TOPIC ONE

1. INTRODUCTION

Income can generally be conceived as any earnings in cash and other forms of value. However, income for income tax purposes is sometimes derived in a different manner considering that not all incomes are necessarily taxable incomes and given the various categories of taxpayers who are often treated differently in respect of taxation of their incomes depending on the legal circumstances surrounding them. The meaning of income for income tax purposes should be determined bearing in mind the different ideals that are often proposed for a fair tax given that the meaning of tax is synonymous and equal to the tax burden.

In Uganda, income tax is administered in accordance with the income tax act chapter 340 of the laws of Uganda. Guidance is also sought from case law where issues of legal interpretation emerge. Case law is a consequence of tax cases that have been resolved over time through tax tribunals and or courts of law.

The income tax act does not define income for purposes of income tax. It only lists various sources of income that fall under taxation. This therefore implies that not all incomes must necessarily be subjected to taxation. It is therefore important to know which sources of income are subject to tax and therefore which ones are not taxable.

Case law has made attempts to define income for income tax purposes but no single definition has been generally accepted. Income is normally considered to be synonymous to 'profits' or 'gains'. However, as you will realize later, the accounting net profit may not necessarily be equal to the taxable income.

2. LEGAL BASIS FOR CHARGING TAX ON INCOMES

Articles 152 (1) of the Uganda Constitution provides that "No tax shall be imposed except under the authority of an Act of Parliament". Therefore, the Uganda Revenue Authority Act. Cap 196 was put in place to provide the administrative framework in which taxes under various Acts are collected. Therefore, Uganda Revenue Authority administers the tax laws (Acts) on behalf of the Ministry of Finance, Planning and Economic Development under the following legislations:

- Customs Tariff Act.
- East African Community Customs Management Act, 2004
- East African Excise Management Act
- Excise Tariff Act
- Income Tax Act
- Stamp Duty Act
- The Finance Acts

- The Gaming and Pool Betting Act
- The Tax Procedures Code Act, 2014
- Traffic and Road Safety Act
- Value Added Tax Act
- All other taxes and non-tax revenue as the Minister responsible for Finance may prescribe.

3. DIFINING KEY TERMS

(a) Income tax is a direct tax imposed under section (Sec) 4 of the ITA on every person who has taxable income for each year of income. It is charged on a person's taxable income at specific rates for a year of income. Taxable income is derived from three main sources of income (employment, business and property). Income Tax may be categorized into:

- Individual Income Tax
- Corporation Tax
- Pay As You Earn (PAYE)
- Withholding Tax (WHT) that is withheld at source.
- Rental Tax

(b) taxable person (taxpayer) for income tax purposes means any person who derives an amount subject to tax under the ITA and includes any person who incurs an assessed loss for a year of income and for the purpose of any provision relating to a return, any person required by the ITA to furnish a return

(c) Year of income is a period of twelve months ending on 30 June, and includes a substituted year of income and a transitional year of income

A normal year of income means the period of twelve months ending on 30th June

A substituted year of income is a twelve-month period other than the 'normal year of income that is, ending on a date other than 30 June. Substituted year of income may be used by a taxpayer where a written application has been made to the commissioner and a written approval has been obtained.

A transitional year of income is the period between the last full year of income prior to the change of the year of income and the date on which the changed year of income commences, that is, the period between a normal year and a substituted year or substituted year and normal year

(d)Gross income (Sec.17) of a person for a year of income is the total amount of business income, employment income and property income, other than exempt income

e) **Chargeable income** (Sec 15) of a person for a year of income is the gross income of the person for the year of income with less total allowable deductions.

Chargeable = gross income – tax allowable deductions

Tax Allowable expenses (total deductions) are expenditures or losses (expenses) that are deductible against gross income of a taxpayer in arriving at chargeable income for a year of income and are comprised of revenue expenditures and capital allowances.

Non-allowable expenses are expenditures or losses (expenses) that are non-deductible against gross income of a taxpayer in arriving at chargeable income. They are mainly those that the ITA prohibits, such as, expenses of a private nature, capital expenditure and others

An assessed loss is the amount of the excess, where for a year of income, the total amount of income included in the gross income of a taxpayer is exceeded by the total amount of deductions allowed to the taxpayer.

4. BASIC CONSIDERATIONS IN DETERMINING A PERSON'S TAX OBLIGATION

A person's tax obligation is determined or dictated by a number of considerations basing on the provisions of the income tax act. These basic considerations include;

- Nature of person
- Residence of a person
- Type or source of income received by a taxable person.

(i) Nature of a person

Taxable person; A taxable person for income tax purposes means any person who derives an amount subject to tax under the Income Tax Act (ITA) and includes any person who incurs an assessed loss for a year of income and for purposes any provision relating to a return, any person required by the ITA to furnish a return.

The term **person** is defined under the income tax act sec 2 to include; an individual; a partnership; a trust; a company; a retirement fund; a government; a political subdivision of government and a listed institution

(ii) Residence of a person

Some of the persons identified above (i.e. individual, partnership, trust, company, and retirement fund) are further categorized into residents and non-residents persons.

The relevance of this categorization is to determine whether a taxpayer is to be taxed on his/her worldwide income or only on income derived from Uganda.

A resident person in this case is charged tax on his/her worldwide income while a non-resident is charged tax on only incomes sourced from Uganda.

The criteria to determine the residence status of a given person is based on sec 9-14 of the income tax act. This can be explained as below;

Resident Individual

An individual is a resident individual for a year of income if that individual;

• has a permanent home in Uganda;

• is present in Uganda;

- for a period of, or periods amounting in aggregate to, 183 days or more in any twelve-month period that commences or ends during the year of income.
- during the year of income and in each of the two preceding years of income for periods averaging more than 122 days in each such year of income; or

2022/23 ; 150 days = non resident

2023/24; 160 days. ; (150+ 160)/2 =155 days resident

• Is an employee or official of the Government of Uganda posted abroad during the year of income

However, an individual who is a resident individual as stated above, for the current year of income", but who was not a resident individual for the preceding year of income is treated as a resident individual in the current year of income only for the period commencing on the day on which the individual was first present in Uganda.

Furthermore, an individual who is a resident individual for the current year of income but who is not a resident individual for the following year of income is treated as a resident individual in the current year of income only for the period ending on the last day on which the individual was present in Uganda.

Resident Company

A company is a resident company for a year of income if it;

• is incorporated or formed under the laws of Uganda;

• has its management and control exercised in Uganda at any time during the year of income; or

• Undertakes the majority of its operations in Uganda during the year of income.

Resident Trust

A trust is a resident trust for a year of income if;

• The trust was established in Uganda;
• At any time during the year of income, a trustee of the trust was a resident person; or
• The trust has its management and control exercised in Uganda at any time during the year of income.

Resident Partnership

A partnership is a resident partnership for a year of income if, at any time during that year, a partner in the partnership was a resident person.

Resident Retirement Fund

A retirement fund is a resident retirement fund for a year of income if it

• is organized under the laws of Uganda;
• is operated for the principal purpose of providing retirement benefits to resident individuals; or
• Has its management and control exercised in Uganda at any time during the year of income.

Non-Resident Person

A person is a non-resident person for a year of income if the person is not a resident person for that year. An individual is a non-resident person for that part of the year of income in which the individual is not a resident individual.

A short-term resident

This means a resident individual other than a citizen of Uganda, present in Uganda for a period or periods not exceeding two years. Foreign source income of a short-term resident of Uganda is exempt from income tax.

(iii) Types of income received by a taxable person

Business income (Sec 18) is any income derived by a person from carrying on a business and also includes a gain on disposal of a business asset (capital gain or balancing charge) or debt cancellation, proceeds from the disposal of trading stock and interest income.

Employment income (Sec 19) is income earned by an employee from any employment and includes wages, salary, leave pay, payment in lieu of leave, overtime pay, fees, commission, gratuity, bonus, or the amount of any traveling, entertainment, utilities, cost of living, housing, medical, or other allowance and the value of benefits granted.

Property income (Sec 20) includes any dividends, interest, annuity, natural resource payments, rents, royalties and any other payment derived by a person from the provision, use, or exploitation of property. It also includes the value of any gifts derived by a person in connection with the provision use or exploitation of property, the total amount of any contribution made to a retirement fund during a year of income by a tax-exempt employer and any other income derived by a person during winnings derived from sports betting and pool betting (effective 1st July 2014) but does not include amount which is business, employment, or exempt income.

5. **EXEMPT INCOME**

Exempt income refers to amounts that are not subject to (exempt from) income tax under Sec 21 of the ITA. Exempt income includes the following:

1) Income of a listed institution — First Schedule to ITA.
2) The income of any organisation or person entitled to privileges under the Diplomatic Privileges Act.
3) The official employment income derived by a person in the public service of the government of a foreign country if the person is either a non-resident person or resident solely by reason of performing such service; the income is payable from the public funds of that country and the income is subject to tax in that country.
4) Any allowance payable outside Uganda to a person working in Uganda foreign mission.
5) The income of any local authority.
6) The income of an exempt organisation other than; property income, except rent received by the exempt organisation in respect of immovable property and that rent is used by the lessor exclusively for the activities of the organisation specified in paragraph (bb) (I) of the definition of exempt organisation and business income that is not related to the function constituting the basis for the organization's existence.
7) An education grant which the commissioner is satisfied has been made Bonafide to enable or assist the recipient to study at a recognized educational or research institution.
8) Any amount derived by way of alimony or allowance under any judicial order or written agreement of separation.
9) The value of any property acquired by gift, bequest, devise, or inheritance that is not included in business, employment, or property income.
10) Any capital gain that is not included in business income except on shares in private companies and gains on sale of commercial buildings (effective 1 July 2014).
11) Employment income derived by an individual to the extent provided for in a technical assistance agreement where: the individual is a non-resident or resident solely for the purposes of performing duties under the agreement and the Minister has concurred in writing with the tax provisions of the agreement.
12) Foreign-source income derived by a short-term resident of Uganda, a person employed under technical services agreement or employed by a foreign country and meeting the requirements of exemption and a member of the immediate family of a person referred above in this paragraph.
13) Pension.

14) Lump sum payment made by a resident retirement fund to a member of the fund or his/her dependent.
15) Official employment income of a person employed in the armed forces of Uganda; Uganda Peoples' Defence Forces, Uganda Police Force, External Security Organisation, Internal Security Organisation & Uganda Prisons Service, other than a person employed in a civil capacity.
16) The proceeds of a life insurance policy paid by a person carrying in a life insurance business
17) The employment income of a person employed as a member of parliament except salary (effective 1/july/2016).
18) The income of the Government of Uganda and the government of any other country.
19) The income of the Bank of Uganda.
20) Emoluments payable to employees of East African Development Bank with effect from 1 July 1997
21) Income of a collective investment scheme to the extent of which the income is distributed to participants in the collective investment scheme.
22) The income of an investor compensation fund established under section 81 of the Capital Markets Act.
23) The income of the deposit protection fund established under section 108 of the Financial Institutions Act, 2016
24) The income of a person derived from the operation of domestic and international traffic or the leasing of aircraft.
25) The income of a person derived from the exportation of finished consumer end capital goods for a period of ten years where the person has been issued with a certificate of exemption prescribed by the Commissioner.
26) The income of a person for a year of income derived from agro-processing where a person has been issued with a certificate of exemption for that year of income by the commissioner.
27) An award received by a sports person as a reward for winning or participating in a sports competition
28) The income of Bujagali Hydro Power Project up to 30th June, *2023.*
29) Income o f a Savings and Credit Cooperative Society up to 30th June 2027"
30) The income derived by a person from letting or leasing facilities whose investment capital is at least fifty million United States Dollars in the case of a foreigner or ten million United States Dollars in the case of a citizen in an industrial park or free zone for a period of ten years from the date of commencement of construction or in the case of an existing developer, from the date on which the existing developer makes an additional investment equivalent to fifty million United States Dollars in the case of a foreigner or ten million United States Dollars in the case of a citizen;"
31) Interest paid on infrastructure bond. infrastructure bond" means all listed bonds, notes or other similar securities used to raise funds for public infrastructure and other social services, if those bonds have a maturity period of at least ten years"
32) The incomes of the operator in an industrial park or free zone or the income of any other person carrying on business outside the industrial park or free zone and the investment capital of that operator or that other person, over a period of at least 10 years from the date of commencement of business, is at least ten million United States Dollars, in the case of a foreigner or three hundred

thousand USD, in the case of a citizen or one hundred fifty thousand USD, for a citizen whose investment is placed upcountry, or in the case of the existing operator or other person carrying on business outside the industrial park or free zone, from the date on which the operator makes and additional investment equivalent to ten million USD in the case of a foreigner, or three hundred thousand USD in the case of a citizen or one hundred fifty thousand USD, for a citizen whose investment is placed upcountry who, subject to availability, uses at least seventy percent locally sourced raw materials and employs at least 70% of its employees being citizens earning an aggregate wage of at least seventy percent of the total wage bill and

- Processes agricultural goods;
- Manufactures or assembles medical appliances, medical sundries or pharmaceuticals, building materials, automobile, household applliances;
- Manufactures furniture, pulp, paper, printing and publishing of instrumental materials;
- Establishes or operates vocational or technical institutes;
- Ccarries out business in logistics and ware housing, information technology or commercial farming; or
- Mmanufactures tyres, footwear, mattress or toothpaste
- Manufactures chemicals for agricultural use, industrial use, textiles, glassware, leather products, industrial machinery, electrical equipment, sanitary pads and for diapers.

Listed institutions.

- African Development Bank
- African Development Fund
- Aga Khan Foundation
- African Trade Insurancy agency
- East African Development Bank
- Eastern and Southern African Trade and Development Bank
- European Development Fund
- European Investment Bank
- European Union
- Food and Agriculture Organisation
- International Bank for Reconstruction and Development
- International Civil Aviation Organisation
International Development Association
- International Finance Corporation
- International Labour Organisation
- International Monetary Fund
- International Telecommunications Union
- Islamic Development Bank
- United Nations related agencies and specialised agencies“
- Austrian Development Agency (ADA)
- Belgian Technical Cooperation (BTC)
- Danish International Development Agency (DANIDA)
- *Foreign, Commonwealth and Development Office (FCDO)*

• Deutsche Gesells chaft fur Internationale Zusammenarbeit (GIZ)
• French Development Agency (AFD)
• Icelandic International Development Agency (ICEADA)
• Japan International Cooperation Agency (JICA)
• Korea International Cooperation Agency (KOICA)
• Kreditanstalt fur Wiederaufbau (KFW)
• Norwegian Agency for Development Cooperation (NORAD)
• Swedish International Development Agency (SIDA)"
• *International Development Law Organisation (IDLO)*

Exempt organisation means any company, institution, or irrevocable trust:

i) Which is:

- An amateur sporting association;
- A religious, charitable, educational institution or research institution whose object is not for profit; or
- A trade union, employees' association, an association of employers registered under any law of Uganda or an association established for the purpose of promoting farming, mining, tourism, manufacturing, or commerce and industry in Uganda.
- A body established by law for the purpose of regulating the conduct of professionals;" effective 1 July 2017

ii) which has been issued with a written ruling by the Commissioner currently in force stating that it is an exempt organisation; and

iii) None of the income or assets of which confers, or may confer, a private benefit on any person; and

iv) or the National Medical Stores

6. TAX ACCOUNTING PRINCIPLES section 39-48

year of income, accounting methods, trading stock, long-term contracts, debt obligations, foreign currency gains/losses, claim of right and prepayments

Inventory valuation

The cost of inventory disposed of during the year is determined by adding to the opening value of inventory, the cost of inventory purchased during the year and subtracting the closing inventory. The closing inventory is valued at the lower of cost or market value as the end of the year of income.

(ii) Prepaid and accrued expense

Where a deduction is allowed for expenditure incurred on a service or other benefit which extends to the following year of income, A deduction is allowed proportionately over the year of income to which the service or other benefits relates.

(iii) Construction contract revenue recognition

The income and expenditure relating to long term contracts are taken into account on te basis of percentage of the contract completed during the year.

(iv) Advance payment received

Advance payment received relate amount received for services of other benefits not yet to be offered or rendered, implying that such an income is not yet earned and thus not taxable during that year of income.

(v) Foreign exchange gain or loss

Foreign currency debt gains are included in the gross income and foreign currency loss is allowable deduction during the year of income.

Case Study: Kato Holdings Limited

Kato Holdings Limited (KHL) is a Ugandan resident company incorporated in 2018. The company operates several businesses including a supermarket chain in Kampala, a construction division undertaking government infrastructure projects, rental commercial property in Ntinda and Kololo, and an import business sourcing electronics from China.

The company prepares financial statements using the accrual accounting method. Its accounting year runs from 1 January to 31 December. However, the Ugandan year of income for tax purposes runs from 1 July to 30 June. In July 2023 the company applied to the Commissioner General of the Uganda Revenue Authority (URA) for permission to use its accounting year (January–December) as a substituted year of income.

Events during the year ended 31 December 2024

1. Supermarket Operations

Particulars	**UGX**
Opening stock	350,000,000
Purchases	1,200,000,000
Closing stock	420,000,000
Sales revenue	2,400,000,000

URA later discovered that some closing stock valued at UGX 70,000,000 had expired and could only be sold at UGX 30,000,000.

2. On 1 January 2024 the company paid UGX 120,000,000 for a three-year warehouse lease. The accountant deducted the entire amount as an expense in 2024.

3. KHL obtained a government contract to construct a district hospital in Hoima.

Particulars	**UGX**
Contract price	12 billion
Estimated total cost	9 billion
Costs incurred in the first year	3 billion

The company has not recognised any revenue yet.

4. The company received an advance payment of UGX 800 million for a road construction project. The project was later cancelled, and the money refunded the following year. The accountant did not include the advance as income.

5. KHL borrowed USD 500,000 when the exchange rate was UGX 3,700. The loan was later repaid when the exchange rate was UGX 4,100.

6. The company filed its income tax return three months after the due date. URA subsequently issued a notice requesting additional information.

7. URA officers accessed the company premises, inspected records and seized some invoices. The Finance Director argued that URA had no authority to access company computers.

Required

a) Explain the constitutional and statutory basis for imposing income tax in Uganda and identify the elements required for income tax liability to arise. **(5 Marks)**

b) Advice on the tax treatment of the following:
   (i) Inventory valuation
   (ii) Prepaid rent
   (iii) Construction contract revenue recognition
   (iv) Advance payment received
   (v) Foreign exchange gain or loss

(15 Marks)

Question Two

(a) Define the following terms as used for income tax purposes

(i) Gross income **(2 marks)**
(ii) Year of income **(2 marks)**
(iii) Person **(2 marks)**
(iv) Taxpayer **(1 marks)**
(v) Chargeable income **(2 marks)**
(vi) Basic considerations when determining a person’s tax liability. **(6 marks)**