Proposals on the Excise Duty (Amendment) Bill No.2 of 2018 before the Parliament Committee on Finance, Planning and Economic Development

About the Organization

The Initiative for Social and Economic Rights (ISER) is a Non- Governmental Organization which was established to promote the effective understanding, monitoring, implementation, accountability and full realization of social and economic rights in Uganda including assessing the impact of government fiscal policy measures on the citizens' social and economic welfare.

It is on this background that ISER presents it proposals on the Excise Duty (Amendment) bill No.2 2018 (hereinafter referred to as the bill).

I. Introduction

1. Mobile money was introduced in Uganda in 2009 and has increased financial inclusion especially in rural areas. The National Financial Inclusion Strategy 2017-2022, indicate that 54% of the population have access to mobile money services within 1km compared to 16% for banking services. Similarly, the service has also accelerated easy transaction of money with transactions on the platform hitting UGX 54tn. This could be the major motivation by government to introduce a levy on the mobile money transactional value. However, despite this high mobile money usage by the population, many users still struggle financially, for example 64% do not have an emergency fund, 31% do not have enough food to eat, and 59% spend more than they earn – the usage of financial services alone does not eliminate poverty, but rather plays a mitigating role.[1] There is overwhelming empirical evidence that financial inclusion can aid self-employment, improve household consumption, support greater local economic activity, and reduce inequality.[2]

2. Article 17 (1) (g) of the Constitution imposes a duty on all citizens to pay tax. This tax must be imposed under the authority of an Act of parliament as required under Article 152(1). Under Article 79 of the Constitution, Parliament is mandated to make laws for among others for purposes of development. However, this tax is more of regressive, anti – development and a deterrent to citizens' social and economic welfare as explained in detail below;

II. The proposed 0.5% Mobile Money tax on the transactional value does not conform to the canons of taxation and human rights.

a. ***The tax is not in conformity with two of the major principles of taxation***

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[1] National Financial Inclusion Strategy 2017-2022

[2] Global Financial Development Report: Financial Inclusion. World Bank. 2014

i. Canon of Equity:

3. This principle implies that tax should be levied on citizens on the basis of equality. The mobile money usage is predominantly by the poor, 61% of the Mobile Money clients transfer less than UGX 45,000. This is an indication that majority of the population using mobile money services are low income earners. More so those in rural areas where banks are less attracted due to low deposits and revenue amidst the high administrative costs. With 54% of the population having access to mobile money services within 1km compared to 16% for the bank services, the proposed bill is discriminatory of the rural and poor folk as well as those that transact on mobile money since in the banks and SACCOs there is no levy on transactional value.

ii. Canon of Certainty:

4. This canon of taxation suggests that the tax which an individual has to pay, should be certain and not arbitrary. It should be certain to the tax payer how much tax he/she has to pay, to whom and by what time the tax is to be paid.[3] On the other hand, Government has to be certain of how much tax is to collect. The imposition of this tax has been riddled with a lot of uncertainties to an extent of subjecting users to illegal payments such as the 1% tax on sending and receiving. This has caused a lot of distrust and it will require a lot of literacy for a number of users to gain trust in the system. Although government reconsidered the levy on deposits on account of a mere digitalization of money, it does not hold if the digitalized savings will also attract an excise tax of 15% on withdraw fee and an additional 0.5% of the amount withdrawn.

b. The Tax will increase the cost of access to basic services

5. Mobile money services have enabled easy payment for goods and services with convenience.[4] A number of utility companies such as National Water and Sewage Corporation, UMEME have designed e-payment systems for their services. In addition, there are a number of schools and health centres that receive school fees, community health insurance schemes and health bills respectively through mobile money. Therefore, 0.5% levy will make access to these services costly and unaffordable to the majority population as the service providers will require the customers include the levy in the payments.

c. The Tax is a regressive tax disproportionately affecting the poor and marginalized.

6. The mobile money tax also contradicts Uganda's Vision 2040 and the 2030 Agenda for Sustainable Development – the Sustainable Development Goals (SDGs) which Uganda has

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[3] https://www.quora.com/What-are-Adam-Smiths-canons-of-taxation

[4] Bank of Uganda Annual Report 2017

incorporated in its National Development Plan II (NDP II) 2015/16 – 2019-2020. SDG 1 on ending extreme poverty, SDG 8 on promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all and SDG 10 on reducing inequality within and among countries require the State to ensure that all men and women especially the poor and vulnerable have equal access to financial services, encourage and expand access to financial services for all and adopt fiscal policies aimed at achieving greater equality.

7. The mobile money tax on withdrawals under the proposed amendment to the Excise Duty Act is regressive insofar as it disproportionately affects on the poorest segments of the population. The median mobile money transaction is worth UGX. 45,000/=, a minimal value and further evidence that it is mainly the poor who are using mobile money for financial services. The tax, not only significantly reduces their disposable income which they can use for other essential goods and services, but also has the potential of causing their financial exclusion. Thus the tax derails Uganda from its Development Agenda insofar as it affects financial inclusion, especially for the rural poor.

d. Decision making around tax and public revenue should be made in transparent and participatory ways

8. The rights to participation, accountability, transparency and access to information are critical human rights principles that also apply to fiscal policies and must be implemented throughout the policy cycle, from design of budgets and tax codes, allocation of expenditure, through to monitoring and evaluation of impact.

9. The Special Rapporteur on Extreme Poverty and Taxation has stated that decision-making processes regarding tax and public revenues must therefore be based on full transparency and the broadest possible national dialogue, with effective and meaningful participation of civil society and those who will be directly affected by such policies, including people living in poverty.[5] Fiscal policies should be subjected to the scrutiny of the population during design, implementation and evaluation stages, with the various interests transparently identified. The population should have access to all relevant information in an accessible and understandable format,[6] and inclusive mechanisms should be put in place to ensure that they are actively engaged in devising the most appropriate policy options.[7] Owing to the asymmetries of power, expertise and interests in this debate, specific measures should be taken to ensure equal access and opportunities to participate, particularly for people living in poverty.[8]

[5] See A/HRC/17/34/Add.2, paras. 36-38.

[6] Human Rights Committee general comment No. 34 (CCPR/C/GC/34), para. 19.

[7] A/HRC/23/36.

[8] Ibid.

INITIATIVE FOR SOCIAL AND ECONOMIC RIGHTS

c. ***It worsens the unemployment rate in the country***

10. Article 40 (2) of the 1995 Constitution - Every person in Uganda has the right to practice his or her profession and to carry on any lawful occupation, trade or business. Since its coming into effect, the mobile money tax has affected the right of persons relying on the mobile money business as a source of livelihood such as mobile money agents. The tax has severely crippled the business of mobile money agents given the public outcry and protests, yet according to the Bank of Uganda Annual Report 2016/17, there are approximately 147,146 mobile money agents in Uganda whose means of income has been threatened by the unfair tax.

d. **It is a double tax on the receiver**

11. There is a standing 15% Excise Duty that is charged on the withdraw fee for every withdraw transaction under the Act, to charge an extra 0.5% tax on the same amount of money withdrawn occasions a double tax in respect to that transaction.

e. **Classifying the tax as excise duty is misplaced**

12. Excise taxes are most often levied upon cigarettes, alcohol and gambling. These are often considered superfluous or unnecessary goods and services. The taxes are levied to regulate their consumption. Therefore classifying the mobile money tax as an excise duty under the Excise Duty Act to specifically regulate/ reduces its usage seem to be misplaced. While money is a medium of exchange the basis of which it can be treated as a good, the 0.5% excise tax, may ultimately reduce the use of mobile money as a medium of exchange. This therefore begs the question, should the tax have been introduced under the Income tax Act or is best under the Excise duty Act.

f. ***Risk of loss of government revenue***

13. The imposition of 1% transactional levy has led to drastic decline in mobile money transactions which has dwindled the taxable revenue by telecom companies from mobile money users and has narrowed the country's tax base. This will grossly affect the government revenue mobilization which may result into limited resources for financing of government programs in the education, health, water and transports sectors among others. Reference is made to the UGX 5bn revenue that was allegedly collected within the first two weeks[9] of the tax vis-à-vis the decline in value of mobile money transactions by UGX 672bn within the same two weeks period after the introduction of the 1% mobile money tax.

[9] Hon. David Bahati, Minister of State for Finance, Planning and Economic media brief at the Uganda Media Centre, July 17, 2018.

14. However, it should be noted that the UGX 5bn was collected from multiple charges on sending, receiving and withdraw. Therefore, with the proposed 0.5% government is unable to raise the projected revenue of UGX 118bn, in addition to losing out on the amount of taxable transactions. The 0.5% tax will further deter the use of formal transactional channels as the masses will opt for informal mechanisms of transacting and saving money. Thus even revising the tax to 0.5% is self-defeating of the government revenue mobilization efforts.

III. PROPOSALS.

i. Drop the mobile money tax
ii. Develop alternative measures to raise revenues:
   a. Rethink tax exemptions for corporate entities. Uganda loses up to UGX 1.2 trillion in tax exemptions for corporate entities in a bid to attract foreign direct investment.
   b. Reduce wasteful expenditures.
   c. Tighten rules on illicit financial flows. Uganda loses approximately 2 trillion in illicit financial flows.

IV. CONCLUSION

15. We recognize the fact that government needs resources to provide services to the people and this can only be done after the citizens doing their fair share by paying of taxes. However this must be proportionate and commensurate to their incomes. Over the years, government has implemented a fiscal policy that is more pro-rich and neglected the poor by exempting a number of companies from payment of taxes or even allowing them to endlessly carry forward loses which has denied the country revenue to extend social service those in most in need and now is proposing tax with gross implications on the social and economic welfare of the poor, vulnerable and marginalized groups.

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