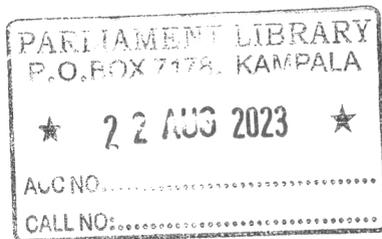




**THE REPUBLIC OF UGANDA**

**THE INCOME TAX (AMENDMENT) (No. 2)  
ACT, 2023**





**THE REPUBLIC OF UGANDA.**

I SIGNIFY my assent to the bill.

*Yoweri Museveni*

.....  
*President*

*Date of assent: 17<sup>th</sup> August 2023.*

**Act**                      *Income Tax (Amendment) (No. 2) Act*                      **2023**

THE INCOME TAX (AMENDMENT) (No. 2) ACT, 2023

ARRANGEMENT OF SECTIONS

*Sections*

1. Amendment of Income Tax Act
2. Amendment of section 16 of principal Act
3. Amendment of section 42 of principal Act
4. Amendment of section 55 of principal Act
5. Amendment of section 67 of principal Act
6. Amendment of section 78 of principal Act
7. Amendment of section 83 of principal Act
8. Amendment of section 92A of principal Act
9. Amendment of section 93 of principal Act
10. Amendment of section 118A of principal Act
11. Amendment of section 118D of principal Act
12. Insertion of section 163A in principal Act
13. Amendment of Fourth Schedule to principal Act



**THE REPUBLIC OF UGANDA**

**THE INCOME TAX (AMENDMENT) (No. 2) ACT, 2023**

**An Act to amend the Income Tax Act, to provide for the equivalent tax treatment of Islamic financial business and takaful business to the conventional financial services or insurance business.**

DATE OF ASSENT:

*Date of Commencement:*

BE IT ENACTED by Parliament as follows:

**1. Amendment of Income Tax Act**

The Income Tax Act, in this Act referred to as the principal Act, is amended in section 2—

- (a) in paragraph (w), by inserting immediately after subparagraph (vi), the following—

“(vii) the payment of the excess of the return on investment in the bond to the bond holder under Islamic financial business for each payment period over the interest as defined under paragraph (kk) (vi);”;

(b) by substituting for the definition of “interest”, the following—

“(kk) “interest” includes—

- (i) any payment, including a discount or premium, made under a debt obligation which is not a return of capital;
- (ii) any swap or other payments functionally equivalent to interest;
- (iii) any commitment, guarantee or service fee paid in respect of a debt obligation or swap agreement;
- (iv) a distribution by a building society;
- (v) any payment, including a discount or premium, made under sale-based financing or lease-based financing under Islamic financial business;
- (vi) any payment as the excess of the total amount paid by a bond issuer over and above the amount received from a bond holder under Islamic financial business for each payment period calculated at a rate not exceeding the rate determined by the Central Bank and does not include dividends; or
- (vii) a partner’s share of partnership income derived from a partnership arrangement under Islamic financial business;”;

(c) by inserting immediately after the definition of “interest”, the following—

“(kka) “Islamic financial business” means financial business undertaken by a person that conforms to Shari’ah principles and includes—

- (i) the business of receiving property into profit sharing investment accounts or of managing such accounts;
- (ii) any other business of a person which involves or is intended to involve the entry into one or more contracts under Shari’ah or otherwise carried out or purported to be carried out in accordance with Shari’ah principles including—
  - (aa) equity or partnership financing;
  - (bb) lease-based financing;
  - (cc) sale-based financing;
  - (dd) currency exchange contracts; or
  - (ee) fee-based activity;
- (iii) the purchase of bills of exchange, certificates of Islamic deposit or other negotiable instruments;
- (iv) the acceptance or guarantee of any liability, obligation or duty of any person; and
- (v) the business of providing finance by all means, including through the acquisition, disposal or leasing of assets or through the

provision of services which have similar economic effect and are economically equivalent to any other financial business;”;

- (d) by substituting for the definition of “partnership”, the following—

“(ww) “partnership” means an association of persons carrying on business for joint profit, and includes an equity or partnership financing under Islamic financial business;”;

- (e) by inserting immediately after the definition of “swap payment”, the following—

“(pppa) “takaful” means insurance business conducted in accordance with Shari’ah principles;”.

## **2. Amendment of section 16 of principal Act**

Section 16 of the principal Act is amended—

- (a) in subsection (1), by inserting immediately after the words “short-term insurance”, the words “or general takaful”;

- (b) in subsection (2), by inserting immediately after the words “short-term insurance”, the words “or general takaful”;

- (c) in subsection (3)—

- (i) by substituting for paragraph (c), the following—

“(c) “short-term insurance business” means any insurance business, including general takaful, which is not a life insurance business or family takaful.”;

- (ii) by inserting immediately after paragraph (c), the following—

“(d) “family takaful” has the same meaning as life insurance business.”

**3. Amendment of section 42 of principal Act**

Section 42 of the principal Act is amended—

- (a) by inserting immediately after subsection (2), the following—

“(2a) Notwithstanding subsection (2), in the case of a diminishing partnership under Islamic financial business, an amount of the portion of the interest of the person offering Islamic financial business disposed of, is receivable by a taxpayer when the taxpayer becomes entitled to the installment due in accordance with the partnership agreement.”; and

- (b) by inserting immediately after subsection (3), the following—

“(3a) Notwithstanding subsection (3), in the case of a diminishing partnership under Islamic financial business, an amount of the portion of the interest of the person offering Islamic financial business disposed of, is payable by a taxpayer when the taxpayer becomes liable to pay the installment due in accordance with the partnership agreement.”

**4. Amendment of section 55 of principal Act**

Section 55 of the principal Act is amended by inserting immediately after subsection (2), the following—

“(3) For avoidance of doubt, subsections (1) and (2) shall apply to takaful participants.”

**5. Amendment of section 67 of principal Act**

Section 67 of the principal Act is amended by inserting immediately after subsection (7), the following—

“(8) A resident partner in a partnership arrangement under an Islamic financial business shall withhold tax or interest sourced in Uganda accruing to a non-resident partner in accordance with section 83 (2).”

**6. Amendment of section 78 of principal Act**

Section 78 of the principal Act is amended in paragraph (a), by inserting immediately after the words “carries on business”, the words “other than investing in Islamic financial business in the case of equity or partnership agreement”.

**7. Amendment of section 83 of principal Act**

Section 83 of the principal Act is amended—

- (a) in subsection (1), by inserting immediately after the words “natural resource payment”, the words “agency fee in case of Islamic financial business”; and
- (b) in subsection (2), by inserting immediately after the words “natural resource payment”, the words “agency fee in case of Islamic financial business”.

**8. Amendment of section 92A of principal Act**

Section 92A of the principal Act is amended by inserting immediately after subsection (1), the following—

“(1a) Notwithstanding subsection (1), a manager of a takaful business shall furnish a return of income for each year of income, not later than six months after the end of that year, on behalf of the participants in each group in the takaful business.”

**9. Amendment of section 93 of principal Act**

Section 93 of the principal Act is amended by inserting immediately after paragraph (b), the following—

- “(c) by a non-resident person who is licensed to carry on Islamic financial business under a partnership arrangement or who has no physical place of business in Uganda.”

**10. Amendment of section 118A of principal Act**

Section 118A of the principal Act is amended by substituting for subsection (1), the following—

- “(1) A resident person who pays management fees, agency fees in case of Islamic financial business, or professional fees to a resident person shall withhold tax on the gross amount of the payment at the rate prescribed in Part VIII of the Third Schedule.”

**11. Amendment of section 118D of principal Act**

Section 118D of the principal Act is amended—

- (a) by inserting the words “or re-takaful” immediately after the word “re-insurance” wherever the word appears; and
- (b) by inserting immediately after subsection (2), the following—

- “(3) Reference to premium under this section shall have the same meaning as contribution in the case of re-takaful business.”

**12. Insertion of section 163A in principal Act**

The principal Act is amended by inserting immediately after section 163, the following—

Act

*Income Tax (Amendment) (No. 2) Act*

2023

**“163A. Re-characterisation of arrangements under Islamic financial business**

(1) For purposes of determining liability to tax under this Act, the Commissioner may re-characterise an arrangement under Islamic financial business not provided for under this Act, to the equivalent arrangement under conventional financial services for purposes of reflecting the equivalent economic substance, other than the form.

(2) The Commissioner shall comply with Shari’ah principles in re-characterising an arrangement under Islamic financial business not provided for under this Act.”

**13. Amendment of Fourth Schedule to principal Act**

The Fourth Schedule to the principal Act is amended—

- (a) by inserting immediately after the words “short-term insurance”, the words “or general takaful” wherever the words appear; and
- (b) by inserting immediately after paragraph 8, the following—

“9. Reference to premium under this Schedule shall have the same meaning as a contribution in the case of takaful business.”



**THE REPUBLIC OF UGANDA.**

This printed impression has been carefully compared by me with the bill which was passed by Parliament and found by me to be a true copy of the bill.

A handwritten signature in black ink, consisting of a stylized 'A' with a horizontal line through it, positioned above a dotted line.

*Clerk to Parliament*

*Date of authentication: ... 5/7/2023*