

TOPIC TWO

INCOME TAX ADMINISTRATION PROCEDURES

1. TAXPAYER OBLIGATIONS AND RIGHTS

1.1 The rights of taxpayers

- a)** Right to fair treatment: Taxpayers have a right to be treated fairly in all their dealings with URA. Tax laws and procedures shall be applied consistently to all taxpayers.
- b)** Right to finality: Taxpayers have the right to know the maximum amount of time required to challenge URA's tax related decisions, as well as the maximum amount of time URA must audit a particular taxpayer. Taxpayers have the right to know when URA has finalized an audit.
- c)** Right to privacy: Taxpayers have the right to expect that any URA inquiries, examinations, investigations, or enforcement actions will comply with the law and be no more intrusive than necessary and will respect all due process rights, including search and seizure protections.
- d)** Right to confidentiality: Taxpayers have the right to expect that any information they provide to URA will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action to be taken against URA employees who wrongfully use or disclose taxpayer information.
- e)** Right to be informed. Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the law and URA procedures in all tax forms, instructions, publication, notices, and correspondences. They have the right to be informed of the URA decisions about their tax accounts and to receive clear explanations of the outcomes.
- f)** Right to timely, quality, and professional services: Taxpayers have the right to receive prompt, courteous and professional assistance in their dealing with URA.
- g)** Right to representation: Taxpayers reserves the right to appoint and retain an authorized such as a Tax Agent or Clearing Agent to represent them in their dealings with URA.
- h)** Right to challenge or object: Taxpayers have the right to raise objections and provide additional documentation in response to tax decisions and to expect that URA will consider their objections promptly and fairly and to receive a response from URA within the period stipulated in the Law.
- i)** Right to Appeal: Taxpayers have a right of appeal to an independent tax tribunal or courts of law in accordance with the law on any matter.

1.2 Obligations of the Taxpayer

- a)** Registration: All eligible taxpayers should voluntarily register with URA. The registration process enables tax payers to obtain a Taxpayer Identification Number (TIN). Any person engaging in any business generating income in Uganda is required to have a TIN, which an identifying number used for tax purposes as the taxpayer's personal account with URA. Read more about E-registration.

- b) Refund Claims: Taxpayers have the obligation to submit their tax refund claims using prescribed forms and attach required evidence to support the claim.
- c) Keeping of proper records: The Taxpayer is obliged to keep accurate records of accounts, documents and any other relevant information as prescribed under the law
- d) File tax returns: Taxpayers are obliged to file accurate and timely tax returns, customs entries or any information relating to their tax obligations
- e) Payment of Taxes: Taxpayers are obliged to pay tax in accordance with the law.
- f) Avoid Tax Evasion: Taxpayers should not indulge in any form of tax evasion and/or other illegal practices that cause revenue leakages.
- g) Compliance: Taxpayers must comply with their tax obligations as stipulated by the relevant laws Taxpayers must comply with all processes and procedures as stipulated by law and administratively to facilitate revenue collection
- h) Update personal information: Taxpayers are required to regularly update personal information and payment details with URA.

2. RETURNS AND ASSESSMENTS

2.1 Returns

A tax return is a declaration in a form prescribed by the Commissioner, on which a taxpayer reports his or her income for the tax period as a way of self-assessment for taxation purposes. A taxpayer registered with URA for any tax type other than the Pay as you earn (PAYE) has an obligation to submit a return for the tax period defined by the respective tax law.

(a) Persons required to furnish a return of income

- Every taxpayer who has chargeable income, other than a resident individual whose chargeable income is below the threshold.
- In the case of a resident company, a return should be filed for all global income. The threshold does not apply in this case.
- A partnership is also required to file a return of income in its own right as if it pays tax.

(b) Situations where a person may not be required to file a return

- A non-resident person whose income is derived from sources in Uganda and is subjected to withholding tax as a final tax. Such income comprises international payments or payments to non-resident public entertainers, sports persons, contractors or professionals.
- A resident individual whose gross income consists exclusively of employment income derived from a single employer and from which tax has been withheld under the PAYE system.
- A resident individual whose total chargeable income for the year of income is below the threshold.

Types of returns

1. Income tax returns

There are two forms filled under that income tax,

(a) Provisional Returns

A **provisional return** is a form prescribed by the Commissioner on which estimated tax (provisional tax) is declared.

Estimated tax is payable by a person who derives or expects to derive any income during the year of income, other than exempt income, and which will not be subjected to withholding tax at the source as a final tax.

A **provisional tax** is an estimated tax for the year of income payable in advance before the yearend. Provisional taxpayers include all persons who are required to file final return of income and those required to file a return of gross turnover (presumptive taxpayers).

The due date for filing /submitting/payment of provisional returns

Individual Taxpayers: Estimated tax for an individual is payable in **four** installments, on or before the last day of the third, sixth, ninth and twelfth month. A provisional taxpayer is required to file a provisional return.

Taxpayers other than Individuals: Estimated tax by a company is paid in two installments, on or before the last day of the sixth and twelfth months of the year of income.

Failure to File Provisional Returns

The Commissioner has powers to estimate a taxpayer's gross turnover or chargeable income for a year of income for which the taxpayer has failed to file a provisional return. The estimate is based on the Commissioner's best of judgment

Note: It should be remembered that a return of income by individuals and non-individuals is a self-assessment return i.e. the return filed is deemed to be an assessment of chargeable income issued by the Commissioner on the date the return is filed.

If a liable person fails to furnish a return as required, the Commissioner may, in writing, appoint a person to prepare and file the return. This return will be treated as if the person who should have filed it made it.

b) Final Return

This is the return of income for both individuals and non-individuals including rental income tax. It should be filed within six months after the taxpayer's year of income.

The due date for filing a final return

It must be filed not later than six months after the end of that year of income. For example, a taxpayer who has been permitted to use 31st December as the end of his accounting year must submit the income tax return by 30th June following the end of his accounting year.

Payment of Final tax

Where the taxpayer files the final income tax return himself, payment of any unpaid tax relating to the assessment for the year of income is due on or before the date when the income tax return is due for filing (should be filed within six months after the taxpayer's year of income).

Note: Those with an annual turnover above 500 million shillings must file their income tax returns with audited financial statements prepared by an accountant registered by the Institute of Certified Public Accountant of Uganda.

2. PAYE: All PAYE registered taxpayers are required to submit Pay As You Earn (PAYE) tax returns withheld off the employees' remunerations for each month by the 15th day of the following month.
3. Value Added Tax returns: All VAT registered taxpayers are required to submit Value Added Tax returns (VAT) for each month by the 15th day of the following month.
4. Excise duty: All taxpayers registered for Excise duty are required to file Excise duty returns for each month by the 15th day of the following month.
5. Withholding tax returns which show the withholding tax held & remitted in situations where the tax payer might have been designated as a withholding agent.
6. Rental tax returns; which might arise in situations of earning rental income.
7. Gaming tax: All tax payers registered under Gaming and Pool Betting are required to submit their weekly returns by Wednesday of the following week.

Any Other return: In case of any return required to be submitted under the tax law, it must be done within the specified period in the notice, for example, The law provides for a separate quarterly return (within 15 days after the end of the three consecutive calendar months) for non-resident suppliers of services deemed to be supplied in Uganda when made to non-taxable persons. Specifically, a taxable person who is providing services to a non-taxable person in Uganda and is engaged in providing services in connection to.

- Immovable property in Uganda;
- Radio or television broadcasting services received at an address in Uganda;
- Electronic Services delivered to a person in Uganda;
- Transfer, assignment, or grant of a right to use a copyright, patent, trademark, or similar right in Uganda;
- Telecommunication services other than those by a supplier of telecommunication services or services to a person who is roaming while temporarily in Uganda

In case of Unsatisfactory Return of Income

The Commissioner may require any person whose return is not satisfactory to furnish further information. This normally happens where the return is incomplete or incorrect or lacks supporting information.

Late Filing of a Return

A return is said to be late if it is filed after the due date for filing. A person who fails to file a return by the due date is penalized. The penalty is the greater of 2% of tax assessed or ten currency points (Shs 200,000) per month for the period the return has been outstanding.

Extension of time to file a Return of Income

A taxpayer may in writing apply to the Commissioner for an extension of time to file a return.

- This application has to be made by the due date of filing.
- The taxpayer must give good reasons to justify the extension, for example sickness, absence from Uganda or such other reasonable cause for the extension.

The extension if granted will not exceed 90 days and does not alter the due date for payment of the tax due. Interest will therefore accrue on any outstanding tax. If the taxpayer is dissatisfied with the Commissioner's decision on the extension, he may challenge it under objections and appeal procedure.

Advance returns

The commissioner may by notice in writing at any time during the tax period require a tax payer to file a return for the stated tax period by the date specified in the notice (the date may be before the end of the tax period) if there is proof that;

- A taxpayer has died,
- A taxpayer has become bankrupt or gone into liquidation,
- A taxpayer is about to leave Uganda permanently or any other reason the Commissioner considers appropriate.

Return Amendments

A taxpayer may amend the tax return on condition the return is not under investigation and amendment is done within 3 years from the date on which the original return was lodged by the taxpayer.

Procedure for filing Return

Returns can be filed online when you visit the URA web portal ([https:// www. ura.go.ug](https://www.ura.go.ug)), click on download online forms to access the respective return forms, Fill the form to generate an upload file, log into your account to upload and submit. If the upload is successful, the taxpayer will receive an auto generated e-acknowledgement receipt which is evidence of submission.

2.2 ASSESSMENTS

An assessment is a tax form showing the estimated taxable income generated and the tax payable on it including any penalty. Assessment includes, ascertaining the chargeable income, the tax payable, penal tax payable or any decision of the commissioner which is subject to objection and appeal

(d) Forms of assessment that can be done

Self-assessment: Under this form of assessment, the taxpayer is expected to submit a tax return with the amount of tax payable, creditable or a nil tax charge determined by the taxpayer. One who has submitted a self-assessment return is treated as having assessed the amount of tax payable or a nil tax charge for that period as set out in the return. Self-assessment returns include, a return of income, a return of rental income, a return required under VAT act, a return required under excise duty and any return specified as a self-assessment return under a tax law. Self-assessment is the priority form of assessment expected of every taxpayer. This requires the taxpayer's knowledge of tax principles in order to do the assessment accurately.

Default assessment: a default assessment arises in situations where the taxpayer fails to furnish a self-assessment return for a given tax period. It is an administered approach to tax assessment given that the tax authorities administer this form of assessment and serve the taxpayer with a notice of assessment. The basic information to include in the notice of assessment is;

- The amount of tax assessed, assessed loss, or excess input tax credit as the case may be.
- The amount of penal tax and interest if any, payable in respect of the amount assessed.
- The tax period to which the assessment relates.
- The due date for payment of the tax, penal tax and interest.
- The manner of objecting to the assessment.

It should be noted that, when a notice of an assessment is served under situations of default assessment, it does not change the due date for payment of the tax payable under the assessment. Tax, penal tax and interest remain payable based on the original due date.

Advance assessment: this is a form of assessment that may be done by the taxpayer or tax authorities to assess the tax affairs for an on-going tax period, before the due date of furnishing a return. This assessment arises in situations where a taxpayer has died, becomes bankrupt, is wound up, goes into liquidation, is about to leave Uganda permanently or where the tax authorities consider it appropriate. It may be self-assessed by the taxpayer/representative or an administered assessment by the tax authorities. When the situations enlisted above arise, the taxpayer is expected to do a self-assessment and furnish a return to the tax authorities, but if the return is not furnished, the tax officer may make an assessment for the tax period (administer an assessment).

Additional assessment: this is a form of assessment prepared to amend an earlier assessment done on taxpayer. Such an assessment may be administratively done by tax officers or it can be a self-assessment by the taxpayer. The tax officers may administer an additional assessment seeking to amend an assessment made for a tax period to ensure that a taxpayer has been assessed the correct amount of an assessed loss, excess input tax credit or the correct amount of tax payable in respect of the period.

3. OBJECTIONS AND APPEALS

a) Objection

An objection is a communication in writing from a taxpayer to the Commissioner (URA) expressing dissatisfaction with an assessment raised to the taxpayer.

A valid objection shall:

- be in writing (not oral);
- precisely state the reasons/grounds for the objection; and
- be made within a specified period as provided for in the taxing statutes

b) Appeal

An appeal arises where a taxpayer is dissatisfied with the way the commissioner has handled an objection (objection decision)

Objection and appeals procedures

Objection to a Tax Decision (Sec 26)

- i. 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.
- ii. 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
- iii. 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.
- iv. 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.
- v. 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.
- vi. The Commissioner shall serve notice of an objection decision on the person objecting within ninety days from the date of receipt of the objection.
- vii. Where an objection decision has not been served within time, 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.
- viii. Where a person makes an election the person is treated as having been served with notice of the objection decision at the date the person's election is lodged with the commissioner.
- ix. The time limit for making an objection is waived where a review of a taxpayer's records is necessary for settlement of the objection and the taxpayer is notified.
- x. Where the Commissioner reviews the taxpayer records, the Commissioner shall within the 90 days notify the taxpayer of the review.

Review of an objection decision A person dissatisfied with an objection decision may, within 30 days after being served with a notice of the objection decision; a) May apply to the Commissioner to resolve the dispute using alternative dispute resolution procedures that may be prescribed by the Minister through regulations. This may present other avenues for taxpayers who would like to review tax decisions issued by URA without necessarily lodging an appeal to the Tax Appeals Tribunal.

Appeals

Tax Appeals Tribunal (TAT) A person dissatisfied with the decision of the Commissioner may appeal to the Tax Appeals Tribunal. A person intending to lodge an appeal against the decision of the Commissioner shall do so within 45 days after being served with the decision and shall serve a copy of the appeal on the Commissioner.

High court: 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.

Court of Appeal

- A person dissatisfied with a decision of the High Court, arising from appeals to the TAT, may, within 30 days after being served with a notice of the decision or within further time as the Court of Appeal may allow, lodge an application with the Court of Appeal for review of the decision. This appeal will be on questions of law only.
- The Court of appeal shall inquire and determine the appeal expeditiously and shall declare its findings not later than 60 days from the date of filing the appeal.

Supreme Court

- An appeal to the Supreme Court may be lodged with a certificate of the court of appeal that the matter raises questions of law of great public importance or if the Supreme Court in its overall duty to see that justice is done, considers that the appeal should be heard.
- The Supreme Court shall inquire and determine the appeal expeditiously and shall declare its findings not later than 30 days from the date of filing the appeal.”
- Where the decision maker is required to refund an amount of tax to a person as a result of a decision of a reviewing body, the tax shall be repaid with interest at the rate specified in the relevant law on the amount of the refund for the period commencing from the date the person paid the tax refunded and ending on the last day of the month in which the refund is made. Reviewing body means the Tribunal, the High Court, the Court of Appeal and the Supreme Court.

Burden of proof (Sec 28)

In any proceeding under the TPC Act for tax assessment, the burden is on the taxpayer to prove that the assessment is incorrect; or for any 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.

4. OFFENCES AND PENALTIES

Introduction

Penalties (penal taxes) are imposed by URA on taxpayers that breach sections of different taxing acts that do not constitute offences or where there is an option of imposing penal tax as compared

to prosecution. Penal tax is the most commonly applicable in Uganda as compared to fines since they are easily imposed as administrative measures compared to lengthy process of prosecution. Fines are only imposed by courts of law on people that have been prosecuted and found to have committed tax offences (on conviction). Courts may impose fines or imprisonment, or both, where there is compounding of offences by the Commissioner of URA, the offender cannot be prosecuted. Students need to pay particular attention not to confuse penal tax with fines, as it is quite often the case.

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.

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 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.

Penal tax for failing to maintain proper records (Sec 49).

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.

Penal tax for failure to provide information (sec 49A).

A person who, upon request by the Commissioner, fails to provide records in respect of transfer pricing within 30 days after the request, is liable to a penal tax equivalent to fifty million shillings and a penal tax of twenty million shillings for failure to provide any other information.

Penal tax for making false or misleading statements (sec 50).

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.

Penal tax for understating provisional tax estimates (Sec 51).

- (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.

Interest on unpaid tax (Sec 136) – ITA

Interest at a rate equal to two (2%) per month on the amount unpaid calculated from the date on which the payment was due until the date on which payment is made, is imposed on a person who fails to pay:

- any tax, including provisional tax;
- any penal tax; or
- any tax withheld or required to be withheld by the person from a payment to another person.

The interest charged above is **simple interest**

The above interest if paid shall be refunded to the extent that the tax to which the interest relates is found not to have been due and payable.

Where good cause is shown, in writing, by the person liable for payment of interest, the Minister may, on the advice of the commissioner, remit, in whole or in part, any interest charged.

Interest charged in respect of a withholding agent's failure to pay tax that was withheld or supposed to be withheld is borne personally by the withholding agent and no part of it is recoverable from the person who received the payment from which tax was or should have been withheld.

The above interest is treated as if it were tax (principal tax) due when it comes to collection and recovery procedures.