

# **UGANDA TAX AMENDMENTS NEWSLETTER**

2022 - 2023



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# **INCOME TAX (AMENDMENT) ACT 2021**

### **BENEFICIAL OWNER**

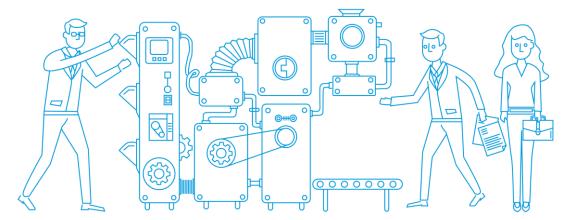
- Section 2 has been amended by substituting for the definition of "beneficial owner" the following—
   (ea) "beneficial owner" means natural person who ultimately owns or controls a customer or the natural person on whose behalf a transaction is conducted, including a person who exercises ultimate control over a legal person or arrangement
  - a) in relation to legal person includes—
    - (i) the natural person who either directly or indirectly holds at least ten percent shares or voting rights;
    - (ii) the natural person exercising control of the legal person through other means including personal or financial superiority; or
    - (iii) the natural person who has power to make or influence a decision of the legal person.
  - b) in relation to trusts includes—
    - (i) the settlor:
    - (ii) the trustee:
    - (iii) the protector;
    - (iv) the beneficiaries or the individual benefitting from the trust who is yet to be determined; and.
    - (v) any other natural person exercising ultimate control of the trust;
  - c) in relation to other legal arrangements similar to trusts, the natural person holding equivalent positions referred to in subparagraph (b);"

<u>Implication:</u> This amendment clarifies the definition of the beneficial owner by providing the criteria that will apply to the same. This will impact the application of the double taxation treaties that Uganda has with other countries.

2. Section 2 (bb) has been amended by substituting the paragraph (B) with the following—

"(B) a religious, charitable, educational institution or research institution whose object is not for profit;"

<u>Implication:</u> The addition of "research institution" allows non-profit making research organisations to be considered as exempt for income taxes.





# **RENTAL TAX IMPOSED**

Section (5) has been amended in subsection (3)-

(a) by repealing paragraph 3(b);

Previously subsection (3) (b) stated that expenditures and losses incurred by the individual in the production of the rent shall be allowed as a deduction under this Act for any year of income only as provided for in section 22(1)(c);

(b) by repealing paragraph (3) (d);

Previously this section stated that expenditures and losses incurred by a partnership in the production of rental income shall be allowed as a deduction under this Act for any year of income only as provided for in section 22(1)(c). The amendment implies that such expenditures and losses incurred by a partnership are no longer allowed for deduction.

by substituting for paragraph (3) (c) the following—

(c) expenditures and losses incurred by a person, other than an individual or partnership, in the production of rent shall be allowed as a deduction for any year of income only as provided for in Section 22 (1) (c);

<u>Implication:</u> This implies that expenditures and losses incurred by an individual or partnership in the production of rent may no longer be allowed as a deduction.

- d) by inserting immediately after paragraph(3)(d) the following—
- (e) the expenditures incurred or gross rent derived by a partnership shall be allocated to the partners in accordance with section 67 (5) and (7) of this Act."

<u>Implication:</u> This implies that expenditures incurred or gross rent derived shall be allocated and borne by each partner on a pro-rata basis; and where allocation of income in the partnership agreement does not reflect the contribution of the partners to the partnership's operations, a partner's share of partnership income or loss shall be equal to the partner's percentage interest in the capital of the partnership.



# **EXEMPT INCOME**

Section 21 is amended-

(a) in subsection (1) (ac) by substituting for the word "2022" the word "2027";

<u>Implication:</u> Income of Bujagali Hydro Power Project that was exempt up to 30<sup>th</sup> June 2022, has now been extended to 30<sup>th</sup> June 2027.

- (b) by inserting immediately after subsection (1) (ah) the following—
  - "(ai) the income of a manufacturer, other than a manufacturer referred to in paragraph (af), whose investment capital is, for over a period of at least ten years from the date of commencement of business, at least thirty-five million United States dollars for a foreign investor or United States dollars five million for a citizen investor who has—
    - (i) capacity to source at least fifty percent of the locally produced raw materials, subject to availability; and
    - (ii) capacity to employ a minimum of one hundred citizens.

<u>Implication:</u> This broadens the exemption regime to any manufacturer whose capital investment is at least \$35M and has operated for more than 10 years from the commencement of business, on condition they meet the criteria in (i) and (ii).

(aj) the income of a hospital facility developer, whose investment capital is, for over a period of at least ten years from the date of commencement of business, at least United States Dollars five million"

<u>Implication</u>: The income of hospital facility developers who have operated in Uganda for at least 10 years and whose investment capital is at least US\$ 5 million is exempt.

(c) in subsection (1b) by substituting for paragraph (A) the following—

"A= the total amount of investment made by the investor from the beginning of the year of income in which the tax incentive was established by this Act;"."

<u>Implication:</u> The exemption of income has been expanded from the date the tax incentive was established by ITA rather than from the beginning of the year of income in which the investment became a qualifying investment.





### **EXPENSES OF DERIVING INCOME**

Section 22 has been amended by

- (a) by substituting paragraph (c) the following—
  - "(c) in case of rental income, the expenditure and losses incurred by a person other than an individual or partnership in the production of such income subject to subsection (1a)."

<u>Implication:</u> This implies that all expenditures and losses incurred by a person other than an individual or partnership shall be allowed for the purposes of ascertaining the chargeable income.

(b) by repealing paragraph (ca);

<u>Implication:</u> No deduction shall be allowed for interest on a mortgage from a financial institution as expenditure incurred by an individual to acquire or construct premises that generate rental income.

- (c) by inserting immediately after subsection (1) the following—
  - "(1a) Where the expenditure and losses incurred by a person other than an individual or partnership in the production of rental income, exceeds fifty percent of the rental income, the allowable deduction shall be fifty percent of the rental income for that year of income and any excess of the expenditure and losses shall be carried forward to the subsequent year of income.

<u>Implication</u>: Expenditure and losses incurred by a person other than an individual or partnership shall not exceed 50% of the gross income for that year of income. The excess of the expenditure and loss is allowed to be carried forward to the following year of income.

# PAYMENTS TO NON-RESIDENT CONTRACTORS OR PROFESSIONALS

Section 85 of the principal Act is amended by inserting immediately after subsection (4) the following—

"(5) For avoidance of doubt income derived from the carriage of passengers who do not embark or cargo or mailm which is not embarked in Uganda is not income derived from a Ugandan-source service contract."

<u>Implication:</u> This is a welcome amendment particularly for those in the logistics industry. Tax shall not be imposed on income derived by a non-resident where there is carriage of passengers or cargo or mail that has embarked from outside Uganda.

### **PETOLEUM OPERATIONS**

Section 89GB of the principal Act is amended by substituting for subsection (2) the following—

"(2) If the cost of acquiring an intangible asset is treated as petroleum exploration expenditure, Section 31 applies to the asset on the basis that the intangible asset is amortised at the rate of one hundred percent."

<u>Implication:</u> This implies that a 100% of the amortisation expense of the intangible asset shall be allowed for deduction.



# **COLLECTION AND RECOVERY**

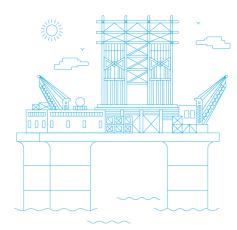
Section 89P of the principal Act is amended—

- (a) by substituting paragraph (a) the following—
  - (a) mining or petroleum revenues and other taxes charged in any assessment shall be payable on the due date of furnishing a return."

<u>Implication:</u> This implies that revenues and other taxes charged shall be due on the date the assessment is raised. Previously the grace period was 7 days from the date the assessment was raised.

## FAILURE TO FURNISH RETURNS (MINING AND PETROLEUM)

Section 89QA of the principal Act is amended by substituting for subsection (1) the following—



"(1) Notwithstanding the provisions of sections 48 and 49A of the Tax Procedure Code Act, 2014 a licensee who fails to furnish a return or provide any other document within the time prescribed by this Act is liable to a penalty of not less than fifty thousand United States Dollars and not exceeding five hundred thousand United States Dollars."

<u>Implication</u>: A penalty of failing to furnish or provide any other document within the prescribed time shall be not less than \$50,000 and not exceeding \$500,000.

# WITHHOLDING OF TAX BY THE PURCHASER OF AN ASSET

Section 118B of the principal Act is amended by inserting immediately after subsection (2) the following—

- "(3) For the purposes of this section "business asset" means land, the whole or any part of the land, which is used or held for use in any business except land held as a trading stock and includes—
  - (a) land that is used in business to generate income other than land of an individual that is subject to rental tax; or
  - (b) land owned by a company, trust or partnership.
- (4) This section shall not apply to
  - a) a seller who the Commissioner is satisfied has regularly complied with the obligations imposed on that person under this Act; or
  - b) the disposal of any property by means of gift, bequest, devise or inheritance that does not generate a gain included in business, employment or property income.

<u>Implication</u>: This narrows the definition of a business asset to include only land, whole or any part of the land which is used or held for use in any business.



# FIRST SCHEDULE

The First Schedule to the principal Act is amended—

- (a) by inserting the following in alphabetical order—
  - "International Development Law Organisation (IDLO)."
- (c) by substituting for the words "Department for International Development (DFID)" the words "Foreign, Commonwealth and Development Office (FCDO)".

<u>Implication:</u> The above organisations are to be included as exempt organisations.

### RATE OF RENTAL TAX FOR INDIVIDUALS

The Third Schedule to the principal Act is amended by substituting for Part VI the following—

"Part VI

Rate of Rental Tax applicable to an individual

The tax rate applicable to an individual for purposes of section 6(2) is 12% of the gross rental income.";

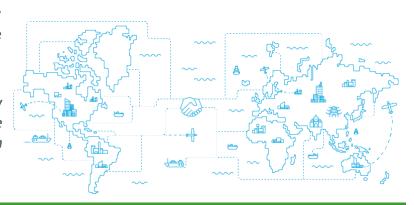
<u>Implication</u>: Rental tax for individuals shall be computed as 12% of the gross income. Previously the rate of tax for individuals was 30% of the chargeable income.

### **VALUE ADDED TAX**

### **EXEMPT IMPORT SERVICE**

The principal Act is amended in Section 20 (2) by repealing the words "or would be used in the provision of an exempt supply"—

<u>Implication:</u> An import of service is now considered an exempt import if the service would be exempt had it been supplied in Uganda.



## FIRST SCHEDULE - PUBLIC INTERNATIONAL ORGANISATIONS

The first section is amended by inserting "International Development Law Organisation (IDLO)" and by substituting the words "Department for International Development (DFID)" with the words "Foreign, Commonwealth and Development Office (FCDO)".

<u>Implication</u>: Here, the list of public international organisations has been expanded to include IDLO & FCDO while removing DFID at the same time.



# SECOND SCHEDULE – EXEMPT SUPPLIES

The Second Schedule is amended —

- (a) in paragraph (1) (q) by substituting item (xvi) with the following— "(xvi) oxygen cylinder or oxygen for medical use:"
- (b) in paragraph 1 by repealing subparagraph "(sd); the supply of menstrual cups"
- (c) in paragraph 1(rr) by repealing the words "at the level of a national referral hospital";
- (d) in paragraph 1 by repealing subparagraph "(fff); supply of cotton seed cake"
- (e) by inserting immediately after paragraph 1(000) the following—
  - "(ppp) the supply of assistive devices for persons with disability;
  - (qqq) the supply of airport user services charge by Civil Aviation Authority"

In summary the following have been added to the list of exempt supplies;

- oxygen for medical use,
- the supply of assistive devices for persons with disability,
- supply of airport user services charge by Civil Aviation Authority, and

The following supplies have been removed from the list of exempt supplies and shall no longer be considered exempt;

the supply of menstrual cups(these are now zero rated)

# THIRD SCHEDULE - ZERO RATED SUPPLIES

The following supplies are to be added to the list of zero-rated supplies;

- the supply of educational materials including educational materials manufactured in a partner state of the East African Community.
- the supply of sanitary towels, menstrual cups, tampons and inputs for their manufacture.

### **EXCISE DUTY**

### **INTERPRETATION**

The Excise Duty Act 2014, in this Act referred to as the Principal Act is amended in Section 2—

- a) by inserting immediately after the definition of "export" the following; "fruit juice" means unfermented liquid extracted from the edible part of a fresh fruit whether the extracted liquid is diluted or not;"
- b) by inserting immediately after the definition of "tribunal" the following;
  "un-denatured spirits" means spirits, that are not mixed with any substance to render the spirit unfit
  for human consumption or capable of being rendered unfit for human consumption, including neutral
  spirits or alcoholic beverages made from neutral spirits that are fit for human consumption.
- c) by inserting immediately after the definition of "value added tax" the following; "vegetable juice" means unfermented liquid extracted from the edible part of a vegetable whether the extracted liquid is diluted or not;"



# **SCHEDULE 2 PART 1**

Schedule 2 to the principal Act is amended—

a) by substituting for item 2 (d) the following;

No.	Item	Excise Duty/Rate of excise duty						
2	Beer	PROPOSED	CURRENT					
"(d)	Opaque Beer	12% or UShs 150 per litre whichever is higher."	20% or UShs 230 per litre, whichever is higher					

b) by substituting for item 3 the following;

PROI	POSED		CURR	CURRENT				
No.	Item	Excise Duty/ Rate of excise duty	No.	Item	Excise Duty/ Rate of excise duty			
3	Spirits		3	Spirits				
(a)	Un-denatured spirits of alcoholic strength by volume of 80% or more made from locally produced raw materials;	60% or UShs 1,500/= per litre whichever is higher;	(a)	Un-denatured spirits made from locally produced raw materials used in the production of disinfectants and sanitizers for the prevention of the spread of COVID-19	Nil			
(b)	Un-denatured spirits of alcoholic strength by volume of 80% or more made from imported raw materials;	100% or UShs 2,500/= per litre, whichever is higher;	(b)	Un-denatured spirits made from imported raw materials	100% or UShs 2,500 per litre, whichever is higher			
(c)	any other undenatured spirits—  (i) that is locally produced of alcoholic strength by volume of less than 80%; or	80% or UShs 1,700/= per litre whichever is higher;	(c)	Ready to drink spirits	80% or UShs 1,700 per litre, whichever is higher.			
	(ii) that is imported of alcoholic strength by volume of less than 80%.	100% or 2,500/= per litre whichever is higher;						
(d)	Un-denatured spirits made from locally produced raw materials that is used in the production of disinfectants and	Nil						

sanitizers for the		
prevention of the		
spread of COVID-19 of		
alcoholic content by		
volume not less than		
70%.		

# c) by substituting for item 5(b) and (d) the following;

PROF	PROPOSED				CURRENT			
No.	Item	Excise Duty/ Rate of excise duty		No.	Item	Excise Duty/ Rate of excise duty		
5	Non-alcoholic			5	Non-alcoholic			
"(b)	fruit juice and vegetable juice, except juice made from at least 30% pulp or at least 30% juice by weight or volume of the total composition of the drink from fruits and vegetables locally grown.	250 per litre, whichever is		"(b)	Fruit juice and vegetable juice, except juice made from at least 30% of pulp from fruit and vegetables grown in Uganda.	13% or UShs 250 per litre, whichever is higher.		
"(d)	any other non-alcoholic beverage locally produced other than the beverage referred to in paragraph (a) made out of fermented sugary tea solution with a combination of yeast and bacteria.	per litre		"(d)	any other non-alcoholic beverage locally produced other than the beverage referred to in subparagraph (a) made out of fermented sugary tea solution with a combination of yeast and bacteria	12% or shs.250 per litre whichever is higher.		

# d) by substituting for item 11 the following—

PROF	PROPOSED			CURRENT			
No.	Item	Excise Duty/ Rate of excise duty		No.	Item	Excise Duty/Rate of excise duty	
"11	Sacks and bags of polymers of ethylene and other plastics under HS codes 3923.21.00 and 3923.29.00 except vacuum packaging bags for food, juices, tea and coffee sacks and bags for direct use in the	per kilogram whichever is higher;"		"11	Plastic product and plastic granules;	2.5% or USD 70 per ton, whichever is higher	



manufacti	ure of sanitary			
pads;				

e) in item 13 (g), by inserting the words "United Republic of Tanzania" immediately after the word "Kenya";

PROI	PROPOSED				CURRENT			
No.	Item	Excise Duty/		No.	Item	Excise Duty/		
		Rate of excise				Rate of excise		
		duty				duty		
13	Telecommunications			13	Telecommunications			
	Services				Services			
(g)	Incoming international calls, except calls from the Republic of Kenya, United Republic of Tanzania, the Republic of Rwanda and the Republic of South Sudan.			(g)	Incoming international calls, except calls from the Republic of Kenya, the Republic of Rwanda and the Republic of South Sudan.			

f) in item 25 by substituting for paragraph (b) the following;

PROP	PROPOSED				CURRENT			
No.	Item	Excise Duty/ Rate of excise duty		No.	Item	Excise Duty/ Rate of excise duty		
25(b)	any other fermented beverages including cider, perry, mead or near beer produced from locally grown or produced raw materials;	30% or 550/= per litre whichever is higher;		25(b)	any other fermented beverages made from locally grown cider, perry, mead, spears or near beer	per litre;		

g) by substituting for item 26 the following;

PROPOSED			CURRE	ENT	
No.	Item	Excise	No.	Item	Excise
		Duty/ Rate			Duty/ Rate
		of excise			of excise
		duty			duty



26	construction materials of a	Nil	26	construction materials of	Nil
26	construction materials of a manufacturer, other than a manufacturer referred to in item 21, whose investment capital is, at least thirty-five million United States Dollars in case of a foreigner or five million United States Dollars in the case of a citizen;		26	construction materials of a manufacturer, other than a manufacturer referred to in item 21, whose investment capital is, at least fifty million United States Dollars or, in the case of any other manufacturer, who makes an additional investment equivalent to fifty million United States Dollars;	Nil

# **STAMP DUTY ACT**

### STRATEGIC INVESTMENT PROJECTS - NIL DUTY

The Stamp Duty Act, 2014 is amended in Schedule 2—

- a) by substituting for item 6 the following, Agreement relating to deposit of title– deeds, pawn pledge of the total value is Nil.
  - <u>Implication:</u> The stamp duty on agreements relating to deposit tittle deeds and pawn pledges has reduced from 1% to nil.
- b) by substituting for item 56 the following, SECURITY BOND OR MORTGAGE DEED- executed by way of security for the due execution of an office, or to account for money or other property received by virtue of security bond or mortgage deed executed by surety to secure a loan or credit facility— of entry total value is Nil.



<u>Implication</u>: The stamp duty on this transaction has reduced from 1% to nil.

- c) by substituting for item 63 the following, TRUST-Item 63 of the second schedule of the Stamp Duty Act provides for the stamp duty rate applicable to trusts. The stamp duty currently applicable on chargeable instruments in relation to the transfer of property in writing not being a will to a trust is UGX. 15,000.
  - The new stamp duty applicable to all chargeable instruments in relation to the transfer of any property made by any writing including a transfer from a holder of letters of administration or probate orders to a beneficiary to a trust is UGX. 15,000
- d) by substituting for the word "fifty" the word "thirty-five" in item 60A (f).



# **TAX PROCEDURES CODE ACT**

### **REGISTRATION OF TAX AGENTS**

Section 9 has been amended by substituting for subsection (4) the following –

"(4) The registration of a tax agent shall remain in force from the date of issue of the certificate of registration to 31st December every calendar year."

Previously subsection (4) stated that "The registration of a tax agent shall remain in force for twelve months from the date of registration."

Implication: Tax agents shall have to renew their agent licenses/certificates by 31<sup>st</sup> December of every calendar year.

#### PENAL TAX RELATING TO TAX STAMPS

Section 19B of the principal Act is amended in subsection (1) by inserting immediately after the word "affix" the words "or activate".

<u>Implication:</u> A taxpayer who fails to affix or activate a tax stamp on goods prescribed under section 19A (3) is liable to pay a penal tax equivalent to double the tax due on goods or fifty million shillings, whichever is higher.

### **TEMPORARY CLOSURE OF BUSINESS**

Section 33 is amended —

- (a) in subsection (1) by inserting immediately after the word "payable" the words "fails to comply with the requirements of electronic receipting and invoicing or tax stamps";
- (b) in subsection (2) by inserting immediately after the word "due" the words "fails to comply with the requirements of electronic receipting and invoicing or tax stamps";
- (c) by substituting for subsection (5) the following "(5) if the taxpayer complies with the tax obligations under subsection (1) during the period of closure, the Commissioner shall immediately remove the notice referred to in subsection (4).

<u>Implication:</u> Failure to comply with the requirements of electronic receipting and invoicing or tax stamps is tantamount to the temporary closure of business by the commissioner.

### NOTICE TO OBTAIN INFORMATION OR EVIDENCE

Section 42 of the principal Act is amended by inserting immediately after subsection (4) the following—

- "(5) Notwithstanding the provisions of subsection (1), a person engaged in the construction or extractive industry shall disclose to the Commissioner the names of persons contracted in the course of performance of their duties or business within seven days from the date of signing the contract.
- (6) A person who fails to comply with the provisions of subsection (5), is liable to pay a penalty of one thousand currency points."



### MAKING FALSE OR MISLEADING STATEMENTS

Section 58 of the principal Act is amended by substituting the words "two hundred" with the words "five thousand five hundred"

<u>Implication</u>: The penalty for a person that knowingly or recklessly provides misleading information or statements on conviction has increased from two hundred currency points to five thousand five hundred currency points. Each currency point is equivalent to UGX 20,000.

### **NEW SECTIONS**

**62B Failure to affix or activate a tax stamps.** A taxpayer who fails to affix or activate a tax stamp on goods prescribed under section 19A (3) commits an offence and is liable on conviction to a fine not exceeding one thousand five hundred currency points or imprisonment not exceeding ten years or both.

**62C. Prints over or defacing of a tax stamps.** A person who prints over or defaces a tax stamp affixed on goods prescribed under section 19A (3) commits an offence and is liable on conviction to a fine not exceeding one thousand five hundred currency points or imprisonment not exceeding ten years or both.

**62D.** Forgery of tax stamp. A person who forges or found in possession of a forged tax stamp commits an offence and is liable on conviction to a fine not exceeding one thousand five hundred currency points or imprisonment not exceeding ten years or both.

**62F.** Forgery of electronic receipt or invoice. A person who forges or found in possession of a forged electronic receipt or invoice commits an offence and is liable on conviction to a fine not exceeding one thousand five hundred currency points or imprisonment not exceeding ten years or both.

**62G.** Interfering with the electronic fiscal device or electronic dispensing control device. A person who makes un authorised interference with the software or hardware of an electronic fiscal device or electronic dispensing control device commits an offence and is liable on conviction to a fine not exceeding one thousand five hundred currency points or imprisonment not exceeding ten years or both.

#### 62H. Offences relating to automatic exchange of information. A person who —

- (a) fails to file an information return for purposes of automatic exchange of information commits an offence and is liable on conviction to a fine not exceeding two thousand five hundred currency points for each day of default or to imprisonment for the term not exceeding ten years or both;
- (b) fails to maintain records for purposes of automatic exchange of information commits an offence and is liable on conviction to a fine not exceeding two thousand five hundred currency points for each day of default or to imprisonment for a term not exceeding ten years or both;
- (c) makes a false or misleading statement in the information return commits an offence and is liable on conviction to a fine not exceeding two thousand five hundred currency points for each day of default or to imprisonment for a term not exceeding ten years or both; or
- (d) omits from a statement made in the information return commits an offence and is liable on conviction to a fine not exceeding two thousand five hundred currency points for each day of default or to imprisonment for a term not exceeding ten years or both.



### **PAYMENT OF INFORMERS**

Section 74A has been substituted for the following — "74A. Payment of informers

- (1) The Commissioner shall pay to a person who provides information leading to—
  - (a) identification of unassessed tax or duty one percent of the tax or duty assessed or fifteen million shillings, whichever is less; or
  - (b) recovery of unassessed tax or duty five percent of the tax or duty recovered or one hundred million shillings whichever is less.
- (2) Subsection (1) shall not apply to a staff of the Authority.

# **TAX APPEALS TRIBUNAL ACT**

### **ESTABLISHMENT OF TRIBUNALS**

Section 2 is amended by substituting for the word "four" the word "eight".

The number of tribunal members has been increased from four to eight.

# THE UGANDA REVENUE AUTHORITY ACT

### **FUNCTIONS OF THE AUTHORITY**

Section 3 has been amended by substituting for subsection (2) the following—

"(2) The Minister may, by statutory instrument, amend the First and Second Schedules to this Act."

Section 11 of the principal Act has been amended in subsection (1) by substituting the following—

(a) for the word "manager" and the words "assistant commissioner".

#### **CAVEAT**

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