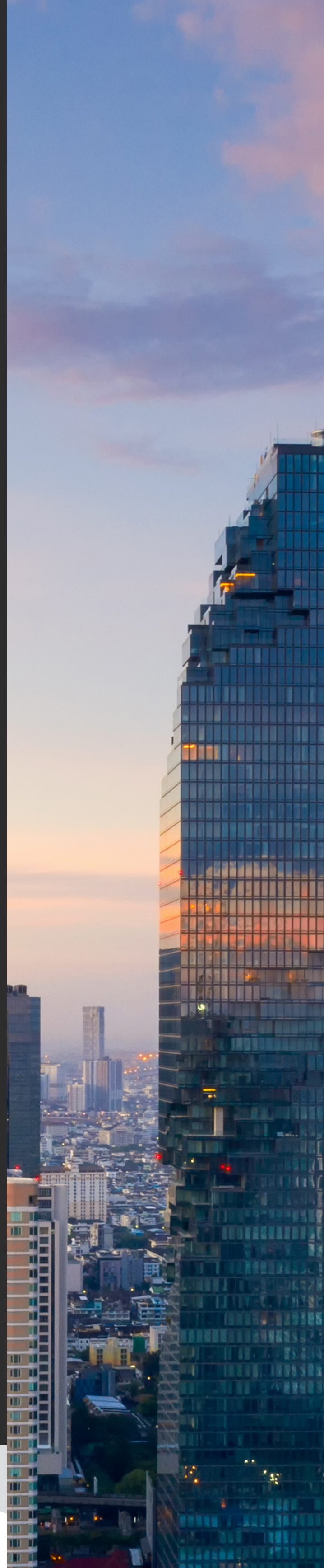
Tax Watch

Highlights of the Tax Amendment Bills, 2023

The Tax (Amendment) Bills, 2023 ("Bills") were tabled before parliament for discussion. The proposed changes set out in the various Bills which are set to come into force on 1 July 2023 are aimed at boosting tax revenues collected by the Government of Uganda. The proposed amendments will become law once assented to by the President.

In this bulletin, we provide an analysis of the proposals introduced by the various Bills, including;

- The Income Tax (Amendment) Bill,2023,
- The VAT (Amendment) Bill,2023,
- The Excise Duty (Amendment) Bill,2023,
- The Tax Procedure Code (Amendment) Bill, 2023 and
- The Traffic and Safety (Amendment) Bill, 2023



Income Tax (Amendment) Bill,2023

The Income Tax (Amendment) Bill, 2023, proposes the following amendments to the Income Tax Act ("ITA"):

Description	Comments
1. **Tax on profits made by participants of collective investment schemes**	Currently, the income of a Collective Investment Scheme ("CIS") such as a Unit Trust is exempted from income tax to the extent it is distributed to participants in the CIS. As such, any interest, dividends, or other payments made or credited to the CIS have generally not been subjected to any tax when paid to the CIS on the general assumption that this income is distributed to participants. However, there has been some controversy in the industry regarding the taxation of income derived by unitholders/participants from their investments made in Unit Trusts. Whereas there's no clear income tax exemption for this income, the tax treatment in the industry has varied among the Unit Trusts. The argument being that the product should be treated as a completely tax-free investment, both for the Unit Trust and unitholder. To provide clarity to the industry, the Bill now proposes to tax profits (e.g., Interest / dividends) paid or credited to participants of a CIS and to unconditionally exempt the income of a CIS from income tax. The tax will be imposed on the profits derived by participants / unitholders from their contributions to the CIS in the form of a withholding tax and it will be withheld by the CIS on profits paid or credited to the participant. The proposed withholding tax ("WHT") rates are as follows: • 5% where the contribution of the participant in a CIS is less than UGX 100 million in a year, or • 15% where the contribution of the participant to a CIS exceeds UGX 100 million in a year. This withholding tax will be a final tax. The term "contribution" has been defined to include deposits made by a participant to the CIS as well as any undistributed profits. The amendment also proposes to impose a tax return filing obligation on any participant who contributes to more than one CIS, and whose total aggregate contributions exceed UGX 100 million in a year. We understand this provision to be intended to capture participants whose contributions in one CIS is below UGX 100 million but whose aggregate contributions in more than one CIS exceeds this threshold. However, the current narrative seems to suggest that this person will be required to pay additional tax what is already withheld by the CIS. It should be noted that while the WHT imposed on participants is a final tax, there could be a risk of double taxation if participants who are required to file tax returns are also obliged to pay tax again without taking into account tax already withheld by the CIS If this provision were to be maintained, there is need for clarity that the WHT in this case is not a final tax. Additionally, it's not clear why a threshold of UGX 100 million was used as a basis for differentiating the WHT rates. This threshold is low and may discourage increased levels of saving in CIS. Currently, the assets under management for Unit Trusts are over UGX 1.6 trillion, (Capital Markets Authority quarterly Bulletin for period ended 31 December 2022) and it may be worthwhile considering an increase in the threshold if this momentum is to be maintained. Lastly, this provision could be seen to cause a potential conflict between property and business income (e.g., where unit holder is a corporate entity or another fund. However, we believe that the intention is to maintain separate rates for the two categories of income. Overall, we note that whereas this amendment may increase tax revenue, it will likely discourage domestic savings, a key goal under the Government's National Development Plan III. Lastly, based on the recent report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2023, we understand that the above amendments have been withdrawn from the Bill.

Description	Comments
2. Removal of capital gains from income that is subject to tax and no allowable deduction for losses on disposal of business assets	Currently, capital gains are subject to tax at a corporate income tax rate 30% while losses are allowed as deductible. For individuals, the maximum personal income tax rate on a capital gain is 40%. Various amendments have been proposed in the ITA to now exclude capital gains and losses on disposal of assets from being included in a person's chargeable income. Under the proposed amendment, instead of taxing gains realised on disposal of an asset as has been the case, a WHT of 5% will be imposed on the disposal proceeds from the sale of all assets (except inventory). Proposed section amendments to the ITA include: • Amending Section 18 (1)(a) to exclude from business income, gains derived by a person on the disposal of a business asset. • Repealing section 19(1)(h) to exclude from employment income, gains derived by an employee on disposal of a right or option to acquire shares under employee share acquisition schemes. • Repealing Section 21(1)(k) which currently exempts a capital gain not included in business income other than capital gains on the sale of shares in a private limited liability company or on the sale of a commercial building. • Repealing Section 22(1)(b) to disallow a deduction for any loss on disposal of a business asset in determining chargeable income. • Amending Section 27(4) to exclude the deduction for proceeds on the disposal of a depreciable asset against the tax written down value of a pool of assets when determining capital allowances. • Repealing the provisions of Sections 49,50 and 54 which relate to determining a gain or loss on disposal of assets. • Imposing a WHT of 5% under an amendment to Section 118B on the gross amount received on the disposal of any asset (other than inventory). This is regardless of whether the asset is a business asset provided the asset has economic value; and future benefit it would be subject to this WHT. This amendment poses a number of technical and implementation challenges. Firstly, the proposed amendment seeks to disregard costs incurred by a person in developing or acquiring an asset and instead tax the full amount of proceeds received on disposal of an asset at 5%. This will be a huge disincentive for capital investments if the amounts invested cannot be allowed as a deduction in arriving at the tax payable. This also means that any capital investment that generates a loss will still attract tax despite the loss. Secondly, the amendment as currently drafted will seek to tax all assets including personal assets like residential homes, non-commercial vehicles and motorcycles, household items like beds, cookers, refrigerators, etc. If the bill is passed in its current form without re-defining the assets that are subject to tax, this tax can be quite problematic and will likely be difficult to implement. Also, if the capital gains provisions are repealed, it will render the capital gains article under all Uganda's double tax treaties ineffectual. Lastly, based on the recent report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2023, we understand that the above amendments have been withdrawn from the Bill.

Description	Comments
3. **Repeal of Section 27A of the Principal Act (Removal of Initial Allowance)**	The Bill proposes to repeal Section 27A of the ITA. Currently, this section allows a taxpayer to claim a deduction for initial allowances of 50% of the cost of items of eligible property placed into service for the first time outside a radius of 50 kilometres from Kampala; as well as an initial allowance of 20% of the cost of a new industrial building for the first year the building is placed in service. When first introduced many years ago, initial allowances were aimed at encouraging investments and boosting industrialisation in rural areas outside the Kampala metropolitan district and neighbouring areas. This was also meant to incentivise the decongestion of the Kampala metropolitan area. Previously, in FY 2021/22, the Government introduced a deferral of the tax depreciation allowance where an asset qualifies for initial allowance. This increased the recovery period of amounts invested in industrial plant and machinery as well as buildings by 1-2 years but also created practical administration challenges. The proposed amendment to remove initial allowances would further delay the recovery of capital cost investments especially, for manufacturers, operating outside Kampala. If this amendment is to be passed, it may be good for the Government to consider some grandfathering rules for say a period of six years to allow investors who have already made commitments on the basis of available investment allowances recoup their capital investments.

Description	Comments
4. Restrictions on carry forward of tax losses	Generally, tax losses arise when a taxpayer's allowable expenses exceed taxable income. Under the ITA, tax losses can be carried forward perpetually by a taxpayer with no limitation. The Bill proposes to amend Section 38 of the ITA that allows perpetual carry forward of tax losses to a) restrict the full carry forward of assessed losses to a period of only five years; and b) after the five years, only 50% of the tax losses available at the time can be carried forward. The proposed amendment implies that, in the 6th year, a person affected will have to forfeit 50% of the excess expenses previously allowed and cannot utilise those expenses to offset future income. If passed, this provision will likely discourage capital intensive investments that ordinarily take long to realise profits after years of accumulating losses or discourage companies from undertaking significant capital investments to expand existing operations for fear of not recouping amounts invested. Also, if it becomes law, it is not clear when the 5-year count starts: • Is it from the start date of the company? (Meaning the law will have a retrospective effect); or • Is it from the enactment of the law going forward? Considering there are some entities that are already loss-making, the implementation needs to be streamlined. Further, it is unclear as to whether the 5 -year count is for consecutive years of income or for any year of income where a taxpayer makes tax losses or it will apply once in the 6th year and every 5 years thereafter, or it will apply every year after 6th year. Overall, considering that the Government is still investing heavily in infrastructure projects that have long-term payback periods, businesses are still recovering from the Covid-19 impact and that the current macroeconomic trends are increasingly becoming volatile and unpredictable, this amendment should not be passed. However, in the event that the Government seeks to pass it, it should be implemented in a manner that protects the current investors who have already made commitments to invest in Uganda. According to the recent report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2023, we understand that the period of five years may be extended subject to approval of Parliament. However, this was subject to debate in Parliament.

Description	Comments
5. Taxation of non-residents providing digital services	The Bill proposes to introduce a Digital Services Tax (“DST”) under Section 86A to impose an income tax of 5% on every non-resident person deriving income from digital services in Uganda. Digital services under scope will include the following: • online advertising services; • data services; • services delivered through an online marketplace or intermediation platform, including an accommodation online marketplace, a vehicle hire online marketplace and any other transport online marketplace; • digital content services, including accessing and downloading of digital content; • online gaming services; • cloud computing services; • data warehousing; • services, other than those services in this subsection, delivered through a social media platform or an internet search engine; and • any other digital services as the Minister may prescribe by statutory instrument made under the Act. Under the proposed amendment, it is not clear whether the DST will be accounted for by the non-resident directly, or via withholding tax by the resident person making the payment. This is because section 86A imposes an income tax but the proposed addition of section 86A to section 87 suggests that that tax is a final tax for which subsection 1(c) provides that the liability of the non-resident is satisfied if the tax payable has been withheld by a WHT agent under Section 120. There is a need to refine the proposed amendments to address this ambiguity perhaps by removing the addition to section 87 and providing the desired clarity within section 86A. It’s not clear whether a digital service provider that already has a branch or a permanent establishment in Uganda will also be required to pay the DST. Additionally, should it be a requirement to pay this tax for such business, the remedies for offsetting the tax as well as treating DST as a final tax should be reconsidered. In light of the above, there is a need to refine the proposed amendment to exclude income attributable to the activities of a branch of a non-resident in Uganda and subject such amounts to the operation of Section 17. Nonetheless, we are of the view that the proposed tax of 5% is also high in comparison with the regional rates for example, in Kenya, the rate is 1.5% and 2% for Tanzania. For Uganda to remain attractive as a destination for digital services, the government should consider a rate within the range of the other East Africa partner states. Lastly, we highlight that the proposed tax rate of 5% was maintained based on the recent report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2023. However, this was subject to debate in Parliament.

Description	Comments
6. **Withholding of tax by the purchaser of an asset**	The Bill proposes to substitute Section 118B of the ITA to the effect that a person who purchases an asset situated in Uganda shall withhold tax on the gross amount of the payment at a rate of 5%. Under this proposal, the term "asset" means a resource with economic value that is expected to provide a future benefit to its holder but does not include trading stock. Transactions that will not be subject to this tax include: Transfer of assets between spouses; A transfer of assets between a former spouse as part of a divorce settlement or bona fide separate agreement; An involuntary disposal of an asset to the extent to which the proceeds of the disposal are reinvested in an asset of a like kind within one year of the disposal; The transmission of an asset forming the estate of the deceased taxpayer to a trustee or beneficiary; or The sale of the investment interest of a registered venture capital fund, if at least 50% of the proceeds on sale is reinvested within the year of income The proposed amendment seeks to tax asset disposal proceeds derived by any person from any asset (subject to exclusions above and excluding inventory) situated in Uganda regardless of whether the asset was for business use; including items for personal use; and regardless of whether the person making the payment is resident or non-resident in Uganda. The proposal also makes reference to assets situated in Uganda. However, this is likely to create ambiguity in instances where an asset is used in Uganda but not necessarily located in Uganda such as intangibles, or in indirect disposal of shares in a Ugandan company or a disposal of shares in a non-resident company by a resident person etc. The proposed definition of the term "asset" seeks to exclude trading stock but does not provide clarity on whether it is trading stock in the hands of the seller or the buyer. The definition is also ambiguous in using the term "future benefit to the holder" under subsection 3 because: (i) it does not specify who the holder is i.e., whether it is the buyer or the seller; and (ii) If the holder is the buyer (who may be the purchaser or an agent of the purchaser), it creates the need for the buyer to self-assess the possibility of future benefit before withholding tax on payment to the seller. This amendment needs to be improved as it will likely be difficult to operationalise under its current form. Lastly, based on the recent report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2023, we understand that the above amendments have been withdrawn from the Bill.

Description	Comments
7. A gain derived on disposal of intellectual property will no longer qualify as a royalty	The bill proposes to amend provisions relating to gains derived from the sale of any industrial or intellectual property used in Uganda as follows: Repealing section 2(mmm)(ii) to exclude any gain from the disposal of any right or property from the definition of a royalty; Repealing Section 79(j)(iii) to exclude any income derived from the disposal of any industrial or intellectual property used in Uganda as a royalty sourced from Uganda. Introducing a new Section 79(ja) to provide for any income from the disposal of any industrial or intellectual property used in Uganda. These amendments seek to reclassify and change the gain on the disposal of any industrial or intellectual property used in Uganda from comprising a royalty to any other income. Until now, income of this nature has been subject to withholding tax at 15% for non-residents (subject to the provisions of an applicable double tax treaty) and the tax is a final tax. The proposed amendment implies that the income from sale of industrial for intellectual property will be subject to withholding tax at 5% under section 118B.as a final tax. However, while the introduced section 79(ja) refers to industrial or intellectual property used in Uganda, section 118B makes reference to assets situated in Uganda and does not mention assets that may be used in Uganda but not located in Uganda. Therefore, the proposed amendment creates a potential tax leakage for disposal proceeds from intellectual property used in but not situated in Uganda. Lastly, based on the recent report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2023, we understand that the above amendments have been withdrawn from the Bill.
	The current provision, that relates to property income, provides that the income below constitutes property income: “any other income derived by a person including winnings derived from sports betting and pool betting, but does not include any amount which is business, employment or exempt income.” The Bill proposes to amend Section 20(1)(d) of the principal Act by deleting the term “including winnings derived from sports betting and pool betting”. While this may be interpreted to mean that winnings derived from sports betting and pool betting are no longer taxable as property income or otherwise, in our view the proposal to delete the phrase does not change the fact that such income is taxable. As such any winnings from sports betting and pool betting would still be classified as property income (on the basis that they fall under the category of ‘any other income’) and subject to tax.
	Currently, a person who makes payment for winnings of betting and gaming is required to withhold tax at a rate of 15% on the gross amount paid out. The Bill proposes to amend Section 118C by excluding winnings from gaming from being subject to WHT. The proposed change to exclude ‘winnings from gaming’ implies that a 15% WHT will not apply on payment of winnings from gaming. The exclusion from WHT for this category of winnings seems to be derived from concerns in the industry. In the recent past, the industry has expressed practical difficulties in imposing WHT on winnings from gambling, roulette, slot machines etc where the players continue gambling as they win which makes collection of WHT challenging. However, the gaming tax rate has been revised from 20% to 30% of the total amount of money staked less winnings for a gaming activity under the Lotteries and Gaming Amendment Act ,2023 (later discussed).

Description	Comments
8. Amendment of Section 89A of the principal Act	The current provisions of Section 89(A)(4) provide as follows: “An amount is not treated as “mining exploration expenditure”, “mining extraction expenditure”, “petroleum exploration expenditure”, or “petroleum development expenditure” to the extent that the amount is not allowed as a deduction under section 22(3) or 23.” The Bill proposes to amend subsection (4) of Section 89A by deleting the reference to sub-section “(3)” The perceived intended purpose of the proposed amendment would be better achieved if the amendment makes reference to section 22 instead of Section 22(3). If the amendment intends to restrict all non-tax-deductible expenses under section 22, then it implies that all non-tax-deductible expenditure under this section will not form part of exploration, extraction or development expenditure of a licensee. Based on the recent report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2023, we understand that the above amendment has been deleted from the Bill.
9. Amendment to Section 89GC of the principal Act - Petroleum	The Bill proposes to clarify that the cost incurred by a licensee in acquiring an intangible asset will be allowed a tax deduction in accordance with section 31. This means that intangible assets will be amortised only over their useful life and the option of amortisation over 6 years will no longer apply. Based on the recent report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2023, we understand that the above amendment has been deleted from the Bill.
10. Amendment of Section 89GE of the ITA – Farm outs	The Bill proposes to amend Section 89GE of the principal act to exclude the words “whole or” from the definition of a farm-out by a licensee. The proposed amendment clarifies that a farm-out agreement can only consist of a partial disposal of an interest by a licensee. This means that where a licensee’s entire interest is disposed of, the licensee will be taxed in accordance with the general provisions on taxation of capital gains. However, with the proposal to remove the capital gains tax regime, this means that in the event a licensee disposes of their entire interest in a company or a licence, the licensee will be subject to 5% tax on the gross proceeds irrespective of their capital investment. This will likely disincentivize investment in extractives since recoupment of tax basis in shares/interests will not be possible. Based on the recent report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2023, we understand that the above amendment has been deleted from the Bill.

Value Added tax (Amendment), Bill, 2023

The Value Added tax (Amendment), Bill, 2023 proposes to make the following amendments to the VAT Act

Description	Comments
1. **Auctioning goods as a supply of goods by auctioneers**	The Bill proposes an amendment to Section 10 to include the auction of goods as a supply of goods made by the auctioneer as the supplier in the course of auctioning goods. It also clarifies that auction services provided by the auctioneer are separate from the supply of goods by the auctioneer. This means that during the auction of goods, the auctioneer is treated as the supplier of the goods and would be required to declare the VAT collected from the auction. Using an example of a financial institution (Banks), in practice when a customer defaults on payment of their debt obligation, the Bank hires an auctioneer to support with disposing of that property in order to recover interest and/or any principal amount as part of loan recovery. The auctioneer therefore acts on behalf of the Bank and neither the Bank nor the auctioneer take possession of the property. This supply is categorised as a supply of financial service exempt from VAT because of the nature of the supply. This proposal is likely to distort the VAT cycle because the auctioneers are not the owners of the goods but rather facilitate the sale between the seller (Bank) and the final consumer. In addition, this change will increase the administrative burden on auctioneers and potentially pose practical challenges of enforcement as the auctioneers will most likely be required to issue tax invoices and collect the money from the auction. This is in addition to their existing requirement to account for VAT on their service offering of auction services.

Description	Comments
2. Expansion of the definition of place of supply for services provided by suppliers outside Uganda and the definition of “Electronic services”	The Bill proposes to amend Section 16 (2) to clarify the scope of supplies considered to be made in Uganda by including a person carrying on a business outside Uganda and does not have a place of business in Uganda. It also provides clarity that recipients of such supplies will in addition to non-taxable persons, include unregistered taxpayers whose annual value is UGX 150 million or higher and government entities not required to register for VAT under Section 7(5). The Bill further clarifies that the Minister may prescribe by way of statutory instrument whether an electronic service has been delivered to a person in Uganda This means that in situations where there is ambiguity about whether or not an electronic service has been delivered to a person in Uganda, the Minister may provide clarity using a statutory instrument. In addition, the Bill provides clarity to the definition of electronic services by specifying that the service is supplied through an online or digital network by a supplier from a place outside Uganda to a recipient in Uganda. The list of such electronic services has been expanded to include (i) advertising platforms; (ii) streaming platforms and subscription-based services; (iii) cab-hailing services; (iv) cloud storage; (v) data warehousing; and (vi) any other service as the Minister may by statutory instrument determine.
3. Additional restrictions to the claim of input tax	The Bill proposes to amend Section 28(5) to restrict a taxable person from claiming input VAT paid for entertainment for membership of a club, association or society of a sporting, social or recreational nature. Based on the above proposal, the Bill intends to clarify that VAT incurred on payments to facilities such as gyms and sports centres by employers on behalf of employees is not claimable. In the past, this input VAT was being claimed by taxpayers on the basis that these payments were in respect to health benefits of the employees and not their entertainment. This amendment clarifies that payments to such establishments are not claimable. The Bill also proposes to amend section 28 to include a restriction for the claim of input tax by a taxable person outside Uganda making a supply of services to a non-taxable in Uganda as described under section 16 (2) of the VAT Act such as non-resident suppliers of electronic services. The Bill further proposes to insert a subsection immediately after Section 28(6) defining “business use” and “use in the business”. Currently, a taxable person is generally allowed a credit for input VAT for supplies acquired for business use or use in business (subject to certain restrictions). The proposed amendment seeks to clarify that such business use applies only to the related business of the taxpayer that generates the taxable supply. This means that for example, if a taxable person has more than one business, the input tax arising from one business cannot be claimed as a credit on supplies made in another business.
4. Persons required to file a return	The Bill proposes to amend Section 31A to require a person who makes a supply of an annual value in excess of UGX150 million and imports a service to file a VAT return in the month the service is imported. Considering the fact that the person referred to in the proposed amendment is already required to file a VAT return under Section 6 of the VAT Act, the assumption is that the return required to be filed should include both the imported services as well as the sale made with an annual value of UGX150 million. This would allow the URA to collect output VAT from a person who is not registered for VAT but is required to be registered per the VAT legislation.

Description	Comments
5. Removing the requirement for the Commissioner General to obtain consent from a taxpayer to apply excess input credit on future tax liabilities or other tax liabilities the taxpayer agrees to.	The Bill proposes to amend Section 42(2)(b) by deleting the words ", with consent of the taxable person". This means that the Commissioner General will not be required to obtain consent from a taxpayer before allocating any excess input tax above UGX5 million to the taxpayers' future tax liabilities or any other outstanding tax liability that the taxpayer is not in dispute with. If passed into law, this proposal would also mean that URA may require taxpayers to apply for VAT refunds where input tax credit exceeds a taxpayer's liability by UGX 5 million or more.
6. Transferring the interest capping provision to the Tax Procedures Code Act	The Bill proposes to repeal Section 65A of the VAT Act which waives all interest due and payable that exceeds the aggregate principal and penal tax liabilities as at 30 June 2017. This Section has instead been proposed as an amendment to the Tax Procedures Code Act under Section 39.
7. Providing for payment and filing of tax returns in USD for non-resident suppliers of digital services under Section 16(2)	The Bill proposes to allow suppliers of digital services as described in Section16(2) of the VAT Act to file VAT returns and pay taxes due in US dollars. This is as a result of the fact that such non-resident suppliers are predominantly transacting in US dollars. As such, the Bill aims to ease the payment of tax for such taxpayers.
8. Amendment to the First Schedule	The Bill proposes to amend the First Schedule (Public International Organisations) of the VAT Act to include ZEP-RE (PTA Reinsurance Company) Organisations listed under the First Schedule of the VAT Act are entitled to certain VAT reliefs.
9. Amendment to the Second Schedule (VAT Exempt Supplies)	The Bill proposes the following changes to certain paragraphs in the Second Schedule of the VAT Act which contains a list of exempt supplies Substituting the word diapers under paragraph (q)(viii) with adult diapers. This means the diapers for children will no longer be treated as exempt supplies. Repealing paragraph (fff) for cotton seed cakes and including seed cake under paragraph (qa). The proposed amendment generalises the seed cake so that it is not limited to cotton. The proposed amendment also includes "concentrates" under this paragraph. Repealing paragraph (ww) which means that the supply of all production inputs for iron ore smelting that is transformed into billets will no longer be exempted from VAT. In effect, only the supply of the billets for further value addition will be exempt from VAT. Repealing paragraph (yy) which is in respect to the supply of all production inputs necessary for processing of hides and skins into finished leather products in Uganda and the supply of leather products wholly made in Uganda. This means that these inputs will now be subject to VAT if this proposal is passed into law.

Excise Duty (Amendment) Bill, 2023

The Excise Duty (Amendment) Bill, 2023 proposes the following amendments to the Excise Duty Act. The Excise Duty (Amendment) Bill, 2022, was never assented to by the president. Accordingly, most of the proposals that were contained in the 2022 Bill have been re-introduced in the Excise Duty Amendment (Bill), 2023.

Description	Comment
1. Definition of fruit juice	The Bill proposes to introduce a definition for fruit juice to mean unfermented liquid extracted from the edible parts of a fresh fruit, whether the extracted liquid is diluted or not. Fruit is currently subject to excise duty at a rate of 12% or shs.250 per litre, whichever is higher.
2. Definition of un-denatured spirits	The Bill proposes to introduce a definition for un-denatured spirits to mean spirits that are not mixed with any substance to render the spirit unfit for human consumption. The definition now includes neutral spirits or alcoholic beverages made from neutral spirits that are fit for human consumption. Undenatured spirits are currently subject to excise duty rate of 60%, 80% or 100% depending on whether they are made from locally produced or imported raw materials.
3. Definition of Vegetable juice	The Bill proposes to introduce a definition of vegetable juice to mean unfermented liquid extracted from the edible part of a vegetable, whether the extracted liquid is diluted or not.

The Bill further proposes to amend Schedule 2 of the Excise Duty Act as follows:

Paragraph	Excisable Good or Service	Duty Rates	Comments	
		2022/2023	2023/2024	
2	**Beer**			
(d)	Opaque Beer	20% or Shs.230 per litre, whichever is higher	12% or Shs.150 per litre, whichever is higher	A reduction in the ad-valorem rate by 8% and a reduction in the fixed rate by Shs.80.
3	**Undenatured spirits**			
(a)	Un-denatured spirits of alcoholic strength by volume of 80% or more made from locally produced raw materials	60% or Shs. 1500 per litre, whichever is higher	60% or Shs. 1500 per litre, whichever is higher	This excise duty category is amended to introduce a reference to the alcoholic strength of the undenatured spirits for ease of categorisation of spirits that fall under this paragraph.
(b)	Un-denatured spirits of alcoholic strength by volume of 80% or more made from imported raw materials	100% or Shs. 2500 per litre whichever is higher;	100% or Shs. 2500 per litre, whichever is higher.	This excise duty category is also amended to introduce a reference to the alcoholic strength for un-denatured spirits whose raw materials are imported.
(c)	Any-other un-denatured spirits			
i)	Locally produced of alcoholic strength by volume of less than 80%; or		80% or Shs. 1700 per litre, whichever is higher.	This is a new excise duty category for locally produced un-denatured spirits of alcohol strength of less than 80%.
ii)	Spirits that are imported of alcoholic strength by volume of less than 80%.		100% or Shs. 2500 per litre, whichever is higher.	This is a new excise duty category for imported un-denatured spirits of alcohol strength of less than 80%.
(d)	Un-denatured spirits made from locally produced raw materials that are used in the production of disinfectants and sanitizers for the prevention of the spread of COVID-19 of alcoholic content by volume not less than 70%.		NIL	This is a newly inserted category aimed at boosting the production of disinfectants and sanitizers using locally made raw materials.

Paragraph	Excisable Good or Service	Duty Rates	Comments	
5	**Non-alcoholic**			
(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 locally grown	12% or Shs. 250 per litre, whichever is higher.	12% or Shs. 250 per litre, whichever is higher.	Reduction of the excise duty scope to exclude fruit or vegetable juice that contains at least 30% juice by weight or volume of the total composition of the drink, made from fruits and vegetables locally grown.
(d)	Any other non-alcoholic beverage locally produced made out of fermented sugary tea solution with a combination of yeast and bacteria	12% or Shs. 250 per litre, whichever is higher.	12% or Shs. 150 per litre, whichever is higher.	Decrease in fixed rate by Shs. 100
13	**Telecommunication services**			
(g)	Incoming calls except calls from Republic of Kenya, United Republic of Tanzania, the Republic of Rwanda and the Republic of South Sudan	USD 0.09 per minute.	USD 0.09 per minute.	The Bill seeks to extend the exemption from excise duty on incoming calls to calls from the United Republic of Tanzania.
25 (b)	Any other fermented beverages including cider, perry, mead or near beer produced from locally grown or produced raw materials;	30% or Shs. 550 per kilogram, whichever is higher.	30% or Shs. 550 per kilogram, whichever is higher.	The Bill seeks to include cider, perry, mead as fermented beverages rather than as raw materials.
26	Construction materials of a manufacturer, other than a manufacturer referred to in item 21, 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;	NIL	NIL	The Bill seeks to reduce the investment from USD 50 million to 35 million USD for non-residents and to USD 5 million USD for citizens. Also, to remove reference to any other manufacturer who makes an additional investment of USD 50 million.

The Tax Procedures Code (Amendment) Bill, 2023

The Tax Procedures Code (Amendment) Bill, 2023 proposes to make the following amendments to the Tax Procedures Code Act, 2014 (“TPCA”):

Description	Comments
1. Section 39 (4)- Waiver of interest due as at 1 July 2017.	Currently, Section 136 of the Income Tax Act and Section 65A of the VAT Act provide for capping of interest. However, both these sections have now been repealed from the respective Acts. The Bill amends the TPCA by providing for the waiver of excess interest due and payable as at 1 July 2017, where such interest exceeds the aggregate of the principal and penal tax. This subsection intends to cap the interest that can be paid by taxpayers in scenarios where the interest due exceeds the principal tax and penalties due and payable. This is similar to the interest capping that was provided for under the ITA and VAT Act.

Description	Comments
2. Waiver of interest and penalty upon voluntary payment of principal tax outstanding as at 30 June 2023 by 31 December 2023	The Bill proposes to empower the Commissioner to waive any interest and penalty payable by a taxpayer if the taxpayer voluntarily pays either the whole or part of the principal tax outstanding as at 30 June 2023 by 31 December 2023 This amendment is intended to incentivise taxpayers to settle their outstanding tax obligations and to tap into a wider community of taxpayers who may have extended periods of noncompliance that will require sufficient time to undertake self-review. To operationalise this tax waiver, there is need for the Government to introduce policy guidelines around the practical implementation of the amendments that seek to waive interest and penalties imposed on principal tax. This will clear any misconstrued applications of these sections and ensure that the implementation by the tax authority is in line with the Government's intention. This will deter interpretations similar to Section 40C of the TPCA where we have seen the URA interpret the waiver of interest in a manner that disadvantages the taxpayer by not necessarily granting a full waiver to all the accumulated interest.
3. Restriction on submission of information at Objections stage or under the Alternative Dispute Resolution("ADR") proceedings	The Bill proposes to restrict a taxpayer from providing additional information when objecting to a tax decision or during ADR proceedings where such a taxpayer failed to provide such information upon receiving the request of the URA. It is important to note that there are circumstances where taxpayers fully intend to provide all the requested data/information to the URA. However, taxpayers may face challenges in obtaining this information due to; Time Limit for keeping records- the law requires the taxpayers to keep records for a period of five ("5") years after the end of the tax period to which such records relate, however in practice, the URA requests for information exceeding the 5-year period and in such circumstances, taxpayers need more time to retrieve such information. The historical and prevailing circumstances impact the retrieval of this information for example change in storage facilities, group requests that require several levels of approval and high employee turnover rate. The above proposal will prejudice the taxpayers because it may lead to an increase in tax assessed by the URA where such taxpayers are not able to submit evidence/ information to support their objection grounds at the objection or Alternative Dispute Resolution (ADR) proceedings. This will ultimately stifle the ability of taxpayers to seek redress from the Tax Appeals Tribunal where they are required to pay 30% of the tax assessed before their case can be adjudicated. It is important to note that currently Section 49A of the TPCA already provides for fines of up to UGX 50m for failure to provide information to the URA. Enacting the above proposal into law will further penalise the taxpayer in addition to the penalties already in existence within the law.

Introduction of new offences and increase in penalties for offences under the TPCA

The Bill proposes to introduce new offences relating to Digital Tax Stamps and impose higher penalties and sentences upon conviction for offences committed under the TPCA as summarised below.

Offences relating to Digital Tax Stamps

Offence	Comments
1. Making unauthorised interference with a digital tax stamps	The Bill proposes to impose a fine on a person who makes an unauthorised interference to, or tampers with, a digital tax stamps machine. Upon conviction, this person is liable to a fine not exceeding UGX 30 million or imprisonment not exceeding ten years.
2. Fixing a tax stamp on wrong goods, brand or volume	The Bill proposes to impose a fine on a person who fixes and activates a tax stamp on a wrong good, brand or volume other than a good, brand or volume for which that tax stamp commits an offence. The person is liable, on conviction, to a fine not exceeding UGX 10 million or imprisonment not exceeding three years or both. The above proposal will penalise any taxpayer that affixes a tax stamp on a wrong product, brand or volume other than the intended goods. In practice manufacturers and other companies dealing with various product lines might erroneously fix and activate a tax stamp on a different product than the intended product. This proposal would therefore criminalise even such inadvertent omissions/mistakes

The Traffic and Road Safety (Amendment) Bill, 2023

The Traffic and Road Safety (Amendment) Bill, 2023 proposes to amend the Traffic and Road Safety Act Cap. 361 as set out below:

Description	Comments
1. Amendment to section 70A (2) (ii) to substitute for the word "badge" the words "professional driving permit".	The Bill proposes to substitute the word "badge" with the words "professional driving permit" in Section 70A (2) (ii) of the Traffic and Road Safety Act. If this proposal is passed into law, drivers of persons who wish to provide an online digital platform for the provision of public service transport to passengers or goods are now required to have professional driving permits and not badges of recognition as drivers of an online digital platform.
2. Inclusion of new Section 119A into the Act	The Bill proposes to include new Section 119A after Section 119 of the Traffic and Road Safety Act in regard to acceptable speed limits. Section 119A will; Permit the Minister to prescribe speed limits by regulations, in respect of all public roads or sections of public roads. Permit the Minister to issue a statutory order prescribing temporary maximum speed limits for motor vehicles, trailers or engineering plant of different classes or descriptions on any part of any road for such period as may be prescribed in the statutory order. Provide for a fine to a person who fails to comply with the set speed limit. The proposed fine will be applied up on conviction and will be the higher of one hundred currency points (UGX 2,000,000) or imprisonment not exceeding three years, or both.
3. Repealing of Section 52 in the Roads Act, 2019	Section 52 is repealed from the Roads Act 2019 and the legislation therein included in the Traffic and Road Safety Act under new Section 119A above.

Lotteries and Gaming (Amendment) Bill, 2023

Lotteries and Gaming (Amendment) Bill, 2023 proposes to amend the Lotteries and Gaming Act, 2016 the as set out below:

Description	Comments
1. Substituting Schedule 4 with new tax rates	Currently the applicable tax rate is "Twenty percent (20%) of the total amount of money stacked less the pay outs (winnings) for the period of filing returns to both gaming and betting activities." The Bill proposes to amend Schedule 4 of the Lotteries and Gaming Act, 2016 to change the rate of tax applicable to gaming and betting activities as follows: "1. Twenty percent (20%) of the total amount of money staked less the pay-outs (winnings) for the period of filing returns for a betting activity. 2. Thirty percent (30%) of the total amount of money staked less the pay-outs (winnings) for the period of filing returns for the gaming activity." For clarification purposes, the act defines gaming and betting activities as follows: • "betting" means making or accepting a bet on the outcome of a race, competition or other event or process; the likelihood of anything occurring or not occurring; or whether anything is or is not true. • "gaming" means the playing of a game of chance for winnings in money or money's worth and for the avoidance of doubt, includes gambling;

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