BUDGET HIGHLIGHTS UGANDA

2016/2017

THE POWER OF BEING UNDERSTOOD
AUDIT | TAX | CONSULTING

RSM

Contents

BUDGET OBJECTIVES

Theme: ‘Enhanced Productivity for Job Creation’

The total approved budget for financial year 2016/17 is Ushs 26.3 trillion.

The overall objective of 2016/17 budget is achieving a middle income status through:

1. Sound macroeconomic policy framework
2. Employment and job creation interventions
3. Productivity enhancement programme

- Domestic revenues are projected to increase from Ushs 11.6 trillion to Ushs 13.0 trillion through increasing tax base and reducing the informal sector.

- Uganda’s economy has remained stable with the national economic output increment at 4.6% which is below the targeted 5%.

- Inflation peaked at 8.5% early this year but has generally stabilised at 5.4% as of May 2016.

- Uganda’s imports were worth US$ 5,647 million; compared to export receipts of US$ 2,669 million due to the strong US Dollar and speculative tendencies related to the 2016 General Elections; and

- The foreign exchange reserves contain approximately 4.4 months-worth of imports of goods and services valued at US$ 2,925 billion.

Positives/opportunities

Business environment

- The government will continue to simplify the tax regime, enhance compliance and eliminate tax avoidance and evasion; and

- Tax relief to be granted to businesses that acquire or merge business with losses so as to promote investing in Ugandan businesses.

Social economic environment

- Government’s priority is to improve the water and sanitation infrastructure by expanding piped water schemes, urban sanitation, and rural water access facilities; and

- Enhanced supervision and monitoring of Government programmes to strengthen accountability and quality of public service.

Miscellaneous

- The cost of personalised number plates has increased from Ushs 5m to Ushs 20m;
- Implementation of the Taxpayer Registration Expansion Project (TREP) to enhance coordination between government agencies such as the Uganda Revenue Authority (URA), Uganda Registration Service Bureau (URSB), Kampala Capital City Authority (KCCA) and other local authorities; and
- Renovation and completion of many national and city roads

Challenges

- Excise duty on fuel has continued to increase on fuel albeit the global drop in fuel prices; and
- The increase of stamp duty on transfer of property by 0.5%.

New laws and policies

Government has also developed a new policy to guide Double Taxation agreements.

Uganda Economic Highlights 2015

- Economy projected to grow by 5.5%;
- GDP projected to grow at 6.3% per annum over the medium term;
- Lower economic growth due to sharp fall in international commodity prices, decline in private sector credit, the strengthening of the US dollar;
- Uganda's earnings from exports are far less than what we spend on imports;
- Inflation remains stable and in single digit as planned. Annual headline inflation was recorded at 5.4% in May 2016;
- Commercial bank lending rates remained high; and
- Growth of credit to private sector has also declined to about 8%.
- Provisional outrun for domestic revenue for financial year 2015/16 is equivalent to 13.2% of GDP;
- Government domestic borrowing is projected to be below the amount planned of Ushs 1.4 trillion for the previous financial year; and

- Domestic revenues projected to increase from Ushs 11.6 trillion from previous year to Ushs 13.0 trillion.

Sector performance

Agriculture

- Expanded by 3.2% in real terms compared to the growth rate of 2.3% from the previous financial year; and

- Budget increased by Ushs 343.46 billion to Ushs 823.42 billion relating to 65% compared to last financial year.

Service sector (including Tourism)

- Continued to grow strongly rising by 6.6% from 4.5% last financial year;

- Currently adds US$ 2.5 billion to our GDP and approximately US$1.5 billion in foreign exchange earnings annually;

- Tourism Industry has been allocated Ushs 188.8 billion up from Ushs 158.5 billion in financial year 2015/16;

- Funding strategic transport, energy and ICT has been key priority of government;

- Infrastructure development ultimately leads to creation of jobs. The ICT sector currently employs approximately 1.3 million Ugandans and raised Ushs 484.4 billion in revenue;

- In the financial year ending 2015/16, government proceeded with the development of the railway network to reduce damage on roads; and

- Ushs 118 billion has been allocated for acquiring land for the construction of the Malaba-Kampala standard gauge railway.

Industry

- Growth of 3.0% lower than 7.8% a year before.

Manufacturing

- Economic activity in sub-Saharan Africa has been lower than anticipated thus affecting export earning; and

- Uganda able to mitigate external shocks through investments in infrastructure.

Transport

- Road network in good condition. The Works and Transport Sector has improved on the road condition of National unpaved road network currently at 70%; and
- Gravel national roads have been upgraded to Bitumen standard.

DIRECT TAXATION

INCOME TAX

- **Clarity on carried forward tax losses**

  Section 38(1) of the Income Tax Act amended for clarity that carrying forward of tax losses allowed subject to change in control of the underlying ownership of the company.

  Implication: *The inclusion of Section 75 of the ITA in section 38 of the ITA is to provide for Section 75 as an assessed loss and as an allowed deduction for purposes of determining chargeable income for the particular year of income.*

- **Withholding Tax on payments made to international carriers and telecommunications providers**

  Amendment of Section 120 (1) of the Income Tax Act imposing an obligation to deduct Withholding Tax on payment for international carriage or telecommunications services on the person making the payment.

  Implication*: Prior to this amendment, the obligation to withhold from a non-resident carrier or telecommunication provider was limited to a withholding tax agent. This has been amended to impose an obligation to withhold from any payments to a non-resident person performing the carrier or telecommunication services.*

- **Withholding Tax on rent derived by a non-resident**

  Section 83(2) of the Income Tax Act amended to include rent among payments made to non-residents that are subject to Withholding Tax at a rate of 15%.

  Implication*: Prior to this amendment, the Income Tax Act did not explicitly impose a specific tax rate for rent payments made to non-resident. With the this amendment, a person paying rent to a non-resident will be required to deduct Withholding Tax a rate of 15% from the payment.*

- **Entitlement to Double Taxation Treaty benefits**

  Section 88(5) of the Income Tax Act amended to provide clarity on when a non-resident person can benefit from a Double Taxation Agreement (DTA) with Uganda. Section 88(5) is reworded as follows:

Except for a public listed company, the benefit of an exemption from Ugandan tax or reduction in the rate of Ugandan tax under a DTA between Uganda and another contracting state will not be available to a person who:

a) Receives the income in a capacity which is other than that of a beneficial owner, within the meaning accorded to that term by the relevant international agreement, and who does not have full and unrestricted ability to enjoy that income and to determine its future uses; and

b) Does not possess economic substance in the country of residence.

***Implication**: Prior to the proposed amendment, Section 88(5) restricted DTA benefit where at least 50% of the underlying ownership of the non-resident company is held by individuals resident outside the treaty country. Application of Section 88(5) posed challenges with the meaning of 'beneficial ownership' for purposes of application of Double Tax Agreements. There has been also difficulty in establishing the underlying ownership of listed non-resident companies.*

The amendment to Section 88(5) stipulates conditions to be fulfilled for non-resident persons to benefit from a DTA between their contracting state and Uganda:

- *That the non-resident person must be the beneficial owner of the income;*
- *That the non-resident should have full and unrestricted ability to enjoy the income and determine its future use; and*
- *That the non-resident should have economic substance in the treaty country.*

This amendment clarifies that the above conditions do not apply where the non-resident person is a public listed company.

The amendment of Section 88(5) is an anti-abuse provision that will enable URA to prevent tax evasion and also discourage the use of conduit entities in treaty countries solely for the purpose of taking advantage of benefits arising out of Uganda's Double Taxation Treaties.

Further, this amendment is aligned with the United Nations and OECD model tax conventions under Action 6 of the OECD Base Erosion and Profit Sharing (BEPS) Action Plan.

- **Expansion of list of exempt organizations**

The International Centre for Research in Agroforestry and International Potato Centre have been included among the listed institutions in the First Schedule of the Income Tax Act Cap 340.

***Implication**: These organizations will be exempted from Income Tax effective 1st July 2016.*

- **Persons employed by Diplomatic Missions to file Income tax returns**

  Resident individuals employed by diplomatic missions and other prescribed organisations entitled to diplomatic immunities and privileges will be required to file income tax returns.

  Implication*: Prior to the amendment, resident individuals employed by diplomatic missions and other prescribed organisations entitled to diplomatic immunities and privileges together with employees were not required to file an Income Tax return their income solely comprised of employment income derived from a single employer from which tax is withheld at source under the PAYE regime. Currently, all employees have to file individual income tax returns.*

- **Clinics removed from presumptive tax regime**

  Second Schedule of the Income Tax Act amended to remove clinics as a separate category of businesses with turnover below UGX 50 million subject to presumptive tax.

  Implication*: This amendment is aligned with Section 4(7) of the Income Tax Act that prevents use of the presumptive tax system by persons in the business of providing medical and dental services for which clinics would belong. Operators of medical clinics will be required to file normal income tax returns.*

- **Increment of Presumptive Tax payable by drug shops in Kampala**

  Presumptive Tax payable by drug shops in Kampala whose gross annual turnover is exceeds Ushs 10m but does not exceed Ushs 20m increased to Ushs 250,000 from Ushs 100,000.

- **Taxation of petroleum and mining activities**

  Part IXA of the Income Tax Act Cap 340 amended as follows:

  Definition of Licensee

  The meaning of “licensee” for the purposes of petroleum and mining activities reworded to cover persons undertaking upstream and midstream petroleum activities.

  A licensee now means *“a person who has been granted a mining right or a person who the Government has entered into a petroleum agreement as defined in the Petroleum (Exploration Development and Production) Act 2013, or a person licensed under the Petroleum (Refining, Conversion, Transmission, and Midstream) Act 2013”.*

  Implication*: Prior to the amendment, the meaning of ‘licensee’ referred in error to petroleum agreements (i.e. upstream) as being defined in the midstream legislation (the Petroleum Refining, Conversion, Transmission, and Midstream) Act 2013 of the laws of Uganda). This led to uncertainty regarding who was covered. With the amendment, both upstream and midstream operators will fall within the ambit of special tax rules in Part IXA of the Income Tax Act Cap 340.*

- **Petroleum exploration information**

  The meaning of “petroleum exploration information” is repealed.

  Implication: *This definition was redundant as it is not applied anywhere in Part IXA of the Income Tax Act Cap 340.*

- **Allowable deductions for petroleum exploration**

  Limited deductions of expenditure incurred by petroleum operators whose exploration licenses were obtained after 31 December 2015 to the extent as provided for under the Petroleum Sharing Agreement (PSA).

  Implication*: The Government of Uganda will now has the mandate to agree and enforce special deduction terms in Petroleum Sharing Agreement.*

- **Surplus from decommissioning fund returned to a licensee**

  Section 89GD(4)(b) of the Income Tax Act Cap 340 is repealed. Prior to the amendment, this section required that a surplus in a decommissioning fund which is returned to the licensee upon completion of decommissioning is included in the licensee’s gross income.

  Implication*: This provision was redundant as such returns were already included under as income as per subparagraph Section 89GD(4)(a).*

INDIRECT TAXATION

VALUE ADDED TAX (VAT)

- **VAT imposed on Solar Power**

  Second Schedule of the VAT Act Cap 349 amended to remove supply of solar power as a VAT exempt supply.

  Implication*: Supply of solar-generated power will be subject to VAT at a standard rate of 18%. Producers and traders of solar power will be required to register for VAT and recover input tax paid thus reducing their operating costs.*

- **Exemptions for agricultural machinery**

  Second Schedule of the VAT Act amended to include the following to the list of machinery, tools and implements exempted from VAT.

  a) Grain dryers;
  b) Silage chopper machines;

c) Hullers;
d) Transplanters;
e) Colour sorters for coffee;
f) Oil presses;
g) Manure spreaders;
h) Juice presses and crushers;
i) Seed and grain shellers;
j) Coffee roasters; and
k) Fertiliser distributors.

- **VAT on imported LED lamps**

  LED lamps and bulbs which are exempt from import duty as per the Fifth Schedule of the East Africa Customs Management Act 2004 to be excluded from the parallel exemption for VAT at importation.

  Implication*: Import of LED lamps and bulbs to be subjected to VAT at 18%.*

- **Aid-funded projects granted VAT relief**

  A special treatment introduced for VAT on taxable supplies made by a supplier to contractors undertaking aid-funded projects. Under this arrangement, the VAT on the supply will be deemed to have been paid by the contractor undertaking the aid-funded project to the supplier. The supplier will not be required to account for the deemed VAT paid by the contractor as output tax.

  Implication: *Entities executing aid-funded projects will be charged VAT by subcontractors or suppliers but they will not pay the output tax to the suppliers as it will be assumed that it has been paid by the contractor. The contractor will therefore pay the supplier the invoice amount net of the VAT. This will generally increase the cash flow for contractors for aid funded projects and encourage contractors to engage in more aid funded projects.*

- **Credit of VAT paid on imported services by Business Process Outsourcing Services**

  Local persons providing Business Process Outsourcing (BPOs) services to claim credit of VAT paid on imported services.

  Implication*: Persons providing Business Process Outsourcing services will not incur reverse-charge VAT as an additional cost when they subcontract some or all of their services to a foreign supplier.*

- **Voluntary VAT registration for mid-stream operators in the petroleum sector**

  Persons involved in midstream petroleum operations like refinery, conversion, storage, transmission, etc to be entitled to apply for voluntary VAT registration regardless of whether they are making taxable supplies for VAT purposes.

Implication: *Through voluntary registration, the persons undertaking midstream petroleum operations will be able to claim input tax paid on purchases thereby reducing their operating costs.*

- **VAT exemption for Geothermal and Solar power projects**

  VAT exemption granted for supplies made to contractors and subcontractors of solar power and geothermal projects.

  Implication: *All purchases made by contractors and subcontractors of solar power and geothermal projects are exempt from VAT.*

STAMP DUTY

- **Exchange of Property**

  Increment of Stamp Duty on exchange of property from 1% to 2% of the value of the property.

- **Transfer of property**

  Increment of Stamp Duty on transfer of property from 1% to 2% of the value of the property.

- **Fixed base rate**

  Increment of Base Rate of fixed Stamp Duty from for a wide range of instruments from Ushs 5,000 to Ushs 10,000.

EXCISE DUTY

Excise Duty Act 2014 amended as follows:

- 10% Excise Duty on furniture introduced in the 2015 Finance Bill removed for specialised hospital furniture;
- New 80% Excise Duty introduced on Ready To Drink spirits;
- Removal of Excise Duty of US 9 Cents per minute on incoming international calls;
- Manufacturers to claim refund of any Excise Duty previously paid on goods converted into health care and medical products;
- Increment of Excise Duty on motor vehicle lubricants to 10% from 5%;
- Increment of Excise Duty on sugar confectionaries like chewing gum, sweets, chocolates to 20% from 10%;

- Increment of Excise Duty on cement to Ushs 1,000 per 50kg from Ushs 500 per 50kg;
- Increment of Excise Duty on cigars, smoking tobacco, homogenised tobacco to 200% from 160%;
- Increment of Excise Duty on soft cap to Ushs 50,000 per 1000 sticks from Ushs 45,000 per 1000 sticks;
- Increment of Excise Duty on Hinge Lid to Ushs 80,000 per 1000 sticks from Ushs 75,000 per 1000 sticks.

MISCELLANEOUS AMENDMENTS

- **Import duty on specific COMESA Goods**

  Import Duty to be imposed on importation into Uganda the following goods from the Common Market for Eastern and Southern Africa (COMESA) partner states:

  a) Steel and steel products;
  b) Diapers;
  c) Un-denatured alcohol;
  d) Lubricants;
  e) Electronics; and
  f) Paper and paper products.

  ***Implication**: Ugandan manufacturers or assemblers of the above goods will be protected from competition.*

- **Increase of environmental levy on second hand clothes and shoes**

  Environmental levy on used clothes and shoes to increase from 15% to 20%.

- **Certificates of Origin to be issued by URA**

  URA to take responsibility of issuing Certificate of Origin instead of the Uganda National Chamber of Commerce and Industry. This is in accordance with the East Africa Customs Management Act 2004.

- **Waiver of Tax Arrears for SACCOs**

  All tax arrears owed by Savings and Credit Cooperative Organisations (SACCOs) as at 31 December 2015 to be waived.

- **Increase in registration fee for personalized number plates**

  Registration fees for personalized number plates increased from Ushs 5m to Ushs 20m.

- **Additional measures to improve tax administration by the URA:**

  a) Completion of One Stop Border posts at major entry points of Malaba, Mutukula, Busia and Mirama Hills;

  b) Implementation of the Uganda National Single Window to allow lodging of standardised documents at a single point for import, export and transit requirements;

  c) Introduction of electronic fiscal devices to record business transactions and share information with URA; and

  d) Implementation of the Taxpayer Registration Expansion Project to enhance coordination between URA, Uganda Registration Service Bureau (Registrar of Companies) and local authorities like Kampala Capital City Authority.

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