

ACTS SUPPLEMENT

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Act 20

Income Tax (Amendment) Act

2020

THE INCOME TAX (AMENDMENT) ACT, 2020

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THE INCOME TAX (AMENDMENT) ACT, 2020

An Act to amend the Income Tax Act, Cap. 340; to provide for incentives to existing investors; to exempt the Income of the Islamic Development Bank from Tax; to exempt the Income of the Deposit Protection Fund from Income Tax; to impose withholding tax on commissions paid to insurance and advertising agents; and for related matters.

DATE OF ASSENT: 24th November, 2020

Date of Commencement: 1st July, 2020

BE IT ENACTED by Parliament as follows:

1. Commencement

This Act shall be deemed to have come into force on 1st July, 2020.

2. Amendment of Income Tax Act

The Income Tax Act, in this Act referred to as the principal Act, is amended in section 21—

- (a) by inserting immediately after subsection (1) (w) the following—

“(wa) the income of the Deposit Protection Fund established under section 108 of the Financial Institutions Act, 2016;”;

(b) by substituting for paragraph (af) the following—

“(af) the income of an operator in an industrial park or free zone or the income of any other person carrying on business outside the industrial park or free zone and the investment capital of that operator or that other person, over a period of at least ten years from the date of commencement of business, is at least ten million United States Dollars, in the case of a foreigner or three hundred thousand United States Dollars, in the case of a citizen or one hundred fifty thousand United States Dollars, for a citizen whose investment is placed up country, or in the case of an existing operator or other person carrying on business outside the industrial park or free zone, from the date on which the operator makes an additional investment equivalent to ten million United States Dollars in the case of a foreigner or three hundred thousand United States Dollars in the case of a citizen, or one hundred fifty thousand United States Dollars, for a citizen whose investment is placed up country who, subject to availability, uses at least seventy percent of locally sourced raw materials and employs at least seventy percent of its employees being citizens earning an aggregate wage of at least seventy percent of the total wage bill and—

- (i) processes agricultural goods;
- (ii) manufactures or assembles medical appliances, medical sundries or pharmaceuticals, building materials, automobile or household appliances;
- (iii) manufactures furniture, pulp, paper, printing and publishing of instructional materials;
- (iv) establishes or operates vocational or technical institutes;

- (v) carries out business in logistics and ware housing, information technology or commercial farming; or
 - (vi) manufactures tyres, footwear, mattresses or toothpaste.”;
- (c) by repealing paragraph (ag);
- (d) by inserting immediately after subsection (1) the following—

(1a) An operator in an industrial park or free zone or other person carrying on business outside the industrial park or free zone who undertakes investment and seeks to benefit from the income tax exemption provided under section 21 (1) (ae) and (af) shall declare in their tax return for a year of income, the qualifying income and its related expenses.

(1b) The qualifying income referred to in subsection (1a), shall be the income attributable to the qualifying investment made in Uganda to be determined as follows—

$I * A/B$

Where:

I = the sum of gross income and exempt income of the person for the year of income, before accounting for the qualifying income;

A = the total amount of investment made by an investor from the beginning of the year of income in which the investment becomes a qualifying investment;

B = the sum of the amount of the qualifying investments and the total investment made before the commencement of the current year of income;

(1c) The expenses which are related to the qualifying income shall be determined as follows:

E * F/G Where:

E = the total allowable deductions for the year of income as provided for under this Act;

F = qualifying income calculated under subsection (1b);

G = the sum of gross income and exempt income of the person for the year of income, before accounting for the qualifying income.

(1d) For purposes of subsection (1) (af), the date of commencement of business of the investor shall be the later of the 1st day of the year of income or the first day during the year of income on which the qualifying investment generates income.

(1e) For purposes of subsection (1b), where a qualifying investment is still under construction or assembling, the amount in the qualifying investment shall be cumulated to the year of income in which the qualifying investment starts to generate income.

3. Amendment of section 22 of principal Act

Section 22 of the principal Act is amended in subsection (2) by inserting immediately after paragraph (m) the following—

“(n) expenses of a person who purchases goods or services from a supplier who is designated to use the e-invoicing system, unless the expenses are supported by e-invoices or e-receipts.”

4. Insertion of sections 118G and 118H in principal Act

The principal Act is amended by inserting immediately after section 118F the following—

“118G. Withholding of tax on commission paid to an insurance agent

An insurance service provider who makes a payment of a commission to an insurance agent shall withhold tax on the gross amount of the payment at the rate prescribed in Part XIII of the Third Schedule.

118H. Withholding of tax on commission paid to an advertising agent

A person who makes payment for a commission to an advertising agent shall withhold tax on the gross amount of the payment at the rate prescribed in Part XIII of the Third Schedule.”

5. Amendment of section 122 of principal Act

Section 122(ab) of the principal Act is amended by substituting for the words “section 118E” the words “section 118F”.

6. Amendment of section 123A of principal Act

Section 123A is amended—

- (a) by renumbering section 123A as subsection (1);
- (b) by inserting immediately after subsection (1), the following—

“(2) A taxpayer who provides a passenger transport service or a freight transport service under subsection (1), shall be required to obtain a tax clearance certificate from the Commissioner in accordance with section 43 of the Tax Procedures Code Act, 2014 before renewal of operational licences.”

7. Amendment of section 130 of principal Act

Section 130 of the principal Act is amended by inserting immediately after subsection (4) the following—

“(5) A withholding agent who makes a payment subject to withholding tax under sections 83 to 86 and 117 to 119 shall furnish a return of withholding tax for every month in the Form specified by the Commissioner, not later than fifteen days after the end of every month to which the withholding tax relates.”

8. Amendment of First Schedule to principal Act

The First Schedule to the principal Act is amended by inserting immediately after “International Telecommunications Union” the following—

“Islamic Development Bank”.

9. Amendment of Second Schedule to principal Act

The Second Schedule to the principal Act is amended by substituting for Part I and Part II the following Schedule—

“Second Schedule

“1. The amount of tax payable for purposes of section 4(5) is—

Gross turnover	Tax rates without records	Tax rates with records
Where the gross turnover of the taxpayer does not exceed ten million shillings per annum	Nil	Nil
Where the gross turnover of the taxpayer exceeds ten million shillings but does not exceed thirty million shillings per annum	Eighty thousand shillings	0.4 % of the annual turnover in excess of ten million shillings

Where the gross turnover of the taxpayer exceeds thirty million shillings but does not exceed fifty million shillings per annum	Two hundred thousand shillings	Eight thousand shillings plus 0.5% of the annual turnover in excess of thirty million shillings
Where the gross turnover of the taxpayer exceeds fifty million shillings but does not exceed eighty million shillings per annum	Four hundred thousand shillings	One hundred and eighty thousand plus 0.6% of the annual turnover in excess of fifty million shillings
Where the gross turnover of the taxpayer exceeds Eighty million shillings but does not exceed one hundred and fifty million shillings per annum	Nine hundred thousand shillings	Three hundred and sixty thousand shillings plus 0.7% of the annual turnover in excess of eighty million shillings.”

2. The tax payable by a tax payer under section 4 (5) is reduced by—
- (a) any credit allowed under section 128 (3) for withholding tax paid in respect of the amounts included in the gross turnover of the tax payer; or
 - (b) any credit allowed under section 111 (8) for provisional tax paid in respect of amounts included in the gross turnover of the tax payer.”.

10. Amendment of Third Schedule to principal Act

The Third Schedule to the principal Act is amended—

- (a) by substituting for the words “sports betting and pool betting” appearing in Part X, the words “betting or gaming”; and
- (b) by inserting immediately after Part XII the following—

“Part XIII

Withholding tax rate on insurance and advertising agents

The tax rate applicable to withholding tax for purposes of sections 118G and 118H is 10% of the gross amount of the payment.”

Cross References

Financial Institutions Act, 2016, Act 2 of 2016

Tax Procedures Code Act, 2014, Act 14 of 2014.