

**CHAPTER 340**

**THE INCOME TAX ACT**

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## CHAPTER 340

# THE INCOME TAX ACT

Commencement: 1 July 1997

**An Act to consolidate and amend the law relating to income tax and for other connected purposes.**

### PART I - PRELIMINARY

#### 1. Application of the Act

This Act applies to years of income commencing on or after 1st July 1997.

#### 2. Interpretation

In this Act, unless the context otherwise requires -

- (a) “amateur sporting association” means an association whose sole or main object is to foster or control any athletic sport or game and whose members consist only of amateur sports persons or affiliated associations, the members of which consist only of amateur sports persons;
- (b) “approved” means approved by the Minister under regulations made under section 164;
- (c) “assessed loss” has the meaning in section 38;
- (d) “assessment” means -
  - (i) the ascertainment of the chargeable income of, and the amount of tax payable on it by, a taxpayer for a year of income under this Act, including a deemed assessment under section 96; or
  - (ii) the ascertainment of the rental income of, and the amount of tax payable on it by, an individual for a year of income under this Act; or
  - (iii) the ascertainment of the amount of penal tax payable by a person under this Act; or
  - (iv) any decision of the Commissioner which, under this Act, is subject to objection and appeal;
- (e) “associate” has the meaning in section 3;
- (f) “building society” means a building society registered under the Building Societies Act;



- (g) “business” includes any trade, profession, vocation, adventure into the nature of trade, but does not include employment;
- (h) “business asset” means an asset which is used or held ready for use in a business, and includes any asset held for sale in a business and any asset of partnership or company;
- (i) “business debt” means -
  - (i) in the case of a debtor-
    - (A) a debt obligation, the proceeds of which are used to acquire a business asset or to incur an expense of a business;
    - (B) a debt obligation arising, as a result of being given time to pay, on the acquisition of a business asset or the incurring of an expense of a business; or
    - (C) any debt obligation of a partnership or company; or
  - (ii) in the case of a creditor, any debt obligation owed to the creditor that was entered into or arose in the course of the creditor’s business;
- (j) “business income” has the meaning in section 18;
- (k) “chargeable income” has the meaning in section 15;
- (l) “chargeable trust income” has the meaning in section 70;  
  
“collective investment scheme” has the meaning assigned to it by section 3 of the Collective Investment Schemes Act, 2003 (*Effective 1<sup>st</sup> July 2005, Income Tax (Amendment) Act, 2005*)
- (m) “Commissioner” means the Commissioner-General appointed under the Uganda Revenue Authority Act;
- (n) “company” means a body of persons corporate or unincorporated, whether created or recognised under the law in force in Uganda or elsewhere, and a unit trust, but does not include any other trust or a partnership;
- (o) “cost base”, in relation to an asset, has the meaning in section 52;
- (p) “court” means a court of competent jurisdiction;
- (q) “currency point”, represents the amount in Uganda Shillings prescribed into the Seventh Schedule to this Act;
- (r) “debenture” includes any debenture stock, mortgage, mortgage stock, loan, loan stock, or any similar instrument acknowledging indebtedness, whether secured or unsecured;

- (s) “debt obligation” means an obligation to make a repayment of money to another person, including accounts payable and the obligations arising under promissory notes, bills of exchange, and bonds;
- (t) “dependent”, in relation to a member of a retirement fund, means a spouse of the member, any child, including an adopted child, of the member who is under the age of 18 years, or any other relative of the member who the Commissioner is satisfied relies on the member for support;
- (u) “depreciable asset” means any plant or machinery, or any implement, utensil, or similar article, which is wholly or partly used, or held ready for use, by a person in the production of income included in gross income and which is likely to lose value because of wear and tear, or obsolescence;
- (v) “disposal” has the meaning in section 51;
- (w) “dividend” includes –
  - (i) where a company issues debentures or redeemable preference shares to a shareholder-
    - (A) in respect of which the shareholder gave no consideration, an amount equal to the greater of the nominal or redeemable value of the debentures or shares; or
    - (B) in respect of which the shareholder gave consideration which is less than the greater of the nominal or redeemable value, an amount equal to the excess;
  - (ii) any distribution upon redemption or cancellation of a share, or made in the course of liquidation in excess of the nominal value of the share redeemed, cancelled or subject to liquidation;
  - (iii) in the case of a partial return of capital, any payment made in excess of the amount by which the nominal value of the shares was reduced;
  - (iv) in the case of a reconstruction of a company, any payment made in respect of the shares in the company in excess of the nominal value of the shares before the reconstruction; or
  - (v) the amount of any loan, the amount of any payment for an asset or services, the value of any asset or services provided, or the amount of any debt obligation released, by a company to, or in favour of, a shareholder of the company or an associate of a shareholder to the extent to which the transaction is, in substance, a distribution of profits,

but does not include a distribution made by a building society;

- (x) “employee” means an individual engaged in employment;
- (y) “employer” means a person who employs or remunerates an employee;
- (z) “employment” means –
  - (i) the position of an individual in the employment of another person;
  - (ii) a directorship of a company;
  - (iii) a position entitling the holder to a fixed or ascertainable remuneration; or
  - (iv) the holding or acting in any public office ;
- (aa) “employment income” has the meaning in section 19;
- (bb) “exempt organisation” means any company, institution, or irrevocable trust -
  - (i) which is -
    - (A) an amateur sporting association;
    - (B) a religious, charitable, or educational institution of a public character; or
    - (C) a trade union, an employees association, an association of employers registered under any law of Uganda, or an association established for the purpose of promoting farming, mining, tourism, manufacturing, or commerce and industry in Uganda; and
  - (ii) which has been issued with a written ruling by the Commissioner currently in force stating that it is an exempt organisation; and
  - (iii) none of the income or assets of which confers, or may confer, a private benefit on any person.
- (cc) “farming” means pastoral, agricultural, plantation, horticultural, or other similar operations;
- (dd) “financial institution” means any person carrying on the business of receiving funds from the public or from members through the acceptance of money deposits repayable upon demand, after a fixed period, or after notice, or any similar operation through the sale or placement of bonds, certificates, notes, or other securities, and the use of such funds either in whole or part for loans, investments

- or any other operation authorised either by law or by customary banking practices, for the account and at the risk of the person doing such business;
- (ee) “foreign-source income” means any income which is not derived from sources in Uganda;
- (ff) “gross income” has the meaning in section 17;
- (gg) “gross turnover”, in relation to a resident taxpayer, for a year of income, means
- (i) the amount shown in the recognized accounts of the taxpayer as the gross proceeds derived in carrying on a business or businesses during the year of income, including the gross proceeds arising from the disposal of trading stock, without deduction for expenditures or losses incurred in deriving that amount; and
  - (ii) the amount, if any, shown in the recognized accounts of the taxpayer as the amount by which the sum of the gains derived by the taxpayer during the year of income from the disposal of business assets, other than trading stock, exceeds the losses incurred by the taxpayer during the year in respect of the disposal of such assets;
- (hh) “incapacitated person” means a resident individual adjudged under a law in Uganda to be in a state of unsoundness of mind;
- (ii) “incapacitated person’s trust” means a trust established for the benefit of an incapacitated person;
- (jj) “industrial building” means any building which is wholly or partly used, or held ready for use, by a person in -
- (i) manufacturing operations;
  - (ii) research and development into improved or new methods of manufacture;
  - (iii) mining operations;
  - (iv) an approved hotel business;
  - (v) an approved hospital; or
  - (vi) approved commercial buildings; (*effective 1<sup>st</sup> July, 2000- Finance Act, 2001*)
- (kk) “interest” includes –

- (i) any payment, including a discount or premium, made under a debt obligation which is not a return of capital;
- (ii) any swap or other payment functionally equivalent to interest;
- (iii) any commitment, guarantee, or service fee paid in respect of a debt obligation or swap agreement; or
- (iv) a distribution by a building society;
- (ll) “life insurance business” has the meaning in section 16 (3);
- (mm) “listed institution” means an institution listed in the First Schedule to this Act;
- (nn) “local authority” means any public body established under a law of Uganda and having control over the expenditure of revenue derived from rates or taxes imposed by law upon the residents of the areas for which that body is established;
- (oo) “local council” has the same meaning as in the Local Governments Act;
- (pp) “manufacturing” means the substantial transformation of tangible movable property, including power generation and water supply;
- (qq) “mineral” has the meaning in the Mining Act;
- (rr) “mining operations” includes every method or process by which any mineral is won from the soil or from any substance or constituent of the soil;
- (ss) “Minister” means the Minister responsible for Finance;
- (tt) “natural resource payment” means –
  - (i) a payment, including a premium or like payment, made as consideration for the right to take minerals or a living or non-living resource from the land; or
  - (ii) a payment calculated in whole or in part by reference to the quantity or value of minerals or a living or non-living resource taken from the land;
- (uu) “nominal value” in relation to a share or debenture, means the paid-up amount of the share or face value of the debenture, including any premium paid in respect of the share or debenture;
- (vv) “nonresident person” has the meaning in section 14;
- (ww) “partnership” means an association of persons carrying on business for joint profit;

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- (xx) “payment” includes any amount paid or payable in cash or kind, and any other means of conferring value or benefit on a person;
- (yy) “person” includes an individual, a partnership, a trust, a company, a retirement fund, a government, a political subdivision of a government and a listed institution;
- (zz) “property income” has the meaning in section 20;
- (aaa) “provisional taxpayer” means a person liable for provisional tax section 111;
- (bbb) “relative”, in relation to an individual, means -
  - (i) an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual, or of a spouse of the individual; or
  - (ii) a spouse of the individual or of any person specified in subparagraph (i) of this paragraph;
- (ccc) “rent” means any payment, including a premium or like amount, made as consideration for the use or occupation of, or the right to use or occupy, land or buildings;
- (ddd) “rental income”, in relation to an individual for a year of income, means the total amount of rent derived by the individual for the year of income from the lease of immovable property in Uganda by the individual with the deduction of any expenditures and losses incurred by the individual in respect of the property;
- (eee) “resident company” has the meaning in section 10;
- (fff) “resident individual” has the meaning in section 9;
- (ggg) “resident partnership” has the meaning in section 12;
- (hhh) “resident person” means a resident individual, resident company, resident partnership, resident trust, resident retirement fund, the Government of Uganda, or a political subdivision of the Government of Uganda;
- (iii) “resident retirement fund” has the meaning in section 13;
- (jjj) “resident taxpayer” means a taxpayer who is a resident person;
- (kkk) “resident trust” has the meaning in section 11;
- (lll) “retirement fund” means a pension or provident fund established as a permanent fund maintained solely for either or both of the following purposes –

- (i) the provision of benefits for members of the fund in the event of retirement; or
- (ii) the provision of benefits for dependants of members in the event of the death of the member;

(mmm) “royalty” means –

- (i) any payment, including a premium or like amount, made as consideration for –
  - (A) the use of, or right to use, any patent, design, trademark, or copyright, or any model, pattern, plan, formula, or process, or any property or right of similar nature;
  - (B) the use of, or right to use –
    - (I) any motion picture film;
    - (II) any video or audio material, whether stored on film, tape, disc, or other medium, for use in connection with television or radio broadcasting; or
    - (III) any sound recording or advertising matter connected with material referred to in subparagraphs (i)(B)(I) or (II) of this paragraph;
  - (C) the use of, or the right to use, or the receipt of, or right to receive, any video or audio material transmitted by satellite, cable, optic fibre, or similar technology for use in connection with television or radio broadcasting;
  - (D) the imparting of, or undertaking to impart, any scientific, technical, industrial, or commercial knowledge or information;
  - (E) the use of, or right to use, any tangible movable property;
  - (F) the rendering of, or the undertaking to render, assistance ancillary to a matter referred to in subparagraphs (i)(A) to (E) of this paragraph; or
  - (G) a total or partial forbearance with respect to a matter referred to in subparagraphs (i)(A) to (F); or
- (ii) any gain on the disposal of any right or property referred to in subparagraph (i) of this paragraph;

(nnn) “substituted year of income” has the meaning in section 39;

(ooo) “swap agreement” means an arrangement between a person who has incurred a debt obligation with a floating interest rate and a person who has incurred a debt obligation with a fixed interest rate under which the persons agree to exchange their interest obligations;

(ppp) “swap payment” means a payment made under a swap agreement;

- (qqq) “tax” means any tax imposed under this Act;
- (rrr) “tax-exempt employer” means an employer whose income is exempt from tax;
- (sss) “taxpayer” means any person who derives an amount subject to tax under this Act and includes -
- (i) any person who incurs an assessed loss for a year of income; or
  - (ii) for the purposes of any provision relating to a return, any person required by this Act to furnish such a return.
- (ttt) “trading stock” includes anything produced manufactured, purchased, or otherwise acquired for manufacture, sale, or exchange, as well as consumable stores;
- (uuu) “transitional year of income” has the meaning in section 39;
- (vvv) “trust” means any arrangement affecting property in relation to which there is a trustee;
- (www) “trustee” includes -
- (i) any person appointed or constituted as such by act of the parties, by will, by order or declaration of any court, or by operation of the law;
  - (ii) an executor, administrator, tutor, or curator;
  - (iii) a liquidator or judicial manager;
  - (iv) any person having the administration or control of property subject to a trust;
  - (v) any person acting in a fiduciary capacity;
  - (vi) any person having, either in a private or official capacity, the possession, direction, control, or management of any property of a person under a legal disability;
  - (vii) any person who manages assets under a private foundation or other similar arrangement;
- (xxx) “underlying ownership”, in relation to a person other than an individual, means an interest held in, or over, the person directly or indirectly through interposed companies, partnerships or trusts by an individual or by a person not ultimately owned by individuals;



- (yyy) “unit trust” means a unit trust registered or required to be registered as Parliament may by law prescribe; and
- (zzz) “year of income” means the period of twelve months ending on the 30th June, and includes a substituted year of income and a transitional year of income.

**3. Associate**

(1) For the purposes of this Act, where any person, not being an employee, acts in accordance with the directions, requests, suggestions, or wishes of another person whether or not they are in a business relationship and whether those directions, requests, suggestions or wishes are communicated to the first-mentioned person, both persons are treated as associates of each other.

(2) Without limiting the generality of subsection (1), the following are treated as an associate of a person -

- (a) a relative of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions, or wishes of the other person;
- (b) a partner of the person, unless the Commissioner is satisfied that neither person acts or is likely to act in accordance with the directions, requests, suggestions, or wishes of the other person;
- (c) a partnership in which the person is a partner where the person, either alone or together with an associate or associates under another application this section, controls fifty percent or more of the rights to income or capital of the partnership;
- (d) the trustee of a trust under which the person, or an associate under another application of this section, benefits or may benefit;
- (e) a company in which the person, either alone or together with an associate or associates under another application of this section, controls 50 percent or more of the voting power in the company either directly or through one or more interposed companies, partnerships or trusts;
- (f) where the person is a partnership, a partner in the partnership who, either alone or together with an associate or associates under another application of this section, controls 50 percent or more of the rights to income or capital of the partnership;
- (g) where the person is the trustee of a trust, any other person who benefits or may benefit under the trust; or
- (h) where the person is a company -

(i) a person who, either alone or together with an associate or associates under another application of this section, controls 50 percent or more of the voting power in the company, either directly or through one or more interposed companies, partnerships, or trusts; or

(ii) another company in which the person referred to in subparagraph (i), either alone or together with an associate or associates under another application of this section, controls 50 percent or more of the voting power in that other company, either directly or through one or more interposed companies, partnerships or trusts.

## PART II - IMPOSITION OF TAX

### **4. Income tax imposed.**

(1) Subject to, and in accordance with this Act, a tax to be known as income tax shall be charged for each year of income and is imposed on every person who has chargeable income for the year of income.

(2) Subject to subsections (4) and (5), the income tax payable by a taxpayer for a year of income is calculated by applying the relevant rates of tax determined under this Act to the chargeable income of the taxpayer for the year of income and from the resulting amount are subtracted any tax credits allowed to the taxpayer for the year of income.

(3) Where a taxpayer is allowed more than one tax credit for a year of income, the credits shall be applied in the following order -

- (a) the foreign tax credit allowed under section 81; then
- (b) the tax credit allowed under section 128; then
- (c) the tax credit allowed under section 111 (8).

(4) Where the gross income of a taxpayer for a year of income consists exclusively of employment income derived from a single employer from which tax has been withheld as required under section 116, the income tax payable by the taxpayer for the year of income is the amount equal to the sum of the amounts required to be withheld from such income under section 116.

(5) Subject to subsection (7), where the gross turnover of a resident taxpayer for a year of income derived from carrying on a business or businesses is less than fifty million shillings, the income tax payable by the taxpayer for the year of income shall be determined in accordance with the Second Schedule, unless the taxpayer elects by notice in writing to the Commissioner for subsection (2) to apply; and-

- (a) the tax shall be a final tax on the business income of the taxpayer;

- (b) no deductions shall be allowed under this Act for expenditures or losses incurred in the production of the business income; and
- (c) no tax credits allowed under this Act shall be used to reduce the tax payable on the business income of the taxpayer, except as provided in the Second Schedule to this Act.

(6) An election under subsection (5) must be lodged with the Commissioner by the due date for the taxpayer's return for the year of income to which it relates.

(7) Subsection (5) does not apply to a resident taxpayer who is in the business of providing medical, dental, architectural, engineering, accounting, legal, or other professional services, public entertainment services, public utility services or construction services.

**5. Rental tax imposed.**

(1) Subject to, and in accordance with this Act, a tax shall be charged for each year of income and is imposed on every individual who has rental income for the year of income.

(2) The tax payable by an individual under this section for a year of income is calculated by applying the relevant rates of tax determined under section 6 (2) to the rental income derived by the individual for the year.

(3) The tax imposed under this section on an individual is separate from the tax imposed under section 4 and -

- (a) the rent derived by an individual shall not be included in the gross income subject to tax under this Act of the individual for any year of income;
- (b) expenditures and losses incurred by the individual in the production of rent shall be allowed as a deduction under this Act for any year of income only as provided in paragraph (c) of subsection (1) of section 22; and
- (c) the tax payable by the resident individual under this section shall not be reduced by any tax credits allowed to the individual under this Act. *(effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002)*

(4) In this section, "year of income" means the period of twelve months ending on 30th June.

*Rates of Tax*

**6. Rates of tax for individuals.**

(1) The chargeable income of an individual for a year of income is charged to income tax at the rates prescribed in Part I of the Third Schedule to this Act.

(2) The rental income of a resident individual for a year of income is charged to rental tax at the rate prescribed in Part VI of the Third Schedule to this Act.

**7. Rate of income tax for companies.**

The chargeable income of a company for a year of income is charged to income tax at the rate prescribed in Part II of the Third Schedule to this Act.

**8. Rate of income tax for trustees and retirement funds.**

(1) Subject to subsections (2) and (3), a trustee of a trust is charged to tax at the rate prescribed in Part III of the Third Schedule on the chargeable trust income of the trust for a year of income.

(2) A trustee of a trust being the estate of a deceased taxpayer who, at the date of death, was a resident individual, is charged to tax on the chargeable trust income of the trust at the rates prescribed in Part I of the Third Schedule for -

- (a) the year of income in which death occurred; and
- (b) the following year of income.

(3) A trustee of an incapacitated person's trust is charged to tax at the rates prescribed in Part I of the Third Schedule on the chargeable trust income of the trust for a year of income.

(4) The chargeable income of a retirement fund for a year of income is charged to tax at the rate prescribed in Part III of the Third schedule.

PART III - RESIDENTS AND NONRESIDENTS

**9. Resident individual**

(1) Subject to subsection (2) and (3), an individual is a resident individual for a year of income if that individual -

- (a) has a permanent home in Uganda;
- (b) is present in Uganda -
  - (i) for a period of, or periods amounting in aggregate to, 183 days or more in any twelve-month period that commences or ends during the year of income; or

(ii) during the year of income and in each of the two preceding years of income for period averaging more than 122 days in each such year of income; or

(c) is an employee or official of the Government of Uganda posted abroad during the year of income.

(2) An individual who is a resident individual under subsection (1) for a year of income, in this section referred to as the “current year of income”, but who was not a resident individual for the preceding year of income is treated as a resident individual into the current year of income only for the period commencing on the day on which the individual was first present in Uganda.

(3) An individual who is a resident individual for the current year of income but who is not a resident individual for the following year of income is treated as a resident individual in the current year of income only for the period ending on the last day on which the individual was present in Uganda.

**10. Resident company.**

A company is a resident company for a year of income if it -

- (a) is incorporated or formed under the laws of Uganda;
- (b) has its management and control exercised in Uganda at any time during the year of income; or
- (c) undertakes the majority of its operations in Uganda during the year of income.

**11. Resident trust.**

A trust is a resident trust for a year of income if -

- (a) the trust was established in Uganda;
- (b) at any time during the year of income, a trustee of the trust was a resident person; or
- (c) the trust has its management and control exercised in Uganda at any time during the year of income.

**12. Resident partnership.**

A partnership is a resident partnership for a year of income if, at any time during that year, a partner in the partnership was a resident person.

**13. Resident retirement fund.**

A retirement fund is a resident retirement fund for a year of income if it -

- (a) is organised under the laws of Uganda;
- (b) is operated for the principal purpose of providing retirement benefits to resident individuals; or
- (c) has its management and control exercised in Uganda at any time during the year of income.

**14. Nonresident person.**

(1) Subject to subsection (2), a person is nonresident person for a year of income if the person is not a resident person for that year.

(2) Where section 9(2) or (3) applies, an individual is a nonresident person for that part of the year of income in which the individual is not a resident individual.

PART IV - CHARGEABLE INCOME.

**15. Chargeable income**

Subject to section 16, the chargeable income of a person for a year of income is the gross income of the person for the year less total deductions allowed under this Act for the year.

**16. Chargeable income arising from insurance business.**

(1) The chargeable income of a person for a year of income arising from the carrying on of a short-term insurance business is determined in accordance with the Fourth Schedule to this Act.

(2) Where a person to whom subsection (1) applies derives income charged to tax other than income arising from the carrying on of a short-term insurance business for a year of income, the chargeable income determined under subsection (1) is added to that other income for the purposes of determining the person's total chargeable income for the year of income.

(3) In this section-

- (a) "insurance business" means the business of, or in relation to the issue of, or the undertaking of liability under, life policies, or to make good or indemnify the issued against any loss or damage, including liability to pay damages or compensation contingent upon the happening of a specified event; and
- (b) "life insurance business" means business of any of the following classes-

- (i) effecting, carrying out, and issuing policies on human life or contracts to pay annuities on human life;
  - (ii) effecting, carrying out, and issuing contracts of insurance against the risk of the person insured sustaining injury or dying as the result of an accident or of an accident of a specific class, or becoming incapacitated in consequence of disease or of diseases of specified classes, being contracts that are expressed to be in effect for a period of not less than five years or without limit of time and either are not expressed to be terminable by the insurer before the expiry of five years from taking effect or are expressed to be so terminable before the expiry of such period only in special circumstances specified in the contract; or
  - (iii) effecting, carrying out and issuing the insurance whether effected by the issue of policies, bonds, endowment certificates or otherwise, whereby, in return for one or more premiums paid to the insurer, an amount or series of amounts is to become payable to the insurer in the future, not being such contracts as fall within subparagraph (i) or (ii) of this paragraph; and
- (c) “short-term insurance business” means any insurance business which is not a life insurance business.

*Gross Income*

**17. Gross income**

(1) Subject to this Act, the gross income of a person for a year of income is the total amount of -

- (a) business income;
- (b) employment income; and
- (c) property income,

derived during the year by the person, other than income exempt from tax.

(2) For the purposes of subsection (1) -

- (a) the gross income of a resident person includes income derived from all geographical sources; and
- (b) the gross income of a nonresident person includes only income derived from sources in Uganda.

(3) Unless the Act provides otherwise, Part V of this Act, which deals with tax accounting principles, applies in determining when an amount is derived for the purposes of this Act.

**18. Business income**

(1) Business income means any income derived by a person in carrying on a business and includes the following amounts, whether of a revenue or capital nature -

- (a) the amount of any gain, as determined under Part VI of this Act which deals with gains and losses on disposal of assets, derived by a person on the disposal of a business asset, or on the satisfaction or cancellation of a business debt, whether or not the asset or debt was on revenue or capital account;
- (b) any amount derived by a person as consideration for accepting a restriction on the persons capacity to carry on business;
- (c) the gross proceeds derived by a person from the disposal of trading stock;
- (d) any amount included in the business income of the person under another section of this Act;
- (e) the value of any gifts derived by a person in the course of, or by virtue of, a past, present, or prospective business relationship;
- (f) the interest derived by a person in respect of trade receivables or by a person engaged in the business of banking or money lending; and
- (g) rent derived by a person whose business is wholly or mainly the holding or letting of property.

(2) An amount included in business income under subsection (1)(f) or (g) retains its character as interest or rent for the purposes of any section of this Act referring to such income.

(3) Where, as a result of any concession granted by, or a compromise made with, a taxpayer's creditors in the course of an insolvency, the taxpayer derives a gain on the cancellation of a business debt, section 38(3) applies in lieu of including the gain in the business income of the taxpayer under subsection (1).

(4) In this section , "business asset" does not include trading stock or a depreciable asset.

**19. Employment income**

(1) Subject to this section, employment income means any income derived by an employee from any employment and includes the following amounts, whether of a revenue or capital nature -



- (a) any wages, salary, leave pay, payment in lieu of leave, overtime pay, fees, commission, gratuity, bonus or the amount of any travelling, entertainment, utilities, cost of living, housing, medical or other allowance;
- (b) the value of any benefit granted;
- (c) the amount of any discharge or reimbursement by an employer of expenditure incurred by an employee, other than expenditure incurred by an employee on behalf of the employer which serves the proper business purposes of the employer;
- (d) any amount derived as compensation for the termination of any contract of employment, whether or not provision is made in the contract for the payment of such compensation, or any amount derived which is in commutation of amounts due under any contract of employment;
- (e) any amount paid by a tax-exempt employer as premium for insurance on the life of the employee and which insurance is for the benefit of the employee or any of his or her dependents;
- (f) any amount derived as consideration for the employee's agreement to any conditions of employment or to any changes in his or her conditions of employment;
- (g) the amount by which the value of shares to an employee under an employee share acquisition scheme at the date of issue exceeds the consideration, if any, given by the employee for the shares, including any amount given as consideration for the grant of a right or option to acquire the shares;
- (h) the amount of any gain derived by an employee on disposal of a right or option to acquire shares under any employee share acquisition scheme.

(2) Notwithstanding subsection (1), the employment income of an employee does not include -

- (a) the costs incurred by the employer of any passage to or from Uganda in respect of the employee's appointment or termination of employment where the employee -
  - (i) was recruited or engaged outside Uganda;
  - (ii) is in Uganda solely for the purpose of serving the employer; and
  - (iii) is not a citizen of Uganda; or
- (b) any reimbursement or discharge of the employees medical expenses;

- (c) except where subsection (1)(e) applies, any amount paid as a premium for insurance on the life of the employee and which insurance is for the benefit of the employee or any of his or her dependents;
- (d) any allowance given for, and which does not exceed the cost actually or likely to be incurred, or a reimbursement or discharge of expenditure incurred by the employee on -
  - (i) accommodation and travel expenses; or
  - (ii) meals and refreshment while undertaking travel, in the course of performing duties of employment;
- (e) the value of any meal or refreshment provided by the employer to the employee in premises operated by or on behalf of the employer solely for the benefit of employees and which is available to all full-time employees on equal terms;
- (f) any benefit granted by employer to the employee during a month, where the total value of the benefits provided by the employer to the employee for the month is less than ten thousand shillings; or
- (g) any contribution or similar payment by the employer made to a retirement fund for the benefit of the employee or any of his or her dependents.  
*(effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002)*

(3) For the purposes of this section, the value of a benefit is determined in accordance with the Fifth Schedule to this Act.

(4) Where the amount to which subsection (1)(d) applies is paid by an employer to an employee who has been in the employment of the employer for ten years or more, the amount included in employment income is calculated according to the following formula -

$$A \times 75\%$$

Where A is the total amount derived by the employee to which subsection (1)(d) applies.

(5) For the purposes of subsection (2), a director of a company is only a full-time employee of the company if the director -

- (a) is required to devote substantially the whole of his or her time to the service of the company in a managerial or technical capacity; and
- (b) does not have an interest of more than 5 percent in the underlying ownership of the company.

(6) For the purposes of this section, an amount or benefit is derived in respect of employment if it -

- (a) is provided by an employer or by a third party under an arrangement with the employer or an associate of the employer;
- (b) is provided to an employee or to an associate of an employee; and
- (c) is provided in respect of past, present or prospective employment.

(7) An amount excluded from the employment income of an employee under subsection (2) or (4) is exempt income of the employee.

(8) In this section -

- (a) “employee share acquisition scheme” means an agreement or arrangement under which -
  - (i) a company is required to issue shares in the company to employees of the company or of an associated company; or
  - (ii) a company is required to issue shares to a trustee of a trust and under the trust deed the trustee is required to transfer the shares to employees of the company or of an associated company; and
- (b) “medical expenses” includes a premium or other amount paid for medical insurance.

## **20. Property income**

(1) Property income means -

- (a) any dividends, interest, annuity, natural resource payments, rents, royalties and any other payment derived by a person from the provision, use or exploitation of property;
- (b) the value of any gifts derived by a person in connection with the provision, use or exploitation of property;
- (c) the total amount of any contributions made to retirement fund during a year of income by a tax exempt employer; and
- (d) any other income derived by a person,

but does not include any amount which is business, employment or exempt income.

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(2) An amount included in property income under subsection (1)(a) retains its character as dividends, interest, annuity, natural resource payment, rent or royalties for the purposes of any section of the Act referring to such income.

*Exempt Income*

**21. Exempt income**

(1) The following amounts are exempt from tax -

- (a) the income of a listed institution;
- (b) the income of any organisation or person entitled to privileges under the Diplomatic Privileges Act to the extent provided in the regulations and orders made under that Act;
- (c) the official employment income derived by a person in the public service of the government of a foreign country if -
  - (i) the person is either a nonresident person or is a resident individual solely by reason of performing such service;
  - (ii) the income is payable from the public funds of that country; and
  - (iii) the income is subject to tax in that country;
- (d) any allowance payable outside Uganda to a person working in a Ugandan foreign mission;
- (e) the income of any local authority;
- (f) the income of an exempt organisation, other than-
  - (i) property income, except rent received by an exempt organisation in respect of immovable property and the rent is used by the lessor exclusively for the activities of the organisation specified in paragraph (bb)(i) of the definition of “exempt organisation” in section 2; or
  - (ii) business income that is not related to the function constituting the basis for the organisation’s existence.

*(effective 1<sup>st</sup> July, 2004- Income Tax (Amendment) Bill, 2004)*

- (g) an education grant which the Commissioner is satisfied has been made bona fide to enable or assist the recipient to study at a recognised educational or research institution;

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- (h) any amount derived by way of alimony or allowance under any judicial order or written agreement of separation;
- (i) interest payable on Treasury Bills or Bank of Uganda Bills; (***repealed by Income Tax (Amendment) Act, 2002 - effective 1<sup>st</sup> July, 2001***)
- (j) the value of any property acquired by gift, bequest, devise, or inheritance that is not included in business employment, or property income.
- (k) any capital gain that is not included in business income;
- (l) employment income derived by an individual to the extent provided for in a technical assistance agreement where -
  - (i) the individual is a nonresident or a resident solely for the purpose of performing duties under the agreement; and
  - (ii) the Minister has concurred in writing with the tax provisions in the agreement;
- (m) foreign source income derived by -
  - (i) a short-term resident of Uganda;
  - (ii) a person to whom paragraph (c) or (l) applies; or
  - (iii) a member of the immediate family of a person referred in subparagraph (i) or (ii) of this paragraph;
- (n) a pension;
- (o) a lump sum payment made by a resident retirement fund to a member of the fund or a dependant of a member of the fund;
- (p) the proceeds of a life insurance policy paid by a person carrying on a life insurance business; or
- (q) the official employment income of a person employed in the Uganda People's Defence Forces, the Uganda Police Force, or the Uganda Prisons Service, other than a person employed in a civil capacity;
- (r) the income of the Government of the Republic of Uganda and the Government of any other country. (***effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002***)

the income of an investor compensation fund established under section 81 of the Capital Markets Act. (*effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006*)

- (s) the income of the Bank of Uganda. (*effective 1<sup>st</sup> July, 2002- Income Tax (Amendment) Act, 2003*)
  - (t) the income of a collective investment scheme to the extent of which the income is distributed to participants in the collective investment scheme; (*effective 1<sup>st</sup> July, 2005- Income Tax (Amendment) Act, 2005*)
  - (u) interest earned by a financial institution on a loan granted to any person for the purpose of farming, forestry, fish farming, bee keeping, animal and poultry husbandry or similar operations. (*effective 1<sup>st</sup> July, 2005- Income Tax (Amendment) Act, 2005*)
  - (v) emoluments payable to employees of the East African Development Bank with effect from 1<sup>st</sup> July, 1997.
- (2) In this section-
- (a) “short-term resident” means a resident individual, other than a citizen of Uganda, present in Uganda for a period or periods not exceeding two years; and
  - (b) “technical assistance agreement” means an agreement between the Government of Uganda and a foreign government or a listed institution for the provision of technical assistance to Uganda.

*Deductions.*

**22. Expenses in deriving income**

(1) Subject to the Act, for the purposes of ascertaining the chargeable income of a person for a year of income, there shall be allowed as a deduction -

- (a) all expenditures and losses incurred by the person during the year of income to the extent to which the expenditures or losses were incurred in the production of income included in gross income;
- (b) the amount of any loss, as determined under Part VI, which deals with gains and losses on the disposal of assets, incurred by the person on the disposal of a business assets during the year of income, whether or not the asset or debt was on revenue or capital account; and

- 
- (c) in the case of rental income, 20 percent of the rental income as expenditures and losses incurred by the individual in the production of such income.
- (d) graduated tax paid by an individual. **(effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002)**
- (2) Except as otherwise provided in this Act, no deduction is allowed for -
- (a) any expenditure or loss incurred by a person to the extent to which it is of a domestic or private nature;
- (b) subject to subsection (1), any expenditure or loss of a capital nature, or any amount included in the cost base of any asset;
- (c) any expenditure or loss which is recoverable under any insurance, contract, or indemnity;
- (d) income tax payable in Uganda or a foreign country;
- (e) any income carried to reserve fund or capitalised in any way;
- (f) the cost of a gift made directly or indirectly to an individual where the gift is not included in the individuals gross income;
- (g) any allowance given to, or a reimbursement or discharge of expenditure incurred by, an employee, in respect of the employee's housing, and any expenditures incurred in respect of housing provided to an employee; ***(Repealed by Income Tax (Amendment) Act, 2002 - effective 1<sup>st</sup> July, 2001)***
- (h) any fine or similar penalty paid to any government or a political subdivision of a government for breach of any law or subsidiary legislation;
- (i) a contribution or similar payment made to a retirement fund by the employee either for the benefit of the employee or for the benefit of any other person; ***(effective 1<sup>st</sup> July, 2004- Income Tax (Amendment) Bill, 2004)***
- (j) a premium or similar payment made to a person carrying on a life insurance business on the life of the person making the premium or on the life of some other person;
- (k) the amount of a pension paid to any person; or
- (l) any alimony or allowance paid under any judicial order or written agreement of separation.

(3) In this section, expenditure of a domestic or private nature incurred by a person includes -

- (a) the cost incurred in the maintenance of the person and the person's family or residence;
- (b) the cost of commuting between the persons residence and work;
- (c) the cost of clothing worn to work, except clothing which is not suitable for wearing outside of work; and
- (d) the cost of education of the person not directly relevant to the persons employment or business, and the cost of education leading to a degree or diploma, whether or not it is directly relevant to the person's employment or business.

(4) Unless the Act provides otherwise, Part V, which deals with tax accounting principles, applies for the purposes of determining when an expenditure or loss is incurred for the purposes of this Act.

(5) In this section, "business asset" does not include trading stock or a depreciable asset.

(6) For the purposes of subsection (1) (a) expenditures and losses incurred by a person during exploration, development or production of petroleum in a contract area shall be allowed as a deduction only against the income of that area included in gross income. *(effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006)*

### **23. Meal, refreshment and entertainment expenditure**

A deduction is allowed for expenditure incurred by a person in providing meals, refreshment, or entertainment in the production of income included in gross income, but only where -

- (a) the value of the meals, refreshment, or entertainment is included in the employment income of an employee under section 19(1)(b) or is excluded from employment income by section 19(2)(d) or (e); or
- (b) the person's business includes the provision of meals, refreshment or entertainment and the persons to whom the meals, refreshment or entertainment have been provided have paid an arm's-length consideration for them.

### **24. Bad debts**

(1) Subject to subsection (2), a person is allowed a deduction for the amount of a bad debt written off in the persons account's during the year of income.



(2) A deduction for a bad debt is only allowed -

- (a) if the amount of the debt claim was included in **the person's gross income** in any year of income; or (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)
- (b) if the amount of the debt claim in respect of money lent in the ordinary course of a business carried on by a financial institution in the production of income included in gross income.

(3) In this section,

- (a) "bad debt" means-
  - (i) a debt claim in respect of which the person has taken all reasonable steps to pursue payment and which the person reasonably believes will not be satisfied; and
  - (ii) in relation to a financial institution, a debt in respect of which a loss reserve held against presently identified losses or potential losses, and which is therefore not available to meet losses which subsequently materialise, has been made; and
- (b) "debt claim" means a right to receive a repayment of money from another person, including deposits with financial institutions, accounts receivable, promissory notes, bills of exchange, and bonds.

## 25. Interest

(1) Subject to this Act, a person is allowed a deduction for interest incurred during the year of income in respect of a debt obligation to the extent that the debt obligation has been incurred by the person in the production of income included in gross income.

(2) In this section, "debt obligation" includes an obligation to make a swap payment arising under a swap agreement and shares in a building society.

## 26. Repairs and minor capital equipment

(1) A person is allowed a deduction for expenditure incurred during the year of income for the repair of property occupied or used by the person in the production of income included in gross income.

(2) A person is allowed a deduction for expenditure incurred during the year of income in acquiring a depreciable asset with a cost base of less than **fifty currency points**. (*effective 1<sup>st</sup> July, 2004- Income Tax (Amendment) Bill, 2004*)

(3) Subsection (2) only applies to a depreciable asset if the asset normally functions in its own right and is not an individual item which forms part of a set.

## 27. Depreciable assets

(1) A person is allowed a deduction for the depreciation of the person's depreciable assets, other than an asset to which section 26(2) applies, during the year of income as calculated in accordance with this section.

(2) Depreciable assets are classified into four classes as set out in Part I of the Sixth Schedule with depreciation rates applicable for each class as specified in that Part.

(3) A persons depreciable assets shall be placed into separate pools for each class of asset, and the depreciation deduction for each pool is calculated according to the following formula -

$$A \times B$$

where-

**A** is the written down value of the pool at the end of the year of income; and

**B** is the depreciation rate applicable to the pool.

(4) The written down value of a pool at the end of a year of income is the total of -

(a) the written down value of the pool at the end of the preceding year of income after allowing for the deduction under subsection (3) for that year; and

(b) the cost base of assets added to the pool during the year of income,

reduced, but not below zero, by the consideration received from the disposal of assets in the pool during the year of income.

(5) Where the amount of consideration received by person from the disposal during a year of income of any asset or assets in a pool exceeds the written down value of the pool at the end of the year of income disregarding that amount, the excess is included in the business income of the person for that year.

(6) If the written-down value of a pool at the end of the year of income, after allowing for the deduction under subsection (3), is less than five currency points a deduction shall be allowed for the amount of that written down value.

(7) Where all the assets in a pool are disposed of before the end of a year of income, a deduction is allowed for the amount of the written-down value of the pool as at the end of that year.

(8) Where a person has incurred nondeductible expenditures in more than one year of income in respect of a depreciable asset, this section applies as if the expenditures incurred in different years of income were incurred for the acquisition of separate assets of the same class.

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(9) The cost base of a depreciable asset is added to a pool in the year of income in which the asset is placed in service.

(10) Where a depreciable asset is only partly used during a year of income in the production of income included in gross income, the depreciation deduction allowed under this section in relation to the asset shall be proportionately reduced.

(11) For the purposes of subsection (4)(b), the cost base of a road vehicle, other than a commercial vehicle, is not to exceed the amount set out in Part II to the Sixth Schedule.

(12) Where the cost base of a road vehicle for the purposes of subsection (4)(b) is limited under subsection (11), the person is treated as having acquired two assets -

- (a) a depreciable asset being a road vehicle with a cost base equal to the amount set out in Part II to the Sixth Schedule of this Act; and
- (b) a business asset that is not a depreciable asset with a cost base equal to the difference between the cost base of the asset not taking into account subsection (11), in this section referred to as the “actual cost base”, and the amount set out in Part II of the Sixth Schedule.

(13) Where a road vehicle to which subsection (12) applies is disposed of, the person is treated as having disposed of each of the assets specified under that subsection, and the consideration received on disposal is apportioned between the two assets based on the ratio of the cost base of each asset as determined under that subsection to the actual cost base of the asset.

(14) In calculating the amount of any gain or loss arising on disposal of an asset specified in subsection (12)(b), the cost base of the asset as determined under that paragraph is reduced by the depreciation deductions which would have been allowed to the person if the asset -

- (a) was a depreciable asset being a road vehicle; and
- (b) the asset was the only asset in the pool.

(15) In this section, “commercial vehicle” means -

- (a) a road vehicle designed to carry loads of more than half a tonne or more than thirteen passengers; or
- (b) a vehicle used in a transportation or vehicle rental business.

## **28. Initial allowance**

(1) A person who places an item of eligible property into service for the first time during the year of income is allowed a deduction for that year of an amount equal-

- (a) where the asset is placed in service outside an area prescribed in Part IV of the Sixth Schedule to this Act, 75 percent of the cost base of the property at the time it is placed in service; or
- (b) in any other case, 50 percent of the cost base of the property at the time it is placed in service.

(2) The cost base of an asset to which subsection (1) applies is reduced by the amount of the deduction allowed under that subsection for the purposes of section 27(4)(b).

(3) In this section, “item of eligible property” means plant and machinery wholly used in the production of income included in gross income but does not include -

- (a) goods and passenger transport vehicles;
- (b) appliances of a kind ordinarily used for household purposes; or
- (c) office or household furniture, fixtures, and fittings.

(4) A person who places a new industrial building in service for the first time during the year of income is allowed a deduction for that year of an amount equal to twenty percent of the cost base of the building at the time it was placed in service. *(effective 1<sup>st</sup> July, 2000- Finance Act, 2001)*

(5) The cost base of an industrial building to which subsection (4) applies is reduced by the amount of deduction allowed under that subsection for the purposes of section 29. *(effective 1<sup>st</sup> July, 2000- Finance Act, 2001)*

(6) Where a person has incurred capital expenditure on the extension of an existing industrial building, this section applies as if the expenditure was capital expenditure incurred on the construction of a separate industrial building. *(effective 1<sup>st</sup> July, 2000- Finance Act, 2001)*

(7) For the purposes of subsection (4) and (6), a new industrial building or extension of an industrial building means a building on which construction was commenced on or after 1 July 2000. *(effective 1<sup>st</sup> July, 2000- Finance Act, 2001)*

(8) In this section, “industrial building” does not include an approved commercial building. *(effective 1<sup>st</sup> July, 2000- Finance Act, 2001)*

## **29. Industrial buildings**

(1) Subject to this section, where a person has incurred capital expenditure in any year of income on the construction of an industrial building and the building is used by the person during the year of income in the production of income included in gross income, the person is allowed a deduction for the depreciation of the building during the year of income as calculated according to the following formula -

$$A \times B \times C/D$$

where -

**A** is the depreciation rate applicable to the building as determined under Part III of the Six Schedule;

**B** is the capital expenditure incurred in the construction of the building;

**C** is the number of days in the year of income during which the asset was used or was available for use in the production of income included in gross income; and

**D** is the number of days in the year of income.

(2) Subject to subsection (3), where an industrial building is only partly used by a person during a year of income for prescribed uses, the amount of the depreciation deduction allowed under subsection (1) shall be proportionately reduced.

(3) Where an industrial building is only partly used by a person during a year of income for prescribed uses and the capital expenditure incurred in the construction of that part of the building not used for other uses is not more than 10 percent of the total capital expenditure incurred on the construction of the building, the building is treated as wholly used for prescribed uses.

(4) Where a person has incurred expenditure in making a capital improvement to an industrial building in a year of income, this section applies as if the expenditure was capital expenditure incurred in that year in the construction of a separate industrial building.

(5) Where an industrial building is purchased by a person, the person is deemed to have incurred the capital expenditure incurred by the person who constructed the building.

(6) The amount of the deduction allowed under this section is not to exceed the amount which, apart from making the deduction, would be the residue of expenditure at the end of the year of income.

(7) Where an industrial building has been disposed of by a person during a year of income, the cost base of the building for the purposes of this Act is reduced by any deductions allowed to the person under this section in respect of the building.

(8) Where an industrial building is bought and sold together with land, the value of the land shall be the difference between the total consideration and value of the building as defined in subsection (7).

(9) Where subsection (4) applies, the consideration received on disposal of an industrial building shall be reasonably apportioned among the separate industrial buildings identified under that subsection.

(10) In this section,

- (a) “capital expenditure” does not include -
  - (iii) expenditure incurred in the acquisition of a depreciable asset installed in an industrial building; or
  - (iv) expenditure incurred in the acquisition of, or of any rights in or over, any land;
- (b) “prescribed uses” means the uses specified in the definition of “industrial building” in section 2 ; and
- (c) “residue of expenditure” means the capital expenditure incurred on the construction of an industrial building less any deductions allowed under this section to any person and any amounts which would have been allowed as deductions if the building was solely used for prescribed uses at all times since construction was completed.

**30. Start-up costs**

A person who has incurred expenditure in starting up a business to produce income included in gross income or in the initial public offering at the stock market shall be allowed a deduction of an amount equal to 25 percent of the amount of the expenditure in the year of income in which the expenditure was incurred and in the following three years of income in which the business is carried on by the person. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

**31. Costs of intangible assets**

(1) A person who has incurred expenditure in acquiring an intangible asset having an ascertainable useful life is allowed a deduction in each year of income during the useful life of the asset in which the person wholly uses the asset in the production of income included in gross income of an amount calculated according to the following formula -

$$A/B$$

where -

- A** is the amount of expenditure incurred; and
- B** is the useful life of the asset in whole years.

(2) Where an intangible asset has been disposed of by a person during the year of income, the cost base of the asset is reduced by any deductions allowed under this section to the person in respect of the asset.

**32. Scientific research expenditure**

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(1) A person is allowed a deduction for scientific research expenditure incurred during the year of income in the course of carrying on a business, the income from which is included in gross income.

(2) In this section -

- (a) “scientific research” means any activities in the fields of natural or applied science for the development human knowledge;
- (b) “scientific research expenditure”, in relation to a person carrying on business, means the cost of scientific research undertaken for the purposes of developing the person’s business, including any contribution to a scientific research institution which is used by the institution in undertaking research for the purposes of developing the person’s business, but does not include-
  - (i) expenditure incurred for the acquisition of a depreciable or intangible asset;
  - (ii) expenditure incurred for the acquisition of land or buildings; or
  - (iii) expenditure incurred for the purpose of ascertaining the existence, location, extent, or quality of a natural deposit; and
- (c) “scientific research institution” means an association, institute, college, or university which undertakes scientific research.

### **33. Training expenditure**

(1) An employer is allowed a deduction for expenditure incurred during the year of income for the training or tertiary education, not exceeding in the aggregate five years, of a citizen or permanent resident of Uganda, other than an associate of the employer, who is employed by the employer in a business, the income from which is included in gross income.

(2) In this section, “permanent resident” means resident individual who has been present in Uganda for a period or periods in total of five years or more.

### **34. Charitable donations**

(1) A person is allowed a deduction for a gift made during a year of income to an organisation within section 2(bb)(i)(A) or (B) of the definition of “exempt organisation”.

(2) For the purposes of subsection (1), the value of a gift of property is the lesser of -

- (a) the value of the property at the time of the making of the gift; or
- (b) the consideration paid by the person for the property.

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(3) The amount of a deduction allowed under subsection (1) for a year of income shall not exceed 5 percent of the person's chargeable income, calculated before taking into account the deduction under this section.

### 35. Farming

(1) Expenditure incurred by a person in acquiring farm works is included in the person's pool for class 4 assets under section 27 in the year of income in which the expenditure is incurred and is depreciated accordingly.

(2) Subject to subsection (3), a person carrying on a business of horticulture in Uganda **to produce income included in gross income** who has incurred expenditure of a capital nature on-

- (a) the acquisition or establishment of a horticultural plant; or
- (b) the construction of a greenhouse,

shall be allowed a deduction of an amount equal to 20 percent of the amount of the expenditure in the year of income in which the expenditure was incurred and in the following four years of income in which the plant or greenhouse is used in the business of horticulture carried on by the person. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(3) Expenditure of a capital nature incurred on the establishment of a horticultural plant shall include expenditure incurred in draining or clearing land.

(4) In this section-

(a) "farm works" means any labour quarters and other immovable buildings necessary for the proper operation of a farm, fences, daps, drains, water and electricity supply works, windbreaks, and other works necessary for farming operations **carried on to produce income included in gross income**, but does not include-

- (i) farm houses; or
- (ii) depreciable assets; and.

(*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(c) "horticulture" includes-

- (i) propagation or cultivation of seeds, bulbs, spores or similar things;
- (ii) propagation or cultivation of fungi; or



- (iii) propagation or cultivation in environments other than soil whether natural or artificial.

### **36. Mineral exploration expenditures**

A person carrying on mining operations **to produce income included in gross income** is allowed a deduction for any expenditure of a capital nature incurred in searching for, discovering and testing, or winning access to deposits of minerals in Uganda. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

### **37. Apportionment of deductions**

(1) A deduction relating to the production of more than one class of income shall be reasonably apportioned among the classes of income to which it relates.

(2) Where a person derives more than one class of income, the deduction allowed under section 34 shall be allocated rateably to each class of income.

### **38. Carry forward losses**

(1) Subject to this section, where, for any year of income, the total amount of income included into the gross income of a taxpayer is exceeded by the total amount of deductions allowed to the taxpayer, the amount of the excess, in this Act referred to as an “assessed loss”, shall be carried forward and allowed as a deduction in determining the taxpayer’s chargeable income in the following year of income.

(2) Where for any year of income the total farming income derived by a taxpayer who is an individual is exceeded by the total deductions allowed to the taxpayer relating to the production of that income, the amount of the excess, in this Act referred to as an “assessed farming loss”, may not be deducted against any other income of the taxpayer for the year of income, but shall be carried forward and allowed as a deduction in determining the chargeable farming income of the taxpayer in the following year of income.

(3) The amount of an assessed loss carried forward under this section for a taxpayer shall be reduced by the amount or value of any benefit to the taxpayer from a concession granted by, or a compromise made with, the taxpayer’s creditors **in the course of an insolvency** whereby the taxpayer’s liabilities to those creditors have been extinguished or reduced, provided such liabilities were incurred in the production of income included in gross income. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(4) Where a taxpayer has more than one class of loss, the reduction in subsection (3) shall be applied rateably to each class of loss.

(5) Subsection (1) shall apply separately to income derived from sources in Uganda and to foreign-source income.

(6) In this section -

- (a) “chargeable farming income” means the total farming income of a taxpayer for a year of income reduced by any deductions allowed under this Act for that year which relate to the production of such income; and
- (b) “faming income” means the business income derived from the carrying on of farming operations.

PART V - TAX ACCOUNTING PRNCIPLES

**39. Substituted year of income**

(1) A taxpayer may apply, in writing, to use as the taxpayer’s year of income a substituted year of income being a twelve-month period other than the normal year of income; and the Commissioner may, subject to subsection (3), by notice in writing, approve the application.

(2) A taxpayer granted permission under subsection (1) to use a substituted year of income may apply, in writing, to change the taxpayer’s year of income to the normal year of income or to another substituted year of income; and the Commissioner, subject to subsection (3), may, by notice in writing, approve the application.

(3) The Commissioner may only approve an application under subsection (1) or (2) if the taxpayer has shown a compelling need to use a substituted year of income or to change the taxpayer’s year of income and any approval is subject to such conditions as the Commissioner may prescribe.

(4) The Commissioner may, by notice in writing to a taxpayer, withdraw the permission to use a substituted year of income granted under subsection (1) or (2).

(5) A notice served by the Commissioner under subsection (1) takes effect on the date specified in the notice, and a notice under subsection (2) or (4) takes effect at the end of the substituted year of income of the taxpayer in which the notice was served.

(6) Where the year of income of a taxpayer changes as a result of subsection (1), (2) or (4), the period between the last full year of income prior to the change and the date on which the changed year of income commences is treated as a separate year of income, to be known as the “transitional year of income”.

(7) In this Act, a reference to a particular normal year of income includes a substituted year of income or a transitional year of income commencing during the normal year of income.

(8) A taxpayer dissatisfied with a decision of the Commissioner under subsections (1), (2), or (4) may only challenge the decision under the objection and appeal procedure in this Act.

(9) In this section, “normal year of income” means the period of twelve months ending on 30<sup>th</sup> June.

**40. Method of accounting**

(1) A taxpayer’s method of accounting shall conform to generally accepted accounting principles.

(2) Subject to subsection (1) and unless the Commissioner prescribes otherwise in a particular case, a taxpayer may account for tax purposes on a cash or accrual-basis.

(3) A taxpayer may apply, in writing, for a change in the taxpayer’s method of accounting and the Commissioner may, by notice in writing, approve such an application but only if satisfied that the change is necessary to clearly reflect the taxpayer’s income.

(4) A taxpayer dissatisfied with a decision under this section may only challenge the decision under the objection and appeal procedure in this Act.

(5) If the taxpayer’s method of accounting is changed, adjustments to items of income, deduction, or credit or to other items shall be made in the year of income following the change, so that no item is omitted and no item is taken into more than once.

**41. Cash-basis taxpayer**

A taxpayer who is accounting for tax purposes on a cash basis derives income when it is received or made available and incurs expenditure when it is paid.

**42. Accrual-basis taxpayer**

(1) A taxpayer who is accounting for tax purposes on an accrual-basis -

(a) derives income when it is receivable by the taxpayer; and

(b) incurs expenditure when it is payable by the taxpayer.

(2) Subject to this Act, an amount is receivable by a taxpayer when the taxpayer becomes entitled to receive it, even if the time for discharge of the entitlement is postponed or the entitlement is payable by instalments.

(3) Subject to this Act, an amount is treated as payable by the taxpayer when all the events that determine liability have occurred and the amount of the liability can be determined with reasonable accuracy, but not before economic performance with respect to the amount occurs.

(4) For the purposes of subsection (3), economic performance occurs -

(a) with respect to the acquisition of services or property, at the time the services or property are provided;

- (b) with respect to the use of property, at the time the property is used; or
- (c) in any other case, at the time the taxpayer makes payment in full satisfaction of the liability.

#### **43. Prepayments**

Where a deduction is allowed for expenditure incurred on a service or other benefit which extends beyond thirteen months, the deduction is allowed proportionately over the years of income to which the service or other benefit relates.

#### **44. Claim of right**

(1) A taxpayer who is accounting for tax purposes on a cash basis shall include **an amount in gross income** when received or claim a deduction for an amount when paid, notwithstanding that the taxpayer is not legally entitled to receive the amount or liable to make the payment, if the taxpayer claims to be legally entitled to receive or legally obliged to pay the amount. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(2) Where subsection (1) applies, the calculation of the chargeable income of the taxpayer shall be adjusted for the year of income in which the taxpayer refunds the amount received or recovers the amount paid.

(3) A taxpayer who is accounting for tax purposes on an accrual basis shall include **an amount in gross income** when receivable or claim a deduction for an amount when payable notwithstanding that the taxpayer is not legally entitled to receive the amount or liable to make the payment, if the taxpayer claims to be legally entitled to receive, or legally obliged to pay the amount. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(4) Where subsection (3) applies, the calculation of the chargeable income of the taxpayer shall be adjusted for the year of income in which the taxpayer ceases to claim the right to receive the amount or ceases to claim an obligation to pay the amount.

#### **45. Long-term contracts**

(1) In the case of an accrual-basis taxpayer, income and deductions relating to a long-term contract are taken into account on the basis of the percentage of the contract completed during the year of income.

(2) The percentage of completion is determined by comparing the total costs allocated to the contract and incurred before the end of the year of income with the estimated total contract costs as determined at the time of commencement of the contract.

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(3) Where, in the year of income in which a long-term contract is completed, it is determined that the contract has made a final year loss, the Commissioner may allow the loss to be carried back to the preceding years of income and applied against the amount included in **gross** income over the period of the contract under subsection (1) for those years, starting with the year immediately preceding the year in which the contract was completed. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(4) In this section,

(a) “final year loss” in relation to a long-term contract, occurs where both the following conditions are satisfied-

- (i) the profit estimated to be made under the contract for the purposes of subsection (1) exceeds the actual profit, including a loss, made under the contract; and
- (ii) the difference between the estimated profit and the actual profit exceeds the amount included in income under subsection (1) for the year of income in which the contract is completed,

and the amount of the excess referred to in subparagraph (ii) of this paragraph is the amount of the final year loss; and

(b) “long-term contract” means a contract for manufacture, installation or construction or, in relation to each, the performance of related services, which is not completed within the year of income in which work under the contract commenced, other than a contract estimated to be completed within six months of the date on which work under the contract commenced.

#### **46. Trading stock**

(1) A taxpayer is allowed a deduction for the cost of trading stock disposed of during a year of income.

(2) The cost of trading stock disposed of during a year of income is determined by adding to the opening value of trading stock for the year, the cost of trading stock acquired during the year, and subtracting the closing value of trading stock for the year.

(3) The opening value of trading stock for a year of income is-

- (a) the closing value of trading stock at the end of the previous year of income; or
- (b) where the taxpayer commenced business during the year of income, the market value at the time of commencement of the business of trading stock acquired prior to the commencement of the business. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

- (4) The closing value of trading stock is lower of cost or the market value of trading stock on hand at the end of the year of income
- (5) A taxpayer who is accounting for tax purposes on a cash basis may calculate the cost of trading stock on the prime-cost method or absorption-cost method; and a taxpayer who is accounting for tax purposes on an accrual-basis shall calculate the cost of trading stock on the absorption-cost method.
- (6) Where particular items of trading stock are not readily identifiable, a taxpayer may account for that trading stock on the first-in-first method or the average-cost method but, once chosen, a stock valuation method may be changed only with the written permission of the Commissioner.
- (7) In this section-
  - (a) “absorption-cost method” means the generally accepted accounting principle under which the cost of trading stock is the sum of direct material costs, direct labour costs, and factory overhead costs;
  - (b) “average-cost method” means the generally accepted accounting principle under which trading stock valuation is based on a weighted average cost of units on hand;
  - (c) “direct labour costs” means labour costs directly related to the production of trading stock;
  - (d) “direct material costs” means the cost of materials that become an integral part of the trading stock produced;
  - (e) “factory overhead costs” means the total costs of manufacturing except direct labour and direct material costs;
  - (f) “first-in-first method” means the generally accepted accounting principle under which the cost of trading stock valuation is based on the assumption that trading stock is sold in the order of its receipt;
  - (g) “prime-cost method” means the generally accepted accounting principle under which the cost of trading stock is the sum of direct material costs, direct labour costs and variable factory overhead costs; and
  - (h) “variable factory overhead costs” means those factory overhead costs which vary directly with changes in volume.

**47. Debt obligations with discount or premium**

- (1) Subject to subsection (2), interest in the form of any discount, premium or deferred interest shall be taken into account as it accrues.
- (2) Where the interest referred to in subsection (1) is subject to withholding tax, the interest shall be taken to be derived or incurred when paid.

**48. Foreign currency debt gains and losses**

(1) Foreign currency debt gains are included in gross income and foreign currency debt losses are deductible only under this section.

(2) A foreign currency debt gain derived by a taxpayer during the year of income is included in the business income of the taxpayer for that year.

(3) Subject to subsection (4) and (6), a foreign currency debt loss incurred by a taxpayer during a year of income is allowed as a deduction to the taxpayer in that year.

(4) A deduction is not allowed to a taxpayer for foreign currency debt loss incurred by the taxpayer unless the taxpayer has notified the Commissioner in writing of the existence of the debt which gave rise to the loss by the due date for furnishing of the taxpayer's return of income for the year income in which the debt arose or by such later date as the Commissioner may allow.

(5) Subsection (4) does not apply to a financial institution.

(6) Where-

(a) a taxpayer has incurred a foreign currency debt loss under a transaction;

(b) the taxpayer or another person has derived a foreign currency debt gain under another transaction; and

(c) either-

(i) the transaction giving rise to the loss would not have been entered into, or might reasonably be expected not to have been entered into, if the transaction giving rise to the gain had not been entered into; or

(ii) the transaction giving rise to the gain would not have been entered into, or might reasonably be expected not to have been entered into, if the transaction giving rise to the loss had not been entered into,

no deduction is allowed to the taxpayer to the extent that the amount of the loss exceeds that part of the gain included in gross income.

(7) Subject to subsection (9), a taxpayer derives a foreign currency debt gain if-

(a) where the taxpayer is a debtor, the amount in shillings of the foreign currency debt incurred by the taxpayer is greater than the amount in shillings required to settle the debt; or

(b) where the taxpayer is a creditor, the amount in shillings of the foreign currency debt owed to the taxpayer is less than the amount in shillings paid to the taxpayer in settlement of the debt.

(8) Subject to subsection (9), a taxpayer incurs a foreign currency debt loss if-

- (a) where the taxpayer is a debtor, the amount in shillings of the foreign currency debt incurred by the taxpayer is less than the amount in shillings required to settle the debt; or
- (b) where the taxpayer is a creditor, the amount in shillings of the foreign currency debt owed to the taxpayer is greater than the amount in shillings paid to the taxpayer in settlement of the debt.

(9) In determining whether a taxpayer has derived a foreign currency debt gain or incurred a foreign currency debt loss, account shall be taken of the taxpayer's position under any hedging contract entered into by the taxpayer in respect of the debt.

(10) A foreign currency debt gain is derived or a foreign currency debt loss is incurred by a taxpayer in the year of income in which the debt is satisfied.

(11) In this section-

- (a) "foreign currency debt" means a business debt denominated in foreign currency; and
- (b) "hedging contract" means a contract entered into by the taxpayer for the purpose of eliminating or reducing the risk of adverse financial consequences which might result for the taxpayer under another contract from currency exchange rate fluctuation.

## PART VI – GAINS AND LOSSES ON DISPOSAL OF ASSETS

### **49. Application of Part VI**

This Part applies for the purposes of determining the amount of any gain or loss arising on the disposal of an asset where the gain is included in gross income or the loss is allowed as a deduction under this Act.

### **50. Gains and losses on disposal of assets**

(1) The amount of any gain arising from the disposal of an asset is the excess of the consideration received for the disposal over the cost base of the asset at the time of the disposal.

(2) The amount of any loss arising from the disposal of an asset is the excess of the cost base of the asset at the time of the disposal over the consideration received for the disposal.

### **51. Disposals**

(1) A taxpayer is treated as having disposed of an asset when the asset has been-



- (a) sold, exchanged, redeemed, or distributed by the taxpayer;
- (b) transferred by the taxpayer by way of gift; or
- (c) destroyed or lost.

(2) A disposal of an asset includes a disposal of a part of the asset.

(3) Where the Commissioner is satisfied that a taxpayer-

- (a) has converted an asset from a taxable use to nontaxable use; or
- (b) has converted an asset from a nontaxable use to a taxable use,

the taxpayer is deemed to have disposed of the asset at the time of the conversion for an amount equal to the market value of the asset at that time and to have immediately re-acquired the asset for a cost base equal to that same value.

(4) A nonresident person who becomes a resident person is deemed to have acquired all assets, other than taxable assets, owned by the person at the time of becoming a resident for their market value at that time.

(5) A resident person who becomes a nonresident person is deemed to have disposed of all assets, other than taxable assets, owned by the person at the time of becoming a nonresident for their market value at that time.

(6) Where a person to whom subsection (5) would otherwise apply-

- (a) intends, in the future, to reacquire status as a resident person, and
- (b) provides the Commissioner with sufficient security to satisfy any tax liability which would otherwise arise under subsection (5),

the Commissioner may, by notice in writing, exempt the person from the application of subsection (5).

(7) In this section, “taxable asset” means an asset the disposal of which would give rise to a gain included in the gross income of, or a loss allowed as a deduction to, a resident or nonresident taxpayer.

## **52. Cost base**

(1) Subject to this Act, this section establishes the cost base of an asset for the purposes of this Act.

(2) The cost base of an asset purchased, produced, or constructed by the taxpayer is the amount paid or incurred by the taxpayer in respect of the asset, including incidental expenditures of a capital nature incurred in acquiring the asset, and includes the market value

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**at the date of acquisition** of any consideration in kind given for the asset. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(3) Subject to subsection (4), the cost base of an asset acquired in a non-arm's length transaction is the market value of the asset at the date of acquisition.

(4) The cost base of an asset acquired in a transaction described in section 53(2) is the amount of the consideration deemed by that subsection to have been received by the person disposing of the asset.

(5) Where a part of an asset is disposed of, the cost base of the asset shall be apportioned between the part of the asset retained and the part disposed of in accordance with their respective market values at the time of acquisition of the asset.

(6) Unless otherwise provided in this Act, expenditures incurred to alter or improve an asset which have not been allowed as a deduction are added to the cost base of the asset.

(7) Where the acquisition of an asset by a taxpayer represents the derivation of an amount included in gross income, the cost base of the asset is the amount included in gross income plus any amount paid by the taxpayer for the asset

(8) Where the receipt of an asset represents the derivation of an amount which is exempt from tax, the cost base of the asset is the amount exempt from tax plus any amount paid by the taxpayer for the asset.

### **53. Special rules for consideration received**

(1) The consideration received on disposal of an asset includes the market value **at the date of the disposal** any consideration received in kind. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(2) Where an asset is disposed of to an associate or in a non-arm's length transaction other than by way of transmission of the asset to a trustee or beneficiary on the death of a taxpayer, the person disposing of the asset, in this section referred to as the "disposer", is treated as having received consideration equal to the greater of-

- (a) the cost base of the asset to the disposer at the time of disposal; or
- (b) the fair market value of the asset at the date of disposal.

(3) Where two or more assets are disposed of in a single transaction and the consideration paid for each asset is not specified, the total consideration received is apportioned among the assets disposed of in proportion to their respective market values at the time of the transaction.

(4) Where a part of an asset is disposed of, the consideration received is apportioned between the part of the asset retained and the part of the asset disposed of in accordance with their respective

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market values at the time of acquisition of the asset. *(Repealed by Income Tax (Amendment) Act, 2002 - effective 1<sup>st</sup> July, 2001)*

**54. Nonrecognition of gain or loss**

(1) No gain or loss is taken into account in determining chargeable income in relation to-

- (a) a transfer of an asset between spouses;
- (b) a transfer of an asset between former spouses as part of a divorce settlement or bona fide separation agreement;
- (c) an involuntary disposal of an asset to the extent to which the proceeds are reinvested in an asset of a like kind within one year of the disposal;  
or
- (d) the transmission of an asset to a trustee or beneficiary on the death of a taxpayer.

(2) Where no gain or loss is taken into account as a result of subsection (1)(a), (b) or (d), the transferred or transmitted asset is deemed to have been acquired by the transferee, or trustee or beneficiary as an asset of the same character for a consideration equal to the cost base of the asset to the transferor or deceased taxpayer at the time of the disposal.

(3) The cost base of a replacement asset described in subsection (1)(c) is the cost base of the replaced asset plus the amount by which any consideration given by the taxpayer for the replaced asset exceeds the amount of proceeds received on the involuntary disposal.

**PART VII - MISCELLANEOUS RULES FOR DETERMINING  
CHARGEABLE INCOME.**

**55. Income of joint owners**

(1) Income or deductions relating to jointly owned property are apportioned among the joint owners in proportion to their respective interests in the property.

(2) Where the interest of the joint owners in jointly owned property cannot be ascertained, the interest of such joint owners in the property shall be deemed to be equal.

**56. Valuation**

(1) For the purposes of this Act and subject to section 19(1)(b), the value of a benefit in kind is the fair market value of the benefit on the date the benefit is taken into account for tax purposes.

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(2) The fair market value of a benefit is determined without regard to any restriction on transfer or to the fact that it is not otherwise convertible to cash.

**57. Currency conversion**

(1) Chargeable income under this Act shall be calculated in Uganda shillings.

(2) Where **an amount taken into account under this Act** is in a currency other than the Uganda Shilling, the amount shall be converted to the Uganda Shilling at the Bank of Uganda mid-exchange rate applying between the currency and the Uganda Shilling on the date that the amount is derived, incurred, or otherwise taken into account for tax purposes. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(3) With the prior written permission of the Commissioner, a taxpayer may use the average rate of exchange during the year of income, or may keep books of account in a currency other than the Uganda shilling.

**58. Indirect payments and benefits**

The income of a person includes-

- (a) a payment that directly benefits the person, and
- (b) a payment dealt with as the person directs,

which would have been income of the person if the payment had been made directly to the person.

**59. Finance leases**

(1) Where a lessor leases property to a lessee under a finance lease, for the purposes of this Act -

- (a) the lessee shall be treated as the owner of the property, and
- (b) the lessor is treated as having made a loan to the lessee, in respect of which payments of interest and principal are made to the lessor equal in amount to the rental payable by the lessee.

(2) The interest component of each payment under the loan is treated as interest expense incurred by the lessee and interest income derived by the lessor.

(3) A lease of property is a finance lease if -

- (a) the lease term exceeds seventy-five percent of the effective life of the leased property;

- (b) the lessee has an option to purchase the property for a fixed or determinable price at the expiration of the lease; or
- (c) the estimated residual value of the property to the lessor at the expiration of the lease term is less than twenty percent of its fair market value at the commencement of the lease.

(4) For the purposes of subsection (3), the lease term includes any additional period of the lease under an option to renew.

#### **60. Exclusion of doctrine of mutuality**

(1) A company which carries on a members club, a trade association, or a mutual insurance company is treated for the purposes of this Act as carrying on a business subject to tax.

(2) The business income of a company to which subsection (1) applies includes entrance fees and subscriptions paid by members.

(3) Where a company referred to in subsection (1) is operated primarily to furnish goods or services to member, deductions attributable to the furnishing of goods or services to members are allowed only to the extent of the total income derived from the members, with any excess carried forward and allowed as a deduction in the following year of income.

(4) In this section, “members’ club” means a club or similar institution all the assets of which are owned by or are held in trust for the members of the club or institution.

#### **61. Compensation receipts**

A compensation payment derived by a person takes the character of the item that is compensated.

#### **62. Recouped expenditure**

(1) Where a previously deducted expenditure, loss or bad debt is recovered by the taxpayer, the amount recovered is deemed to be income derived by the taxpayer in the year of income in which it is recovered and takes the character of the income to which the deduction related.

(2) For the purposes of subsection (1), a deduction is considered recovered upon the occurrence of an event which is inconsistent with the basis for the deduction.

### **PART VIII - PERSONS ASSESSABLE.**

#### *Taxation of Individuals*

**63. Taxation of individuals**

The chargeable income of each taxpayer who is an individual is determined separately.

**64. Income splitting**

(1) Where a taxpayer attempts to split income with another person, the Commissioner may adjust the chargeable income of the taxpayer and the other person to prevent any reduction in tax payable as a result of the splitting of income.

(2) A taxpayer is treated as having attempted to split income where-

(a) the taxpayer transfers income, directly or indirectly, to an associate; or

(b) the taxpayer transfers property, including money, directly or indirectly, to an associate with the result that the associate receives or enjoys the income from that property,

and the reason or one of the reasons for the transfer is to lower the total tax payable upon the income of the transferor and the transferee.

(3) In determining whether the taxpayer is seeking to split income, the Commissioner shall consider the value, if any, given by the associate for the transfer.

*Taxation of partnerships and partners.*

**65. Principles of taxation for partnerships**

(1) The income and losses arising from activities conducted by a partnership is taxed in accordance with this Act.

(2) The presence or absence of a written partnership agreement is not decisive in determining whether a partnership relationship exists between persons.

(3) A partnership shall be liable to furnish a partnership return of income in accordance with section 92, but shall not be liable to pay tax on that income.

(4) Any election, notice, or statement required to be filed in relation to a partnership's activities shall be filed by the partnership.

(5) Unless the context otherwise requires, partnership assets are treated as owned by the partnership and not the partners. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

**66. Calculation of partnership income or loss**

(1) The partnership income for a year of income is -

- (a) the gross income of the partnership for that year calculated as if the partnership were a resident taxpayer; less
- (b) the total amount of deductions allowed under this Act for expenditures or losses incurred by the partnership in deriving that income, other than the deduction allowed under section 38.

(2) A partnership loss occurs for a year of income where the amount in subsection (1)(b) exceeds the amount in subsection (1)(a) for that year, and the amount of the excess is the amount of the loss.

(3) Where the partnership is a nonresident partnership for a year of income, section 87 applies in calculating partnership income or partnership loss of the partnership for that year.

#### **67. Taxation of partners**

(1) The gross income of a resident partner for a year of income includes the partner's share of partnership income for that year.

(2) The gross income of a nonresident partner for a year of income includes the partner's share of partnership income attributable to sources in Uganda.

(3) A resident partner is allowed a deduction for a year of income for the partner's share of a partnership loss for that year.

(4) A nonresident partner is allowed a deduction for a year of income for the partner's share of a partnership loss, but only to the extent that the activity giving rise to the loss would have given rise to partnership income attributable to sources in Uganda if a loss had not been incurred.

(5) Income derived, or expenditure or losses incurred, by a partnership retain their character as to geographic source and type of income, expenditure, or loss in the hands of the partners, and are deemed to have been passed through the partnership on a pro rata basis unless the Commissioner permits otherwise.

(6) Subject to subsection (7), a partner's share of partnership income or loss is equal to the partner's percentage interest in the income of the partnership as set out in the partnership agreement.

(7) Where the allocation of income in the partnership agreement does not reflect the contribution of the partners to the partnership's operations, a partner's share of partnership income or loss shall be equal to the partner's share of partnership income or loss shall be equal to the partner's percentage interest in the capital of the partnership.

#### **68. Formation, reconstitution or dissolution of a partnership**

(1) A contribution to a partnership by a partner of an asset owned by the partner is treated as disposal of the asset by the partner to the partnership for a consideration equal to-

- (a) the cost base of the asset to the partner at the date on which the contribution was made where all the following conditions are satisfied-
  - (i) the asset was a business asset of the partner immediately before its contribution to the partnership;
  - (ii) the partner and partnership are residents at the time of the contribution;
  - (iii) the partner's interest in the capital of the partnership after the contribution is 25 percent or more; and
  - (iv) an election for this paragraph to apply has been made by the partners jointly;
  - (v) the interest in the partnership received by the partner in return for the contribution equals the market value of the asset contributed at the time of the contribution; or  
*(effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002)*
- (b) in any other case, the market value of the asset at the date the contribution was made.

(2) Where subsection (1)(a) applies, the asset retains the same character in the hands of the partnership as it did in the hands of the partner.

(3) Where there is a change in the constitution of a partnership or a partnership is dissolved, the former partnership is treated as having disposed of all the assets of the partnership to the reconstituted partnership or to the partners in the case of dissolution for a consideration equal to-

- (a) the cost base of the asset to the former partnership at the date of the change in constitution where all the following conditions are satisfied-
  - (i) the former partnership and the reconstituted partnership are resident partnerships at the time of the change;
  - (ii) 25 percent or more of the interests in the capital of the reconstituted partnership are held for twelve months after the change by persons who were partners in the former partnership immediately before the change; and
  - (iii) an election for this paragraph to apply has been made by the partners of the reconstituted partnership jointly; or



(b) in any other case, the market value of the asset at the date of the change in constitution or dissolution, as the case may be.

(4) Where subsection (3)(a) applies, the asset retains the same character in the hands of the reconstituted partnership as it did in the hands of the former partnership.

(5) An election under this section shall be made in the partnership return of income for the year of income in which the contribution was made or the constitution of the partnership changed.

**69. Cost base of partner's interest**

(1) A partner's interest in a partnership is treated as a business asset of the partner for all the purposes of this Act.

(2) Subject to subsection (3) and (4), the cost base of a partner's interest in a partnership is-

(a) in the case of an interest acquired by contribution of property (including money) to the partnership, the amount of any such money contributed plus-

(i) the cost base of an asset contributed to the partnership by the partner where paragraph (a) of subsection (1) of section 68 applies; and

(ii) the market value of any asset contributed to the partnership by the partner where paragraph (b) of subsection (1) of section 68 applies; or

(b) in any other case, the price paid for the interest.

*(effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002)*

(3) The cost base of a partner's interest in a partnership determined under subsection (2) is increased by the sum of the partner's share for the year of income and prior years of income of-

(a) partnership income; and

(b) income of the partnership exempt from tax under this Act.

(4) The cost base of a partner's interest in a partnership determined under subsection (2) is reduced, but not below zero, by distributions by the partnership and by the sum of the partner's share for the year of income and prior years of income of partnership losses and expenditures of the partnership not deductible in computing its chargeable income and not properly chargeable to capital account.

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*Taxation of Trusts and Beneficiaries*

**70. Interpretation of provisions relating to taxation of trusts and beneficiaries**

In this section and sections 71, 72, and 73-

- (a) “chargeable trust income”, in relation to a year of income, means-
  - (i) the gross income of the trust (other than an amount to which section 72(1) or section 73(1) applies) for that year calculated as if the trust is a resident taxpayer; less
  - (ii) the total amount of deductions allowed under this Act for expenditures or losses incurred by the trust in deriving that income;
- (b) “nonresident trust”, in relation to a year of income, means a trust that is not a resident trust for that year;
- (c) “qualified beneficiary” means a person referred to in paragraph (d)(i) or (ii) of the definition of “qualified beneficiary trust”;
- (d) “qualified beneficiary trust” means-
  - (i) a trust in relation to which a person, other than a settlor, has a power solely exercisable by that person to vest the corpus or income of the trust in that person; or
  - (ii) a trust whose sole beneficiary is an individual or an individual’s estate or appointees,  
but does not include a trust whose beneficiary is an incapacitated person;
- (e) “settlor” means a person who has transferred property to, or conferred a benefit on, a trust for no consideration or for a consideration which is less than the market value of the property transferred or benefit conferred **at the date of the transfer or conferral**; and (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)
- (f) “settlor trust” means a trust in relation to a whole or part of which, the settlor has-
  - (i) the power to revoke or alter the trust so as to acquire a beneficial entitlement in the corpus or income of the trust; or
  - (ii) a reversionary interest in the corpus or income of the trust.

**71. Principle of taxation for trusts**

- (1) Subject to subsection (5), the income of a trust is taxed either to the trustee or to the beneficiaries of the trust, as provided in this Act.
- (2) Separate calculations of chargeable trust income shall be made for separate trusts regardless of whether they have the same trustee.
- (3) Income derived, or expenditure or losses incurred by a trust retain their character as to geographic source and type of income, expenditure, or loss in the hands of the beneficiary.
- (4) A trust is required to furnish a trust return of income in accordance with section 92.
- (5) A settlor trust or a qualified beneficiary trust-
  - (a) is not treated as an entity separate from the settlor or qualified beneficiary, respectively; and
  - (b) the income of such a trust is taxed to the settlor or qualified beneficiary, and the property owned by the trust is deemed to be owned by the settlor or qualified beneficiary, as the case may be.
- (6) The trustee of an incapacitated person's trust is liable for tax on the chargeable trust income of the trust.
- (7) Trustees are jointly and severally liable for a tax liability arising in respect of chargeable trust income that is not satisfied out of the assets of the trust.
- (8) Where a trust has paid tax on the chargeable trust income of the trust under sections 72 or 73, that income shall not be taxed again in the hands of the beneficiary.

## **72. Taxation of trustees and beneficiaries**

- (1) Any amount derived by a trustee for the immediate or future benefit of any ascertained beneficiary, other than an incapacitated person, with a vested right to such amount is treated as having been derived by the beneficiary for the purposes of this Act.
- (2) Where a beneficiary has acquired a vested right to any amount referred to in subsection (1) as a result of the exercise by the trustee of a discretion vested in the trustee under a deed of trust, an arrangement or a will of a deceased person, such amount is deemed to have been derived by the trustee for the immediate benefit of the beneficiary.
- (3) For subsection (2) to apply to a beneficiary for a year of income, the trustee must have exercised the discretion by the end of the second month after the end of the year of income.
- (4) Where subsection (1) or (2) applies, the beneficiary is treated as having derived the amount at the time the amount was derived by the trustee.

(5) Where any amount to which subsection (1) applies is included in the gross income of the beneficiary for a year of income, the beneficiary shall be allowed a deduction in accordance with this Act for any expenditure or losses incurred in that year by the trustee in deriving that income.

(6) A trustee of a trust that is a resident trust for a year of income is liable for tax on the chargeable trust income of the trust for that year.

(7) A trustee of a trust that is a nonresident trust for a year of income is liable for tax on so much of the chargeable trust income of the trust for that year as is attributable to sources in Uganda.

(8) This section is subject to section 73.

### **73. Taxation of estates of deceased persons**

(1) Any amount derived by a trustee as executor of the estate of a deceased person shall, to the extent that the Commissioner is satisfied that such amount has been derived for the immediate or future benefit of any ascertained heir or legatee of the deceased, be treated as having been derived by such heir or legatee for the purposes of this Act.

(2) Where any amount to which subsection (1) applies is included in the gross income of the heir or legatee for a year of income, the heir or legatee shall be allowed a deduction in accordance with this Act for any expenditure or losses incurred in that year by the trustee in deriving that income.

(3) The trustee of an estate of a deceased person that is a resident trust for a year of income is liable for tax on the chargeable trust income of the estate for that year.

(4) The trustee of an estate of a deceased person that is a nonresident trust for a year of income is liable for tax on the chargeable trust income of that year attributable to sources in Uganda.

(5) The trustee of an estate of a deceased person is responsible for the tax liability of the deceased taxpayer arising for any year of income prior to the year of income in which the taxpayer died.

### *Taxation of companies and shareholders*

### **74. Principles of taxation for companies**

(1) A company is liable to tax separately from its shareholders.

(2) Subject to subsection (3), a dividend paid to a resident company, other than an exempt organisation, by another resident company is exempt from tax where the company receiving the dividend controls, directly or indirectly, 25 percent or more of the voting power in the company paying the dividend.

(3) Subsection (2) does not apply to-

a dividend paid to a financial institution by virtue of its ownership of redeemable shares in the company paying the dividend; or

a dividend to which section 76 applies.

## **75 Change in control of companies**

Where, during a year of income, there has been a change of 50 percent or more in the underlying ownership of a company, as compared with its ownership one year previously, the company is not permitted to deduct an assessed loss in the year of income or in subsequent years, unless the company, for a period of two years after the change or until the assessed loss has been exhausted if that occurs within two years after the change-

- (a) continues to carry on the same business after the change as it carried on before the change; and

does not engage in any new business or investment after the change where the primary purpose of the company or the beneficial owners of the company is to utilise the assessed loss so as to reduce the tax payable on the income arising from the new business or investment.

## **76. Dividend stripping**

(1) Where a company takes part in a transaction in the nature of dividend stripping and receives a dividend from a resident company in the transaction, the company receiving the dividend shall include the dividend in its gross income to the extent to which the Commissioner considers necessary to offset any decrease in the value of shares in respect of which the dividend is paid or in the value of any other property caused by the payment of the dividend.

(2) In any such transaction, the Commissioner may also reduce the amount of any deduction arising to the extent to which it represents the decrease in value of the shares or other property.

(3) In this section, “dividend stripping” includes an arrangement under which-

- (a) a company, referred to as the “target company”, has accumulated or current-year profits, or both, represented by cash or other readily realisable assets;
- (b) another company, referred to as the “acquiring company”, acquires the shares in the target company for an amount that reflects the profits of the target company;
- (c) the disposal of the shares in the target company gives rise to a tax-free capital gain to the shareholders in the target company;

- (d) after the acquiring company has acquired the shares in the target company, the target company pays a dividend to the acquiring company, which is the absence of section 74(3)(b), would be exempt from tax in the hands of the target company; and
- (e) after the dividend is declared, the acquiring company sells the shares for a loss.

**77. Rollover relief**

(1) Where a resident person, in this subsection referred to as the “transferor”, transfers a business asset, with or without any liability not in excess of the cost base of the asset, to a resident company other than an exempt organisation, in this subsection referred to as the “transferee”, in exchange for a share in the transferee and the transferor has a 50 percent or greater interest in the voting power of the transferee immediately after the transfer-

- (a) the transfer is not treated as a disposal of the asset by the transferor but is treated as the acquisition by the transferee of a business asset;
- (b) the transferee’s cost base for the asset is equal to the transferor’s cost base for the asset at the time of transfer; and
- (c) the cost base of a share received by the transferor in exchange for the asset is equal to the cost base of the asset transferred, less any liability assumed by the transferor in respect of the asset.

(2) Where, as part of the liquidation of a resident company, in this subsection referred to as the “liquidated company”, a business asset is transferred to a shareholder being a resident company other than an exempt organisation, in this subsection referred to as the “transferee company”, and, immediately prior to the transfer, the transferee company held a 50 percent or greater interest in the voting power of the liquidated company-

- (a) the transfer is not treated as a disposal of the asset by the liquidated company, but is treated as the acquisition of a business asset by the transferee company;
- (b) the transferee’s cost base for the asset is equal to the liquidated company’s cost base for the asset at the time of transfer;
- (c) the transfer of the asset is not a dividend; and
- (d) no gain or loss is taken into account on the cancellation of the transferee’s shares in the liquidated company.

(3) Where a resident company or a group of resident companies is reorganised without any significant change in the underlying ownership or control of the company or group, the Commissioner may-

- (a) permit any resident company involved in the reorganisation to treat the reorganisation as not giving rise to the disposal of any business asset or the realisation of any business debt, as the case may be; and
- (b) determine the cost base of any business asset held, or business debt undertaken, by the resident company after the reorganisation in order to reflect the fact that no disposal or realisation is treated as having occurred.

PART IX - INTERNATIONAL TAXATION

**78. Interpretation of Part IX**

In this Part-

- (a) “branch” means a place where a person carries on business, and includes-
  - (i) a place where a person is carrying on business through an agent, other than a general agent of independent status acting in the ordinary course of business as such;
  - (ii) a place where a person has, is using or is installing substantial equipment or substantial machinery; or
  - (iii) a place where a person is engaged in a construction, assembly, or installation project for ninety days or more, including a place where a person is conducting supervisory activities in relation to such a project; and
- (b) “management charge” means any payment made to any person, other than a payment of employment income, as consideration for any managerial services, however calculated.

**79. Source of income**

Income is derived from sources in Uganda to the extent to which it is-

- (a) derived from the sale of goods-
  - (i) in the case of goods manufactured, grown, or mined by the seller, the goods were manufactured, grown, or mined in Uganda; or
  - (ii) in the case of goods purchased by the seller, the agreement for sale was made in Uganda, wherever such goods are to be delivered;
- (b) derived by a resident person in carrying on a business as owner or charterer of a vehicle, ship or aircraft, wherever such vehicle, ship, or aircraft may be operated;
- (c) derived from any employment exercised or services rendered in Uganda;
- (d) derived in respect of any employment exercised or services rendered under a contract with the Government of Uganda, wherever the employment is exercised or services are rendered;



- (e) derived by a resident individual from any employment exercised or services rendered as a driver of a vehicle, or an officer or member of a crew of any vehicle, ship or aircraft, wherever the vehicle, ship or aircraft may be operated;
- (f) derived from the rental of immovable property located in Uganda;
- (g) derived from the disposal of an interest in immovable property located in Uganda or from the disposal of a share in a company the property of which consists directly or indirectly principally of an interest or interests in such immovable property, where the interest or share is a business asset;
- (h) derived from the disposal of movable property, other than goods, under an agreement made in Uganda for the sale of the property, wherever the property is to be delivered;
- (i) an amount-
  - (i) included in the business income of a taxpayer under section 27(5) in respect of the disposal of a depreciable asset used in Uganda; or
  - (ii) treated as income under section 62, where the deduction was allowed for an expenditure, loss or bad debt incurred in the production of income sourced in Uganda;
- (j) a royalty-
  - (i) arising from the use of, or right to use, in Uganda-
    - (A) any patent, design, trade mark, or copyright, or any model, pattern, plan, formula or process, or any property or right of a similar nature;
    - (B) any motion picture film;
    - (C) any video or audio material, whether stored on film, tape, disc, or other medium, for use in connection with television or radio broadcasting;
    - (D) any sound recording or advertising matter connected with material referred to in subparagraphs (i)(B) and (C) of this paragraph; or
    - (E) any tangible movable property;
  - (ii) arising from the **import** of, or undertaking to import, any scientific, technical, industrial, or commercial knowledge or information for use in Uganda; (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

- (iii) arising from the use of, or the right to use, or the receipt of, or right to receive, in Uganda any video or audio material transmitted by satellite, cable, optic fibre, or similar technology for use in connection with television or radio broadcasting;
- (iv) arising from the rendering of, or the undertaking to render assistance ancillary to a matter referred to in subparagraph (i), (ii), or (iii) of this paragraph;
- (v) arising from the total or partial forbearance in Uganda with respect to a matter referred to in subparagraph (i), (ii), (iii) or (iv) of this paragraph; or
- (vi) arising from the disposal of industrial or intellectual property used in Uganda;
- (k) interest where-
  - (i) the debt obligation giving rise to the interest is secured by immovable property located, or movable property used, in Uganda;
  - (ii) the payer is a resident person; or
  - (iii) the borrowing relates to a business carried on in Uganda;
- (l) a dividend or director's fee paid by a resident company;
- (m) a pension or annuity where-
  - (i) the pension or annuity is paid by the Government of Uganda or by a resident person; or
  - (ii) the pension or annuity is paid in respect of an employment exercised or services rendered in Uganda;
- (n) a natural resource payment in respect of a natural resource taken from Uganda;
- (o) a foreign currency debt gain derived in relation to a business debt which has arisen in the course of carrying on a business in Uganda;
- (p) a contribution to a retirement fund made by a tax-exempt employer in respect of an employee whose employment is exercised in Uganda;
- (q) a management charge paid by a resident person;
- (r) taxable in Uganda under an international agreement; or
- (s) attributable to any other activity which occurs in Uganda, including an activity conducted through a branch in Uganda.

**80. Foreign employment income**

- (1) Foreign-source employment income derived by a resident individual is exempt from tax if the individual has paid foreign income tax in respect of the income.
- (2) A resident individual is treated as having paid foreign income tax on foreign-source employment income if tax has been withheld and paid to the revenue authority of the foreign country by the employer of the individual.

**81. Foreign tax credit**

- (1) A resident taxpayer is entitled to a credit, in this section referred to as a “foreign tax credit”, for any foreign income tax paid by the taxpayer in respect of foreign-source income included in the gross income of the taxpayer.
- (2) The amount of the foreign tax credit of a taxpayer for a year of income shall not exceed the Ugandan income tax payable on the taxpayer’s foreign-source income for that year, **calculated** by applying the average rate of Ugandan income tax of the taxpayer for that year to the taxpayer’s net foreign-source income for that year. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)
- (3) The calculation of the foreign tax credit of a taxpayer for a year of income is made separately for foreign-source business income and other income derived from foreign sources by the taxpayer during the year.
- (4) Foreign income tax paid by-
  - (a) a partnership is treated as paid by the partners;
  - (b) a trustee is treated as paid by the beneficiary where the income on which foreign income tax has been paid is included in the gross income of the beneficiary under this Act; or
  - (c) a beneficiary is treated as paid by the trustee where the income on which foreign income tax has been paid is taxed to the trustee under this Act.
- (5) For the purposes of this section,
  - (a) “average rate of Ugandan income tax”, in relation to a taxpayer for a year of income, means the percentage that the Ugandan income tax, before the foreign tax credit, is of the chargeable income of the taxpayer for the year and, in the case of a taxpayer with both foreign-source business income and other income derived from foreign sources, the average rate of tax is to be calculated separately for both classes of income;

- (b) “foreign income tax” includes a foreign withholding tax, but does not include a foreign tax designed to raise the level of the tax on the income so that the taxation by the country of residence is reduced; and
- (c) “net foreign-source income” means the total foreign-source income included in the gross income of the taxpayer, less any deductions allowed to the taxpayer under this Act that-
  - (i) relate exclusively to the derivation of the foreign-source income; and
  - (ii) in the opinion of the Commissioner, may appropriately be related to the foreign-source income.

**82. Taxation of branch profits**

(1) A tax shall be charged for each year of income and is hereby imposed on every nonresident company carrying on business in Uganda through a branch which has repatriated income for the year of income.

(2) The tax payable by a nonresident company under this section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the repatriated income of the branch of the nonresident company for the year of income.

(3) The repatriated income of a branch for a year of income is calculated according to the following formula-

$$A + (B - C) - D$$

where-

- A is the total cost base of assets, net of liabilities, of the branch at the commencement of the year of income;
- B is the net profit of the branch for the year of income calculated in accordance with generally accepted accounting principles;
- C is the Ugandan tax payable on the chargeable income of the branch for the year of income; and
- D is the total cost base of assets, net of liabilities, of the branch at the end of the year of income.

(4) In calculating the repatriated income of a branch, the total cost base of assets at the end of a year of income is the total cost base of assets at the commencement of the next year of income.

(5) The tax imposed under this section is in addition to any tax imposed by this Act on the chargeable income of the branch under section 4, but is otherwise treated for all purposes of

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this Act as a tax on chargeable income. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

**83. Tax on international payments**

(1) Subject to this Act, a tax is hereby imposed on every nonresident person who derives any dividend, interest, royalty, **rent**, natural resource payment, or management charge from sources in Uganda. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(2) The tax payable by a nonresident person under this section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the gross amount of the dividend, interest, royalty, natural resource payment, or management charge derived by a nonresident person.

(3) Notwithstanding section 79(1) a dividend derived by a nonresident person is only treated as income derived from sources in Uganda for the purposes of this section to the extent to which the dividend is paid out of profits sourced in Uganda.

(4) For the purposes of subsection (3), where a resident company has profits sourced both within and outside Uganda, the company is treated as having paid a dividend out of the profits sourced in Uganda first.

(5) Interest paid by a resident company in respect of debentures is exempt from tax under this Act where the following conditions are satisfied-

(a) the debentures were issued by the company outside Uganda purpose of raising a loan outside Uganda;

(b) the debentures were widely issued for the purpose of raising funds for use by the company in a business carried on in Uganda;

(c) the interest is paid to a bank or a financial institution of a public character; and

(d) the interest is paid outside Uganda.

(*effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006*)

(6) Subsection (1) does not apply to an amount attributable to the activities of a branch of the non-resident in Uganda and such amount is subject to the operation of section 17. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

**84. Tax on payments to nonresident public entertainers or sports persons**

(1) Subject to this Act, a tax is imposed on every nonresident entertainer, sports person or theatrical, musical, or other group of nonresident entertainers or sports persons who derive income from any performance in Uganda.

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(2) The tax payable by a nonresident person under this section is calculated by applying the rate prescribed in Part IV of the Third Schedule to this Act to the gross amount of-

- (a) remuneration derived by a nonresident public entertainer or sports person; or
- (b) receipts derived by any theatrical, musical, or other group of nonresident public entertainers or sports persons.

(3) Tax is imposed under this section on any group regardless of whether or not the performance is conducted for the joint account of all or some members of the group.

(4) Every member of a group shall be jointly and severally liable for payment of the tax imposed under this section and, subject to section 87(1)(c), shall remit **to the Commissioner** the tax due before leaving Uganda. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

#### **85. Tax on payments to nonresident contractors or professionals**

(1) Subject to this Act, a tax is imposed on every nonresident person deriving income under a Ugandan-source services contract.

(2) The tax payable by a nonresident person under this section is calculated by applying the rate prescribed in Part IV of the Third Schedule to the gross amount of any payment to a nonresident under a Uganda-source services contract.

(3) Subsection (1) does not apply to a royalty or management charge charged to tax under section 83.

(4) In this section, “Ugandan-source services contract” means a contract, other than an employment contract, under which-

- (a) the principal purpose of the contract is the performance of services which gives rise to income sourced in Uganda; and
- (b) any goods supplied are only incidental to that purpose.

#### **86. Taxation of nonresidents providing shipping, air transport or telecommunications services in Uganda**

(1) Subject to this Act, a tax is imposed on every nonresident person carrying on the business of ship operator, charterer, or air transport operator who derives income from the carriage of passengers who embark, or cargo or mail which is embarked in Uganda **and on a road transport operator who derives income from the carriage of cargo or mail which is embarked in Uganda.** (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(2) The tax payable by a nonresident person under subsection (1) is calculated by applying the rate of tax prescribed in Part VII of the Third Schedule to this act to the gross amount

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derived by the person from the carriage **and is treated for all purposes of the Act as a tax on chargeable income.** (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(3) Subsection (1) does not apply to any income derived from the carriage of passengers who embark, or cargo or mail which is embarked, solely as a result of transshipment.

(4) Where a nonresident person carries on the business of transmitting messages by cable, radio, optical fibre, or satellite communication, the chargeable income of the person derived from the transmission of messages by apparatus established in Uganda, whether or not the messages originated in Uganda, or from providing direct-to-home pay television services to subscribers in Uganda, shall be five per cent of the gross amount derived by the person in respect of the transmission. (*effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006*)

### **87. General provisions relating to taxes imposed under sections 83, 84, 85 and 86**

(1) The tax imposed on a nonresident person under sections 83, 84, 85, and 86(1) is a final tax on the income on which the tax has been imposed and-

- (a) such income is not included in the gross income of the nonresident person who has derived the income;
- (b) no deduction is allowed for any expenditure or losses incurred by the nonresident person in deriving the income; and
- (c) the liability of the nonresident person is satisfied if the tax payable has been withheld by a withholding agent under section 120 and paid to the Commissioner under section 123.

(2) In this section, “withholding agent” has the meaning in section 115.

### **88. International agreements**

(1) An international agreement entered into between the Government of Uganda and the government of a foreign country or foreign countries shall have effect as if the agreement was contained in this Act.

(2) To the extent that the terms of an international agreement to which Uganda is a party are inconsistent with the provisions of this Act, apart from subsection (5) of this section and Part X which deals with tax avoidance, the terms of the international agreement prevail over the provisions of this Act.

(3) Where an international agreement provides for reciprocal assistance in the collection of taxes and the Commissioner has received a request from the competent authority of another country pursuant to that agreement for the collection from any person in Uganda of an amount due by that person under the income tax laws of that other country, the Commissioner may, by notice in writing, require the person to pay the amount to the

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Commissioner by the date specified in the notice for transmission to the competent authority of that other country.

(4) If a person fails to comply with a notice under subsection (3), the amount in question may be recovered for transmission to the competent authority of that other country as if it were tax payable by the person under this Act.

(5) Where an international agreement provides that income derived from sources in Uganda is exempt from Ugandan tax or is subject to a reduction in the rate of Ugandan tax, the benefit of that exemption or reduction is not available to any person who, for the purposes of the agreement, is a resident of the other contracting state where 50 percent or more of the underlying ownership of that person is held by an individual or individuals who are not residents of that other Contracting State for the purposes of the agreement.

(6) In this section, “international agreement” means-

- (a) an agreement with a foreign government providing for the relief of international double taxation and the prevention of fiscal evasion; or
- (b) an agreement with a foreign government providing for reciprocal administrative assistance in the enforcement of tax liabilities.

### **89. Thin capitalisation**

(1) Where a foreign-controlled resident company which is not a financial institution has a foreign debt to foreign equity ratio in excess of 2 to 1 at any time during a year of income, a deduction is disallowed for the interest paid by the company during that year on that part of the debt which exceeds the 2 to 1 ratio.

(2) In this section,

- (a) “foreign-controlled resident company” means a resident company in which 50 percent or more of the underlying ownership or control of the company is held by a nonresident person, in this section referred to as the “foreign controller”, either alone or together with an associate or associates;
- (b) “foreign debt”, in relation to a foreign-controlled resident company, means the greatest amount, at any time during a year of income, of the sum of-
  - (i) the balance outstanding at the time on any debt obligation owed by the foreign-controlled resident company to a foreign controller or nonresident associate of the foreign controller on which interest is payable which interest is deductible to the foreign-controlled resident company and is not included in the gross income of the foreign controller or associate; and
  - (ii) the balance outstanding at that time on any debt obligation owed by the foreign-controlled resident company to a person other than the foreign



controller or an associate of the foreign controller where that person has a balance outstanding of a similar amount on a debt obligation owed by the person to the foreign controller or a nonresident associate of the foreign controller; and

(c) “foreign equity”, in relation to a foreign-controlled resident company and for a year of income, means the sum of the following amounts-

- (i) the paid-up value of all shares in the company owned by the foreign controller or a nonresident associate of the foreign controller at the beginning of the year of income; and
- (ii) so much of the amount standing to the credit of the share premium account of the company at the beginning of the year of income as the foreign controller or a nonresident associate would be entitled if the company were wound up at that time; and
- (iii) so much of the accumulated profits and asset revaluation reserves of the company at the beginning of the year of income as the foreign controller or a nonresident associate of the foreign controller would be entitled if the company were wound up at that time;

reduced by the sum of-

- (iv) the balance outstanding at the beginning of the year of income on any debt obligation owed to the foreign-controlled resident company by the foreign controller or a nonresident associate of the foreign controller; and
- (v) where the foreign-controlled resident company has accumulated losses at the beginning of the year of income, the amount by which the return of capital to the foreign controller or nonresident associate of the foreign controller would be reduced by virtue of the losses if the company were wound up at that time

#### PART X - ANTI-AVOIDANCE.

### **90. Transactions between associates**

(1) In any transaction between taxpayers who are associates or who are in an employment relationship, the Commissioner may distribute, apportion or allocate income, deductions, or credits between the taxpayers as is necessary to reflect the chargeable income the taxpayer’s would have realized in an arm’s length transaction.

(2) The Commissioner may adjust the income arising in respect of any transfer or licence of intangible property between associates so that it is commensurate with the income attributable to the property.

(3) In making any adjustment under subsections (1) or (2), the Commissioner may determine the source of income and the nature of any payment or loss as revenue, capital or otherwise.

**91. Recharacterisation of income and deductions**

(1) For the purposes of determining liability to tax under this Act, the Commissioner may-

- (a) recharacterise a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme;
- (b) disregard a transaction that does not have substantial economic effect; or
- (c) recharacterise a transaction the form of which does not reflect the substance.

(2) A “tax avoidance scheme” in subsection (1) includes any transaction one of the main purposes of which is the avoidance or reduction of liability to tax.

PART XI - PROCEDURE RELATING TO INCOME TAX.

*Returns.*

**92. Furnishing a return of income**

(1) Subject to section 93, every taxpayer shall furnish a return of income for each year of income of the taxpayer not later than **six** months after the end of that year. (*effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006*)

(2) A return of income shall be in the form prescribed by the Commissioner, shall state the information required and shall be furnished in the manner prescribed by the Commissioner.

(3) Subject to subsection (4), a return of income shall be signed by the taxpayer and include a declaration that the return is complete and accurate.

(4) Where a taxpayer is legally incapacitated, the taxpayer’s return of income shall be signed, and contain a declaration as to completeness and accuracy, by the taxpayer’s legal representative.

(5) A taxpayer carrying on business shall furnish with the taxpayer’s return of income a statement of income and expenditure and a statement of assets and liabilities.

(6) A person, other than an employee of the taxpayer, who, for remuneration, prepares or assists in the preparation of a return of income, or a balance sheet, statement of income and expenditure, or any other document submitted in support of a return, shall sign the return certifying that the person has examined the books of account and other relevant documentation of the taxpayer and that, to the best of the person’s knowledge, the return or document correctly reflects the data and transactions to which it relates.

(7) Where a person refuses to sign a certificate referred to in subsection (6), the person shall furnish the taxpayer with a statement in writing of the reasons for such refusal, and the taxpayer shall include that statement with the return of income to which the refusal relates.

(8) Where, during a year of income-

- (a) a taxpayer has died;
- (b) a taxpayer has become bankrupt, wound-up, or gone into liquidation;
- (c) a taxpayer is about to leave Uganda indefinitely;
- (d) a taxpayer is otherwise about to cease activity in Uganda; or
- (e) the Commissioner otherwise considers it appropriate,

the Commissioner may, by notice in writing, require the taxpayer or the taxpayer's trustee, as the case may be, to furnish, by the date specified in the notice, a return of income for the taxpayer for a period of less than 12 months.

(9) Where any person fails to furnish a return of income as required by this section, the Commissioner may, by notice in writing, appoint a person to prepare and furnish the return, and the return so furnished is deemed, for all the purposes of this Act, to be the return of the person originally required to furnish the return.

(10) Where the Commissioner is not satisfied with a return of income, the Commissioner may, by notice in writing require the person who has furnished the return to provide a fuller or further return of income.

### **93. Cases where returns of income not required**

Unless requested by the Commissioner by notice in writing, no return of income shall be furnished under this Act for a year of income-

- (a) by a nonresident person where **subsection (4) of section 4 or paragraph (c) of section 87 or both apply** to all the income derived from sources in Uganda by the person during the year of income; or (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)
- (b) by a resident individual-
  - (i) to whom section 4 (4) applies; or (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)
  - (ii) whose total chargeable income for the year of income is subject to the zero rate of tax under Part I of the Third Schedule to this Act.

**94. Extension of time to furnish a return of income**

- (1) A taxpayer required to furnish a return of income under section 92 may apply in writing to the Commissioner for an extension of time to furnish the return.
- (2) An application under subsection (1) shall be made by the due date for furnishing of the return to which it relates.
- (3) Where an application has been made under subsection (1) and the Commissioner is satisfied that the taxpayer is unable to furnish the return by the due date because of absence from Uganda, sickness or other reasonable cause, the Commissioner may, by notice in writing, grant the taxpayer an extension of time for furnishing the return of a period not exceeding 90 days.
- (4) A person dissatisfied with a decision under subsection (3) may only challenge the decision under the objection and appeal procedure in this Act.
- (5) The granting of an extension of time under this section does not alter the due date for payment of tax under section 103.

*Assessments*

**95. Assessments**

- (1) Subject to section 96, the Commissioner shall, based on the taxpayer's return of income and on any other information available, make an assessment of the chargeable income of a taxpayer and the tax payable thereon for a year of income within **five** years from the date the return was furnished. *(effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006)*
- (2) Where-
  - (a) a taxpayer defaults in furnishing a return of income for a year of income; or
  - (b) the Commissioner is not satisfied with a return of income for a year of income furnished by a taxpayer,

the Commissioner may, according to the Commissioner's best judgment, make an assessment of the chargeable income of the taxpayer and the tax payable thereon for that year.

- (3) Where the Commissioner has made an assessment under subsection (2)(b), the Commissioner shall include with the assessment a statement of reasons as to why the Commissioner was not satisfied with the return.
- (4) In the circumstances specified in section 92(8), in lieu of requiring a return of income, the Commissioner may, according to the Commissioner's best judgment, make an assessment of the chargeable income of the taxpayer and the tax payable thereon for the year of income.

(5) The Commissioner shall not assess any person for a year of income who, as a result of the operation of section 93, is not required to furnish a return of income for that year.

(6) Where an assessment has been made under this section, the Commissioner shall serve a notice of the assessment on the taxpayer stating-

- (a) the amount of chargeable income of the taxpayer;
- (b) the amount of tax payable;
- (c) the amount of tax paid, if any; and
- (d) the time, place and manner of objecting to the assessment.

**96. Self-assessment**

(1) Where a taxpayer has furnished a return of income for a year of income, the Commissioner is deemed to have made an assessment of the chargeable income of the taxpayer and the tax payable on that chargeable income for that year, being those respective amounts shown in the return.

(2) Where subsection (1) applies, the taxpayer's return of income is treated as a notice of an assessment served on the taxpayer by the Commissioner on the due date for furnishing of the return or on the actual date the return was furnished, whichever is the later.

(3) Notwithstanding subsection (1), the Commissioner may make an assessment under section 95 on a taxpayer in any case the Commissioner considers necessary.

(4) Where the Commissioner raises an assessment in accordance with subsection (3), the Commissioner shall include with the assessment a statement of reasons as to why the Commissioner considered it necessary to make such an assessment.

(5) This section only applies to those taxpayers specified in a notice published by the Commissioner in the Gazette as taxpayer's to which this section is to apply for a year of income.

**97. Additional assessments**

(1) Subject to subsections (2) and (3), the Commissioner may, within three years after service of a notice of assessment, make an additional assessment amending an assessment previously made.

(2) Where the need to make an additional assessment arises by reason of fraud or any gross or wilful neglect by, or on behalf of, the taxpayer or the discovery of new information in relation to the tax payable for any year of income, the Commissioner may make an additional assessment for that year at any time.

(3) The Commissioner shall not make an additional assessment amending an assessment in respect of an amount if any previous assessment for the year of income in question has, in respect of that amount, been amended or reduced pursuant to an order of the High Court or the Court of Appeal unless such order was obtained by fraud or any gross or wilful neglect.

(4) An additional assessment shall be treated in all respects as an assessment under this Act.

**98. General provisions in relation to assessments**

(1) As soon as is reasonably practicable after the expiry of the time allowed under the Act for the furnishing of returns of income for a year of income, the Commissioner shall cause to be prepared a list of taxpayer's assessed to tax in respect of that year, in this section referred to as an "assessment list", and the list shall contain in relation to each taxpayer assessed-

- (a) the taxpayer's name and address;
- (b) the amount of chargeable income upon which the assessment has been made; and
- (c) the amount of tax payable.

(2) In any proceedings, whether civil or criminal, under this Act, a document purporting to be an extract from an assessment list and certified by the Commissioner to be a true copy of the relevant entry in the list shall be prima facie evidence of the matters stated therein.

(3) No notice of assessment, warrant or other document purporting to be made, issued or executed under this Act-

- (a) shall be quashed or deemed to be void or voidable for want of form; or
- (b) shall be affected by reason of mistake, defect or omission therein,

if it is, in substance and effect, in conformity with this Act and the person assessed or intended to be assessed or affected by the document is designated in it according to common intent and understanding.

(4) Where the Commissioner is satisfied that an order made or document issued by the Commissioner contains a mistake which is apparent from the records and that such mistake does not involve a dispute as to the interpretation of the law or facts of the case, the Commissioner may, for the purposes of rectifying the mistake, amend the order or document any time before the expiry of two years from the date of making or issuing the order or document.

*Objections and Appeals*

**99. Objection to assessment**

(1) A taxpayer who is dissatisfied with an assessment may lodge an objection to the assessment with the Commissioner within forty-five days after service of the notice of assessment.

(2) An objection to an assessment shall be in writing and state precisely the grounds upon which it is made.

(3) The Commissioner may, upon application in writing by the taxpayer, extend the time for lodging an objection where the Commissioner is satisfied that the delay in lodging the objection was due to the taxpayer's absence from Uganda, sickness, or other reasonable cause.

(4) Where the Commissioner refuses to grant an extension of time under subsection (3), the taxpayer may apply to the **Tribunal referred to in paragraph (a) of subsection (1) of section 100** for a review of the decision within forty-five days after service of notice of decision. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(5) After consideration of the objection, the Commissioner may allow the objection in whole or in part and amend the assessment accordingly, or disallow the objection; and the Commissioner's decision is referred to as an "objection decision".

(6) As soon as is practicable after making an objection decision, the Commissioner shall serve the taxpayer with notice of the decision.

(7) Where an objection decision has not been made by the Commissioner within ninety days after the taxpayer lodged the objection with the Commissioner, the taxpayer may, by notice in writing to the Commissioner, elect to treat the Commissioner as having made a decision to allow the objection.

(8) Where a taxpayer makes an election under subsection (7), the taxpayer is treated as having been served with a notice of the objection decision on the date the taxpayer's election was lodged with the Commissioner.

**100. Appeal to the High Court or a tax tribunal**

(1) A taxpayer dissatisfied with an objection decision may, at the election of the taxpayer-

(a) appeal the decision to the High Court; or

(b) apply for review of the decision to a tax tribunal established by Parliament by law for the purpose of settling tax disputes in accordance with Article 152(3) of the Constitution.

(2) An appeal under subsection (1) to the High Court shall be made by lodging a notice of appeal with the registrar of the High Court within forty-five days after service of notice of the objection decision.

(3) A person who has lodged a notice of appeal with Registrar of the High Court shall, within five working days of doing so, serve a copy of the notice of appeal on the Commissioner.

(4) An appeal to the High Court under subsection (1) may be made on questions of law only, and the notice of appeal shall state the question or questions of law that will be raised on the appeal.

### **101. Appeal to the Court of Appeal**

A party to a proceeding before the High Court who is dissatisfied with the decision of the High Court may, with leave of the Court of Appeal, appeal the decision to the Court of Appeal.

### **102. Burden of proof**

In any objection to an assessment, any appeal of an objection decision to the High Court, any review of an objection decision by a tax tribunal, or any appeal from the decision of the High Court or a tax tribunal in relation to an objection decision, the onus is on the taxpayer to prove, on the balance of probabilities, the extent to which the assessment made by the Commissioner is excessive or erroneous.

## *Collection and Recovery of Tax*

### **103. Due date for payment of tax**

(1) Subject to this Act, tax charged in any assessment shall be payable-

- (a) in the case of a taxpayer subject to section 96, on the due date for furnishing of the return of income to which the assessment relates; or
- (b) in any other case, within forty-five days from the date of service of the notice of assessment.

(2) Subject to subsection (3), where a taxpayer has lodged a notice of objection to an assessment, the amount of tax payable by the taxpayer pending final resolution of the objection is 30 percent of the tax assessed or that part of the tax not in dispute, whichever is the greater.

(3) The Commissioner may waive the amount or accept a lesser amount than is required to be paid under subsection (2) in a case where an objection has reasonably been made to an assessment.



(4) Upon written application by the taxpayer, the Commissioner may, where good cause is shown, allow for the payment of tax in installments of equal or varying amounts as the Commissioner may determine having regard to the circumstances of the case.

(5) Where tax is permitted to be paid by installments and there is default in payment of any installment, the whole balance of the tax outstanding shall become immediately payable.

(6) Permission under subsection (5) to pay tax due by installments does not preclude a liability for interest arising under section 136 on the unpaid balance of the tax due.

#### **104. Tax as a debt due to the Government of Uganda**

(1) Tax, when it becomes due and payable is a debt due to the Government of Uganda and is payable to the Commissioner in the manner and at the place prescribed.

(2) Tax that has not been paid when it is due and payable may be sued for and recovered in any court of competent jurisdiction by the Commissioner acting in the Commissioner's official name, subject to the general directions of the Attorney General.

(3) In any suit under this section, the production of a certificate signed by the Commissioner stating the name and address of the person liable and the amount of tax due and payable by the person shall be sufficient evidence of the amount of tax due and payable by such person.

#### **105. Collection of tax from persons leaving Uganda permanently**

(1) Where the Commissioner has reasonable grounds to believe that a person may leave Uganda permanently without paying all tax due under this Act, the Commissioner may issue a certificate containing particulars of the tax due to the Commissioner of Immigration and request the Commissioner of Immigration to prevent that person from leaving Uganda until that person-

- (a) makes payment of tax in full; or
- (b) provides a financial bond guaranteeing payment of the tax due.

(2) A copy of a certificate issued under subsection (1) shall be served on the person named in the certificate if it is practicable to do so.

(3) Payment of the tax specified in the certificate to a customs or immigration officer or the production of a certificate signed by the Commissioner stating that the tax has been paid or secured shall be sufficient authority for allowing the person to leave Uganda.

#### **106. Recovery of tax from person owing money to the taxpayer**

(1) Where a taxpayer fails to pay income tax on the date on which it becomes due and payable, and the tax payable is not the subject of a dispute the Commissioner may, by notice in writing, require any person-

- (a) owing or who may owe money to the taxpayer;
- (b) holding or who may subsequently hold money for, or on account of, the taxpayer;
- (c) holding or who may subsequently hold money on account of some other person for payment to the taxpayer; or
- (d) having authority from some other person to pay money to the taxpayer,

to pay the money to the Commissioner on the date set out in the notice, up to the amount of tax due.

(2) The date specified in the notice under subsection (1) must not be a date before the money becomes due to the taxpayer or is held on behalf of the taxpayer.

(3) At the same time that notice is served under subsection (1), the Commissioner shall also serve a copy of the notice on the taxpayer.

(4) Where a person served with a notice under subsection (1) is unable to comply with the notice by reason of lack of moneys owing to, or held for the taxpayer, the person shall, as soon as is practicable and in any event before the payment date specified in the notice, notify the Commissioner accordingly in writing setting out the reasons for the inability to comply.

(5) Where a notice is served on the Commissioner under subsection (4), the Commissioner may, by notice in writing-

- (a) accept the notification and cancel or amend the notice issued under subsection (1); or
- (b) reject the notification.

(6) A person dissatisfied with a decision under subsection (5) may only challenge the decision under the objection and appeal procedure in this Part.

(7) A person making a payment pursuant to a notice under subsection (1) is deemed to have been acting under the authority of the taxpayer and of all other persons concerned and is indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.

(8) An amount due under this section is treated for all purposes of this Act as if it were tax due. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

### **107. Collection of tax by distraint**

(1) The Commissioner may recover any unpaid tax by distress proceedings against the movable property of a person liable to pay tax, in this section referred to as the "person liable", by issuing an order in writing specifying the person against whose property the proceedings are authorised, the location of the property, and the tax liability to which the

proceedings relate, and may require a police officer to be present while distress is being executed.

(2) For the purpose of executing distress under subsection (1), the Commissioner may, at any time, enter any house or premises described in the order authorising the distress proceedings.

(3) The property upon which distress is levied under this section, other than perishable goods, shall be kept for ten days either at the premises where the distress was levied or at any other place that the Commissioner may consider appropriate, at the cost of the person liable.

(4) Where the person liable does not pay the tax due, together with the costs of the distress-

(a) in the case of perishable goods, within a period that the Commissioner considers reasonable having regard to the condition of the goods; or

(b) in any other case, within ten days after the distress is levied,

the property distrained may be sold by public auction or in such other manner as the Commissioner may direct.

(5) The proceeds of a disposal under subsection (4) shall be applied by the auctioneer or seller towards the cost of taking, keeping, and selling the property distrained upon, then towards the tax due and payable, and the remainder of the proceeds, if any, shall be given to the person liable.

(6) Nothing in this section shall preclude the Commissioner from proceeding under section 105 with respect to the balance owed if the proceeds of the distress are not sufficient to meet the costs of the distress and the tax due.

(7) All costs incurred by the Commissioner in respect of any distress may be recovered by the Commissioner from the person liable and the provisions of this Act relating to the collection and recovery of tax shall apply as if the costs were tax due under this Act.

(8) The Minister may, with the approval of Parliament by statutory instrument, within three months after the coming into force of this Act, make rules regarding the disposal of properties distrained under this section.

**108. Recovery from agent of nonresident.**

(1) The Commissioner may, by notice in writing, require any person who is in possession of an asset, including money, belonging to a nonresident taxpayer to pay tax on behalf of the nonresident, up to the market value of the asset but not exceeding the amount of tax due.

(2) The captain of any aircraft or ship owned or chartered by a nonresident person is deemed to be in possession of the aircraft or ship for the purposes of this section.

(3) The tax payable in respect of an amount included in the gross income of a nonresident partner under section 67 is assessable in the name of the partnership or of any resident

partner of the partnership and may be recovered out of the assets of the partnership or from the resident partner personally.

(4) The tax payable in respect of an amount included in the gross income of a nonresident beneficiary as a result of the operation of section 72 or 73 is assessable in the name of the trustee and may be recovered out of the assets of the trust or from the trustee personally.

(5) A person making a payment pursuant to a notice under subsection (1), **(3) or (4)** is deemed to have been acting under the authority of the taxpayer and of all other persons concerned and is indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract, or agreement. *(effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002)*

(6) An amount due under this section is treated for the purposes of the tax as if it were tax due. *(effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002)*

#### **109. Duties of receivers**

(1) A receiver shall, in writing, notify the Commissioner within fourteen days of being appointed to the position of receiver or of taking possession of an asset in Uganda, whichever occurs first.

(2) The Commissioner may, in writing, notify a receiver of the amount which appears to the Commissioner to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the receiver.

(3) A receiver shall not part with any asset in Uganda which is held by the receiver in the capacity as receiver without the prior written permission of the Commissioner.

(4) A receiver-

(a) shall set aside, out of the proceeds of sale of an asset, the amount notified by the Commissioner under subsection (2), or such lesser amount as is subsequently agreed on by the Commissioner;

(b) is liable to the extent of the amount set aside for the tax of the person who owned the asset; and

(c) may pay any debt that has priority over the tax referred to in this section notwithstanding any provision of this section.

(5) A receiver is personally liable to the extent of any amount required to be set aside under subsection (4) for the tax referred to in subsection (2) if, and to the extent that, the receiver fails to comply with the requirements of this section.

(6) In this section, “receiver” includes any person who, in respect to an asset in Uganda, is-

(a) a liquidator of a company;

- (b) a receiver appointed out of court or by any court;
- (c) a trustee for a bankrupt;
- (d) a mortgagee in possession;
- (e) an executor of a deceased's estate; or
- (f) any other person conducting the business of a person legally incapacitated.

**110. Security on property for unpaid tax**

(1) Where any person who is the owner of land or buildings situated in Uganda fails to pay tax when due, the Commissioner may, by notice in writing, notify the person of the intention to apply to the chief registrar of titles, in this section referred to as the "chief registrar", for such land or buildings to be the subject of security for tax as specified in the notice.

(2) If any person on whom a notice has been served under this section fails to make payment of the whole of the amount of the tax specified in the notice within 30 days of the date of service of the notice under subsection (1), the commissioner may, by notice in writing, in this section referred to as a "notice of direction", direct the chief registrar that the land or buildings of the person, the extent of the interest of such person therein, be the subject of security for unpaid tax in the amount specified in the notice.

(3) Where a notice of direction is served on the chief registrar under subsection (2), the chief registrar shall, without fee, register the direction as if it were an instrument or mortgage over, or charge on, as the case may be, such land or buildings; and thereupon such registration shall, subject to any prior mortgage or charge, operate in all respects as a legal mortgage over or charge on such land or building to secure the amount of the unpaid tax.

(4) Upon receipt of the whole of the amount of tax secured under subsection (3), the Commissioner shall serve notice on the chief registrar cancelling the direction made under subsection (2); and the chief registrar shall, without fee, record the cancellation at which time the direction shall cease to exist.

*Provisional tax.*

**111. Payment of provisional tax**

(1) A person who derives or expects to derive any income during a year of income which is not or will not be subject to withholding of tax at the source under section 116, 117 or 118 is liable to pay provisional tax under this section. *(effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006)*

(2) A provisional taxpayer, other than an individual, is liable to pay two installments of provisional tax, on or before the last day of the sixth and twelfth months of the year of income, in respect of the taxpayer's liability for income tax for that year.

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(3) For the purposes of subsection (2), the amount of each installment of provisional tax for a year of income is calculated according to the following formula-

$$(50\% \times A) - B$$

*(effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002)*

where-

A is the estimated tax payable by the provisional taxpayer for the year of income; and

B is the amount of any tax withheld under this Act, prior to the due date for payment of the installment, from any amounts derived by the taxpayer during the year of income which will be included in the gross income of the taxpayer for that year.

(4) A provisional taxpayer who is an individual is liable to pay four installments of provisional tax, on or before the last day of the third, sixth, ninth, and twelfth months on the year of income, in respect of the taxpayer's liability for income tax for that year.

(5) For the purposes of subsection (4), the amount of each installment of provisional tax for a year of income is calculated according to the following formula-

$$(25\% \times A) - B$$

*(effective 1<sup>st</sup> July 2002-Income Tax (Amendment) Act, 2003)*

Where-

A is the estimated tax payable by the provisional taxpayer for the year of income; and

B is the amount of any tax withheld under this Act, prior to the due date for payment of the installment, from any amounts derived by the taxpayer during the year of income which will be included in the gross income of the taxpayer for that year.

(6) Upon written application by the taxpayer, the Commissioner may, where good cause is shown, extend the due date for payment of an installment of provisional tax or allow for payment of such an installment in equal or varying amounts.

(7) An installment of provisional tax, when it becomes due and payable, is a debt due to the Government, and the provisions of this Act shall apply for the purposes of the collection and recovery of provisional tax by the Commissioner.

(8) Each installment of provisional tax shall be credited against the income tax assessed to the provisional taxpayer for the year of income to which the installment relates.

(9) Where the total of the installments credited under subsection (8) exceeds the taxpayer's income tax assessed for that year, the excess shall be dealt with by the Commissioner in accordance with section 113(3).

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(10) No installment of provisional tax paid by a provisional taxpayer shall be refunded to the taxpayer other than in accordance with subsection (9).

(11) In this section, “estimated tax payable” has the meaning in section 112.

**112. Estimated tax payable.**

(1) A provisional taxpayer’s estimated tax payable for year of income is-

- (a) in the case of a taxpayer to whom section 4(5) applies, the amount determined under the Second Schedule for that year as the tax payable on the gross turnover of the taxpayer estimated for that year under subsection (2); or
- (b) in any other case, the amount calculated by applying the rates of tax in force for that year against the amount estimated under subsection (3) by the taxpayer as the chargeable income of the taxpayer for the year.

(2) Every provisional taxpayer to whom section 4(5) applies shall furnish an estimate of the gross turnover of the taxpayer for each year of income and shall include with the estimate for a year of income, a statement of the actual gross turnover of the taxpayer for the previous year of income.

(3) Every provisional taxpayer, other than a taxpayer to whom section 4(5) applies, shall furnish an estimate of the chargeable income to be derived by the taxpayer for a year of income in respect of which provisional tax is or may be payable by the taxpayer.

(4) A provisional taxpayer’s estimate under subsection (2) or (3) shall be in the form prescribed by the Commissioner and shall be furnished to the Commissioner by the due date for payment of the first installment of provisional tax for the year of income.

(5) A provisional taxpayer’s estimate under subsection (2) or (3) shall remain in force for the whole of the year of income unless the taxpayer furnishes a revised estimate to the Commissioner which revised estimate shall only apply to the calculation of the provisional tax payable by the taxpayer after the date the revised estimate was furnished to the Commissioner.

(6) Where a provisional taxpayer fails to furnish an estimate of gross turnover or chargeable income as required by subsection (2) or (3), the estimated gross turnover or chargeable income of the taxpayer for the year of income shall be such amount as estimated by the Commissioner.

*Refund of Tax*

**113. Refunds**

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(1) A taxpayer may apply to the Commissioner for a refund, in respect of any year of income, of any tax paid by withholding, installments or otherwise in excess of the tax liability assessed to or due by the taxpayer for that year.

(2) An application for a refund under this section shall be made to the Commissioner in writing within five years of the later of-

- (a) the date on which the Commissioner has served the notice of assessment for the year of income to which the refund application relates; or
- (b) the date on which the tax was paid.

(3) Where the Commissioner is satisfied that tax has been overpaid, the Commissioner shall-

- (a) apply the excess in reduction of any other tax due from the taxpayer; and
- (b) apply the balance of the excess, if any, in reduction of any outstanding liability of the taxpayer to pay other taxes not in dispute or to make provisional tax payments during the year of income in which the refund is to be made.
- (c) refund the remainder, if any to the taxpayer. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(4) Where the Commissioner is required to refund an amount of tax to a person as a result of-

- (a) an application made to him under this Act;
- (b) a decision under section 99;
- (c) a decision of the High Court or **Tribunal** under section 100; or (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)
- (d) a decision of the Court of Appeal under section 101,

the Commissioner shall pay simple interest at a rate of 2 percent per month for the period **commencing on the date the person made the application for refund** and ending on the last day of the month in which the refund is made. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

(5) The Commissioner shall, within thirty days of making a decision on a refund application under subsection (1), serve on the person applying for the refund a notice in writing of the decision.

(6) A person dissatisfied with a decision referred to in subsection (5) may only challenge the decision under the objection and appeal procedure in this Act. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)



**114. Rental tax**

*(effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002)*

(1) An individual charged to tax under section 5 shall furnish a return of rental income for each year of income not later than four months after the end of that year.

(2) Sections 92, 94 to 100 and 113 apply, with the necessary changes made, to the tax imposed under section 5.

(3) For the avoidance of doubt, the Commissioner shall prescribe the form for return of rental income under this section. *(Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002)*

PART XIII - WITHHOLDING OF TAX AT SOURCE

**115. Interpretation of Part XIII**

In this Part-

(a) “payee” means a person receiving payments from which tax is required to be withheld under this Part; and

(b) “withholding agent” means a person obliged to withhold tax under this Part.

**116. Withholding of tax by employers.**

(1) Every employer shall withhold tax from a payment of employment income to an employee as prescribed by regulations made under section 164.

(2) The obligation of an employer to withhold tax under subsection (1) is not reduced or extinguished because the employer has a right, or is otherwise under an obligation, to deduct and withhold any other amount from such payments.

(3) The obligation of an employer to withhold tax under subsection (1) applies notwithstanding any other law which provides that the employment income of an employee shall not be reduced or subject to attachment.

**117. Payment of interest to resident persons.**

(1) Subject to subsection (2), a resident person who pays interest to another resident person shall withhold tax on the gross amount of the payment at the rate prescribed in Part V of the Third Schedule to this Act.

(2) This section does not apply to-

(a) interest paid by a natural person;

- (b) interest, **other than interest from treasury bills**, paid to a financial institution; (*effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006*)
  - (c) interest paid by a company to an associated company; or
  - (d) interest paid which is exempt from tax in the hands of the recipient.
- (3) In this section, “associated company”, in relation to a company, in this subsection referred to as the “payer company”, means-
- (a) a company in which the payer company controls 50 percent or more of the voting power in the company either directly or through one or more interposed companies;
  - (b) a company which controls 50 percent or more of the voting power in the payer company either directly or through one or more interposed companies; or
  - (c) a company, in this subsection referred to as the “payee company”, where another company controls 50 percent of the voting power in the payee and payer companies either directly or through one or more interposed companies.

**118. Payment of dividends to resident shareholders**

- (1) A resident company which pays a dividend to a resident shareholder shall withhold tax on the gross amount of the payment at the rate prescribed in Part V of the Third Schedule to this Act.
- (2) This section does not apply where the dividend income is exempt from tax in the hands of the shareholder.

**118A. Withholding tax from professional fees.**

- (1) A resident person who pays management or professional fees to a resident professional shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule.
- (2) This section does not apply to a professional who the Commissioner is satisfied has regularly complied with the obligations imposed on that person under this Act. (*effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

**119. Payment for goods and services.**

- (1) Where the Government of Uganda, a Government institution, a local authority, any company controlled by the Government of Uganda, or any person designated in a notice issued by the Minister, in this section referred to as the “payer”, pays an amount or amounts in aggregate exceeding one million shillings to any person in Uganda-
  - (a) for a supply of goods or materials of any kind; or

(b) for a supply of any services,

the payer shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule to this Act, and the payer shall issue a receipt to the payee.

(2) Where-

(a) there are separate supplies of goods or materials, or of services and each supply is made for an amount that is one million shillings or less; and

(b) it would reasonably be expected that the goods or materials, or services would ordinarily be supplied in a single supply for an amount exceeding one million shillings,

subsection (1) applies to each supply.

(3) Every person who imports goods into Uganda is liable to pay tax at the time of importation on the value of the goods at the rate prescribed in Part VIII of the Third Schedule to this Act.

(4) The value of goods under subsection (3) shall be the value of the goods ascertained for the purposes of customs duty under the laws relating to customs.

(5) This section does not apply to-

(a) a supply or importation of petroleum or petroleum products, including furnace oil, lubricants, other than cosmetics, and fabrics or yarn manufactured out of petroleum products;

(b) a supply or importation of plant and machinery;

(c) a supply or importation of human or animal drugs;

(d) a supply or importation of scholastic materials;

(e) importations by organizations within subparagraph (ii) of paragraph (a) of the definition of "exempt organisation" in section 2(bb)(i)(B); or

(f) a supplier or importer-

(i) who is exempt from tax under this Act; or

(ii) who the Commissioner is satisfied has regularly complied with the obligations imposed on the supplier or importer under this Act.

(g) the supply or importation of raw materials. (*effective 1<sup>st</sup> July, 2000- The Finance Act, 2001*)

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(6) The tax paid under subsections (1) and (3) is treated as **tax withheld** for the purposes of section 128. (*effective 1<sup>st</sup> July, 2001- Income Tax (Amendment) Act, 2002*)

### **120. International payments**

(1) Any person making a payment of the kind referred to in section 83 or 85 shall withhold from the payment the tax levied under the relevant section.

(2) Any promoter, agent, or similar person-

(a) paying remuneration to a nonresident entertainer or sportsperson; or

(b) responsible for collecting the gross receipts from a performance in Uganda by a theatrical, musical or other group of nonresident entertainers or sportspersons,

shall withhold from the remuneration or receipts the tax levied under section 84.

(3) This section does not apply where the payment is exempt from tax.

### **121. Nonresident services contract**

(1) Every person who enters into an agreement with a nonresident for the provision of services by the nonresident which services give rise to income sourced in Uganda shall, within thirty days of the date of entering into such agreement, notify the Commissioner in writing of-

(a) the nature of such agreement;

(b) the likely duration of the agreement;

(c) the name and postal address of the nonresident person to whom payments under the agreement are to be made; and

(d) the total amount estimated to be payable under the agreement to the nonresident person.

(2) The Commissioner may, by notice in writing served on the person who has notified the Commissioner under subsection (1), require that person to withhold tax from any payment made under the agreement at the rate specified by the Commissioner in the notice.

(3) This section does not apply to a contract to which section 85 applies.

### **122. Withholding as a final tax**

Where-

(a) tax has been withheld under section 117 **on a payment of interest on a payment of interest on treasury bills by the Bank of Uganda to any person** or by a financial

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institution to a resident individual, other than in the capacity of trustee, resident retirement fund, or to an exempt organisation; or (*effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006*)

- (b) tax has been withheld under section 118 on a payment of dividends to a resident individual;

the withholding tax is a final tax and-

- (c) no further tax liability is imposed upon the taxpayer in respect of the income to which the tax relates;
- (d) that income is not aggregated with the other income of the taxpayer for the purposes of ascertaining chargeable income;
- (e) no deduction is allowed for any expenditure or **losses incurred** in deriving the income; and (*effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)
- (f) no refund of tax shall be made in respect of the income.

### **123. Payment of tax withheld**

(1) Subject to subsection (2), a withholding agent shall pay to the Commissioner any tax that has been withheld or that should have been withheld under this Part within fifteen days after the end of the month in which the payment subject to withholding tax was made by the withholding agent.

(2) Where a person withholds or should have withheld tax as required under of section 120(2), the tax shall be paid to the Commissioner within five days of the performance or by the day before the date the nonresident leaves Uganda, whichever is the earlier.

(3) The provisions of this Act relating to the collection and recovery of tax apply to any amount withheld under this Part as if it were tax.

### **124. Failure to withhold tax**

(1) A withholding agent who fails to withhold tax in accordance with this Act is personally liable to pay to the Commissioner the amount of tax which has not been withheld, but the withholding agent is entitled to recover this amount from the payee.

(2) The provisions of this Act relating to the collection and recovery of tax apply to the liability imposed by subsection (1) as if it were tax.

### **125. Tax credit certificates**

(1) Subject to subsection (3), a withholding agent shall deliver to the payee a tax credit certificate setting out the amount of payments made and tax withheld during a year of income.

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(2) A payee who is required to furnish a return of income shall attach to the return the tax credit certificate or certificates supplied to the payee for the year of income for which the return is filed.

(3) A withholding agent shall at the end of each year of income deliver to the employee to which section 4(4) applies a certificate setting out the amount of tax withheld during a year of income.

**126. Record of payments and tax withheld.**

(1) A withholding agent shall maintain, and keep available for inspection by the Commissioner, records showing, in relation to each year of income-

- (a) payments made to a payee; and
- (b) tax withheld from those payments.

(2) The records referred to in subsection (1) shall be kept by the withholding agent for five years of income after the end of the year of income to which the records relate.

(3) The Commissioner may call upon a withholding agent to allow an auditor to examine the agent's records to verify their accuracy against the agent's tax credit certificates.

**127. Priority of tax withheld.**

(1) Tax withheld by a withholding agent under this Act-

- (a) is held by the withholding agent in trust for the Government of Uganda; and
- (b) is not subject to attachment in respect of a debt or liability of the withholding agent,

and in the event of the liquidation or bankruptcy of the withholding agent, an amount withheld under this Act does not form a part of the estate in liquidation, assignment, or bankruptcy; and Commissioner shall have a first claim before any distribution of property is made.

(2) Every amount which a withholding agent is required under this Act to withhold from a payment is-

- (a) a first charge on that payment; and
- (b) withheld prior to any other deduction which the withholding agent may be required to make by virtue of an order of any court or any other law.

**128. Adjustment on assessment and withholding agent's indemnity**

(1) The amount of tax withheld under this Part is treated as income derived by the payee at the time it was withheld.

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(2) A withholding agent who has withheld tax under this Part and remitted the amount withheld to the Commissioner is treated as having paid the withheld amount to the payee for the purposes of any claim by that person for payment of the amount withheld.

(3) Tax withheld from a payment under this Part is deemed to have been paid by the payee and, except in the case of a tax that is a final tax under this Act, is credited against the tax assessed on the payee for the year of income in which the payment is made.

(4) Where the tax withheld under this Part for a year of income, together with any provisional tax paid under section 111 for that year, exceeds the liability under an assessment of the taxpayer for that year, the excess shall be dealt with by the Commissioner in accordance with section 113(3).

(5) Where a person who pays tax in accordance with section 119(3) is an individual whose only source of income is employment income, the tax shall be refunded on application by that person in accordance with section 113.

#### PART XIV - RECORDS AND INFORMATION COLLECTION.

##### **129. Accounts and records**

(1) Unless otherwise authorised by the Commissioner, a taxpayer shall maintain in Uganda such records as may be necessary to explain the information provided in a return or in any other document furnished in terms of section 92 or to enable an accurate determination of the tax payable by the taxpayer.

(2) The Commissioner may disallow a claim for a deduction if the taxpayer is unable without reasonable excuse to produce a receipt or other record of the transaction, or to produce evidence relating to the circumstances giving rise to the claim for the deduction.

(3) The record or evidence referred to in this section shall be retained for five years **after the end of the year of income to which the record or evidence relates.** (*Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

##### **130. Business information returns**

(1) Every person carrying on business in Uganda who makes a payment of income sourced in Uganda, being services income, interest, royalties, management fees or other income specified by the Commissioner shall furnish a return of such payments, in this section referred to as a “business information return”, to the Commissioner within sixty days after the end of the year of income in which the payment was made. (*Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

(2) A business information return shall be in the form specified by the Commissioner and shall state the information required.

(3) Subsection (1) does not apply to the payment of any income subject to withholding of tax at the source under Part XIII.

**131. Access to books, records and computers**

(1) In order to enforce a provision of this Act, the Commissioner, or any officer authorised in writing by the Commissioner-

- (a) shall have at all times and without any prior notice full and free access to any premises, place, book, record or computer;
- (b) may make an extract or copy from any book, record or computer-stored information to which access is obtained under paragraph (a) of this subsection;
- (c) may seize any book or record that, in the opinion of the Commissioner or authorised officer, affords evidence which may be material in determining the liability of any person to tax, interest, penal tax or penalty under this Act;
- (d) may retain any such book or record for as long as it may be required for determining a person's tax liability or for any proceeding under this Act; and
- (e) may, where a hard copy or computer disk of information stored on a computer is not provided, seize and retain the computer for as long as is necessary to copy the information required.

(2) No officer shall exercise the powers under subsection (1) without authorisation in writing from the Commissioner and the officer shall produce the authorisation to the occupier of the premises or place to which the exercise of powers relates.

(3) The occupier of the premises or place to which an exercise of power under subsection (1) relates shall provide all reasonable facilities and assistance for the effective exercise of the power.

(4) A person whose books, records or computer have been removed and retained under subsection (1) may examine them and make copies or extracts from them during regular office hours under such supervision as the Commissioner may determine.

(5) All records, books or computers removed and retained under subsection (1) shall be signed for by the Commissioner or an authorised officer, and the Commissioner shall return them to the owner.

(6) Where the records, books or computers referred to in subsection (1) are lost or destroyed in the possession of the Commissioner, the Commissioner shall appropriately compensate the taxpayer for the loss or destruction.



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(7) This section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the production of or access to documents.

(8) In this section, “occupier” in relation to premises or a place means the owner, manager or any other responsible person on the premises or place.

### **132. Notice to obtain information or evidence**

(1) The Commissioner may, by notice in writing, require any person, whether or not liable for tax under this Act-

(a) to furnish, within the time specified in the notice, any information that may be required by the notice; or

(b) to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner or by an officer authorised by the Commissioner, concerning the tax affairs of that person or any other person and, for that purpose, the Commissioner or an authorised officer may require the person examined to produce any book, record or computer-stored information in the control of the person.

(2) Where the notice requires the production of a book, record, or computer-stored information, it is sufficient if such book, record, or computer-stored information is described with reasonable certainty.

(3) A notice issued under this section shall be served by, or at the direction of the Commissioner **through publication** or by a signed copy delivered by hand to the person to whom it is directed or left at the person’s last and usual place of business or abode, and the certificate of service signed by the person serving the notice shall be evidence of the facts stated therein. *(effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006)*

(4) Where the notice is not served personally on the person to whom it is directed, the service shall be witnessed by a member of the executive committee of the local council.

(5) This section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the production of or access to documents.

### **133. Books and records not in the English language**

Where any book, record or computer-stored information referred to in sections 129, 131, or 132 is not in English, the Commissioner may, by notice in writing, require the person keeping the book, record or computer-stored information to provide, at the person’s expense, a translation into English by a translator approved by the Commissioner.

**134. Tax clearance certificate.**

A taxpayer-

- (a) providing a passenger transport service;
- (b) providing a freight transport service where the goods vehicle used has a load capacity of more than 2 tonnes;
- (c) supplying goods or services to the Government; or
- (d) transferring funds in excess of 2500 currency points from Uganda to a place outside Uganda,

shall obtain a tax clearance certificate from the Commissioner as provided for in regulations made under section 164.

*Tax identification Number*

**135. Tax identification number**

- (1) For purposes of identification of taxpayers, the Commissioner may issue a number, to be known as a tax identification number, to every taxpayer.
- (2) The Commissioner may require a taxpayer to show the tax identification number in any return, notice, or other document used for the purposes of this Act.

PART XV - OFFENCES AND PENALTIES

*Interest*

**136. Interest on unpaid tax**

- (1) A person who fails-
  - (a) to pay any tax, including provisional tax;
  - (b) to pay any penal tax; or
  - (c) to pay to the Commissioner any tax withheld or required to be withheld by the person from a payment to another person,

on or before the due date for payment is liable for interest at a rate equal to 2 percent per month on the amount unpaid calculated from the date on which the payment was due until the date on which payment is made.

- (2) Interest paid by a person under subsection (1) shall be refunded to the person to the extent that the tax to which the interest relates is found not to have been due and payable.
- (3) Where good cause is shown, in writing, by the person liable for payment of interest, the Minister may, on the advice of the Commissioner, remit, in whole or in part, any interest charged under this section.
- (4) Interest charged in respect of a failure to comply with section 123 is borne personally by the withholding agent, and no part of it is recoverable from the person who received the payment from which tax was or should have been withheld under Part XIII which deals with withholding of tax.
- (5) Interest charged under this section shall be simple interest.
- (6) The provisions of this Act relating to the collection and recovery of tax apply to any interest charged under this section as if it were tax due.

*Offence and penalties*

**137. Failure to furnish a return**

- (1) A person who fails to furnish a return of any other document within fifteen days of being so required under this Act commits an offence and is liable on conviction to a fine not exceeding fifteen currency points.
- (2) If a person convicted of an offence under subsection (1) fails to furnish the return or document to which the offence relates within the period specified by the court, that person commits an offence and is liable on conviction to a fine not exceeding twenty currency points.

**138. Failure to comply with recovery provision.**

- (1) Any person who fails to comply with-
  - (a) any notice issued under section 106; or
  - (b) the requirements of section 109,

commits an offence and is liable on conviction to a fine not exceeding twenty-five currency points.

- (2) Where a person is convicted of an offence under subsection (1)(a), the court shall, in addition to imposing a penalty, order the convicted person to pay to the Commissioner the amount to which the failure relates.
- (3) A person who notifies the Commissioner in writing under section 106(4) is considered to be in compliance with any notice served on the person under section 106(1) until the

Commissioner serves the person with a notice under section 106(5) amending the notice served under section 106(1) or rejecting the person's notice under section 106(4).

**139. Failure to maintain proper records.**

(1) A person who fails to maintain proper records under this Act commits an offence and is liable on conviction to-

- (a) where the failure was deliberate, a fine of not less than fifteen currency points or to imprisonment for a term not exceeding one year; or
- (b) in any other case, a fine not exceeding twenty-five currency points.

**140. Failure to comply with section 132 notice**

A person who, without good cause, fails to comply with a notice issued under section 132 commits an offence and is liable on conviction to a fine not exceeding twenty-five currency points.

**141. Improper use of tax identification number**

A person who knowingly or recklessly uses a false **tax** identification number, including the tax identification number of another person, on a return or document prescribed or used for the purposes of this Act, commits an offence and is liable on conviction to a fine of not less than twenty-five currency points or to imprisonment for a term not exceeding one year, or both. (*Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

**142. Making false or misleading statements**

(1) A person who-

- (a) makes a statement to an officer of the Uganda Revenue Authority that is false or misleading in a material particular; or
- (b) omits from a statement made to an officer of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular,

commits an offence and is liable on conviction to-

- (c) where the statement or omission was made knowingly or recklessly, a fine of not less than twenty-five currency points or to imprisonment for a term not exceeding one year or both; or
- (d) in any other case, a fine not exceeding twenty-five currency points.

(2) It is a defence for the accused person to prove that he or she did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

(3) A reference in this section to a statement made to an officer of the Uganda Revenue Authority is a reference to a statement made in writing to that officer acting in the performance of his or her duties under this Act, and includes a statement made-

- (a) in an application, certificate, declaration, notification, return, objection or other document made, prepared, given, filed, or furnished under this Act;
- (b) in information required to be furnished under this Act;
- (c) in a document furnished to an officer of the Uganda Revenue Authority otherwise than pursuant to this Act;
- (d) in answer to a question asked of a person by an officer of the Uganda Revenue Authority; or
- (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to an officer of the Uganda Revenue Authority.

**143. Obstructing an officer of the authority**

A person who obstructs an officer of the Uganda Revenue Authority in the performance of duties under this Act commits an offence and is liable on conviction to a fine not exceeding twenty-five currency points.

**144. Aiding and abetting**

Any person who aids and abets another person to commit an offence, or counsels or induces another person to commit such an offence, commits an offence and is liable on conviction to a fine not exceeding twenty-five currency points or to imprisonment for a term not exceeding one year or to both. (*Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

**145. Offences by and relating to officers and persons employed to carry out the Act; penalties**

(1) Any officer of the Uganda Revenue Authority or any person employed in carrying out the provisions of this Act who-

- (a) directly or indirectly asks for, or takes in connection with any of the officer's duties, any payment or reward whatsoever, whether pecuniary or otherwise, or promise or security for any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or
- (b) enters into or acquiesces in any agreement to do or to abstain from doing, permit, conceal, or connive at any act or thing whereby the tax revenue is or may be

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defrauded or which is contrary to the provisions of this Act or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine of not less than twenty-five currency points or to imprisonment for a term of not less than three months.

(2) Any person who-

- (a) directly or indirectly offers or gives to any officer payment or reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or
- (b) proposes or enters into any agreement with any officer in order to induce the officer to do or to abstain from doing, permit, conceal, or connive at any act or thing whereby tax revenue is or may be defrauded or which is contrary to the provisions of this Act or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine of not less than twenty-five currency points or to imprisonment for a term of not less than three months.

(3) Notwithstanding subsection (1), an officer or person employed in carrying out the provisions of this Act who commits an act specified in subsection (1)(a) or (b), and who volunteers information to the commissioner relating to that act shall-

- (a) be exonerated from prosecution; and
- (b) receive 20 percent of the fine that would be imposed on a person convicted of an offence under subsection (1).

(4) Notwithstanding subsection (2), a person who commits an act specified in subsection (2) (a) or (b), and who volunteers information to the Commissioner relating to that act shall-

- (a) be exonerated from prosecution; and
- (b) be liable to tax only to the extent agreed upon with the officer to whom the offence relates.

(5) An officer convicted of an offence under subsection (1) is, in addition to any penalty imposed under that section, liable to pay the difference in tax between the tax due and the tax payable by a person under subsection (4)(b); and the amount due under this section shall be deemed to be tax due from the officer under section 104.

#### **146. Offences by companies**

(1) Where an offence is committed by a company, every person who, at the time the offence was committed-

(a) was a nominated officer, director, general manager, secretary, or other similar officer of the company; or

(b) was acting or purporting to act in that capacity,

is, without prejudice to the liability of the company, deemed to have committed the offence.

(2) Subsection (1) does not apply where-

(a) the offence was committed without that person's consent or knowledge; and

(b) the person has exercised all diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

#### **147. Officer may appear on behalf of commissioner**

Notwithstanding anything contained in any written law, any officer duly authorised in writing by the Commissioner may appear in any court on behalf of the Commissioner in any proceedings in which he Commissioner is a party and, subject to the directions of the Attorney-General, that officer may conduct any prosecution for an offence under this Act and, for that purpose, shall have all the powers of a public prosecutor appointed under the Magistrates Courts Act.

#### **148. Compounding offences**

(1) Where any person commits an offence under this Act other than an offence under section 145, the Commissioner may, at any time prior to the commencement of court proceedings, compound the offence and order the person to pay a sum of money specified by the Commissioner, not exceeding the amount of the fine prescribed for the offence.

(2) The Commissioner shall only compound an offence under this section if the person concerned admits in writing that the person has committed the offence.

(3) Where the Commissioner compounds an offence under this section, the order referred to in subsection (1)-

(a) shall be in writing and specify the offence committed, the sum of money to be paid and the due date for payment, and shall have attached to it the written admission referred to in subsection (2);

(b) shall be served on the person who committed the offence;

(c) shall be final and not subject to any appeal, and

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(d) may be enforced in the same manner as a decree of any court for the payment of the amount stated in the order.

(4) Where the Commissioner compounds an offence under this section, the person concerned shall not be liable for prosecution in respect of that offence or for penal tax.

**149. Place of trial**

(1) Any person charged with committing an offence under this Act may be proceeded against, tried and punished in any place in Uganda in which the person may be in custody for the offence as if the offence had been committed in that place; and the offence shall, for all purposes incidental to or consequential upon the prosecution, trial, or punishment of the offence, be deemed to have been committed in that place.

(2) Nothing in subsection (1) shall preclude the prosecution, trial, and punishment of a person in any place in which, but for this section, the person might have been prosecuted, tried, and punished.

**150. Tax charged to be paid notwithstanding prosecution**

The amount of any tax or interest due and payable under this Act shall not be abated by reason only of the conviction or punishment of the person liable for payment thereof for an offence under this Act or for the compounding of such offence under section 148.

*Penal Tax*

**151. Penal tax for failure to furnish a return of income**

A person who fails to furnish a return of income for a year of income within the time required under this Act is liable to pay a penal tax equal to 2 percent of the tax payable for that year **before subtracting any credit allowed to the taxpayer on his or her chargeable income or ten** currency point per month, whichever is the greater, for the period the return is outstanding. (*effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006*)

**152. Penal tax in relation to records**

A person who deliberately fails to maintain proper records for a year in accordance with the requirements of this Act is liable to pay a penal tax equal to double the amount of tax payable by the person for the year.

**153. Penal tax in relation to false or misleading statements**

(1) Where a person knowingly or recklessly-

(a) makes a statement to an officer of the Uganda Revenue Authority that is false or misleading in a material particular; or



- (b) omits from a statement made to an officer of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular,

and the tax properly payable by the person exceeds the tax that was assessed as payable based on the false or misleading **statement or omission**, that person is liable to pay a penal tax equal to double the amount of the excess. (*Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

(2) Section 142(3) applies in determining whether a person has made a statement to an **officer** of the Uganda Revenue Authority. (*Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

**154. Penal tax for underestimating provisional tax estimates**

(1) A provisional taxpayer whose estimate or revised estimate of chargeable income for a year of income under section 112 is less than 90 percent of the taxpayer's actual chargeable income assessed for that year is liable for penal tax equal to 20 percent of the difference between the tax calculated in respect of the taxpayer's estimate, as revised, of chargeable income and the tax calculated in respect of 90 percent of the taxpayer's actual chargeable income for the year of income.

(2) A provisional taxpayer whose estimate or revised estimate of gross turnover for a year of income under section 112 is less than 90 percent of the taxpayer's actual gross turnover for that year is liable for penal tax equal to 20 percent of the difference between the tax calculated in respect of the taxpayer's estimate, as revised, of gross turnover and the tax calculated in respect of 90 percent of the taxpayer's actual gross turnover for the year of income.

(3) this section does not apply to a taxpayer who is in the business of agricultural, plantation or horticultural farming. (*Effective 1<sup>st</sup> July 2002-Income Tax (Amendment) Act, 2003*)

**155. Recovery of penal tax**

(1) Liability for penal tax is calculated separately with respect to each section dealing with penal tax.

(2) Subject to subsection (3), the imposition of penal tax is in addition to any interest imposed under section 136 and any penalty imposed as a result of conviction of an offence.

(3) No penal tax is imposed on a person under section 152 or 153 where the person has been convicted of an offence under section 139 or 142 respectively for the same act or omission.

(4) If penal tax under section 152 or 153 has been paid and the Commissioner institutes a prosecution proceeding under section 139 or 142 respectively in respect of the same act or omission, the Commissioner shall refund the amount of penal tax paid; and that penal tax is not payable unless the prosecution is withdrawn.

(5) Penal tax as assessed by the Commissioner under sections 151, 152, 153, and 154 shall be treated for all purposes as an assessment under this Act.

(6) Where good cause is shown, in writing, by the person liable to pay penal tax, the Minister may, on the advice of the Commissioner, remit, in whole or in part, any penal tax payable.

PART XVI – ADMINISTRATION

**156. Delegation**

The Commissioner may delegate to any officer of the Uganda Revenue Authority any duty, power or function conferred or imposed on the Commissioner under this Act, other than the power to compound offences under section 148 and the power to delegate conferred by this section.

**157. Official secrecy**

(1) Every person appointed under, or employed in carrying out the provisions of this Act shall regard and deal with all documents and information which may come to the person's possession or knowledge in connection with the performance of duties under this Act as secret and shall not disclose any information or document except in accordance with the provisions of this Act.

(2) No person appointed under or employed in carrying out the provisions of this Act, shall be required to produce any document or communicate any information in **a tribunal referred to in paragraph (a) of section 101** or any court which has come into the person's possession or knowledge in connection with the performance **of duties** under this Act except as may be necessary for the purpose of carrying the provisions of this Act into effect. *(effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002)*

(3) Nothing in this section shall prevent the disclosure of information or documents to-

- (a) the Minister or any other person where the disclosure is necessary for the purposes of this Act or any other fiscal law;
- (b) any person in the service of the Government in a revenue or statistical department where such disclosure is necessary for the performance of the person's official duties;
- (c) the Auditor General or any person authorised by the Auditor General where such disclosure is necessary for the performance of official duties; or
- (d) the competent authority of the Government of another country with which Uganda has entered into an agreement for the avoidance of double taxation or for the exchange of information, to the extent permitted under that agreement.

(4) Any person receiving documents and information under subsection (2) or (3) is required to keep them secret under the provisions of this section, except to the minimum extent necessary to achieve the purpose for which the disclosure is necessary.

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(5) Documents and information obtained by the Commissioner in the performance of the Commissioner's duties and powers under this Act may be used by the Commissioner for the purposes of any other fiscal law administered by the Commissioner.

(6) Any person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding twenty-five currency points or to imprisonment for a term not exceeding one year or to both.

*Forms and notices*

**158. Forms and notice; authentication of documents**

(1) Forms, notices, returns, statements, tables, and other documents required under this Act may be in such form as the Commissioner may determine for the efficient administration of this Act; and publication of such documents in the Gazette shall not be required.

(2) The Commissioner shall make the documents referred to in subsection (1) available to the public at the Uganda Revenue Authority and at such other locations, or by mail, as the Commissioner may determine.

(3) A notice or other document issued, served, or given by the commissioner under this Act is sufficiently authenticated if the name or title of the commissioner, or authorised officer, is printed, stamped, or written on the notice or document.

**159. Service of notices and other documents**

Unless otherwise provided in this Act, a notice or other document required or authorised by this Act to be served-

- (a) on a person being a resident individual other than in a representative capacity, is considered sufficiently served if-
  - (i) personally served on that person;
  - (ii) left at the person's usual or last known place of abode, office or place of business in Uganda and the service witnessed by a member of the executive committee of the local council; or
  - (iii) sent by post to such place of abode, office or place of business, or to the person's usual or last known address in Uganda; or
- (b) on any other person, is considered sufficiently served if-
  - (i) personally served on the nominated officer of the person;
  - (ii) left at the registered office of the person or the person's address for service of notices under this Act; or

- (iii) left at or sent by post to any office or place of business of the person in Uganda.

*Rulings*

**160. Practice notes**

- (1) To achieve consistency in the administration of this Act and to provide guidance to taxpayers and officers of the Uganda Revenue Authority, the Commissioner may issue practice notes setting out the Commissioner's interpretation of this Act.
- (2) A practice note is binding on the Commissioner until revoked.
- (3) A practice note is not binding on a taxpayer.

**161. Private rulings**

- (1) The Commissioner may, upon application in writing by a taxpayer, issue to the taxpayer a private ruling setting out the Commissioner's position regarding the application of this Act to a transaction proposed or entered into by the taxpayer.
- (2) Where the taxpayer has made a full and true disclosure of the nature of all aspects or the transaction relevant to the ruling and the transaction has proceeded in all material respects as described in the taxpayer's application for the ruling, the ruling shall be binding on the Commissioner with respect to the application to the transaction of the law as it stood at the time the ruling was issued.
- (3) Where there is any inconsistency between a practice note and a private ruling, priority is given to the terms of the private ruling.

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*Remission of tax.*

**162. Remission of tax**

(1) Where the Commissioner is of an opinion that the whole or any part of the tax due under this Act by a taxpayer cannot be effectively recovered by reason of-

- (a) considerations of hardship, or
- (b) impossibility, undue difficulty, or the excessive cost of recovery,

the Commissioner may refer the taxpayer's case to the Minister.

(2) Where a taxpayer's case has been referred to the Minister under subsection (1) and the Minister is satisfied that the tax due cannot be effectively recovered, the Minister may remit in whole or part the tax due by the taxpayer.

PART XVII - MISCELLANEOUS.

**163. Interpretation of Part XVII**

In this Part, "repealed legislation" means the Income Tax Decree, 1974, amendments to it and subsidiary legislation made under it and section 25 of the Investment Code, 1991.

**164. Regulations**

(1) The Minister may, by statutory instrument, make regulations for better carrying into effect of the purposes of this Act.

(2) Without prejudice to the general effect of subsection (1), regulations made under that subsection may-

- (a) contain provisions of a saving or transitional nature consequent on the making of this Act; or
- (b) prescribe penalties for the contravention of the regulations not exceeding a fine of twenty-five currency points or imprisonment not exceeding six months or both, and may prescribe, in the case of continuing offences, an additional fine not exceeding five currency points in respect of each day on which the offence continues.

**165. Amendment of monetary amounts and Schedules**

The Minister may, with the approval of Parliament, by statutory instrument, amend-

- (a) any monetary amount set out in this Act; or

(b) the Schedules.

**166. Transitional**

(1) The repealed legislation continues to apply to years of income prior to the year of income in which this Act comes into force.

(2) All appointments made under the repealed legislation and subsisting at the date of commencement of this Act are deemed to be appointments made under this Act.

(3) Any arrangement between the Government of Uganda and the Government of a foreign country with a view to affording relief from double taxation made under section 47 of the Income Tax Decree 1974 or its predecessor and which is still in force at 1<sup>st</sup> July 1997 continues to have effect under this Act.

(4) All forms and documents used in relation to the repealed legislation may continue to be used under this Act, and all references in those forms and documents to provisions of, and expressions appropriate to, the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.

(5) A reference in this Act to a previous year of income includes, where the context requires, a reference to a year of income under the repealed legislation.

(6) Section 3(1)(d) of the Income Tax Decree, 1974, continues to apply to an amount referred to in section 21(1)(h) of this Act if the payer of the alimony, allowance or maintenance has obtained a deduction for the payment under the Income Tax Decree, 1974, prior to the commencement of this Act.

(7) Section 18(1)(a) and section 22(1)(b) do not apply to business assets of a capital nature disposed of before 1<sup>st</sup> April, 1998, or to business debts of a capital nature cancelled or satisfied before 1<sup>st</sup> April, 1998.

(8) Where, as a result of the application of this Act, a gain or loss on realisation of a liability is subject to tax being a gain or loss which would not otherwise have been subject to tax, the value of the liability on 31<sup>st</sup> March 1998, shall be used in the calculation of any income or deduction as from that date.

(9) Subject to subsections (10) and (11), where, as a result of the application of this Act, a gain or loss on disposal of an asset is subject to tax being a gain or loss that would not otherwise have been subject to tax, the cost base of the asset is calculated on the basis that each item of cost or expense included in the cost base and which was incurred prior to that date is determined according to the following formula-

$$CB \times \frac{CPI D}{CPI A}$$

Where-

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CB is the amount of an item of cost or expense incurred on or before **31<sup>st</sup> March, 1998**, included in the cost base of the asset; and (*effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

CPI D is the Consumer Price Index number published for the month ending on **31<sup>st</sup> March, 1998**; and (*effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

CPI A is the Consumer Price Index number published for the month immediately prior to the date on which the relevant item of cost or expense was incurred.

(10) Where the taxpayer is able to substantiate the market value of an asset on 31<sup>st</sup> March 1998, the taxpayer may substitute that value for the cost base determined under subsection (9).

(11) Where the asset referred to in subsection (10) is immovable property, the cost base of the property as at 31<sup>st</sup> March, 1998, is equal to the market value of the property as determined by the chief government valuer.

(12) Section 27(4)(b) of this Act shall apply to depreciable assets acquired by a taxpayer before 1<sup>st</sup> July, 1997, and held by the taxpayer at that date on the basis that the cost base of the asset is the cost of the asset less any depreciation deductions allowed under the repealed legislation in respect of that cost.

(13) For the purposes of section 29(6), the “residue of expenditure” of an industrial building at 30<sup>th</sup> June, 1997, shall be the residue of expenditure as determined under the Income Tax Decree, 1974, at that date. (*Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

(14) The amount of a deduction allowed to a taxpayer under section 38 for the year of income commencing on 1<sup>st</sup> July, 1997 shall be determined under section 14(4) of the Income Tax Decree, 1974.

(15) The amount of a deduction allowed under sections 30 and 31 in respect of start-up costs incurred or intangible assets acquired before this Act comes into force shall be calculated on the assumption that those sections had always applied.

(16) For the purpose of applying subsections (7) to (14) to a taxpayer permitted to use a substituted year of income for the first year of income under this Act-

- (a) the reference in those subsections to 31<sup>st</sup> March, 1998, is treated as a reference to the day immediately preceding the commencement of the first year of income of the taxpayer under this Act; and
- (b) the reference in those subsections to 1<sup>st</sup> April, 1998, is treated as a reference to the first day of the first year of income of the taxpayer under this Act.



(17) A taxpayer entitled to use a substituted year of income under the Income Tax Decree, 1974, is permitted to continue to use that period as the taxpayer's substituted year of income under this Act until the Commissioner decides otherwise by notice in writing to the taxpayer.

(18) Where a taxpayer subject to tax under this Act but who was not subject to tax under the Income Tax Decree, 1974, is entitled to use a substituted year of income, the taxpayer is treated for the purposes of section 39(6) of this Act as having a transitional year of income for the period 1<sup>st</sup> July, 1997, to the end of the day immediately preceding the start of the first substituted year of income after that date.

(19) Finance leases, as defined in section 59 of this Act, entered into before 1<sup>st</sup> July, 1997 shall be dealt with in terms of the Income Tax Decree, 1974. (*Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)

(20) A reference in section 62 to a previously deducted expenditure, loss or bad debt includes a reference to an expenditure, loss or bad debt deducted under the repealed legislation.

(21) Notwithstanding the repeal of section 25 of the Investment Code, 1991, the holder of a certificate of incentives which is valid at the commencement of this Act may make an election in writing to the Commissioner by 31<sup>st</sup> December, 1997, for the exemption from tax on corporate profits and the exemption from withholding tax paid on dividends and interest paid to resident persons as provided under section 25 of the Investment Code, 1991 to continue until the exemption expires in accordance with that section, as if that section had not been repealed.

(22) Notwithstanding the exemption referred to in subsection (21), a holder of a certificate of incentives validly in force at 30<sup>th</sup> June, 1997, and who has made an election under subsection (21) shall furnish a return of income in accordance with section 92 prepared on the basis that the holder is not exempt from tax for each year of income the exemption applies under this Act.

(23) Where an exemption referred to in subsection (21) expires, the following provisions apply to the holder of the certificate of incentives-

- (a) subsections (8) to (11) apply to the person on the basis that the reference in those subsections to 31<sup>st</sup> March, 1998 is treated as a reference to the day on which the exemption expired; (*effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)
- (b) the amount of the deduction allowed under sections 27, 29, 30, and 31 in respect of depreciable assets, industrial buildings, or intangible assets acquired, or start-up costs incurred, before the exemption expired shall be calculated on the assumption that those sections had always applied; and
- (c) the amount of any assessed loss to be deducted in the first year of income after the exemption has expired is calculated on the basis that this Act and its predecessor has always applied to the person.

(24) Notwithstanding the repeal of section 25 of the Investment Code, 1991, and without prejudice to other relevant provisions of this section, an investor who, immediately before the commencement of this Act, holds a valid investment licence under the Investment Code, 1991, and who but for this Act would be eligible for the grant of a certificate of incentives and whose application had been approved for a certificate of incentives shall be issued with the certificate in accordance with the Investment Code, 1991, as if section 25 of the Code had not been repealed.

(25) Where a person, but for the repeal of section 25 of the Investment Code, 1991, would have been issued with a certificate of incentives under the Investment Code, 1991, and the person had placed an item of eligible property, as defined in section 28(3), into service during the year of income immediately preceding the person's first year of income under this Act, the person shall be treated as having placed the item of eligible property into service during the person's first year of income under this Act.

(26) Subject to subsection (27), where the income of a person is wholly or partly exempt from tax under-

- (a) a notice published in the Gazette under section 12(2) of the Income Tax Decree, 1974; or
- (b) a provision in any agreement,

the notice or provision shall have no effect under this Act unless the Minister has concurred in writing by 31 December, 1997, with the exemption provided for in the notice or provision.

(27) Subsection (26) does not apply where the exemption is provided for an agreement between the Government of Uganda and a foreign government or the United Nations or a specialised agency of the United Nations.

**SCHEDULES.**

*First Schedule.*

s. 2.

**Listed institutions.**

African Development Bank

African Development Fund

Aga Khan Foundation

East African Development Bank

Eastern and Southern African Trade and Development Bank

European Development Fund

European Investment Bank

European Union

Food and Agriculture Organisation

International Bank for Reconstruction and Development

International Civil Aviation Organisation

International Development Association

International Finance Corporation

International Labour Organisation

International Monetary Fund

International Telecommunications Union

United Nations related agencies and specialised agencies

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*Second Schedule*

**Small business taxpayer's tax rates.**

1. The amount of tax payable for the purposes of section 4(5) by a taxpayer is-

Gross turnover	Tax
Where the gross turnover of the taxpayer exceeds 5 million but does not exceed Shs. 20 million per annum ( <i>effective 1<sup>st</sup> July, 2002- Income Tax (Amendment) Act, 2003</i> )	Shs. 100,000
Where the gross turnover of the taxpayer exceeds Shs 20 million but does not exceed Shs. 30 million per annum	Shs. 250,000 or 1 % of gross turnover, whichever is the lower
Where the gross turnover of the taxpayer exceeds Shs 30 million but does not exceed Shs 40 million per annum	Shs. 350,000 or 1% of gross turnover, whichever is the lower
Where the gross turnover of the taxpayer exceeds shs. 40 million but does not exceed Shs 50 million per annum	Shs. 450,000 or 1% of gross turnover, whichever is the lower

2. The tax payable by a taxpayer under section 4(5) is reduced by-

- (a) any credit allowed under section 128(3) for withholding tax paid in respect of amounts included in the gross turnover of the taxpayer; or
- (b) any credit allowed under section 111(8) for provisional tax paid in respect of amounts included in the gross turnover of the taxpayer.

THE INCOME TAX ACT, CAP 340

*Third Schedule*

ss. 6, 7, 8, 82, 83,  
84, 85, 86, 117, 118, 119.

**Rates of tax**

s. 6(1).

*Part 1*

*Income tax rates for individuals.*

1. The income tax rates applicable to resident individuals are-

Chargeable Income	Rate of Tax
Not exceeding Shs. 1,560,000	Nil
Exceeding Shs. 1,560,000 but not exceeding Shs. 2,820,000	10% of the amount by which chargeable income exceeds Shs. 1,560,000
Exceeding Shs. 2,820,000 but not exceeding Shs. 4,920,000	Shs. 126,000 plus 20% of the amount by which chargeable income exceeds Shs. 2,820,000. <i>(effective 1<sup>st</sup> July, 2002- Income Tax (Amendment) Act, 2003)</i>
Exceeding Shs. 4,920,000	Shs. 546,000 plus 30% of the amount by which chargeable income exceeds Shs. 4,920,000.

2. The income tax rates applicable to nonresident individuals are-

Chargeable Income	Rate of tax
Not exceeding Shs. 2,820,000	10%
Exceeding Shs. 2,820,000 but not exceeding Shs. 4,920,000	Shs. 282,000 plus 20% of the amount by which chargeable income exceeds Shs. 2,820,000.
Exceeding Shs. 4,920,000	Shs. 702,000 plus 30% of the amount by which chargeable income exceeds Shs. 4,920,000.

*Part II*  
*Income tax rate for companies*

1. The income tax rate applicable to companies, other than mining companies, for the purposes of section 7 is 30 percent.
2. Subject to paragraphs (3) and (4), the income tax rate applicable to mining companies is calculated according to the following formula-

$$70 - 1500/X$$

where X is the number of the percentage points represented by the ratio of the chargeable income of the mining company for the year of income to the gross revenue of the company for that year.

3. If the rate of tax calculated under paragraph 2 exceeds 45 percent, then the rate of tax shall be 45 percent.
4. If the rate of tax calculated under paragraph 2 is less than 25 percent, then the rate of tax shall be 25 percent.
5. In this Part-
  - (a) “gross revenue”, in relation to a mining company for a year of income, means-
    - (i) the amount shown in the recognised accounts of the company as the gross proceeds derived in carrying on of mining operations during the year of income, including the gross proceeds arising from the disposal of trading stock, without deduction for expenditures or losses incurred in deriving that amount; and
    - (ii) the amount, if any, shown in the recognised accounts of the taxpayer as the amount by which the sum of the gains derived by the taxpayer during the year of income from the disposal of business assets used or held ready for use in mining operations, other than trading stock, exceeds the sum to losses incurred by the taxpayer during the year in respect of the disposal of such assets; and
  - (b) “mining company” means a company carrying on any mining operations in Uganda.

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*Income tax rate for trustees and retirement funds.*

The income tax rate applicable to trustees and retirement funds for the purposes of section 8 is 30 percent.

ss. 82, 83, 84, and 85

*Part IV*

*Income tax rate for nonresident persons.*

The income tax rate applicable to a nonresident person under section 82, 83, 84, or 85 is 15 percent.

ss. 117, 118.

*Part V*

*Withholding tax rate for interest and dividends for resident persons*

- (i) The withholding tax rate applicable for interest and dividend payments to a resident person under sections 117 and 118 is 15 percent.
- (ii) The withholding tax rate applicable for dividends payments from companies listed on the stock exchange to individuals under section 118 is 10 percent.  
*(effective 1<sup>st</sup> July, 2006- Income Tax (Amendment) Bill, 2006)*

s. 6(2).

*Part VI*

*Rate of rental tax.*

The rate of tax applicable to an individual for the purposes of section 6(2) is 20 percent of the chargeable income in excess of Shs. 1,560,000.

s. 86(2).

*Part VII*

*Rate of tax applicable to shipping and aircraft income.*

The rate of tax applicable to shipping and aircraft income under section 86(2) is 2 percent.

s. 119.

*Part VIII*

*Withholding tax rate for goods and services transactions.*

The withholding tax rate applicable for goods and services transactions and for imported goods under section 119 is 6 percent. *(Effective 1<sup>st</sup> July 2004, Income Tax (Amendment) Bill, 2004.)*

*Fourth Schedule*

s. 16

**Chargeable income arising from short-term insurance business**

1. The chargeable income of a resident person for a year of income arising from the carrying on of a short-term insurance business is determined according to the following formula-

$$\mathbf{A - B}$$

Where-

- A** is the total income derived by the resident person for the year of income in carrying on a short-term insurance business as determined under paragraph 2; and
  - B** is the total deductions allowed for the year of income in the production of income referred to in A as determined under paragraph 3.
2. The total income derived by a resident person for a year of income in carrying on a short-term insurance business is the sum of-
    - (a) the amount of the gross premiums, including premiums on reinsurance, derived by the person during the year of income in carrying on such a business in respect of the insurance of any risk, other than premiums returned to the insured;
    - (b) the amount of any other income derived by the person during the year of income in carrying on such a business, including any commission or expense allowance derived from reinsurers, any income derived from investments held in connection with such a business **and** any gains derived on disposal of assets of the business; and (*effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002*)
    - (c) the amount of any reserve deducted in the previous year of income under paragraph 3(d).
  3. The total deduction allowed for a year of income in the production of income from the carrying on of a short-term insurance business is the sum of-
    - (a) the amount of the claims admitted during the year of income in the carrying on of such a business, less any amount recovered or



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recoverable under any contract of reinsurance, guarantee, security or indemnity;

- (b) the amount of agency expenses incurred during the year of income in the carrying on of such a business;
  - (c) the amount of expenditures and losses incurred by the person during the year of income in carrying on that business which are allowable as a deduction under this Act, other than expenditures or losses referred to in paragraphs (a) and (b); and
  - (d) the amount of a reserve for unexpired risks referable to such a business at the percentage adopted by the company at the end of the year of income.
4. Where, for any year of total income, the total deduction allowed to a person under paragraph 3 exceed the income derived by the person as determined under paragraph 2, the excess may not be deducted against any other income of the person for the year of income, but shall be carried forward and deducted in determining the chargeable income of the person arising from the carrying on of a short-term insurance business in the next year of income.
5. The chargeable income of a nonresident person for a year of income arising from the carrying on of a short-term insurance business in Uganda is determined according to the following formula-

**A - B**

Where-

- A** is the total income derived by the person for the year of income in carrying on a short-term insurance business as determined under paragraph 6; and
- B** is the total deduction allowed for the year of income in the production of income referred to in A as determined under paragraph 7.
6. The total income derived by a nonresident person for a year of income in carrying on a short-term insurance business in Uganda is the sum of-
- (a) the amount of the gross premiums, including premiums on reinsurance, derived by the person during the year of income in carrying on such a business in respect of the insurance of any risk in Uganda, other than premiums returned to the insured;
  - (b) the amount of any other income derived by the person during the year of income in carrying on such a business in Uganda, including-

- (i) any commission or expense allowance derived from re-insurance of risks accepted in Uganda; and
    - (ii) any income derived from investment of the reserves referable to such business carried on in Uganda; and
    - (iii) any gains derived on disposal of assets of the business; and
  - (c) the amount of any reserve deducted in the previous year of income under paragraph 7(d).
7. The total deduction allowed for a year of income in the production of income from the carrying on of a short-term insurance business in Uganda by a nonresident person is the sum of-
- (a) the amount of the claims admitted during the year of income in the carrying on of such a business, less any amount recovered or recoverable under any contract of reinsurance, guarantee, security or indemnity;
  - (b) the amount of agency expenses incurred during the year of income in the carrying on of such a business;
  - (c) the amount of expenditures and losses incurred by the person during the year of income in carrying on that business which are allowable as a deduction under this Act, other than expenditures or losses referred to in paragraphs (a) and (b); and
  - (d) the amount of a reserve for unexpired risks in Uganda referable to such a business at the percentage adopted by the company at the end of the year of income.
8. Where, for any year of total income, the total deduction allowed to a person under paragraph 7 exceeds the income derived by the person as determined under paragraph 6, the excess may not be deducted against any other income of the person for the year of income, but shall be carried forward and deducted in determining the chargeable income of the person arising from the carrying on of a short-term insurance business in Uganda in the next year of income.

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*Fifth Schedule.*

Section 19(3)

**Valuation of benefits.**

1. The valuation of benefits for the purposes of section 19(3) of this Act shall be determined in accordance with this Schedule.
2. For the purposes of this Schedule, a benefit provided by an employer to an employee means a benefit that-
  - (a) is provided by an employer, or by a third party under an arrangement with the employer or an associate of the employer; and
  - (b) is provided to an employee or to an associate of an employee; and
  - (c) is provided in respect of past, present, or prospective employment.
3. Where a benefit provided by an employer to an employee consists of the use, or availability for use, of a motor vehicle wholly or partly for the private purposes of the employee, the value of the benefit is calculated according to the following formula-

$$(20\% \times A \times B/C) - D$$

where -

- A** is the market value of the motor vehicle at the time when it was first provided for the private use of the employee;
  - B** is the number of days in the year of income during which the motor vehicle was used or available for use for private purposes by the employee for all or a part of the day;
  - C** is the number of days in the year of income; and
  - D** is any payment made by the employee for the benefit.
4. Where a benefit provided by an employer to an employee consists of the provision of a housekeeper, chauffeur, gardener or other domestic assistant, the value of the benefit is the total employment income paid to the domestic assistant in respect of services rendered to the employee, reduced by any payment made by the employee for the benefit.
  5. Where a benefit provided by an employer to an employee consists of the provision of any meal, refreshment or entertainment, the value of the benefit is the cost to the employer of providing the meal, refreshment or entertainment,

- 
- reduced by any consideration paid by the employee for the meal, refreshment or entertainment.
6. Where a benefit provided by an employer to an employee consists of the provision of utilities in respect of the employee's place of residence, the value of the benefit is the cost to the employer of providing the utilities reduced by any consideration paid by the employee for the utilities.
  7. Where a benefit provided by an employer to an employee consists of a loan or loans in total exceeding one million shillings at a rate of interest below the statutory rate, the value of the benefit is the difference between the interest paid during the year of income, if any, and the interest which would have been paid if the loan had been made at the statutory rate for the year of income.
  8. Where a benefit provided by an employer to an employee consists of the waiver by an employer of an obligation of the employee to pay or repay an amount owing to the employer or to any other person, the value of the benefit is the amount waived.
  9. Where a benefit provided by an employer to an employee consists of the transfer or use of property or the provision of services, the value of the benefit is the market value of the property or services **at the time the benefit is provided**, reduced by any payment made by the employee for the benefit. *(Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002)*
  10. Where a benefit provided by an employer to an employee consists of the provision of accommodation or housing, other than where section 19(1)(a) or (c) applies, the value of the benefit is the lesser of-
    - (a) the market rent of the accommodation or housing reduced by any payment made by the employee for the benefit; or
    - (b) 15 percent of the employment income, including the amount referred to in paragraph (a), paid by the employer to the employee for the year of income in which the accommodation or housing was provided.
  11. The value of any benefit provided by an employer to an employee which is not covered by the above clauses is the market value of the **benefits, at the time the benefit is provided reduced** by any payment made by the employee for the benefit. *(Effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002)*
  12. Paragraph (11) does not apply to any benefit expressly covered by section 19(1)(a) or (c) to (h).
  13. In this Schedule, "statutory rate", in relation to a year of income, means the Bank of Uganda discount rate at the commencement of the year of income.

*Sixth Schedule*

Section 27, 28, 29.

**Depreciation rates and vehicle depreciation ceiling.**

*Part I*

*Declining balance depreciation rates for depreciable assets.*

Class	Assets Included	Depreciation Rate
1	Computers and data handling equipment	40%
2	Automobiles; buses and minibuses with a seating capacity of less than 30 passengers; goods vehicles with a load capacity of less than 7 tonnes; construction and earth-moving equipment	35%
3	Buses with a seating capacity of 30 or more passengers; goods vehicles designed to carry or pull loads of <b>7 tonnes or more</b> ; specialised trucks; tractors; trailers and trailer-mounted containers; plant and machinery used in farming, manufacturing or mining operations; ( <i>effective 1<sup>st</sup> July 2001-Income Tax (Amendment) Act, 2002</i> )	30%
4	Railroad cars, locomotives and equipment; vessels, barges, tugs and similar water transportation equipment; aircraft; specialized public utility plant, equipment and machinery; office furniture, fixtures and equipment; any depreciable asset not included in another class	20%

*PART II*

*Vehicle depreciation Ceiling*

The amount for the purposes of section 27(11) is Shs. 30,000,000.

*PART III*

*Straight-line depreciation rate for industrial buildings*

The depreciation rate for the purposes of section 29 is 5 percent.

*PART IV*

*Prescribed Areas*

The following areas are prescribed for the purposes of section 28:  
Kampala, Entebbe, Namanve, Jinja and Njeru.

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*Seventh Schedule.*

S. 2

**Currency Point**

Shillings      One currency point is equivalent to twenty thousand Uganda  
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**History:** Act 11/1997

**Cross References**

Building Societies Act, Cap. 108.  
Constitution of 1995.  
Diplomatic Privileges Act, Cap. 201.  
Income Tax Decree, Decree 1/1974.  
Investment Code, Statute 1/ 1991.  
Local Governments Act, Cap. 243.  
Magistrates Courts Act, Cap. 16  
Mining Act, Cap. 148.  
Uganda Revenue Authority Act, Cap.196.

**STATUTORY INSTRUMENTS  
SUPPLEMENT No. 21**

**28th July, 2000**

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to the Uganda Gazette No. 48 Volume XCIII dated 28th July, 2000.*

**STATUTORY INSTRUMENTS.**

2000 No. 52.

**THE INCOME TAX (WITHHOLDING TAX) REGULATIONS, 2000.**

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**ARRANGEMENT OF REGULATIONS.**

*Regulation.*

1. Short title and commencement.
2. Interpretation.
3. Amount of tax to be withheld.
4. Employee declaration.
5. Secondary employment form.
6. Declarations and secondary employment forms.
7. Change of employment certificate.
8. Tax credit and employee withholding certificates.
9. Offences.



**STATUTORY INSTRUMENTS.**

**2000 No. 52.**

**THE INCOME TAX (WITHHOLDING TAX) REGULATIONS, 2000**

*(Under section 116 (1) and 164 of the Income Tax Act, 1997,  
Act No. 11 of 1997).*

IN EXERCISE of the powers conferred upon the Minister by section 164 of the income Tax Act, these Regulations are made this 1st day of June 2000.

1. These Regulations may be cited as the Income Tax (Withholding Tax) Regulations, 2000, and shall be deemed to have come into force on the 1st day of July, 2000.

2. (1) In these Regulations, “Act” means the Income Tax Act, 1997.

(2) Terms and expressions used in these Regulations have, unless the contrary intention appears, the same meaning as they have in the Act.

3. (1) Every employer obliged under section 116 of the Act to withhold tax from a payment of employment income to an employee shall withhold tax in accordance with this regulation.

(2) Subject to subregulation (10), where employment income is paid monthly by an employer to an employee and the employee has furnished the employer with an employee declaration, the amount of tax to be withheld from the payment for a month (referred to as the “current month”) is calculated according to the following formula—

$(A-B)/C,$

Where-

A is the amount of tax payable calculated-

(a) in the case of an employee who is a resident individual, in accordance with paragraph 1 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with subregulation (3); and

(b) in the case of an employee who is a non-resident person, in accordance with paragraph 2 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with subregulation (3);

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B is the amount of tax withheld from payments made to the employee in the previous months of the year of income; and

C is the number of months remaining in the year of income, including the current month.

(3) The annualised employment income of an employee for the purposes of component A of the formula in subregulation (2) is calculated in accordance with the following formula-

$$(D + E) \times 12/F,$$

where-

D is the amount of employment income paid by the employer to the employee in the current month;

E is the amount of employment income paid by the employer to the employee in the previous months of the year of income; and

F is the number of completed months in the year of income, including the current month.

(4) Subject to subregulation (10), where employment income is paid fortnightly by an employer to an employee and the employee has furnished the employer with an employee declaration, the amount of tax to be withheld from a payment for a fortnight (referred to as the “current fortnight”) is calculated according to the following formula—

$$(A-B)/C,$$

where-

A is the amount of tax payable calculated-

(a) in the case of an employee who is a resident individual, in accordance with paragraph 1 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with subregulation (5); or

(b) in the case of an employee who is a non-resident individual, in accordance with paragraph 2 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with subregulation (5);

B is the amount of tax withheld from payments made to the employee in the previous fortnights of the year of income; and

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C is the number of remaining fortnights in the year of income, including the current fortnight.

(5) The annualised employment income of an employee for the purposes of component A of the formula in subregulation (4) is calculated in accordance with the following formula-

$$(D+E) \times 26/F,$$

Where-

D is the amount of employment income paid by the employer to the employee in the current fortnight;

E is the amount of employment income paid by the employer to the employee in the previous fortnights of the year of income; and

F is the number of completed fortnights in the year of income, including the current fortnight.

(6) Subject to subregulation (10), where employment income is paid weekly by an employer to an employee and the employee has furnished the employer with an employee declaration, the amount of tax to be withheld from a payment for a week (referred to as the “current week”) is calculated according to the following formula-

(A-B)/C, where-

A is the amount of tax payable calculated-

(a) in the case of an employee who is a resident individual, in accordance with paragraph 1 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with subregulation (7); or

(b) in the case of an employee who is a non-resident individual, in accordance with paragraph 2 of Part I of the Third Schedule to the Act on the annualised employment income of the employee calculated in accordance with subregulation (7);

B is the amount of tax withheld from payments made to the employee in the previous weeks of the year of income; and

C is the number of remaining weeks in the year of income, including the current week.

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(7) The annualised employment income of an employee for the purposes of component A of the formula in subregulation (6) is calculated in accordance with the following formula-

$$(D + E) \times 52/F$$

where-

D is the amount of employment income paid by the employer to the employee in the current week;

E is the amount of employment income paid by the employer to the employee in the previous weeks of the year of income; and

F is the number of completed weeks in the year of income, including the current week.

(8) An employer shall notify the Commissioner, in writing, where the employer pays employment income to an employee on a basis other than monthly, fortnightly, or weekly.

(9) An employer shall notify the Commissioner, in writing, of any change, during a year of income, to the period of payment of employment income to an employee who has furnished an employee declaration to the employer.

(10) Where a notification has been made under sub-regulation (8) or (9), the Commissioner shall advise the employer, by notice in writing, of the amount of tax to be withheld by the employer from the employment income paid by the employer to the employee.

(11) Subject to subregulation (13), where an employee has not furnished an employer with a employee declaration under regulation 4, the amount of tax to be withheld from a payment of employment income for any period shall be the standard withholding amount.

(12) An employee who has not furnished an employer with an employee declaration may apply, in writing, to the Commissioner for a statement of the amount of tax to be withheld by the employer from the employment income paid by the employer to the employee.

(13) After considering the application under subregulation (1), the Commissioner may, if he or she considers it appropriate, issue the employee with a statement of the amount of tax to be withheld by the employer from the employment income paid by the employer to the employee, and the employee shall furnish the statement to his or her employer and the employer shall withhold tax from payments of employment income to the employee in accordance with the statement.

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(14) Where a change occurs in the circumstances affecting the amount of withholding tax specified in a statement referred to in subregulation (13), the employee to whom the statement has been issued shall, by notice in writing within seven days of the change occurring, notify the Commissioner of the change occurring and the Commissioner shall issue a new statement accordingly.

(15) In this regulation-

(a) a fortnight is a “completed fortnight”, “previous fortnight”, or “remaining fortnight”, in relation to a year of income, if the pay day for the fortnight occurs during the year of income;

(b) a week is a “completed week”, “previous week”, or “remaining week”, in relation to a year of income, if the pay day for the week occurs during the year of income; and

(c) “standard withholding amount”, in relation to a payment of employment income to an employee, means

$A \times B$

where—

A is the highest marginal rate specified in the rates of tax in the relevant paragraph of Part I of the Third Schedule; and

B is the amount of employment income paid to the employee.

**4.** (1) Subject to subregulation (2), an employee shall furnish an employee declaration to his or her employer for each year of income.

(2) Where an employee has more than one employer at any time during a year of income, the employee shall furnish an employee declaration to only one employer.

(3) An employee declaration shall be-

(a) in the form prescribed by the Commissioner;

(b) signed and dated by the employee; and

(c) furnished to the employer-

(i) unless the Commissioner provides otherwise, by 1 July of the year of income to which the declaration relates; or

(ii) where the employee takes up employment during the year of income, within seven days after the date on which the employment commenced.

**5.** (1) Where an employee has more than one employer at any time during a year of income, the employee shall furnish a secondary employment form to each employer other than the employer to whom an employee declaration has been furnished under regulation 4.

(2) A secondary employment form shall be—

(a) in the form prescribed by the Commissioner; and

(b) signed and dated by the employee.

(3) A secondary employment form shall be furnished to the employer—

(a) unless the Commissioner provides otherwise, by 1 July of the year of income to which the form relates; or

(b) where the employee takes up employment during the year of income, within seven days after the date on which the employment commenced:

**6.** (1) An employee declaration or a secondary employment form applies only to amounts of tax to be withheld after the date on which the declaration or form is furnished to the employer and continues in force until—

(a) withdrawn by the employee by notice in writing to the employer;

(b) the end of the year of income to which the declaration or form relates; or

(c) the employee ceases to be in the employment of the employer to whom the declaration or form has been furnished, whichever is the earlier.

(2) Where, after furnishing an employee declaration to an employer, a change occurs in the circumstances affecting the amount of withholding tax calculated under regulation 3, the employee shall, by notice in writing within seven days after the change occurring, withdraw the declaration and furnish the employer with a new declaration.

(3) An employer shall maintain and keep available for a period of five years, employee declarations and secondary employment forms furnished by employees under regulations 4 and 5 for inspection by the Commissioner.

**7.** (1) An employer shall issue to each employee who leaves the employer's employment during the year of income, a change of employment certificate setting out-

(a) the amount of employment income paid by the employer to the employee during the year of income;

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(b) the amount of tax withheld under section 117 of the Act by the employer from that income; and

(c) the period of the year of income that the employee was employed by the employer.

(2) A change of employment certificate shall be issued to the employee at the time that the employee leaves the employer's employment.

(3) An employee who receives a change of employment certificate shall furnish the certificate to his or her new employer within seven days after he or she commences the new employment.

(4) An employer who has been furnished with a certificate under subregulation (3) shall take the amounts set out in the certificate into account in applying regulation 3 to the employment income paid to the employee for the year of income to which the certificate relates.

**8.** (1) This regulation applies to the issue of tax credit certificates under section 125(1) of the Act and employee withholding certificates under section 125(3) of the Act

(2) A withholding agent who is required to issue a tax credit certificate or employee withholding certificate to a payee shall sign the certificate and shall issue it by-

(a) causing it to be delivered to the payee personally; or

(b) posting it by prepaid letter addressed to the payee's last known postal address.

(3) Where a tax credit certificate or employee withholding certificate which has been posted in accordance with this regulation is returned to the withholding agent undelivered, the withholding agent shall forward the certificate to the Commissioner within seven days after the date on which the certificate was returned to the withholding agent.

(4) A payee whose tax credit certificate or employee withholding certificate has been lost, stolen or destroyed, may request in writing that the withholding agent issue a duplicate certificate.

(5) Where a request has been made under subregulation (4), the withholding agent shall comply with the request and the certificate so issued shall be clearly marked "duplicate".

(6) The personal representative of a payee who dies during the year of income may apply, in writing, to the withholding agent of the deceased payee for a tax credit certificate or employee withholding certificate in respect of that part of the year of income prior to the death of the payee.

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(7) A payee who intends to cease to be a resident person may apply in writing, to his or her withholding agent for a tax credit certificate or employee withholding certificate in respect of that part of the year of income prior to the payee ceasing to be a resident person.

(8) Where an application has been made under subregulation (6) or (7), the withholding agent shall issue the personal representative or payee with the certificate within seven days after the application is made.

(9) A withholding agent who ceases to carry on business shall issue a tax credit certificate or employee withholding certificate to each payee prior to ceasing business.

**9.** (1) An employee who fails to notify any change in circumstances as required by regulation 3(14) commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

(2) An employee who furnishes an employee declaration to an employer in contravention of regulation 4(2) commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

(3) An employer who fails to maintain employee declarations and secondary employment forms as required under regulation 6(3) commits an offence and is liable on conviction to a fine not exceeding twenty five points.

(4) An employer who fails to issue a change in employment certificate as required by regulation 7 commits an offence and is liable on conviction to a fine not exceeding twenty five current points.

(5) A withholding agent who fails to issue a tax credit or employee withholding certificate as required by regulation 8 commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

GERALD SSENDAULA,  
*Minister of Finance, Planning and Economic Development.*



**STATUTORY INSTRUMENTS  
SUPPLEMENT No. 21**

**28th July, 2000**

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to the Uganda Gazette No. 48 Volume XCIII dated 28th July 2000.*

**STATUTORY INSTRUMENTS.**

2000 No. 53.

**THE INCOME TAX (DISTRRAINT) RULES, 2000.**

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ARRANGEMENT OF RULES

*Rule.*

1. Short title and commencement.
2. Interpretation.
3. Appointment of distraint agent.
4. Distraint agent to give security.
5. Execution of warrant.
6. Service of warrant.
7. Entry into house and rooms.
8. Receipts and reports.
9. Sale by public auction.
10. Returns to Commissioner.
11. Payment or security
12. Attachment of livestock
13. Costs and expenses.
14. Remuneration of distraint agent.
15. Auctioneers commission.
16. Remuneration to cover all expenses

**STATUTORY INSTRUMENTS**

2000 No. 53.

**THE INCOME TAX (DISTRRAINT) RULES, 2000**

(Under section 107 (8) of the Income Tax Act, 1997,  
Act No. 11 of 1997)

IN EXERCISE of the powers conferred upon the Minister by section 107(8) of the Income Tax Act, 1997, these Rules are made this 16th day of May, 2000.

1. These Rules may be cited as the Income Tax (Distraint) Rules, 2000 and shall be deemed to have come into force on 1st July, 1997.

2. In these Rules, unless the context otherwise requires-

“distraint agent” means a person appointed a distraint agent under rule 3;

“distress” means a distress levied under a warrant;

“distress debt” means the amount of any tax and penalties specified in a warrant;

“distrainor” means an officer in the service of the Uganda Revenue Authority authorised to levy distress under a warrant;

“goods” means all movable property (other than growing crops and goods which are liable to perish within ten days of attachment) of the distraintee which is liable under the laws of Uganda to attachment and sale in execution of a decree of a court of Uganda;

“warrant” means a warrant issued by the Commissioner under section 108 of the Act.

3. (1) The Commissioner may appoint distraint agents to assist distrainors in the execution of warrants for the purposes of section 108 of the Act.

(2) No person shall be appointed a distraint agent unless he or she satisfies the Commissioner-

(a) that he or she is of good repute and financial standing;

(b) that he or she is qualified under the laws of Uganda to levy distress (by way of attachment of moveable property) in execution of a decree of a court of Uganda;

- (c) that he or she has adequate and secure facilities for the storage of goods; and
- (d) that he or she has contracted a policy of insurance in an adequate sum against theft, damage, or destruction by fire of any goods which may be placed in his or her custody by reason of the performance of his or her duties as a distraint agent.

**4.** (1) A person appointed a distraint agent shall furnish the Commissioner with security by means of a deposit, or such other security as the Commissioner may approve, of a sum of five hundred thousand shillings and that security shall be refunded or cancelled on the termination of the appointment, unless it is deemed to be forfeited under this rule.

(2) Where a distraint agent is convicted of an offence involving fraud or dishonesty in connection with any functions performed by him or her as a distraint agent, the court by which he or she is convicted may make an order for the forfeiture of his or her security or part of his or her security deposited with the Commissioner under subrule (1).

(3) The Criminal Procedure Code, in so far as it relates to forfeiture of recognisance, shall apply, with the necessary modifications, to the forfeiture of any security under this rule.

**5.** (1) A warrant may be executed at any time between 6.00 a.m. and 6.00 p.m., after it has been served on the distrainee in the manner provided by rule 6.

(2) A warrant shall be executed by attachment of such goods of the distrainee as, in the opinion of the distrainer, are of a value which would, on sale by public auction, realise a sum sufficient to meet the distress debt and the costs and expenses of the distress incurred by the distrainer.

**6.** (1) Service of a warrant to an individual shall be effected-

- (a) by service by the distrainer of a copy of the warrant on the distrainee in person; or
- (b) if, after using all due and reasonable diligence, the distrainee cannot be found, by service of a copy of the warrant on an agent of the distrainee empowered to accept service or an adult member of the family of the distrainee who is residing with him or her.

(2) Service of a warrant to a company shall be effected by delivering it to the principal officer, Company Secretary, General Manager or a director of the company.

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(3) A person served with a copy of a warrant under this rule shall endorse and acknowledge service on the original warrant stating the time, date and place of service.

(4) Where a person served with a warrant under subrule (3) refuses to endorse the warrant, the distrainor shall leave the copy of the warrant stating-

- (a) that the person upon whom he or she served the warrant refused to sign the acknowledgement; and
- (b) that he or she left, at the time, date and place stated in the warrant, a copy of the warrant with that person and the name and address of the person (if any) by whom the person on whom the warrant was served was identified,

and thereupon the warrant shall be deemed to have been duly served.

**7.** (1) In executing any distress under these Rules, the outer door of a dwelling house shall not be broken open unless that dwelling-house is occupied by the distrainee and he or she refuses, or in any way prevents access to it.

(2) When the distrainor executing distress under these Rules has duly gained access to a dwelling-house, he or she may break open the door of any room in which he or she has reason to believe any goods of the distrainee to be.

(3) Where a room in a dwelling-house is in the actual occupancy of a woman who, according to her religion or local custom does not appear in public, the distrainor shall give notice to her that she is at liberty to leave the room.

(4) After allowing reasonable time for a woman to leave the room under subrule (3) and giving her reasonable facility for leaving, the distrainor may enter that room for the purpose of attaching any goods in it, using at the same time every precaution consistent with these Rules to prevent their clandestine removal.

**8.** As soon as practicable after the attachment of any goods, the distrainor shall-

- (a) issue a receipt in respect of the goods distrained; and
- (b) forward to the Commissioner a report containing-
  - (i) an inventory of all the items attached;
  - (ii) the value of each item as estimated by the distrainor;
  - (iii) the address of the premises at which the goods are being kept, pending sale;

(iv) the name and address of the distraint agent in whose custody the goods have been placed; and

(v) the arrangements, if any, made or to be made for the sale by public auction of the goods on the expiration of ten days after the date of attachment.

**9.** (1) The goods distrained under rule 8 shall be sold by public auction and the distrainor shall cause the sale to be stopped when the sale has realised a sum equal to or exceeding the distress debt and the cost and expenses incurred by the distrainor.

(2) Any unsold goods shall, at the cost of the distrainee, be restored to the distrainee and the proceeds of the sale shall be applied in the manner prescribed under section 108(5) of the Act.

**10.** Immediately after the completion of the sale by public auction of goods attached under these Rules, the distrainor shall make a return to the Commissioner specifying-

(a) the items which have been sold;

(b) the amount realised by the sale; and

(c) the manner in which the proceeds of the sale were applied.

**11.** (1) Where a distrainee has, within ten days after attachment of his or her goods, paid or given security accepted by the Commissioner for the whole of the tax due from him or her together with the whole of the costs and expenses incurred by the distrainor in executing the distress, the distrainor shall, at the cost of the distrainee, immediately restore the attached goods to the distrainee and return the warrant to the Commissioner who shall cancel it.

(2) Any sum paid by a distrainee under this rule shall be applied by the Commissioner-

(a) first in settlement of the costs and expenses incurred by the distrainor; and

(b) the balance, if any, in settlement of the distress debt or such part of the debt as the Commissioner shall direct.

**12.** Where any goods attached under these Rules comprise or include livestock, the distrainor may make appropriate arrangements for the transport, safe custody and feeding of the livestock and any costs and expenses incurred in doing so shall be recoverable from the distrainee under rule 9 or rule 11, as the case may be, as costs and expenses incurred by the distrainor.

**13.** In addition to a claim for any other costs and expenses which may be incurred by the Commissioner or the distrainer in levying any distress under these Rules, there may be claimed by the distrainer and recovered under rule 9 or rule 11, as the case may be, costs at the rate specified in the Schedule to these Rules.

**14.** The maximum rates of remuneration which a distraint agent is entitled to demand from the distrainer for the distraint agent's assistance in executing a distress under these Rules, and which may be recovered by the distrainer under rule 11 are specified in the Schedule to these Rules.

**15.** (1) The maximum rate of commission which an auctioneer is entitled to demand from the distrainer as remuneration for the auctioneer's services for the sale by public auction of any goods attached under these Rules, and which may be recovered by the distrainer under rule 9, is two *per cent* of the amount realised on sale.

(2) Where an auctioneer has rendered services as a distraint agent, he or she is entitled, in addition to any commission under subrule (1), to remuneration for those services as provided by rule 14.

**16.** The rates of remuneration specified in the Schedule to these Rules shall be deemed to include all expenses of advertisements, inventories, catalogues, insurance and necessary charges for safeguarding any goods attached under these Rules.

**SCHEDULE**

(Rules 13,14 and 16)

**CHARGES**

**1. Distraint charges**

(a) Where no distress is levied and the distress debt and any costs and expenses incurred by the distrainor are paid by the distrainee on demand or within 30 minutes thereafter, the distrainee shall pay the distrainor one hundred thousand shillings.

(b) The distrainee shall, in addition to the payment under paragraph (a), pay the distrainee costs incurred in serving and or executing a warrant.

**2. Distraint agent charges**

(a) Where no distress is levied and the distressed debt and any costs and expenses incurred by the distrainor are paid by the distrainee on demand or within 30 minutes thereafter, the distraint agent is entitled to remuneration of one hundred thousand shillings.

(b) For attaching goods or attaching and keeping possession of goods pending sale or sale thereof-

<i>Tax recovered or amount realised on sale:</i>	<i>Charges.</i>
Up to Shs 50,000,000	3% of tax recovered or amount realised on sale
Exceeding Shs 50,000,000 but not exceeding Shs 1,000,000,000	Shs 1,500,000 plus 2% of the amount by which tax recovered or amount realised on sale exceeds Shs 50,000,000
Exceeding Shs 100,000,000	Shs 2,500,000 plus 1% of the amount by which tax recovered or amount realised on sales exceeding Shs 100,000,000

**3. Charges on auction**

Where the goods or part of them have been sold by public auction, the distraint agent's charges shall be calculated by reference to the amount realised on sale after deduction of the auctioneer's commission under rule 15.

GERALD M. SSENDAULA,  
*Minister of Finance, Planning and Economic Development.*

**STATUTORY INSTRUMENTS  
SUPPLEMENT No. 6**

**14th March, 2003**

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to The Uganda Gazette No. 12 Volume XCVI dated 14th March, 2003.*

**STATUTORY INSTRUMENTS**

2003 No. 9.

**THE INCOME TAX (APPROVED INDUSTRIAL BUILDINGS) REGULATIONS,  
2003.**

*(Under section 29 and 164 of the Income Tax, 1997, Act No. 11 of 1997).*

IN EXERCISE of the powers conferred upon the Minister by section 165 of the Income Tax Act, 1997, these Regulations are made this 31st day of October 2002.

- 1.** These Regulations may be cited as the Income Tax (Approved Industrial Buildings) Regulations, 2003.
- 2.** (1) Regulations 4 and 5 shall be deemed to have come into force on 1st July, 1997 and apply to an approved hotel or approved hospital whose construction commenced on or after 1st July, 1997.  
  
(2) Regulation 6 shall be deemed to have come into force on 1st July, 2000 and applies to an approved commercial building whose construction commenced on or after 1st July, 2000.
- 3.** For the purposes of section 30 of the Act, the industrial buildings referred to in regulations 4, 5 and 6 are approved for the purposes specified in those regulations.
- 4.** An approved hotel is an industrial building licensed by the appropriate authorities for use, at a price, for boarding and lodging with at least-



(a) ten bedrooms with minimum facilities of bed and bedding, toilet and bath or shower room; and

(b) restaurant or dining room for provision of food and beverages.

**5.** An approved hospital is a specialised institutional industrial building manned by a fully registered specialist and general practitioner for the purpose of treating general patients as outpatients or inpatients, or both, for medical, paediatric, surgical and obstetric or gynaecologic conditions, providing treatment and nursing care and equipped with equipment and facilities for specialised establishment.

**6.** (1) An approved commercial building is an industrial building which is primarily used by the owner or let out for rent-

(a) for the purpose of carrying on a business, trade or profession;

(b) as an office;

(c) as a warehouse or commercial storage facility; or

(d) as a workshop.

(2) For the avoidance of doubt, an approved commercial building does not include a building let out or used for residential accommodation.

GERALD M. SSENDAULA,  
*Minister of Finance, Planning and Economic Development.*

**LEGAL NOTICES  
SUPPLEMENT No. 6**

**23rd June, 2000**

**LEGAL NOTICES SUPPLEMENT**

*to The Uganda Gazette No. 41 Volume XCIII dated 23rd June, 2000.*

Legal Notice No. 9 of 2000.

**THE INCOME TAX DECREE, 1974.**

*(Decree No. 1 of 1974)*

**THE INCOME TAX (WITHHOLDING TAX) NOTICE, 2000.**

*(Under section 12 of the Income Tax Decree, 1974, and section  
168 (1) of the Income Tax Act, 1997)*

IN EXERCISE of the powers conferred on the Minister responsible for finance by section 12 of the Income Tax Decree, 1974 as read with section 167(1) of the Income Tax Act, 1997 this Notice is issued this 20th day of April 2000.

**1.** This Notice may be cited as the Income Tax (Withholding Tax) (Exemption) Notice, 2000.

**2.** (1) Dividends, interest, royalties, management fees and other payments by enterprises with certificates of incentives due and payable by the enterprises for the years of income commencing July 1990 to July 1995 shall be deemed to have been exempted from withholding tax.

(2) For the avoidance doubt, subsection (1) applies whether the tax is directly payable by the enterprise or whether the enterprise is required by law to withhold the tax and pay it to Uganda Revenue Authority.

GERALD M. SSENDAULA,  
*Minister of Finance, Planning and Economic Development.*

**PUBLIC NOTICE**

**PRACTICE NOTES UNDER SECTION 160 OF THE  
INCOME TAX ACT 1997 (ITA)**

The Commissioner General of the Uganda Revenue Authority (URA) hereby issues practice notes under Section 160 of the Income Tax Act 1997 (ITA) for the guidance of URA officers and taxpayers as follows: -

**1. RECRUITMENT EXPENSES**

All expenses genuinely incurred by taxable employers in recruitment of employees should be treated as incurred in the production of income under Section 22 of the ITA and allowed as a deduction.

**2. DEDUCTION OF BAD DEBTS.**

For persons other than financial institutions, a bad debt is allowed as a deduction only if reasonable steps for recovery have been taken and there is reasonable ground to believe that the debt will not be recovered.

For financial institutions, specific reserves for identified losses or potential losses are allowable as a deduction. For this purpose in respect of financial institutions, bad debts provided for in accordance with the Bank of Uganda Regulations. “Prudential norms on Asset quality for financial institutions.” Under Section 12(1) - (6) is allowable as a deduction.

Section 12(7) of the same Bank of Uganda Regulations provides for a 1% general provision on the total outstanding credit facilities. This 1% general provision does not satisfy the requirements of Section 24 of the ITA and is therefore not deductible.

Any recoveries of previously written off bad debts will be treated as income and taxed in the year in which the recoveries are made.

**3. INITIAL ALLOWANCE**

Placing “an item of eligible property into service for the first time...” should be interpreted to mean for the first time in the taxpayers business. Therefore where taxpayer ‘B’ buys equipment which has been used by taxpayer ‘A’ in his business, taxpayer ‘B’ is entitled to initial allowance in the first year in which he puts the same equipment to use not withstanding that ‘A’ got initial allowance in respect of the same equipment.

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**4. CARRY FORWARD OF LOSSES BY COMPANIES ENJOYING TAX HOLIDAYS UNDER CERTIFICATE OF INCENTIVES - SECTION 167 (23):**

The meaning of this subsection is that in respect of companies enjoying tax holidays, a tax computation will be done under Section 167(23)(c) for each of the tax holiday years as if the Company was not exempt, and notional deductions made for Sections 27, 29, 30 and 31 under Section 167(23)(b) so that any loss in the final tax holiday year may be carried forward for deduction in the first year after expiration of the tax holiday.

**5. VALUATION OF BENEFITS - HOUSING PROVIDED TO DOMESTIC WORKERS WITHIN THE SAME COMPOUND AS THE PERSON THEY WORK FOR - COMMONLY REFERRED TO AS “BOYS’ QUARTERS.”**

Workers quarters of this nature have no market value “in terms of rent”. Consequently, no benefit should be attached to such accommodation for domestic workers under paragraph 10 of the fifth schedule.

**6. VALUATION OF BENEFITS - PROVISION OF SECURITY GUARDS:**

An employer’s provision of Security Guards is not classified as a taxable benefit under the fifth schedule.

**7. COMPUTER SOFTWARE**

Computer software is an integral part of computers and therefore a class one depreciable asset under the sixth schedule of the ITA.

**8. WITHHOLDING TAX ON PROFESSIONAL FEES PAID TO RESIDENTS**

In respect of Section 37 of the income Tax (Amendment) Bill, 2001 the following professionals will be deemed to have regularly complied with the obligations imposed under the income tax Act 1997: -

- All professionals who are registered for VAT purposes.
- Doctors, dentists or nurses with a fixed place of business registered for income tax purposes.

Professionals not covered by the above may on application to the Commissioner General, be granted exemptions.

These practice notes take effect from 1<sup>st</sup> July 2001 and are binding on all officers of URA in the administration of the ITA unless altered or revoked by any subsequent instructions issued by the Commissioner General.

Any assessments that have become final and conclusive as at 1<sup>st</sup> July 2001 shall not be reopened on account of variance with these practice notes.

More practice notes will be issued from time to time as the need arises.

**ANNEBRITT ASLUND**  
**COMMISSIONER GENERAL**

**UGANDA REVENUE AUTHORITY**

**NOTICE TO ALL TAXPAYERS**

**ADDITIONAL PRACTICE NOTES ISSUED UNDER SECTION 161  
OF THE INCOME TAX ACT 1997 (ITA)**

**1. Section 48(4):**

This Section requires notification of a foreign currency debt to be given to the Commissioner in writing before a foreign currency loss in respect thereof can be allowed as a deduction.

Information relating to foreign currency gains and losses must be available in the accounts. Therefore the notification requirement is deemed to be satisfied when the accounts have been submitted. If any further details are necessary, they should be provided when requested.

**2. Section 118A:**

This Section requires deduction of withholding tax from management or professional fees paid to resident professionals.

Professional here shall have the same meaning as under Section 4(7): Viz “a resident taxpayer who is in the business of providing medical, dental, architectural, engineering, accounting, legal or other professional services.”

“Other professional services”: - shall be limited to persons belonging to a vocation or calling that involves some advanced learning or science with a minimum qualification of a Diploma or Degree or this equivalent.

**ANNEBRITT ASLUND  
COMMISSIONER GENERAL**

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**THE INCOME TAX ACT, CAP 340**

**The Income Tax (Designation of Payers) Notice, 2006**

*(Under Section 119(1) of the Income Tax Act, Cap 340)*

In exercise of the powers conferred upon the minister by section 119 (1) of the Income Tax Act, this Notice is issued this 15<sup>th</sup> Day of June, 2006.

1. This Notice may be cited as the Income Tax (Designation of Payers) Notice, 2006.
2. This Notice shall come into force on the 1<sup>st</sup> day of July 2006.
3. The persons specified in the Schedule to this Notice are designated as payers for purposes of section 119 (1) of the Income Tax Act.
4. Where any person designated in this Notice as a payer pays an amount or amounts in aggregate exceeding one million shillings to any person in Uganda-
  - (a) for a supply of goods or materials of any kind; or
  - (b) for a supply of any services,

the payer shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule to the Income Tax Act, and the payer shall issue a receipt to the payee.

5. Where –
  - (a) there are separate supplies of goods or materials, or of services and each supply is made for an amount that is one million or less; and
  - (b) it would reasonably be expected that the goods or materials, or services would ordinarily be supplied in a single supply for an amount exceeding one million shillings,paragraph 4 applies to each supply.

**SCHEDULE**

1. Nile Breweries Limited
2. Uganda Breweries Limited
3. Century Bottling Company Limited
4. Crown Beverages Limited
5. MTN (Uganda)
6. Celtel Uganda Limited
7. Uganda Telecom Limited
8. East African Underwriters
9. United Assurance Company Ltd

10. Imperial Insurance Company Limited
11. Jubilee Insurance Company Limited
12. Goldstar Insurance Company Limited
13. Insurance Company of East Africa (U) Ltd
14. National Insurance Corporation
15. Transafrica Assurance
16. Cairo International Bank
17. National Bank of Commerce
18. Allied Bank
19. DFCU Bank/Leasing
20. DFCU Development Finance
21. Mercentile Credit Bank Limited
22. Tropical Africa Bank
23. Centenary bank
24. CITIBANK
25. Orient Bank
26. Standard Chartered Bank (U) Limited
27. Bank of Baroda
28. Capital Finance Corporation
29. East African Development Bank
30. Housing Finance Company of Uganda Ltd
31. Nile Bank (U) Limited
32. Stanbic Bank (U) Limited
33. Stanbic Bank International
34. Barclays Bank of Uganda
35. Crane Bank
36. Post Bank (U) limited
37. Transafrica Bank
38. Alam Construction Limited
39. China Road & Bridge Corporation Ltd
40. Dott Services Limited
41. Dragados Obrasy Proyectors
42. Excel Construction Limited
43. National Contracting Company Limited
44. National Housing & Construction Co. Ltd
45. Roko Construction Limited
46. Spencon Services
47. Stirling – Spencon Joint Venture
48. Stirling – Strabag Joint Venture
49. Stirling Civil Engineering & Construction
50. Stirling International Civil Engineering Ltd
51. Stirling/Radio Joint Venture
52. Strabag International Uganda
53. Victoria Construction Company Ltd
54. Victoria Pumps Limited
55. Wavva Engineering Limited
56. Zzimwe Enterprises Limited



57. Caltex Oil (U) Limited
58. City Oil (U) Limited
59. Celta Petroleum Limited
60. Engen Uganda Ltd
61. Enjoy (U) Limited
62. Gapco (U) Limited
63. Hared Petroleum Products Ltd
64. Kabagambe Service Station
65. Kobil Uganda Limited
66. New Oasis Esso Service Station Ltd
67. Petro Uganda Limited
68. Petrocity Enterprises (Uganda) Limited
69. Shell (U) Limited
70. Shell Malindi (U) Ltd (formerly Agip (U) Ltd)
71. Sunny Enterprises
72. Total (U) Limited
73. Van Fuels Ltd
74. Viral Services Limited

**DR. EZRA SURUMA**

*Minister of Finance, Planning and Economic Development*

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**PRACTICE NOTES ISSUED UNDER SECTION 160 OF  
THE INCOME TAX ACT, CAP 340**

The Commissioner General of URA hereby issues practice notes under section 160 of the Income Tax Act, Cap 340 for the guidance of officers of URA and the taxpayers.

**1. TREATMENT OF EXPENSES AND LOSSES INCURRED BY  
FINANCIAL INSTITUTIONS ON LOANS GIVEN OUT FOR  
AGRICULTURAL PURPOSES**

The Income Tax (Amendment) Act, 2005 that amended the Income tax Act, Cap 340 inserted a provision under Sec 21 that exempts from tax interest earned by financial institutions on loans granted for agricultural purposes (with effect from 1<sup>st</sup> July 2005).

Under Sec 22(1)(a) of the Income Tax Act Cap 340, expenses and losses are allowed only to the extent to which the expenditures or losses were incurred in the production of Income included in gross Income. Expenses and losses incurred in producing income that is exempt from tax are therefore **not allowable** for tax purposes.

Below is the recommended tax treatment of expenses related to deriving exempt bank interest, and procedures to be observed-

**A. Direct Finance Cost (Interest on borrowed funds)**

- (i) Interest payable by a Financial Institution on borrowed funds should be apportioned between loans for agricultural purposes and loans for other purposes using the formula-

$$\text{Interest relating to agricultural loans} = \frac{A+B \times E}{C+D}$$

Where;

- A- Loans (principal) for agricultural purposes outstanding at the beginning of the year.
- B- Loans (principal) for agricultural purposes outstanding at the end of the year
- C- Borrowed funds at the beginning of the year
- D- Borrowed funds at the end of the year
- E- Is the total interest cost for the year

- (ii) The portion of interest obtained using the formula above is not tax allowable.

**B. Provisions for bad and doubtful debts**

Specific provisions as well as general provisions made in respect of agricultural loans are not allowable for tax purposes as per provisions of Sec 22(1)(a)

**C. Overheads and other expenses**

- (i) Overheads are allowed wholly because they cannot be directly traced to agricultural loans, and possible bases of apportionment are highly subjective.
  - (ii) Administrative and other establishment expenses are also allowed wholly because of the difficulty in obtaining a suitable base for apportionment.
- D.** Any other expense that can be separately identified and is wholly related to agricultural loans is NOT allowable for tax purposes.

**E. Transitional loans**

This refers to loans that had already been advanced by financial institutions for agriculture purposes before **1<sup>st</sup> July 2005**.

Interest income accruing to a Financial Institution out of this category of loans after **1<sup>st</sup> July 2005** is exempt while the related expenses are **NOT** allowable for tax purposes.

**F.** Financial Institutions should submit with final returns and accounts the following information-

- (i) A breakdown of specific provisions between those made against loans for agricultural purposes and those made against loans for other purposes,
- (ii) Total interest cost for the year,
- (iii) Opening and closing balances of the principal in respect of loans advanced for agricultural purposes, and
- (iv) Opening and closing balances of total interest-incurring funds available to the financial institution for lending.

**G. Definitions**

“Agricultural loan” means a loan for primary production purposes of farming, forestry, fish farming, bee keeping, animal and poultry husbandry or similar operations.

”Financial institution is as defined in the Income Tax Act and includes a bank, credit institution, building society and any institution classified as a financial institution by Bank of Uganda.

**2. EXEMPTION OF INCOME TO A COLLECTIVE INVESTMENT SCHEME**

The income of a collective investment scheme is exempt from tax under section 21(1) (t) of the Income Tax Act Cap 340.

A collective investment scheme is a scheme that collects funds from small savers, who would not otherwise be in a position to access securities markets, and invests the funds on their behalf, with the objective of maximizing returns and minimizing risk for the individual investors.

It is defined in section 3 of the Collective Investment Scheme Act (CIS Act) to mean “..any arrangement with respect to property of any description, including money, the purpose or effect of which is to enable persons taking part in the arrangement, whether by becoming owners of the property or any part of it or otherwise, to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income.”

This definition is adopted in the Income Tax Act under Section 2.

To qualify as a collective investment scheme under the above definition, the following conditions must be satisfied:

- (a) The participants do not have day to day control over the management and operation of such a scheme or arrangement,
- (b) The contributions of the participants and the profits or income out of which payments are to be made are pooled,
- (c) The property is managed as a whole by or on behalf of the operator of the scheme.

Arrangements that do not meet the above conditions and those outlined under section 3(5) of the CIS Act 2003, do not constitute a collective investment scheme for the purposes of the Income Tax Act, and would not enjoy the exemption.

### **3. EXEMPT ORGANISATION**

For purposes of the definition of exempt organization in section 2 of the Income Tax Act, to be considered,

- A. A ‘charitable’ an organization shall be proved to provide services for public benefit falling under any of the following categories bellow:
  - (i) The relief of poverty, or
  - (ii) The advancement of education, or
  - (iii) The advancement of religion
  - (iv) Other purposes beneficial to the community within the legal understanding of charity.

Whereas the public benefit in the above categories can easily be assumed, an organization claiming to be charitable under category (iv) shall positively demonstrate the public benefit provided.

- B. An “institution of public character” the benefit provided must be to the public at large or at least to a sufficient section of the community.

**4. ‘WIDELY ISSUED’ – SECTION 83(5)(a)**

For interest paid by a resident person in respect of debentures to be exempt from tax, the “public offer test” needs to be met. This means the debentures, debenture stock, mortgage, mortgage stock, loan, loan stock or similar instrument acknowledging indebtedness whether secured or not must have been issued;

- (i) To a reasonable number of people operating in a capital market; or
- (ii) To several investors with a history of previous acquisition of debt instruments or debentures; or
- (iii) As a result of negotiations for the loan in a public forum used by financial markets dealing in debt instruments.
- (iv) To a dealer, manager or underwriter for the purpose of placement of the debt instrument.

The issuance of debentures should therefore be non-exclusive, and preferably in a capital market arrangement that caters for public involvement.

**5. ‘PARTLY USED’-SECTION 27(10) AND SECTION 2(U)**

The phrase ‘partly used’ in section 27(10) and 2(u) relates to use of assets for both business and non-business purposes.