

# Proposed Amendments in Tax Laws

Grant Thornton Uganda

FY 2024/2025



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# The Income Tax Proposed Amendments

# The Income Tax Amendments - Proposed



## Section 2(III):

### Amendment to the definition of a retirement fund

*(iii) the provision of benefits for members of the fund in the event of termination of service or upon the occurrence of an event specified in the written law, agreement or arrangement*

### Commentary:

Proceeds/Benefits from retirement fund in case of termination of service are proposed to be non taxable for PAYE. This is in addition to existing provision of non taxing the Proceeds/Benefits from retirement fund in case of death or retirement of the member.

## Section 5A:

### Inserting a new section to tax the disposal of non-business assets at a rate of 5%

*(1) A tax shall be charged on the gains from the disposal of non-business assets at a rate of five percent*

*(2) The tax payable by a person shall arise from the gains from the disposal of shares of a private company, land in cities or municipalities except the principal place of residence, and rental property that is subject to rental tax under section 5 of this Act*

### Commentary:

1. Gain on sale of certain category of non-business assets (like shares in private company) to be charged to tax at a final tax rate of 5%.
2. Amendment not applicable to Venture funds or private equities. (As they are proposed to be exempt)
3. Whether this tax replaces the existing tax mechanism or is in addition to the tax prescribed currently.??

# The Income Tax Amendments - Proposed

## Section 21 : EXEMPT INCOME

- **A venture capital fund is now exempt**  
*(ta) income derived from or by private equity or venture capital fund regulated under the Capital Markets Authority Act, Cap. 84*

### **Commentary:**

Income of the Private Equity or Venture Capital Fund is proposed to be exempt from Income Tax.

- **Proceeds from disposal of government securities on the secondary market are exempt**  
*(tb) income derived from the disposal of government securities on the secondary market*

### **Commentary:**

NO Income Tax applicable on disposal of government securities in secondary market (prior to their maturity).

- **Income of manufactures of electric vehicles and related equipment for electric vehicles and bikes and operator of a specialised hospital facility is exempt for 10 years.**  
*manufactures an electric vehicle, electric battery or electric vehicle charging equipment or fabricates the frame and body of an electric vehicle. operates a specialised hospital facility*

### **Commentary:**

This is aligned with the Government of Uganda strategy on e-mobility, growing need for environment protection and conservation globally and accessibility of medical facilities to citizens.

# The Income Tax Amendments - Proposed

## Section 78:

### Repealing the meaning of a branch

*(a) “branch” means a place where a person carries on business other than investment in Islamic financial business in the case of equity or partnership agreement*

### Commentary:

The definition of a branch is proposed to be replaced by the new definition of a Permanent Establishment in the proposed Section 78A.

## Section 78A:

### Insertion of definition of permanent establishment is now defined

*(1) “permanent establishment” means a fixed place of business through which the business of the enterprise is wholly or partly carried on and includes a place of management, a branch, an office,*

*a factory, a workshop, a warehouse, in relation to a person providing storage facilities to others, a mine, an oil or gas well, a quarry or any other place of exploration for or extraction or exploitation of natural resources, a farm, plantation or other place where agricultural, forestry plantation or related activities are carried on, a sales outlet, among others*

### Commentary:

This brings clarity to the law, as the Permanent Establishment definition is more comprehensive and captures international definitions of the same especially as enshrined in Double Taxation Agreements.

The Objective is to align with international best practice by adopting the UN Model definition of a Permanent Establishment.

# The Income Tax Amendments - Proposed

## Section 78B:

### Calculation of chargeable income of a permanent establishment

#### *Commentary:*

The gross income of the PE shall not include charges by the permanent establishment to the head office for royalties, commission for specific services performed or for management, or interest on moneys lent to the head office of the permanent establishment or any of its other offices except, in case of a financial institution.

## Section 79(m): Source of Income

### Adding to the meaning of a pension or annuity.

#### *Commentary:*

Introducing a source rule for annuity.

## Section 79: Source of Income

### Source rule for taxing insurance premiums.

(qa) derived from the payment of insurance premium, if the premium relates to the insurance or reinsurance of a risk in Uganda

#### *Commentary:*

Premiums paid to non-residents relating to insurance or reinsurance of risk in Uganda is income sourced in Uganda.

# The Income Tax Amendments - Proposed



## Section 83(5): Interest on Debentures.

**Section 83(5) of the ITA is proposed to be amended by substituting for subsection (5), the following:**

*(5) Interest paid by a resident person in respect of debentures is subject to tax at 2% where —*

*the interest is paid by a resident person to a financial institution*

*the financial institution referred to in paragraph (a) is unrelated to, and dealing wholly independently with, the resident person that is the borrower; and*

*the interest is not paid as part of an arrangement involving a back-to-back loan or other arrangement that is economically equivalent and intended to have a similar effect to a back-to-back loan.*

## Commentary:

Proposed amendments to change the conditions for preferential treatment on payment to non-residents.

The proposal attempts to impose WHT on interest at the rate of 2% on all types of debentures and interest paid to non resident financial institutions.

Interest paid to non resident financial institutions by government will continue to remain out of WHT ambit.



# The Income Tax Amendments - Proposed

## Amendment of Part IX of principal Act

Part IX of the principal Act is amended by substituting for the word “branch” the words “permanent establishment” wherever it appears

### Commentary:

The proposal aligns the amendments made to replace branch with Permanent Establishment under Section 78A

## Section 90: Transactions between Associates

Section 90 of the principal Act is amended by inserting immediately after subsection (3), the following

*(4) A person to whom this section applies shall at the time of filling returns, submit transfer pricing information to the Commissioner, in the format prescribed by the Commissioner.*

### Commentary:

With this proposal, the Transfer Pricing documentation apart from being ready, shall be contemporaneously submitted along with the Income Tax return.

## Insertion of section 118I

The principal Act is amended by inserting immediately after section 118H the following

*118I. Withholding tax on commission paid to payment service provider*

*(1) A person who pays a commission to a payment service provider shall withhold tax on the commission paid to the payment service provider at the rate prescribed in Part XVI of Third Schedule.*

*(2) For avoidance of doubt, this section shall apply to commission paid to banking agents or any other agent offering financial services*

### Commentary:

The commissions paid to agency banking agents will be subject to withholding tax akin to mobile money agents. The proposed rate applicable is 10%, like that applicable to air-time distributors and mobile money agents

Equalises treatment of persons in the similar business

# The Income Tax Amendments- Proposed

## First Schedule to Principal Act

The First Schedule to the principal Act is amended by inserting the following in its appropriate alphabetical position

*African Reinsurance Corporation (Africa Re), International Regulatory Board of the East African Power Pool, Islamic Cooperation for the Development of the Private Sector*

### Commentary:

Exempts these institutions as provided for under Section 21(1)(a) of the ITA

## Third Schedule to the Principal Act

In Part IV, by inserting immediately after item 3 the following

*(4) The withholding rate for interest payment by resident person in respect of debentures under section 83 (5) is 2% of the interest paid.*

### Commentary:

This aligns with the proposed amendment of Section 118I of the ITA.

The Bill shall come in force with effect from 1st July 2024 once passed into law.



# The VAT Act Proposed Amendments

# The VAT Amendments

## Section 5 & 10:

Amended to include the recipient of the proceeds of the auction to account for the VAT on goods sold by auction.

### Commentary:

It clarifies that where property is disposed off through a sale, then the supply is treated as made by the recipient of the proceeds and not the auctioneer.

## Section 7: Persons required or permitted to register

Clause 3 of the Bill amends Section 7 of the Principal Act by repealing (4A) (c)

*(4A) (c) a person engaged in commercial farming*

### Commentary:

Most agricultural inputs are exempt and players in agro-processing may have recourse to the exemptions regime under the priority sectors.

This Act shall come into force on 1<sup>st</sup> July 2024.



# The VAT Amendments

## Section 18: Taxable supply

*Amendment to include a supply of goods or services by an employer to an employee for no consideration as a taxable supply*

*18(9) to provide that the supply of goods or services by an employer to an employee for no consideration as a taxable supply except where the employer was not entitled to input tax credit*

### *Commentary:*

Employers who give free taxable goods to their employees but claim input credit for the goods shall be required to account for output VAT on those goods.

This Act shall come into force on 1<sup>st</sup> July 2024.



# The VAT Amendments - Proposed

## Section 42(2): Refund of overpaid tax

Amended by Increasing the threshold for VAT claimable from UGX 5,000,000 to UGX 10,000,000.

### Commentary:

Refunds below Shs10m shall be automatically carried forward to offset the output for the next tax period

## Section 66A: Penalty for failure to withhold by an agent

Inserted to introduce a burden on the withholding VAT Agent where the Agent does not withhold.

*(66A) a withholding agent who fails to withhold tax in accordance with the law shall be personally liable to pay to the tax but remain entitled to recover it from the taxpayer.*

### Commentary:

*This seeks to compel the withholding agents to withhold and avoid the inconvenience of paying for the taxpayers and pursuing reimbursement.*

## First Schedule of principal Act

Amended by adding “African Reinsurance Corporation (Africa Re), International Regulatory Board of the East African Power Pool, Islamic Cooperation for the Development of the Private Sector to the list of exempt organizations.

# The VAT Amendments - Proposed

Second Schedule of principal Act			
Details / Item	Current Legislation	New Legislation	Commentary
supply of postage stamps	Exempt	Standard rated	Broadens the tax base
Hoes	Zero-rated	Exempt	Impact on locally manufactured hoes where the manufacturer will no longer be able to claim input VAT
Supply of electric vehicles, electric motorcycles, electric vehicle charging equipment and supply of charging services of an electric vehicle battery	Standard rated	Exempt	Encourage the use of electronic motor vehicles to protect the environment
Supply of pesticides;	Zero-rated	Exempt	Impact on the price of locally manufactured pesticides as the manufacturers will not be able to claim input VAT
Supply of fertilizers, seeds and seedlings.	Zero-rated	Exempt	Local suppliers will not be able to claim input VAT which will increase the price
Supply of cooking stoves that use fuel ethanol assembled in Uganda up to 30th June, 2028	Standard rated	Exempt	Making ethanol-based cooking stoves manufactured in Uganda competitive and saving on environmental degradation
Supply of safety head gear	Exempt	Exempt	Clarifies that the exemption is not for all headgear but safety headgear
Supply of goods and services used for personal and domestic use to contractors and subcontractors of energy projects.	Exempt	Standard rated	To limit potential abuse of the current provision by removing the application to personal and domestic use.
Manufacturers or assemblers of electric vehicle, motorcycle or electric charging equipment.	Standard rated	Exempt	Promote the use of electric motor vehicles and reduce damage to the environment
supply of software and equipment installation services to manufacturers	Exempt	Standard rated	High cost of doing business for manufacturers who import such supplies since VAT is not claimable
Insecticides, rodenticides, fungicides and herbicides but does not include those packaged for personal or domestic use	Zero-rated	Exempt	Consistent treatment of all agricultural inputs
Supply of seeds, fertilizers, pesticides and hoes	Zero-rated	Exempt	Consistent treatment of all agricultural inputs

# The Stamp Duty Proposed Amendments



# The Stamp Duty - Proposed Amendments

## Item 18: Stock and marketable securities

### Exempting Increase in share capital by private equity or venture capital fund regulated under the Capital Markets Authority Act, Cap. 84

Paragraph (a), by inserting immediately after the word “limited liability” the words “but does not include shares acquired by investors in a private equity or venture capital fund regulated under the Capital Markets Authority Act, Cap. 84

*Inserting immediately after paragraph (d) the following— on nominal share capital or any increase of share, acquired by an investor in a private equity or venture capital fund regulated under the Capital Markets Authority Act, Cap. 84 – NIL*

#### Commentary:

Any Increase in share Capital of the VC’s or Private Equity is proposed to be exempted from Stamp Duty.

## Item 62(f):

### Transfer of shares to or by a venture capital fund will attract no duty

*Item 62(f); Transfer of shares or other securities, to or by an investor in a private equity or venture capital fund regulated under the Capital Markets Authority Act, Cap. 84 – Nil*

#### Commentary:

Any transfer of shares by VC’s or Private Equity is proposed to be exempted from Stamp Duty

# The Stamp Duty - Proposed Amendments

## Item 60A:

### Harmonizing treatment of strategic investment sectors across all tax laws.

*(c) in item 60A—(i) by substituting for the words “capacity to employ a minimum of one hundred citizens” the words “employs at least seventy percent of its employees being citizens earning an aggregate wage of at least seventy percent of the total wage bill”, wherever they appear;*

*(d) in item 60A—(ii) by substituting for the words “capacity to use at least fifty percent of the locally produced raw materials, subject to availability” the words “capacity to use at least seventy percent of the locally produced raw materials, subject to availability”, wherever they appear*

*(iii) paragraph (d) by deleting the words “at the level of a national referral hospital*

*(iv) by inserting immediately after paragraph (f) the following—“(g) manufacturer of an electric vehicle, electric battery or electric vehicle charging equipment or fabricator of the frame and body of an electric vehicle who meets the following requirements...*

### Commentary:

- Harmonizing provisions on exemption from Stamp Duty with Section 21(af). Removal of employment criteria for Number of citizens.
- Harmonizing provisions of VAT and Stamp Duty Act for Hospitals.
- Granting of exemptions from Stamp Duty on certain transactions to Manufacturer of Electric Vehicles and hospital facility developer.

# The Excise Duty Proposed Amendments

# The Excise Duty - Proposed Amendments

## Section 2: Interpretation

Fruit juice, powder for reconstitution into beer, un-denatured spirits, and vegetable juice are defined:

### Commentary:

- It brings clarity to the law and removes ambiguity as to the definition of fruit juice.
- **Powder reconstituted beer is inserted and subject to Excise Duty.**
- un-denatured spirits are clearly subject to Excise Duty

## Item 13(g): Incoming international calls

Phone calls originating from the Republic of Burundi and the United Republic of Tanzania are now free from excise duty

### Commentary:

This proposal is intended to exclude the income calls from United Republic of Tanzania and Burundi from Excise Duty.

## Item 23: Furnishings and Fittings

Deleting the words “at the level of a national referral hospital”

### Commentary:

This proposal broadens the exemption beyond those investors investing in hospitals that are national referral hospitals.

Some of the proposed changes have been retabled to Parliament since the President never assented to them under the 2022, 2023 Excise Duty Amendment Bills.

# The Excise Duty - Proposed Amendments

Rates of Excisable Goods and Services				
Item	Good/Service	Status	Old rate	Proposed rate
2(d)	Opaque beer	Amended	20% or shs 230/= per litre, whichever is higher.	12% or shs 150/= per litre, whichever is higher.
2(e)	Any other alcoholic beverage locally produced	Amended	20% or shs.230 per litre, whichever is higher	12% or shs 150/= per litre, whichever is higher.
2(f)	Powder for reconstitution into beer	Inserted	-	Shs. 2500 per kg
3(a)	Un-denatured spirits of alcoholic strength by volume of 80% or more made from locally produced raw materials	Amended	Un-denatured spirits made from locally produced raw materials - 60% or Shs.1500 per litre, whichever is higher	60% or Shs. 5000 per litre, whichever is higher
3(b)	Un-denatured spirits, of alcoholic strength by volume of 80% or more made from imported raw materials	Amended	Un-denatured spirits made from Imported raw materials - 100% or shs.2500 per litre, whichever is higher	100% or Shs. 5000/= per litre, whichever is higher;
3(c)	Any other un-denatured Spirits that are locally produced, of alcoholic strength by volume of less than 80%	Amended	Ready to drink spirits- 80% or shs.1700 per litre, whichever is higher.	80% or Shs. 1700/= per litre, whichever is higher
3(c)	Any other un-denatured spirits that are imported of, alcoholic strength by volume of less than 80%.	Inserted	-	100% or Shs. 5000/= per litre, whichever is higher
4(b)	Other wines	Amended	80% or Shs.8000, per litre, whichever is higher.	100% or Shs. 10,000 per litre whichever is higher
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.	Amended	Fruit juice and vegetable juice, except juice made from at least 30% of pulp from fruit and vegetables grown in Uganda - 13% or shs.250 per litre, whichever is higher.	12% or shs. 250 per litre, whichever is higher;

# The Excise Duty - Proposed Amendments (continued)

## Rates of Excisable Goods and Services

Item	Good/Service	Status	Old rate	Proposed rate
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.	Amended	12% or shs.250 per litre whichever is higher	12% or 150/= per litre, whichever is higher
6	Mineral water, bottled water and other water purposely for drinking	Amended	10%	10% or shs. 75 per litre whichever is higher.
7	Cement, <b>adhesives, grout, white cement or lime</b>	Amended	Cement Shs 500 per 50kg	Shs. 500 per 50kg
8(a)	Motor spirit (gasoline)	Amended	Shs. 1450 per litre	Shs. 1550 per litre
8(b)	Gas oil ( automotive, light, amber for high speed engine)	Amended	Shs. 1130 per litre	Shs. 1230 per litre
8(e)	Illuminating kerosene	Amended	Shs. 200 per litre	Shs. 500 per litre
13A	Payment service of withdrawals of cash provided through a payment system but does not include withdrawal services provided by a financial institution or a micro finance deposit taking institution	Inserted	-	0.5% of the value of the transaction.
25(b)	Any other fermented beverages including cider, perry, mead or near beer produced from locally grown or locally produced raw materials;	Amended	30% or shs 550 per litre, whichever is higher.	30% or shs 550 per litre, whichever is higher
27	Construction materials of a manufacturer of an electric vehicle, electric battery or electric vehicle charging equipment or fabricator of the frame and body of an electric vehicle whose investment capital is, at least thirty five million United States Dollars in case of a foreigner or five million United States Dollars in the case of a citizen	Inserted	-	NIL

# TPC Proposed Amendments

# TPC - Proposed Amendment

## Insertion of Section 18A

### Destruction of goods.

A taxpayer intending to destroy goods and claim resultant deduction or input tax credit will have to make a formal communication of destruction to the commissioner.





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