KPMG

Tax Alert

Uganda Issues 2021 Tax Amendment Bills

Uganda's Minister of Finance Planning and Economic Development tabled Tax Amendment Bills of 2021 before Parliament of Uganda for debate. These Bills include the Income Tax; Value Added Tax; Excise Duty; Stamp Duty; Traffic and Road Safety; Mining; External Trade; The Tax Appeals Tribunal; The Fish; The Tobacco Control and the Tax Procedure Code Amendment Bills.

Once passed into law by the Parliament and assented to by the President of the Republic of Uganda, the Bills will take effect from 01 July 2021.
This Alert summarizes the key proposals in each Bill and what they mean to you.

Detailed Discussion

A. Income Tax (Amendment) Bill, 2021

1. Amending the definition of 'beneficial Owner'

The Bill proposes to amend the definition of a beneficial owner as: a natural person who has final ownership or control of another person or a natural person on whose behalf a transaction is conducted, and includes a natural person who exercises absolute control over a legal person and includes:

i. in relation to a legal person, the natural person who either directly or indirectly holds at least ten percent shares or voting rights;

ii. the natural person exercising control of the legal person through other means including personal or financial superiority; and

iii. the natural person who has power to make or influence a decision of the legal person;

iv. In relation to trusts includes— the settlor; the trustee; the protector; the beneficiaries; and any other natural person exercising absolute control of the trust;

In relation to other legal person similar to trusts, a natural person holding a position equivalent to any of the positions referred to in subparagraph above on trusts.

Currently, a beneficial owner means 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 arrangements, directly or indirectly whether through ownership or voting securities, by contract or otherwise.

Implications

The proposed definition of a beneficial owner is detailed and includes natural persons and trusts which is not the case currently. If passed as is, natural persons and trusts will be construed as beneficial owners when applying Double Tax Treaties.

However, the inclusion of the word 'and' in the description of a beneficial owner for a legal person means that all the conditions set out in the description ought to be fulfilled before one can be construed to be a beneficial owner of income received by a legal person to benefit from a Double Tax Treaty.

2. Definition of Consideration for Income Tax

The Bill proposes to define the term Consideration to include, the total amount in money or of payment in kind, paid or payable for the supply of goods, services or sale of land by any person, directly or indirectly, including any duties, levies, fees, and charges other than tax paid or payable on, or by reason of, the supply, reduced by any discounts or rebates allowed and accounted for at the time of the supply or sale;"

Currently, there is no definition for the term consideration in the Income Tax Act for income tax purposes. This has left the term to its ordinary English definition.

Implication

Where this proposed amendment is passed, amount of consideration for income tax purposes will not only include the contract price but also duties, levies, fees and charges paid on a transaction other than tax paid or payable.

3. Amendment of the Definition of an Exempt Organisation

The Bill proposes to amend the definition of an exempt organisation regarding religious, charitable and educational institution as, "a religious, charitable or educational institution whose object is not for profit."

Currently, an exempt organisation is defined to include a religious, charitable or educational institution of a public character. The term "public character" is not defined in the Income Tax Act but there is guidance that was provided on what an "Institution of public character" means under the Paragraph 3 (b) of the Practice Note of 24 June 2006. The practice note alludes to the facts that the benefit provided must be to the public at large or at least to a sufficient section of the community.

Implication

This proposal will require persons who seek to be exempted from income tax as religious, charitable or educational institutions to show and prove that their object is not making profit. This might have to also be included in their Memoranda of Association or Constitutions.

4. Separation of rental income derived from more than one rental building

The Bill proposes that a person who earns rental income from more than one rental building to account for the income and expenses of the rental buildings separately and pay tax for each of the rental buildings separately.

Currently, a person who earns rental income from several buildings consolidates the expenses and income in computing rental income tax payable.

Implication

A taxpayer will not be able to utilise expenses or losses incurred on one rental building to offset income earned on another rental building.

5. Exclusion of income from agro-processing from exempt income

The Bill seeks to exclude income of a person for the year of income derived from agro-processing from exempt income.

Currently this income is exempt from income tax where the conditions set out under Section 21 (z) of the Income Tax Act are met.

Implications

Income of persons involved in agro-processing at a small or medium scale will not be exempt and as such will pay income tax in accordance with the Income Tax Act. Income of persons involved in agro- processing at a large scale will still be exempt if certain conditions as to investment threshold and utilisation of locally sourced raw materials are met.

6. Exemption of income derived by manufacturers of certain products

The Bill seeks to exempt income derived by an operator in an industrial park or free zone or any other person who manufactures chemicals for agricultural use, industrial use, textiles, glassware, leather products, industrial machinery, electrical equipment, sanitary pads and for diapers.

However, this exemption can only be benefitted from by that person on fulfilling the following conditions;

i. The person's investment capital over a period of 10 years from the date of commencement is at least USD 10m in the case of a foreigner or USD 300K in the case of a Citizen or USD 150K for a citizen whose investment is placed up country;

ii. In case of an existing operator or investor, from the date the person makes an additional investment equivalent to is at least USD 10m in the case of a foreigner or USD 300K in the case of a Citizen or USD 150K for a citizen whose investment is placed up country;

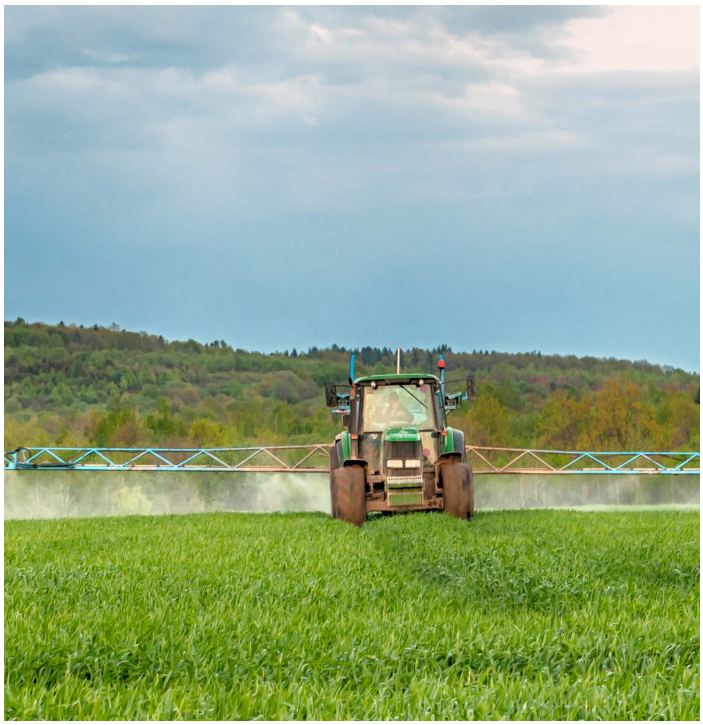
iii. Uses at least 70% of locally sourced raw materials subject to availability;

iv. Employs at least 70% of its employees being citizens earning an aggregate wage of at least 70% of the total wage.

Currently, income earned by these manufacturers is not exempt.

Implication

Exempting these manufacturers will be an incentive in investing in this sector and may also lead to reduced prices of the products manufactured.



7. Exemption of income by any other manufacturer who fulfils certain capital investment thresholds

The Bill proposes to exempt the income of a manufacturer, other than a manufacturer referred to in paragraph (af), whose investment capital is, for over a period of at least ten years from the date of commencement of business, is at least United States Dollars Fifty million or in the case of any other manufacturer, from the date on which the manufacturer makes an additional investment equivalent to United States Dollars Fifty million who has—

i. capacity to at least use fifty percent of the locally produced raw materials, subject to availability; and

ii. capacity to employ a minimum of one hundred citizens.

Currently the only manufacturers whose income is exempted under Subsection (af) referred in this amendment are those who;

i. process agricultural goods;

ii. manufacture medical appliances, medical sundries, or pharmaceuticals, building materials, automobile, household appliances;

iii. Manufacture furniture, pulp, paper, printing and publishing of instructional materials;

iv. Manufactures tyres, footwear, mattress or toothpaste.

Implication

The inclusion of the income earned by these manufacturers as exempt income will act as an incentive to attract big investment in the manufacturing sector.

8. Prescription of allowable deduction for rental income earners

The Bill seeks to prescribe 60 percent of the rental income as expenditure and losses incurred by a person in the production of such rental income.

Currently, the total deductions for an individual earning rental income is 20% of the rental income plus the interest expense on a mortgage from a financial institution. Companies can deduct all the expenditure and losses incurred in deriving rental income.

Implications

This is good news for an individual as he or she will be allowed expenses of 60 percent of the rental income earned in addition to the interest incurred on the mortgage from a financial institution. However, for companies whose expenses and losses incurred in deriving rental income may exceed the 60 percent of the rental income proposed may end up paying more tax of the rental income that it would have under the current regime.

9. Reduction in the classification classes of depreciable assets

The Bill seeks to reduce the classes of depreciable assets from 4 to 3.

Currently, depreciable assets are classified into four classes and depreciated at a declining balance basis at 40%, 35%, 30% and 20%.

10. Change in the depreciable rates per class of depreciable assets

Item	Class (2020/2021)	Class (Proposed)	Rate (2020/2021)	Rate (Proposed)
Computers and data handling	1	1	40%	40%
Plant and machinery used in farming, manufacturing and mining.	3	2	30%	30%
Automobiles; buses, minibuses, goods vehicles, construction and earth moving equipment, specialised trucks, tractors, trailers and trailer mounted containers, rail cars, locomotives and equipment; vessels, barges, tugs and similar water transportation equipment; aircraft; specialised public utility plant, equipment and machinery; office furniture, fixtures and equipment; any depreciable asset not included in another class	2, 3 and 4	3	20- 35%**	20%

**Currently, 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 are in Second class and depreciated at 35%.

Buses with a seating capacity of 30 or more passengers; goods vehicles designed to carry or pull loads of 7 tonnes or more; specialised trucks; tractors; trailers and trailer-mounted containers are in third class and depreciated at 30%.

Rail cars, locomotives and equipment; vessels, barges, tugs and similar water transportation equipment; aircraft; specialised public utility plant, equipment and machinery; office furniture, fixtures and equipment; any depreciable asset not included in another class are in class 4 and depreciated at 20%.

Implications

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 that were depreciated at 35% and 30% respectively, will be depreciated at 20% leading to a higher income tax payable in a given year .

11. Deferment of the Wear and Tear deduction on an asset that qualifies for initial allowance

The Bill seeks to defer a deduction for the depreciation of an asset that qualifies for initial allowance to the next year of income.

Currently both initial allowance and wear and Tear deductions can be taken by the taxpayer in the same year of income the asset is brought into use.

Implications

A taxpayer who is not in loss making position will incur more tax in a year of income he or she brings the asset eligible to initial allowance into use than he or she would have incurred in the current regime.

12. Deferment of industrial building allowance for buildings that qualify for Initial allowance

The Bill seeks to defer the deduction for the depreciation of an industrial building that qualifies for initial allowance to the next year of income.

Currently, both industrial building deduction and initial allowance are deducted in the same year of income when computing tax payable.

Implications

A taxpayer who is not in loss making position will incur more tax in a year of income he or she brings into use an industrial building eligible to initial allowance than he or she would have incurred if this proposal is not passed.

13. Prescription of formula to compute expenses included in cost base of a business asset

The Bill seeks to prescribe the formulae for calculating the expense to be included in the cost base of a business asset when computing the gain or loss on disposal of that asset, where the asset is sold after 12 months from the date of purchase of that Asset.

The formula is: CB x CPID/CPIA, where;

CB is the amount of an item of cost or expense incurred;

CPID is the Consumer Price Index number published for the calendar month of sale; and

CPIA 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.

Currently there is no formulae for an expense included in the cost base of a business asset incurred after 31 March 1998. Expenses incurred in acquiring the business asset after 31 March 1998 are included at their historical value in the cost base when computing gains or losses on business assets.

Implications

Indexation of the cost to be included in the cost base of the asset when determining the capital gains tax is a welcome amendment as it brings fairness of the gains to be taxed since it allows comparison of like with like as it takes into account what would be the present value of the historical cost in determination of cost base.

14. Non recognition of capital gains from sale of investment interest in a venture capital fund

The Bill proposes to exclude capital gains arising from the sale of investment interest of a registered venture capital fund if at least 50% of the proceeds on sale is reinvested within the year of income. A registered venture capital fund shall be entitled to a nonrecognition of a gain or loss equivalent to the percentage of reinvested proceeds.

Currently these gains are taxed.

Implications

No tax on gains on disposal of an investment interest of a registered venture capital fund if at least 50% of the proceeds on sale is reinvested within a year of income.

15. Provision for automatic exchange of information for tax purposes

The Bill proposes to provide for the obligation of the Commissioner General to facilitate the automatic exchange of information where an International Agreement provides for automatic exchange of information for tax purposes.

The Minister may make regulations to provide for the automatic exchange of information for tax purposes.

Currently, there is no provision for automatic exchange of information in the Income Tax Act.

Implications

The Commissioner General will be under an obligation to share information requested for under an International Agreement that provides for automatic exchange of information for tax purposes.

16. Provision for the due date of payment of income tax

The Bill proposes the due date of payment of tax due as a result of a self-assessment or an assessment issued by the Commissioner to be;

i. in the case of self-assessment, on the due date for furnishing of the return of income to which the assessment relates; and

ii. in any other case, within forty-five days from the date of service of the notice of assessment.

Currently, the Income Tax Act does not provide for the due date of payment of income tax.

Implications

If this is passed as is, the due date for payment of tax both in instances of self-assessment and assessment by the commissioner, will be certain.

17. Provision for the date of submission of a refund application

A taxpayer shall be deemed to have submitted an application for an income tax refund on the date on which the application is received by the Commissioner.

Where the Commissioner requests for additional information, the application for refund shall be deemed to have been submitted on the date on which the additional information is received by the Commissioner.

Currently, the date of making the application for the refund has been the date the application has been submitted.

Implications

This proposal has the effect of extending the date of making the application for the refund to the date of submission of additional information requested by the Commissioner. This will influence the interest paid on the refund amount by the Commissioner. This is because, Section 113 (4) of the Income Tax Act, provides that the Commissioner shall pay simple interest at a rate of 2% 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.

18. Exemption of WHT on sale of a business asset

Withholding tax on a resident person who sells a business asset to another resident person shall not apply to the seller who, the Commissioner is satisfied has regularly complied with the obligations imposed on that person under the Income Tax Act.

Currently, there is no provision for exempting tax compliant resident persons who have sold their business assets to other resident persons.

Implications

This provision will exempt resident persons who have sold business assets to other resident persons from withholding tax, if those persons are on the 6% Withholding Tax Exemption List.

19. Inclusion of two entities among Listed Institutions

The Bill proposes to include African Export – Import Bank; and International Union for Conservation of Nature among listed institutions.

Currently, these entities are not part of the listed institutions.

Implications

Income earned by these entities will be exempt from income tax under section 21 of the Income Tax Act.

20. Increase in the rate for rental income tax for individuals from 20% to 30%

The Bill proposes to increase the rate for rental income tax for individuals from 20% to 30%.

Currently, individuals have been paying tax on rental income at the rate of 20% of the chargeable rental income in excess of Shs. 2,820,000.

Implications

The rental income tax payable will be high as the rate would have been increased. In addition, the threshold that is not taxable of Shs. 2,820,000 will no longer be in existence.

B. Value Added Tax (Amendment) Bill, 2021

1. Excluding the definition of biodegradable packing material

The Bill proposes to repeal section 1(aa) to exclude the definition of biodegradable packaging material.

Currently, the VAT Act Cap 349 of 2020 defines biodegradable packaging material as packaging material which can undergo a breakdown of its entire composition and by naturally existing micro-organisms in the presence of air and water at specific temperatures into smaller constituent components within a given time of usually not more than six months.

2. Limitation of the period within which to claim an input tax credit

The Value Added Tax Amendment Bill seeks to limit the period within which to apply for input tax to a period of six (6) months from the date of issue of the invoice.

Currently, there is no limitation period within which to claim input tax credit by a taxable person.

Implication
This implies that any input VAT credit not claimed within a period of six (6) months from the date of issue of the invoice will be forfeited by taxable persons.

3. Obligation to file VAT returns by taxable persons

This Bill proposes a requirement to file a VAT return within fifteen (15) days after the end of three (3) consecutive months for taxable persons providing the following;

- services physically performed in Uganda by a person who is in Uganda at the time of the supply;
- services in connection with immovable property in Uganda;
- radio or television broadcasting services received at an address in Uganda;
- electronic services delivered to a person in Uganda at the time of supply;
- the supply is a transfer, assignment, or grant of a right to use a copyright, patent, trademark or similar right in Uganda; or
- telecommunication services initiated by a person in Uganda other than a supply initiated by a supplier of telecommunications services or a person who is roaming while temporarily in Uganda.

Implications

This implies that taxable persons who supply the above-mentioned services to non- taxable persons, whether registered in Uganda or not will be required to file VAT returns with 15 days after the end of 3 consecutive months. This will include foreign suppliers of these services.

A taxable person is one who is either registered for value added tax or required to be registered for value added tax.

4. Refund of tax for use of electronic receipt or invoice

The Bill proposes that any person other than a taxable person who is issued with electronic receipts or invoices for purchases worth Uganda Shillings Ten Million within a period of thirty (30) consecutive days will be entitled to a refund of five percent (5%) of the tax paid.

Currently, a non-taxable person (person not registered for or not required to be registered for VAT) is not entitled to claim the value added tax that that person has incurred in purchasing goods and services.

Implication

This proposal implies that a non- taxable person will be able to claim 5% of the tax incurred in acquiring goods and services worth Uganda Shillings 10 Million within a period of thirty (30) consecutive days provided that person has been issued with electronic invoices or receipts for those purchases. It is an incentive to encourage consumers to deal with persons that issue electronic fiscal invoices and receipts.

5. Proposed changes in the imposition of penal tax for any misstatements made to the Uganda Revenue Authority

The VAT Amendment Bill seeks to impose penalties on any taxable person who makes any misstatements to URA. Currently, the VAT Act only imposes this penal tax on any person who knowingly or recklessly furnishes URA with information that is false or misleading. The Bill proposes to exclude the requirement of knowledge or recklessness for the penalties to apply.

This implies that taxpayers should take extra caution when submitting any information to URA to ensure that any information submitted to URA is accurate and correct to avoid the imposition of these penalties.

6. Inclusion of additional organisations on the list of Public International Organisations

The Bill proposes to amend the First Schedule to include both the African Export – Import bank and International Union for Conservation of Nature.

This means that both the African Export – Import bank and International Union for Conservation of Nature may be refunded the value added tax borne or paid by them relating to transactions concluded for its official purposes

7. Removal of certain services from the Exempt supplies schedule

The Bill seeks to amend the Second Schedule to include additional supplies on the list of the exempt supplies and exclude some of the previously exempted supplies.

The following have been removed from the list of exempt supplies;

- the supply of services to conduct a feasibility study, design and construction; the supply of locally produced materials for construction of premises, infrastructure, machinery, and equipment or furnishings and fittings which are not manufactured on the local market to a hotel or tourism developer whose investment is United States Dollars Ten Million with a room capacity exceeding one hundred guests.
- the supply of all production inputs into iron ore smelting into Billets and the supply of Billets for further value addition in Uganda.
- the supply of production inputs into limestone mining and processing into clinker in Uganda and the supply of clinker for further value addition in Uganda.

This implies that going forward, the above supplies will not be exempted from VAT if the Bill is passed and as such suppliers of those services will be required to register and account for VAT on them if they meet the turnover threshold.

8. Exemption of certain supplies from VAT

The Bill also proposes to exempt the following supplies from VAT:

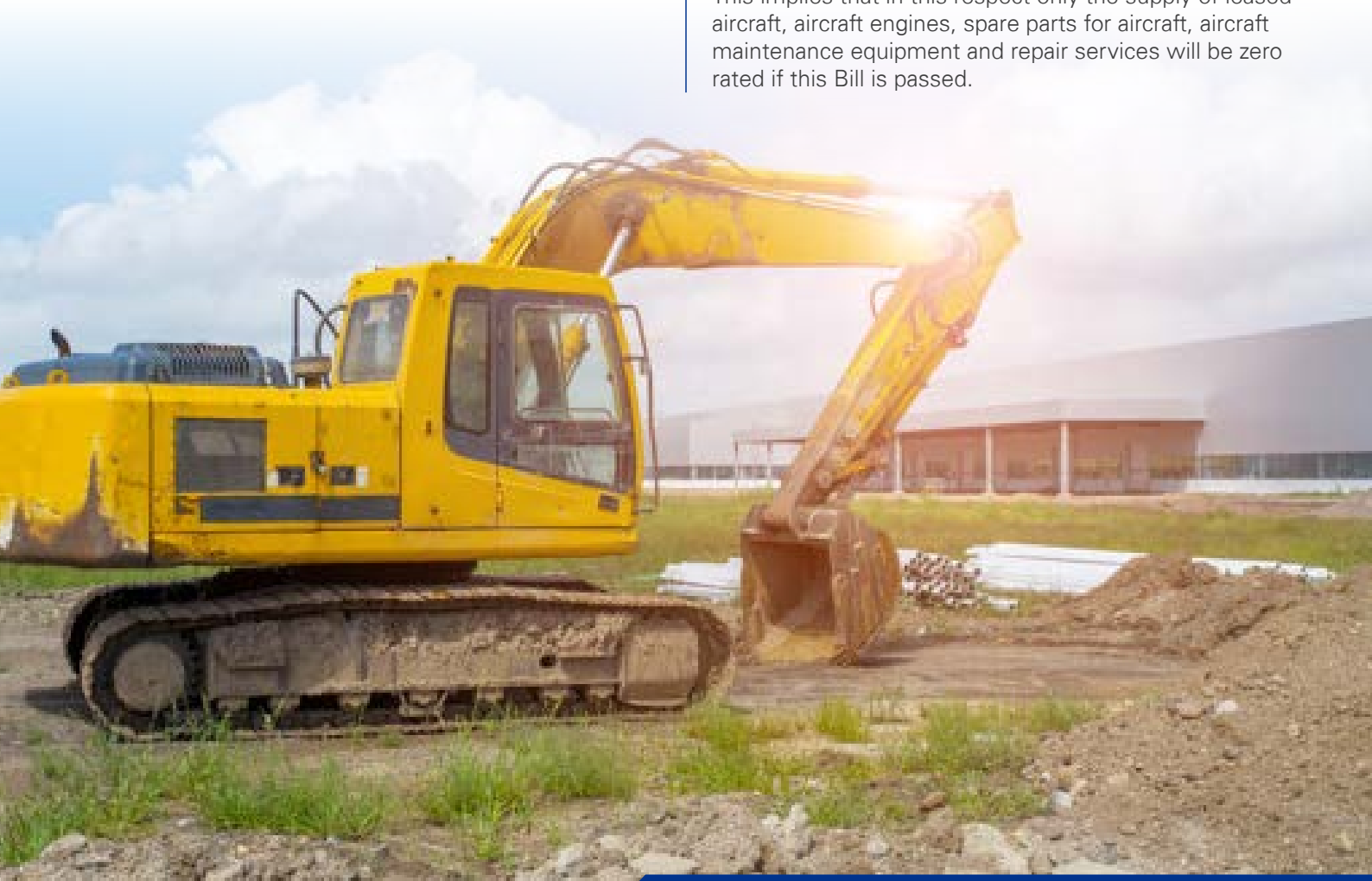
- the supply of liquefied gas;
- the supply of services to a manufacturer, whose investment capital is at least USD 50 million, to conduct a feasibility study or to undertake design and construction, or in the case of any other manufacturer from the date on which the manufacturer makes an additional investment equivalent to USD 50 million;
  - who has capacity to use at least 70 percent of the raw materials that are locally sourced, subject to their availability, and
  - who has capacity to employ at least 70 percent of the employees that are citizens earning an aggregate wage of at least 70 percent of the total wage Bill.

The proposed exemption comes in addition to the already existing list of exempt supplies in the VAT Act.
This implies that where a person makes a supply of services to the manufacturer who satisfies the above conditions, that person will not charge VAT on that supply. This is to encourage big investment in the manufacturing sector.

9. Changes in Zero rated supplies

The VAT Amendment Bill has also proposed to amend the Third Schedule to exclude spare engines related to aircrafts from the list of zero-rated supplies.

This implies that in this respect only the supply of leased aircraft, aircraft engines, spare parts for aircraft, aircraft maintenance equipment and repair services will be zero rated if this Bill is passed.



C. Excise Duty (Amendment) Bill, 2021

1. Removal of the requirement to renew a certificate of registration

The Bill proposes to remove the validity period of the certificate of registration for excise goods and services of 12 months; and the requirement to renew this certificate of registration every after 12 months.

Currently, every manufacturer, importer and provider of excisable goods and services is required to apply for registration. The Certificate of registration once issued is valid for a period of 12 months after which the certificate holder ought to apply to the Commissioner for renewal of that certificate. If this provision is passed, there will be no need to apply for renewal of the certificate of registration for excise duty every after 12 months.

2. Provision for duty remission for plastic packaging of certain goods

The Bill seeks to provide for duty remission by the Commissioner where he is satisfied that excise duty was paid on plastic packaging for: exported goods; medicaments; or plastic packaging manufactured from recycled plastics.

The Commissioner shall not remit the excise duty paid on plastic packaging manufactured from recycled plastic referred to in subsection (3b) (c), unless the recycled plastic used in the manufacture of the plastic packaging is equivalent to at least fifty percent of the raw material used."

Currently, there is no excise duty remission for duty paid on plastic packaging.

This implies that, where this proposal is passed into law, duty paid on plastic packaging of the above-mentioned goods and plastic packaging made from recycled plastics will be remitted by the Commissioner.

3. Amendment of Schedule 2 of the Excise Duty Act, 2014

The Bill proposes to amend Schedule 2 of the Excise Duty Act, 2014 to substitute certain items; and vary excise duty in respect of certain excisable goods as follows;

	Excisable good or services	Current Duty (2020/2021)	Proposed Duty (2021/2022
1.	**Beer**		
	Opaque beer	30% or Shs. 650 per litre, whichever is higher	30% or Shs 230 per litre; whichever is higher
	any other alcoholic beverage locally produced	Not excisable	30% or Shs 230 per litre; whichever is higher"
2.	**Non- Alcoholic**		
	any other non-alcoholic beverage locally produced other than the beverage referred to in subparagraph (a) made out of fermented sugary tea solution with a combination of yeast and bacteria	Not excisable	30% or Shs 230 per litre whichever is higher;"
3.	**Plastics**		
	plastic packaging	120% or Shs. 10,000 per Kg of the plastic bags . Vacuum packaging bags for food, juices tea and coffee, sacks and bags for direct use in the manufacture of sanitary pads were expressly excluded from the excisable packaging bags.	5% or USD 150 per ton, whichever is higher;
	Plastic Granules	Not Excisable	5% or USD 100 per ton, whichever is higher
4.	**Telecommunication Services**		
	internet data, except data for provision of medical services and education services	NIL	12% of the fee charged
	Value Added Services	20%	12% of the fee charged
5	**any other fermented beverages including cider, perry, mead, spears or near beer**	Not Excisable	60% or Shs 950 per litre; whichever is higher
6	**construction materials of a manufacturer, other than a manufacturer referred to in item 21, whose investment capital is, at least fifty million United States Dollars or, in the case of any other manufacturer, who makes an additional investment equivalent to fifty million United States Dollars;**	Materials such as cement are Shs. 500 per 50kgs	NIL
7	**Wheat grain**	Not Excisable	Shs 100 per kilogram

4. Removal of Over the Top (OTT) Services from Excisable services

The Bill seeks to remove excise duty imposed on Over the Top Services.

Currently, Over the Top services attract a tax of Shs. 200 per user per day of access.

D. Traffic and Road Safety (Amendment) Bill, 2021

1. Introduction of an annual license for possession of a motor vehicle

The Bill proposes that an application for a license must be submitted in the prescribed form to the chief licensing officer by any person who wishes to own, possess or use a motor vehicle, trailer, or engineering plant on the road which will remain valid until revoked.

Failure to obtain this license will result into a fine not exceeding one hundred currency points or imprisonment for a term not exceeding one year or both upon conviction. Each currency point is equivalent to Ushs 20,000.

2. Imposition of annual fees.

The Bill proposes an annual fee as maybe be prescribed by the Minister payable by 31st January of every year to the Government. The details of the fees have not yet been provided but there was an indication of Ushs 200,000 for cars and Ushs 50,000 for motorcycles as the minimum fee. Any person found in contravention of this proposal if passed, will pay a penalty of Shs 200,000 per day until the unpaid annual fee and the penalty is settled.

3. Registration plates

The Traffic and Road Safety Amendment Bill proposes to repeal the Third Schedule of the Traffic and Road Safety Act, 1998 consisting of the following;

- Part I: Form of registration plates for motor vehicles, dealer's plates and motorcycles.
- Part II: Feature specifications for registration plates
- Part III: Uganda Revenue Authority internal revenue department registration plate order form

This implies that if this proposal is passed, the provisions of Parts I, II and III will not be applicable to the registration plates obtained for motor vehicles and motorcycles.

4. Fees payable under the Traffic and Road Safety Act, 1998 (Cap 361)

The Bill seeks to repeal the fees payable under the Traffic and Road Safety Act, 1998 as specified under section 1 and the First Schedule of the Finance Act, 2006.

The Amendment repeals the License fees payable under Part I, and Fees for various documents and services under Part II.

This implies that if this proposal is passed, the fees as prescribed by the First Schedule of the Finance Act, 2006 will not apply any more. The First Schedule to the Finance Act provides for the annual fees payable for Motor vehicles and fees for registration of various documents and services such as registration of motor vehicles; transfer of motor vehicles; driving permits, among others.

E. Stamp Duty (Amendment) Bill, 2021

1. Amendment of Schedule 2 to substitute item 60A (iii) and (iv).

The Bill proposes to substitute the earlier conditions to be fulfilled in order to benefit from the stamp duty exemption by operators and strategic investors with the ones highlighted below;

a) Capacity to use at least 50% of the locally produced raw materials, subject to availability under 60(A) iii.

b) Capacity to employ a minimum of one hundred citizens under 60(A) iv.

With the above proposal, one must show that on a minimum, that he or she has capacity to use 50% of raw materials sourced locally and has capacity to employ a minimum of 100 citizens.

Currently, an operator or strategic investor has to use at least 70 percent of the raw materials sourced locally subject to their availability; and employ at least 70 percent of its employees being citizens earning an aggregate wage of at least 70 percent of the total wage Bill.

2. Provision of incentive to a manufacturer whose investment is at least USD 50 Million.

The Bill proposes to include a new item - 60A (f) that imposes NIL duty on instruments executed by manufacturers whose investment capital is at least USD 50 million or any other manufacturer who makes an additional investment equivalent to USD 50 million.

F. The Tax Procedure Code (Amendment) Bill, 2021

1. Definition of a "tax decision"

The Tax Procedure Code Act 2014 (TPC Act) currently defines a tax decision to mean tax assessments or decisions on any matter left to the discretion, judgement, direction, opinion, approval, satisfaction or determination of the Commissioner other than a decision made in relation to a tax assessment.

This implies that a taxpayer could appeal to the Tax Appeals Tribunal for review of tax decisions made as per the provision above.

However, the 2021 Amendment Bill proposes to amend the current definition of a "tax decision" to exclude;

i. Decisions to refuse, issue or revoke practice notes or omission to issue or revoke a practice note

ii. Decisions or omission that affects a tax officer or employee or agent of the Authority

iii. Compoundment of an offence under any law

iv. Decisions to refuse, issue or revoke a private ruling or an omission to issue or revoke a private ruling

Therefore, taxpayers would not be able to appeal to the Tax Appeals Tribunal for review of decisions highlighted above as they would not be considered tax decisions.

2. Licensing businesses without Tax Identification Numbers

The amendment Bill proposes that a local authority, government institution or regulatory body shall not issue a licence or any form of authorisation necessary for purposes of conducting any business in Uganda to any person who does not have a tax identification number.

This implies that businesses need to be registered for tax purposes to obtain or renew licences such as trading licenses or any other form of authorisation required to carry out a business in Uganda.

In turn, this will ensure that all businesses operating in Uganda are tax registered, hence widen the tax base.

3. Penal Tax relating to Tax Stamps

Currently, the TPC Act provides for penal tax on offences relating to tax stamps such as failure to affix stamps on prescribed goods, possession of prescribed goods without tax stamps, printing over or defacing tax stamps affixed on prescribed goods and attempts to acquire, acquiring or selling of tax stamps without the Commissioner's authorisation.

The amendment Bill proposes to include more offences relating to tax stamps which would attract fines and or imprisonment, upon conviction;

i. an offender who attempts to acquire or acquires or sells a tax stamp without goods shall be liable to a fine not exceeding Shs. 10,000,000 or imprisonment for a term not exceeding five years or both;

ii. a person who acquires tax stamps with the Commissioner's authority and affixes them on goods other than those approved by the Commissioner commits an offence and is liable to double the excise duty due on the goods or Shs. 10,000,000 whichever is higher.

Therefore, manufacturers or importers or dealers in excisable goods should keep up to date with the additions and deductions to the list of prescribed goods to remain compliant.

4. Increase of time allowed for return amendment

Currently, the TPC Act allows taxpayers to amend their tax returns that are not under investigation within twelve months after the date of furnishing the return.

The proposed Bill seeks to extend the twelve-month period to a period of three years.

This will enable taxpayers to amend their tax returns for prior periods to include any adjustments or additions to the initial self-assessment returns within a 3-year period.

5. Alternative Dispute Resolution Procedures

Currently, any taxpayer who is dissatisfied with an objection decision can appeal to the Tax Appeals Tribunal within 30 days after receiving notice of the objection decision.

The amendment Bill proposes that a taxpayer who is dissatisfied with a decision may apply to the Commissioner to resolve the dispute using alternative dispute resolution procedures that may be prescribed by the Minister through regulations.

This may present other avenues for taxpayers who would like to review tax decisions issued by URA without necessarily lodging an appeal to the Tax Appeals Tribunal.

6. Allocation of payments to tax liabilities

The TPC Act provides that if a taxpayer has more than one tax liability at the time a payment is made, then the payment made is allocated to the earliest liability first.

The amendment Bill proposes to repeal the above provision, and this will change the layout that is currently being used by URA when generating tax ledgers.
Additionally, repealing the section implies that payments made are to be allocated to principal tax liabilities before they are applied to any outstanding penalties and interest due.

7. Increase in Commissioner's powers during an investigation

The proposed Bill seeks to increase the powers of the Commissioner in the process of investigations to include;

i. the power to effect an arrest with an arrest warrant;

ii. the power to issue an order for interim closure of premises;

iii. the power to record charge and caution statements; or

iv. the power to execute a bond with or without security.

This implies that the tax authority may use the powers listed above in the process of carrying out a tax investigation.

8. Increase in penal tax for failure to furnish a tax return

Currently, the TPC Act provides that a person who does not furnish a tax return by the due date or within a further time allowed by the Commissioner commits an offence and is liable on conviction to a fine not exceeding Shs. 500,000.

Additionally, the Act provides that failure to furnish the return as specified by the court is another offence and the taxpayer would be liable to a fine not exceeding Shs. 1,000,000 upon conviction.

However, the amendment Bill proposes to increase the penalty for failure to furnish a tax return to Shs. 1,000,000 and failure to furnish the return within the time prescribed by court to Shs. 2,000,000.

Failure to furnish tax returns by the due dates will, therefore, expose taxpayers to more punitive penal taxes.

9. Increase in penal tax for failure to comply with obligations under the TPC Act.

The TPC Act provides for a taxpayer's obligations which may include complying with notices relating to recovery of money from a taxpayers' debtors, complying with notices requiring taxpayers to file tax returns, providing reasonable facilities and assistance required during investigations, among others.
A taxpayer who fails to comply with the obligations commits and offence and on conviction, is liable to a fine not exceeding Shs. 500,000.
The proposed Bill seeks to increase penal tax to Shs. 2,000,000.

10. Increase in penalties for failure to maintain proper records

Currently, the TPC Act imposes a fine not exceeding Shs. 960,000 or imprisonment not exceeding two years or both on conviction for knowingly and/or recklessly failing to maintain records as required under any tax law.

The proposed amendments seek to increase the penalties to Shs. 2,000,000 or imprisonment not exceeding six years or both.

Therefore, knowingly and recklessly failing to maintain proper records would lead to highly punitive penalties that taxpayers need to keep in mind when handling business records.

11. Increase in penalties for use of a false TIN

The TPC Act imposes a fine not exceeding Shs. 480,000 or imprisonment not exceeding one year or both on conviction for knowingly and/or recklessly using a false TIN on a tax return or any other document prescribed or used for purposes of a tax law.

The proposed amendments seek to increase the penalties to Shs. 3,000,000 or imprisonment not exceeding six years or both.

12. Increase in penalties for making false or misleading statements

The TPC Act provides that knowingly or recklessly making false or misleading statements or omitting from a statement to a tax officer, a matter or thing is an offence and the taxpayer would be liable to a fine not exceeding Ushs. 960,000 or imprisonment not exceeding two years or both on conviction.

The proposed amendments seek to increase the penalties to two hundred currency points that is Shs. 4,000,000 or imprisonment not exceeding ten years or both.

13. Increase in penalties for obstructing a tax officer

Currently, a fine not exceeding Shs. 960,000 or imprisonment not exceeding two years or both on conviction is imposed on a person who obstructs a tax officer in the performance of duties under a tax law.

The proposed Bill amends the penalties above to Shs. 5,000,000 or imprisonment not exceeding ten years or both. The increase in fines for committing the offences implies that URA will intentionally focus more on taxpayers who fail to comply with the tax provisions above.

14. Increase in Penal tax relating to recovery of tax

The current TPC Act provides that a person who rescues any goods that are the subject of an order under Section 32, that are in the premises which are the subject of an order under Section 33 or that have been seized under Section 35 commits an offence and is liable, upon conviction to a fine not exceeding Shs. 960,000 or imprisonment not exceeding two years.

The Bill proposes to amend the penalty to Shs. 5,000,000 or imprisonment not exceeding ten years or both.

The Bill further proposes to include penalties where the person above is a tax agent and imposes a fine equal to double the tax evaded or not exceeding Shs. 5,000,000) whichever is higher or imprisonment not exceeding five years or both.

This implies that tax agents (representatives) need to be extremely careful when acting on behalf of the taxpayer as they will equally suffer the consequences of non-compliance.

15. Increase in penal tax relating to registration

The TPC Act provides that a person who fails to apply for registration, cancel a registration or notify the Commissioner of a change in registration or circumstances commits an offence and is liable upon conviction;

i. to a fine not exceeding Shs. 1,000,000 or imprisonment not exceeding two years or both if the failure/act was done knowingly or recklessly

ii. to a fine not exceeding Shs. 500,000 or imprisonment not exceeding one year or both in any other case.

The Bill proposes to increase the penalties above to;

i. a fine not exceeding Shs. 3,000,000 or imprisonment not exceeding six years or both if the failure/act was done knowingly or recklessly

ii. to a fine not exceeding Shs. 1,000,000 or imprisonment not exceeding two years or both in any other case.

16. Increase in Penal tax on offences relating to tax officers

Currently, a tax officer who;

i. directly or indirectly asks for, or takes in connection with any of the officer's duties, a payment or reward, whether pecuniary or otherwise, or a promise or security for any payment or reward which the officer is unlawfully entitled to receive or

ii. enters into or acquiesces in any agreement to do any act or thing, abstain from doing any act or thing, permit or connive in the doing of any act or thing or conceal any act or thing whereby the tax revenue is or maybe defrauded or which is contrary to the provisions of a tax law or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine not exceeding Shs. 960,000 or imprisonment not exceeding two years or both.

The proposed Bill seeks to increase the penalties above to a fine not exceeding Shs. 3,000,000 or imprisonment not exceeding six years or both.

Secondly, the TPC Act further imposes a fine not exceeding Shs. 960,000 or imprisonment not exceeding two years or both, upon conviction, on any person who;

i. directly or indirectly offers or gives to a tax officer any payment or reward, whether pecuniary or otherwise, or any promise or security for any such payment or reward which the officer is unlawfully entitled to receive or

ii. proposes or enters into any agreement with a tax officer in order to induce the officer to do any act or thing, abstain from doing any act or thing, connive in the doing of any act or thing or conceal any act or thing whereby the tax revenue is or maybe defrauded or which is contrary to the provisions of a tax law or to the proper execution of the officer's duty.

The Bill further proposes to increase the penalties above to a fine not exceeding Shs. 3,000,000 or imprisonment not exceeding six years or both, upon conviction.

Thirdly, a person who impersonates a tax officer commits an offence and is liable on conviction to a fine not exceeding Shs.1,000,000 or imprisonment not exceeding two years or both.

However, the proposed Bill increases the penalties above to a fine not exceeding Shs.2,000,000) or imprisonment not exceeding six years or both.

G. Tax Appeals Tribunal (Amendment Bill), 2021

1. Provision for the right of appeal to the Court of Appeal and Supreme Court of Uganda

The Bill seeks to provide for appeals to the Court of Appeal from decisions of the High Court. This Appeal ought to be lodged within 30 days after being notified of the decision or within further time as the Court of Appeal may allow. This appeal will be on questions of law only.

The Bill further provides for appeals from decisions of the Court of Appeal to the Supreme Court with leave from the Supreme Court. This appeal will be on questions of law only. Currently, the law expressly provides for application for review of the Commissioner's decision to the Tax Appeals Tribunal and appeals to the High Court against decisions of the Tax Appeals Tribunal.

2. Operation and Implementation of decision subject to review or appeal

The Bill seeks to provide for powers of the reviewing body of the decision to make an order staying or otherwise affecting the operation or implementation of the decision under review or appeal.

The Bill further proposes to provide for interest on amount to be refunded by the decision maker as a result of the decision of the reviewing body. The amount to be refunded shall be repaid with interest at the rate specified in the relevant law on the amount of the refund from the date the person paid the tax refunded and ending on the last day of the month in which the refund is made.

Reviewing body means the Tribunal, the High Court, the Court of Appeal and the Supreme Court.

H. Mining (Amendment) Bill, of 2021

1. Imposition of an export Levy on processed gold and unprocessed minerals.

The Bill under Section 116A proposes to charge a levy on processed gold at a rate of USD 200 per Kilogram which is exported outside Uganda and shall be paid to Uganda Revenue Authority at the point the processed gold is exported out of Uganda.

2. Imposition of Levy on unprocessed minerals.

The Bill under Section 116B proposes to charge a levy on unprocessed minerals at a rate of 1% of the value of the unprocessed minerals exported out of Uganda and shall be paid to the URA at the time when the unprocessed minerals are exported out of Uganda.

I. External Trade (Amendment) Bill, 2021

Introduction of a levy on wheat bran, cotton cake, maize bran or other by-products of the milling industry

The Bill seeks to introduce a levy at the rate of USD 0.4 per kilogram on wheat bran, cotton cake, maize bran or other by-products of the milling industry exported out of Uganda.

J. The Tobacco Control (Amendment) Bill, 2021

Export levy on leaf tobacco

The Bill proposes to levy on leaf tobacco at the rate of USD 0.8 per Kilogramme of leaf tobacco which is exported out of Uganda.

Currently, the export levy is imposed on unprocessed leaf tobacco. The proposal aims at clarifying the nature of the tobacco on which the levy is imposed.

K. The Fish (Amendment) Bill, Act, 2021

The Bill proposes to introduce a levy on fish maw at a rate of Shs. 70,000 per Kilogramme of fish maw which is exported out of Uganda.

Currently, there is no export levy on fish maw.

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