

THE INCOME TAX (AMENDMENT) ACT, 2002

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY.

Section.

1. Short title.
2. Application.
3. Construction of Act.

PART II—AMENDMENT TO THE INCOME TAX ACT, 1997.

4. Amendment to section 6.
5. Amendment to section 20.
6. Amendment to section 22.
7. Amendment to section 23.
8. Amendment to section 25.
9. Amendment to section 31.
10. Amendment to section 36.
11. Amendment to section 37.
12. Amendment to section 39.
13. Amendment to section 45.
14. Amendment to section 46.
15. Amendment to section 47.
16. Amendment to section 53.
17. Amendment to section 54.
18. Amendment to section 58.
19. Amendment to section 66.
20. Amendment to section 69.

Section.

21. Amendment to section 70.
22. Amendment to section 71.
23. Amendment to section 80.
24. Amendment to section 82.
25. Amendment to section 83.
26. Amendment to section 84.
27. Amendment to section 85.
28. Amendment to section 87.
29. Amendment to section 94.
30. Amendment to section 100.
31. Amendment to section 107.
32. Amendment to section 109.
33. Amendment to section 112.

34. Amendment to section 114.
35. Amendment to Heading.
36. Amendment to section 115.
37. Insertion of section 119A.
38. Amendment to section 120.
39. Amendment to section 123.
40. Amendment to section 130.
41. Amendment to section 131.
42. Amendment to section 142.
43. Amendment to section 145.
44. Amendment to section 154.
45. Amendment to section 158.
46. Amendment to section 168.
47. Amendment to the Fourth Schedule.
48. Amendment to the Fifth Schedule.
49. Amendment to the Sixth Schedule.

THE INCOME TAX (AMENDMENT) ACT, 2002.

An Act to amend the Income Tax Act, 1997.

DATE OF ASSENT: 24th December, 2001.

Date of commencement: 1st July, 2001.

BE IT ENACTED by Parliament as follows:

1. Short title

(1) This Act may be cited as the Income Tax (Amendment) Act, 2002.

2. Application

This Act shall come into force on 1st July, 2001.

3. Construction of Act

This part of the Act shall be read and construed as one with the Income Tax Act, 1997 in this Act referred to as the principal Act.

PART II—AMENDMENT TO THE INCOME TAX ACT, 1997.

4. Amendment to section 6.

Section 6 of the principal Act is amended by substituting for subsection (3) the following new subsection—

“(2) The tax imposed under this section on an individual is separate from the tax imposed under section 5 and —

(a) the rent derived by an individual shall not be included in the gross income subject to tax under this Act of the individual for any year of income;

(b) expenditures and losses incurred by the individual in the production of rent shall be allowed as a deduction under this Act for any year of income only as provided in paragraph (c) of subsection (1) of section 23;

(c) the tax payable by the resident individual under this section shall not be reduced by any tax credits allowed to the individual under this Act”.

5. Amendment to section 20

Section 20 of the principal Act is amended in subsection (2), by substituting for paragraph (g) the following new paragraph—

“(g) any contribution or similar payment by the employer made to a retirement fund for the benefit of the employee or any of his or her dependants.”

6. Amendment to section 22.

Section 22 of the principal Act is amended in subsection (1)—

(a) by repealing paragraph (i);

(b) by adding the following new paragraph—

“(r) the income of the Government of the Republic of Uganda and the Government of any other country.”

7. Amendment to section 23.

Section 23 of the principal Act is amended—

(a) in subsection (1) by inserting immediately after paragraph (c) the following new paragraph—

“(d) graduated tax paid by an individual.”

(b) in subsection (2), by repealing paragraph (g).

8. Amendment to section 25.

Section 25 of the principal Act is amended in paragraph (a) of subsection (2), by substituting for the words “the person’s income” the words “the person’s gross income”;

9. Amendment to section 31.

Section 31 of the principal Act is amended by substituting for the words “gross income” the words “gross income or in the initial offering at the stock market.”

10. Amendment to section 36.

Section 36 of the principal Act is amended—

(a) in subsection (2), by inserting after the word “Uganda” the words “to produce income included in gross income”;

(b) in the definition of “farm works” in subsection (4), by inserting after “operations” the words “carried on to produce income included in gross income.”

11. Amendment to section 37.

Section 37 of the principal Act is amended by inserting after “operations” the words “to produce income included in gross income.”

12. Amendment to section 39.

Section 39 of the principal Act is amended in subsection (3) by inserting after “creditors” where it first occurs the word “in the course of an insolvency.”

13. Amendment to section 45.

Section 35 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “an amount in income” the words “an amount in gross income”;

(b) in subsection (3), by substituting for the words “an amount in income” the words “an amount in gross income.”

14. Amendment to section 46.

Section 46 of the principal Act is amended in subsection (3) by substitution for the words “amount income” the words “an amount in gross income.”

15. Amendment to section 47.

Section 47 of the principal Act is amended in subsection (3) by substituting for paragraph (b) the following new paragraph—

“(b) where the taxpayer commenced business during the year of income, the market value at the time of commencement of the business of trading stock acquired prior to the commencement of the business”.

16. Amendment to section 53.

Section 53 of the principal Act is amended in subsection (2) by inserting after the word “value” the words “at the date of acquisition”.

17. Amendment to section 54.

Section 54 of the principal Act is amended—

(a) in subsection (1), by inserting after “value” the words “at the date of the disposal”; and

(b) by repealing subsection (4).

18. Amendment to section 58.

Section 58 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “Amounts taken into account” the words “Chargeable income” and

(b) in subsection (2), by substituting for the words “the calculation of chargeable income involves an amount” the words “an amount taken into account under this Act is”.

19. Amendment to section 66.

Section 66 of the principal Act is amended by inserting after subsection (4) the following subsection—

“(5) Unless the context otherwise requires, partnership assets are treated as owned by the partnership and not the partners”.

20. Amendment to section 54.

Section 54 of the Act is amended in paragraph (a) of subsection (1)—

(a) by repealing the word or at the end of subparagraph (iv); and

(b) by inserting after subparagraph (iv) the following new paragraph—

“(iv) the interest in the partnersh received by the partner in return for the contribution equals the market value of the asset contributed at the time of the contribution; or”

21. Amendment to section 70.

Section 70 of the principal Act is amended by substituting for subsection (2) the following new subsection—

“(2) Subject to subsection (3) and (4), the cost base of a partner’s interest in a partnership is—

(a) in the case of an interest acquired by contribution of property (including money) to the partnership, the amount of any such money contributed plus—

(i) the cost base of an asset contributed to the partnership by the partner where paragraph (a) of subsection (1) of section 69 applies; and

(ii) the market value of any asset contributed to the partnership by the partner where paragraph (b) of subsection (1) of section 69 applies; or

(b) in any other case, the price paid for the interest’.

22. Amendment to section 71.

Section 71 of the principal Act is amended in the definition of “settlor” by inserting at the end of the definition the words “at the date of the transfer or conferral”.

23. Amendment to section 80.

Section 80 of the principal Act is amended in subparagraph (ii) of paragraph (j), by substituting for the word “imparting” the word “import”.

24. Amendment to section 82.

Section 82 of the principal Act is amended in paragraph (2) by substituting for the word “calculating” the word “calculated”.

25. Amendment to section 83.

Section 83 of the principal Act is amended in subsection (5) by inserting at the end of the subsection the words “under section 5, but is otherwise treated for all purposes of this Act as a tax on chargeable income”.

26. Amendment to section 84.

Section 84 of the principal Act is amended—

(a) in subsection (1) by inserting after a royalty the word “rent”;

(b) in paragraph (a) of subsection (5)—

(i) by inserting after the word “company” the words “to a non-resident person”;

(ii) by substituting for the words “debentures were issued” with the words “debentures were widely issued”

(c) by inserting after subsection (5) the following subsection—

“(6) Subsection (1) does not apply to an amount attributable to the activities of a branch of the non-resident in Uganda and such amount is subject to the operation of section 18”.

27. Amendment to section 85.

Section 85 of the principal Act is amended in subsection (4) by substituting for the words “tax due” the words “to the Commissioner the tax due”.

28. Amendment to section 87.

Section 87 of the principal Act is amended—

(a) in subsection (1) by inserting, immediately after “Uganda” the words “and on a road transport operator who derives income from the carriage of cargo or mail which is embarked in Uganda”;

(b) in subsection (2) by inserting at the end the words “and is treated for all purposes of the Act as a tax on chargeable income”.

29. Amendment to section 94.

Section 94 of the principal Act is amended—

(a) in paragraph (a) by substituting for the words “section 88 applies” the words “subsection (4) of section 5 or paragraph (c) of section 88 or both apply”; and

(b) in subparagraph (i) of paragraph (b), by deleting “or (5)”.

30. Amendment to section 100.

Section 9100 of the principal Act is amended in subsection (4) by substituting for “Tribunal” the words “Tribunal referred to in paragraph (a) of subsection (1) of section 101”.

31. Amendment to section 107.

Section 107 of the principal Act is amended by substituting for subsection (8) the following subsection—

“(8) An amount due under this section is treated for all purposes of this Act as if it were tax due”

32. Amendment to section 109.

Section 109 of the principal Act is amended—

(a) in subsection (5) by substituting for the words “subsection (1)” the words subsection (1), (3) or (4)”; and

(b) substituting for subsection (6) the following subsection—

“(6) An amount due under this section is treated for the purposes of the tax as if it were tax due”.

33. Amendment to section 112.

Section 112 of the principal Act is amended in subsection (3) by substituting for the formula the following new formula—

“(50% X A)—B”

34. Section 114 of the principal Act is amended—

(a) in subsection (3) by inserting immediately after paragraph (b) the following new paragraph—

“(c) refund the remainder, if any to the taxpayer”.

(b) in paragraph (c) of subsection (4) by substituting for the words “a Tax Tribunal” the word “Tribunal”;

(c) after paragraph (d) of subsection (4) by substituting for the words “commencing on the date the person paid the tax refunded” the words “commencing on the date the person made the application for refund”;

(d) in subsection (6), by substituting for the words “subsection (6)” the words “subsection (5)”;

PART XII

35. Amendment to heading

The principal Act is amended by deleting “Gross” from the heading to Part XII and the heading to section 115.

36. Amendment to section 115.

Section 115 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for the words “A resident individual the words “An individual”.

(ii) substituting for the words “gross rental income” the words “rental income”.

(b) in subsection (3), by substituting for the words “gross rental income” the words “rental income”.

37. Insertion of section 119A.

The principal Act is amended by inserting immediately after section 119 the following new section—

“119A. Withholding tax from professional fees

(1) A resident person who pays management of professional fees to a resident professional shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule.

(2) This section does not apply to a professional who the Commissioner is satisfied has regularly complied with the obligations imposed on that person under this Act.”

38. Amendment to section 120

Section 120 of the principal Act is amended in subsection (6), by substituting for “withholding tax” the words “tax withheld”.

39. Amendment to section 123

Section 123 of the principal Act is amended in paragraph (e) by substituting for the word “losses actually incurred”; the words “losses incurred”.

40. Amendment to section 130

Section 130 of the principal Act is amended in subsection (3) by inserting at the end of the subsection the words “after the end of the year of income to which the record or evidence relates”.

41. Amendment to section 131

Section 131 of the principal Act is amended in subsection (1) by repealing “other than employment of income”.

42. Amendment to section 142

Section 142 of the principal Act is amended by substituting for the words “taxpayer identification number” wherever it appears in the section the words “tax identification number”.

43. Amendment to section 145

Section 145 of the principal Act is amended by repealing the words “referred to as the “original offence” in this section”.

44. Amendment to section 154

Section 154 of the principal Act is amended—

- (a) in subsection (1), by substituting for the word “information”, the words “statement or omission”.
- (b) in subsection (2), by substituting for the word “official” the words “officer”.

45. Amendment to section 158

Section 158 of the principal Act is amended in subsection (2)—

- (a) by substituting for the words “the tribunal” the words “a tribunal referred to in paragraph (a) of section 101”;
- (b) by inserting after the word “performance”, the words “of duties”.

46. Amendment to section 168

Section 168 of the principal Act is amended—

- (a) in subsection (9), by substituting, for the words “30th June, 1997” wherever they appear in the subsection the words “31st March, 1998”.
- (b) in subsection (13), by substituting for “subsection (7)” the words “subsection (6)”;
- (c) by substituting for subsection (19) following new subsection—

“(19) Finance leases, as defined in section 60 of this Act, entered into before 1st July, 1997 shall be dealt with in terms of the Income Tax Decree, 1974”, and

- (d) by substituting for paragraph (a) of subsection (23) the following new paragraph—

“(a) subsections (8) to (11) apply to the person on the basis that the reference in those subsections to 31st March, 1998 is treated as a reference to the day on which the exemption expired”.

47. Amendment to the Fourth Schedule

The Fourth Schedule to the principal Act is amended in subparagraph (b) of paragraph 2, by substituting for the words “such a business any gains” the words “such a business and any gains”.

48. Amendment to the Fifth Schedule

The Fifth Schedule to the principal Act is amended—

(a) in paragraph (9) by substituting for the words “property or service” the words “property or services at the time the benefit is provided”.

(b) in paragraph 11, by substituting for the words “benefit, reduced” the words benefits, at the time the benefit is reduced”.

49. Amendment to the Sixth Schedule

The Sixth Schedule to the principal Act is amended in Part I by substituting for the words “more than 7 tonnes” the words “7 tonnes or more”