Understanding Uganda's 2014/2015 National Budget

Sectoral reforms

PwC insight and analysis

Miscellaneous changes

The Ministers speech refers to a range of new laws that were proposed last year and which are now before Parliament. The relevant Bills were issued for comment in late 2013 and March 2014, and are expected to be enacted in FY2014/15. Below is a brief commentary on each of these bills.

Stamps Bill 2013

The Stamps Bill 2013 is intended to update and replace the Stamps Act, Cap 342, but is substantially a repeat of the current Act. This is disappointing as one of the objectives of revising the current legislation was to make it easier for the user to understand and interpret. The changes include:

- Repeal of those parts of the current Act which are redundant, such as cancellation of adhesive stamps and use of stamps previously usable.
- Part 6 of the Bill introduces an objections and appeals process to replace the reference and revision process in the current Act. These essentially follow the same procedures as are currently available under the income tax and VAT legislation.
- Clause 52 of the Bill gives the Commissioner powers to recover unpaid duty from another person by way of formal notice, similar to the agency provisions in the income tax and VAT legislation.
- Clause 55 of the Bill provides for the Commissioner to register a formal charge over land and buildings by way of security against unpaid duty.
- All penalties have been revised upwards and are expressed in currency points.
- Some of the duty rates have been revised, including:
  - An appraisement or valuation made otherwise than under a court order been increased from 0.5% to 1% of the total value
  - Indemnity bonds have been increased from UShs 5,000 to 1% of the total value
  - An acknowledgement of debt above Ushs 100,000 is now liable to duty of nil
  - Conveyances are shown as having a flat rate of Ushs 5,000 compared to the current ad valorem rate of 1%

Excise Duty Bill 2013

This Bill is intended to repeal and replace the East African Excise Management Act (an EAC statute dating from 1970) and the Excise Tariff Act, Cap 338. Again this is essentially a combination and condensation of the two existing Acts, but does not make any changes to the exiting rates.

Lotteries and Gaming Bill 2013

This repeals the National Lotteries Act, Cap. 191 and the Gaming and Pool Betting (Control and Taxation) Act Cap 292. It establishes the National Lotteries and Gaming Board to replace the existing National Lotteries Board.

Tax Procedures Code (TPC) Bill 2014

The object of the Bill is to harmonise and consolidate tax procedures for the existing tax laws in Uganda. Currently, each domestic tax law has provisions on procedural issues, with similar provisions presented differently in the various Acts. The TPC will therefore consolidate and streamline tax procedure into a single piece of legislation in order to simplify administration and promote compliance.

Below is a summary of the key provisions of the TPC and how they will impact taxpayers when enacted, where applicable.

1. **Part I – Preliminary**

This part deals with commencement of the Act and interpretations of terms and phrases used in the Bill. The Bill applies to all tax laws listed in Schedule 2. These include Income Tax Act, Cap 340 (ITA), the Value Added Tax Act, Cap 349 (VAT), the Tax Appeals Tribunal Act, Cap 345 (TAT) and the Uganda Revenue Authority Act, Cap 196 (URA).

2. **Part II – Registration of taxpayers**

This part deals with the registration and deregistration of taxpayers including issuance of Tax Identification Numbers.

3. **Part III – Tax agents and Tax Representatives**

This part deals with tax agents and representatives, concepts that have not been expressly provided for in any domestic tax law. In our view, the TPC seeks to regulate the conduct of tax agents.

According to Clause 7, any person including individuals and partnerships may apply to the Commissioner for registration as tax agents. This provision will affect tax advisors and consultants and while it is not mandatory, it could become the practice going forward. Tax agents may be required to be registered with the URA as such before they can engage with the URA on matters pertaining to a taxpayer. The Bill grants the Commissioner powers to deregister a tax agent on certain grounds.

According to Clause 13, a tax representative refers to any person such as an employee or director, who is responsible for performing any duty or obligation imposed by a tax law on the tax payer. The Bill proposes to treat tax representatives as personally liable for taxes payable by the taxpayer (who could be employees or directors of the taxpayer)

4. **Part IV - Accounts and records**

The provisions in respect of accounts and records remain largely unchanged except that the TPC will make it mandatory for taxpayers to maintain records in electronic format. Taxpayers who wish to keep records in a different language (other than English) may make an application to the Commissioner to this effect. However, translation as and when requested will be at the expense of the taxpayer. This is in accordance with Clause 14 of the Bill.

5. Part V – Tax returns

There filing of tax returns as has been the norm will not be significantly affected by the TPC. However, one notable change that the TPC will introduce is in respect of the annual turnover threshold for filing audited financial statements along with tax returns. According to Clause 15, taxpayers whose turnover exceeds Ushs 500 million are required to furnish audited financial statements along with the taxpayer's return. By inference, this means that taxpayers whose annual turnover is less than Ushs 500 million will not be required to submit audited financial statements to the URA. This will lessen the administrative and compliance burden on small and medium enterprises.

The definition of tax return has been broadened to capture all returns that are supposed to be furnished under any domestic tax law including excise duty returns.

Where tax returns are prepared for a taxpayer by a tax agent, the tax agent will be required to provide the taxpayer with a signed certificate stating the sources of information relied upon for the preparation of the tax return as well as a declaration to the effect the return reflects a true and fair view of the taxpayer's data. This is in accordance with Clause 16 of the Bill.

6. Part VI - Assessments

This part contains detailed provisions relating to assessments. In addition to self-assessments, which have been previously provided for by the existing tax laws, the TPC has now introduced two new concepts – namely default assessments and advance assessments.

Default assessments are provided for under clause 20 and will apply where a taxpayer fails to furnish a self-assessment return. In such cases, the Commissioner may serve the taxpayer with a default assessment specifying the amount of tax assessed.

A default assessment is different to an additional assessment as provided for in the current tax laws (as well as the TPC). An additional assessment is issued by the Commissioner to amend a tax assessment while a default assessment will be issued to taxpayer who has failed to make a self-assessment.

Advance assessments are provided for in Clause 21 and will be issued to taxpayers who the Commissioner deems are at a risk of delaying, obstructing or preventing the payment of tax.

In our view, the above provisions on assessment will enable the URA to broaden the tax base by collecting taxes from the informal sector particularly by way of default assessments.

7. Part VII - Objections and Appeals

The appeals process as provided for under the ITA and VAT Act remain largely unchanged save for the following:

- The time frame within which the Commissioner should respond to an objection will be increased from 30 days to 90 days. This is in accordance with Clause 23 (6) of the Bill. In our view, this makes it harder for taxpayers to obtain a timely resolution of tax disputes, hence increasing the administrative burden. In fairness, the time limit granted to the Commissioner should not be longer than the 45 days by which a taxpayer is required to object.

- The time limit (90 days) for making an objection decision is waived where a review of a taxpayer's records is necessary for the settlement of the objection. In our view, there is a risk that this provision could potentially be used by the tax authority to delay making the objection decision, resulting in undue delays in the resolution of tax disputes.

8. Part VIII – Collection and recovery of tax

This part contains detailed provisions on collection and recovery of unpaid tax. Some of the notable changes that will be introduced under this part are as follows:

- Clause 27 of the Bill will enable taxpayers to apply to the Commissioner for an extension of time to pay tax. The application will have to be made before the statutory payment due date. The Commissioner may require the tax to be paid in instalments. This provision is welcomed as it will encourage compliance and dialogue between taxpayers and the URA.

- Clause 30 on recovery of tax by the URA from persons owing money to the taxpayer already exists in the current domestic taxes. However, under the new law, a person who does not comply with a recovery notice will be personally liable for the amount specified in the notice. This could therefore transfer liability to the person upon whom an agency notice is served.

- The TPC grants the Commissioner discretionary powers to charge taxpayer's immovable property, seize goods and temporarily close taxpayers businesses in efforts to recover unpaid tax. This is as per Clauses 32-34 of the Bill.

9. Part IX – Remission of Tax

This part deals with remission of tax and the existing provisions will remain unchanged, that is, a decision for remission of tax can only be made by the Minister.

10. Part X – Investigations

This part deals with access to premises, records and data storage devices by the Commissioner in the event of a tax investigation. The clauses of the TPC in this regard are similar to the provisions existing in the domestic tax laws

11. Part XI – Tax clearance certificates

The clauses in the TPC in respect of tax clearance certificates are consistent with the existing provisions of the domestic taxes law. Any person may apply to the Commissioner for a tax clearance certificate.

12. Part XII – Practice notes

This part empowers the Commissioner to issue practice as guidance to taxpayers and tax officers, and also issue private rulings upon application by taxpayers. This part also seeks to clarify that the practice note is binding on the commissioner until it is revoked. This is consistent with the provisions in the current domestic taxes laws in respect of practice notes

13. Part XIII– Tax officers

This part seeks to empower the Commissioner to delegate in writing any power, duty or function, to a tax officer, and also requires tax officers to regard as secret and confidential any information and documents received in performance of their duties. The provision is similar to the provisions existing in the domestic tax laws

14. Part XIV – Penal tax

This part provides for penal tax for default in furnishing a tax return, late payment of tax, failing to maintain proper records, making false or misleading statements, understating provisional tax estimates, failing to apply for registration and recover of penal tax.

While the penal tax provisions remain largely unchanged, it is worth noting that the computation of penal tax in respect of VAT will change if the Bill is enacted in its current form. Under the VAT law, penal tax is computed at a rate of 2% per month compounded. However, Clause 48 of the TPC refers to 2% of the tax payable and does not require the interest payable to be compounded.

15. Part XV – Offences

The offences provided for under the TPC are broadly similar to those that are currently prescribed in the domestic taxes. These include offences for failure to furnish a tax return, for making false or misleading statements, etc.

16. Part XVI - Miscellaneous

This part deals with miscellaneous provisions relating to forms, notices, manner of furnishing documents, rectification of mistakes, etc.

Proposed new tax measures – Miscellaneous

- **Treatment of Government Taxes**

Currently when Government is paying for goods and services it pays the suppliers an amount exclusive of VAT and it retains the obligation to remit the VAT directly to URA through the gross tax payment system.

The Minister's proposal to integrate the transactions conducted with Government into the tax system will now require Government to pay the gross value of the invoices to the suppliers i.e. including the VAT on the supplies. In turn, the suppliers will be expected to account for the output VAT on the supplies in time.

This is aimed to eliminate or reduce tying up Tax Revenue in form of tax payable by Government or Government arrears and also to reduce the loss of revenue in form of aged Government arrears which eventually get waived.

The proposed policy implies that the suppliers to Government who account for VAT on an accrual basis will have to account for output VAT on the supply while they wait for payment from Government. If Government does not expedite payment to the suppliers, their working capital will be held up in receivables from Government. As a result, this will shift the tax receivable from URA to the suppliers' balance sheet in form of debtors (receivables from Government). The cost of doing business may therefore go up due to increased cash flow requirements to pay the taxes (VAT).

- **Waiver of Tax arrears owed by Central and Local Governments.**

The tax payable by Government was currently being regarded as tax receivable by URA. The Minister's proposal to write off all outstanding taxes owed to Uganda Revenue Authority by both the Central Government and Local Governments except for PAYE, Withholding Tax and any other taxes withheld at source was aimed at providing smooth transition to new policy of having all Government procurement of goods and services to be VAT inclusive. This will also avoid carrying forward uncollectable tax receivables.

The suppliers will require guidance on the cut off period to provide for clarity on whether the waiver applies to taxes for supplies made prior to 30 June 2014. We await the finance bill which will contain the details.

- **Tax Administration**

Currently both URA and Ministry of Finance have independent information systems. The proposal to further enhance modernization of tax administration by integrating the e-tax system and ministry of finance's information management systems is aimed at widening the tax base by providing URA access to suppliers to other Government institutions. This will also improve tax payer compliance as a result of the improved tax administration supported by the centralized information management system.

- **Improved infrastructure and efficiency in the customs clearance of goods.**

  This year there was an improvement in the infrastructure and the process of customs clearance of goods which included the removal of multiple bonds as well as the reduction of multiple customs documentation within the community. This will further reduce the cost of doing business in / with Uganda as a result of the reduced costs of transport and less transit time. This will enhance efficiency for the business community and the tax authority.

- **1.5% infrastructure levy on selected imports into EAC**

  The government needs to raise money to revamp the rail transport system in Uganda. In order to raise this money, the government has, together with EAC Ministers of Finance, introduced a rail development levy on selected imports. This levy is similar to the levy which was introduced last year on all imports for domestic use in Kenya. This levy may lead to an increase in the cost of selected goods imported into Uganda by the 1.5% and it also increases taxable value for purposes of determining the VAT at importation of the selected goods. There's need for the Minister to clarify on whether the levy will apply on goods that are transiting through Uganda or the levy will be charged in the country of destination of the imports.

  The business community is expected to benefit from the further improvement in infrastructure as well as enjoy potential reduced costs of rail transport.