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PRIVATE SECTOR POSITION PAPER ON THE FY 2024/25 TAX BILLS AND THEIR IMPACT TO THE PRIVATE SECTOR

SUBMITTED TO THE

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

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1.0 Introduction

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

This paper is composed of proposals which the private sector believes, once adopted, and implemented, will make a meaningful contribution towards stimulating the economy to create more work opportunities for young people in Uganda. Due to limitation of time, we have not been able to widely consult from the private sector across the 12 sectors to generate more researched proposals. Albeit, we have been able to consult from Uganda's private sector through their different business associations.

2.0 General Tax Policy issues - Cross Cutting areas

The Tax Amendment Bills should be able the get the optimal tax revenue while at the same time promoting business formalization and growth. The tax regimes therefore should have the following characteristics.

a. **Ensure a predictable (stable) tax regime** to enable proper planning and implementation of investment plans by enterprises. Any new tax measure should be thoroughly scrutinised to assess its impact on macro-economic stability and competitiveness of the sector in line with NDP III and the policy of export promotion and import substitution. Note that on average, tax accounts for between 45% and 55% of the price of a final product. The Excise Duty regime is reviewed on an annual basis and yet investment is planned for a period of 3-5 years. **Our proposal is that the Government develops an Excise Duty regime for 3-5 years to facilitate proper planning.**

b. **Digital Tax Stamps:** The FY 2018/19 budget approved the use of DTS with the objective of addressing tax leakages in Excise Duty payments. Although the objective is much appreciated, the implementation of the regime increases the costs of doing business through installation costs incurred by companies. In addition, it is increasing costs of exports as companies are forced to change branding designs just to incorporate the DTS, especially for export products. Information from compliant taxpayers does not show an increase in the excise duty collected by URA as a result of DTS. We recommend that;

   i. **The government needs to re-evaluate the existing contract for the DTS system and re-negotiate the costs of stamps considering the impact of these costs on the manufacturing sector. This will also require a thorough analysis of similar regional**

and global systems. DTS be applied only to taxpayers who have proven to be continuously under-declaring the right excise duty payable.

ii. **Considering and evaluating alternative solutions is a crucial step in effective policy making and implementation. When it comes to DTS or similar initiatives, Government should explore a range of options to ensure they are selecting the most efficient and cost-effective solution.**

c. **Strengthen the capacity of URA in tax administration through effective Private Public Partnerships.** The rate at which the private sector is growing cannot be matched with continued recruitment of staff. The established-on line systems need information to support the efficiency which is still provided by people. Through this PPP, Government would partner with Private Sector Tax experts to conduct tax assessments and audits for the general business community while the URA concentrates on regulation. This could support closing tax leakages and generate information in areas such as real estate and other opportunities to widen the tax base and increase collections.

d. **Accountability and service delivery;** Hon. members, as the private sector, continues with the civic responsibility of paying taxes that facilitate government to ensure the delivery of social services, they are prevailing tax leakage areas which undermine the hard-earned efforts of the citizenry. Our appeal in this house is to strengthen the accountability function of Parliament over and beyond budget appropriation to delivery, monitoring, and evaluation of the delivered services. This has direct correlation with tax compliance amongst the population.

e. **Develop a tax policy that promotes use of electric and hybrid vehicles.** An example is the exemption of VAT on supply of electric and hybrid vehicles and accessories such as fast-charging batteries. A tax policy that supports use of electric vehicles and green energy is much needed considering the risks of climate change.

3.0 Specific Proposals on the Tax bills

No.	Issue	Implications	Proposal	Justification
	A. Income Tax (amendment) Bill 2024			
1.	**Definition of a retirement fund** Clause 2 of the Bill expands the definition of a retirement fund under Section 2 of the Income Tax Act to include benefits in the event of termination or occurrence of an event specified in the written law, agreement, or arrangement.	This amendment recognizes funds that provide benefits in the event of termination or other event specified as retirement funds and this creates alignment with the tax treatment accorded to retirement funds within the Income Tax Act.	This is a welcome amendment	The amendment is good as it recognizes the modern role played by retirement funds. The existing law restricts the role of retirement funds to only benefits in the event of retirement or death.
2.	**5% capital gains tax on disposal of non-business assets** Clause 3 of the Bill introduces a tax of 5% on the gains from the disposal of a non-business asset. The Bill defines a non-business asset to include a share in a private company, land in cities and municipalities except the principal place of residence, and rental property. The proposal further provides for the tax as a final tax payable within 15 days from the date of disposal with interest of 2% per month in case of late payment.	Individuals who hold land which is not a business asset will start paying capital gains tax when they sell such land but this is exempted in the current law. Individuals who invest in shares of private companies will pay a lower capital gains tax at 5% compared to the current rate which can be as high as 40% depending on the quantum of the capital gain. Non-individuals like companies will continue to pay capital gains tax at 30%	Consider refining this amendment by: Extending the 5% capital gains tax to non-individuals such as companies. Adjust the time of paying the capital gains tax to 60 days after receipt of disposal proceeds.	Compared to regional peers, Uganda's current capital gains tax rates are prohibitive, and this discourages building of capital and investment in the country. Aligning the capital gains tax rate of 5% for both companies and individuals will help to address the challenge of high capital gains tax rates in the country and expand the tax base. The payment timeline of 15 days is too short and does not consider the fact that disposal proceeds may be paid in instalments.

No.	Issue	Implications	Proposal	Justification
		as the drafting of this amendment ensures that the lower rate of 5% does not apply to companies.		
3.	**Exemption of private equity and venture capital funds** Clause 4 of the Bill seeks to amend section 21 of the ITA to exempt the income of private equity and venture capital funds regulated by the Capital Markets Authority.	Private equity and venture capital funds will not pay income tax, but the companies in which they invest will pay income tax.	Accept this amendment.	Uganda has not been able to attract the inflow of investment from private equity and venture capital funds partly due to the hurdles of the existing tax regime. This amendment will encourage the inflow of investment from these funds, create employment opportunities and expand the tax base since the companies invested in will pay tax.
4.	**Exemption of income from the disposal of government securities on the secondary market** Clause 4 of the Bill seeks to exempt income from the disposal of government securities on the secondary market.	The gain from disposal of government securities on the secondary market will be excluded from taxable income.	Accept this amendment.	Currently, interest on government securities on the primary market is charged withholding tax as a final tax. If the same security is discounted and sold prior to maturity, the income is taxed at 30%. This amendment corrects the existing double taxation.
5.	**Inclusion of manufacturing electric vehicle/accessories and specialized hospital on the list of exempt strategic investments** Clause 4 of the Bill includes manufacturing electric vehicle, electric battery or electric vehicle charging equipment or fabrication of the frame	Income of companies that invest in these activities will be exempt from income tax upon meeting set conditions.	Accept this amendment. However, there is need to define “specialized hospital” to provide clarity regarding what is considered to be a specialized hospital.	This will encourage investment in the identified sectors.

No.	Issue	Implications	Proposal	Justification
	and body of an electric vehicle on the list of strategic investments that are exempt from income tax upon meeting set conditions. Specialized hospitals have also been added to these categories.			
6.	**Taxation of branches of non-resident companies** Clause 7 of the Bill overhauls the concept of a branch of a non-resident company and aligns it with the concept of a permanent establishment in line with international tax best practice.	• Clarity has been provided regarding the point at which a non-resident is considered to create a taxable presence in Uganda and how the chargeable income is computed. Loopholes to avoid a taxable presence in Uganda have been minimized.	Accept this amendment.	The amendment aligns with the international best practice recommended by the OECD.
7.	**Income derived from sources in Uganda.** Clause 8 of the Bill add two items of income that will be considered as derived from sources in Uganda: • An annuity paid by a non-resident person as an expenditure of the latter's permanent establishment in Uganda.	The amendment provides clarity that when such income is derived from Uganda, it will be considered for tax purposes in Uganda.	Accept the amendment.	This amendment provides clarity regarding the items amended.

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	Income derived from payment of reinsurance premium if the premium relates to the insurance or reinsurance of a risk in Uganda.			
8.	**Withholding tax on interest paid to a non-resident financial institution.** Clause 9 of the Bill repeals the WHT exemption in section 83(5) of the ITA and substitutes it with a provision that taxes interest paid to non-residents that meets the following conditions at a rate of 2%: • Paid by a resident person to a financial institution that is not related to the former • Not paid as part of a back-to-back loan or economically equivalent loan. However, interest paid by the government to non-residents is exempt.	• The exemption of WHT in section 83(5) is repealed. • Interest paid by a resident person to an unrelated non-resident financial institution will be subject to WHT at 2%. • Interest paid by a resident person to a related non-resident financial institution will be subject to WHT at 15%. • Interest paid by government will be exempt from WHT.	Accept this amendment with a refinement to permit non-resident financial institutions to be taxed at 2% as well since there is already a requirement in the law which obliges transacting at arm's length with documentation to support the same.	The proposal is good as it expands the tax base. However, it needs to be refined to avoid unintended consequences of increasing the cost of borrowing which will be passed to Ugandan borrowers. Align the WHT rate of 2% for related non-resident financial institutions given that most major financial institutions in Uganda rely on borrowings from related non-resident financial institutions. A discriminatory treatment for related parties in the Bill would undermine access to finance. Increase in financing costs would be a stumbling block to access to financial services.
9.	**Filing of Transfer Pricing Information Returns to URA** Clause 12 of the Bill introduces the requirement to file transfer pricing information returns together with the annual income tax returns	Taxpayers with related party transactions will be required to file transfer pricing information returns in the format prescribed by URA at the time of filing annual income tax returns.	Accept this amendment. However, URA needs to increase its capacity to handle transfer pricing issues since this is highly technical area.	The amendment will increase compliance with transfer pricing rules and reduce the risk of base erosion.

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10.	**Introducing WHT on commission paid to a payment service provider.** Clause 13 of the Bill introduces WHT at 10% on payments to a payment service provider, banking agents and any other agent offering financial services. Currently, bank agents earning 1m and above are charged 6% withholding tax and this tax is creditable.	These payments will attract 10%.	Accept the amendment but with refinement as follows: • The commission earned by Payment Service Providers regulated by the Bank of Uganda should not be subject to this withholding since such entities declare this income and subject it to 30% tax after expenses and these entities are highly regulated. • Adjust the tax rate to 6% to recognize the role of financial services intermediaries in finance inclusion. Make the 6% WHT a final tax for individuals.	The amendment expands the tax base. The refinement proposed is needed because: • Applying the %6 on entities regulated by the Central Bank will affect their cash flows and ability to invest in innovative technology. Making the 6% WHT a final tax for individuals will ease compliance and administration of the tax especially for agents.
11.	**Interest deduction limitation for local companies that have common ownership.** This item is not part of the Bill. However, locally owned companies in Uganda with common ownership are being subjected to additional tax simply because of having common ownership.	Locally owned businesses with common ownership are struggling partly because of interest expense being disallowed by URA simply on account of having common ownership.	Insert a new item in the Bill to amend section 25(5)(b) of the Income Tax by defining the term “group” to make it clear that this does not apply to locally owned companies in Uganda.	The rule of interest deduction limitation under section 25 of the ITA was intended to address the risk of multinational companies using loans to pay less tax in Uganda and repatriate profits from Uganda with less tax paid in Uganda.

No.	Issue	Implications	Proposal	Justification
	This is affecting local businesses with loans obtained from banks to expand their business. URA is assessing the tax based on the interpretation of section 25 of the Income Tax Act.			However, URA is stretching the interpretation of Section 25 of the ITA to include locally owned companies that do not repatriate profits to outside Uganda. The survival and growth of locally owned companies is at risk due to the position adopted by URA.
12.	**Inclusion of manufacturing electric vehicle/accessories and specialized hospital on the list of exempt strategic investments** Clause 4 of the Bill includes manufacturing electric vehicle, electric battery or electric vehicle charging equipment or fabrication of the frame and body of an electric vehicle on the list of strategic investments that are exempt from income tax upon meeting set conditions. Specialized hospitals have also been added to these categories.	Income of companies that invest in these activities will be exempt from income tax upon meeting set conditions.	Accept this amendment. However, there is need to define “specialized hospital” to provide clarity regarding what is considered to be a specialized hospital.	This will encourage investment in the identified sectors.
13.	**Taxation of branches of non-resident companies** Clause 7 of the Bill overhauls the concept of a branch of a non-resident company and aligns it with the concept of a permanent establishment in line with international tax best practice.	Clarity has been provided regarding the point at which a non-resident is considered to create a taxable presence in Uganda and how the chargeable income is computed.	Accept this amendment.	The amendment aligns with the international best practice recommended by the OECD.

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		Loopholes to avoid a taxable presence in Uganda have been minimized.		
B.	**Tax Procedures Code Bill 2024**			
14.	**Extension of the Waiver of interest on payment of principal tax under Section 40D** This item has not been included in the 2024 Bill. In the FY 2023/24, Parliament enacted section 40D waiving interest on payment of principal tax outstanding as at 30th June 2023 if the principal tax is paid by 31st December 2023. This proposal was welcomed by taxpayers as they were grappling with the challenge of ledger balances with URA. However, most taxpayers were not able to utilize this amendment because URA was only able to make ledgers visible to taxpayers on the system in October 2023 and these ledgers had many errors which needed to be corrected by URA on the system to determine the correct principal tax outstanding. URA embarked on the exercise of correcting the ledgers and by end of 31st December 2023 (the deadline of the waiver), many taxpayer ledgers were not yet updated	The purpose of Parliament enacting section 40D was not achieved due to URA system challenges.	Amend Section 40D by extending the deadline from 31st December 2023 to 31st December 2024.	This proposal will give effect to the purpose for which Parliament enacted Section 40D of the Tax Procedures Code Act. Currently, many taxpayers are struggling with ledger balances which have accumulated interest due to system challenges and taxpayers are being denied services such as Tax clearance certificates. This amendment will help to reduce the tax arrears by encouraging taxpayers to pay the principal tax and waiving the interest.
C.	**Value Added Tax (Amendment) Bill 2024**			
15	**Supplies through an auction** Clause 2 and 4 of the Bill provides that in case of supply of goods through auction, VAT is	Persons who receive proceeds of auction will be required to account for VAT	Consider including a grandfather provision which exempts financial institutions from this rule in respect	Prior to this amendment, financial institutions may have granted loans secured by property which may be auctioned after 1st

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	accounted for by the recipient of the proceeds of the auction.	on such a transaction if the item auctioned is subject to VAT. This will particularly affect financial institutions which render loans with property as security.	of loans granted prior to 1st July 2024	July 2024 and therefore having to include VAT in the auction value. However, at the point of valuing the property when carrying out the credit analysis, there was no VAT obligation prior to 1st July 2024 and therefore VAT was not included in the credit analysis. Applying VAT at the point of auction creates a risk of the financial institution not being able to recover the full loan amount due to the VAT element – this may affect the financial stability of affected financial institutions.
16	**Threshold for Cash Refund applications** Clause 6 of the Bill increases the cash refund threshold from UGX 5 million to UGX 10 million of accumulated carried forward input tax credits.	This implies that taxpayers would not be required to apply for a VAT refund until the amount accumulates to UGX 10 million.	Refine the amendment by adjusting the refund threshold to UGX 50 million instead of the 10m included in the Bill.	The amount of UGX 10 million is still low. Taxpayers are subjected to VAT refund audits for every refund application, and this takes resources for both the taxpayer and URA. Giving the taxpayer option to carry forward the credit of at least UGX 50 million minimizes administrative costs.
17.	**Consequences of failure to withhold VAT** Clause 7 of the Bill introduces liability on the VAT withholding agent in case they fail to withhold VAT as required.	In case of failure to withhold VAT as required, the withholding agent will be liable to the VAT not withheld plus interest and penalties. However, the agent will be entitled to recover the principal VAT from the supplier.	Reject the Amendment and repeal VAT withholding regime.	VAT withholding regime is problematic to small businesses as it affects their cash flows while the big ones can get on URA's exemption list. Small businesses are impacted by both 6% withholding tax under income tax and 6% VAT withholding. Currently, all VAT registered taxpayers are required to issue EFRIS receipts or invoices, and this gives URA visibility of transactions by such

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				taxpayers. This implies that the removal of the 6% VAT withholding will not lead to revenue loss since URA has visibility of transactions through EFRIS and withholding income tax. Both taxpayers and URA incur administrative costs to implement the VAT withholding regime.
18	**Removal of VAT exemption on imported software and equipment installation services to manufacturers** Clause 9(g) of the Bill removes the VAT exemption on software and equipment installation services to manufacturers.	Manufacturers will pay 18% VAT on imported software and equipment installation services, and this will increase the cost of such investments.	Reject the amendment.	This exemption was intended to shield manufacturers from the additional cost of VAT when they invest in software and equipment. Removal of the exemption will hinder the ability of manufacturers to invest in technological improvement to enhance production and efficiency.
19	**Value Added Tax (Amendment) Bill, 2024** The Bill proposes to amend Section 18 of the VAT Act by introducing the following provision immediately after subsection 18 (9): *"Subsection 18(10): The supply of goods or services by an employer who is a taxable person to an employee, for no consideration shall be regarded as the supply of goods or services for consideration as part of the person's business activities."*	Employers on top of being required to account for PAYEE, they will also be required to account for VAT at 18%.	Reject the Amendment.	Since payee is already applicable on such transactions at 10%, 30% or 40% depending on the employees pay scale, adding an 18% cost for the employer could be over taxation. i.e., an employee in the 40% pay bract will be paying 58% tax on such a transaction.

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D	**Excise Duty Amendment Bill 2024**			
20	**Definition of juice** Clause 2 (a) and (d) of the Bill introduces the definition of "fruit juice" and "vegetable juice" respectively. "fruit juice" is defined to mean "unfermented liquid extracted from the edible part of a fresh fruit whether the extracted liquid is diluted or not". "vegetable juice" is defined to mean "unfermented liquid extracted from the edible part of a vegetable whether the extracted liquid is diluted or not".	Whereas the definitions are intended to provide clarity and certainty of tax treatment, the definition of juice is too wide in the sense that it can bring into the tax bracket fruit pulp and puree which is not ready to drink as it is used in production of ready to drink juice as raw material.	Refine the definition to exclude fruit pulp or puree for industrial use that is used as a raw material for ready to drink.	The refinement being proposed will ensure that there is no unintended consequence of taxing raw materials twice at the point of raw material and as a ready to drink item. If not corrected, this will push the cost of production and affect the final price to consumers as well as the price paid to farmers who supply fruits.
21	**Tax on beer concentrates** Clause 3 b(f) proposes Shs. 2500 per Kilogram of powder for reconstitution into beer	This is still an innovation that is not yet experimented on to the market. Introduction of the tax will kill the innovation before infancy.	Drop the amendment until the product is introduced on the market.	Once the product has been introduced, it will attract VAT, employ hundreds of Ugandans and support farmers of sorghum and Barry but also move a greater mile in managing illicit alcohol because of minimum price of the product.
22	**Tax on building materials.** Clause 3 (g) of the Bill proposes to introduce a introduction of a tax on adhesives, grout, white cement or lime of Shs. 500 per 50kg,	This will certainly increase the price of these construction inputs thus deterring private sector investment in affordable housing.	Drop the amendment.	Uganda has a housing deficit of 2.5 million facilities which undermines the standard of livening of the citizens. The private Sector is working to close this gap. These materials (adhesive, white cement and grout and lime) are used or utilized in this industry.

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		In addition, citizens especially young people will record increased cost of living because of increase in rent chargeable. The ongoing government projects are likely to be affected in terms of quality and efficiency due to rise in construction materials.		Increasing tax rates on these materials will increase the cost of construction which translates into increased rental fees charged to the consumers. This undermines government policy of descent and affordable housing.
23	**Taxes motor spirit and gas oil** Clause 3 section (h) part (a) and (b) proposes to increase Motor spirit (gasoline) to shs 1550 per litre and Gas oil (automotive, light, amber for high-speed engine) to shs 1230 per litre.	This proposal will lead to increase in fuel prices which will accelerate the rise the prices of goods and services consumed by all citizens. High inflation rates in most cases have a negative impact on attraction of Foreign Direct Investment (FDI) which further wipes the foreign exchange reserves which are on a declining trend.	Drop the amendment on the motor spirit (gasoline) but maintain the amendment on kerosine to manage adulteration of the former.	Given the already increases of goods and services, this is not the right time to increase these taxes.
24	**Clause 2(c) of the Bill proposes** to include a definition of "Undenatured Spirits."	This will bring clarity in the interpretation of the law.	This is Amendment is welcome.	Whereas the Excise Duty Act uses the term "Undenatured Spirits", this is not defined in the current law hence leaving room for ambiguity in legal interpretation

No.	Issue	Implications	Proposal	Justification
				regarding the proper tax treatment for different categories of spirits.
25	**Tax on spirits** Sub-clause 3(c) (c): any other un-denatured spirits— (i) that is locally produced of alcoholic strength by volume of less than 80% - 80% or shs. 1700 per litre whichever is higher. (ii) that is imported of alcoholic strength by volume of less than 80% - 100% or shs. 5000 per litre whichever is higher;	The implication is that when prices of spirits are further increased, people will resort to illicit alcohol which has dangerous health implications and increases Uganda's health bill.	The PS propose that; i) that is locally produced of alcoholic strength by volume of less than 80% - to be charged excise at a rate of 60% or shs. 2000 per litre whichever is higher. ii) that is imported of alcoholic strength by volume of less than 80% - to be charged excise at a rate of 80% or UGX 1500 per litre whichever is higher;	Proposing a 20% tax increase on spirits in Uganda may backfire, potentially reducing government revenue. It's estimated that this could lead to a loss of UGX 49.7 billion from the total industry and UGX 28.5 billion from Uganda Breweries. Additionally, the high tax rates contribute to Uganda's 65% illicit alcohol trade rate, costing the government further. Compared to other East African Community (EAC) countries, Uganda's excise duty on imported spirits is already significantly higher. Maintaining current excise rates could yield an additional UGX 48.2 billion in revenue, ensuring sector growth and sustained government income.
26	**Increase of excise duty on mineral water, bottled water, and other water purposely for drinking** Clause 3(g) of the Bill changes the excise duty rate from 10% to 10% or shs 75 per litre whichever is higher.	The amendment implies that excise duty will be paid based on the ex-factory price or volume, whichever is higher.	To take into account the unique model applied with mineral water pricing and packaging, refine the excise duty to 10% or shs 35 whichever is higher.	The form of the Bill does not consider the fact that mineral water pricing involves larger units of mineral water containing more water at a lower price per litre. Applying the higher of 10% or shs 75 per litre will result in the tax of certain water products with larger volumes increasing by about 95%,

No.	Issue	Implications	Proposal	Justification
				This outcome would not be sustainable as such products will be loss making, thus affecting production of such products, taxes collected (excise duty, VAT, income tax) as well as employment.

4.0 Conclusion

The business community believes that if the above proposals are considered, we shall be able to grow businesses both directly and through value chains, increase in tax revenue, and provide more employment thus contributing to the country's vision of prosperity for all. We once again thank the Parliament of the Republic of Uganda for continued support and consulting with the private sector on matters that affect us.

For God and My Country.