

ACTS SUPPLEMENT

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Act 8 *Local Governments (Amendment) (No. 2) Act* **2008**

**THE LOCAL GOVERNMENTS (AMENDMENT) (No. 2)
ACT, 2008.**

An Act to amend the Local Governments Act to provide for additional taxes to be levied, collected and charged by local governments in order to provide new sources of revenue for local governments, and for related purposes.

DATE OF ASSENT: 24th June, 2008.

Date of Commencement: 7th July, 2008.

BE IT ENACTED by Parliament as follows—

1. Amendment of section 80 of the Local Governments Act

Section 80 of the Local Governments Act, in this Act referred to as the principal Act, is amended by inserting immediately after subsection (1) the following—

“(1a) The taxes that local governments may levy, charge and collect shall include the following—

- (a) local government hotel tax to be charged on all hotel and lodge room occupants and to be collected and paid by hotel owners; and
- (b) local service tax to be levied on all persons in gainful employment or who are practising any profession or on business persons and commercial farmers producing on a large scale.

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(1b) The local government hotel tax shall be collected by the management of the hotels or lodges who shall remit the tax to the relevant local governments.

(1c) The local service tax shall be spent on basic local services such as sanitation, education, health, construction and maintenance of roads in the area of jurisdiction of the local government.

(1d) The Fifth Schedule shall apply to the taxes imposed under subsection 1(a).”

2. Amendment of Fifth Schedule to principal Act.

The Fifth Schedule to the principal Act is amended by inserting immediately after Part I of that Schedule the following—

“PART II

RATES FOR THE LOCAL GOVERNMENT HOTEL TAX AND LOCAL SERVICE TAX

1. Rates of local government hotel tax.

The local government hotel tax shall be levied on the room occupants as follows—

	Hotel Category	Rate of local government hotel tax per room occupied (in Shs)
1	Five and four star hotel	US\$2 per room or its equivalent in shillings
2	Three and two star hotel and other hotels charging above Shs 50,000/= per room	Shs 2,000/= per room
3	Hotels, lodges and guest houses charging Shs 10,000/= up to Shs 50,000/= per room.	Shs 1,000/= per room
4	Hotels, lodges and guest houses charging less than Shs 10,000/= per room.	Shs 500/= per room

2. Local service tax.

(1) The local service tax shall be levied on the wealth and income of the following categories of people and the assessment shall be fair, equitable and not regressive—

- (a) persons in gainful employment;
- (b) self employed and practising professionals (medical and veterinary doctors, engineers, accountants, consultants, technicians, lawyers, dentists, pharmacists, architects, scientists, surveyors, valuers, ICT specialists and any other self employed professionals not mentioned.);
- (c) self employed artisans (craftsmen, plumbers, builders, electricians, masons, carpenters, mechanics, blacksmiths, painters, welders, bakers, furniture makers, florists, tailors, radio and television repairers, hair dressers, semi-skilled artisans and any other artisans not mentioned excluding sole petty artisans and *jua kalis*, who are not fully established and not business entities;
- (d) businessmen and businesswomen (owners of shops, fuel stations, restaurants, bars, furniture workshops, directors and shareholders of business companies, printery workshops, food vendors, commission agents, insurance brokers, butchers, real estate service providers, owners of road construction firms, outside - catering service providers, coffee millers, maize millers, fish mongers, timber merchants, garage owners and shoe makers and any other businessmen and business women not mentioned);
- (e) commercial farmers.

(2) Salaries of the following are exempted from the payment of local service tax—

- (a) members of the Uganda People’s Defence Force;
- (b) members of the Uganda Police Force;
- (c) members of the Uganda Prisons Service;

- (d) members of the local defence forces; and
- (e) members of the diplomatic missions accredited to Uganda.

(3) The following persons are exempt from the payment of local service tax—

- (a) unemployed persons and peasants
- (b) a person engaged in subsistence or occasional economic activities;
- (c) petty food vendors;
- (d) *boda-boda* cyclists;
- (e) sole petty artisans and *jua kalis*, who are not fully established and are not business entities; and
- (f) people living in poverty who are unable to earn a minimum income to access basic necessities of life.

(4) For the purposes of this regulation, “peasants” include people who produce for their own subsistence and have nothing or very little to sell to the market.

3. Rates of local service tax in respect of persons in gainful employment and earning a monthly take-home salary

(1) The local service tax on persons in gainful employment and earning a monthly take-home salary shall be levied as follows—

	Amount of monthly income earned (in Shs)	Rate of local service tax (in Shs) per year
1	Exceeding 100,000= but not exceeding 200,000=	5,000=
2	Exceeding 200,000= but not exceeding 300,000=	10,000=
3	Exceeding 300,000= but not exceeding 400,000=	20,000=
4	Exceeding 400,000= but not exceeding 500,000=	30,000=
5	Exceeding 500,000= but not exceeding 600,000=	40,000=
6	Exceeding 600,000= but not exceeding 700,000=	60,000=
7	Exceeding 700,000= but not exceeding 800,000=	70,000=
8	Exceeding 800,000= but not exceeding 900,000=	80,000=
9	Exceeding 900,000= but not exceeding 1,000,000=	90,000=
10	Exceeding 1,000,000= on wards	100,000=

(2) In this regulation, “take-home salary” means gross salary after deducting income tax in the form of Pay as You Earn (PAYE).

4. Rates of local service tax in respect of self employed professionals

The local service tax on self-employed professionals shall be levied as follows—

Professionals who are self employed and consultants in various fields	Amount of monthly income earned (in Shs)	Rate of local service tax (in Shs) per year
Medical and veterinary doctors, engineers, accountants, consultants, technicians, lawyers, dentists, pharmacists, architects, scientists, surveyors, valuers, ICT specialists and any other self-employed professionals not mentioned.	1,000,000/= onwards	100,000/=
	Exceeding 500,000/= but not exceeding 900,000/=	50,000/=

5. Rates of local service tax in respect of self employed artisans

(1) The local service tax on self employed artisans shall be levied as follows—

Artisans who are self-employed	Amount of monthly income earned (in Shs)	Rate of local service tax (in Shs) per year
Craftsmen, plumbers, builders, electricians, masons, carpenters, mechanics, blacksmiths, painters, welders, bakers, furniture makers, florists, tailors, radio and TV repairers, hair dressers, semi-skilled artisans and any other artisans not mentioned.	Exceeding 100,000/= but not exceeding 200,000/=	5,000/=
	200,000/= but not exceeding 300,000/=	10,000/=
	exceeding 300,000/= onwards	20,000/=

(2) For the avoidance of doubt, all the professionals, technicians, consultants and artisans who are in gainful employment and earn a monthly salary shall pay local service tax according to their monthly salary.

6. Rates of local service tax in respect of businessmen and business women

The local service tax on businessmen and business women including owners of shops, fuel stations, restaurants, bars, furniture workshops, printery workshops, directors and shareholders of business companies, food vendors, commission agents, insurance brokers, butchers, real estate service providers, owners of road construction firms, outside-catering service providers, coffee millers, maize millers, fish mongers, timber merchants, garage owners and shoe makers and any other businessmen and business women not mentioned shall be levied as follows—

	Monthly turnover (in Shs)	Rate of local service tax (in Shs) per year
1	500,000/= but not exceeding 1,000,000/=	5,000/=
2	Exceeding 1,000,000/= but not exceeding 2,000,000/=	10,000/=
3	Exceeding 2,000,000/= but not exceeding 3,000,000/=	20,000/=
4	Exceeding 3,000,000/= but not exceeding 4,000,000/=	30,000/=
5	Exceeding 4,000,000/= but not exceeding 5,000,000/=	40,000/=
6	Exceeding 5,000,000/= but not exceeding 6,000,000/=	50,000/=
7	Exceeding 6,000,000/= but not exceeding 7,000,000/=	60,000/=
8	Exceeding 7,000,000/= but not exceeding 8,000,000/=	70,000/=
9	Exceeding 8,000,000/= but not exceeding 9,000,000/=	80,000/=
10	Exceeding 9,000,000/= but not exceeding 10,000,000/=	90,000/=
11	Exceeding 10,000,000/= onwards	100,000/=

PART III—GENERAL PROVISIONS RELATING TO LOCAL GOVERNMENT
HOTEL TAX AND LOCAL SERVICE TAX

DIVISION I—GENERAL PROVISIONS RELATING TO LOCAL GOVERNMENT
HOTEL TAX

7. Local government hotel tax.

(1) The local government hotel tax shall be levied on hotel and lodge accommodation per room per night and the tax shall be paid by room occupants.

(2) The tax shall be collected by the management of the hotel, which shall remit the tax to the relevant local council on a monthly basis.

(3) In these Regulations, a hotel is a house intended for accommodating travellers or visitors for payment.

8. Enforcement.

(1) Where the local government hotel tax is collected and any part of it remains un-remitted to the respective local government at the end of the financial year, the local government shall notify the hotel liable, requiring it to pay the outstanding tax together with a surcharge of 40%, within two months after notification.

(2) A district or urban local council may sue a hotel for failure to collect the tax or failure to remit the tax collected.

DIVISION II—GENERAL PROVISIONS RELATING TO LOCAL SERVICE TAX

9. General provisions relating to local service tax

(1) Every district or urban local council shall levy an annual tax to be known as local service tax on every person in gainful employment, practising professionals, business persons and commercial farmers.

(2) The salaried employees shall pay the tax in four equal instalments during the financial year.

(3) The rest of the taxpayers shall pay the tax once in full.

(4) The payment of the tax shall be completed within the first four months of the financial year for which it was assessed.

(5) The tax on salaried employees shall be collected by the employer and remitted to the respective local governments.

(6) Local service tax shall be payable to the district, municipality or town council where the person liable to pay the tax resides.

(7) A person liable to pay local service tax shall register with the nearest tax office of a local government in the area where he or she resides.

(8) Local service tax shall be paid on the basis of an assessment and each local service tax payer shall keep evidence of his or her assessment.

(9) The businessmen and businesswomen shall pay the tax at the time of paying for their annual trading and operational licences at their respective local governments.

(10) Where a commercial farmer produces more than one agricultural produce the assessment committee shall only assess him or her for local service tax based on the main dominant agricultural product he or she is producing.

(11) In these Regulations, a commercial farmer is a person producing farm produce on a large scale for the market.

(12) For the purposes of these Regulations, “residence” means continuous residence for at least six months in a city, municipality, town, district or other local government, and continuity of residence shall be deemed not to have been broken by reason of any absence of less than five weeks.

10. Tax enumeration committee.

A subcounty chief, an assistant town clerk and a town clerk shall respectively appoint a tax enumeration committee for a subcounty, city division or municipal division and town council, composed of technical officers with a chairperson of a village or ward, where the enumeration is taking place, as an ex-officio member to carry out enumeration of sources of income of persons to feed into the work of the tax assessment committee.

11. Tax assessment committee.

(1) Local service tax payable under this Part by a person resident in a subcounty shall be assessed under these Regulations by a tax assessment committee appointed by the subcounty council.

(2) Local service tax payable under this Part by a person resident in the area of jurisdiction of an urban council shall be assessed by a tax assessment committee appointed by the city or municipal division council or town council as the case may be.

12. Assessment of taxes by the tax assessment committee.

(1) Where a person satisfies the assessment committee or person appointed to do the assessment that he or she is unable to speak or to understand the language used by the tax assessment committee, the committee carrying out the assessment shall be assisted by an interpreter who understands the language of the person to be assessed.

(2) Where within one year after the making of an assessment by an assessment committee, the council concerned discovers in the assessment, an error or miscalculation, the council shall order the amendment of the assessment, and a fresh certificate of assessment shall accordingly be issued.

(3) Any amendment under subregulation (2) resulting in a higher tax shall not be made without affording a hearing to the taxpayer, and the taxpayer shall have the right to appeal against the amended assessment.

(4) Where an amendment under subregulation (2) results in a lower tax, a taxpayer shall be credited with the balance in his or her favour for the tax of the following year.

13. Appeal against assessment.

(1) There shall be a tax assessment appeals tribunal in every subcounty or urban council which shall be constituted in the manner prescribed by the Minister by statutory instrument.

(2) Any person—

(a) assessed to pay local service tax for which he or she is not liable under these Regulations;

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- (b) assessed to pay a rate of local service tax higher than the standard rate of tax;
- (c) refused exemption from the payment of local service tax; or
- (d) whose complete exemption or partial exemption from the payment of local service tax has been revoked or varied by a tax assessment committee,

may appeal to the tax assessment appeals tribunal, and the tax assessment appeals tribunal may confirm or vary the decision.

(3) Where a chief in charge of a subcounty or town clerk in an urban council in which any person resides is satisfied that a person—

- (a) has not been required to pay local service tax for which he or she is liable under these Regulations;
- (b) has been required to pay local service tax at a lower rate than he or she should pay; or
- (c) has been granted partial or complete exemption from the payment of local service tax unreasonably,

that officer may appeal to the tribunal, and the appeals tribunal may confirm or vary the decision appealed against.

(4) Any appeal under this regulation shall be brought within thirty days after the decision of the assessment committee has been made known to the taxpayer and the subcounty chief, the assistant town clerk or town clerk respectively of the subcounty, city division or municipal division or town council, as the case may be.

(5) Any person aggrieved by the decision of the tax assessment appeals tribunal may appeal to the Minister.

14. Attendance before committee, etc.

(1) A tax assessment committee or a tax assessment appeals tribunal may require any person, other than a person who agrees in writing to pay the maximum rate of local service tax, to attend before it when his or her case is being considered; and that person or the employer of that person shall furnish the committee, officer or tribunal with the information that may be required of him or her to enable the committee, officer or tribunal to reach a proper decision.

(2) Any person who wilfully neglects or refuses to attend or when attending wilfully refuses to furnish information lawfully required of him or her commits an offence and is liable on conviction to a fine not exceeding half a currency point or imprisonment not exceeding one month or both.

15. Recovery of tax and penalty for non payment.

(1) Where the local service tax payable or any part of it remains unpaid at the end of the first four months of the financial year, there shall be a surcharge of 50 percent of the amount remaining unpaid.

(2) The provisions relating to the collection and enforcement of tax shall apply to the collection and enforcement of surcharges.

(3) Subject to this regulation, any person who without lawful excuse, the proof of which shall lie on him or her, refuses, neglects or fails to pay the tax to which he or she is liable under these Regulations, four months from the date the tax is due, commits an offence and is liable on conviction to imprisonment for a term not exceeding one month or to a fine not exceeding double the amount of the tax due.

(4) Notwithstanding any other provision of this regulation, a taxpayer may be sued by a district or urban council for the recovery of the local service tax due.

(5) For the purposes of this regulation, local service tax due includes local service tax due and payable during the two years immediately preceding the year in which proceedings are instituted.”

3. Amendment of section 175 of principal Act.

Section 175 of the principal Act is amended by inserting immediately after subsection (3) the following—

“(3a) Regulations shall be made by the Minister under this section with the approval of Parliament prescribing the rates of local service tax in respect of commercial farmers under the Fifth Schedule”.

4. Transitional Provision.

Notwithstanding the provisions of this Act, Government shall continue to contribute the amount of at least shillings Forty five billion to local governments per year for a continuous period of three years to compensate for the vacuum created by the abolished Graduated tax.