DOING BUSINESS IN UGANDA

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Introduction

The Ugandan tax system operates a predominantly scheduler system of taxation as opposed to worldwide income system. It features both corporate and individual income tax, value added tax on goods and services, customs and excise duties, local excise tax on specific products and services, Gamming and Pool Betting Tax on games and sports, as well as stamp duty on legal documents. There are also a number of statutory levies and social security payments. Government through the Ministry of Finance is responsible for collection of taxes and non-tax revenue, however, this responsibility has been entrusted to Uganda's tax body, Uganda Revenue Authority (URA).

Collection of taxes is mainly through self-assessment and by withholding tax on payments to residents and non-residents, although the tax body sometimes may raise assessment in particular cases. As part of tax administration and self-assessment, individual income tax is collected by employers for individuals who are informal employment inform of PAYE (Pay As You Earn) as a withholding tax. The employer therefore acts as a withholding tax agent who collects monthly PAYE and remits to the tax body. The employer is therefore obliged to withhold tax and account for individual income tax on employee remuneration and benefits (the PAYE system). Currently penalties and interest on non-compliance and late payment of taxes are onerous.

The fact that Uganda's tax system is predominately self-assessment, the tax body regularly conducts compliance audits and investigations to satisfy themselves that the right information and subsequently the right tax is being declared and paid.

It should be noted that Uganda's tax system is electronic abbreviated as eTax and this comes with various challenges, including filing regular returns, which may call for a separate arrangement for using a tax consultant or training an in-house staff that would perform the duties of filing the said returns under the supervision of the consultant.

This document describes some of the key commercial and taxation factors that are relevant on setting up a business in Uganda.

1.0 BACKGROUND

1.1 Uganda is located in Eastern Africa, West of Kenya, and East of the Democratic Republic of Congo. It has an area of approximately 241,038sq km

1.2 Uganda has a population of close to 34,612.250 people (July 2011 est.), and together with neighbouring countries Kenya and Tanzania the region is known as East Africa .the Uganda's population growth rate is 3.576% (2011 est.)

1.3 Agriculture is the mainstay of Uganda's economy. About 80% of the population live in the rural areas and depend on it for their livelihood, and it contributes more than a quarter of the national wealth (group domestic product).

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1.4 The Uganda's currency is Shillings (SHS or UGX) and Cents. Currently the Central Bank's mean exchange rates are about Shs.2450 to a US Dollar and Shs.3995 to a Pound Sterling.

2.0 THE CHOICE OF LEGAL FORMS

2.1 Branch

There are no formal restrictions on operating as a branch of a foreign company in Uganda. A parent company is however, required to register a branch as business in order to start trading. There are many forms for registering a branch available in Uganda, for example, a limited liability company, partnership, Non-Governmental Organisation, company limited by guarantee, among others.

For tax purposes, a Ugandan branch of a non-resident company is subject to 30% tax on its profits derived from sources in Uganda. In addition branches are subjected to a 15% tax on any profits that is repatriated. A repatriated profit is calculated using a specific formula in accordance with the tax statutes. Uganda also has a forum for 'Not for Profit Organisations' that are exempt from Tax, subject to fulfilling certain conditions.

2.2 Limited Liability Company

A limited liability company can be incorporated under the Companies Act (Chapter 110). There are no restrictions on shares being held by foreign parent company or by non-resident party. Most businesses in Uganda are established as limited liability companies. There is also a provision of being registered as a Foreign Incorporated Company that is without going through the reregistration of another company.

2.3 Partnership

A partnership is resident for tax purposes if at any time during the year, any partner in the partnership was resident in Uganda. The income and losses arising from activities conducted by a partnership is taxed in accordance with specified rules of the Act. The Partnership Act applies to a partnership as if the partnership were a person. The obligations that would be imposed on the Partnership are instead imposed on each partner, but may be discharged by any of the partners. The partners are jointly and severally liable to pay any amount that would be payable by the partnership; and any offence under the Act that would otherwise be committed by the partnership is taken to have been committed by each of the partners.

3 INCOME TAX

3.1 Income Liable to Tax

Income tax is tax on income and is charged for each year of income upon the income of a person whether resident or non-resident. Resident persons in Uganda are taxed on worldwide income i.e. income derived from both Uganda and all over the World, however, a non-resident person is taxed on only income sourced in Uganda. An exception to this rule applies to a shorterm resident who is a person available in Uganda for less than two years.

3.2 Residence

An individual is resident for tax purposes if;

- He has a permanent home in Uganda
- Is present in Uganda -
  a) for a period or periods amounting in the aggregate to 183 days or more in that year of income; or
  b) during the year of income and in each of the two preceding years of income for periods averaging more than 122 days in each year of income; or
  c) is an employee or official of the Government of Uganda posted abroad during the year of income
- An individual who is a resident individual for a year of income, but who was not a resident individual for the preceding year of income is treated as a resident individual in the current year of income only for the period commencing on the day on which the individual was first present in Uganda.

- An individual who is a resident individual for the current year of income but who is not a resident individual for the following year of income is treated as a resident individual in the current year of income only for the period ending on the last day on which the individual was present in Uganda.

A Company is resident for tax purposes if;

- The company is incorporated or formed under a laws of Uganda; or
- The management and control of the affairs of the body was exercised in Uganda in at any time in a particular year of income under consideration; or
- The company undertakes the majority of its operations in Uganda during the year of income.

4 TAXATION

Tax is assessed on the basis of a resident company's year of income. A year of income for tax purposes is a period of 12 months ending on 30th June known as a normal year of income and includes a substituted year of income and a transitional year of income. A substituted year of income is a 12 month period other than the normal year of income, and a transitional year of income is any period less than 12 months period and applies where one is changing from a normal year of income to a substituted year of income and vice versa, and it also applies where one is starting a business and has to file returns for less than 12 months.

4.1 Corporate Income tax Rates

Applicable rate for non-individuals including resident and non-resident companies is 30%.

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4.2 Income tax for small business

This is applicable to particular businesses whose gross annual turnover is less than 50millions. It applies to both individuals and non-individuals like companies.

Annual Gross turnover	Tax
5 million – 10 million	Nil
10 million - 20 million	Shs. 450,000 or 3% of gross turnover, whichever is the lower.
20 million - 30 million	Shs. 750,000 or 3% of gross turnover, whichever is the lower.
30 million -40 million	Shs. 1,050,000 or 3% of gross turnover, whichever is the lower
40 million -50 million	Shs. 1,350,000 or 3% of gross turnover, whichever is the lower

4.3 Income tax rates for individuals

Tax rate applicable to resident individuals;

Chargeable income per Annum	rate of tax
0- 2,820,000	Nil
2,820,000-4,020,000	10% of the amount by which chargeable income exceeds Shs. 235,000
4,020,000– 4,920,000	Shs. 120,000 plus 20% of the amount by which chargeable income exceeds Shs. 335,000
Over 4,920,000	a) Shs. 300,000 plus 30% of the amount by which chargeable income exceeds Shs. 410,000, and b) Where the chargeable income of an individual exceeds Shs. 120,000,000 an additional 10% charged on the amount by which chargeable income exceeds Shs. 120,000,000

Tax rates applicable to non-resident individuals;

Chargeable Income Per Annum	rate of tax
0- 4,020,000	10%
4,020,000– 4,920,000	Shs 402,000 plus 20% of the amount by which chargeable income exceeds Shs. 335,000
Over 4,920,000	a) Shs. 582,000 plus 30% of the amount by which chargeable income exceeds Shs. 410,000, and b) Where the chargeable income of an individual exceeds Shs. 120,000,000 an additional 10% charged on the amount by which chargeable income exceeds Shs. 120,000,000

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4.4 Capital Gains

Uganda does not have capital gains tax, gains arising on the disposal of a non-depreciable business asset is the excess of the consideration received over the cost base of an asset at the time of disposal is included in gross income and treated as normal business income subject to income tax at the rate of 30%. The loss arising from such disposal where the cost base exceeds the consideration received is allowed as a deduction. In addition, with effect from July 2013, any non-resident individual who disposes of a building that is in Uganda is subject to withholding tax of 10% of the proceeds from the sale of such a building.

4.5 VAT

Other than exempt good and services, Value Added Tax (VAT) is charged on the following:

- Supply in Uganda made by a taxable person
- Every importation of goods other than an exempt import
- Supply of any imported services by any person.

The applicable rates are:

Zero rate	0%
Standard rate	18%
VAT as a fraction of the inclusive price (standard rate)	9/59
Annual turnover threshold for registration	50,000,000

4.6 Customs duty

All exports from Uganda to other countries attract no tax; Goods imported into Uganda from Tanzania and Kenya are also not subject to import duty. Goods will only enjoy this preferential tariff treatment if they meet the EAC Customs Union Rules of Origin. The customs value is essential to determine the duty to be paid on the imported goods. There are different import duty rates which apply to different items, the lowest being 0%, others include 10%, 25% and 30%. For motor vehicles, the tax body does not use the invoice value to calculate the Customs value, it uses the Motor vehicle Indicative Values which is a list of predetermined customs values for al motor vehicles. For other goods the tax body uses the invoice value to determine customs value except where there is no invoice or the tax body suspects an under declaration of the invoice value, then it will use other methods to determine the customs value.

4.7 Excise Duty

Uganda has both a specific and ad valorem excise regime.

Excise duty on imported goods is payable prior to clearance through Customs. However, not all imported items attract excise duty; there are specific items like Alcohols, wines and spirits, Jewellery, cement, air time, cigarettes, bank transaction fees and all soft drinks

4.7.1 Specific duty;

A concrete sum is charged for a quantitative description of goods e.g. $1 per unit. The custom value of the goods does not need to be determined, as the duty is not based on the value of the goods.

4.7.2 Ad-valorem Duty

Duties are levied according to the value of goods and are usually expressed as percentages of the value in order to arrive at the amount payable on an imported item. The rules are based on the customs valuation agreement.

4.8 Stamp Duty

Stamp duty is a duty paid to legalise documents in Uganda, any document without a stamp duty is not acceptable in courts of law, and instruments are as listed below. Stamp duty is payable on specified instruments is either Ad valorem (at a percentage) or fixed.
This duty is most executed on various instruments by banks/financial institutions, insurance companies, Registrar General's Office, Registrar of Titles, Commissioners of Oaths, Administrator General, Hire Purchase Companies and Bonded Ware Houses.

Stamp duty is also administered by Uganda's tax body and its self-assessment which will be through issuance of an e-Stamp from the tax body effective 1st September 2012.

Common instruments with fixed stamp duty rate;

NO	Instrument	Current Rate
01	Affidavit including an affirmation or declaration	5,000
02	Agreement or Memorandum of an agreement	5,000
03	Articles of Association of a Company	10,000
04	Cancellation	5,000
05	Capital duty	5,000
06	Caveat (Under the Registration of Titles Act)	5,000
07	Memorandum of Association of a Company	10,000
08	Partnerships	5,000
09	Policy of insurance	5,000
10	Power of Attorney	5,000
11	Promissory Note	5,000
12	Release of Instrument	5,000
13	Solemn or Statutory declaration	5,000

Common instruments attracting an Ad valorem rate

NO	Instrument	current rate
01	Debenture	0.5% of total value
02	Equitable Mortgage	0.5% of total value

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03	Gift	1% of total value
04	Hire purchase Agreement	1% of total value
05	Lease	1% of total value
06	Mortgage Deed	0.5% of total value
07	Security Bond or Mortgage Deed	1% of total value
08	Transfer	1% of total value

4.9 Withholding tax rates

This is a form of advance income tax that is paid by the taxpayer on specific supplies. It is collected at source on behalf of the tax body by specific persons that are designated by the tax body as withholding tax agents these are required to remit the withheld amount to the tax body on a monthly basis. It is deducted at source by one person upon effecting payment to another. This depends on the nature of transaction. The due date of payment is by fifteenth (15) day of the month following the month in which payment is made.

Withholding tax is not a final tax and therefore is claimable from the tax body, except for;

- International payments by a resident person to a non-resident person
- Payment to non-resident entertainers
- PAYE by an individual whose only source of income is employment by one employer.
- Royalties and insurance commissions received by residents.
- Interest from banks, building societies, bank of Uganda and others received by resident companies, trust, clubs, etc.
- Withholding tax on dividends

The rates include;	**Residents**	**Notes**	**Non residents**
Management fees	6%		15%
Goods & Services	6%	i	15%
Royalties	Nil		15%
Professional fees	6%	ii	15%
Dividends	15%	iii	15%
Dividends from listed Companies	10%		
Shipping ,Air craft & Telecommunication services	2%		2%
Interest	15%	iv	15%
Consultancy, Agency and Contractual fees	6%		15%
Artists and Public Entertainers, sports	N/A		15%
Disposal of a building by a non-resident person	N/A		10%
WHT applicable to winnings from betting	15%		15%

Notes

i. For residents it's only applicable on imports and where the payee is a Government body.
ii. For residents it's only applicable if the professional is not registered.
iii. Does not apply where the dividend income is exempt from tax in the hands of a shareholder. Divided income is not final if paid to a resident limited liability company.
iv. The WHT rate applicable for interest payments on Government securities to a resident person is 20% (section 117), Does not apply to:
    - Interest paid to a natural person
    - Interest paid to a financial institution.
    - Interest paid by a company to an associate company or
    - Interest paid which is exempt from tax in hands of the recipient.

4.10 Tax Treaties

Double Tax Treaties (DTA)

Uganda has DTAs with a number of as provided in the table below. The East African Treaty has also been signed but is yet to be ratified.

The Income Tax Act provides that an international agreement entered into between the Uganda government and the government of a foreign country shall have effect as if the agreement was contained in the Act.

Where the terms of such an agreement are inconsistent with the provisions of the Income Tax Act, apart from issues of tax avoidance, the terms of the international agreement prevail over the provisions of the ITA. Below is a table showing the withholding tax a rate under the DTAs Uganda has with other countries.

Category of income	Dividend	Royalty	Interest	Management & professional fees
South Africa	10%	10%	10%	10%
United Kingdom	15%	15%	15%	15%
Mauritius	10%	10%	10%	10%
Zambia	Exempt	Exempt	Exempt	NA
Italy	10%	10%	10%	10%
Norway	10%	10%	10%	10%
Denmark	10%	10%	10%	10%
India	10%	10%	10%	10%
Netherlands	10%	10%	10%	10%
UAE	10%	10%	10%	10%
Seychelles	10%	10%	10%	10%
EAC	5%	10%	10%	10%
Egypt	10%	10%	10%	10%

*Belgium and China are still pending ratification as of 1st July 2014.

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4.11 Returns and Payment of Income Tax

All companies are now required to submit self-assessments returns online using the eTax system.

Individuals whose only source of income is employment from one employer, whose income has been withheld at source by the withholding agent, are not required to file return.

Income tax returns are due after 6 months from the person's end of accounting period and failure to comply with this attracts a penalty of UGX 200,000 per month for the time the return is late or 2% percent simple interest of the tax payable for that year per month, whichever is greater. The due date for payment is the same for returns of income. Interest on late payment is 2% per month (Simple interest)

Both companies and individuals are required to submit provisional estimates of income (indicating estimated tax payable) within the first six months for companies and four months for individuals from the beginning of their accounting period. The estimated tax is payable in two equal instalments for companies and 4 equal instalments for Individuals, the due date for payment is follows as follows:-

For Companies,

- **1st Instalment:** on or before the last day of the sixth month from the beginning of the accounting period
- **2nd Instalment:** on or before the last day of the twelfth month from the beginning of the accounting period

For Individuals,

- This is paid in four equal instalments on or before the last day of the third, sixth, ninth and twelfth month of the year of income.

Offset is permitted for withholding tax and advance tax suffered in the year.

4.12 Tax rate applicable to mining Companies

The rates applicable to a mining company range between 25% and 45%.

Chargeable income of a trust and retirement fund is taxed at a rate of 30%

4.13 Thin capitalization

The recommended interest bearing debt to equity ratio by a foreign controlled resident company, which is not a financial institution, at any time during the year is 2:1. A foreign controlled resident company is considered to be thinly capitalized if the ratio of its interest bearing debt to its equity contribution exceeds 2:1. Where a company is thinly capitalized any interest charges arising on the debt in excess of the 2:1 ratio is not tax deductible.

5 ALLOWANCES

5.1 Allowable Deductions

The general rule for allowing expenditure for tax purpose is if they are revenue in nature and incurred wholly and exclusively in the production of income. Expenditure which is allowable under the Income Tax Act includes:-

- Bad debts written off subject to specific provisions
- Assessed loss for the provision of year of income carried forward and deducted from the following year of income.
- Any expenditure of capital nature incurred in searching for discovery and testing or winning access to deposits of minerals in Uganda, to produce income included in gross income.
- Repairs of the property occupied or used by the person in production of income during the year of income.
- Expenditure incurred during the year of income on acquiring a depreciable asset (minor capital equipment) of cost base less than Ush.1, 000,000.
- Expenditure incurred during the year of income for the training or tertiary education, not exceeding in the aggregate five years, of a citizen or permanent resident of Uganda, other than an associate of the employer, who is employed by the employer in a business, the income from which is included in gross income
- Expenditure incurred in starting up a business to produce income included in gross income or in the initial public offering at the stock market shall be allowed a deduction of an amount equal to 25% of the amount of the expenditure in the year of income in which the expenditure was incurred and in the following three years of income in which the business is carried on by the person.
- Realized foreign currency exchange losses
- Legal costs relating to collection of trading debts, breach of trading contacts and protection maintenance of trading rights,
- a gift made during a year of income to an exempt organization/charitable organization (i.e. an amateur sporting association, a religious education or education institution of a public character) for a year of income not exceeding 5% of the person's chargeable income, calculated before taking into account the deduction
- 20% of the expenditure incurred on acquiring farm works in the year of income in which the expenditure is incurred on the acquisition or establishment of a horticultural plant; or the construction of a greenhouse.
- Other capital deduction allowances in respect to depreciable assets, initial allowance, industrial building, cost of intangible assets.

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5.2 Non Allowable Deductions

Expenditure which is not wholly and exclusively incurred in the production of income and expenditure which is of a capital nature is disallowed. Expenditure which is specifically disallowed includes:-

- Specific bad debts and general provision for bad debts
- Self education and education leading to a degree.
- Expenditure of a domestic nature, e.g. Personal expenditure like maintaining of a person and the family, cost of clothe worn to work, cost of commuting between residence and place of work.
- Any expenditure or loss of capital nature or any amount included in the cost base of an asset.
- Income tax payable in Uganda or any foreign country
- Any income carried to reserve fund or capitalized in any way
- The cost of gift made directly or indirectly to an individual where the gift is not included in the individual's gross.
- Any fine or similar penalty paid to any government or political sub-division of a government for breach of law
- A contribution similar to a retirement find either for the benefit of the person making the payment or for the benefit of any other person
- Life insurance premium
- Amount of pension paid to any person.
- Any alimony or allowance paid under any judicial order or written amount separation
- Expenditure or loss recoverable under any insurance credited or indemnity.

5.3 Capital Allowances

Tax allowances on capital expenditure are available against business income to companies and individuals. The allowances which can be claimed in respect of capital expenditure are:-

- Initial allowances; (*This has been repealed therefore no longer applicable*)
- Industrial building allowance;
- Wear and tear deductions;
- Farm works allowance;

5.3.1 Initial allowance

This has been repealed and is no longer applicable with effect from July 2014.

5.3.2 Industrial Building Allowance

IBA at an annual rate of 5% is allowed on capital expenditure incurred on the construction of an industrial building which is used by the person during the year in the production of income included in gross income. The allowance is on a straight line and prorata basis. An industrial building is defined to include a building which is wholly or partly used or held ready for use by a person for manufacturing, research and development into new improved methods of manufacture, mining, an approved hotel business, approved hospital or approved commercial building.

IBAs are computed on the net cost after computing any initial allowances available on the building.

5.3.3 Wear and Tear Deductions

Wear and tear allowances are calculated by applying the rate of depreciation for that class against the written down Value of a pool on a reducing balance basis. There are four wear and tear classes;

Class	Assets Included	Rate
1	Computers and data handling equipment	40%
2	Automobiles; buses and mini-buses with a seating capacity of less than 30 passengers; goods vehicles with a load capacity of less than 7 tonnes; construction and earth moving equipment	35%
3	Buses with a seating capacity of 30 or more passengers; goods vehicles designed to carry or pull loads of 7 tonnes or more; specialized trucks; tractors; trailers and trailer-mounted containers; plant and machinery used in farming, manufacturing or mining operations.	30%
4	Rail cars, locomotives and equipment; vessels, barges, tugs and similar water transportation equipment; aircraft; specialized public utility plant, equipment and machinery; office furniture, fixtures and equipment; any depreciable asset not included in another class.	20%

5.3.4 Farm works Allowance

Farm works are defined to include, fences, dips, drains, water and electricity supply works, labour quarters and any other immovable buildings necessary for the proper operation of the farm. Depreciable assets used in production of farming income are depreciated under class 3 through the ordinary Wear and Tear.

Farm houses are excluded.

6 EMPLOYMENT

6.1 PAYE

Every employer is required to deduct tax from payments made to employees in respect of employment income. The PAYE rules set out the manner in which this is to be done.

Under the PAYE rules all deductions made by an employer must be paid to the domestic Tax department before the Fifteenth day of the month following the month in respect of which the deductions are made. Although the return is filed electronically, a hard copy of the filed return is requires within 10 days after filing online.

No deduction is allowed for PAYE except local service tax.

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Tax rates for resident individuals are different from those of non-resident individuals.

PAYE must be calculated on basic salary of an employee including all benefits whether in cash or in kind. The individual is allowed a threshold before arriving at the tax payable. Benefits in kind are measured in reference to the market value of such benefits; these benefits include housing, car benefit, loan benefit, provision of a domestic servant among others

For loans, an employee derives a benefit equal to the difference between the rate at which the employer has granted the loan to the employee and the statutory rate by the central Bank, multiplied by the amount of loan acquired.

Monthly PAYE tax rates applicable to resident individuals are as below;

Chargeable income per month	**rate of tax**
0- 235,000	Nil
235,000-335,000	10% of the amount by which chargeable income exceeds Shs. 235,000
335,000 - 410,000	Shs. 10,000 plus 20% of the amount by which chargeable income exceeds Shs. 335,000
Over 410,000	a) Shs. 25,000 plus 30% of the amount by which chargeable income exceeds Shs. 410,000, and b) Where the chargeable income of an individual exceeds Shs. 10,000,000 an additional 10% charged on the amount by which chargeable income exceeds Shs. 10,000,000

Monthly PAYE tax rates applicable to non-resident individuals are as below;

Chargeable income per month	**rate of tax**
0- 335,000	10%
335,000 - 410,000	Shs 33,500 plus 20% of the amount by which chargeable income exceeds Shs. 335,000
Over 410,000	c) Shs. 48,500 plus 30% of the amount by which chargeable income exceeds Shs. 410,000, and d) Where the chargeable income of an individual exceeds Shs. 10,000,000 an additional 10% charged on the amount by which chargeable income exceeds Shs. 10,000,000

Part-time allowances/earnings are taxed at a flat rate of 30% of the gross.

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6.2 National Social Security Fund

Contributions made for NSSF may be standard contributions or special contributions, depending on the eligibility status of an employee. These contributions are exempt from tax on the individual and also allowed as a deduction to the person making the deductions.

6.2.1 Standard contributions

These are made by eligible persons who are above the age of 16 but below the age of 55. They do not include:

a) an employee employed in exempt employment;
b) a non-resident employee;
c) an employee not employed in Uganda.

Eligible individuals' contribution to the National Social Security Scheme is 5% of gross cash wages. The 5% social security contributions should be paid on gross wages (cash wages) not taking into consideration PAYE or LST paid and is hence not tax deductible. The employer's contribution is 10% of the employee's gross cash wages (cash payments). The employer's contribution is tax deductible on the employer.

6.2.2 Special contributions

Special contributions are made by employers and are computed as 10% of the employee's gross wages.

Employers are required to make special contributions to the NSSF in respect to the following individuals:

a) a non-resident employee who is not an eligible employee;
b) an employee of or above the age of fifty-five years in respect of whom the Minister has specifically applied the provisions of this section by statutory order;
c) an eligible employee,

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