally produced raw materials, and employs at least 70% citizens with an aggregate wage of at least 70% of the total wage bill of the existing manufacturer.”	
3.	Clause 8 Amendment of section 50 of principal Act	<p>Introduction of the benefit of indexation to compute capital gains on business assets</p> <p>The bill seeks to introduce the idea for indexing capital gains to adjust the cost base of an asset by considering the inflation effect on each item of cost or expense included in the cost base of the asset, using published consumer price indices.</p>	<p>We welcome the amendment, ICPAU has been pushing for this amendment for so long.</p> <p><u>Justification</u> This is a significant boost to the taxpayers, who so far have been suffering heavy tax on capital gains, bearing the effect of inflation on the economy without the benefit of indexation to the cost base of the assets.</p>
THE VALUE ADDED TAX (AMENDMENT) BILL, 2021			
1.	Clause 5 Amendment of section 28 of principal Act	<p>Time Limit on claiming of Input tax credit on tax invoices</p> <p>The bill seeks to provide for timelines within which to apply for input tax credit. The implication is that a taxable person would only be entitled to claim the input tax credit concerning tax invoices that have not elapsed i.e. six months from the date of the invoice.</p> <p><u>Observations</u></p> <p>With this proposed amendment and the e-Invoicing system already into place, the government aims to regulate the input tax credit mechanism and make it time-barred and eliminate delayed VAT input claims.</p>	<p><u>Our proposal</u></p> <p>We propose that the current status where there is no time limit to claiming input VAT credit should be maintained.</p> <p><u>Justification</u></p> <p>For effective implementation of tax system such that economic hardships are not only suffered by the taxpayers.</p>

		However, VAT should never be a cost to a business that is duly registered for VAT. By limiting the claims to input VAT credit to only 6 months, the Government is taking away the benefit of claiming input VAT incurred on expenses and purchases by VAT registered taxpayers and yet the reasons for delayed claims may be justified and reasonable.	
THE EXCISE DUTY (AMENDMENT) BILL, 2021			
1.	Clause 4 Amendment of Schedule 2 to principal Act	<p>Duty on internet data</p> <p>The bill is proposing to introduce a duty of 12% of the fee charged for internet data.</p> <p><u>Observations</u></p> <p>We note that similar to the challenges faced in the collection of OTT by the URA, classification by the Agents (Telecom Companies) for data used for other services (social services, official communication, and promotion and other business purposes etc.) other than for Medical or Education Services will be a challenge.</p> <p>While the proposal to repeal the Excise Duty on Over The Top (OTT) services of Shs. 200 per user per day of access is commendable, introducing Excise Duty on Internet will have the same adverse effects on e- communication, e-services, e-business, e-advertising as the OTT being repealed. Taxing internet will affect the progress that the Country is making in the area of ICT inclusion which has a ripple effect on many areas of the economy and the generation of job employment opportunities.</p> <p>We note that many data users accessed it through conversion from Airtime for which the bearer already incurs a duty for every unit spent, this would translate into double taxation.</p>	<p><u>Our proposal</u></p> <p>We propose that the status quo be maintained.</p> <p><u>Justification</u></p> <p>There is need for cheap and efficient data to support business and revamping of the economy. It is also worth noting that many organizations have scaled down operations and implemented work from home strategies for their employees which are facilitated by data connectivity.</p>

TAX PROCEDURES CODE (AMENDMENT) BILL, 2021

1.	<p>Clause 2 Amendment of Tax Procedures Code Act, 2014</p>	<p>Definition of a “Tax Decision”</p> <p>The bill proposes to amend the definition of a “Tax Decision” to specify certain exclusions.</p> <p><u>Observation:</u></p> <p>The proposed amendments, if passed into law, will reduce compliance by discouraging taxpayers from willingly approaching the URA on matters that require clarification from URA.</p> <p>Further under the proposed amendment, an omission to issue or revoke a private ruling does not amount to a tax decision which complicates the business environment as uncertainty is introduced into the tax administration.</p>	<p><u>Our proposal</u></p> <p>We propose that the amendment be dropped.</p> <p><u>Justification</u></p> <p>A key tenet of good public tax administration is being able to provide prompt decisions following a request or application submitted. Failure to give a timely decision can generate a mistrust and inhibits business planning as economic resources are being invested.</p> <p>In our opinion, if there is future disagreement, an option of appeal or judicial review should be made available for both parties.</p>
2.	<p>Clause 8 Amendment of section 38 of principal Act</p>	<p>Repealing of earliest liability rule under the order of payment</p> <p><u>Observation:</u></p> <p>The implication of the proposal is that the earliest liability settlement rule will be removed. This will clear a lot of confusion, which currently exists with respective tax officers taking different views in terms of allocation of payments. If the amendment is passed, the payments will be allocated in the following order: a) Principal tax; b) Penal tax; and c) Interest due.</p>	<p><u>Our proposal</u></p> <p>We welcome the amendment.</p>