

ACTS SUPPLEMENT

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Act 12

Income Tax (Amendment) Act

2014

THE INCOME TAX (AMENDMENT) ACT, 2014.

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THE INCOME TAX (AMENDMENT) ACT, 2014.

An Act to amend the Income Tax Act, Cap. 340 to provide for separation of rental income from chargeable income of companies, retirement funds and trustees, withholding tax on winnings of sports and pool betting, tax on disposal of commercial property, to provide for the definition of start up costs, to amend the Second and Third Schedule and for related matters.

DATE OF ASSENT: 19th October, 2014.

Date of Commencement: 1st July, 2014.

BE IT ENACTED by Parliament as follows:

1. Commencement.

This Act shall be deemed to have come into force on 1st July, 2014.

2. Amendment of section 2 of Cap 340.

Section 2 of the Income Tax Act, in this Act referred to as the principal Act is amended by substituting for paragraph (ddd) the following—

“(ddd) “rental income” in relation to a person for a year of income, means the total amount of rent derived by the person for the year of income from the lease of immovable property in Uganda with the deduction of any expenditures and losses incurred in respect of the property;”.

3. Amendment of Section 5 of principal Act.

The principal Act is amended by substituting for section 5 the following—

“5. Rental tax imposed.

(1) Subject to and in accordance with this Act, a tax shall be charged for each year of income and is imposed on every person who has rental income for the year of income.

(2) The tax payable by any person under this section for a year of income is—

- (a) where the person is an individual, calculated by applying the relevant rates of tax determined under section 6(2) to the rental income derived by the individual for the year;
- (b) where the person is a company, calculated by applying the relevant rates of tax determined under section 7 (2) to the rental income derived by the company for the year;
- (c) where the person is a trustee of a trust or a retirement fund, calculated by applying the relevant rates of tax determined under section 8(5) to the rental income derived by the trustee or retirement fund for the year;
- (d) where the person is a partnership, calculated by applying the relevant rates of tax on the individual partners under section 6(2) to the rental income derived by the partnership for the year.

(3) The tax imposed under this section on any person is separate from the tax imposed under section 4 and—

- (a) the rent derived by a person shall not be included in the gross income of the person which is subject to tax under this Act for any year of income;

- (b) expenditures and losses incurred by the individual in the production of the rent shall be allowed as a deduction under this Act for any year of income only as provided for in section 22(1)(c);
- (c) expenditures and losses incurred by a person, other than an individual, in the production of rent shall be allowed as a deduction under this Act for any year of income; and
- (d) expenditures and losses incurred by a partnership in the production of rent shall be allowed as a deduction under this Act for any year of income only as provided for in section 22(1)(c).”

4. Amendment of Section 7 of principal Act.

The principal Act is amended by substituting for section 7 the following—

“7. Rate of income tax for companies.

(1) The chargeable income of a company for a year of income, is charged to income tax at the rate prescribed in Part II of the Third Schedule to this Act.

(2) The rental income of a company for a year of income is charged to income tax at the rate prescribed in Part II of the Third Schedule to this Act.

5. Amendment of Section 8 of principal Act.

Section 8 of the principal Act is amended by inserting after subsection (4) the following—

“ (5) Subject to subsections (6) and (7) the rental income of a trustee for a year of income is charged to tax at the rate prescribed in Part III of the Third Schedule.

(6) A trustee of a trust being the estate of a deceased taxpayer who, at the date of death, was a resident individual, is charged to tax on the rental income of the trust at the rates prescribed in Part I of the Third Schedule to this Act for—

- (a) the year of income in which death occurred; and
- (b) the following year of income.

(7) A trustee of an incapacitated person’s trust is charged to tax on the rental income of the trust for a year of income at the rates prescribed in Part I of the Third Schedule to this Act.”

(8)The rental income of a retirement fund for a year of income is charged to tax at the rate prescribed in Part III of the Third Schedule to this Act.”

6. Amendment of section 18 of principal Act.

The principal Act is amended in section 18 by repealing subsection (1) (g).

7. Amendment of section 20 of principal Act.

The principal Act is amended in section 20 by substituting for subsection (1) (d) the following—

“(d) any other income derived by a person including winnings derived from sports betting and pool betting, but does not include any amount which is business, employment or exempt income.”

8. Amendment of section 21 of principal Act.

The principal Act is amended in section 21 by—

- (a) substituting for subsection (1) (k) the following—

“(k) any capital gain that is not included in business income, other than capital gains on the sale of shares in a private limited liability company or on the sale of a commercial building;”

- (b) repealing subsection (1) (u); and

- (c) repealing subsection (1) (aa).

9. Repeal of section 28 of principal Act.

The principal Act is amended by repealing section 28.

10. Amendment of section 30 of principal Act.

The principal Act is amended by substituting for section 30 the following—

“30. Start-up costs.

(1) A person who has incurred expenditure in starting up a business to produce income included in gross income or in the initial public offering at the stock market shall be allowed a deduction of an amount equal to twenty five per cent of the amount of the expenditure in the year of income in which the expenditure was incurred and in the following three years of income in which the business is carried on by the person.

(2) In this section, “expenditure in starting up a business” means—

- (a) in the case of initial public offering, costs incurred in listing the business with the Uganda Stock Exchange;
- (b) in any other case, non-recurring preliminary or pre-opening costs, which are associated, with setting up a business such as fees of an accountant, registration charges, legal fees, costs for promotional and advertising activities, as well as costs for employee training.”

11. Amendment of section 88 of principal Act.

The principal Act is amended in section 88 by—

- (a) by substituting for subsection (2) the following—

“(2) To the extent that the terms of an international agreement to which Uganda is a party are inconsistent with the provisions of this Act apart from subsection (5) of this section and Part X which deals with tax avoidance or any other law of Uganda dealing with matters covered by this agreement the terms of the international agreement prevail over the provisions of this Act any other law of Uganda dealing with matters covered by this agreement.”

(b) by substituting for subsection (6)(b) the following—

“(b) a bilateral or multilateral agreement with a foreign government or foreign governments or foreign organisation providing for administrative assistance in tax matters.”

12. Amendment of section 89 of principal Act.

The principal Act is amended in section 89 by substituting for “2 to 1” appearing in subsection (1) with “1 to 1”.

13. Insertion of section 118 C and 118 D to principal Act.

The principal Act is amended by inserting immediately after section 118 B the following new sections—

“118 C. Payments for winnings of sports betting or pool betting.

A person who makes payments for winnings of sports betting or pool betting shall withhold tax on the gross amount of the payment, at the rate prescribed in Part X of the Third Schedule to this Act.

118 D. Withholding Tax on payments of re-insurance premiums.

(1) A resident person who makes a payment of premium for reinsurance services to a non-resident person shall withhold tax on the gross amount of the payment at a rate prescribed in Part XI of the Third Schedule.

(2) Subsection (1) does not apply to reinsurance services provided by—

- (a) Uganda Reinsurance Company Limited;
- (b) African Reinsurance Corporation; or
- (c) PTA Reinsurance Company.”

14. Amendment of section 140 of principal Act.

The principal Act is amended by substituting for section 140 the following—

“140. Failure to comply with sections 121, 129, 130, 131, 132 and 133.

A person who, without good cause fails to comply with sections 121, 129, 130, 131, 132 or 133 commits an offence and is liable on conviction to pay a fine of one hundred currency points.”

15. Amendment of the Second Schedule to principal Act.

The Second Schedule of the Income Tax Act is amended by substituting for item 1 the following—

Where the gross turnover of the taxpayer exceeds Shs.5 million but does not exceed Shs.10 million per annum	Nil
Where the gross turnover of the taxpayer exceeds Shs.10 million but does not exceed Shs.20 million per annum	Shs 450,000 or 3% of the gross turnover, whichever is lower.
Where the gross turnover of the taxpayer exceeds Shs.20 million but does not exceed Shs.30 million per annum	Shs. 750,000 or 3% of the gross turnover, whichever is lower.
Where the gross turnover of the taxpayer exceeds Shs.30 million but does not exceed Shs.40 million per annum	Shs. 1,050,000 or 3% of the gross turnover, whichever is lower.
Where the gross turnover of the taxpayer exceeds Shs.40 million but does not exceed Shs.50 million per annum	Shs. 1,350,000 or 3% of the gross turnover, whichever is lower.

16. Amendment of the Third Schedule to principal Act.

The Third Schedule to the principal Act is amended by inserting immediately after Part IX the following—

“Part X

s. 118 C

**Withholding tax rate for winnings from sports betting
and pool betting.**

The withholding tax rate applicable to winnings from sports betting and pool betting is 15%.

Part XI

s. 118 D

Withholding tax on payments of re insurance premiums

The Withholding tax rate for purposes of section 118D is 15%.”

Cross reference

Income Tax Act, Cap. 340.

