

LEGAL ALERT

Disclosure of Foreign Income & Assets by Uganda Tax Residents

Introduction

The Uganda Revenue Authority recently issued Public Notices and targeted email inquiries requiring tax-resident persons with offshore income and assets to report that income in Uganda and thereby regularise their tax compliance records. This reflects Uganda's position as a member of the global forum on tax transparency which promotes administrative cooperation through exchange of information (EOI) initiatives for tax purposes and assistance in recovery of taxes.

Beyond bilateral arrangements based on double tax treaties, a multilateral approach has been adopted through which several countries cooperate in exchange of information, on a mutual and simultaneous basis, relating to their tax residents which information may disclose foreign income from those countries.

In this legal alert we explore Uganda's evolving tax transparency framework, what it means for residents with foreign income, and how to navigate the risks of double taxation.

Uganda's Legal Framework

Uganda incorporated into its domestic laws the international agreements on administrative cooperation in tax matters, which it had signed up to. These multilateral agreements were domesticated through an Act known as the *Convention on Mutual Administrative Assistance in Tax Matters (Implementation) Act of 2023*. The three (3) domesticated agreements are the *Convention on Mutual Administrative Assistance in Tax Matters* (MAAC) to facilitate exchange of information foreseeably relevant for tax matters; the *Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information* (the MCAA); and the *Standard for Automatic Exchange of Financial Account Information in Tax Matters* (the AEOI, also known as, Common Reporting Standard (CRS)).

The MAAC focuses on exchange of information (whether automatic, spontaneous or on request), Tax Examinations abroad, Assistance in Tax Recovery and Conservancy and Assistance in service of documents. The MCAA and the CRS predominantly focus on the automatic exchange of financial account information of tax residents with foreign income or assets as generated and submitted by Reporting financial institutions each year, including bank account details of Ugandan tax residents in the other participating jurisdictions from across the world.

The MCAA is unique for emphasising mandatory (automatic) exchange of information between participating countries, which is then profiled and assessed for tax risk purposes by the receiving countries. Following completion of preparatory work, Uganda Revenue Authority has commenced the enforcement of the automatic exchange of financial account information procedures and has started receiving automatically exchanged data from foreign tax authorities.

Uganda Tax Residents with Foreign Income

The persons of interest from a URA perspective are Uganda tax residents who also have foreign incomes. Tax residence of a person is a unique concept and differs from citizenship. A tax resident individual in Uganda is defined as a person who has a permanent home in Uganda or who is physically present in Uganda for 183 days or more in a 12-month period or who is physically present in Uganda for an average of 122 days in each year across 3 years. Corporate entities, on the other hand, are tax resident if either they are incorporated/formed under the laws of Uganda, have their management and control exercised in Uganda or undertake majority of their operations in Uganda.

For income tax purposes, the gross income of a Ugandan tax resident is their income from all geographical sources (worldwide income), hence the obligation to report all such income in Uganda. Therefore, Uganda tax residents with foreign income or assets are required to include such income as part of their gross income for Uganda tax purposes. Certain examples of tax residents are at risk of having their information, including financial account information from foreign bank accounts, exchanged. These include emigrant Ugandans living and working abroad whose tax residence status includes Uganda, expatriates working in Uganda whose tax residence status has changed to include Uganda, as well as individuals or corporate entities who are tax residents in Uganda, but who receive or keep foreign income outside Uganda, for example, in foreign bank accounts.

Resolving the Double Taxation Risk

Because of the cross-cutting nature of foreign income, there is a risk that the information or account details being shared could lead, if not well managed, to double taxation, in both the foreign country and in Uganda. This may arise because the person ends up being categorised as a tax resident in both countries. It may also arise from the possibility that the other country taxes the income based on it being sourced there, and yet Uganda would also tax the same income because the person is a tax resident in Uganda. Any double taxation would disadvantage the Uganda tax-resident person.

The tax rules in Uganda have several mechanisms to either resolve the dual-residence status (in the case of double tax treaties) or to eliminate the possibility of double taxation of the same income earned by the same person. These take the form of either exemption of the foreign income from tax or providing a foreign tax credit for any foreign taxes already paid on such income. Where the country from which the foreign income is derived is one that has a double tax treaty with Uganda, that tax treaty would usually provide for tie-breaker rules to ensure there is one country of tax residence for the person.

Additionally, Uganda's tax rules exempt foreign employment income from tax as well as foreign income of a short-term tax resident who is a tax resident present in Uganda for no more than 2 years. The rules also provide for a foreign tax credit, which can be used to offset taxes otherwise payable in Uganda in respect of all other income categories received by a Ugandan tax resident. The foreign tax credit granted in Uganda is, however, limited to the average tax that such income would have been subjected to had it been derived from Uganda, and any excess foreign taxes would not be claimable.

Way Forward

In terms of practical tax compliance obligations, the affected tax residents should report and declare foreign income as part of their gross income, within the Tax Returns. This is even though such foreign income may have already incurred tax in the foreign country and hence either be exempt from Uganda tax or the subject of a foreign tax credit in Uganda.

As part of ongoing Voluntary Disclosure Scheme, the affected tax residents should make the disclosure using the [Foreign Asset Disclosure Form \(FAD\)](#). The information includes income earned from abroad for example, on dividends, interest, salaries, royalties, information on movable and immovable assets held abroad and information about financial accounts held abroad.

Our Tax Legal Team at ALN Uganda | MMAKS Advocates is available to further elaborate on these matters and provide any related tax support that may be required.

Contact Us

Should you have any questions regarding the information in this legal alert, please do not hesitate to contact:



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