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PRIVATE SECTOR POSITION PAPER

ON THE FY 2023/24 INCOME TAX AMENDMENT BILLS (RETURNED) AND THEIR IMPACT ON THE PRIVATE SECTOR GROWTH AND COMPETITIVENESS

SUBMITTED

TO THE

PARLIAMENTARY COMMITTEE OF FINANCE PLANNING & ECONOMIC DEVELOPMENT- PARLIAMENT OF THE REPUBLIC OF UGANDA

BY

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1.0. Introduction

Private Sector Foundation Uganda (PSFU) appreciates the Parliament of the Republic of Uganda through the Committee on Finance, Planning and Economic Development for supporting private sector development through continuous engagement and dialogue in the budget policy.

This paper is composed of proposals that the private sector believes, once adopted, and implemented, will make a meaningful contribution towards widening the tax base while maintaining the required balance in promoting the growth of the economy. The paper addresses itself on the Income Amendment Tax bill and Tax Procedures Amendment Bill 2023.

2.0. Private sector Proposals on the Amendments proposed by H.E. The President

2.1. Clause 12 of the Income Tax Amendment bill 2023. "(5a) Notwithstanding the provisions of this section, a taxpayer who after a period of five years of income carries forward assessed losses shall only be allowed a deduction of 50% of the loss carried forward at the beginning of the following year of income in determining the taxpayer's chargeable income in the subsequent years of income."

Whereas H.E. the President's argument is that this provision would limit the practice of indefinite deferral of payments of corporation tax which businesses have been using through the provision of unlimited carrying forward of taxes, the private sector through the PSFU argues that this proposal will disadvantage the taxpayers who are genuinely making loses especially in certain sectors such as construction, manufacturing, innovation among others. Business of such nature often takes up to 7-10 years before making any profit. Besides, are we also suggesting that the businesses that declare profits are also declaring the right profit? This is therefore a tax administration issue. We propose, that to promote fairness and tax compliance, this clause is not included in the bill but rather government should strengthen **the capacity of URA to assess and verify whether the business indeed made profits or losses. This can be done through** use of digital solutions and public-private partnership (PPP) by licensing private tax auditors to backstop the URA. This is a more sustainable solution given the rate of business growth vis-à-vis the Uganda Revenue Authority.

2.2. Clause 16 of the Income Tax Amendment bill 2023. A tax is imposed on every non-resident person deriving income from providing digital services in Uganda to a customer in Uganda at 5%.

These services include online advertising, data services, services delivered through an online marketplace/ intermediation platform, digital content, online gaming, cloud computing, data warehousing, any other digital service the Minister of Finance may prescribe by Statutory Instrument.

Whereas HE the President argues that the provision was removed in error as it directly affects non-resident companies. Innovations in the Country still rely on non-resident technologies for adaptation and learning while also the existing local capacities are not yet enough to support the use of these technologies especially those linked to the digitalization of trade as it is a focus on the FY 23/24 budget. This clause will increase the cost of accessing digital services by extra 5%. Besides, the scope of the digital services has been defined in a "catch-all" approach which includes online advertising, data services, services delivered through an online marketplace/intermediation platform, digital content, online gaming, cloud computing, data warehousing, and any other digital services. The proposed rate 5% on digital services is the highest in the East Africa region, with Kenya charging 1.5% and Tanzania charging 2% which already makes Uganda non-competitive, especially given the 18% VAT charged and 12% excise duty on internet. <u>PSFU recommends that this proposal is removed from the bill as it would stifle innovation, reduce employment, and tax revenue on turnover. It is also key to consider a study on its implications on the nascent innovation sector which still needs to learn from non-resident technologies and the ease of tax administration given the current OECD global taxation framework for digital services. PSFU is ready to partner with Government in the execution of this.</u> On the other hand, it is important that the bill clearly elaborates on how the administration of this provision will be implemented to avoid unintended outcomes.

2.3. Section 2 of the IT bill 2023 which deletes the Unit Trusts from the definition of company thus making them untaxable and according to the HE, it creates ambiguity in the law.

Presently, Section 21 of the Income Tax Act provides that the income of collective investment schemes is exempt from tax to the extent that it is distributed to the participants. The interpretation of this exemption has been an area of uncertainty as URA seeks to deem the distributions to the participants as "dividends", while the collective investment Act provides for the exemption of income tax. These distortions in both the critical laws supporting the industry continue to bring noise to the industry which scares away investment. The National Development Plan III (NDP III) and the Strategic Plan of Uganda's Capital Markets Authority all prioritize the need to grow savings and investment. This misalignment and any proposals to increase taxes will lead to the closure of collective investment schemes due.

PSFU proposes that Parliament maintains the position as stated in the current Income Tax Bill 2023 which excludes Unit Trust from the definition of the company as it addresses this current misalignment and promotes investments.

2.4. A new clause extending the one-year corporation tax waiver for Bujagali Hydropower Plant. PSFU appreciates H.E. the President's proposal. This will ensure that the business community continues to access power at the current reducing costs which is key in promoting industrialization and creation of jobs. There is also needed to expedite the work of the Ad hoc committee of Parliament to give investment confidence to the manufacturing industry which thrives on access to affordable power.

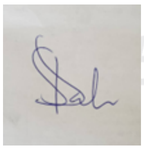
2.5. Section 38 (1)(a) of the Tax Procedure Code 2023 introduced by the Parliament which provides for the order of the payment of allocation rules.

Whereas HE the President, argues that this section creates ambiguity in tax administration and makes the payment of interest by the taxpayer voluntary, according to the private sector, this clause clarifies the order through which deductions can be made whenever a payment is made. The existing interest remains payable as guided by the VAT Act and the Income Tax Act. **PSFU proposes that Parliament maintains the current position as is in the Tax Procedures Code 2023 providing that payment made shall be applied to principal tax first until fully paid. This will bring more clarity to the law and reduce the cost of doing business amongst MSMEs in Uganda.**

3.0. Conclusion

Chairman and Hon. Members, the business community believes that if the above proposals are considered, we shall be able to grow businesses both directly and through value chains, increase in tax revenue, and provide more employment thus contributing to the country's vision of prosperity for all.

Sincerely,

Pp 

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