



Cristal Advocates

From Bottlenecks to Solutions Overhauling Uganda's Tax Dispute Resolution Regime



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1. Introduction

There are mounting concerns on the vast sums trapped in prolonged tax disputes, with the AG's recent report revealing that by June 2024, unresolved cases had locked up over UGX 330 billion. This staggering figure, irrespective of whether the contested assessments are ultimately upheld or overturned, highlights a deeper systemic issue.

If the assessments are accurate, public funds remain inaccessible, delaying essential government programs, whereas if they are erroneous, taxpayers have already parted with UGX 110 billion under the 30% prepayment requirement, depriving businesses of capital that could otherwise drive private sector expansion. Against this backdrop, this article calls for targeted reforms to enhance the efficiency, fairness, and predictability of Uganda's tax dispute resolution framework.

2. Oversight over URA

The absence of an independent tax ombudsman to oversee URA's expansive administrative mandate is increasingly questioned, as jurisdictions with such oversight mechanisms provide taxpayers with a layer of impartial review that ensures fairness, transparency, and accountability in tax administration while also mitigating the risk of administrative overreach by subjecting the tax authority's actions to independent scrutiny.

While the government has in recent years sought to strengthen alternative dispute resolution (ADR) aiming for a less formal and ostensibly more amicable mechanism for resolving tax disputes, many taxpayers remain skeptical of its effectiveness, largely because ADR operates within the very institution that issues the assessments, thereby creating an inherent conflict of interest, particularly when assessments are driven by revenue targets, as ADR officials may be reluctant to adjust or overturn assessments for fear of undermining institutional revenue objectives, ultimately eroding taxpayer confidence.

Moreover, ADR in practice is more successful with deciding less contentious, lower-value disputes, while the more complex, high-stakes cases remain unresolved, a reality that curtails ADR's potential to deliver substantive outcomes.

3. 30% tax payment

While the constitutionality of the requirement to pay 30% of the disputed tax before contesting URA's assessments remains debated, it is both the prevailing practice and jurisprudence. The rationale appears pragmatic allowing government to secure some revenue while dispute resolution is ongoing. However, a deeper issue arises when the assessment is erroneous. In such cases, the prepayment imposes an unfair financial burden, forcing taxpayers to part with funds they may never owe in the first place.

This is further compounded by the absence of a tax ombudsman to review the administrative environment within which assessments are raised before escalation to the Tax Appeals Tribunal (TAT). Without independent oversight, taxpayers have no assurance that the assessments they challenge are fair or accurate. The lack of such a safeguard may create room for tax demands driven by revenue targets rather than objective determinations.

4. Protracted litigation

The necessity of a 5-tier appellate process in Uganda's tax dispute resolution framework is increasingly scrutinized, particularly in light of the extended timelines it is taking to have final determination of tax disputes. In some cases, disputes have dragged on for over 15 years, creating an untenable situation for commercial matters, where swift resolution is essential to the stability and growth of businesses and the broader economy.

To address this issue, establishing a tax ombudsman would provide an essential layer of independent oversight, fostering greater confidence in administration environment under which tax assessments are raised. With a reliable mechanism for impartial review, taxpayers would have increased trust in the dispute resolution process, potentially reducing the volume of adjudicated cases. Moreover, the appellate process should limit appeals beyond the TAT to the High Court. Given the specialized nature of tax disputes, there is little evidence to suggest that a prolonged appellate process yields fairer outcomes. On the contrary, it only prolongs uncertainty for both taxpayers and tax authorities, further diminishing the overall efficiency of the system.

Strengthening the TAT is another consideration. This can be achieved by appointing additional members ensuring that the tribunal's composition reflects the

complexity of modern tax disputes. Securing the tenure of office of TAT members is a further vital step to fostering impartiality and independence. A well-equipped, experienced, and secure TAT would be better positioned to resolve disputes expeditiously and with greater precision. As a result, any subsequent appeals would focus on procedural legal issues rather than substantive legal technical and merit issues, ultimately improving the efficiency and fairness of the tax dispute resolution process.

In practice, both the URA and taxpayers have, at times, used the appeals process not as a means to achieve fair resolution of tax disputes but as a strategic tool to delay final settlement. There are many appeals within the system that ordinarily should not be there. This creates a cycle that undermines the goal of swift and fair determinations. To address this, reducing the number of appeal stages and strengthening the TAT would

create a more efficient and predictable system for resolving tax disputes.

5. Conclusion

While revenue generation is vital, the methods employed should not overlook economic stability. Ambiguities in tax administration and enforcement create uncertainty, weaken public trust, and stifle economic growth. A transparent and predictable dispute resolution framework fosters compliance, attracts investment, and strengthens the economy. Streamlining the appeals process and instituting safeguards against unfair assessments would ensure a more equitable system. Uganda must seize the moment to reform its tax dispute resolution regime, creating a system that upholds fairness while sustaining economic prosperity.

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Denis is the Managing Partner of the Firm. He is qualified both as a Lawyer and Chartered Accountant with UK training and vast experience serving local, regional and international companies in Sub Saharan Africa. He is recognized as a notable corporate and commercial law practitioner in Uganda.

Before joining Cristal Advocates, Denis spent nearly 10 years at Deloitte, an international professional services firm, where he started his career and rose to senior roles. While with Deloitte, he worked and lived in Uganda, Kenya, Tanzania and the United Kingdom.

Education

- a) Master of Laws in Petroleum Taxation and Finance with distinction - University of Dundee, UK
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John Teira

John is a Partner with the firm but presently on sabbatical leave. Before joining Cristal, he worked as a Private Secretary to the President of Uganda. Prior to this role, he had worked with Shonubi Musoke & Company Advocates and Post Bank Uganda Limited.

John is presently a Member of Parliament representing Bugabula County North in Kamuli District in Uganda National Assembly.

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Dickens is a Partner at Firm where he also leads the oil and gas practice. Before joining Cristal Advocates, Dicken had served as Company Secretary of the Uganda Refinery Holding Company Limited (URHC) and the Uganda National Oil Company (UNOC) where he played key role in its formation.

Prior to joining the UNOC, Dickens had spent five years as Legal Counsel at the Petroleum Directorate of the Ministry of Energy and Mineral Development, where he evaluated several oil and gas transactions, negotiated contracts, and participated in the preparation of Uganda's oil laws and regulations.

Education

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Bill Page

Bill is a Senior Advisor at the Firm and is a leading global energy and tax practitioner with extensive international experience.

From 1986 to 1998, Bill worked in London with the UK tax authorities and Big Four accounting firms. From 1998 to 2004, he was based in Kazakhstan, working across the Caspian region with Deloitte during a period of major infrastructure development for crude oil production.

From 2004 to 2008, Bill worked in Russia, leading Deloitte's oil and gas industry group and establishing the firm's Sakhalin office. In 2009, he moved to East Africa, where he led Deloitte's energy and resources industry group in Uganda, Kenya, Tanzania, Rwanda, Ethiopia, and Mozambique. Initially based in Kampala, Uganda, he later relocated to Dar es Salaam, Tanzania.

In 2014, Bill returned to the UK to support Deloitte UK teams on projects investing in Africa and remained a key member of Deloitte UK's energy and resource practice until his retirement in September 2018.

Education

Bill is a graduate of Oxford University and completed his inspectors' training with the UK Inland Revenue in 1989.



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