

Tax amendments affecting the petroleum industry

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Program

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Welcome remarks	Pamela Natamba	10:00 – 10:05
Overview of Income Tax (Amendment) (No.2) Act, 2021	Veronica Magembe	10:05 – 10:20
Overview of Public Finance Management (Amendment Act), 2021	Hilda Kamugisha	10:20 – 10:35
Q&A session	Doreen Mugisha	10:35 – 11:00

Presenters



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Welcome Remarks

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Income Tax Amendments affecting petroleum industry



Income Tax (Amendment) (No.2) Bill, 2021

Presentation by

Veronica Magembe
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Content



Windfall tax

Introduction of windfall tax



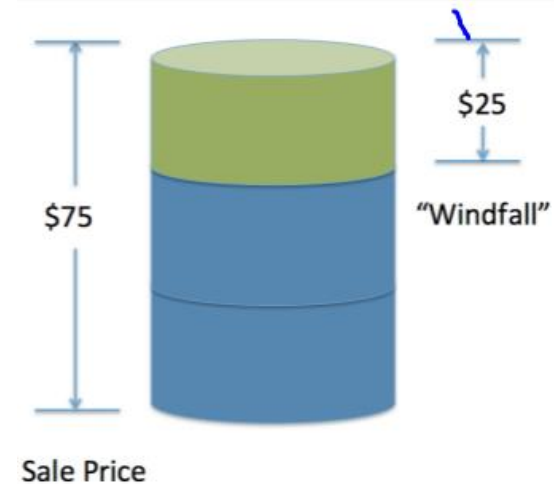
Deductions

Limitation of deductions for petroleum operations

Introduction of windfall tax

- 1 Windfall tax is imposed on large unexpected profit arising due to economic conditions.
- 2 The aim is to reallocate favourably abnormal profits in one sector to another.
- 3 Windfall tax is imposed mainly on petroleum and mining industries.

Figure 1: Windfall Tax at \$75/bbl



Countries in Africa with windfall tax

Algeria

- Windfall Tax applies when the monthly fixed average of FOB Brent oil exceeds USD 30.
- A tax rate of 5% to 50% is applied to the share of production of the contractor/licensee. .

Ghana

- Additional entitlement applies if the actual rate of return exceeds projected rate of return.



Introduction of windfall tax



The Act introduces a windfall tax where the international oil price equals USD 75 per barrel or more on any day of a year of income for contract area 1, 2 and 3A.

The international oil price is the higher of:

- the simple arithmetical average of per barrel of selling prices of three globally recognised international crude oil benchmarks *similar to Lake Albert Crude*; or
- Dated brent.

Examples of international crude oil benchmark

Crude Oil & Natural Gas

INDEX	UNITS	PRICE	CHANGE	%CHANGE	C
CL1:COM WTI Crude Oil (Nymex)	USD/bbl.	87.57	-0.69	-0.78%	
CO1:COM Brent Crude (ICE)	USD/bbl.	88.85	-0.62	-0.69%	
CP1:COM Crude Oil (Tokyo)	JPY/kl	53,670.00	-40.00	-0.07%	
NG1:COM Natural Gas (Nymex)	USD/MMBtu	5.24	-0.26	-4.82%	

Introduction of windfall tax

Key points

Rate: 15% of net income less tax payable for a year of income

The tax is apportioned based on calendar days in excess of international oil price

The benchmark for international oil price will be agreed 60 days prior to production

Paid in addition to corporate income tax

Return is due and tax payable in the last quarter of year of income



Computation for windfall tax

Description	Amounts
Days with international oil price \geq \$75pb (A)	50 days
Days in a year (B)	365 days
Chargeable Income (C)	100,000m
Income Tax Payable (D) @ 30%	30,000m
Net income less tax payable (C-D)	70,000m
Windfall Tax = 15%*(A/B)*(C-D) @15%	1,438m

$$\text{Windfall tax} = 15\% * (A/B) * (C-D)$$

where :

- A = the number of calendar days in the year of income on which the international oil price equals \$75 per barrel or more;
- B = the total number of calendar days in the year of income;
- C = the net income generated from the petroleum operations by the licensee in the year of income; and
- D = corporate income tax payable by the licensee for the year of income

Content



Deductions

Limitation of deductions for petroleum operations

Definitions of Key Terms

Licensee

A person who enters into a petroleum agreement with the Government of Uganda like TotalEnergies and CNOOC

Licensee takes full control of the entire production process

Royalties

Government receives royalties - computed on gross daily production

Royalty rate is on a sliding scale and incremental in nature

Definitions of Key Terms

Cost oil

The licensee is allowed to recover costs out of the gross oil revenues, before sharing of production.

Uganda's model PSA place a limit on cost recovery and where the cost recovery exceeds the limit then the balance is carried forward and recovered in the following year of income

Profit share

The oil revenues that remains after the royalty and cost recovery is profit oil.

Is shared between the Licensee and the Government through a pre agreed profit sharing arrangement

Limitation of deductions relating to petroleum operations



Existing Section - 89GA(1)

An amount that a licensee may deduct in relation to petroleum operations undertaken by a licensee in a contract area in a year of income shall not exceed the cost oil derived by a licensee from those operations in a contract area for that year.



Introduction of new Section - 89GA(1a)

An amount that a licensee for contract area 1, 2 and 3A may deduct in relation to petroleum operations undertaken in the respective areas in a year of income shall not exceed the cost recovery limit in the respective petroleum agreements.

Licensee will not recover all costs in one year ..

Excess
unrecovered costs
is carried forward
indefinitely



- **Introduction of new Section - 89GA(2a)**
- The amendment also provides for indefinite carry forward of deductions in excess of the cost recovery limit for a year of income (until the amount is fully deducted or the petroleum operations cease for contract areas 1, 2A and 3) subject to the cost recovery limits for the subsequent years of income.

Cost recovery limitation by other countries

Contracts with limited cost recovery

- Ghana

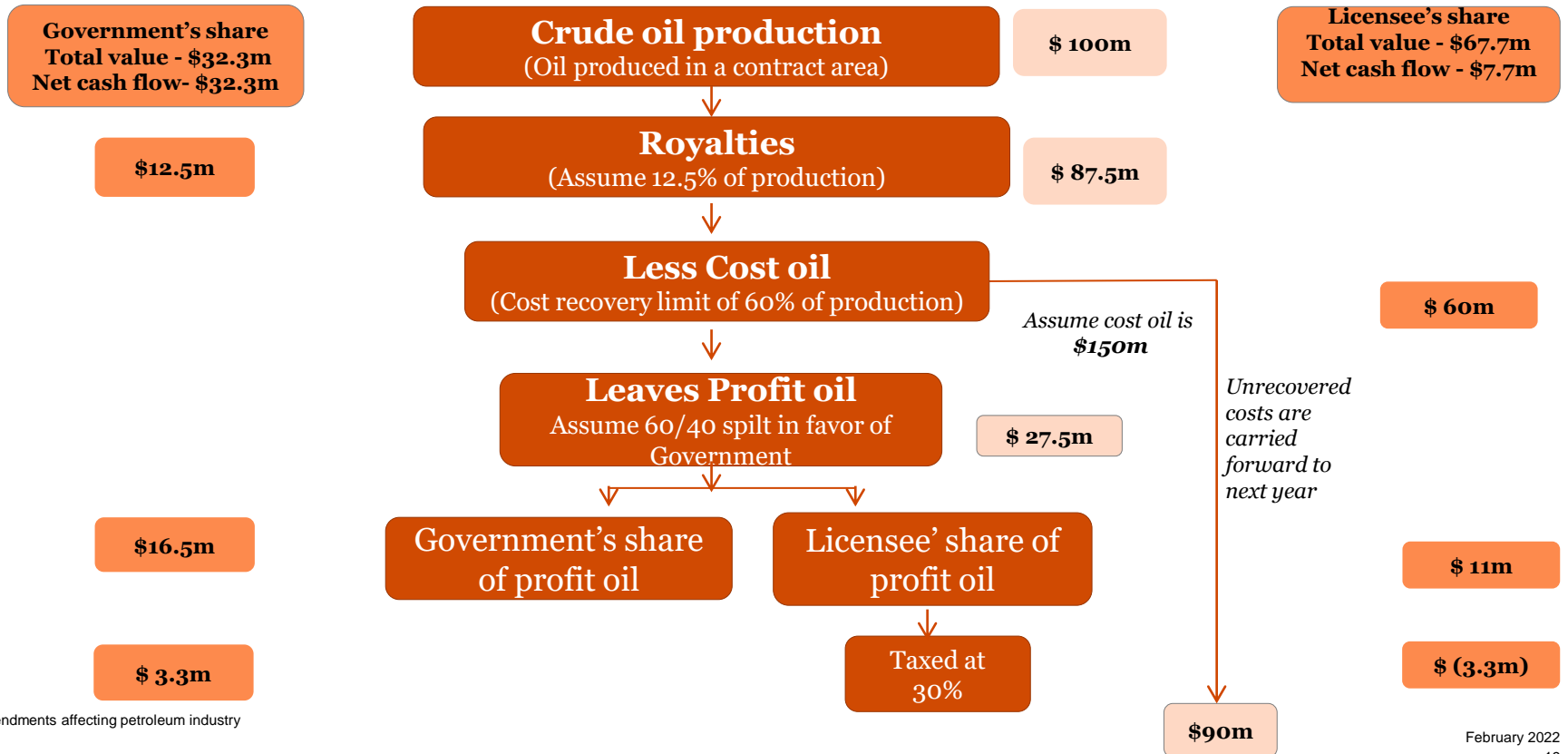
Contracts with unlimited cost recovery

- Indonesia
- Algeria



Illustration

Taxation of a licensee / Governments Vs Licensee's share



Take away.....

Costs deductible under contract areas 1, 2 and 3A do not exceed the cost recovery limit in the petroleum agreements.

Excess unrecovered costs is carried forward indefinitely

Figure 1: Windfall Tax at \$75/bbl





“ *Thank you*”

Public Finance Management (Amendment) Bill, 2021

Presentation by Hilda Kamugisha
Legal Manager, Oil & Gas

PwC Uganda





Introduction

Uganda's Oil and Gas development is based on a production sharing arrangement, on terms agreed among Uganda, Total Energies and CNOOC.

- The Uganda Government's participation in the different oil and gas projects is managed by Uganda National Oil Company Limited (UNOC), a company wholly owned by the Government of Uganda.
- UNOC holds Government's 15% participating interest in the Petroleum Production Licenses.

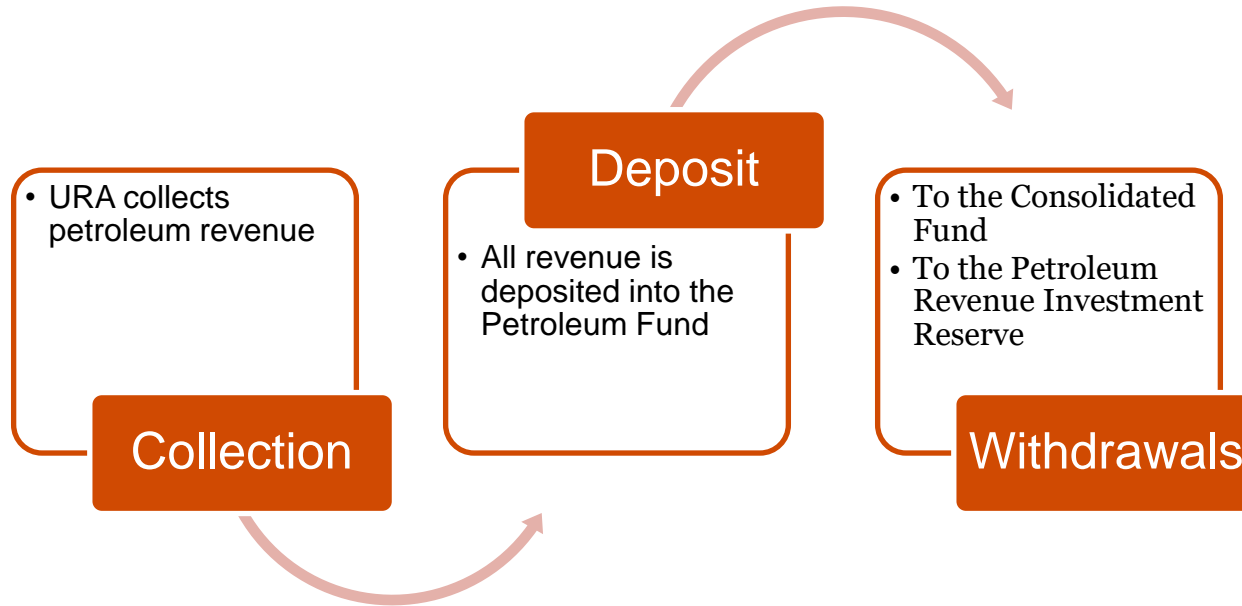
Overview of the Public Finance Management Act, 2015 (1/2)

- The Act was enacted in 2015 to regulate Uganda's fiscal and macroeconomic management.
- It provides for public financial management by, among others, establishing the legal and regulatory framework for the collection, allocation and management of petroleum revenue.
- It established the institutional framework for this purpose, i.e. the Petroleum Fund, the Petroleum Revenue Investment Reserve, the Investment Advisory Committee

UNOC is mandated to represent the State in the oil and gas projects and therefore the funds generated by UNOC from the project activities are subject to the Act.



Overview of the Public Finance Management Act, 2015 (2/2)



Purpose of the Public Finance Management (Amendment) Bill, 2021

- To amend the Act to provide for UNOC and the State's financial and other obligations and
- To cure defects in the Act, i.e. the Act does not provide for UNOC's financial obligations as a licensee and for the payment of tariffs under the HGA and TTA.

Consequences of UNOC's default under the Agreements

- Dilution of UNOC's participating interest;
- Loss of production entitlement;
- Loss of access to information during the period of default;
- Loss of voting rights until the default is cured; and
- Loss of right to participate in meetings.



What are the proposed changes? (1/2)



Definition of “Petroleum revenue”

Currently it means: tax paid under the Income Tax Act on income derived from petroleum operations, Government share of production, signature bonus, surface rentals, royalties, **proceeds from the sale of Government share of production**, any dividends due to Government, proceeds from the sale of Government’s commercial interests and any other duties or fees payable to the Government from contract revenues under a petroleum agreement.

- The Bill seeks to redefine petroleum revenue to exclude proceeds from the sale of petroleum arising out of the state participating interest in the petroleum agreements.

Retention of funds by UNOC

- These proceeds will be retained by UNOC.
- Currently UNOC has to rely on the appropriation process through Parliament to obtain funding based on annual workplans and budgets.

What are the proposed changes? (2/2)

Deposit of funds into Petroleum Fund

- After expending moneys for the financial and other contractual obligations, UNOC shall deposit the balance of the proceeds retained into the Petroleum Fund.
- Parliament may allocate part of the proceeds deposited by UNOC to fund UNOC's approved investments.
- Approved investments are those approved by the UNOC Board and Cabinet to be implemented in a specified financial year.



Terms and Conditions



UNOC will have access to the proceeds subject to: -

- 1 Specific obligations.
- 2 Approved Work Program and Budgets.
- 3 Oversight and monitoring.



Conclusion

The Bill is yet to be assented to by the President.

The key outcome of Bill will be that UNOC and Government will meet their obligations and avoid penalties.

With the right controls and monitoring, the amendment will safeguard the economic prospects of the petroleum projects.

“ Q&A

Doreen Mugisha
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“ *Closing Remarks* ”

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