

Uganda issues 2019 - 2020 Tax Amendment Acts

NEW! EY Tax News Update: Global Edition

EY's new Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access more information about the tool and registration [here](#).

Also available is our [EY Global Tax Alert Library](#) on ey.com.

Executive summary

The *Income Tax*; the *Value Added Tax*; the *Excise Duty*; the *Stamp Duty*; and the *Tax Procedure Code Amendment Acts of 2019*, passed by the Ugandan Parliament, were assented to by the President on 30 June 2019. The tax reforms introduced under these Acts took effect on 1 July 2019.

This Alert summarizes the key provisions in each amendment Act.

In general, all the amendment Acts, except the *Tax Procedures Code (Amendment) Act, 2019*, define the term "citizen" to mean:

- ▶ A natural person who is a citizen of a Partner State of the East African Community (EAC)
- ▶ A company or a body of persons incorporated under the laws of a Partner State of the EAC in which at least 51% of the shares are held by a person who is a citizen of a Partner State of the EAC

Prior to passage of these Acts, a citizen was not specifically defined for tax purposes. Therefore, any reference to "a citizen" in the tax law was meant to only apply to persons with Ugandan citizenship as defined under the 1995 Constitution of Uganda.

With this amendment, EAC citizens will benefit from preferential treatment accorded to citizens such as lower capital investment requirements, duty exemptions among others, as specified under the various tax Acts.

Detailed discussion

The Income Tax (Amendment) Act, 2019

The key Income Tax reforms include:

Definition of a beneficial owner

The Act defines "A beneficial owner" as a natural person who owns or has a controlling interest over a legal person other than an individual and who exercises control over the management and policies of a legal person or legal arrangement directly or indirectly whether through ownership or voting securities, by contract or otherwise.

The amendment limits the benefits of tax exemption and tax reduction under the Double Taxation Agreements to instances where the beneficial owners of the income are natural persons resident in either of the Contracting States.

Income tax exemptions for investors

► *Developers*

The amendment Act exempts, for 10 years, income from letting or leasing facilities derived by a developer of an industrial park or a free zone whose investment capital is US\$50 million in the case of a foreigner or US\$10 million in the case of a citizen.

The 10-year exemption is from the date of commencement of construction or in the case of an existing developer, from the date on which the existing developer makes an additional investment equivalent to US\$50 million in the case of a foreigner and US\$10 million in the case of a citizen.

► *Operators or other investors*

The Act replaces Section 21 (af) and exempts, for a period of 10 years, the income of an operator in an industrial park or free zone or any other person carrying on business in Uganda specified under the Act, whose investment income is at least US\$10 million in the case of a foreigner and US\$1 million in the case of a citizen.

The specified businesses under the Act include: processing agricultural goods; manufacturing and assembling medical appliances, medical sundries or pharmaceuticals, building materials, automobile, house hold appliances; manufacturing furniture, pulp, paper, printing and publishing of instructional materials; vocational or technical institutes; or logistics and ware housing, information technology or commercial farming.

This amendment reduces the capital requirement to be fulfilled by operators and developers to enjoy the exemption on income from their operations; increases the period of exemption; and exempts any other investor who fulfils the capital requirements.

Previously, the period of exemption was five years and the capital requirements were; at least US\$100 million in case of a developer, at least US\$15 million in case of an operator who is a foreigner, and at least at least US\$5 million in the case of an operator who is a citizen.

Additionally, under Section 21 (ag), the period of the income tax exemption for the specified business listed above is unlimited where the investor uses at least 50% of locally sourced raw materials and employs at least 60% citizens for its workforce.

Exclusion of financial institutions and insurance companies from interest capping provisions

Financial institutions and persons carrying on insurance business are now excluded from capping their interest deductions when arriving at the taxable income for the year of income. Currently, interest to be deducted by a member of the group cannot exceed 30% of the tax EBITDA (earnings before interest, taxes, depreciation and amortization).

By the nature of its business, a financial institution or an insurance company has higher debt to equity ratios and higher interest expenses. This amendment seeks to correct the unfair 2018 amendment that did not exclude these entities from the interest capping rules.

Withholding tax on purchase of a business or business asset by a resident person

A resident person who purchases a business or a business asset is under an obligation to withhold tax at the rate of 6% of the gross payment.

Before the coming into force of this amendment, the *Income Tax Act* imposed an obligation on the resident person acquiring an asset from a nonresident person to withhold tax from the gross consideration at the rate of 10%. The intention was to capture tax on gains realized by nonresidents since they are not tax registered. The new amendment expands the scope to cover any acquisition of a business or a business asset by a resident.

However, since it does not specify the person from whom the business or business asset is being acquired, it may pose a challenge on the rate to apply where the resident person is purchasing a business or business asset from a nonresident.

Exemption of payments for agricultural supplies from withholding tax

Agricultural supplies have been exempted from withholding tax (WHT). The provision that provided for a rate of 1% on agricultural supplies has been repealed.

The 2018 amendment reduced the WHT rate on payments for agricultural supplies from 6% to 1%. This amendment eliminates the 1% WHT. Therefore, the WHT agents as well as the government and listed entities do not have to withhold on payments they make for agricultural supplies.

Requirement of a TIN before issuance of any license

A local authority, government institution or regulatory body shall not issue a license or any form of authorization necessary for purposes of conducting any business in Uganda to any person without a Taxpayer Identification Number (TIN).

Section 135 of the *Income Tax Act* before this amendment only required a TIN as part of the application but did not strictly prevent the issuance of a license. The new TIN requirement before the issuance of a license is aimed at widening the tax base as all business persons will be tax registered.

Reduction of WHT tax rate for long-term government securities

The Act reduces the tax rate on government securities whose maturity period is at least 10 years from 20% to 10%. This amendment seeks to encourage acquiring and holding government securities for longer periods of time.

Value Added Tax (Amendment) Act, 2019

Reduction of withholding Value Added Tax (VAT) rate to 6%

A designated withholding agent for VAT purposes is required to withhold and remit 6% of the taxable value on making payment for taxable supplies.

The 6% withheld shall be recognized as a payment in the subsequent VAT return of the taxpayer from which the tax is withheld.

The withholding VAT will not apply to a taxable person who, to the Commissioner General's satisfaction, has regularly complied with the obligations imposed on him or her or it by the *VAT Act*.

The list of the withholding VAT agents and the exempt persons has not yet been gazetted by the Minister and issued by the Commissioner respectively (as of the date this Alert was issued).

Supplies exempt from VAT

- ▶ Aircraft insurance services
- ▶ Rice mills
- ▶ Agricultural sprayers
- ▶ The supply of certain services, and other locally produced materials to technical or vocational institute operators; operators in a free zone or industrial park or one who owns a single factory or other business outside the industrial park or free zone whose investment capital is at least US\$10 million in the case of a foreigner or US\$1 million in the case of a citizen, who fulfils the specified conditions
- ▶ The supply of imported drugs, medicines and medical sundries
- ▶ The supply of imported mathematical sets and geometrical sets used in educational services
- ▶ The supply of wood working machines
- ▶ The supply of welding machines and sewing machines
- ▶ The supply of imported crayons, colored pencils, lead pencils, rulers, erasers, stencils, technical drawing sets, educational computer tablets, educational computer applications or laboratory chemicals for teaching science used in educational services

Zero-rated supplies

The supply of drugs, medicines and medical sundries manufactured in Uganda are now zero-rated. This amendment is aimed at benefitting local manufacturers as they will be able to claim input tax credits on their local purchases and imports.

Excise Duty (Amendment) Act, 2019

Registration of importers and providers of excisable supplies

An importer, manufacturer or provider of excisable goods and services other than a retailer shall apply for registration and the registration of the premises in which the manufacture, provision or dealing on the excisable goods and services, other than retailing, takes place. Failure of registration will attract a fine of UGX400,000 (US\$110) for each day of default.

Interest penalty on non-payment of tax

A person who fails to pay the excise duty imposed by the due date is liable to pay interest on the unpaid duty at a rate of 2% per month, compounded, for the excise duty which is outstanding.

This amendment specifically eliminates the reference to *excisable goods manufactured and imported* so that the interest charge clearly applies to late payments of duty on both goods and services.

Revised excise duty rates of certain items

- ▶ Non-alcoholic beverages, not including fruit or vegetable juice, is decreased from 12% or UGX200 per liter whichever is higher to 11% or UGX185 per liter whichever is higher.
- ▶ NIL excise duty on materials for technical or vocational institute operators whose investment capital is at least US\$10 million for a foreigner or US\$1 million for a citizen.

Revised investment capital requirements

The Act aligns the capital investment requirements for the existing duty exemptions on construction materials for developers of industrial parks and free zones (to US\$50 Million in the case of a foreigner and US\$10 million in the case of a citizen), operators and other investors in specified business to US\$10 million in the case of a foreigner and US\$1 million in the case of a citizen.

The Stamp Duty (Amendment) Act, 2019

Schedule 2 to the *Principal Act*, is amended as follows:

- ▶ To impose stamp duty of UGX100,000 on bank guarantees, insurance performance bonds, indemnity bonds and similar debt instruments.
- ▶ To repeal stamp duty on insurance performance bonds.
- ▶ To exempt from stamp duty various instruments by a technical or vocational institute operator whose investment capital is at least US\$10 million in the case of a foreigner or US\$1 million in the case of a citizen

The Tax Procedures Code (Amendment) Act, 2019

Ministry of Finance to pay taxes due and payable by the Government

- ▶ The Minister shall pay any tax due and payable by the Government arising from any commitment made by the Government to pay tax on behalf of a person or owing from the Government as counterpart funding for aid-funded projects.
- ▶ All taxes due and unpaid by the Government as at 30 June 2019 are written off.
- ▶ A list of all taxes waived shall be published in the *Gazette*.

Waiver of penalty on a taxpayer who voluntarily discloses the commission of an offense

Where a person who has committed an offense under a tax law and voluntarily discloses the commission of the offense to the Commissioner, any time prior to the commencement of court proceedings, the Commissioner may enter into an agreement with the offender to forgive the offense and waive interest or fine due if the offender agrees to pay the outstanding taxes.

Payment of informers

A payment of 5% of the principal tax or duty recovered will be made to a person who provides information leading to the recovery of a tax or duty.

Specifying tax returns to be filed

The tax returns to be filed with the Commissioner General are Valued Added Tax return; Income tax return; Withholding tax return; Excise duty return; Tax return under section 50 of the *Lotteries and Gaming Act, 2016*; and Stamp duty return.

For additional information with respect to this Alert, please contact the following:

Ernst & Young (Uganda), Kampala

- ▶ Muhammed Ssempijja muhammed.ssempijja@ug.ey.com
- ▶ Allan Mugisha allan.mugisha@ug.ey.com
- ▶ Edward Balaba edward.balaba@ug.ey.com
- ▶ Lucy Kemigisha lucy.kemigisha@ug.ey.com

Ernst & Young Advisory Services (Pty) Ltd., Africa ITS Leader, Johannesburg

- ▶ Marius Leivestad marius.leivestad@za.ey.com

Ernst & Young LLP (United Kingdom), Pan African Tax Desk, London

- ▶ Rendani Neluvhalani rendani.mabel.neluvhalani@uk.ey.com
- ▶ Byron Thomas bthomas4@uk.ey.com

Ernst & Young LLP (United States), Pan African Tax Desk, New York

- ▶ Brigitte Keirby-Smith brigitte.f.keirby-smith1@ey.com
- ▶ Dele Olagun-Samuel dele.olaogun@ey.com

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

© 2019 EYGM Limited.
All Rights Reserved.

EYG no. 003752-19Gbl

1508-1600216 NY
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com