



PARLIAMENT OF THE REPUBLIC OF UGANDA

**REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC
DEVELOPMENT ON THE INCOME TAX (AMENDMENT) BILL, 2021**

OFFICE OF THE CLERK TO PARLIAMENT

DECEMBER, 2021

Walter Kwanuka

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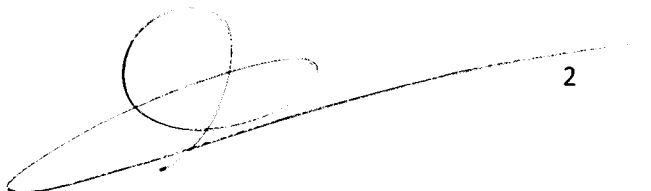
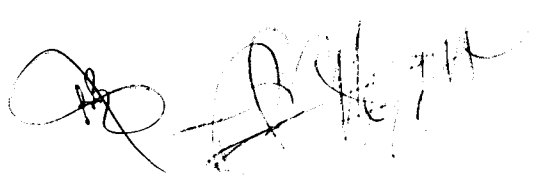
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REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE INCOME TAX (AMENDMENT) ACT, NO.2 OF 2021

1.0 Introduction

The Income Tax (Amendment) Bill, No.2 of 2021 (herein referred to as 'the Bill') was read for the first time on 19th October, 2021 and referred to the Committee on Finance, Planning and Economic Development for consideration, in accordance with Rule 130 of the Rules of Procedure of Parliament No.30 of 2021.

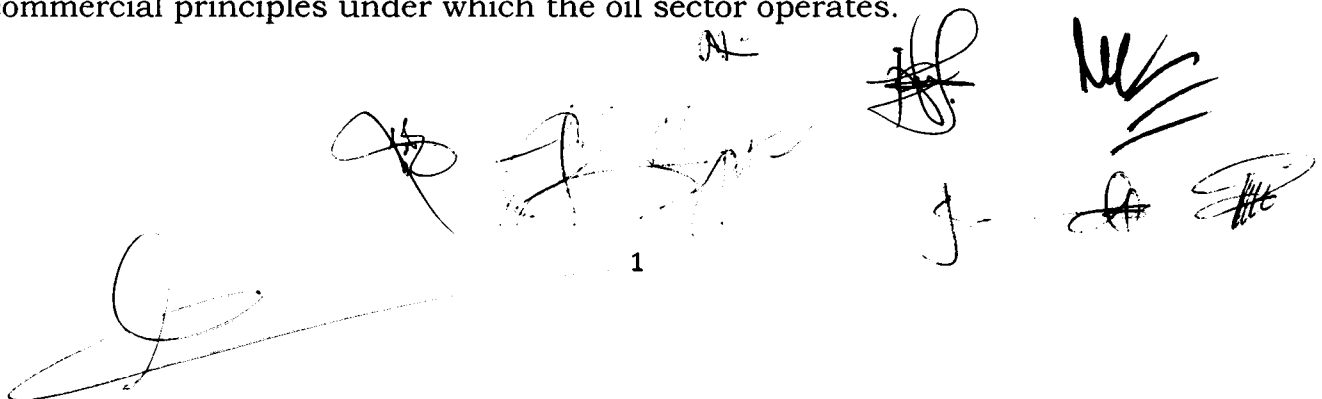
Rt. Hon. Speaker, the Committee considered the Bill through consultations with different stakeholders, hence this report.

2.0 Background

Until 2008, there was no specific taxation regime provision for oil operations in the Income Tax Act Cap 30 (ITA). However, some Production Sharing Agreements (PSA's) contained some tax provisions and obligations.

In 2008, Part IXA containing a specific tax code in relation to petroleum operations was inserted in the Income Tax Act Cap 30 through the Income Tax (Amendment) Act of 2008. The amendment was meant to clarify the ambiguity as well as plug the potential tax loopholes in the taxation of oil operations.

Under the Income Tax (Amendment) Act of 2008, the profit oil share of the company attracts 30% corporate tax. Any distribution of company profits (dividends) after corporate tax will attract 15% withholding tax in the hands of the shareholder. The ITA thus provides for a comprehensive set of income tax rules that accords with the commercial principles under which the oil sector operates.



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2.1 Cost Recovery

In spite of the provision for corporate and windfall tax under the Income Tax Amendment Act, 2008, there were loopholes in the law regarding cost oil and recoverable costs for each financial year. The recoverable costs are pooled together each year and reduced by cost oil received. Cost oil refers to an oil company's entitlement to a share of oil produced as cost recovery under the Production Sharing Agreements. This implies that an oil company gets cost oil from which it deducts recoverable cost when commercial oil production has commenced.

The 2021 amendment of the ITA comes to solidify the amendments that were made in 2017 which provided for deductible costs for the oil production Contract Areas.

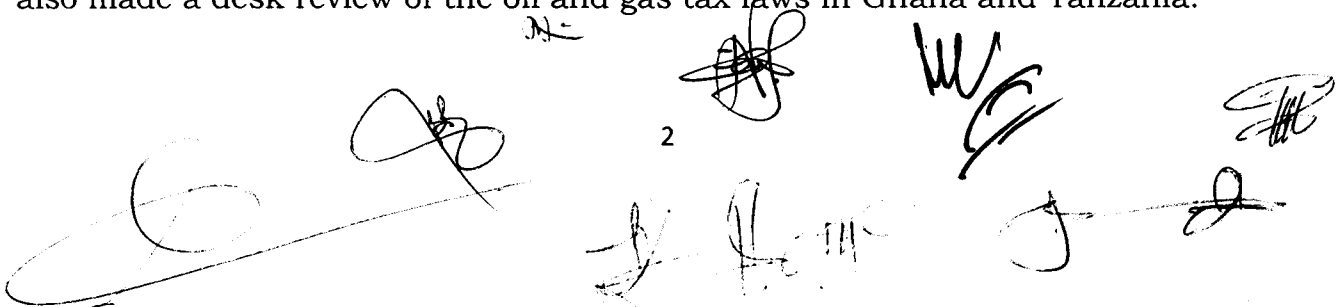
3.0 Policy And Principles Of The Income Tax Amendment Bill No.2 of 2021

The core purpose of the Income Tax (Amendment) Act, 2021 is to amend the Income Tax Act Cap 340, to cap allowable deductions per year to the cost recovery limit for Contract Area 1, 3A and License Area 2 and to introduce a windfall tax for Contract Area 1, Contract area 3A and License Area 2.

This has arisen out of the fact that the current law does not cater for the volatility in oil prices. There is therefore need to impose a windfall tax in the event that the international oil price equals USD75 per barrel or more on any day of the year of income. This is therefore intended to capture the additional revenues arising in the event that the international oil prices rise.

4.0 Methodology

The Committee held consultative meetings and received written submissions from several stakeholders; the Committee reviewed relevant literature. The Committee also made a desk review of the oil and gas tax laws in Ghana and Tanzania.

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4.1 Meetings and written submissions

The Committee held meetings and received written submissions from the following stakeholders:

- i) The Minister of Finance, Planning and Economic Development, the mover of the Bill
- ii) Uganda Revenue Authority
- iii) Petroleum Authority of Uganda (PAU)
- iv) Joseph O. Okuja, a partner with Libra Advocates;
- v) Asmahaney Saad, a Partner with KTA (Formerly Karuhanga Tabaro and Company Advocates)

4.2 Document review

The Committee reviewed and made reference to the following documents;-

- i. The Constitution of the Republic of Uganda, 1995;
- ii. The Income Tax (Amendment) Act 2008
- iii. The Production Sharing Agreements pertaining to oil and gas exploration, development and production to which UNOC is a party;
- iv. The National Oil and Gas Policy;

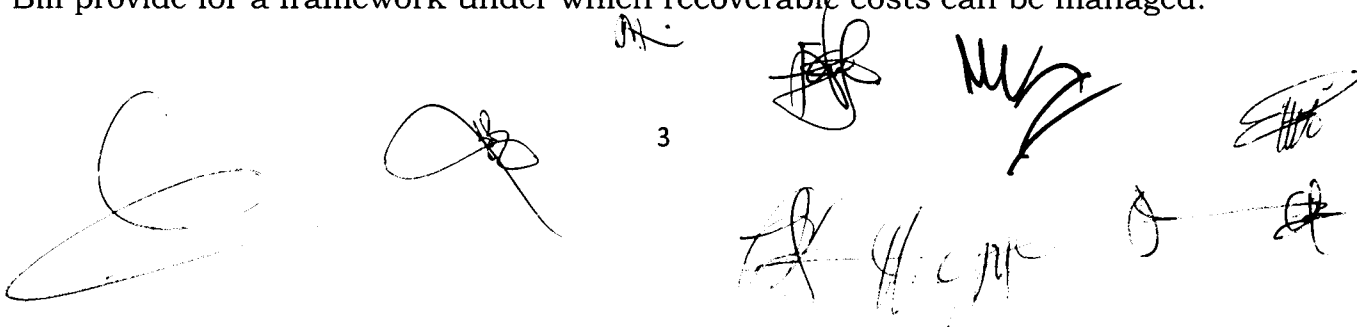
4.0 Specific Observations And Recommendations Of The Committee

The Committee, in its meeting with various stakeholders, arrived at the following specific observations and recommendations regarding the Income Tax Amendment Bill No.2 of 2021.

4.1 Clause 1: Amendment of Section 89GA of the Income Tax Act

The Committee observed that Clause 1 (2a) and (2b) of the Income Tax Amendment Bill provide for a framework under which recoverable costs can be managed.

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The Committee observed that this is a welcome amendment as it limits International Oil Companies from spending on unnecessary items that are likely to supersede the limits set by the law on cost recovery.

Clause 1 of the Bill be passed as it is.

5.2 Clause 2: Insertion of Section 89GDA in the principal Act

The Committee observed that the Bill seeks to introduce a windfall tax for Contract Area 1, Contract Area 3A and Licence Area 2A. The Committee observed that *windfall tax* is a tax levied by Government against industries that have benefited the most from the prevailing economic bonanza or conditions causing those industries to experience above average profits.

The Committee welcomes the Amendment, which shall allow Government to benefit from the volatility of oil prices.

The Committee recommends that Clause 2 of the Income Tax Bill inserting Section 89 GDA into the principal Act be passed.

Conclusion

Rt. Hon. Speaker, the Committee therefore recommends that the Income Tax Amendment Bill No.2 of 2021 be passed without any amendments.

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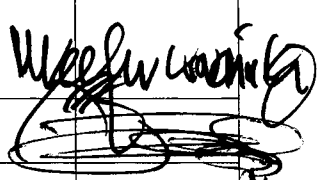

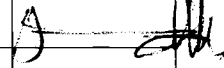
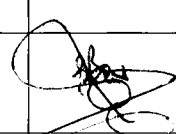

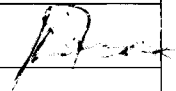
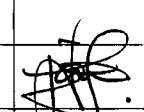
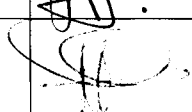

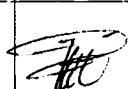
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