CIVIL SOCIETY POSITION ON TAX REVENUE MEASURES FOR FY 2018/19

TAX JUSTICE ALLIANCE Uganda

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INTRODUCTION

The Minister of Finance, Planning and Economic Development (MoFPED) presented the tax revenue measures for FY 2018/19 contained in the; Income Tax (Amendment) Bill, 2018, Lotteries and Gaming (Amendment Bill, 2018, Excise Duty (Amendment) Bill 2018, Value Added Tax (Amendment) Bill 2018, Tax Procedures codes (Amendment) Bill, 2018, Tax Appeals Tribunal (Amendment) Bill, 2018, Stamp Duty (Amendment) Bill, 2018 and The Traffic and Road Safety Act 1998 (Amendment) Bill, 2018.

In the FY 2018/19, Domestic Revenue is projected at UGX Shs.15, 547 billion, of which Shs.15,130 billion is tax revenue and Shs.418 billion is non-tax revenue.[1] This amounts to about 53% of the total resource envelope which has been estimated at Shs.29.274 trillion to finance the budget under the theme: "Industrialization for job creation and shared prosperity." However, given past trends there has been a variance between the revenue projections and actual collection/outturn.

In FY2016/17 net revenue collections amounted to UGX12, 719.63billion registering a shortfall of UGX 457.51billion. Therefore, in order to cover up the shortfalls, Government of Uganda has had to greatly rely on external and domestic debt which currently stands at 27% of GDP (Budget Speech 2017/18). It is thus important that the country generates as much revenue as it can domestically in order to reduce the debt burden and be able to finance its own development. However, in the quest to mobilise revenue domestically, government should do it in a fair and just way.

Tax Justice Alliance Uganda[2] members have further reviewed and analysed the tax bills presented by MoFPED and have made observations and recommendations for consideration by the Parliament of Uganda as indicated below:

POSITIVE TAX PROPOSALS

We welcome the following tax proposals to improve revenue collection and facilitate investment in the FY 2018/19 and beyond including:

1 *National Budget Framework Paper FY 2018/19*

2 *Southern and Eastern Africa, Trade Information and Negotiations Institute (SEATINI-Uganda), Uganda Debt Network (UDN), Oxfam, ActionAid Uganda (AAIU), Civil Society Budget Advocacy Group (CSBAG), Citizens Watch- IT (CEWIT), Water Governance Institute (WGI), Inter-University Tax Justice Network Forum (IUTNF), Public Affairs Center of Uganda (PAC), Uganda Health Consumers Organisation (UHCO), Initiative for Social and Economic Rights (ISER), Women and Girl Child Development Association (WEGCDA) and 73rd Parliament.*

1. The proposal to CAP the period over which a tax payer can carry forward losses. This will curb perpetual declaration of losses.

2. The proposal to allow a deduction for Interest on a mortgage from a financial institution as expenditure incurred by an individual to acquire or construct premises that generate rental income; this will enhance proper accounting principles of rental businesses and therefore may improve tax compliance of the said rental businesses.

3. The Introduction of VAT on passenger automobile, their repair and maintenance and entertainment for contractors in mining and petroleum operations and aid funded projects will increase the tax revenue and is therefore commendable.

4. The insertion of the fourth schedule in the Traffic and Road Safety Act 1998 which seeks to increase the fees for registration of cars besides station wagons by 300,000. This will contribute to an increase in the collection of Non-Tax Revenues

CIVIL SOCIETY CONCERNS ON SELECTED TAX PROPOSALS

We however have concerns on the following proposals upon which we make the following observations and recommendations:

INCOME TAX (AMENDMENT) BILL 2018

The amendment of Section 21 of the Income Tax Act to repeal the exemption of SACCOs from payment of income tax.

Observation: We welcome the proposal to reinstate income tax on the income of SACCOs as it is a good measure of enhancing revenue. However, given that this exemption being repealed was introduced last year, it is not clear as to whether it had served the purpose for which it had been given.

Recommendation: The rate of tax on income of SACCOs should be progressive in relation to the income portfolios of the said SACCOs; as it is with PAYE.

The insertion of Section 38 (5a) to cap the period over which a taxpayer can carry forward losses to 7 years after which a rate of 0.5 percent of the gross turnover for every year of income in which the loss continues after the seventh year.

Observation: We applaud the government for the consideration to cap the period over which losses can be carried forward. However, we note that the proposed 7 years is too long and the proposed rate 0.5% is too low.

Recommendations: We propose that the period over which a company is allowed to consecutively carry forward losses reduced to five years as proposed to the Ministry of Finance by civil society and the rate of tax is increased to 1 % for every year of income. We also propose that a mechanism to verify losses by an external person is put in place so as to prevent perpetual declaration of losses by companies where by it would be cheaper to pay the penalty for declaring losses than pay the actual corporate tax.

The government should also be able to develop a schedule with an estimate of the rate of return on investment in different businesses. This will enable Uganda Revenue Authority (URA) to assess the viability of businesses which have continuously declared losses but have remained operational.

THE EXCISE DUTY (AMENDMENT) BILL, 2018

Clause 6: Amendment of Schedule 2 to principal Act.

e. By substituting for item 13 the following—Telecommunications services;

b. the proposed imposition of Ushs 200 per user per day of access of over the top services -–

Observation: The proposed amendment will make it more expensive to access online services and will ultimately deter the growth of e-commerce. There is no information on how this proposed tax will be administered. Therefore it may be expensive and hard to administer due to the technological and technical capabilities required to administer such a tax. This proposed tax will perpetuate inequality especially to the low income earners who will fill the pinch more.

Recommendation This proposed tax be scraped and deferred to a time when URA will have the technology and technical capacity to administer such a tax. And when it will be finally imposed, the tax should be progressive in nature taking into account the difference in people's incomes.

d. Introduction of Excise duty on Mobile Money Transactions including; receiving, payments and withdrawals at1% of the value of the transaction.

Observation: We observe that this amendment, applies to all mobile money transactions including receiving money, making payments and withdrawals of money. Mobile Money is currently a tool used by a cross section of Ugandans. Already government is charging 10% on money transfers which it proposes to increase to 15%. We observe that this amendment is regressive; it doesn't consider the different income differences in the population and will hinder financial inclusiveness.

Recommendation: We recommend that this amendment is rejected.

The Amendment of the second schedule of the Excise Duty Act to increase the excise duty on mobile money and bank charges to 15%

Observation: The proposed amendment will make it more costly to transact through financial institutions and will also discourage citizens from using mobile money and consequently discourage people from joining the formal finance system and thus stay in a cash economy which is hard to track or tax.

Recommendation: We recommend that the tax rate remain 10% as is currently.

The Amendment of the second schedule to impose Excise Duty of Ushs 200 on each litre of cooking oil

Observation: We welcome the proposed introduction a tax on cooking oil as it expands the tax base and ultimately increases tax revenue.

Recommendation: A categorization should be put in place to charge the excise duty only on imported cooking oil and on cooking oil which is manufactured locally but with imported raw materials. This will encourage more local production of cooking oil in line with the Buy Uganda Build Uganda (BUBU policy)

TRAFFIC AND ROAD SAFETY ACT 1998; BILL NO. (AMENDMENT) BILL 2018.

Insertion of Section 14A which bans the importation of vehicles that are more than 8 years except road tractors for semitrailers, motor vehicles for the transport of goods with a gross vehicle weight of at least six tonnes and special purpose motor vehicles

Observation: We welcome the proposed amendment as it seeks to ban on old cars which has reduced Uganda to a dumping ground for old cars. However, The CIF values as determined by URA are very high consequently making the purchase of new cars costly.

Recommendation: The clause should be adopted as is; however, URA should revise its CIF valuation to match with the real CIF of vehicles before import.

Insertion of Section 14B to impose Environmental levy on motor vehicles; goods vehicles inclusive

Item	Matter	Levy payable
a	A motor vehicle which is five years but does not exceed eight years from the date of manufacture, excluding goods vehicles.	35% of the CIF value
b	A motor vehicle which is eight years or more from the date of manufacture which was imported or in transit before the commencement of this Act and which arrives in Uganda by 30th September, 2018.	50% of the CIF value.
c	Ä motor vehicle which is five years or older and which is principally designed to carry goods	20% of the CIF value.”

Observation: The proposed amendment seeks to introduce an environmental tax of 20% of the CIF value of a goods vehicle which will expand on the tax base and ultimately increase on tax revenue. We welcome the proposal and commend government for the proposal.

Recommendation: Clause should be adopted with a modification of reducing the environmental levy of cars that are between 5 and 8 years old from the date of manufacture from 35% to 5% so as to enable more Ugandans afford those cars.

VALUE ADDED TAX (AMENDMENT) BILL 2018

The Insertion of Section 76(3) to allow the cabinet to ratify and the parliament to approve any tax reliefs that are given to a foreign government or international organisation as a result of an international agreement entered into with the Government of Uganda.

Observation This proposed amendment seeks to empower parliament to approve tax reliefs given by government through international agreements. This is welcome as it gives parliament an oversight role on who gets or doesn't get tax benefits through the said agreements.

Recommendation that the clause be adopted as is. We also recommend that Parliament amends Section 77(1)-(2) of the Public Finance Management Act (PFMA), 2015 which accords the Minister to award tax exemptions and thereafter report and justify the award to parliament. This limits parliament exercising its oversight role before exemptions and incentives are awarded. Retrospective oversights such as these weaken parliamentary supervision and breeds impunity in executive public mandates.

CONCERNS ON THE TAX EXEMPTIONS TO POTENTIAL INVESTORS INCLUDING:

a. a developer of an industrial park or free zone whose investment capital is at least two hundred million over a period of ten years from date of commencement of construction; and

b. an operator within the industrial park, free zone or an operator of a single factory or other business outside the park who meets the following requirements –

- minimum investment capital is thirty million dollars in the case of the foreigner or ten million dollars in case a citizen of partner state in the East African Community;
- carries on business in agro processing, food processing, medical appliances, building materials, light industry, automobile manufacturing and assembly, house hold appliances, furniture, logistics and ware housing, information technology or commercial farming;
- uses seventy percent of the raw materials are sourced locally subject to their availability;
- directly employs a minimum of one

hundred citizens; and

- Provides for substitution of thirty percent of the value of imported product.

Observation: we have observed that this group of investors has received a series of exemptions. These include;

An exemption from income tax for a period of 10 years for the developers of the industrial or free zone from the "commencement of construction" and 5 years for the an operator in the within or outside the industrial park or free zone from the "commencement of business".

- An exemption from Excise duty on construction materials for the development of industrial parks or free zones while the operators will receive a similar exemption for construction materials of factory or warehouse exclusive of those materials which are available on the local market or locally produced raw materials and inputs.

- An exemption from stamp duty on debentures, further charges, lease of land, increase of share capital and transfer of land for both the developer of the industrial or free zone and an operator within or outside the free zone;

- An exemption from VAT on the supply of services to conduct a feasibility study, design and construction; including the supply of construction materials of the industrial park well as for the construction of a factory or a warehouse and the supply of locally produced raw materials and inputs or machinery and equipment to an operator within or outside the industrial park or free zone.

- An exemption from VAT for the supply of earth moving equipment and machinery for development of an industrial park or free zone.

Despite the fact that these exemptions are intended to attract investors to develop industrial parks and further set up industries, we have noted a few concerns as shown below;

Observation	Recommendation
The criterion shown above for an operator in or outside the industrial park to benefit from the exemptions has been stated in the Excise Duty (Amendment) bill, VAT (Amendment) Bill and the Stamp Duty (Amendment) Bill but not in the Income Tax (Amendment) Bill.	We propose that this criterion is also stated in the Income Tax Amendment.
We further observe that the clause in the Income Tax (Amendment) Bill does not define what amounts to 'commencement of construction' and 'commencement of business' for developers and operators respectively which leaves room for abuse or exploitation.	The Clause should, for avoidance of doubt provide a definition for the terms 'commencement of construction' and 'commencement of business' for developers and operators respectively to avoid abuse or exploitation of the law.
Additionally, we note that the proposed period of 10 years for which to exempt income of developers under clause 21(ae) is too long and will ultimately lead to revenue loss.	The period for the exemption should be reduced to 5 years and should be subject to a review and approval by before renewal.
The exemption on Excise Duty and VAT for construction materials used for the development of an industrial park or free zone accrues regardless of whether or not the construction materials are available on the local market or are locally produced raw materials and inputs.	The exemption should only apply for construction materials exclusive of those materials which are available on the local market or locally produced raw materials and inputs.
Despite the fact that the criteria laid out in the Excise Duty (Amendment) bill, VAT (Amendment) Bill and the Stamp Duty (Amendment) Bill requires at least one hundred employees to be Ugandan citizens, experience has shown that most of the foreign owned companies employ the locals to solely do the petty jobs which do not necessarily improve their quality of life given the low quality of the jobs and worse still do not build their capacity to take on supervisory roles.	We propose that at least 50% of all the employees are Ugandan and that at least 50% of the supervisory team should be Ugandan. This should be subject to the provisions in Clause 27 of the Local Content Bill 2017.

In the financial year 2017/18. A provision was put in the Income Tax Act under section 27A to allow a person who places an item of eligible property into service for the first time outside a radius of 50km from Kampala, during a year of income a deduction for that year for an amount equal to 50 percent of the cost base of the property at the time it was placed into service. This was aimed at redirecting investment outside Kampala promoting forward and backward linkages, and decongesting the city. However, we have noted that in the current tax amendment bills, the exemptions proposed for the operators outside the industrial park or free zone have not specificied the radius of the business	We recommend that the operators outside the industrial or free zone stated in the 2018/19 tax bills amendments only benefit from the exemption if they are setting up the business within a radius of at least 50kilometres from Kampala.

Conclusion

As Civil Society Organisations, we call upon Parliament and other stakeholders to put into consideration the above observations and recommendations. Together for a fair, just and accountable tax system in Uganda.

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