Tax Amendments FY2021/22

16 July 2021

pwc

Agenda

- Open Remarks
- Income Tax Amendments
- Value Added Tax Amendments
- Excise Duty Amendments
- Tax Procedures Code Amendments
- Tax Appeals Tribunal Amendments
- Stamp Duty Amendments
- Mining Amendments
- Q&A

Navigating tax measures in response to COVID-19 impact

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The road to recovery: Building economic resilience

Uganda National Budget Bulletin
June 2021

The Economy
Uganda

3.3%
Projected economic growth 2020/21

Uganda's economic growth for 2020/21 is projected at 3.3%, rising slightly from 3.0% for the prior year. This is significantly below the average growth of 6.5% for the preceding two years, largely due to the impact of the pandemic.

Headline inflation is projected at 4.7%, within the BoU's 5% target but ahead of the prior year rate of 3.0%.

Public debt is growing rapidly, at 31 December 2020 stated to be almost USD 18 billion or 49.8% of GDP (in nominal terms), compared to 40.9% at the end of 2019/20. The debt level is projected to peak at 54.1% in 2022/23.

Economic drivers for the year as identified by the government include:

- Peace, security, good governance and an efficient and effective judicial system.
- Scientific research and innovation transforming Uganda's industrial base
- The steady growth of the mining industry continues to be a major contributor to Uganda's economy with its contribution to GDP increasing from 1.1% in 2016/17 to 2.3% in 2020/21
- Increased access to electricity which now stands at 51% of which 24% is on-grid and 27% off-grid.

FY 22 Focus areas

Boosting business activity through financing private sector growth as well as well as investment promotion.

Promoting Agro-industrialisation in order to address challenges resulting from low production and productivity of primary agriculture, poor post-harvest handling and storage, limited value addition and insufficient market access.

Digital transformation in order to enhance socio-economic transformation and improve efficiency and productivity especially under restricted movements presented by the Covid-19 pandemic.

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How tax changes will affect small businesses

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Inside rental tax

https://www.bloomberg.com › news › articles › imf-app...

IMF Approves $1 Billion to Lift Ugandan Economy Amid Virus ...

Jun 28, 2021 — ... to release about $1 billion in funding to **Uganda** to support the ... the government will achieve its target of increasing **revenue** by 15%.

Bank of Uganda lowers cheque value limits

The central bank noted that their decision followed a 'no objection' received from the Uganda Bankers Association

#Bank Of Uganda

Chris Kiwawulo
Journalist @New Vision

570 views

Bank of Uganda (BoU) has lowered the cheque value amounts that can be written on a single cheque leaf for five currencies including the Uganda Shilling.

In a circular to all commercial banks, credit institutions, and microfinance deposit-taking institutions issued on Wednesday, the Central Bank announced the reduction of the cheque value limit amount for the Uganda Shilling from sh20m to sh10m.

Before that, BoU had directed commercial banks and other credit institutions that amounts written on cheques be limited to a maximum value of

Prime Minister Robinah Nabbanja launched the fund a week ago.

TOP NEWS STORY 18 hours ago . 1 min Read

MPs ask govt for list of beneficiaries of relief cash

The program is targeting a total 500,000 vulnerable people from the across the country

#COVID-19 #Parliament

John Masaba
Journalist @New Vision

536 views

Members of Parliament (MPs) have asked the government to avail the House with a list of all beneficiaries of the COVID-19 relief stipend to

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Income Tax Amendment Act

Income Tax – New definition of a "beneficial owner"

Before

- A beneficial owner ("BO") was defined in the ITA as: *"a <u>natural person</u> who owns or has a controlling interest over a legal person other than an individual who exercises control over the management policies of a legal person or legal arrangement, directly or indirectly whether through ownership or voting securities, by contract or otherwise".*

After

- A beneficial owner is now defined in the ITA as: *" a <u>natural person</u> who has final ownership or control of another person or a natural person on whose behalf a transaction is conducted, and <u>includes a natural person who exercises absolute control over a legal person, trusts and other legal persons similar to trusts</u>."*

Income Tax – New definition of consideration

Definition of consideration

Amount paid or payable directly / indirectly

Duties, levies fees and any charges

Income Tax – New definition of an exempt organisation

Before	*After*
Exempt Organisation	**Exempt Organisation**
Criteria	***Criteria***
• a religious, charitable or education institution of a **public character**.	• a religious, charitable or education institution **whose object is not for profit**.

Income Tax – Taxation of rental income

Before

- According to section 22 (c), rental income derived by individuals was allowed a standard deduction equal to 20% of the gross rental income.
- Additionally, the rental income derived by an individual was subject to income tax at a tax rate of 20%.
- Non-individual persons were paying rental income tax at a rate of 30% on their chargeable income (gross income – allowable deductions).

After

- Section 22 (c) has been amended to cover both individuals and entities. The rental income derived by entities and individuals will now be allowed a standard deduction equal to 75% of the gross rental income as opposed to 20% of the gross rental income (for individuals).
- At the same time the tax rate applied to the rental income of individuals has been increased from 20% to 30% (being the same tax rate as applied to entities).

Income Tax – Taxation of rental income

Before

Individual tax computation

Gross rental income = UGX 10M

Less allowable deduction (20%) = (UGX 2M)

Chargeable income in excess of UGX 2.8M = UGX 5.2M

Rental Tax payable (20%) = UGX 1M

Non - Individual tax computation

Gross rental income = UGX 10M

Less actual rental expenses = (UGX 2M)

Chargeable income = UGX 8 M

Rental Tax payable (30%) = UGX 2.4M

Income Tax – Taxation of rental income

After

Individual & Non-Individual tax computations

Gross rental income = UGX 10M

Less allowable deduction (75%) = (UGX 7.5M)

Chargeable income = UGX 2.5 M

Rental Tax payable (30%) = UGX 750,000

7.5%

Rental tax effective tax rate after 1 July 2021

Income Tax – Change in asset classification

Before

After

Old asset class

- Class I – 40%
- **Class II – 35%**
- Class III – 30%
- Class IV – 20%

trucks, trailers, trailer-mounted containers, buses and mini-buses

New asset class

- Class I – 40%
- Class II – 30%
- Class III – 20%

Income Tax – Deferral of capital allowances

Before

- New assets (both depreciable assets and industrial buildings) that were entitled to an initial allowance in the year of purchase were also entitled to the standard depreciation allowance in the same year.

After

- Section 27 (16) and section 29 (1a) which were introduced provide that the standard depreciation allowance for new assets that qualify for initial allowances should be deferred to the next year of income.

Income Tax – Indexation of an asset cost when calculating a capital gain

- Introduced section 50 (3) and (4) which require taxpayers selling assets held for 12 months or more after purchase to apply Consumer Price Index (CPI) indexation to the cost base when calculating the gain on disposal.

- This will eliminate taxation of the inflationary component of capital gains. Gains driven by currency movements however will still be taxed.

Income Tax – Non recognition of gains or losses by registered venture capital funds

- Introduced section 54 (1)(e) and 54(1a) which provides that gains or losses on the disposal of an investment interest by a registered venture capital will not be recongised for income tax purposes where at least 50% of the sale proceeds are reinvested within the same year of income.

- Where the reinvestment of the proceeds is less than 50%, the non-recognition will apply to the extent of the percentage reinvested.

Income Tax – Automatic exchange of information

- Introduced section 88 (3a) which requires the Commissioner to facilitate the automatic exchange of information where such is provided for under an international agreement.

- The Minister may make regulations to provide for the automatic exchange of information for tax purposes.

Income Tax – Refunds (section 113 (4) of the ITA)

Submission of application

the date that a taxpayer submits a refund application is deemed to be the later of the date of the application is received by the Commissioner.

Payment of refund

The refund must be paid within 6 months from the date that the commissioner receives the application.

Interest Accrued

Interest on late payment of remitting the tax refund should start to accrue at the point the additional information requested by the Commissioner has been submitted for verification.

Submission of additional information

- The application shall be deemed to have been submitted on the date when the additional information is received by the Commissioner.

Income Tax – Exemptions

Before

- Income of a person for a year of income derived from agro-processing is exempt from income tax.

After

- Section 21 (z) has been repealed.

- Section 21(1)(af) has been expanded to include the manufacture or chemicals for agricultural or industrial use, textiles, glassware, leather products, industrial machinery, electrical equipment, sanitary pads, and diapers.

Income Tax – Withdrawn proposals

Taxation of rental income

- Accounting for rental income tax for each building separately.
- Limiting deductible expenses to 60% of gross rental income.

6% WHT exemption on the purchase of a business or business asset.

- Allowing the Commissioner to grant an exemption to compliant tax payers (in the same way as the current WHT exemption list).

2

Value Added Tax Amendment Act

The VAT Amendment Act 2021

- Introduced a timeline of 6 months within which to claim a credit for input tax incurred,
- Encouraged the use of e-invoicing and e-receipting by introducing a refund of input tax on purchases by non-taxable persons that were e-invoiced/e-receipted,
- Imposed liability to penal tax for errors and omissions
- Introduced more items on the list of exempt supplies and excluded other items from the exempt list as a way of providing incentives to investors.

Exemption of services imported by suppliers of exempt services

The Amendment Act changed the numbering of Section 20 as follows:

- The former Section 20 which provides for exempt imports changed to Section 20(1)

Section 20(1) “An import of goods is an exempt import if the goods are exempt from customs duty under the Fifth Schedule of the East African Community Customs Management Act, 2004, except compact fluorescent bulbs with a power connecting cap at the end …”

- Repealed Section 20A

Previously, Section 20A “An import of a service is an exempt import if the service would be exempt had it been supplied in Uganda.”

Exemption of services imported by suppliers of exempt services

- The Act introduced Section 20(2)

Section 20(2) provides that an import of a service is an exempt import if the service would be exempt had it been supplied in Uganda or would be used in the provision of an exempt supply.

To benefit several suppliers of exempt services e.g financial services, Life Assurance services etc.

The limit on the period within which to claim input VAT incurred on purchases to six months

- The amendment limited the period within which a taxable person can claim the input VAT credit to a period of six months from the date of the invoice.

- Under the previous VAT legislation, a taxable person had the opportunity to claim a credit for the input tax incurred on purchases at any time

- Effective date of the amendment has an effect on the invoices dated in a period prior to the change

The limit on the period within which to claim input VAT incurred on purchases to six months

Denies a taxable person with a proper tax invoice a credit for input tax incurred on purchases used in the business of the taxable person to make taxable supplies where such invoice is received later than 6 months. This defeats the concept of VAT being a consumption tax as opposed to a business tax

The time limit seems to contradict the recent FY 20 amendment which allowed the manufacturers that are registering for VAT to claim input tax incurred within 12 months prior to their VAT registration for as long as the goods are in stock at the time of registration. There is need for clarity in this regard.

Requirement for non resident persons to account for VAT

- The amendment introduced a requirement for a taxable person who supplies services to non-taxable persons to file VAT returns fifteen days after the end of three consecutive month**s.**
- the taxable person being referred to is one that provides the following services to persons who are not required to register for VAT.

    - services in connection with immovable property in Uganda,
    - radio or television broadcasting services received at an address in Uganda,
    - electronic services delivered to a person in Uganda,
    - telecommunication services initiated by a person in Uganda.

Requirement for non resident persons to account for VAT returns

- We are expecting guidelines on how the amendment will be implemented
- our interpretation:
- The change does not affect the resident taxable persons

- the non-resident person:
  - meets the VAT annual registration threshold of UGX 150m for supplies made in Uganda

  - will be required to register for VAT
- May require the tax period for non-resident persons to be specified as a period of 3 consecutive months.

- Due date for paying tax is not clear

The opportunity for a non taxable person to obtain a refund of input tax supported by electronic receipts or invoices

- Applies to persons who are not registered for VAT)
- Opportunity to claim a VAT refund in respect of 5% of the input tax
- Incurred on purchases of goods or services worth UGX5 million
- The purchases were e-invoiced or e-receipted
- Purchased within a period of 30 consecutive days.
- Aimed at encouraging the use of the Electronic Fiscal Reporting and Invoicing System.
- Enhancing VAT administration and accountability

T

Repealing of the words knowingly and recklessly from section 65(6) of the VAT Act

- A person who:
- makes a statement or declaration to an official of the Uganda Revenue Authority that is false or misleading in a material particular
- or omits from a statement made to an official of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular , and
  - ❑ the tax properly payable exceeds the tax that was assessed
  - ❑ or the refund claimed was false
  - ❑ or submitted a return with an incorrect offset claim

Repealing of the words knowingly and recklessly from section 65(6) of the VAT Act

- That person;
- will be liable to penal tax of double the amount of the excess tax , refund or claim
- whether or not that person made the statement knowingly or recklessly
- Previously, the penal tax would not have applied if such statement or declaration was considered to have been made
  - unknowingly or
  - not recklessly.

Additional Public International Organisations

The Amendment Act added the following organisations to the list of Public International organisations;

- African Export-Import Bank
- International Union for Conservation of Nature.

Public International organisations are entitled to certain privileges under the VAT Act

The following items have been included on the list of exempt supplies

- The supply of liquefied gas
- The supply of denatured fuel from Cassava

More additions to the list of exempt supplies

The supply of services to:

a manufacturer **(other than a manufacturer operating within an industrial park, free zone or** who invests at least US$30million for a foreign investor of USD 5m for a local investor, to conduct a feasibility study or to undertake design and construction,

or in the case of any other manufacturer, from the date on which the manufacturer who from the date the manufacturer makes an additional investment equivalent to US$ 30million for a foreign investor or 5 million for a local investor. Who has the capacity to use at least 70% of the raw materials that are locally sourced, subject to their availability; and who has the capacity to employ at least 70% of the employees that are citizens earning an aggregate wage of at least 70% of the total wage

Additions to the list of exempt supplies

- The supply of services to conduct a feasibility study or to undertake design and construction.

- The above services should be supplied to:

1. a manufacturer. **other than a manufacturer operating within an industrial park or free zone**

- **i.e a manufacturer operating** outside an industrial park or free zone

  - ❑ **Investment capital of at least**
    - ❑ **USD 30m if it’s a foreign investor**
    - ❑ **USD 5m if it’s a local investor**

Additions to the list of exempt supplies

2 Any other manufacturer who from the date the manufacturer makes an additional investment equivalent

- ❑ **USD 30m if it's a foreign investor**
- ❑ **USD 5m if it's a local investor**

- Both manufacturers in 1 and 2 should have:
  - The capacity to use at least 70% of the raw materials that are locally sourced, subject to their availability; and
  - The capacity to employ at least 70% of the employees that are citizens
  - earning an aggregate wage of at least 70% of the total wage

Items included on the list of exempt supplies

- The proposed measure is aimed at increasing strategic investment sectors.
- The Government is aiming at providing employment opportunities to Ugandans by encouraging investors to employ citizens of Uganda to at least 70% of the employees as citizens earning at least 70% of the company's wage Amendment.
- The government is also encouraging local content and supporting the BUBU (Buy Uganda Build Uganda) policy by requiring the manufacturers to have the capacity to utilize 70%of the raw materials that are locally sourced.
- However, the exemption from VAT increases the cost of the supplies because the taxpayers who are supplying the services cannot claim the input tax credit and therefore, they must absorb the cost in the price of their supplies.

Items added on to on the list of exempt supplies

- Alternatively, it would be more effective if the input services were to zero-rated supplies.

- The supplier of zero rated supplies is eligible to claim input tax credits in relation to the VAT incurred in making such supplies. This essentially means that VAT does not result in an additional cost arising from unclaimed input tax, to be passed on to the final consumer.

Removal of some items from the VAT exemption regime

The Amendment excluded the following from the list of exempt supplies;

- the supply of certain services to a hotel or tourism facility.
  - Examples of these services include;
    - Conducting a feasibility study, design and construction;
    - the supply of locally produced materials for construction of premises, machinery and equipment or furnishings and fittings which are not manufactured on the local market

- This incentive that was in introduced in 2018 for developers with investment capital of USD 10 million with a room capacity exceeding 100 guests

Exclusions from the VAT exemption regime

- the supply of all production inputs into limestone mining and processing into clinker in Uganda and
- the supply of clinker for further value addition in Uganda.
- This exemption was introduced in 2018. The proposed change may have a significant impact on the cost of cement.
- The removal from the list of exempt supplies will imply that these items will now be standard rated and will attract VAT of 18%.

Inclusion of aircraft repair services on the zero-rated schedule

- The Amendment includes the supply of aircraft repair services among the zero-rated supplies under the third schedule.
- Previously, the supply of leased aircraft, aircraft engines, spare parts for aircraft and aircraft maintenance were zero rated but not the aircraft repair services.
- This measure is intended to support the aviation industry by including repair services for aircrafts among the zero supplies

3

Excise Duty Amendment Act

Excise duty

Excisable good or service	Duty rate 2020/21	Duty rate 2021/22	Comments
Opaque beer	30% or Shs. 650 per litre; whichever is higher.	The higher of 20% or Shs. 230 per litre;	Decrease to align with 2(e)
Any other alcoholic beverage locally produced		The higher of 20% or Shs. 230 per litre;	This is a new excise duty category
Any other fermented beverages made from imported cider, perry, mead, spears or near beer		The higher of 60% or Shs. 950 per litre;	New
Any other fermented beverages made from locally grown cider, perry, mead, spears or near beer		The higher of 30% or Shs. 550 per litre;	New
Any other non-alcoholic beverage locally produced (made from fermented sugary tea solution with a combination of yeast and bacteria)		12% or Shs. 250 per litre; whichever is higher	New category

Excise duty

Excisable good or service	Duty rate 2020/21	Duty rate 2021/22	Comments
Fuel			
Motor spirit (gasoline)	Shs. 1,350 per litre	Shs. 1,450 per litre	Increase of Shs. 100 per litre
Gas oil (automotive, light, amber for high speed engine)	Shs. 1,030 per litre	Shs. 1,130 per litre	Increase of Shs. 100 per litre
Plastics			
Sacks and bags of polymers of ethylene and other plastics under its HS codes 3923.21.00 and 3923.29.00 except vacuum packaging bags for food, juices, tea and coffee.	The higher of 120% or Shs. 10,000 per kg		This excise duty category is repealed and replaced as below.
Plastic product and plastic granules		The higher of 2.5% of the ex-works price or USD 70 per ton;	This is a new excise duty category

Excise duty

Excisable good or service	Duty rates 2020/21	Duty rates 2021/22	Comments
Telecommunication services			
Over the Top services	Shs. 200 per user per day of access		Repealed
Internet data, except data for provision of medical services and education services	Nil	12% of the fee charged	Increased rate to match other telecom services.
Value Added Services	20%	12% of the fee charged	To align at a single rate for telecoms

Excise duty

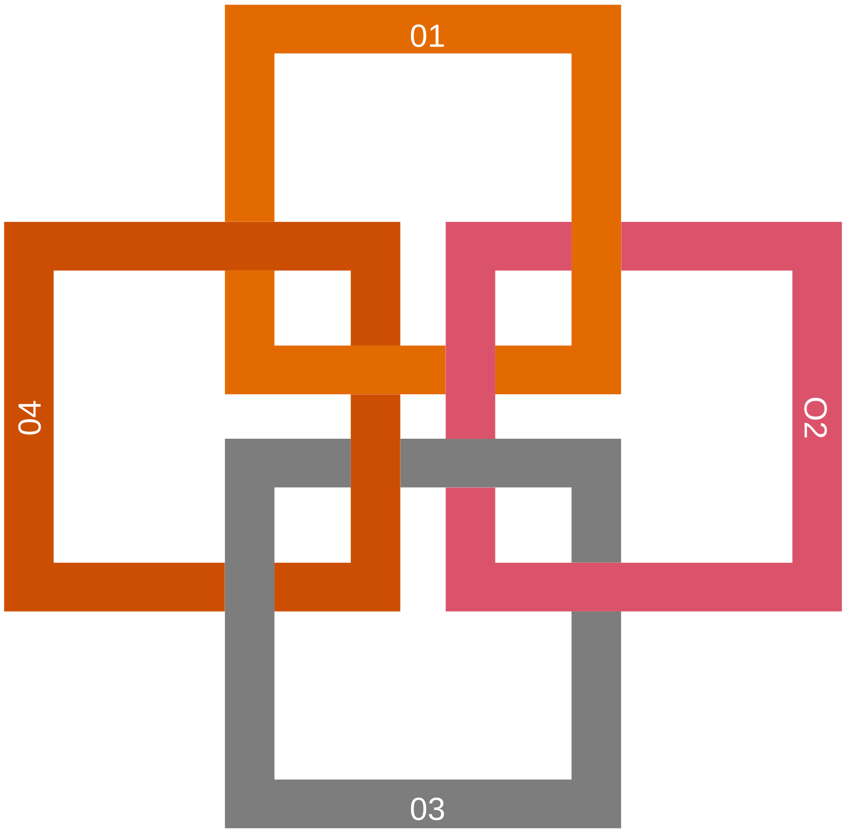
Excisable good or service	Duty rates 2020/21	Duty rates 2021/22	Comments
Strategic investment projects			
Construction materials of manufacturer whose investment capital is at least USD 50 million, or any other manufacturer who makes an additional investment of USD 50 million.		Nil	New incentive

Remission of duty on plastic packaging

The Commissioner may remit or refund excise duty paid on plastic packaging:

- used in packaging exported goods;
- used in packaging medicaments;
- manufactured from recycled plastics where the recycled plastic is 20% or more of the raw material used.

Proposals that were withdrawn



01 The proposal to impose a new duty of UGX 100 per kilogram on wheat grain was rejected.

02 The UGX 100 per litre hike in the duty on petrol and diesel is stated to be in substitution for the proposed annual motor vehicle license fees that were rejected.

4

Tax Procedures Amendment Act

Quick digest

Amendments

- Definition of tax decision
- TIN required for issuance of a license
- Amendment of self assessment returns
- Introduction of Alternative Dispute Resolution Procedures
- Changes in the order of payment of tax order
- New offences for tax stamps
- Increased penalties for offences

Rejected proposals

- To widen the Commissioner’s powers during an investigation related to arrest with an arrest warrant, order for interim closure of premises etc

New definition of a "tax decision"

Before	After	Implications
a) a tax assessment ; or	a) a tax assessment ; or	a) Items ii)-v) are new. This implies that it will not be possible to lodge a formal objection to such a decision. It remains to be seen whether the new Alternative Resolution Process will offer avenue to challenge these decisions.
b) a decision on any matter left to the discretion, judgment, direction, opinion, approval, satisfaction or determination of the Commissioner other than- i) a decision made in relation to a tax assessment;	b) a decision on any matter left to the discretion, judgment, direction, opinion, approval, satisfaction or determination of the Commissioner other than- i) a decision made in relation to a tax assessment; *ii) a decision to refuse, issue or revoke a practice* *iii) A decision or omission that affects a tax officer or employee or agent of the Authority;* *iv) The compoundment of an offence under any tax law; or* *v) A decision to refuse, issue or revoke a private ruling or an omission to issue or revoke a private ruling*	

Other tax measures

01 TIN required for business registration

- No local authority, Government institutions or regulatory body to issue a license or any form of authorisation without a TIN including a TIN issued by foreign tax authorities with whom Uganda has a tax treaty. Similar to provision under
- Section 22 (m) to foster linkages and enhance taxpayer compliance

02 Amending self assessment returns

- The period in which a taxpayer can amend a self assessment return has increased from 12 months to three years. This is a positive amendment.

03 Order of payment of tax

- The ordering rule for recognising tax payments will apply based on the taxpayer's preference and not to the oldest liability as was the case

04 Alternative Dispute Resolution (ADR)

- ADR may apply where a taxpayer is dissatisfied with a decision of the Commissioner
- Operationalisation of the ADR process is yet to be prescribed by the Minister

Increased offences/ penalties

Sections 54 to 59 of the TPCA

1. Failure to furnish a tax return by due date or within an extended period

1(a) **Prior Law**
A fine < 25 currency points

1(b) **Current Law**
Fine > 50 currency points

2. Failure to comply with the obligations in the TPCA

2(a) **Prior Law**
Fine <25 currency points

2(b) **Current Law**
Fine < 100 hundred currency points]

3. Failure to maintain proper records

3(a) **Prior Law**
Fine < 48 currency points or imprisonment <2 years]

3(b) **Current law**
Fine < 100 currency points or imprisonment <6 years

4. Use of a false TIN

4(a) **Prior Law**
Fine < 24 currency points or imprisonment not exceeding 1 year or both

4(b) **Current Law**
Fine <150 currency points or imprisonment for a term not exceeding 6 years or both

5. Making false or misleading statements

5(a) **Prior law**
Fine < 48 currency points or 2-year imprisonment or both

5(b) **Current Law**
Fine < 200 currency points or a term not exceeding 10 years or both

6. obstructing a tax officer

6(a) **Prior Law**
Fine < 48 currency points or imprisonment not exceeding two years or both

6(b) **Current Law**
Fine <150 currency points or imprisonment for a term not exceeding 10 years or both

5

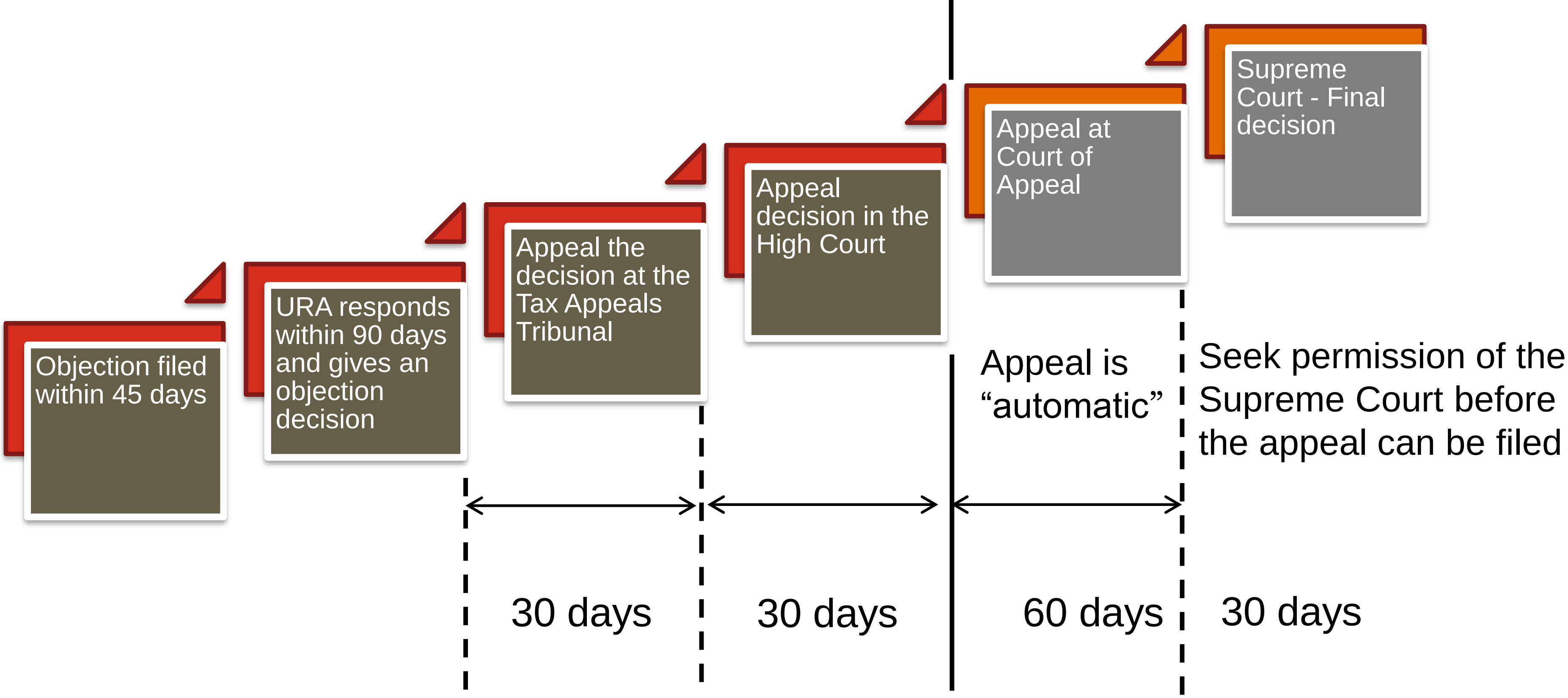
Tax Appeals Tribunal Amendment Act

Appeals to be made to the Court of Appeal and Supreme Court

- Housing Finance Bank V URA Civil Appeal no. 22 of 2012

Before

After



6

Stamp Duty Amendment Act

Exemptions applicable to Strategic Investment projects

- As per the Amendment Act, manufacturers whose investment capital is at least USD 50M and existing manufactures who make an additional investment capital equivalent to USD 50M will not pay stamp duty on specific instruments that would ordinarily attract stamp duty.
- The category of manufacturers excludes an operator within an industrial park or free zone or an operator of a single factory because these were already exempted under the Stamp Duty Amendment Act 2018.

Criterion to be met by manufacturers

- New and existing manufacturers should have the capacity to use at least seventy percent (70%) of locally produced raw materials and;

- Employ at least seventy percent (70%) citizens with an aggregate wage of at least seventy (70%) of the total wage bill of the new manufacturer.

Examples of instruments that may be exempt from stamp duty for strategic investment projects

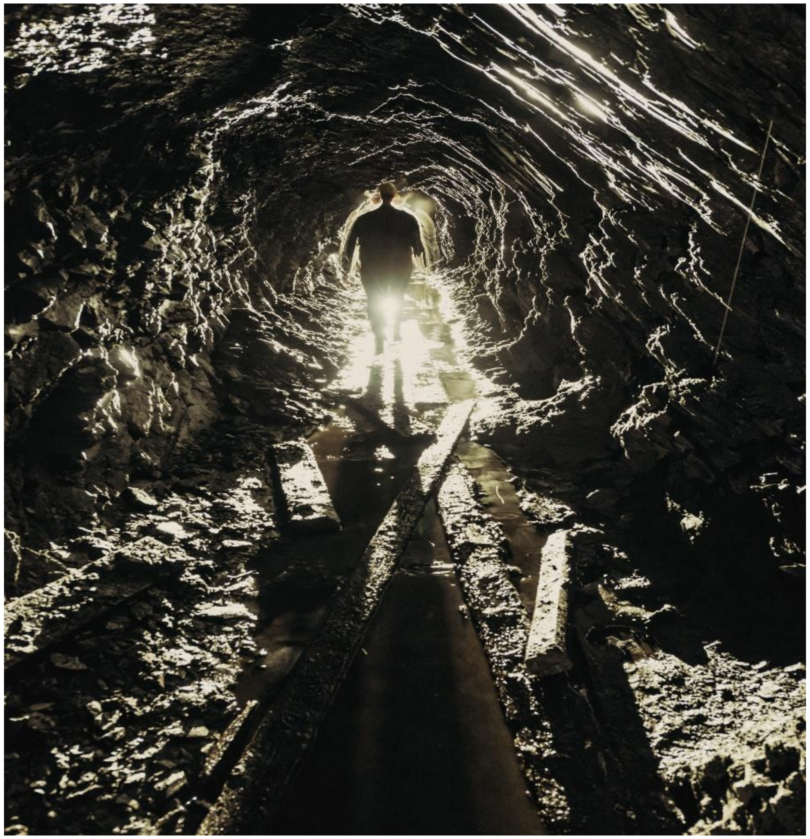
- Debentures (including mortgage debentures)
- Instrument imposing a further charge
- Lease of land
- Increase of share capital
- Transfer of land
- An agreement to provide services on conducting a feasibilty study or develop a design for construction

7

Mining Amendment Act

Tax Amendments

- A levy of 5% of the value of a kilogram is to be charged on processed gold exported out of Uganda.
- A levy of 10% of the value of the unprocessed mineral is to be charged on unprocessed minerals.
- The above levies are payable to the URA at the time when the unprocessed minerals/gold are exported out of Uganda.



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Q&A

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