

**A GUIDE TO INVESTORS IN THE MINING  
INDUSTRY**

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**TAX POLICY DEPARTMENT**

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## **I. MINING REGIME:**

### **1. LEGAL FRAMEWORK**

The Mining Act, 2003 sets out the legal framework governing mineral exploration, exploitation and marketing. The Mining Regulations, 2004 have been established under the Mining Act, 2003 to regulate mining activities. The Mining Act, 2003 guarantees investors' security of tenure, repatriation of capital and profits, and transparency in the issuance and administration of mineral rights. Section 4 (1) of the Mining Act, 2003 gives rights to any persons who wish to acquire rights to search for, retain, mine and dispose of any mineral.

### **2. MINERAL RIGHTS UNDER THE MINING ACT, 2003**

Various mineral rights are provided for by the Mining Act. These include:

#### **(a) Mineral Agreements;**

The law provides that investor and government sign agreements relating to operations in order to stabilize legal, social and economic obligations of either party. Types of mineral rights – for the purpose of carrying out prospecting, exploration and mining.

#### **(b) Prospecting Licence;**

The licence is granted to the holder to prospect for minerals around the country and the licence is non-exclusive. It is granted for one year and is not renewable.

#### **(c) Exploration Licence;**

The licence gives the holder the exclusive right to carry on exploration operations in the area of land (maximum of 500 sq.km) for a duration of 3 years, renewable for two terms of 2 years each. On each renewal, half the area is relinquished.

**(d) Retention Licence;**

This is a new feature in the law. It is granted to the holder of an exploration licence in cases when the identified mineral deposit cannot be exploited due to economic reasons. Its duration is 3 years, renewable once for 2 years.

**(e) Location Licence;**

The licence is for mining operations of a smaller investment where expenditure to achieve production will not exceed 500 currency points (a currency point is worth 20,000 Uganda shillings). It is granted, in the case of an individual, to citizens of Uganda or in case of corporate, only where citizens of Uganda hold at least 51% of ownership. Its duration is 2 years, renewable for other terms of 2 years each.

**(f) Mining Lease;**

The mining lease gives the holder the exclusive right to carry on exploration and mining operations in his or her mining area. The licence is for mining operations and is granted for 21 years and is renewable for 15 years.

**(g) Goldsmith's Licence;**

The licence gives the holder the right to manufacture products from any precious minerals. The licence is obtained upon payment of the prescribed fee. Licenced goldsmiths are required to keep a register showing all purchases and sales of articles of commerce containing precious minerals; the nature, weight, price paid or received and the date of each purchase or sale of the articles; the name and address of the respective vendor and purchaser of any items.

**(h) Mineral Dealer's Licence**

The Mineral Dealer's Licence (MDL) gives the holder the right to buy, sell and deal in minerals. Section 69 (2) of the Act prohibits any licenced mineral dealer from buying minerals from a person who acquired their minerals unlawfully. The Mining Act 2003 permits holders of Mineral Dealer's Licences to buy, acquire, sell or dispose minerals in the course of his or her business

from a person who acquired his or her minerals lawfully. The holder is required to apply and pay a prescribed fee. Every holder of a Mineral Dealer's Licence is be liable for the due payment of all royalties due on any minerals bought, received or exported by the holder.

### **3. LICENSING AUTHORITY**

The Ministry of Energy and Mineral Development (MEMD) through the Directorate of Geological Survey and Mines (DGSM) grants the various rights authorized under the law.

### **4. EXPORT AND IMPORTATION OF MINERALS**

Minerals or samples of minerals can only be exported or imported by a mineral right holder or a licensed dealer.

#### **(a) Import Permit**

The import permit is issued by the Department of Geology Survey and Mines (DGSM) indicating the type of mineral and approved quantity to be imported. For precious metals, an import fee applies. The import fee is 1% of the prevailing price on the London Metal Exchange or any other metal exchange or market. The import permit is valid per consignment and it is not renewable. The requirements to obtain an Import Permit include:-

- i) A person who imports any minerals into Uganda shall make a declaration before a customs officer regarding the type and quantity of minerals imported and purpose of importation, after which the Customs Officer certifies the import permit.
- ii) A statement and supporting documents giving particulars of the financial and technical resources available to the applicant.
- iii) Description and location of offices, plants or other facilities, amount of investment and operating capital and technologies to be used.

- iv) In the case of an application for a retail license or a license for industrial consumers, proof of legality binding supply contracts with licensed wholesalers.
- v) Proof of investment certification by Uganda Investment Authority.
- vi) Tax clearance and Tax Identification Number from Uganda Revenue Authority.
- vii) The corporate name, registered office address and place where it was incorporated.
- viii) The names, addresses and qualifications of management personnel to be employed for the operation.
- ix) The proof of ownership of storage facilities rented or otherwise contracted by the applicant of sufficient installed capacity to maintain working stocks.
- x) Where the body corporate is incorporated outside Uganda, proof of establishment of a place of business in Uganda and of registration as a foreign company with the Companies Act.

(b) Export Permit

An export permit issued by the Department of Geology Survey and Mines (DGSM) indicating the type of mineral and approved quantity to be exported. The permit is a prerequisite for exporting minerals or samples of minerals from Uganda.

An export permit for minerals can be issued only if the royalty due on minerals has been paid or secured. On exportation, the export permit has to be accompanied by authentic URA assessment invoices and URA Receipts for the import permit's application fee.

For minerals being exported from Uganda but originating from another country (re-export), the following documentation is required:-

- i) Valid Mineral Dealers Licence or a mineral right.

- ii) Import Permit for minerals from out of Uganda or authentic Invoices and URA Receipt Vouchers of Royalty payment for minerals produced in Uganda.
- iii) Permit/license to export the mineral from the country of origin.
- iv) Proof of Customs declaration at the point of entry into Uganda.
- v) Certificate of analysis.
- vi) Certificate of origin.

Imported minerals cannot be exported by the importer unless an export permit is obtained showing minerals to be exported comprise the whole or part of the minerals to which the import permit relates.

## **5. MINERAL ROYALTIES**

All minerals obtained from any mineral right are subjected to royalty payment for example: precious stones – 5% of the gross value, precious metals – 3% of the gross value, base metals and ores – 3% of the gross value, and industrial minerals vary from 500 to 3000 Uganda shillings per tonne.

## **II. FISCAL REGIME**

### **1. TAX ADMINISTRATION**

Taxes in Uganda are centrally assessed and collected by the Uganda Revenue Authority (URA), headed by a Commissioner General.

Within the operational structure of URA, two operational departments (Domestic Taxes and Customs) headed by Commissioners are directly responsible for the assessment and collection of revenues resulting from the relevant tax laws set out in the first schedule of the URA Act Cap 196.

## **2. TAX PAYER REGISTRATION**

Every taxpayer i.e. any person who is in business is expected to register with URA for tax purposes. Registration enables URA to issue the tax payer with a Tax Identification Number (TIN) which is the identifier of the taxpayer.

To be registered, the following are the requirements:

### **(a) Resident/Non Resident Limited Company**

- (i) A copy of the certificate of incorporation from the Registrar of companies.
- (ii) Company Form 7 certified by the registrar of companies.
- (iii) Completed non-Individual application form.
- (iv) Completed individual application form for each Director.
- (v) An introduction letter, if registration is to be done by a person other than directors/subscribers/proprietor.
- (vi) A copy of the Board resolution, where the shareholders are different from the Directors.
- (vii) A copy of the tenancy agreement/rent payment receipt/rent payment receipt. In case of owner-occupied premises, a letter to that effect should be attached.
- (viii) Requirement of referees including their Bankers.

### **(b) Sole Proprietor (Individual)**

- (i) Copy of Identification documents e.g. Driver's permit, voter's card, passport, Employer ID, etc.
- (ii) A fully completed individual application form

### **(c) Partnership**

- (i) A copy of the certificate of registration from the registrar of companies.
- (ii) A copy of the Partnership Deed.
- (iii) Fully completed individual application form for each partner.
- (iv) A copy of the tenancy agreement/rent payment receipt. In case of owner-occupied premises, a letter to that effect should be attached.

### **3. TAX FILING AND PAYMENTS**

A return of income is a declaration made on a prescribed form to the Commissioner on which income earned or a loss made during the year is declared. It is a legal document which must be signed and dated by the taxpayer or by the taxpayer's appointed agent.

(a) Who is eligible to file a Return of Income?

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

(b) Obligations

- (i) Self assessment returns are due by the end of the sixth month after the end of the accounting year. Electronic filing is done for all tax returns;
- (ii) Payment of Taxes in installments based on estimated profits;
- (iii) 50% is due by the end of the sixth month of the accounting period and the remainder payment is due by the end of the 12<sup>th</sup> month; and
- (iv) VAT becomes due depending on the time of supply. Under the VAT Act, a supply of goods or services takes place when a tax invoice is issued for the supply; the goods are delivered; the services are rendered; the goods are made available; or the goods or services are paid for in whole or in part.

### **4. SALIENT FEATURES OF THE FISCAL REGIME**

**(a) Taxes on entry in the mining sector**

- (i) No Value Added Tax (VAT) charged on purchase of shares in a company holding a mining right
- (ii) Stamp duty is chargeable at 1% on a purchase of shares in a company holding a mineral right

- (iii) 0.5% stamp duty on company formation and capital-raising activities
- (iv) All expenditure of a capital nature incurred in searching for, discovering, testing and winning access to mineral deposits is tax deductible
- (v) For purposes of taxable income, losses can be carried forward indefinitely (For any year of income, if the total amount of income is exceeded by the total amount of deductions, then the losses can be carried forward)

### **(b) Withholding Tax**

- (i) Withholding tax of 15% or reduced rate per DTA applies on payments by resident persons to a person outside Uganda
- (ii) Withholding tax on payments to residents – withholding tax of 15% on interest and dividends applies
- (iii) Importation of plant and machinery is exempt from withholding tax

### **(c) Value Added Tax (VAT)**

- (i) Investors in the mining exploration sector can register for VAT before starting to make taxable supplies
- (ii) Value Added Tax (VAT) on domestic sales is 18%
- (iii) Input VAT paid on imported plant, equipment, machinery and supplies incurred during the development phase is reclaimable
- (iv) VAT paid is fully recoverable and there is a full relief from VAT for services or goods exclusively for mining activities.
- (v) Raw materials attract a rate of 0% under the East African Community Customs Union Common External Tariff. In addition, any VAT paid on raw materials and other inputs is offset from VAT on the final products.
- (vi) There is no VAT on plant and machinery through the VAT deferment mechanism.
- (vii) VAT is zero-rated on exports of imported minerals.

### **(d) Corporate Income Tax**

- (i) Mining companies are subject to a variable rate Income Tax.

(ii) The Corporate Income Tax for a company carrying on mining operations is sliding scale with a minimum rate of 25 percent and a maximum rate of 45 percent. Derived rate is between 25% - 45%.

(iii) The tax rate obtained is applied to the chargeable income to compute the corporation tax payable by the mining entity

(iv) Income derived from the exportation of finished consumer and capital goods can be exempted for a period of 10 years- Exports should be at least 80% of goods produced and a certificate of exemption must be possessed by investor

(v) Expenses incurred during the production of income are deducted while determining chargeable income - This is aimed at helping the taxpayers recover their investment over a short period of time

(vi) Indefinite carry forward of losses - losses incurred during a year of income can be carried forward to the next year of income

### **(e) Royalties**

(i) Royalties are payable on the gross value of the minerals based on the prevailing market price of the minerals. Royalty rates are 3% for precious metals, 5% for precious stones and 3% for base metals and ores

(ii) The Minister has, with approval of the Cabinet, powers to waive any royalty payable on any mineral from a particular deposit

### **(f) Transfer Pricing**

(i) Tax payers are required to maintain proper transfer pricing documentation containing the company details and transaction details, agreements and the pricing methodology used in determining the arm's length price

(ii) These provisions are often applied by the Uganda tax authorities where they are of the view that a non-resident person may be transferring profits from Uganda

### **(g) Capital Gains Tax**

(i) The capital gains tax rate is 30% (for both direct and indirect disposal)

### **(h) Import duty**

(i) Import Duty exemption for mining equipment and supplies directly related to the mining operations is granted.

(ii) All plant, machinery and equipment clearly identified as such are free of import duty.

(iii) Special purpose motor vehicles such as work trucks of the type used in factories, warehouses and in food and dairy industries attract a 0% duty under the East African Community Customs Harmonized System of Code (HSC).

### **(i) Rates of duty**

(i) Generally, the following rates will apply to an import of goods from outside the EAC region:

- Import duty - 25%
- VAT - 18%
- WHT - 6%
- Excise Duty - varies

## **5. PROCEDURES FOR IMPORTATION**

### **(a) Declaration of Goods**

When goods are brought into a customs area e.g. a border entry point, customs must be informed of the person responsible to fulfill the customs obligations with regard to the goods on board. This can be the owner of the goods or third party, including customs brokers, agents and transporters referred to as the declarants.

The importer or his authorized agent (declarant) enters the goods on a Customs Single Bill of Entry or Single the Administrative Document (SAD).

The declarant must furnish a formal report to customs within 24 hours and make the necessary declaration in respect of the imported goods to the customs officer.

(b) Assessment of Duties and Taxes

Determination of tax payable is made using tax rates defined in the Customs Tariff Nomenclature (EAC-CET) or other instruments of the law, which are provided for in the relevant schedules of the EAC-CMA.

(c) Physical examination

This refers to the verification of goods to confirm their quantity, quality and description as per the declaration. In case of discrepancy, the goods will be subjected to offence procedures.

(d) Import duty reporting obligations

For any importation of goods, the following documents are required for making a declaration to customs;

- Bill of lading/Airway bill
- Insurance Certificate
- Pro-forma invoice
- Commercial invoices
- Certificate of origin
- Permits for restricted goods
- Purchase order
- Packing list
- Sales contract
- Any other supporting documents

## **6. PROCEDURES FOR EXPORTS**

(a) Documents to accompany exports include:

- A mineral export permit issued by the department of Geology Survey and mines indicating the type of minerals and approved quantity to be exported.

- Proof of payment of Royalties for minerals being exported from Uganda but not originating from another Country.
- Permit / license to export the mineral from the country of origin.
- Proof of a Customs Declaration at the point of entry into Uganda.
- Certificate of analysis.
- Certificate of origin.

## **7. INCENTIVES TO IMPROVE COMPETITIVENESS**

### **(a) Inward processing scheme**

The facility allows investors to import goods; particularly raw materials or part-manufactured goods for further processing within the country and subsequent re-export, without paying duty or taxes on the imported goods. Under the inward processing drawback system, the investor pays the customs duties and other charges when the imported goods are first entered into the country. The investor can claim the duty drawback when exporting them after processing. Customs refunds all or part of any import duty paid on material inputs imported to produce for export or used in manner or for a purpose prescribed as a condition for granting duty drawback. Duty may be refunded on raw materials imported and used on the goods locally produced for export.

The drawback can only be claimed by the investor who is actually undertaking the export (direct exporter). The essential condition for access to inward processing is that the imported goods must be intended for re-exportation within a specified period after having undergone manufacturing, processing or repair. The incentive allows the investor the benefit of being able to produce or process goods without the added cost of customs duty and taxes on goods that, at the end of the day, will be processed or entirely consumed or incorporated in the finished product.

## (b) Manufacture Under Bond scheme

The facility requires the manufacturer to operate within a specific bonded factory or warehouse that must be licensed by Customs and for which a financial security has been lodged to cover any duty or tax liabilities otherwise payable in relation to the imported raw materials.

The investor must be licensed under section 160 of the EAC Customs Management Act, 2004 by applying for customs license to hold and use imported raw materials intended for manufacture for export in secured premises (Bond factory) without payment of import duties.

Under this scheme “manufacture” includes any process by which a commodity is finally produced. This includes assembling, packing, bottling, repacking, mixing, blending, grinding, cutting, bending, twisting, joining or any other similar activity. The remission is, however, not available for the importation of plant, machinery, equipment, fuel and lubricants.

The facility can be utilized by both direct exporters (that is, manufacturers who import raw materials, manufacture, and then export the finished product) and indirect exporters (that is, a manufacturer/producer who imports goods for use in the production of goods for supply to another manufacturer for use in the production of goods for export.

Application for participation in the scheme must be supported by a bona fide export order or contract for specified export goods or a letter of credit; a detailed production plan; a list of imported goods including their description; and the tariff classification, quantity, value and amount of duty/VAT to be waived. The annual license fee for a bonded factory is \$1,500 per calendar year on a pro rata basis if issued within a calendar year. Under the facility, the company can import duty free plant, machinery and equipment, raw materials and goods for purposes of manufacturing products for export.

## (c) Free Zones or Export Processing Zones

Free zones are designated geographic areas where raw materials and goods may be landed, handled, manufactured or reconfigured for export without being subject to import duties. According to the Free Zones Act 2014, Free Zones include; Export Processing Zones and Free Port Zones.

These areas are legally regarded as outside the Customs territory of the country. They can be developed as an industrial or technology park; or they can be an individual factory. The requirement for the scheme is that all of the output from the zone must be exported to a third country.

Entry into an export processing zone allows total relief from payment of duty on imported goods used directly in the production of goods for export by a person authorised to carry out that activity in the zone. All goods produced in the export processing zone should be primarily for export.