CIVIL SOCIETY POSITION ON TAX INCENTIVES IN UGANDA

Tax Incentives have been used over the years with the belief that they lead to the attainment of public policy objectives that would ordinarily be accomplished through public (revenue) spending or as an avenue of encouraging activities that will lead to setting up of investments especially FDI that would provide jobs and contribute to future revenues.

We recognise that Foreign Direct Investment (FDI) is critical in fostering economic growth and development. We are aware that tax incentives can promote investments in the country if they are transparent and equitably accessed, awarded and managed. However, tax incentives when mismanaged can distort internal market dynamics and breed corruption.

An analysis conducted by the Tax Justice Alliance suggests that developing countries do not need to grant tax incentives to attract Foreign Direct Investment (FDI), because the decision to invest by genuine multinational corporations is largely based on other parameters such as market potential and energy presence of adequate infrastructure; and the country’s overall investment climate. This has also been confirmed numerous times by IMF and the World Bank, which state that countries that are most successful in attracting foreign investors did not have to offer such tax holidays but rather invested in other important factors such as good quality infrastructure, low administrative costs of setting up and running businesses, political stability and predictable macro-economic policy. Furthermore, tax incentives and preferential tax treatment also create other unintended and unforeseen tax-planning opportunities that are commonly exploited by corporations. That is why we welcomed the Government’s decision taken in 2013/14 to reduce unnecessary tax incentives since they contribute to narrowing of the tax base and loss of revenue.

Our concerns regarding tax incentives revolve around; foregone tax revenues as a result of the incentives; the discretionary powers accorded to the line minister to award tax incentives; the lack of public disclosure of information on how the incentives are awarded particularly to corporations and individuals; and also the failure by government to routinely review the impact or benefits that are accruing from the respective incentives. It must be noted that where the tax laws do not provide for an enterprise to deduct or access preferential tax rates, the government then has to bear and make payments on behalf of the enterprise; in this case it is the citizens that bear that cost.

Tax Revenues Forgone

Uganda’s current Tax-to-GDP ratio has stagnated between 12.5% to 13% over the past 5 years, which accounts for an average annual tax generation of between Ushs 3,363 and 3,822 trillion shillings. In the financial year 2015/16, the revenue forgone in the form of tax holidays was US$ 99 981 billion that constituted 11.1% of GDP. Such revenues foregone each year collectively are a lot of money. Furthermore, in 2016, PMs exempted themselves from paying taxes on their allowances. This alone led to a loss of more than $3 billion annually. A recent development where saving and Credit institutions (SACCOs) are now exempted from paying income tax has seen the revenue foregone each year decrease from Ushs. 553.56 billion to almost Ushs. 639.87. Tax collections for the financial year now ending were projected to shoot to Ushs. 12,882.3 billion, against a budgeted figure of Ushs. 13,859.32, reflecting a shortfall of Ushs. 6,777.2 billion. It is possible that part of this deficit could be covered with a surplus from the forex revenues in form of tax incentives.

Discretionary Powers

A number of legal and policy frameworks give discretionary powers to individuals to award tax exemptions. For example, Section 77(1)-(2) of the Public Finance Management Act (PFMA), 2015 accords the Minister to award tax exemptions and thereafter report and justify the award to parliament. This limits parliament exercising its oversight role before exemptions and incentives are awarded. Retrospective oversights such as these weaken parliamentary supervision and breeds impunity in executive public mandates.

Our Recommendations:

1. Parliament, with the assistance of the Auditor General, needs to conduct routine cost-benefit and opportunity-cost analyses of all tax exemptions, incentives and holidays that have so far been awarded and the subsequent ones to justify their continued existence.

2. Government should put in place a comprehensive policy framework which lays down principles, criteria and policy objectives for awarding or continuation of a tax incentive/holiday that is in place.

3. Government should establish a multi-stakeholder panel including policy makers and civil society to establish the criteria for enterprises to qualify for tax incentives and evaluate the relevance of awarded tax incentives. The panel should report to parliament.

4. Government should put in place transparent processes and procedures for managing and granting tax incentives. This will promote transparency and deter political patronage.

5. Section 77(1)-(2) of the Public Finance Management Act (PFMA) should be amended to allow parliament review tax incentives and have them justified by the minister before they are awarded.

6. Given the deepening integration within the East African Community, it is necessary to handle the matter of incentives at a regional level. The intra-regional competition for Foreign Direct Investment is only fuelling an unhealthy "Race to the Bottom" in the region.

7. Uganda Revenue Authority should have an express mandate to audit tax incentives awarded.

We the undersigned civil society organisations, commend parliament for the decision to reduce the duration of the Biyamili project tax exemption from 15 to 5 years subject to review. Therefore, we are urging Government to critically evaluate tax incentives so far awarded to justify their continued existence. The multiplicity of tax incentives risks undermining government’s ability to realize her annual revenue collection targets to provide the much needed social services and unfairly transfers the burden to the taxpayers who are already overstretched.

1. Southern and Eastern Africa, Trade Information and Negotiations Institute (SEATINI) Uganda;
2. Oxfam in Uganda;
3. Civil Society Budget Advocacy Group (CSBAG);
4. Uganda Debt Network (UDN);
5. Action Aid Uganda (AAU);
6. Citizen’s Watch Information Technology Centre (CEW-IT);
7. Women and Girls Child Development Association (WEGCDA);
8. Water Governance Institute (WGI);
9. Africa Freedom of Information Centre (APIC);
10. Inter University Tax Justice Forum (IUTIF);
11. Initiative for Social and Economic Rights (ISER)

FOR GOD AND OUR COUNTRY
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