

ACTS SUPPLEMENT

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Act 14

Tax Procedures Code Act

2014

THE TAX PROCEDURES CODE ACT, 2014.

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

1. Commencement.
2. Application.
3. Interpretation.

PART II—REGISTRATION OF TAX PAYERS.

4. Registration
5. Tax identification number.
6. Deregistration.

PART III—TAX AGENTS AND TAX REPRESENTATIVES.

Registration of tax agents.

7. Tax Agents Registration Committee.
8. Tax Agents.
9. Registration of tax agents.
10. Renewal of registration.
11. Registration of additional or substituted tax agents.
12. Notice of change in registered particulars.
13. Cancellation of tax agent's registration.

Tax representatives.

14. Liabilities and obligations of a tax representative.

PART IV—RECORD-KEEPING.

15. Accounts and records.

PART V—TAX RETURNS.

16. Furnishing of tax returns.
17. Certification of tax return by tax agent.

Section

18. Power of the Commissioner to require tax returns in certain cases.
19. Extension of time to furnish a tax return.

PART VI—TAX ASSESSMENTS

20. Self-assessment.
21. Default assessment.
22. Advance assessment.
23. Additional Assessment.

PART VII—OBJECTIONS AND APPEALS

24. Objection to a tax decision.
25. Review of an objection decision
26. Burden of proof.

PART VIII—COLLECTION AND RECOVERY OF TAX*Tax collection*

27. Payment of Tax.
28. Extension of time to pay tax.
29. Tax as a debt due to the Government of Uganda.

Enforced tax collection

30. Collection of tax from persons leaving Uganda permanently.
31. Recovery of tax through persons owing money to the taxpayer.
32. Distress proceedings.
33. Temporary closure of business.
34. Charge over immovable property.
35. Seizure of goods.
36. Security for unpaid tax.
37. Priority of withholding tax and VAT.
38. Order of payment.

Interest on late payments

39. Recovery of interest on unpaid tax.

Section

PART IX—REMISSION OF TAX.

- 40. Remission of tax.

PART X—INVESTIGATIONS.

- 41. Access to premises, records and data storage devices.
- 42. Notice to obtain information or evidence.

PART XI—TAX CLEARANCE CERTIFICATES.

- 43. Tax clearance certificate.

PART XII—PRACTICE NOTES AND RULINGS.

Practice Notes

- 44. Practice notes.

Private Rulings.

- 45. Private rulings.

PART XIII—TAX OFFICERS.

- 46. Delegation.
- 47. Confidentiality.

PART XIV—PENAL TAX.

Penal tax

- 48. Penal tax for default in furnishing a tax return.
- 49. Penal tax for failing to maintain proper records.
- 50. Penal tax for making false or misleading statements.
- 51. Penal tax for understating provisional tax estimates.
- 52. Penalty for failing to apply for registration.
- 53. Recovery of penal tax.

Section

PART XV—OFFENCES.

54. Failing to furnish a tax return.
55. Failure to comply with obligations under this Act.
56. Failure to maintain proper records.
57. Use of false TIN.
58. Making false or misleading statements.
59. Obstructing a tax officer.
60. Aiding or abetting a tax offence.
61. Offences relating to recovery of tax.
62. Offences relating to registration.
63. Offences in relation to tax officers.
64. Offences by bodies of persons.
65. Tax officer may appear on behalf of Commissioner.
66. Compounding of offences.
67. Tax charged to be paid despite prosecution.

PART XVI—MISCELLANEOUS

68. Validity of tax decision.
69. Rectification of a mistake.
70. Forms, notices, and authentication of documents.
71. Approved or prescribed form.
72. Manner of furnishing documents or service of notices.
73. Electronic returns and notices.
74. Appeal from the decision of the Committee.
75. Regulations.
76. Amendment of Schedules.
77. Repeals.
78. Transitional provisions.

SCHEDULE 1 *Currency point*

SCHEDULE 2 *Tax laws*

SCHEDULE 3 *Amount of turnover in respect of which audited financial statements are required*

THE TAX PROCEDURES CODE ACT, 2014

An Act to provide for a Code to regulate the procedures for the administration of specified tax laws in Uganda; to harmonise and consolidate the tax procedures under existing tax laws; and to provide for related matters.

DATE OF ASSENT: 19th October, 2014.

Date of Commencement: See section 1.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY**1. Commencement.**

This Act shall come into force on a date appointed by the Minister, by statutory instrument.

2. Application.

This Act shall apply to every tax law specified in Schedule 2.

3. Interpretation.

In this Act, unless the context otherwise requires—

“additional assessment” means an additional assessment made by the Commissioner under section 23;

“advance assessment” means an advance assessment made by the Commissioner under section 22;

“Authority” means the Uganda Revenue Authority established by the Uganda Revenue Authority Act;

“business information return” means a return required to be furnished under section 130 of the Income Tax Act;

“Commissioner” means the Commissioner-General appointed under the Uganda Revenue Authority Act;

Committee, means the Tax Agents Registration Committee established under section 7;

“currency point” has the meaning assigned to it in Schedule 1 ;

“default assessment” means a default assessment made by the Commissioner under section 21;

“due date” means the date by which a tax obligation must be fulfilled under this Act;

“listed institution” has a meaning assigned to it in the Income Tax Act;

“Minister” means Minister responsible for finance;

“objection decision” means a decision within the meaning of section 24;

“occupier” in relation to premises or a place means the owner, manager, or any other person lawfully in the premises or place;

“penal tax” means a tax imposed as a penalty for failure perform an act required by or under a tax law;

“person” has the same meaning as in the Income Tax Act;

“record” includes—

- (a) a book of account, document, paper, register, bank statement, receipt, invoice, voucher, contract and agreement, or Customs declaration; or

(b) any information or data stored on a mechanical or electronic data storage device;

“registration threshold” has the meaning in section 7(2) of the Value Added Tax Act;

“self-assessment” means an assessment treated as having been made by a taxpayer under section 20;

“self-assessment return” means a return made in accordance with section 16 and 20;

“statutory rate”, in relation to a period, means the Bank of Uganda discount rate at the commencement of that period;

“tax” means a tax imposed under a tax law and includes withholding tax and provisional tax;

“tax assessment” means a self assessment, default assessment, advance assessment, or additional assessment”;

“tax agent” means a person registered as a tax agent under this Act;

“tax decision” means—

(a) a tax assessment; or

(b) a decision on any matter left to the discretion, judgment, direction, opinion, approval, satisfaction or determination of the Commissioner, other than a decision made in relation to a tax assessment;

“tax law” means a law specified in Schedule 2;

“tax obligation” means any duty expected of a taxpayer under a tax law and includes registration, filing and payment of a tax liability;

“tax officer” means the Commissioner and an officer of the Authority appointed under the Uganda Revenue Authority Act;

“taxpayer” means a person liable for tax under a tax law and includes—

- (a) for the income tax, a person who has zero chargeable income or an assessed loss for a year of income; or
- (b) for the VAT, a taxable person whose total input tax credits for a tax period are equal to or exceed the person’s total output tax for the period;

“tax period”, means—

- (a) in the case of the income tax—
 - (i) for the purposes of withholding tax, the period to which the withholding relates;
 - (ii) for the purposes of provisional tax, the period to which the provisional tax relates; or
 - (iii) for any other purposes, the year of income;
- (b) in the case of VAT, the tax period under the Value Added Tax Act; or
- (c) in any other case, the period for which the tax is reported;

“tax representative” means—

- (a) for an individual under a legal disability, the guardian or manager who receives or is entitled to receive income on behalf, or for the benefit of that natural person;
- (b) for a company, the chief executive officer, managing director, or any director of the company;

- (c) for a partnership, a partner in the partnership;
- (d) in the case of a trust, a trustee of the trust;
- (e) in the case of the Government or local Government in Uganda, the individual responsible for accounting for the receipt or payment of moneys or funds on behalf of the Government or local Government;
- (f) in the case of a foreign government, political subdivision of a foreign government, or a listed institution, any natural person responsible for accounting for the receipt or payment of moneys or funds in Uganda on behalf of the government, political subdivision of the government, or listed institution; and
- (g) in the case of a non-resident person, the individual controlling the person's affairs in Uganda, including a manager of a business of that person or any representative appointed by the person in Uganda;

“tax return” means a return or other document listed in the Third schedule;

“transaction information” means information relating to a transaction in respect of which a record is made;

“TIN” means a Tax Identification Number issued to a registered taxpayer;

“Tribunal” means the Tax Appeals Tribunal established by the Tax Appeals Tribunal Act;

“unpaid tax” means tax that has not been paid by the due date, but does not include tax that is the subject of an objection and that is not required to be paid until the objection is finally decided;

“VAT” means Value Added Tax; and

“withholding tax” means any tax that a withholding agent is required to deduct from a payment to a payee.

PART II—REGISTRATION OF TAX PAYERS

4. Registration.

(1) A person liable to pay tax under a tax law shall apply to the Commissioner for registration in the prescribed manner.

(2) The application shall be accompanied by the prescribed evidence of the person’s identity.

(3) The Commissioner shall register a person who has applied for registration if satisfied that the person meets the requirements for registration.

(4) Where the Commissioner refuses to register a person who has applied for registration, the Commissioner shall serve that person with written notice of the refusal within fourteen days after the refusal, stating the reasons for refusal.

(5) Where a person applies for registration as required under a tax law, the Commissioner may use the information provided for the registration for the purposes of this Act without requiring the person to furnish the same particulars under this Act.

(6) Despite subsection (5), the Commissioner may request a person to provide any further information necessary to complete the registration of the person under this Act.

5. Tax identification number.

(1) Upon registration, the Commissioner shall issue to every person registered a Tax Identification Number, TIN.

(2) The Commissioner shall issue one TIN to each person registered.

(3) The TIN issued by the Commissioner shall be used for tax purposes under all tax laws.

(4) A person shall state that person's TIN on any return, notice, communication, or other document furnished, lodged, or used for the purposes of a tax law.

(5) Subject to subsection (6), a TIN is personal to the person to whom it has been issued and shall not be used by another person.

(6) The TIN of a registered tax payer may be used by a registered tax agent if—

- (a) the person has given written permission to the registered tax agent to use the TIN on their behalf; and
- (b) the registered tax agent uses the TIN only in respect of the tax affairs of the tax payer.

(7) The Commissioner shall by notice in writing, cancel a TIN if satisfied that—

- (a) the person is deregistered for the purposes of all tax laws;
- (b) a TIN has been issued to the person under an identity that is not that person's true identity; or
- (c) the person has been previously issued with a TIN that is still in force.

(8) The Commissioner may, at any time, by notice in writing, cancel the TIN issued to a person and issue the person with a new TIN.

6. Deregistration.

(1) A person who is no longer required to be registered for the purposes of a tax law may, in the prescribed manner, apply to the Commissioner to be deregistered.

(2) The Commissioner shall by notice in writing, deregister a person if—

- (a) that person has applied for deregistration and the Commissioner is satisfied that the person is no longer required to be registered; or
- (b) that person has not applied for deregistration but the Commissioner is satisfied that the person is eligible for deregistration.

(3) Deregistration takes effect from the date specified in the notice of deregistration.

(4) A person who is deregistered shall comply with any requirements relating to deregistration as specified under the tax law to which the registration relates.

PART III—TAX AGENTS AND TAX REPRESENTATIVES

Registration of tax agents

7. Tax Agents Registration Committee.

(1) There shall be a Tax Agents Registration Committee to handle registration, renewal of registrations and cancellation of tax agent's registration.

(2) The Committee shall comprise of the following members—

- (a) the Commissioner General, or his or her representative for purposes of this Act, who shall be the Chairperson;
- (b) one representative from the accountancy profession nominated by the Institute of Certified Public Accountants of Uganda;

- (c) a representative from the legal profession nominated by the Uganda Law Society; and
- (d) two members from the private sector with expertise or relevant experience in economics, finance or taxation who shall be appointed by the Board of the Uganda Revenue Authority,

(3) The Commissioner shall receive and maintain a register of all registered tax agents.

(4) In exercise of its functions under this Act, the Committee shall make rules to govern its own procedure.

8. Tax agents.

(1) An individual, partnership, or company may apply to the Committee for registration as a tax agent.

(2) An application for registration as a tax agent under subsection (1) shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) For purposes of this Act, a tax agent is a person engaged—

- (a) in the preparation, certification, and filing tax returns, information returns or other statements or reports required by the Authority.
- (b) in the preparation of requests for ruling, petitions for reinvestigation, protests, objections, requests for refund or tax certificates, compromise settlements and/or abatement of tax liabilities and other official papers and correspondences with the Authority.
- (c) in meetings and hearings on behalf of the taxpayer in all matters relating to a taxpayer rights, privileges or liabilities under the laws or regulations administered by the Authority.

9. Registration of tax agents.

(1) In the case of an application by a natural person, the Committee shall register the applicant if satisfied that the applicant is a fit and proper person to prepare tax returns and transact business with the Committee under the tax laws on behalf of taxpayers.

(2) In the case of an application by a partnership or a company, the Committee shall register the applicant if satisfied that—

- (a) the partner or employee specified in the application as the nominee of the partnership or company respectively is a fit and proper person to prepare tax returns and transact business with the Commissioner under a tax law on behalf of a taxpayer; and
- (b) a partner in the partnership or a director, manager or other executive officer of the company is of high integrity and good character.

(3) An individual applying for registration as a tax agent, or in the case of an application by a partnership or company, the partner or employee specified as the nominee of the partnership or company respectively, shall meet the following requirements—

- (a) have been awarded a degree or a post-graduate award from an approved tertiary institution in the discipline that is relevant for the provision of tax agent services; or
- (b) have successfully completed a course in taxation that is recognised by the Tax Registration Committee; or
- (c) in the coming into force of this Act, have been engaged in the equivalent of 24 months of full-time tax practice in the preceding 5 years.

(4) The registration of a tax agent shall remain in force for twelve months from the date of registration.

(5) The Commissioner shall notify the applicant of the decision on the application.

(6) This section does not apply to an advocate acting as an advocate to a tax payer.

10. Renewal of registration.

(1) A tax agent may apply to the Committee for the renewal of the tax agent's registration.

(2) An application under subsection (1) shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) The application shall be submitted to the Committee within twenty one days before the date of expiry of the tax agent's registration or a later date allowed by the Committee.

(4) The Committee shall renew the registration of a tax agent who has applied under subsection (1) if the tax agent still meets the requirements for registration.

(5) The Committee shall in writing notify the applicant of the decision on the application to renew registration.

11. Registration of additional or substituted tax agents.

(1) A partnership or company registered as a tax agent may apply to the Committee, in the prescribed form and accompanied by the prescribed fee, to register a partner of the partnership or an employee of the company as an additional or substituted tax agent.

(2) The Committee shall register the person nominated under subsection (1) if satisfied that the person is a fit and proper person to prepare tax returns and transact business with the Committee under a tax law on behalf of a taxpayer.

(3) The Committee shall in writing notify an applicant under this section of the decision of the Committee on the application.

12. Notice of change in registered particulars.

(1) A partnership that is registered as a tax agent shall notify the Committee, in writing, if—

- (a) there is a change in the composition of the partnership, within seven days after the change in composition; or
- (b) the partnership is going to be dissolved within, seven days before the dissolution of the partnership.

(2) A company that is registered as a tax agent shall notify the Committee, in writing, if—

- (a) a registered nominee ceases to be an employee of the company or a person becomes a director, manager, or other executive officer of the company, within seven days after the employee ceases to be employed, or the person becomes a director, manager or other executive officer; or
- (b) the company is going into liquidation within seven days before the company goes into liquidation.

13. Cancellation of tax agent's registration.

(1) A tax agent that ceases to carry on business as a tax agent shall notify the Committee, in writing, within seven days after ceasing to carry on business as a tax agent.

(2) A tax agent may apply to the Committee, in the prescribed form to cancel the registration of the agent where the agent no longer wishes to be registered as a tax agent.

(3) The Committee may cancel the registration of a tax agent if the Committee is satisfied that—

- (a) in the case of an individual, the person is no longer a fit and proper to prepare tax returns and transact business with the Committee under the tax laws on behalf of a taxpayer;
- (b) in the case of a partnership, the additional or nominated partner has ceased to be a partner in the partnership or the partnership has applied to the Committee to cancel the registration of the partner;
- (c) in the case of a company, the person nominated has ceased to be employed by the company or the company has applied to the Committee to cancel the registration of the employee;
- (d) a tax return prepared and delivered by the tax agent is false in any material particular, unless the tax agent establishes to the satisfaction of the Committee that it was not due to any willful or negligent conduct of the tax agent;
- (e) the tax agent has ceased to meet the requirements for registration as a tax agent; or
- (f) the tax agent has ceased to carry on business as a tax agent.

(4) The Committee shall give notice, in writing, to a tax agent of a decision to cancel the registration of the tax agent or a nominee of the tax agent.

(5) The cancellation shall take effect from the date specified in the notice.

Tax representatives

14. Liabilities and obligations of a tax representative.

(1) A tax representative is responsible for performing any duty or obligation imposed by a tax law on the taxpayer, including the submission of tax returns and payment of tax.

(2) If there are two or more tax representatives of a taxpayer, the obligations referred to in this section apply jointly and severally to the agents but may be discharged by any of them.

(3) A tax representative making a payment of tax on behalf of a taxpayer is to be treated as acting under the authority of the taxpayer.

(4) A tax that, by virtue of subsection (1), is payable by the representative of a tax taxpayer is recoverable from the agent only to the extent of the assets of the taxpayer that are in the possession or under the control of the tax representative.

(5) Subject to subsection (6), a tax agent is personally liable for the payment of any tax due by the tax representative in that capacity if, while the amount remains unpaid, the representative—

- (a) alienates, charges, or disposes of any moneys received or accrued in respect of which the tax is payable; or
- (b) disposes of or parts with any moneys or funds belonging to the taxpayer that are in the possession of the representative or which come to the representative after the tax is payable, if tax could legally have been paid from or out of the moneys or funds.

(6) A tax representative is not personally liable for tax if—

- (a) the monies were paid by the representative on behalf of a taxpayer and the amount paid has priority, in law or equity, over the tax payable by the taxpayer; or
- (b) at the time the monies were paid, the representative had no knowledge, and could not reasonably be expected to know, of the taxpayer's tax or duty liability.

(7) An amount that a tax representative is personally liable for under subsection (5) shall be collected and recovered in accordance with this Act.

(8) Nothing in this section relieves a taxpayer from performing any obligation imposed on the taxpayer under a tax law that the tax representative of the taxpayer has failed to perform.

(9) A reference in this section to a tax liability includes any interest payable in respect of the liability.

PART IV—RECORD-KEEPING

15. Accounts and records

(1) Subject to subsections (2) and (5), every taxpayer shall for the purposes of a tax obligation—

- (a) maintain, in the English language, records including in electronic format, as may be required to determine the taxpayer's tax liability under a tax law;
- (b) maintain the record so as to enable the taxpayer's tax liability under the tax law to be readily ascertained; and
- (c) retain the record for five years after the end of the tax period to which it relates or other period as specified in the tax law.

(2) Where, at the end of the time specified in subsection (1) (c), a record is necessary for a proceeding commenced before the end of the five-year period, the person shall retain the document until all proceedings have been completed.

(3) A mode of record keeping shall contain sufficient transaction information and, in the case of a record in electronic format shall be capable of being retrieved and converted to a standard record format equivalent to that contained in an acceptable paper record.

(4) The Commissioner may, on the application of a taxpayer who wishes to keep records in a language other than English or in a currency other than Uganda Shillings, allow the taxpayer to keep records in a different language or currency.

(5) An application under subsection (4) shall clearly state the reasons of the applicant for wishing to keep records in a different language or currency.

(6) Where a record referred to in subsection (1) is not in English, the Commissioner may, by notice in writing, require the person keeping the record to provide, at the person's expense, a translation into English by a translator approved by the Commissioner.

(7) A taxpayer granted permission to keep records in a language other than English shall file a tax return or provide other correspondence with the Commissioner in English.

PART V—TAX RETURNS

16. Furnishing of tax returns

(1) A person required to furnish a tax return under a tax law shall submit the return in the prescribed form and in the manner determined by the Commissioner.

(2) Where a person does not furnish a tax return under subsection (1), the Commissioner may at the person's cost, by notice in writing, appoint another person to prepare and furnish the return on behalf of that person.

(3) A return furnished under subsection (2) shall be treated, for all the purposes of the tax law under which the return is required to be furnished, to be the return of the person required to furnish the return.

(4) Where the Commissioner is not satisfied with a tax return furnished by a person, other than a self-assessment return, the Commissioner may, by notice in writing, require the person who has furnished the return to provide a fuller or further tax return.

(5) A taxpayer with an annual turnover of the amount prescribed in Schedule 3 shall furnish with the taxpayer's return of income audited financial statements prepared by an accountant registered by the Institute of Certified Public Accountant of Uganda.

(6) A tax return purporting to be made by or on behalf of a person is treated as having been made by the person or with the person's authority unless the contrary is proved.

(7) The following are tax returns for the purposes of this Act—

- (a) a return of income;
- (b) a return of rental income;
- (c) a provisional tax estimate;
- (d) a business information return;
- (e) a return required to be furnished under the Value Added Tax Act;
- (f) an excise duty return;
- (g) any other return required to be furnished under a tax law; and
- (h) any form required to be furnished under a tax law containing information relating to an assessment of tax.

(8) For purposes of subsection (7), the applicable time frame for lodging a return shall be as follows—

- (a) in the case of a return of income, every taxpayer shall furnish a return of income for each year of income of the taxpayer not later than six months after the end of that year;
- (b) in the case of a return of rental income, every taxpayer shall furnish a return of rental income for each year of income of the taxpayer not later than six months after the end of that year;

- (c) in the case of a provisional tax estimate, every taxpayer is required to furnish a return of provisional tax estimate on or before the last day of the sixth and twelfth months of the year of income, in respect of the tax payer's liability for a period of six or twelve months;
- (d) in the case of a business information return, a person who is required to furnish a business information return with the commissioner should do so within sixty days after the end of the year of income in which the payment was made;
- (e) in the case of the Value Added Tax Act, a taxable person shall lodge a Value Added Tax return with the Commissioner General for each tax period within fifteen days after the end of the tax period;
- (f) in the case of an Excise Duty return, a person who is required to furnish an excise duty return with the Commissioner General shall do so by the fifteenth day of the following month;
- (g) in the case of the Gaming and Pool Betting Act, a person who is required to furnish a return with the Commissioner shall do so in the period specified under the Act;
- (h) in case of any other return required to be furnished under a tax law, a person is required to furnish such return with the commissioner in the period specified under the tax law to which the return relates;
- (i) in case of any form required to be furnished under a tax law containing information relating to an assessment of tax, a person is required to furnish such a form with the commissioner in the period specified by the Commissioner.

17. Certification of tax return by tax agent.

(1) A tax agent who prepares or assists in the preparation of a tax return of a taxpayer shall provide the taxpayer with a signed certificate in the prescribed form—

- (a) stating the sources available to the tax agent for the preparation of the return; and
- (b) certifying that the tax agent has examined the documents of the taxpayer and that, to the best of the tax agent's knowledge, the return together with any supporting documentation, reflects the correct data and transactions to which it relates.

(2) A tax agent who does not provide the certificate referred to in subsection (1) shall in writing specify to the taxpayer the reasons for not providing the certificate.

(3) A tax agent who prepares or assists in the preparation of a tax return of a taxpayer shall make a declaration in the taxpayer's return stating whether a certificate under subsection (1) or a statement under subsection (2) has been provided to the taxpayer.

(4) A tax agent shall when required to do so by notice in writing from the Commissioner, produce to the Commissioner a copy of the certificate under subsection (1) or the statement provided to the taxpayer under subsection (2).

(5) A tax agent shall keep copies of certificates provided to taxpayers under subsection (1) and statements provided to taxpayers under subsection (2) for five years from the date that the tax return to which the certificate or statement relates is furnished.

18. Power of the Commissioner to require tax returns in certain cases.

(1) This section applies if, during a tax period—

- (a) a taxpayer has died;
- (b) a taxpayer has become bankrupt, wound up, or goes into liquidation;
- (c) a taxpayer is about to leave Uganda permanently; or
- (d) the Commissioner otherwise considers it appropriate.

(2) The Commissioner may, by notice in writing and at any time during the tax period, require—

- (a) the taxpayer or the taxpayer's representative to furnish a tax return for the tax period by the date specified in the notice being a date that may be before the date that the return for the tax period would otherwise be due; and
- (b) the taxpayer or taxpayer's representative to pay any tax due under the return.

(3) Where a taxpayer is subject to more than one tax, this section applies to each tax separately.

19. Extension of time to furnish a tax return.

(1) A person required to furnish a tax return may apply in writing to the Commissioner for an extension of time to furnish the return.

(2) An application under subsection (1) shall be made by the date on which the return is required to be furnished or made.

(3) Where an application has been made under subsection (1) and the Commissioner is satisfied that the person is unable to furnish the tax return by the due date because of any reasonable cause, the Commissioner may, by notice in writing, grant the person an extension of time to furnish the return.

(4) The extension of time granted under subsection (3) shall not exceed an aggregate period of ninety days.

(5) An extension of time granted under this section does not change the date for payment of the tax due as specified in the tax law under which the tax return is required to be furnished and interest remains payable on the unpaid tax from the date the tax was originally due.

(6) The commissioner may allow an application for the extension of time after the expiry of the due date if the commissioner is satisfied that the failure to furnish a tax return was due to exceptional circumstances.

PART VI—TAX ASSESSMENTS

20. Self-assessment.

(1) A taxpayer who has submitted a self-assessment return in the prescribed form for a tax period is treated, as having made an assessment of the amount of tax payable, including a nil amount, for that period being the amount set out in the return.

(2) Where a taxpayer liable to income tax has submitted a self-assessment return in the prescribed form for a year of income and the taxpayer has an assessed loss for the year, the taxpayer is treated, as having made an assessment of the amount of the loss for that year being that amount set out in the return.

(3) Where a taxable person has submitted a self-assessment return in the prescribed form for a tax period and the taxable person has an excess input tax credit carried forward for that tax period, the taxable person is treated, as having made an assessment of the amount of the excess input tax credit carried forward for that tax period being that amount set out in the return.

(4) Where a taxpayer electronically completes and submits a prescribed form for a tax return that tax return is a self-assessment return despite the form having pre-filled information provided by the Commissioner.

(5) The following are self-assessment returns for the purposes of this Act—

- (a) a return of income;
- (b) a return of rental income;
- (c) a return required to be furnished under the Value Added Tax Act;
- (d) a return required to be furnished under the Excise Duty Act;
- (e) a return specified as a self-assessment return under a tax law.

21. Default assessment.

(1) Where a taxpayer fails to furnish a self-assessment return for a tax period as required under a tax law, the Commissioner may, at any time, make an assessment as follows—

- (a) in the case of an assessed loss under the Income Tax Act, the amount of the assessed loss of the taxpayer for the period;
- (b) in the case of an excess input tax credit under the Value Added Tax Act, the amount of the excess input tax credit of the taxpayer for the period; or
- (c) in any other case, the tax payable by the taxpayer for the tax period.

(2) The Commissioner shall serve a taxpayer assessed under subsection (1) with notice, in writing, of the assessment specifying—

- (a) the amount of tax assessed, assessed loss, or excess input tax credit, as the case may be;
- (b) the amount of penal tax and interest, if any, payable in respect of the amount assessed;

- (c) the tax period to which the assessment relates;
- (d) the due date for payment of the tax, penal tax and interest;
and
- (e) the manner of objecting to the assessment.

(3) The service of a notice of an assessment under this section does not change the due date for payment of the tax payable under the assessment as determined under the tax law imposing the tax, and penal tax and interest remain payable based on the original due date.

22. Advance assessment.

(1) This section applies to a taxpayer specified in section 18 and where the Commissioner is satisfied that there is a risk that a taxpayer may delay, obstruct, prevent, or render ineffective payment or collection of tax that has not yet become due.

(2) Subject to subsection (3), the Commissioner may make an assessment for a tax period in relation to a taxpayer to whom section 18 applies—

- (a) in the case of an assessed loss under the Income Tax Act, of the amount of the assessed loss of the taxpayer for the period;
- (b) in the case of an excess input tax credit under the Value Added Tax Act, of the amount of the excess input tax credit of the taxpayer for the period; or
- (c) in any other case, of the tax payable by the taxpayer for the period.

(3) Subsection (2) applies only if the taxpayer has not submitted a return as required by section 18.

(4) An assessment made under subsection (2)—

- (a) may be made before the date on which the taxpayer's tax return for the period is due; and
- (b) shall be made in accordance with the tax law in force at the date the assessment was made.

(5) The Commissioner shall serve a taxpayer assessed under subsection (2) with notice, in writing, of the assessment specifying—

- (a) the amount of tax assessed;
- (b) the amount of penal tax and interest, if any, payable in respect of the tax assessed;
- (c) the tax period to which the assessment relates;
- (d) the due date for payment of the tax, penal tax and interest; and
- (e) the manner of objecting to the assessment.

(6) An assessment made under subsection (2) may be amended under section 23 so that the taxpayer is assessed in respect of the whole of the tax period to which the assessment relates.

(7) Nothing in this section relieves a taxpayer from being required to furnish the tax return to which the assessment served under this section relates.

23. Additional Assessment.

(1) The Commissioner may make an additional assessment amending a tax assessment made for a tax period to ensure that—

- (a) for an assessed loss under the Income Tax Act, the taxpayer is assessed in respect of the correct amount of the assessed loss for the period;
 - (b) for an excess input tax credit under the Value Added Tax Act, the taxpayer is assessed in respect of the correct amount of the excess input tax credit for the period; or
 - (c) in any other case, the taxpayer is liable for the correct amount of tax payable in respect of the period.
- (2) An additional assessment under subsection (1) may be made—
- (a) at any time, if fraud or any gross or wilful neglect has been committed by, or on behalf of the taxpayer, or new information has been discovered in relation to the tax payable by the taxpayer for a tax period;
 - (b) in the case of an additional assessment, within three years from the date of service of the notice of the additional assessment; or
 - (c) in any other case, within three years after the date—
 - (i) the taxpayer furnished the self-assessment return to which the original assessment relates; or
 - (ii) the Commissioner served notice of the original assessment on the taxpayer.
- (3) Subject to subsection (1), a taxpayer who has furnished a self assessment return, other than a taxpayer whose return is being investigated, may upon discovering an error within twelve months after the date of furnishing the return, apply to the Commissioner for leave to make an additional assessment.

(4) The Commissioner shall within thirty days after receiving the application, in writing notify the taxpayer of the decision.

(5) For the purposes of subsection (2)(b) the additional assessment shall be limited to amending the alterations and additions made in the additional assessment.

(6) Where the Commissioner has made an additional assessment under this section, the Commissioner shall serve the taxpayer with notice, in writing, of the additional assessment specifying—

- (a) the amount assessed as tax, assessed loss, or excess input tax credit, as the case may be;
- (b) the amount of penal tax and interest, if any, payable in respect of the amount assessed as a result of subsection (2) (a);
- (c) the tax period to which the assessment relates;
- (d) the due date for payment of any tax, penal tax and interest being a date that is not less than forty five days from the date of service of the notice; and
- (e) the manner of objecting to the assessment.

(7) The service of a notice of an additional assessment under this section does not change the due date for payment of the tax payable under the assessment as determined under the tax law imposing the tax, and penal tax and interest shall remain payable based on the original due date.

(8) Subsection (6) shall not apply to where the circumstances leading to the additional assessment are occasioned by an error on the part the Commissioner.

PART VII—OBJECTIONS AND APPEALS

24. Objection to a tax decision.

(1) A person who is dissatisfied with a tax decision may lodge an objection with the Commissioner within forty five days after receiving notice of the tax decision.

(2) An objection shall be in the prescribed form and shall state the grounds upon which it is made and contain sufficient evidence to support the objection.

(3) Where a taxpayer has lodged an objection to a tax assessment for a tax period, the Commissioner may consider the objection if the taxpayer—

- (a) has furnished the return to which the assessment relates in the case of a default or advance assessment;
- (b) has paid the tax due under the return to which the assessment relates together with any penalty or interest due.

(4) A person may apply in writing to the Commissioner for an extension of time to lodge an objection and the Commissioner may, if satisfied with the grounds upon which the application is made, grant an extension for such period as the Commissioner determines.

(5) The Commissioner may make a decision on an objection—

- (a) to a tax assessment, affirming, reducing, increasing, or otherwise varying the assessment to which the objection relates; or
- (b) to any other tax decision, affirming, varying, or setting aside the decision.

(6) The Commissioner shall serve notice of an objection decision on the person objecting within ninety days from the date of receipt of the objection.

(7) Subject to subsection (9), where an objection decision has not been served within the time specified under subsection (6), the person objecting may, by notice in writing to the Commissioner, elect to treat the Commissioner as having made a decision to allow the objection.

(8) Where a person makes an election under subsection (7), the person is treated as having been served with notice of the objection decision on the date the person's election is lodged with the Commissioner.

(9) The time limit for making an objection decision is waived where a review of a taxpayer's records is necessary for settlement of the objection and the taxpayer is notified.

(10) Where the Commissioner reviews the taxpayer records under subsection (9), the Commissioner shall within the time specified in subsection (6) notify the taxpayer of the review.

25. Review of an objection decision.

(1) A person dissatisfied with an objection decision may, within 30 days after being served with a notice of the objection decision, lodge an application with the Tax Appeals Tribunal for review of the objection decision.

(2) A person dissatisfied with a decision of the Tribunal may, within 30 days after being served with a notice of the decision, lodge an application with the High Court for review of the decision.

26. Burden of proof.

In any proceeding under this Act—

- (a) for a tax assessment, the burden is on the taxpayer to prove that the assessment is incorrect; or

- (b) for any other tax decision, the burden is on the person objecting to the decision to prove that the decision should not have been made or should have been made differently.

PART VIII—COLLECTION AND RECOVERY OF TAX

Tax collection

27. Payment of tax.

(1) The tax owing by a taxpayer for a tax period is payable on the date specified in the tax law under which the tax is payable.

(2) An amount that is treated as tax for the purposes of this Act shall be collected by the Commissioner serving a notice of demand on the person liable for the amount.

(3) The amount is payable on the date specified in the notice being a date that is not less than twenty eight days from the date of service of the notice.

(4) The Commissioner may waive the amount or accept a lesser amount than is required to be paid under section 24 (3) where an objection has reasonably been made to a tax assessment.

28. Extension of time to pay tax.

(1) A taxpayer may apply, in writing, to the Commissioner for an extension of time within which to pay tax that is due.

(2) An application for an extension of time to pay tax shall be made by the due date for payment of the tax to which the application refers.

(3) Where an application has been made under this section, the Commissioner may, having regard to the circumstances of the case and by notice in writing—

- (a) grant the taxpayer an extension of time for payment of the tax; or

- (b) require the taxpayer to pay the tax in such installments as the Commissioner may determine.

(4) Where tax is permitted to be paid by installments and there is default in payment of any installment, the whole balance of the outstanding tax becomes payable immediately.

(5) Despite the grant of an extension of time or permission to pay tax by instalments, the liability for interest arises from the original due date for payment of the tax.

29. Tax as a debt due to the Government of Uganda.

(1) Tax payable under a tax law is a debt due to the Government of Uganda and is payable to the Commissioner in the manner and at the place determined by the Commissioner.

(2) The Commissioner may sue for and recover unpaid tax in a court of competent jurisdiction in Uganda.

(3) In any suit under this section, the production of a certificate signed by the Commissioner stating the name and address of the taxpayer and the amount of tax payable is conclusive evidence of the amount of tax payable by the taxpayer unless the contrary is proved.

Enforced tax collection

30. Collection of tax from persons leaving Uganda permanently.

(1) If the Commissioner has reasonable grounds to believe that a taxpayer may leave Uganda permanently without paying tax that is due, the Commissioner may issue a certificate containing particulars of the tax payable to the officer responsible for immigration control and request the Commissioner for Immigration to prevent that person from leaving Uganda until that person—

- (a) makes payment of the tax in full; or
- (b) executes a financial bond guaranteeing payment of the tax.

(2) A copy of a certificate issued under subsection (1) shall be served on the taxpayer named in the certificate if it is practicable to do so.

(3) Payment of the tax specified in the certificate to a customs or immigration officer or the production of a certificate signed by the Commissioner stating that the tax has been paid or secured is sufficient authority for allowing the taxpayer to leave Uganda.

31. Recovery of tax through persons owing money to the taxpayer.

(1) This section applies where a person is, or will become liable to pay tax and—

- (a) the tax is unpaid; or
- (b) the Commissioner has reasonable grounds to believe that the taxpayer will not pay the tax by the due date for payment.

(2) Where this section applies to a taxpayer, the Commissioner may, by notice in writing, require a person who—

- (a) owes or may subsequently owe money to the taxpayer;
- (b) holds or may subsequently hold money, for or on account of, the taxpayer;
- (c) holds money on account of some other person for payment to the taxpayer; or
- (d) has authority from some other person to pay money to the taxpayer,

to pay the amount specified in the notice to the Commissioner, being an amount that shall not exceed the amount of the unpaid tax or the amount that the Commissioner believes will not be paid by the taxpayer by the due date.

(3) A person to whom a notice is served under subsection (2) shall pay the amount specified in the notice under subsection (2) by the date specified in the notice, being a date that is not before the date that the amount owed by the payer to the taxpayer becomes due to the taxpayer or held on the taxpayer's behalf.

(4) If a notice served under subsection (2) requires a person to deduct amounts from salary, wages, or other similar remuneration payable at fixed intervals to the taxpayer, the amount required to be deducted by the person from each payment shall not exceed twenty percent of the amount of each payment of the pension, salary, wages, or other remuneration.

(5) Where a person served with a notice under subsection (2) is unable to comply with the notice by reason of lack of moneys owing to, or held for the taxpayer, the person shall, as soon as is practicable and in any case before the payment date specified in the notice, notify the Commissioner accordingly.

(6) If a notice is served on the Commissioner under subsection (5), the Commissioner shall, by notice in writing—

- (a) accept the notification and cancel or amend the notice issued under subsection (2); or
- (b) reject the notification.

(7) The Commissioner shall, by notice in writing to a person under this section, revoke or amend a notice served under subsection (2) if the taxpayer has paid the whole or part of the tax payable or has made an arrangement satisfactory to the Commissioner for payment of the tax.

(8) A copy of a notice served on a person under this section shall also be served on the taxpayer.

(9) A person making a payment in accordance with a notice under subsection (2) is treated as acting under the authority of the taxpayer and of all other persons concerned and is indemnified in respect of the payment despite any provisions to the contrary in any written law, contract, or agreement.

(10) The Commissioner must credit any amount paid by a person under this section against the tax owing by the taxpayer.

(11) A person who does not comply with a notice issued under this section is personally liable for the amount specified in the notice which shall be treated and collected as unpaid tax under this Act.

32. Distress proceedings

(1) The Commissioner or an officer authorised by the Commissioner in writing may issue an order, in writing, for the recovery of unpaid tax by distress and sale of the movable property of a taxpayer.

(2) An order issued under subsection (1) shall specify—

- (a) the taxpayer against whose property the order is issued;
- (b) the amount of the unpaid tax liability;
- (c) the property against which distress is to be executed and location of the property; and
- (d) the tax liability to which the order relates.

(3) For the purposes of executing distress under subsection (1), the Commissioner or an officer authorised by the Commissioner may—

- (a) at any time, enter any premises described in the order for distress proceedings; and

- (b) require a police officer to be present while the distress is being executed.

(4) Any property subject to distress proceedings under this section shall be—

- (a) identified by the attaching of a notice stating “PROPERTY IMPOUNDED FOR NOT COMPLYING WITH TAX OBLIGATIONS BY ORDER OF THE COMMISSIONER-GENERAL OF THE UGANDAN REVENUE AUTHORITY UNDER SECTION 34 OF THE TAX PROCEDURES CODE ACT; and
- (b) kept at the premises where the distress is executed or at any other place that the Commissioner or authorised officer may consider appropriate, at the cost of the taxpayer.

(5) If the taxpayer does not pay the tax due and specified in the order under subsection (1), together with the costs of the distress—

- (a) in the case of perishable goods, within a period that the Commissioner or authorised officer considers reasonable having regard to the condition of the goods; or
- (b) in any other case, within ten days after the distress is executed,

the property subject to the distress proceedings may be disposed of by sale by public auction or in such other manner as the Commissioner or authorised officer may direct.

(6) The proceeds of a disposal under subsection (5) shall be applied by the Commissioner in the following order—

- (a) towards the cost of taking, keeping, and selling the property subject to distress proceedings;

- (b) towards the payment of any tax, penalty, or interest owing by the taxpayer; and
- (c) the remainder of the proceeds, if any, are to be paid to the taxpayer.

(7) Where the proceeds of disposal are less than the sum of the costs of the distress and the tax payable, the Commissioner or authorised officer may recover the shortfall in accordance with this Part.

33. Temporary closure of business.

(1) The Commissioner or an officer authorised in writing by the Commissioner for the purposes of this section may notify a person in writing of the intention to close down part or the whole of the person's business premises for default in paying a tax that is due and payable, within seven days from the date of the notice.

(2) Where a taxpayer does not pay the tax due after service of a notice under subsection (1), the Commissioner or authorised officer may issue an order to close down part or the whole of the business premises of the taxpayer for a period not exceeding fourteen days.

(3) The Commissioner or authorised officer may, at any time, enter any premises described in an order issued under subsection (2) for the purposes of executing the order and may require a police officer to be present while the order is being executed.

(4) The Commissioner or an authorised officer shall affix in a conspicuous place at any entrance to the premises that have been closed in accordance with an order issued under subsection (2), a notice in the following words—

“TEMPORARILY CLOSED FOR FAILURE TO COMPLY
WITH A TAX OBLIGATION”

(5) If the tax due is satisfied during the period of closure, the Commissioner shall immediately remove the notice referred to in subsection (4).

34. Charge over immovable property.

(1) If a taxpayer who is the owner of land or a building in Uganda does not pay tax by the due date, the Commissioner may, by notice in writing, to the Registrar of Titles direct the Registrar that the land or buildings in the notice are the subject of a security for unpaid tax.

(2) The Commissioner shall serve a copy of the notice on the taxpayer.

(3) Upon receipt of the notice under subsection (1), the Registrar shall, without fee, register the directive as if it were an instrument of mortgage or charge on the land or building and that registration, subject to any prior mortgage or charge, operates in all respects as a legal mortgage or charge on that land or building to secure the amount of the unpaid tax.

(4) Where a taxpayer does not pay the tax due within twelve months after receiving the copy of the notice under subsection (2) the Commissioner may commence distress proceedings against the land or building of the taxpayer.

(5) Upon receipt of the full amount of tax secured under this section, the Commissioner shall notify the Registrar to cancel the entry made under subsection (3) and the Registrar shall, without fee, cancel the entry.

(6) This section does not preclude the Commissioner from registering a caveat on the land or building as an interim measure to stop the transfer of the land or building.

35. Seizure of goods.

(1) The Commissioner or a tax officer authorised in writing by the Commissioner may seize any goods in respect of which there are reasonable grounds to believe that the tax payable in respect of the supply, removal or import of the goods has not been paid.

(2) Goods seized under subsection (1) shall be stored in a place approved by the Commissioner or authorised officer for the storage of seized goods.

(3) Upon seizing the goods, the person seizing the goods shall obtain a written statement from the owner or the person who has custody or control of the goods at the time of the seizure, specifying the quantity and quality of the goods.

(4) Subject to subsection (5), where goods are seized under this section, the Commissioner or authorised officer shall, within ten days after the seizure, serve on the owner of the goods or the person who has custody or control of the goods immediately before the seizure, a notice—

- (a) identifying the goods;
- (b) stating that the goods have been seized under this section and the reason for the seizure; and
- (c) setting out the terms for the release or disposal of the goods.

(5) Where after making reasonable enquiries, the Commissioner does not have sufficient information to identify the person on whom a notice under subsection (4) should be served, the Commissioner or authorised officer may serve the notice on a person claiming the goods, but that person must give sufficient information to enable the notice to be served.

(6) The Commissioner or authorised officer may authorise the release of any goods seized under subsection (1) to the person on whom a notice under subsection (4) has been served where that person has paid, or gives security for the payment of the tax assessed as payable or the tax that will become payable in respect of the supply, removal, or import of the goods.

(7) If the proceeds of disposal are less than the sum of the costs of the seizure and the tax payable, the Commissioner or authorised officer may recover the shortfall in accordance with this Part.

(8) Subject to subsection (6), the Commissioner shall retain the goods seized under subsection (1)—

- (a) in the case of perishable goods, for a period that the Commissioner or authorised officer considers reasonable having regard to the condition of the goods; or
- (b) in any other case, until the later of—
 - (i) ten days after the seizure of the goods; or
 - (ii) ten days after the date on which payment of the tax is due in respect of the supply, or import of the goods.

(9) Upon expiry of the period specified in subsection (8), the Commissioner or an authorized officer may sell the goods in the manner specified in section 32(5) and apply the proceeds of sale as set out in section 32(6).

36. Security for unpaid tax.

The Commissioner may require a taxpayer, by notice in writing, to give security by bond, deposit, or otherwise satisfactory to the Commissioner, for the payment of tax that may become payable, if there is reason to believe that—

- (a) a taxpayer establishing a business in Uganda intends to carry on the business for a limited time only; or

- (b) a taxpayer may not pay tax when it becomes payable.

37. Priority of withholding tax and VAT.

(1) The following amounts are held in trust for the Government by the person receiving or withholding the amount—

- (a) if the person is a taxable person under the Value Added Tax Act, the VAT on taxable supplies made by the person, net of any input tax credit allowed; and
- (b) withholding tax.

(2) Despite any other enactment, withholding tax withheld or deducted by a person—

- (a) shall not be subject to attachment in respect of any debt or liability of the person;
- (b) is a first charge on the payment or amount from which the tax is withheld or deducted; and
- (c) shall be withheld or deducted prior to any other deduction that the person may be required to make from the payment or amount under an order of any court or any other law.

(3) Where the Commissioner is satisfied that tax has been overpaid, the Commissioner shall—

- (a) apply the excess in reduction of any other tax due from the taxpayer;
- (b) apply the balance of the excess, if any, in reduction of any outstanding liability of the taxpayer to pay other taxes not in dispute or to make provisional tax payments during the year of income in which the refund is to be made; and
- (c) refund the remainder, if any, to the tax payer.

38. Order of payment.

(1) When a taxpayer is liable for penal tax and interest in relation to a tax liability and the taxpayer makes a payment that is less than the total amount of tax, penal tax, and interest due, the amount paid is applied in the following order—

- (a) in payment of the tax liability;
- (b) in payment of penal tax; and
- (c) the balance remaining is applied against the interest due.

(2) If a taxpayer has more than one tax liability at the time a payment is made, subsection (1) applies to the earliest liability first.

*Interest on late payments***39. Recovery of interest on unpaid tax.**

(1) Interest payable on unpaid tax under a tax law shall be collected by the Commissioner in accordance with this Act as if it were unpaid tax.

(2) Interest paid by a person under subsection (1) shall be refunded to the person to the extent that the principal amount to which the interest relates is found not to have been payable.

(3) Interest payable by a person—

- (a) in respect of withholding tax payable by the person; or
- (b) in respect of an amount referred to in section 14(7) or 31 which is payable by the person,

is borne personally by the person and is not recoverable from any other person.

PART IX—REMISSION OF TAX

40. Remission of tax.

(1) Where the Commissioner is of the opinion that the whole or any part of the tax payable under a tax law by a taxpayer cannot be effectively recovered by reason of hardship, impossibility, undue difficulty or the excessive cost of recovery, the Commissioner may refer the taxpayer's case to the Minister.

(2) Where a taxpayer's case is referred to the Minister under subsection (1) and the Minister is satisfied that the tax due cannot be effectively recovered, the Minister may remit in whole or part the tax payable by the taxpayer.

(3) For the purposes of this section "tax" includes interest and penal tax.

PART X—INVESTIGATIONS

41. Access to premises, records and data storage devices.

(1) For the purposes of administering any provision of a tax law, the Commissioner—

- (a) shall have at all times and without prior notice, full and free access to—
 - (i) any premises or place;
 - (ii) any record, including a record in electronic format; or
 - (iii) any data storage device;
- (b) may make an extract or copy from any record, including a record in electronic format, of any information relevant to a tax obligation;

- (c) may seize any record that, in the opinion of the Commissioner, affords evidence which may be material in determining the correct tax liability of any person;
- (d) may seize a data storage device that may contain data relevant to a tax obligation; and
- (e) may retain any record or data storage device seized under this section for as long as it is required for determining a taxpayer's tax obligation and liability, including any proceedings under this Act.

(2) The Commissioner may require a police officer to be present for the purposes of exercising powers under this section.

(3) The occupier of the premises or place in which an exercise of power under subsection (1) relates shall provide all reasonable assistance and facilities necessary for the effective exercise of the power including—

- (a) answering questions relating to the investigation to which the exercise of power relates orally or in writing; or
- (b) providing access to decryption information necessary to decrypt data to which access is sought under this section.

(4) A person whose records or data storage device have been seized and retained under this section may access and examine them, including making copies or extracts from them under supervision as the Commissioner may determine.

(5) The Commissioner shall sign for all records or data storage devices seized and retained under this section.

(6) Where any record or data storage device seized and retained under this section is lost or destroyed while in the possession of the Commissioner, the Commissioner shall appropriately compensate the owner for the loss or destruction.

(7) This section has effect despite—

- (a) any law relating to privilege or the public interest with respect to access to premises or places, or the production of any property or record, including in electronic format; or
- (b) any contractual duty of confidentiality.

42. Notice to obtain information or evidence.

(1) The Commissioner may, for the purpose of administering any provision of a tax law, require any person, by notice in writing, whether or not liable for tax—

- (a) to furnish, within the time specified in the notice, any information that may be stated in the notice; or
- (b) to attend at the time and place designated in the notice for the purpose of being examined by the Commissioner concerning the tax affairs of that person or any other person, and for that purpose the Commissioner may require the person to produce any record, including an electronic format, in the control of the person.

(2) If a notice under subsection (1) is unable to be served on a person in accordance with section 48, the notice may be published in any widely circulated newspaper in Uganda and publication in such newspaper is treated as service for the purposes of this section.

(3) The Commissioner may require the information referred to in subsection (1) to be—

- (a) given on oath and, for that purpose, the Commissioner may administer the oath; or
- (b) verified by statutory declaration or otherwise.

- (4) This section has effect despite—
- (a) any law relating to privilege or the public interest with respect to the giving of information or the production of any record, including in electronic format; or
 - (b) any contractual duty of confidentiality.

PART XI—TAX CLEARANCE CERTIFICATES

43. Tax clearance certificate.

(1) A tax payer providing a passenger transport service; or a freight transport service with a goods vehicle with a capacity of two tonnes or more, shall if required by the Transport licensing Board, obtain a tax clearance certificate from the Commissioner as proof of compliance with the taxpayer's obligations.

(2) A tax payer providing ware housing or clearing and forwarding services shall obtain a tax clearance certificate from the Commissioner as proof of compliance with the taxpayer's obligations.

(3) A taxpayer supplying goods or services to the Government shall obtain a tax clearance certificate from the Commissioner as proof of compliance with the taxpayer's tax obligations.

(4) Any person who requires a tax clearance certificate shall apply to the Commissioner for the certificate as proof of tax compliance.

PART XII—PRACTICE NOTES AND RULINGS

Practice Notes

44. Practice notes.

(1) The Commissioner may issue practice notes setting out the Commissioner's understanding of the application of a provision in a tax law.

(2) The Commissioner shall issue a practice note by publishing a notice of the practice note in the Gazette.

(3) A practice note issued under this Act is binding on the Commissioner until it is revoked by the Commissioner.

(4) A practice note applies from the date specified in the notice and if no date is specified, from the date of publication in the Gazette.

(5) The Commissioner may revoke a practice note, in whole or part, by publishing a notice of the revocation in the Gazette or in any widely circulated newspaper.

(6) A practice note that has been revoked in whole or in part shall—

- (a) continue to apply to a transaction commenced before the practice note is revoked; and
- (b) not apply to a transaction commenced after the practice note is revoked to the extent that the practice note is revoked.

Private Rulings

45. Private rulings.

(1) Subject to subsection (2), the Commissioner may, upon application in writing by a taxpayer, issue to the taxpayer a private ruling setting out the position of the Commissioner regarding the application of a provision in a tax law to a transaction entered into or proposed to be entered into by the taxpayer.

(2) The Commissioner may reject an application for a private ruling if—

- (a) the Commissioner has already decided the matter that is the subject of the application in a tax assessment;
- (b) the Commissioner is of the opinion that an existing practice note adequately covers the matter that is the subject of the application;

- (c) the application relates to a matter that is the subject of a tax audit or an objection;
- (d) the application is frivolous or vexatious;
- (e) the transaction to which the application relates has not been carried out and there are reasonable grounds to believe that it will not be carried out;
- (f) the applicant has not provided the Commissioner with sufficient information to make a private ruling; or
- (g) in the opinion of the Commissioner, it would be unreasonable to comply with the application having regard to the resources needed to comply.

(3) Where a taxpayer has made a full and true disclosure of the nature of all aspects of the transaction relevant to the ruling and the transaction has proceeded in all material respects as described in the taxpayer's application for the ruling, the ruling is binding on the Commissioner in relation to the taxpayer to whom the ruling has been issued.

(4) A private ruling is not binding on the taxpayer to whom it is issued.

(5) Where a private ruling is inconsistent with an existing practice note, the private ruling has priority to the extent of the inconsistency.

(6) Where the Commissioner rejects an application for a private ruling, the Commissioner shall notify the taxpayer in writing.

(7) A private ruling is issued by serving a written notice of the ruling on the applicant and the ruling shall set out the matter ruled on, identifying—

- (a) the taxpayer;
- (b) the tax law relevant to the ruling;
- (c) the tax period to which the ruling applies;
- (d) the transaction to which the ruling relates; and
- (e) any assumptions on which the ruling is based.

(8) The Commissioner may revoke a private ruling in whole or in part by written notice served on the taxpayer to whom the ruling is issued.

(9) A private ruling is not a tax decision for the purposes of this Act.

PART XIII—TAX OFFICERS

46. Delegation.

(1) Subject to this Act, the Commissioner may, by written instrument, delegate to a tax officer, an accounting officer of a local government or Kampala Capital City Authority any duty, power, or function conferred or imposed on the Commissioner under a tax law, other than the power to compound offences under section 66 and the power to delegate conferred by this section.

(2) A reference in a tax law to the Commissioner includes, in respect of the exercise of a power or performance of a function delegated to a tax officer, a reference to the tax officer.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or performance of a function by the Commissioner.

47. Confidentiality.

(1) A tax officer shall regard as secret and confidential all information and documents received in performance of duties as a tax officer.

(2) A person appointed under, or employed in carrying out the provisions of a tax law shall not disclose any information or produce any document which has come into the person's possession or knowledge in connection with the performance of duties under a tax law except as may be necessary for the purpose of giving effect to the provisions of a tax law.

(3) Nothing in this section prevents the disclosure of information or any document to—

- (a) a court or the Tribunal where the disclosure is required for the purposes of a tax law;
- (b) the Minister or any other person if the disclosure is necessary for the purposes of a tax law;
- (c) a person in the service of the Government in a revenue or statistical department if such disclosure is necessary for the performance of the person's official duties;
- (d) the Auditor-General or any person authorised by the Auditor-General if disclosure is necessary for the performance of official duties; or
- (e) the competent authority of the government of another country with which Uganda has entered into an agreement for the avoidance of double taxation or for the exchange of information, to the extent permitted under that agreement.

(4) A person receiving documents and information under subsection (2) or (3) is required to keep them secret under the provisions of this section, except to the minimum extent necessary to achieve the purpose for which the disclosure is necessary.

(5) Documents and information obtained by the Commissioner in the performance of the Commissioner's duties and powers under a tax law may be used by the Commissioner for the purposes of any other tax law.

(6) This section shall continue to apply to a former tax officer or person formerly appointed or employed under a tax law as it applies to a tax officer.

PART XIV—PENAL TAX

Penal tax

48. Penal tax for default in furnishing a tax return.

A person who fails to furnish a tax return by the due date, or within a further time allowed by the Commissioner under this Act is liable to pay a penal tax equal to 2 percent of the tax payable under the return before subtracting any credit allowed to the tax payer on his or her tax return or ten currency point per month, whichever is higher, for the period the return is outstanding.

49. Penal tax for failing to maintain proper records.

A person who deliberately fails to maintain proper records as required under a tax law for a tax period is liable to pay a penal tax equal to double the amount of tax payable by the person for the period to which the failure relates.

50. Penal tax for making false or misleading statements.

Where a person knowingly or recklessly—

- (a) makes a statement to an officer of the Uganda Revenue Authority that is false or misleading in a material particular; or
- (b) omits from a statement made to an officer of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular, and the tax properly payable by the person exceeds the tax that was assessed as payable based on the false or misleading statement or omission, that person is liable to pay a penal tax equal to double the amount of the excess.

51. Penal tax for understating provisional tax estimates.

(1) A provisional taxpayer, whose estimate or revised estimate of chargeable income for a year of income is less than ninety percent of the taxpayer's actual chargeable income assessed for that year, is liable to penal tax equal to twenty percent of the difference between the tax calculated in respect of the taxpayer's estimate, or as revised, of chargeable income and the tax calculated in respect of ninety percent of the taxpayer's actual chargeable income for the year of income.

(2) A provisional taxpayer whose estimate or revised estimate of gross turnover for a year of income is less than ninety percent of the taxpayer's actual gross turnover for that year is liable to penal tax equal to twenty percent of the difference between the tax calculated in respect of the taxpayer's estimate, or as revised, of gross turnover and the tax calculated in respect of ninety percent of the taxpayer's actual gross turnover for the year of income.

(3) This section does not apply to a taxpayer who is in the business of agricultural, plantation, or horticultural farming.

52. Penalty for failing to apply for registration.

(1) A person who does not apply for registration as required under a tax law is liable to a default penalty equal to the higher of—

- (a) double the amount of tax payable during the period commencing on the last day of the application period until the person files an application for registration with the Commissioner or the Commissioner registers the person on the Commissioner's own motion; or
- (b) fifty currency points.

(2) The penalty imposed under this section shall be recovered and collected by the Commissioner as if it were unpaid tax.

53. Recovery of penal tax.

(1) Liability for penal tax is calculated separately in respect of each section dealing with penal tax.

(2) A person is liable for penal tax if the Commissioner serves notice on the person of a demand for the penal tax setting out the amount of penal tax payable and the due date for payment being a date that is not less than twenty eight days from the date of service of the notice.

(3) Penal tax shall not be imposed on a person for an act or omission if the person has been convicted of an offence for the same act or omission.

(4) Where penal tax has been paid and criminal proceedings are instituted in respect of the same act or omission, the Commissioner shall refund the amount of penal tax paid.

(5) Where good cause is shown, in writing, by the person liable to pay penal tax, the Minister may, on the advice of the Commissioner, remit in whole or part, any penal tax payable.

(6) Penal tax is treated as unpaid tax for the purposes of this Act and shall be recovered and collected as unpaid tax.

PART XV—OFFENCES

54. Failing to furnish a tax return.

(1) A person who does not furnish a tax return by the due date, or within such further time as the Commissioner may allow, commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

(2) Where a person convicted of an offence under subsection (1) fails to furnish the return to which the offence relates within the period specified by the court, the person commits another offence and is liable on conviction to a fine not exceeding fifty currency points.

55. Failure to comply with obligations under this Act.

- (1) A person who does not—
- (a) comply with a notice served on the person under section 31;
 - (b) comply with a notice served on the person under section 18(2);
 - (c) provide reasonable facilities and assistance as required under section 41
 - (d) comply with a notice served on the person under section 42;
 - (e) get a tax clearance certificate prior to performing an act specified in section 43; or
 - (f) comply with sections 11, 13, 47 or 72,

commits an offence and is liable on conviction to a fine not exceeding twenty-five currency points.

(2) A person who notifies the Commissioner in writing under section 31(5) is considered to be in compliance with any notice served on the person under section 31(2) until the Commissioner serves the person with a notice under section 31(6) amending the notice served under section 31(2) or rejecting the person's notice under section 31(5).

56. Failure to maintain proper records.

A taxpayer who knowingly or recklessly does not maintain records as required under a tax law commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or to imprisonment not exceeding two years or both.

57. Use of false TIN.

(1) A person who knowingly or recklessly uses a false TIN on a tax return or other document prescribed or used for the purposes of a tax law commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or to imprisonment not exceeding one year or both.

(2) A person who uses a TIN of another person is treated as having used a false TIN, unless the TIN has been used in the circumstances specified in section 5(6).

58. Making false or misleading statements.

(1) A person who knowingly or recklessly—

- (a) makes a statement to a tax officer that is false or misleading in a material particular; or
- (b) omits from a statement made to a tax officer any matter or thing without which the statement is false or misleading in a material particular,

commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or to imprisonment not exceeding two years or both.

(2) Section 50 applies in determining whether a person has made a statement to a tax officer.

59. Obstructing a tax officer.

A person who obstructs a tax officer in the performance of duties under a tax law commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or to imprisonment not exceeding two years or both.

60. Aiding or abetting a tax offence.

A person who aids, abets, counsels, or induces another person to commit an offence under a tax law, commits an offence and is liable on conviction for the same punishment as imposed for the principal offender.

61. Offences relating to recovery of tax.

A person who—

- (a) rescues any goods that are the subject of an order under section 32 that are in premises which are the subject of an order under section 33, or that have been seized under section 35;
- (b) before, during, or after any distress proceedings under section 32 or seizure of goods under section 35, staves, breaks or destroys any goods, or documents relating to any goods, to prevent—
 - (i) the seizure or the securing of the goods; or
 - (ii) the proof of an offence; or
- (c) enters premises which are the subject of an order under section 33 without the permission of the Commissioner,

commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years.

62. Offences relating to registration.

A person who—

- (a) does not apply for registration as required under a tax law;
- (b) does not notify the Commissioner of a change in registration particulars or circumstances as required under a tax law; or
- (c) does not apply for cancellation of registration as required under a tax law,

commits an offence and is liable on conviction—

- (i) if the failure or act is done knowingly or recklessly, to a fine not exceeding fifty currency points or imprisonment not exceeding two years or both; or
- (ii) in any other case, a fine not exceeding twenty five currency points or imprisonment not exceeding one year or both.

63. Offences in relation to tax officers.

(1) A tax officer who—

- (a) directly or indirectly asks for, or takes in connection with any of the officer's duties, a payment or reward, whether pecuniary or otherwise, or a promise or security for any payment or reward, not being a payment or reward which the officer is lawfully entitled to receive; or
- (b) enters into or acquiesces in any agreement to do any act or thing, abstain from doing any act or thing, permit or connive in the doing of any act or thing, or conceal any act or thing whereby the tax revenue is or may be defrauded or which is contrary to the provisions of a tax law or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years, or both.

(2) A person who—

- (a) directly or indirectly offers or gives to a tax officer any payment or reward, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the officer is lawfully entitled to receive; or

- (b) proposes or enters into any agreement with a tax officer in order to induce the officer to do any act or thing, abstain from doing any act or thing, connive at the doing of any act or thing, or concealing any act or thing by which tax revenue is or may be defrauded or which is contrary to the provisions of a tax law or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years, or both.

(3) A tax officer who commits an act specified in subsection (1) and who volunteers information to the Commissioner relating to that act is—

- (a) exonerated from prosecution; but
- (b) is liable for twenty percent of the fine that would be imposed on a person convicted of an offence under subsection (1).

(4) A person who commits an act specified in subsection (2), and who volunteers information to the Commissioner relating to that act is—

- (a) exonerated from prosecution; but
- (b) is liable for the amount of tax unpaid as a result of the agreement with the tax officer referred to subsection (2).

(5) A tax officer convicted of an offence under subsection (1) is, in addition to any punishment imposed under that subsection, liable for the amount of tax unpaid as a result of the agreement with the tax officer referred to subsection (2).

(6) A person who impersonates a tax officer commits an offence and is liable on conviction to a fine not exceeding fifty currency points or imprisonment not exceeding two years or both.

64. Offences by bodies of persons.

(1) When an offence under a tax law is committed by a company, the offence is treated as having been committed by a person who, at the time the offence is committed, is—

- (a) the chief executive officer, managing director, a director, company secretary, treasurer, or other similar officer of the company; or
- (b) acting or purporting to act in that capacity.

(2) Where an offence under a tax law is committed by a partnership, every partner at the time of the commission of the offence is treated as having committed the offence.

(3) This section does not apply to a person if—

- (a) the offence is committed without the consent or knowledge of a person specified under subsection (1), (2), or (3); and
- (b) the person specified under subsection (1), (2), or (3) has exercised all diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the representative's functions and all other circumstances.

(4) When an offence under a tax law is committed by an unincorporated association or body of persons, the offence is treated as having been committed by a person who, at the time the offence was committed, was—

- (a) involved in the management of the unincorporated association or body of persons; or
- (b) acting or purporting to act in that capacity.

65. Tax officer may appear on behalf of Commissioner.

(1) Notwithstanding anything in any written law, a tax officer duly authorised in writing by the Commissioner may appear in any court on behalf of the Commissioner in any civil proceedings in which the Commissioner is a party.

(2) Notwithstanding anything in any written law, a tax officer duly authorised in writing by the Commissioner may conduct any prosecution for an offence under this Act and for that purpose, the officer has all the powers of a public prosecutor appointed under section 42 of the Magistrates Courts' Act subject to the powers of Director of Public Prosecutions under article 120 of the Constitution.

66. Compounding of offences.

(1) If a person has committed an offence under a tax law, other than under section 63, the Commissioner may, at any time prior to the commencement of court proceedings, enter into an agreement with the offender to compound the offence if the offender agrees to pay to the Commissioner—

- (a) any unpaid tax; and
- (b) an amount not exceeding the maximum fine imposed by the tax law for the offence.

(2) The Commissioner may compound an offence under this section only if the offender admits, in writing, to committing the offence and requests the Commissioner to enter into a compounding agreement in relation to the offence.

(3) If the Commissioner compounds an offence under this section, the compounding agreement in relation to the offence—

- (a) shall specify the name of the offender, the offence committed, the sum of money to be paid, and the date for payment;

- (b) shall have a copy of the written admission referred to in subsection (2) attached;
- (c) shall be served on the offender;
- (d) is not subject to any appeal;
- (e) may be enforced in the same manner as a decree of any court for the payment of the amount stated in the order; and
- (f) on production to any court, is treated as proof of the conviction of the offender for the offence specified.

(4) Where the Commissioner compounds an offence under this section, the offender is not be liable for prosecution or penal tax in respect of the same act or omission that was the subject of the compounded offence.

67. Tax charged to be paid despite prosecution.

The amount of any tax due and payable under a tax law by a taxpayer is not abated by reason only of the conviction or punishment of the taxpayer for an offence under any tax law, or for the compounding of such offence under section 66.

PART XVI—MISCELLANEOUS

68. Validity of tax decision.

The validity of a tax decision, a notice of a tax decision, or any other document purporting to be made or executed under a tax law is not—

- (a) affected by reason that any of the provisions of the tax law under which it is made have not been complied with;
- (b) quashed or deemed to be void or voidable for want of form;
or
- (c) affected by reason of any mistake, defect, omission or commission in it.

69. Rectification of a mistake.

Where the Commissioner is satisfied that an order or decision made, or a document or notice issued contains an error which is apparent from the record and that the error does not involve a dispute as to the interpretation of the law or facts of the case, the Commissioner may, for the purpose of rectifying the error, amend the order, decision, document or notice at any time before the expiry of three years from the date of making or issuing the order, decision, document or notice.

70. Forms, notices, and authentication of documents.

(1) Subject to section 47, a form, notice, tax return, statement, table, or any other document required or published by the Commissioner for the purposes of a tax law shall be in the form determined by the Commissioner.

(2) The Commissioner shall make any document referred to in subsection (1) available to the public at the offices of the Authority and at other locations, or by mail or other means, determined by the Commissioner.

(3) A notice or other document issued, served, or given by the Commissioner under a tax law is sufficiently authenticated if the name or title of the Commissioner, or an authorised tax officer, is printed, stamped, or written on the document.

71. Approved or prescribed form.

(1) A tax return, notice, or other document required to be furnished or lodged under a tax law is in the approved or prescribed form if—

- (a) it is in the form prescribed by the Commissioner for that type of tax return, notice, or document;
- (b) it contains the information, including any attached documents required; and
- (c) is signed as required by the form.

(2) The Commissioner shall publish the prescribed forms in the gazette and a news paper with wide circulation.

72. Manner of furnishing documents or service of notices.

(1) Except as provided in section 72, a tax return, application, notice, or other document required to be furnished by a taxpayer under a tax law shall be furnished by—

- (a) personally delivering the document to an office of the Authority; or
- (b) registered post to an office of the Authority,

and is treated as received by the Commissioner when acknowledged by stamping or other prescribed method, electronic or otherwise.

(2) Except as otherwise provided in a tax law, a notice or other document required to be served by the Commissioner on a person for the purposes of a tax law is treated as sufficiently served on the person if—

- (a) personally served on the person;
- (b) left at the person's registered office, place of business, or last known address as stated in any communication with the Commissioner;
- (c) sent by registered post to the person's registered office, place of business, or last known address as stated in any communication with the Commissioner; or
- (d) an electronic data message is transmitted to the person's known or registered electronic account.

(3) Where a notice or other document is served by registered post, the notice or document is, in the absence of any proof to the contrary, treated as having been sufficiently served on the fourteenth day after the date of postage and, in proving service, it is sufficient to prove that the envelope containing the notice or other document was properly addressed and was posted.

73. Electronic returns and notices.

(1) The Commissioner may establish and operate a procedure to be known as the electronic notice system, for the electronic furnishing of tax returns or other documents to the Commissioner and the electronic service of notices and other documents by the Commissioner.

(2) For the purposes of subsection (1), the Commissioner may prescribe conditions for—

- (a) the registration of taxpayers to participate in the electronic notice system;
- (b) the issuing and cancellation of authentication codes to registered users;
- (c) the tax returns and other documents that may be transmitted through the electronic notice system, including the format and manner in which they are to be transmitted;
- (d) the correction of errors in or amendments to electronic returns or other documents;
- (e) the use of the electronic notice system, including the procedure applicable if there is a breakdown or interruption in the system;
- (f) the use in any electronic transmission of symbols, codes, abbreviations, or other notations to represent any particulars or information required under a tax law; and

- (g) any other matter for the proper functioning of the electronic notice system.

(2) Where a tax return or other document of a registered user has been transmitted to the Commissioner through the electronic system using the authentication code assigned to a registered user –

- (a) with or without the authority of the registered user; and
- (b) before the registered user applies to the Commissioner for cancellation of the authentication code,

the return or other document is, for the purposes of the tax law under which it has been furnished, presumed to be furnished by the registered user unless the registered user proves the contrary.

(3) A person who furnishes an electronic tax return or other document on behalf of another person must not divulge or disclose the contents of the return or document, or a copy of it, without the prior written consent of the Commissioner.

74. Appeal from the decision of the Committee.

Section 14 of the Tax Appeals Tribunal Act, cap 345 is amended by substituting for sub clause (1) the following—

- (a) a person who is aggrieved by a decision made under a taxing Act by the—
 - (i) Uganda Revenue Authority; or
 - (ii) Committee established under the Tax Procedures Code Act,

may apply to the tribunal for a review of the decision.

75. Regulations.

(1) The Minister may, by statutory instrument, make regulations—

- (a) prescribing fees, or other matters required under this Act; or
- (b) for the better carrying into effect of the provisions and purposes of this Act.

(2) Without prejudice to the general effect of subsection (1), regulations made under that subsection may—

- (a) contain provisions of a saving or transitional nature subsequent to the coming into force of this Act; or
- (b) prescribe in respect of a contravention of the regulations—
 - (i) a penalty not exceeding a fine of one hundred twenty five currency points or imprisonment not exceeding one year or both;
 - (ii) in the case of the second or subsequent offence, a penalty not exceeding a fine of fifty currency points or imprisonment not exceeding two years or both;
 - (iii) in the case of a continuing offence, an additional fine not exceeding five currency points in respect of each day on which the offence continues; and
 - (iv) a requirement that the court must forfeit to the Government anything with which the offence was committed.

76. Amendment of Schedules.

(1) The Minister may by statutory instrument with approval of the Cabinet amend Schedule 1.

(2) The Minister may, by statutory instrument with the approval of Parliament amend Schedule 2 or 3.

77. Repeals.

(1) The following provisions of the Income Tax Act are repealed—

- (a) sections 92, 94-110;
- (b) sections 129 and 131 to 135; and
- (c) sections 137 to 162.

(2) The following provisions of the Value Added Tax Act are repealed—

- (a) Part VIII sections 31, 32 and 33;
- (b) sections 33A to 40;
- (c) sections 46 to 64;
- (d) sections 68 to 70A; and
- (e) sections 79 and 80.

78. Transitional provisions

(1) A prosecution commenced before the commencement of this Act shall continue and be disposed of as if this Act had not come into force.

(2) Where the period for making any application, appeal, or prosecution has expired before the commencement of this Act, nothing in this Act is to be construed as enabling the application, appeal, or prosecution to be made under this Act by reason only of the fact that a longer period is specified in this Act.

(3) A tax liability that arose before the commencement of this Act may be recovered under this Act, but without prejudice to any action already taken for the recovery of the tax.

(4) All forms and documents used under the tax laws specified in Schedule 2 may continue to be used until they are revoked under this Act and all references in those forms and documents to the tax laws under that Schedule are taken to refer to the corresponding provisions in this Act.

SCHEDULE 1

Section 3

CURRENCY POINT

One currency point is equivalent to twenty thousand Shillings.

SCHEDULE 2*Section 2.***TAX LAWS**

For the purposes of this Act, a reference to tax law means—

- (a) this Act;
- (b) the Income Tax Act;
- (c) the Value Added Tax Act;
- (d) the Excise Duty Act;
- (e) Gaming Pool Betting (Control and Taxation) Act;
- (f) any other Act imposing a tax as the Minister, may by statutory instrument declare in accordance with section 76 (2).

SCHEDULE 3

Section 15

Amount of turnover in respect of which audited financial statements are required

Uganda Shillings 500,000,000 and above

Cross References

1. Income Tax Act, Cap 340
2. Tax Appeals Tribunal Act, Cap 345
3. Uganda Revenue Authority Act, Cap 196
4. Value Added Tax Act, Cap 349