Tax Watch

Highlights of the Tax Amendment Acts, 2024

The Tax (Amendment) Acts, 2024 ("Acts") were assented by the president on 15 July 2024. The amendments to the tax laws set out in the various amendment acts were effective 1 July 2024 and are aimed at boosting tax revenues collected by the Government of Uganda.

Click here for an in-depth analysis of the amendments introduced as well as Parliament's reasons for adopting the amendments from the proposed tax bills:

- The Income Tax (Amendment) Act, 2024
- The VAT (Amendment) Act, 2024
- The Excise Duty (Amendment) Act, 2024
- The Tax Procedure Code (Amendment) Act, 2024 and
- The Stamp Duty (Amendment) Act, 2024

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Income Tax (Amendment) Act, 2024

The Income Tax (Amendment) Act, 2024, proposes the following amendments to the Income Tax Act ("ITA"):

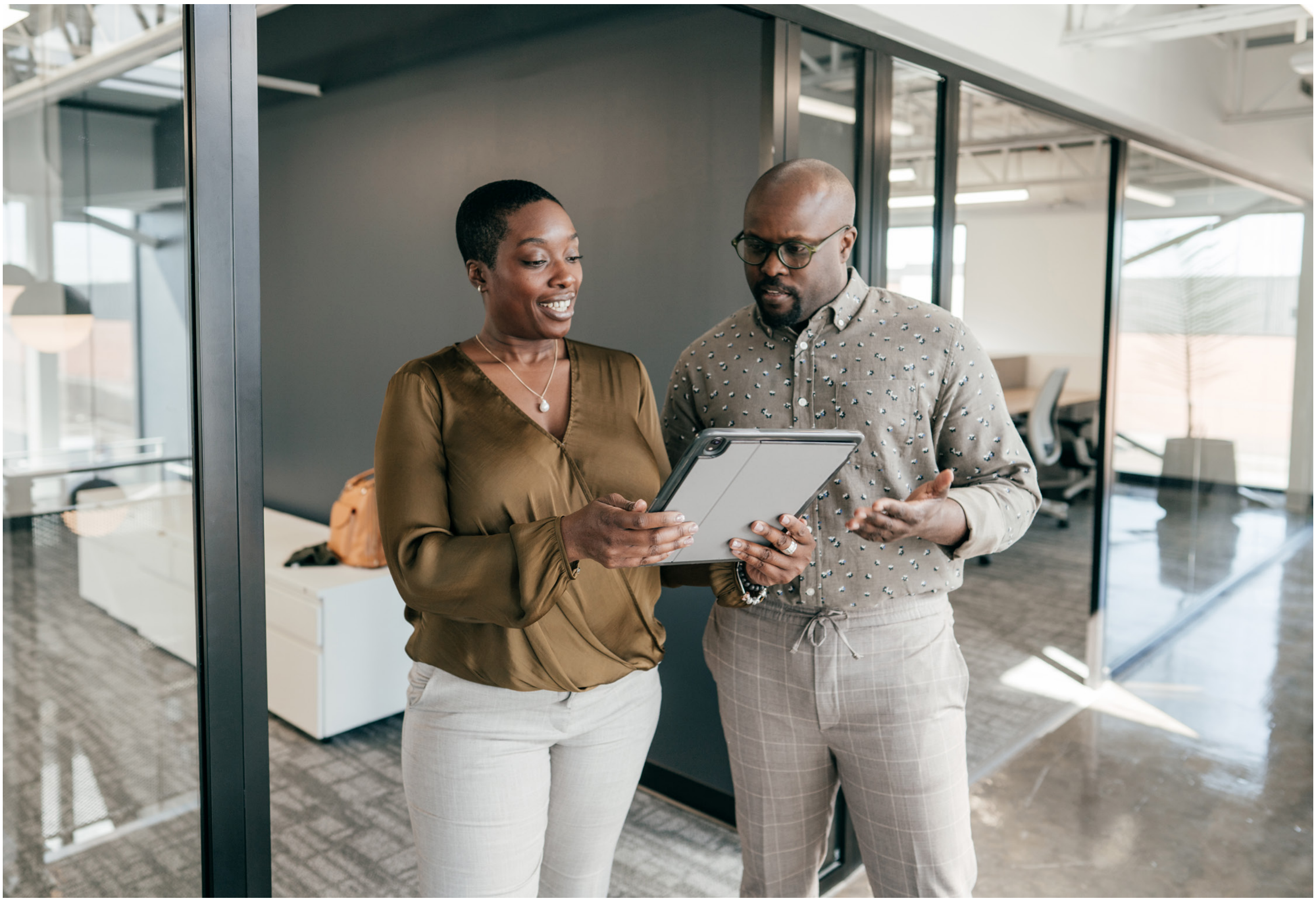
Description	Comments
1. Expansion of the definition of a retirement fund	The Income Tax (Amendment) Act expands the definition of a retirement fund to include funds maintained for the provision of benefits to their members upon termination of employment or upon occurrence of any event as determined by law or an arrangement agreed upon by the parties. Previously, a retirement fund was defined under the ITA to only include a fund maintained for the provision of funds to its members or dependents of the members upon retirement or death of a member. This inclusion is intended to align the definition of a retirement fund under the ITA with that in the Uganda Retirement Benefits Regulatory Authority Act which includes accessing benefits in case of termination of employment by the employee.
2. Exemption of income derived by or from a private equity or venture capital fund and repeal of section 54(1)(e) and 54(1a) – Taxation of capital gains from the sale of investment interest by a venture capital fund	The Income Tax (Amendment) Act of 2021 introduced section 54(1)(e) and (1a) which exempted capital gains arising from the sale of an investment interest of a registered venture capital fund provided 50% of the sale proceeds were re-invested within a year. These provisions have been repealed. The ITA has now been amended to unconditionally exempt income derived by or from a private equity or venture capital fund regulated under the Capital Markets Authority Act, Cap. 84 ("CMAA"). This means that private equity and venture capital funds regulated under the CMAA will not be taxed on their corporate profits, dividends, interest, capital gains etc derived from their investments both in and out of Uganda. The amendment is expected to promote access to cheaper capital and early stage investments made in high risk businesses that may spur employment and growth of the Ugandan economy.
3. Exemption of income from the disposal of government securities on the secondary market	The Income Tax (Amendment) Act has amended section 21 to exempt income derived from the disposal of government securities on the secondary market. A secondary market is where investors buy and sell securities through the Bank of Uganda accredited commercial banks. The ITA imposes a final withholding tax ("WHT") of 20% and 10% on interest / coupon payments of government securities. Where the government securities are sold before their maturity, the ITA imposed a capital gains tax on the seller at a rate of 30% for corporate investors and a maximum rate of 40% for individual investors. The URA has previously sought to collect tax on capital gains derived from the sale of government securities by investors on secondary markets. However, the cost of collection of this tax is high and enforcement has proved to be a challenge. This amendment is therefore welcome since it clarifies imposition of capital gains tax which is bound to attract more investments and give confidence to Uganda's capital markets.
4. Exemption of income of strategic investors in electric vehicles and parts	The Amendment Act introduces an exemption from income tax for manufacturers of electric vehicles, electric batteries, electric vehicle charging equipment or fabrication of electric vehicles. An operator who manufactures electric vehicles, electric batteries, electric charging equipment or fabricates bodies of electric vehicles will still be required to meet the following conditions before they may be granted an exemption from income tax: i. Has investment capital of at least USD 300k (for a citizen) or USD 150k (for a citizen whose investment is placed upcountry) or USD 10 million (for a foreigner) over a period of at least 10 years from the date of commencement of business or in the case of an existing operator from the date on which an operator makes an additional investment; ii. Subject to availability, uses 70% of locally sourced raw materials; iii. At least 70% of its employees being citizens and earning an aggregate wage of at least 70% of the total wage bill. This amendment is expected to increase investment in the manufacture and use of electrical vehicles such as those manufactured by Kiira motors, as well as the manufacture of their accessories. This amendment is aligned to the United Nations Sustainable Development Goals as the world moves towards reducing greenhouse emissions and positions Uganda as a potential sustainable investment destination.

Description	Comments
5. Exemption of income of a strategic investor in a specialised hospital facility	Similar to the above amendment, the income of an operator of a specialised hospital facility, subject to meeting similar conditions highlighted in (5) above, is exempted from Income Tax. The amendment seeks to incentivise affordable health care services while at the same time promoting Uganda as a medical tourism destination.
6. Repeal of a branch and insertion of a permanent establishment	The Amendment Act repeals the term "branch" under section 78 and any references to it under the ITA for purposes of creating a taxable presence in Uganda. A branch is replaced by the term "permanent establishment" and the new definition of a permanent establishment is largely based Article 5 of the United Nations Model Double Taxation Convention ("UN Model Convention") which will notably increase the threshold of a Services permanent establishment to 183 days from the current 90-day threshold period. This is to align the ITA to the Domestic Revenue Mobilisation Strategy, the Uganda Double Taxation Agreements Policy and the EAC Model Double Tax Treaty Policy. The definition provides guidance on the business activities by a non-resident person which would trigger a permanent establishment in Uganda. A non-resident who triggers a permanent establishment will be required to register for taxes in Uganda similar to the current case where a Ugandan branch is created. The definition also includes activities excluded from triggering a permanent establishment in Uganda especially when undertaking preparatory or auxiliary activities. However, there seems to be a contradiction with the definition of an independent agent as used within the context of a permanent establishment. The amendment refers to an independent agent as one who acts exclusively or almost exclusively for one or more principals. In our view, this definition seems to describe a dependent agent as opposed to independent agent. Generally, independent agents do not act exclusively for a single principal, we therefore recommend that the definition is amended to reflect the true status of independent agents.
7. Calculation of chargeable income of a permanent establishment	Gross income of a permanent establishment will only include income derived from its activities in Uganda but will not include any fees charged by the permanent establishment to its head office (or any other related office). These fees will typically include: royalties, commission for services rendered and interest on loans. Similarly, a permanent establishment will be allowed a deduction of expenses incurred while undertaking its activities in Uganda. However, no deduction will be allowed for certain payments made by the permanent establishment to its head office (or any other related office). These include: royalties, commission for services rendered and interest on loans. Previously, there were no profit attribution rules for permanent establishments therefore chargeable income for a branch was only determined in accordance with section 15 as gross income less allowable deductions. In determining the profits attributable to a permanent establishment, a "limited force of attraction rule" will apply. This means that in addition to taxation of income attributable to a permanent establishment, some other activities not conducted through the permanent establishment may also be taxed as business profits of the permanent establishment in Uganda. Taxpayers should therefore consider this specific anti avoidance rule when evaluating permanent establishment risks in Uganda. It is important to note that section 82 which provides for the calculation of branch repatriation tax (BRT) and the taxation of branches will remain applicable. Essentially, a permanent establishment will be subject to both corporate income tax and BRT.
8. Annuities paid by non-residents for permanent establishments	The Amendment Act introduces and clarifies Ugandan-sourced income in respect to annuities paid by a non-resident person through a permanent establishment in Uganda. The amendment aligns source rules in respect to annuities however, there is need to also amend the charging section under section 83(2) of the ITA in order to impose the 15% WHT.
9. Insurance premiums relating to risk in Uganda	Previously, there was no specific source rule for insurance premiums. The Amendment Act treats premiums paid to non-residents in relation to insurance or reinsurance of a risk in Uganda as income sourced from Uganda. The ITA imposes a WHT of 10% on payments of re-insurance premiums by resident persons to non-residents with the exception of payments made to Uganda Reinsurance Company Limited, African Reinsurance Corporation and PTA Reinsurance Company. It is unclear what rate of tax will be applied on insurance premiums paid to non-residents since no amendment was proposed under section 83 of the ITA.

Income Tax (Amendment) Act, 2024

The Income Tax (Amendment) Act, 2024, proposes the following amendments to the Income Tax Act ("ITA"):

Description	Comments
10. Payments by resident persons to permanent establishments	Previously, there was no specific source rule for insurance premiums. The Amendment Act treats premiums paid to non-residents in relation to insurance or reinsurance of a risk in Uganda as income sourced from Uganda. The ITA imposes a WHT of 10% on payments of re-insurance premiums by resident persons to non-residents with the exception of payments made to Uganda Reinsurance Company Limited, African Reinsurance Corporation and PTA Reinsurance Company. It is unclear what rate of tax will be applied on insurance premiums paid to non-residents since no amendment was proposed under section 83 of the ITA.
11. Withholding tax on commissions paid to payment service providers	The Amendment Act introduces a 10% WHT on commissions paid to payment service providers. Specifically, the tax will apply on commissions paid to banking agents and other agents offering financial services and will be levied as an advance income tax. Previously, banks that are designated WHT agents withheld tax at a rate of 6% on these commissions. A similar amendment was made in 2018 which introduced a 10% WHT on commissions paid by telecom service providers to their agents for airtime distribution and mobile money services. This amendment seeks to align the rate of tax applicable to all banking and telecom agents since Government is of the view that the agents provide similar financial inclusion services.
12. Listed institutions	The amendment to expand the list of Listed institutions to include: i. African Reinsurance Corporation (Africa Re); ii. International Regulatory Board of the East African Power Pool; iii. Islamic Cooperation for the Development of the Private Sector.



Value Added tax (Amendment), Act, 2024

The Value Added Tax (Amendment), Act, 2024 proposes to make the following amendments to the Value Added Tax Act

Description	Comments
1. Auction of Goods	The Amendment Act introduces an obligation on a recipient of proceeds of an auction to account for Valued Added Tax ("VAT") on the auctioned goods. The VAT Amendment Act, 2023 introduced VAT on auctioned goods but the obligation to account for the VAT was on the auctioneer. It was later established that in practice, the auctioneer seldom receives any disposal proceeds from the auction. This rendered the amendment ineffectual for purposes of collecting VAT hence the proposed amendment which now shifts the obligation to the receiver of the auction proceeds. Our understanding is that this amendment excludes foreclosed transactions for financial service providers (financial institutions like banks) because such transactions relate to loan recovery covered under financial services exempt for VAT purposes.
2. Taxable supply of goods to employees	The supply of goods and services by a VAT registered/employer to their employees for no consideration will be treated as a taxable supply. This means that the employer would be required to account for VAT such goods and services. As an example, where a VAT registered beverages manufacturer gives their employees beverages as free issues, the employer, will be required to account for VAT on the beverages given out to staff. This may increase the tax burden and compliance costs for employers who provide non-monetary incentives to their employees.
3. Required credit limit to claim input tax	The Act is amended to increase the amount of input credit that a registered taxpayer should have in their VAT return from UGX 5 million to UGX 10 million for it to be eligible for carry forward to the next tax period. This means a registered person who has input tax exceeding UGX 10 million will be required to apply for a VAT refund instead of carrying this forward to offset against future tax liabilities. However, the application for VAT refunds remains at the consent of the taxpayer as provided for under Section 42(2)(b) of the VAT Act.
4. Listed institutions	The Amendment Act expands the list of Listed institutions to include: i. African Reinsurance Corporation (Africa Re); ii. International Regulatory Board of the East African Power Pool; iii. Islamic Cooperation for the Development of the Private Sector. Organisations listed under the First Schedule of the VAT Act are entitled to certain VAT reliefs.
5. Amendment to the Second Schedule (VAT Exempt Supplies)	The Amendment Act changes the following paragraphs in the Second Schedule of the VAT Act which contains a list of exempt supplies i. Inserting under paragraph 1: a) Subparagraph (s)(xxxii) to exempt Hoes in order to achieve consistent treatment of agricultural inputs. Previously, hoes have been zero rated for VAT purposes b) Subparagraph (sf) which exempts the supply of an electric vehicle locally manufactured or the frame and body of an electric vehicle locally fabricated. c) Subparagraph (sg) to exempt the supply of electric vehicle charging equipment and the charging services of an electric vehicle. d) Subparagraph (sh) to exempt the supply of pesticides. e) Subparagraph (pp)(viii) which extends the exemption under subparagraph pp to manufacturers of electric vehicles, electric batteries or electric vehicle charging equipment or fabricators of the frame and body of an electric vehicle. f) The word "safety" after the words "lifesaving gear" under subparagraph (x). This restricts the exemption to safety headgear and not all headgear. g) The words "and does not include goods and services used for personal and domestic use" under subparagraph (dda). This measure is aimed at reducing the abuse of the current provision which exempts the supply of any goods and services the contractors and subcontractors of hydro-electric power, solar power, geothermal power or biogas and wind energy projects. ii. Repealing from paragraph 1: a) Subparagraph (b) to exempt the supply of postage stamps to increase the tax base by tapping into the growing sector for courier service. b) Subparagraph (ggg)(i) which exempts the supply of software and equipment installation services to manufacturers. The new exemptions will reduce the VAT burden on the users of such goods and services which will lead to affordability of these goods and services.

Excise Duty (Amendment) Act, 2024

The Excise Duty (Amendment) Act, 2024 proposes the following amendments to the Excise Duty Act.

Description	Comments
1. Definition of fruit juice	The Amendment Act introduces 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 juice was previously subject to excise duty at a rate of 12% or shs.250 per litre, whichever is higher. This has also been amended to reduced the specific rate to 10% from 12% but maintains the ad valorem rate.
2. Definition of Powder for Reconstitution into Beer	The Amendment Act introduces the definition of powder for reconstitution into beer to mean a powder, crystal, or any other dry substance which after being mixed with water or any other non-alcoholic beverage ferments to or otherwise becomes an alcoholic beverage. Powder for Reconstitution into Beer will be subject to excise duty rate of shs.2,500 per kg.
3. Definition of un-denatured spirits	The Amendment Act introduces the definition for un-denatured spirits to mean spirits that are not mixed with any substance to render the spirit unfit for human consumption or capable of being rendered unfit for human consumption and 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, imported raw materials, or other ready to drink spirits.
4. Definition of Vegetable juice	The Amendment Act introduces the definition of vegetable juice to mean unfermented liquid extracted from the edible part of a vegetable, whether the extracted liquid is diluted or not. Vegetable juice is currently subject to excise duty rate of 10% or shs.250 per litre, whichever is higher.

The Schedule 2 of the Excise Duty Act is amended as follows

Paragraph	Excisable Good or Service	Duty Rates		Comments
		2023/2024	2024/2025	
2	**Beer**			
(d)	Opaque Beer	20% or Shs.230 per litre, whichever is higher	10% or shs.150 per litre whichever is higher	A reduction in the ad valorem rate by 10% and a reduction in the specific rate by Shs.80
(e)	Any other alcoholic beverage locally produced	20% or Shs.230 per litre, whichever is higher	10% or shs.150 per litre whichever is higher	A reduction in the ad valorem rate by 10% and a reduction in the specific rate by Shs.80
(f)	Powder for Reconstitution into Beer		Shs.2,500 per kg	This is a new excise duty category for powdered beer.
	Un-denatured Spirits			
(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;	The amendment specifies that the strength of volume of alcohol content in alcoholic un-denatured spirit should be 80% or higher.
	Any other un-denatured Spirits			
(3c)	Any other un-denatured spirits – (i) That is locally produced of alcoholic strength by volume of less than 80%; or (ii) That is imported of alcoholic strength by volume of less than 80%.	80% or shs.1700 per litre whichever is higher;	80% or shs.1700 per litre whichever is higher;	The amendment changes the description of item under item 3(c) from ready to drink spirits to the current description, which provides a more specific category.
	Wines			
(4b)	Other wines	80% or Shs.8000, per litre, whichever is higher	100% or shs 10,000 per litre whichever is higher	This is an increase in both the ad valorem tax rate from 80% to 100%, and the specific rate from Shs.8,000 to 10,000.

Paragraph	Excisable Good or Service	Duty Rates		Comments
		2023/2024	2024/2025	
	Non-alcoholic			
(5b)	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	10% or Shs. 250 per litre whichever is higher	Reduction of the excise duty ad valorem rate by 2% and expansion on the definition of the item under 5(b) to include scope to include another restriction of *"at least 30% juice by weight or volume of the total composition of the drink".*
(5d)	any other non-alcoholic beverage locally produced other than the beverage referred to in paragraph (a) made out of fermented sugary tea solution with a combination of yeast and bacteria.	12% or shs 250 per litre whichever is higher	10% or shs 150 per litre whichever is higher	Decrease in the ad valorem rate by 2% and in the ad valorem rate by Shs.100
6	Mineral water, bottled water and other water purposely for drinking	10%	10% or shs 50 per litre whichever is higher	Introduction of an fixed rate of Shs.50
(8a)	Motor spirit (gasoline)	Shs.1450 per litre	shs 1550 per litre	An increase in the excise duty rate by Shs.100
(b)	Gas oil (automotive, light, amber for high-speed engine)	Shs.1130 Per litre	shs 1230 per litre	And increase in the fixed rate by Shs.100
(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		0.5% of the value of the transaction."	An addition to the scope of the telecommunications services category to include withdrawal services provided by payment system providers.
(13g)	Incoming international calls, except calls from the Republic of Kenya, Burundi, 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 expansion of the exempt countries to include Burundi and Tanzania
23	Furnishings and fittings or locally produced materials for construction of premises and other infrastructure to a hospital facility developer whose minimum investment capital is at least five million United States Dollars and who develops a hospital with capacity to provide specialised medical care -	NIL	NIL	The amendment removes the words "at the level of a national referral hospital". This encourages the construction of hospitals in the country that provided specialised care without the need to meet National Referral Hospital rating.
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 litre whichever is higher.	30% or shs.550 per litre whichever is higher.	The amendment clarifies that the excise duty applicable to Cider, perry mead of near beer, produced from local raw materials, as a separate category from such beers produced from imported raw materials.
	Construction materials of a manufacturer of an electric vehicles, electric batteries or electric vehicle charging equipment or fabricators of the frame and bodies of electric vehicles whose investment capi¬tal 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	This is a new category aimed at stimulating investment in electric vehicles, their infrastructure, and subsequent manufacturing in the country by removing excise tax for foreigners that invest USD 35 million, and citizens that invest USD 5 million.

The Tax Procedures Code (Amendment) Act 2024

The Tax Procedures Code (Amendment) Act, 2024 made the following amendments to the Tax Procedures Code Act, 2014 ("TPCA"):

Description	Comments
1. Requirement for a taxpayer who intends to claim a deduction of or credit for the goods destroyed to inform the Commissioner before the destruction of the goods	The Amendment Act introduces a requirement for any taxpayer intending to claim a deduction of or credit for goods destroyed as a result of damage, expiry or obsolescence of either trading or manufactured stock to inform the Commissioner in writing prior to destroying such goods. Additionally, a taxpayer who fails to inform the Commissioner about the damage, expiry or obsolescence of goods shall not be able to claim a deduction of or credit for the destroyed goods. The amendment streamlines the procedure taxpayers will follow before claiming a deduction of or credit for goods destroyed in respect to excise duty remission on imports and manufactured goods as well as VAT refunds.
2. Waiver of Interest and Penalty on payment of principal tax	Any interest and penalty outstanding as at 30th June 2023, shall be waived where the taxpayer pays the principal tax by 31st December 2024. Where the taxpayer pays part of the principal tax outstanding as at 30th June, 2023 by the 31st December 2024, the payment of interest and penalty shall be waived on a pro-rata basis. The insertion has extended amnesty on payment of interest and penalty which is a welcome move for taxpayers.

The Stamp Duty (Amendment) Act 2024

The Stamp Duty (Amendment) Act, 2024 made the following amendments to the Stamp Duty Act, 2014 ("TPCA"):

<table>
<tr><th>Description</th><th>Comments</th></tr>
<tr><td>Stamp duty on the nominal share capital or any increase of share capital and the transfer of shares by investors in a private equity or venture capital funds under Capital Markets Authority</td><td>The Amendment Act introduces a nil stamp duty rate on the nominal share capital, increase in any share capital and the transfer of shares or other securities to or by investors in a private equity and venture capital funds regulated by the Capital Markets Authority Act Cap 84 or of shares or other securities acquired by a private equity and venture capital fund regulated by the Capital Markets Authority Act Cap 84.

The amendment will encourage early-stage investments in businesses and high-risk enterprises that have growth potential as well as provide employment to Ugandans.</td></tr>
<tr><td>Increase of minimum thresholds for citizens employed and raw materials used under strategic projects under Item 60A</td><td>The amendment Act amends the minimum thresholds under Item 60A of the second schedule as follows:
<table>
<tr><th>Requirement</th><th>Current</th><th>Proposed</th></tr>
<tr><td>Citizens employed</td><td>Capacity to employ a minimum of 100 citizens</td><td>Employs at least 80% of employees being citizens earning an aggregate wage of at least 80% of the total wage bill</td></tr>
<tr><td>Use of local raw materials</td><td>Capacity to use at least 50% of the locally produced raw materials subject to availability</td><td>Capacity to use at least 80% of the locally produced raw materials subject to availability</td></tr>
</table></td></tr>
<tr><td>Addition of manufacturers of electric vehicles, batteries and charging equipment as strategic investment projects which are subject to a NIL Stamp Duty rate.</td><td>This amendment aligns the provisions of the Stamp Duty Act with those under the VAT, Income tax and Excise Duty Act in a bid to boost the Buy Uganda Build Uganda (BUBU) agenda.

The amendment Act further adds manufacturers of an electric vehicles, batteries or charging equipment or fabricator of the frame and body of an electric vehicle as part of the strategic projects attracting NIL stamp duty on debentures, further charges, lease of land, increase of share capital and transfer of land on condition that the following criteria are met:—

a minimum investment capital of ten million United States Dollars in case of a foreigner, or three hundred thousand United States Dollars in case of a citizen or one hundred fifty thousand United States Dollars in case of a citizen who invests up country;
capacity to use at least eighty percent of the locally produced raw materials, subject to availability;
employs at least eighty percent of its employees being citizens earning an aggregate wage of at least eigthy percent of the total wage bill; and provides for substitution of thirty percent of the value of imported products—

This amendment will attract investment in the electric vehicle industry which is in line with the Sustainable Development Goals and move towards reducing greenhouse emissions and achieving net zero. It will directly benefit companies such as the Kira Motors Limited that is currently manufacturing electric vehicles</td></tr>
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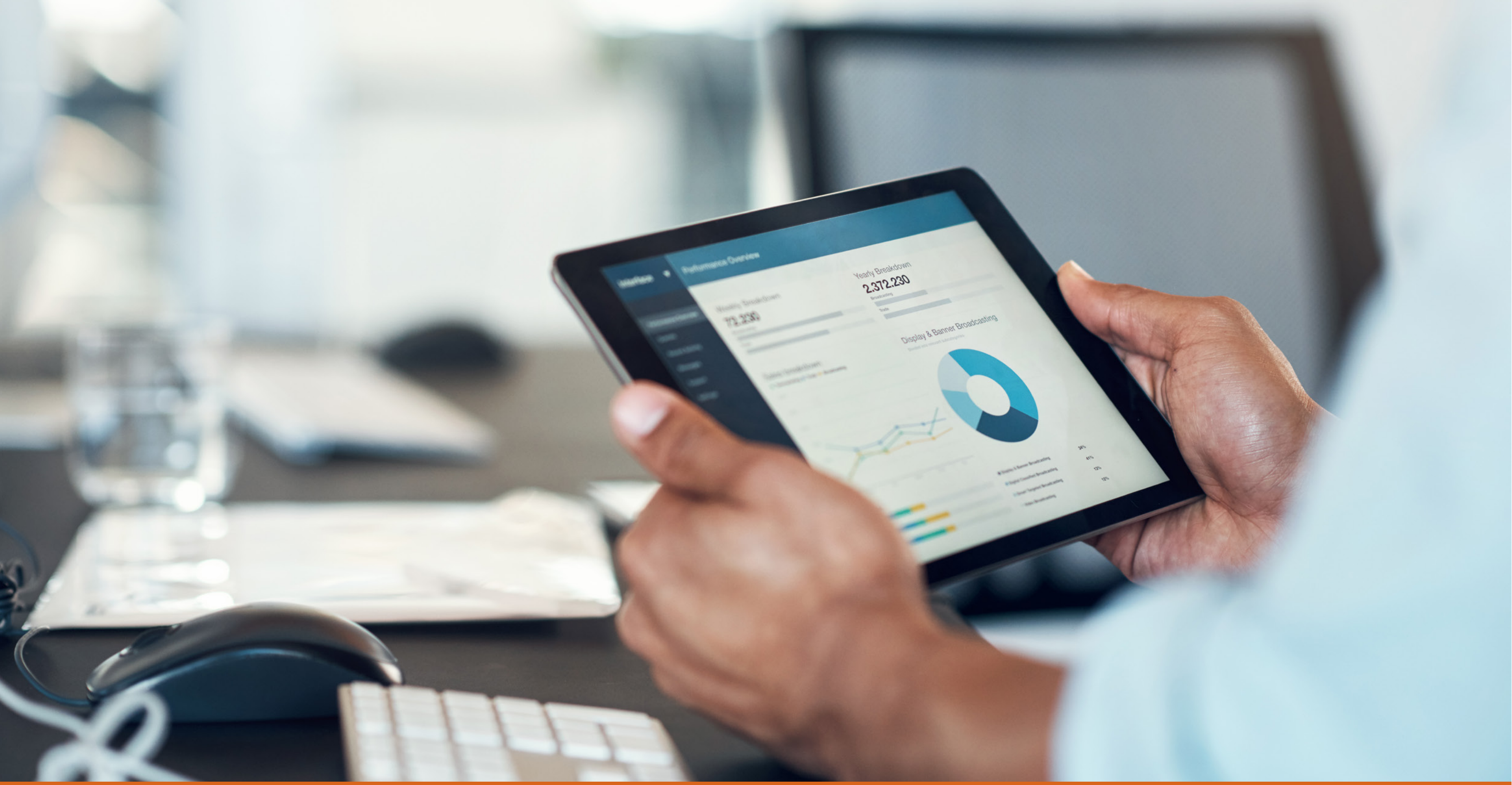

Contacts

For further information on the Tax Amendment Acts 2024, please contact any of the people below or your usual PwC contact:

Pamela Natamba
Partner
+256 (0) 312 354400
pamela.natamba@pwc.com

Plaxeda Namirimu
Associate Director
plaxeda.namirimu@pwc.com

Trevor Lukanga
Associate Director
trevor.b.lukanga@pwc.com

Juliet Najjinda
Senior Manager
juliet.najjinda@pwc.com

Doreen Mugisha
Clients and Markets
Development Manager
doreen.mugisha@pwc.com