

**TAXATION OF PETROLEUM OPERATIONS IN UGANDA:  
A CRITICAL ANALYSIS OF THE PRINCIPLES GOVERNING TAXABLE INCOME AND STATUTORY  
INTERPRETATION OF THE INCOME TAX ACT.**

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Gerald Ndobyia & Innocent J. Rwothomio\*

**ABSTRACT**

*This paper analyses the taxation of petroleum operations in Uganda, a leading revenue provider to the government of Uganda, whose tax regime both at law and practice is new and unique. The paper seeks to establish what the chargeable income is as well as the principles under which this income is ascertained and taxed for petroleum operations. The authors also seek to establish what rules of statutory interpretation are relevant in interpreting this unique tax legislation, cognizant of both the investor and government interests. This is by analyzing key provisions of the Income Tax Act and cases where court has attempted to interpret or give guidance on how such sections should be interpreted. The paper establishes the taxable income and illustrates the aggressive statute interpretation nature of the overall taxation regime and concludes that there is a need for relaxation in the rates of tax imposed so as to encourage investment.*

## **1.0 INTRODUCTION**

In designing the oil tax regime, the government faced significant trade-offs between various objectives,<sup>1</sup> while taking into account a combination of economic, socio-political and institutional factors. These factors included the desire to attract investment, maximize government revenues, enhance the developmental impact of oil while seeking to influence the behavior of the International Oil Companies in the implementation of environmental and procurement policies. The Petroleum operations tax regime under the Income Tax Act<sup>2</sup> seeks to address

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<sup>1</sup> Joseph Okuja, 'The Uganda oil tax regime why the hullabaloo' *Business focus* Available at <<https://businessfocus.co.ug/the-oil-tax-regime-in-uganda-why-the-hullabaloo/>> [Accessed 12 April 2021]

<sup>2</sup> Herein referred to as the 'ITA'.

issues such as how to attract investment in the oil and gas sector, increase Government revenue through taxes collected and how to bring about economic development through development and use of local content while getting the most of this addition to the tax base. This is hinged on understanding the broader principles on taxable income and statutory interpretation as will be discussed in this paper

Given the fact that Government is moving closer to starting production in the oil and gas sector, this paper seeks to simplify the Income Tax Act issues that may arise for both local and international investors' downstream and upstream operations by giving a brief insight into the workings of this tax law regime.

The paper seeks to achieve its objective by firstly giving a general introduction to petroleum operations in Uganda wherein the various contracts and activities in a petroleum operation will be discussed. Secondly, the paper will discuss the principles of taxable income as they are important in understanding how tax will arise in petroleum operations. The paper will then appraise the rules of interpretation of tax statutes with the aim of assisting persons understand how the Income Tax Act is read and what the effect of some provisions will be and it concludes with recommendations for a fruitful government and investors engagement.

## **2.0 PETROLEUM OPERATIONS IN UGANDA**

Petroleum refers to crude oil and natural gas, or simply oil and gas,<sup>3</sup> while petroleum operations on the hand refer to any undertaking that involves planning, preparation, installation or execution of activities related to petroleum including reconnaissance, exploration, development, production, transportation, storage and cessation of activities or decommissioning of facilities.<sup>4</sup> The entire property, control of petroleum in its natural condition in, on or under any land or waters in Uganda is vested in the government.<sup>5</sup>

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<sup>3</sup> Joseph O.Okuja, *Domestic and International Taxation in Uganda: The Law, Principles and Practice* (Self-published, second edition, 2019), 417.

<sup>4</sup> S. 89(A)(1) ITA and S.2(1) of the Petroleum(Exploration, Development and Production) Act.

<sup>5</sup> A. 244 of the 1995 Constitution.

Petroleum activities in Uganda are principally divided into three periods; that is, exploration, development and production. This is further divided into a supply chain of operations categorized as upstream that includes activities such as exploration development and production of crude oil and natural gas, midstream activities that include planning, preparation, installation, and execution of operations, related to refining, conversion, transmission and storage of petroleum products and downstream activities that include distribution and sale of refined oil products, distribution and the sale of gas to end-users.<sup>6</sup>

The operations can be undertaken either through concessions this is where a country benefits through taxes and royalties or contractual agreements that take the form of production sharing agreements,<sup>7</sup> and service contracts. This does not give the licensee ownership rights to the oil in the ground however guarantees cost recovery through cost oil.<sup>8</sup> Uganda has adopted the latter method and offers a license to whoever undertakes to explore the oil.<sup>9</sup>

In furtherance of this, during September/ October 2017, Government of Uganda signed three Production Sharing Agreements (PSA) and issued, One License for Petroleum Exploration, Development and Production over the Kanywataba Contract Area to Armour Energy Limited (AEL) from Australia and two Licenses for Petroleum Exploration, Development and Production over the Ngassa Shallow and Ngassa Deep Contract Areas to Oranto Petroleum Limited from Nigeria.<sup>10</sup>

This first licensing round was undertaken in line with the National Oil and Gas Policy for Uganda (2008) and in accordance with the Petroleum (Exploration, Development and Production) Act 2013. Following Cabinet approval, the Minister, Ministry of Energy and Mineral Development launched the second licensing round for petroleum exploration covering five blocks in the Albertine Graben with the aim of increasing international investment into Uganda's oil-rich energy

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<sup>6</sup> Okuja, *supra* n.3.

<sup>7</sup> Herein referred to as 'PSA's'.

<sup>8</sup> Okuja, *supra*,n3.

<sup>9</sup> S. 6, Petroleum (Exploration Development & Production) Act 2013.

<sup>10</sup> Petroluem Authority of Uganda-Petroleum Exploration In Uganda Available at <<https://www.pau.go.ug/petroleum-exploration-in-uganda/>> [Accessed 12 April 2021].

sector at the 9th East African Petroleum Conference and Exhibition in Mombasa, Kenya during May 2019.<sup>11</sup>

The Oil produced in the operation is divided into Cost oil and Profit oil. Cost oil is the portion of oil produced that is retained by the licensee for purposes of recouping its investment while profit oil means the gross oil produced minus the cost oil and allowable deductions.<sup>12</sup> Profit oil is shared by the government and the licensee in proportions that they agree to.

Each person that signs a petroleum agreement is treated as a licensee for mineral or petroleum taxation.<sup>13</sup> Under the Model Petroleum Sharing Agreement,<sup>14</sup> the Government and the Licensee are parties to this agreement.<sup>15</sup> It is from this background that the principles of taxable income as discussed in the next section become relevant.

### 3.0 PRINCIPLES OF TAXABLE INCOME

Taxable income is the value of what a taxpayer could have consumed during the year without diminishing his or her capital wealth in the process.<sup>16</sup> Income tax applies generally to all types of persons who derive income, whether as an individual, bodies of individuals, or corporate entities.<sup>17</sup> The imposition of taxes in Uganda stems from Section 4 of the ITA which stipulates that taxes should be imposed on every person that has an income in a year of income.<sup>18</sup> Therefore income tax, as of principle is intended to be imposed annually on a tax payer's chargeable income.<sup>19</sup> All the other provisions of the Act, specific exemptions, detailed rules and administrative procedures are derived from this basic

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<sup>11</sup> Uganda Conducts 2nd Oil and Gas Licensing Round *Umaizi* Available at <[Uganda Conducts 2nd Oil and Gas Licensing Round | Umaizi](#)> [Accessed 12 April 2021]

<sup>12</sup> Okuja, *supra* n.3.

<sup>13</sup> S.89(A) (2) ITA.

<sup>14</sup> Model Petroleum Sharing Agreement Available at <<https://www.unoc.co.ug/wp-content/uploads/2021/07/MPSA.pdf>> [Accessed 12 April 2021]

<sup>15</sup> *ibid* Preamble

<sup>16</sup> Bakibinga, *Revenue Law in Uganda* ( Nairobi:Law Africa Publishing, 2012),21 referring to Meade, J.H *The Structure and Reform of Direct Taxation* (1976),30-33.

<sup>17</sup> Bakibinga *supra*, 22

<sup>18</sup> S. 2(zzz) and S.39(9) of the ITA define a "year of income" to mean twelve months ending on the 30th June, and includes a substituted year of income and a transitional year of income which are stipulated under Section 39(1) and Section 39(6) respectively

<sup>19</sup> S.4 of ITA

principle.<sup>20</sup> However, the ITA takes a mutually exclusive approach that makes other provisions of the Act override this general tax imposing rule. This is true and pertinent for the petroleum operations tax regime in light of its gross income, allowable deductions and chargeable income.

Uganda's special provisions for the taxation of petroleum operations are incorporated in Part IXA of the ITA. This part stipulates that all incomes derived by licensees under PSA's constitute taxable income.<sup>21</sup> For purposes of taxation, petroleum operations income should be distinguished from its revenue, that is much broader, for it includes the government's share of production, signature bonuses, surface rentals, royalties, proceeds from the sale of the government's share of production, any dividend due to the government, proceeds from the sale of government's commercial interest and many others.<sup>22</sup> Only a few of these are taxable as will be discussed in this essay.

Various propositions have been rendered to establish whether a gain is an income or not for purposes of taxation.<sup>23</sup> These propositions are divided into positive and negative propositions of income.<sup>24</sup> These are discussed below under broader headings to ascertain taxable income in petroleum operations.

### 3.1 Gross income

The gross income of a person is the income of a person for a year of income except income exempt from tax.<sup>25</sup> Gross income of a resident person includes income derived from all geographical sources while that of a non-resident is income derived only from sources in Uganda.<sup>26</sup> Whereas the gross income of taxpayer consists of business income,<sup>27</sup> employment income,<sup>28</sup> as well as property

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<sup>20</sup> Okujja *supra*, n3,218.

<sup>21</sup> S.18 and S.89G ITA.

<sup>22</sup> Henry Mugisha Bazira, 'UNDERSTANDING TAX JUSTICE IN THE CONTEXT OF TRANSPARENT AND ACCOUNTABLE OIL MANAGEMENT IN UGANDA: Is Tax and Oil Tax Justice a Myth or Reality' Available at <<http://maketaxfair.net/assets/Uganda-action-research-oil-management.pdf>> [Accessed 12 April 2021].

<sup>23</sup> Okujja, *supra*,n3,188.

<sup>24</sup> *ibid.*

<sup>25</sup> S.17(1) ITA.

<sup>26</sup> S.17(2) ITA

<sup>27</sup> S. 18 ITA.

<sup>28</sup> S.19 ITA.

income,<sup>29</sup> in petroleum operations, the gross income of the licensee includes firstly, cost oil which is a licensee's entitlement to production as cost recovery under the petroleum agreement.<sup>30</sup>

Secondly, a licensee's share of the profit oil earned by the licensee from petroleum operations.<sup>31</sup> This definition is intended to achieve certainty and simplicity in the income tax base to minimize administrative and judicial resources in resolving tax objections and litigation surrounding issues arising there from,<sup>32</sup> and offer the starting point for ascertaining what income, then, is taxable.

### **3.2 Allowable Deductions**

Chargeable income for a person for a year of Income is the gross income of the person for the year less allowable deductions.<sup>33</sup> Under the petroleum operations tax regime, these deductions include development expenditure, mining exploration expenditure,<sup>34</sup> mining extraction expenditure,<sup>35</sup> and rehabilitation expenditure.<sup>36</sup>

However, as a matter of accounting principle, the total deductions must not exceed the oil cost of that income year.<sup>37</sup> Where they exceed, they will be carried forward to the total gross income of the next year.<sup>38</sup> Therefore, whereas all expenses and losses incurred by a person during the year of income in production of income shall be deductible,<sup>39</sup> a limitation to what is deductible is clearly laid down under the Income Tax Act.<sup>40</sup>

Furthermore, through the principle of ring-fencing, tax-deductible costs or expenditure incurred in respect of a contractor's petroleum exploration and development expenditure in one contract area or block or oil field will only be

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<sup>29</sup> S. 20 ITA.  
<sup>30</sup> S.89A ITA  
<sup>31</sup> S. 89A ITA.  
<sup>32</sup> Okujja, *supra*,n3,  
<sup>33</sup> S.15 ITA  
<sup>34</sup> S.89D(3) ITA.  
<sup>35</sup> S. 89E(2) ITA.  
<sup>36</sup> S. 89F(1) ITA.  
<sup>37</sup> S. 89GA(1) ITA.  
<sup>38</sup> S. 89GA(2) ITA.  
<sup>39</sup> S.22 ITA  
<sup>40</sup> S.89D(3) ITA.

deducted from income derived from that contract area only and not against profits or income of a different contract area held by the same contractor.<sup>41</sup> This principle prevents licensees undertaking a series of projects from allocating or deducting exploration and development costs to areas that are already generating taxable income thus reducing their taxable income.<sup>42</sup> Therefore, companies are prevented from offsetting revenue from profitable projects against the costs of less profitable or unprofitable projects.

### 3.3 Chargeable income

Chargeable income is the gross income of the person for the year, less total deductions allowed under this Act for the year.<sup>43</sup> A receipt is deemed to be income where it is a gain to the person holding it.<sup>44</sup> The Chargeable income of petroleum operations is on a licensee's share of profit oil less allowable deductions at an income tax rate of 30%.<sup>45</sup> However, income tax losses from oil operations can be carried forward without a limit for set-off against later income profits, and this loss of the earliest year is allowed as the first allowable deduction.<sup>46</sup>

Amounts derived from carrying on a business are income,<sup>47</sup> and hence taxable. In petroleum operations chargeable income arises out of various circumstances and these include income derived by persons in the form of employment income which is subject to withholding tax., a participation dividend paid by a resident licensee to a non-resident company is taxed at 15%.<sup>48</sup> Lastly payouts for goods and services including royalties made to a resident contractor are taxed at a rate of 6% of the gross sum.<sup>49</sup>

Residence is a central feature in the taxation of income under the Income Tax Act.<sup>50</sup> It is relevant for determining whether a person is liable to tax on worldwide

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<sup>41</sup> *ibid.*

<sup>42</sup> Okujja, *supra*, n3, 430.

<sup>43</sup> S. 15 ITA

<sup>44</sup> Okujja *supra*, (n3, 191

<sup>45</sup> S. 89G(3) and Para 2 of the 3<sup>rd</sup> Schedule to the ITA.

<sup>46</sup> S. 89GA(3) ITA.

<sup>47</sup> Okujja, *supra*, n3, 191.

<sup>48</sup> S. 83(3) and S. 89H(1) ITA.

<sup>49</sup> S. 89H(4&5) and S.119 ITA.

<sup>50</sup> Okujja, *supra* (n3, 207.



income or only on income derived or sourced from Uganda.<sup>51</sup> In petroleum operations, a non-resident contractor who derives a fee for the provision of services of mining or petroleum operations is liable to pay a tax of 10% on the gross sum paid.<sup>52</sup> Under petroleum operations, an interest held by the licensee is a business asset,<sup>53</sup> and therefore attracts a tax at the time of disposal,<sup>54</sup> under Section 18(a), as well as Part VI of the ITA, apply.

The foregoing discussion lays down the principles of taxable income in petroleum operations and what constitutes chargeable income in the case of petroleum operations, how it arises and what rate of tax is imposed for the different persons engaging in petroleum operations.

#### 4.0 INTERPRETATION OF TAX STATUTES

Interpretation is the process by which the courts determine the meaning of a statutory provision and apply it to the situation before them.<sup>55</sup> These are purely guidelines for the judiciary to solve problems with statutory interpretation.<sup>56</sup> In Uganda, the constitution is the supreme law.<sup>57</sup> It is Sui Generis,<sup>58</sup> therefore all the laws derive their legitimacy from it and hence also guides in matters pertaining statutory interpretation. This was discussed in Uganda Revenue Authority v Meera Investments Ltd,<sup>59</sup> where it was stated that tax laws are “ticked” against the Constitution.

Various principles of statutory interpretation, such as the literal rule, the purposive rule, the mischief rule and the harmonious rule as discussed below,

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<sup>51</sup> S. 9-14 & 17(2) of the ITA.

<sup>52</sup> S. 89GG(1) of the ITA.

<sup>53</sup> S.89GF(3) ITA.

<sup>54</sup> S.51(I) of the ITA provides that a taxpayer is deemed to have disposed of an asset when it has been exchanged, sold, redeemed, distributed, transferred by way of gift, destroyed or lost.

<sup>55</sup> Rupert Cross, *Statutory interpretation*, (3rd Edition),34.

<sup>56</sup> James Holland and Julian Webb, *Learning Legal Rules* (Seventh edition).

<sup>57</sup> A. 2(1) Constitution of Uganda,1995.

<sup>58</sup> *Dunway v. New York*,442 U.S. 200 (1979). In which that Sui Generis is a term of art used to identify a legal classification that exists independently of other categorizations, either because of its singularity or due to the specific creation of an entitlement or obligation.

<sup>59</sup> Civil Appeal No. 22 of 2007.

have been used in discussing tax matters and they are also important and applicable in petroleum operations.

#### 4.1 Literal Rule.

The literal rule requires courts to interpret statutes in their plain, literal and ordinary sense.<sup>60</sup> This rule is used frequently as judges are not authorized to make laws and by following the statute to the letter judges cannot be accused of making law. This rule embodies three more rules of language that is ‘*Ejusdem Generis*’ that means ‘of the same kind’, ‘*noscitur a sociis*’ that means ‘meaning of a word can be known from associates’ and ‘*expressio unis est exclusion alterius*’ meaning ‘the express mention of one thing is the exclusion of another.’

In tax matters, this is the general rule of interpretation as stated in Rowlatt J's dictum in *Cape Brandy Syndicate v. IRC*,<sup>61</sup> where he stated that;

*‘in taxation, you have to look clearly at what is said. There is no room for any intendment; there is no presumption as to a tax; you read nothing in; you imply nothing, but you look fairly at what is said and that is the tax.*

This position was reiterated in *Tullow v Heritage oil and others*,<sup>62</sup> where it was stated that it is a general principle of Ugandan statutory construction that no tax is to be imposed except with clear statutory language.<sup>63</sup> The rationale of this rule was stated in *Heritage Oil and Gas Limited v. Uganda Revenue Authority*,<sup>64</sup> in which the tribunal stated that in defining the ‘natural construction of words’ the tribunal should look at what the ordinary man in the street would constitute them to be so that the ordinary man on the streets can understand their tax liability. In Petroleum operations disputes recourse shall therefore be made to this rule to interpret provisions of Part IXA of the ITA.

<sup>60</sup> Tindal CJ in the *Sussex Peerage Case* (1844) 11 Cl&Fin 85.

<sup>61</sup> IRC [1921] 1 KB 64,71. Also see *Canada Trustco Mortgage v Canada*[2005] 2 S.C.R, 601 at paragraph 11 where it was held that taxpayers are entitled to rely on the clear meaning of taxation provisions in structuring their affairs where the words are precise and unequivocal, those words still play a dominant role in the interpretative process.

<sup>62</sup> [2013]EWHC 1656(comm) Available at <https://www.casemine.com/judgement/uk/5a8ff74860d03e7f57eaa02> [Accessed 12 April 2021]

<sup>63</sup> *ibid* Para 90(i).

<sup>64</sup> [2011] UG CommC97.

## 4.2 Purposive approach

The purposive approach promotes the general legislative purpose underlying the provisions.<sup>65</sup> This rule asserts that words in law should be interpreted not only in their ordinary or literal sense but also concerning their context and purpose to promote the general legislative purpose underlying the provisions.<sup>66</sup>

Whereas equity and taxation are strangers,<sup>67</sup> this rule has been applied in petroleum operation matters specifically in *Tullow oil v. Heritage oil* (supra), wherein Tullow purchased Heritage's stake for 1.45 billion US dollars after which Heritage ceased to operate within Uganda. URA made a tax assessment of 404 million US Dollars in capital gains tax. Heritage disputed the tax, because it believed that the sale was not taxable given that the Production Sharing Agreement which the company signed with the Government failed to mention such a payment.

Heritage further argued that the sale of its assets to Tullow Oil was not taxable in Uganda because the sale itself took place outside Uganda and because the company itself is not incorporated in Uganda. URA argued that the assets sold were located in Uganda and that their sale was done with the consent of Uganda, making the transaction taxable under Ugandan law. The issue before the court was whether Ugandan law would consider that the claimant was in possession of the escrow account for the purpose of section 108 of the ITA.

In response to this, the court held that section 108 of the ITA provides that the Commissioner may, by notice in writing, require any person who is in possession of an asset, including money, belonging to a non-resident tax payer to pay tax on behalf of the non-resident up to the market value of the asset but not exceeding the amount of tax due.

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<sup>65</sup> per Lord Denning's judgement in *Notham v London Borough of Barnet* [1978] 1 WLR 220 Also see *Pepper (Inspector of Taxes) v Hart* [1993] AC 593, in which Lord Browne-Wilkinson referred to "the purposive approach to construction now adopted by the courts to give effect to the true intentions of the legislature". Also, see *Inland Revenue Commissioners v McGuckian* [1997] 1 WLR 999 (HL).

<sup>66</sup> *Pepper (Inspector of Taxes) v Hart* [1993] AC 593 , Also see Okuja, *supra* n4, 79.

<sup>67</sup> *Grey v Pearson* [1857] 6 HL.

In light of the purposive interpretation rule, the court in reliance to Prof. Bakibinga's interpretation of Uganda's tax law regime indicated that construction of section 108,<sup>68</sup> reflects the aggressive approach of the ITA towards the collection of tax from non-resident persons.<sup>69</sup> Prof. Bakibinga further stated that courts are also required to construe it aggressively,<sup>70</sup> and the court agreed with him. In interpreting Section 89GF(2) of the ITA the above discussed approach should be taken by the courts..

Furthermore, the reasoning behind this rule was stated in *Crane Bank v. Uganda Revenue Authority*,<sup>71</sup> to converse circumstances where the meaning of the term in a statute is ambiguous. The court stated that courts no longer adopt a strict constructionist view of interpretation which required them to adopt the literal meaning of the language. The courts now adopt the purposive approach which seeks to give effect to the true purpose of legislation and are prepared to look at how much extraneous material that bears on the background against which the legislation was enacted. This approach will therefore be of great importance in ensuring that petroleum activities are encouraged for both the investors and the government.

### 4.3 Mischief Rule.<sup>72</sup>

This rule is normally invoked by the court when interpreting a statute whose provisions are unclear.<sup>73</sup> Reference is made to former law and the existing gaps therein, as well as what the present law is trying to remedy. This rule allows for the adaption of statutes in a progressive society and closes loopholes. This rule gives courts the power to effectively decide on parliament's intent.<sup>74</sup>

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<sup>68</sup> This provision made a licensee an agent of a non-resident person disposing of their interest for any tax payable. S. 89GF(2) has a similar wording.

<sup>69</sup> *supra* n55, Para 82.

<sup>70</sup> *supra* n55, Para 91(i).

<sup>71</sup> (2012) UGCOMM. 42

<sup>72</sup> *Heydon's Case* (1584) 76 ER 637, This rule seeks to establish What the law was before the statute was passed, What problem (or mischief) the statute was trying to remedy; What remedy Parliament was trying to provide, The true reason of the remedy.

<sup>73</sup> *Sussex Peerage Case* [1844] 11 Clark and Finnelly 85, 8 ER 1034 Available at <http://www.geocities.ws/englishreports/8ER1034.pdf> [accessed 12 April 2021]

<sup>74</sup> Okuja, *supra* n3, 80.

This rule was applied in *Tullow oil v. Heritage oil*(supra), in which the mischief sought to be remedied was the occurrence of non-resident companies running away with the tax owed to the host country as well as dealing with challenges of difficult steps for seeking indemnity required to be taken in a foreign jurisdiction since such steps would amount to indirect enforcement of foreign debt.<sup>75</sup> Prof. Bakibinga in illustrating this explained that the approach of Uganda's tax regime is one of '*pay now and argue later.*'<sup>76</sup> So in cases where a provision of a law is subject contention it will be interpreted in line with the mischief which it seeks to address.

#### **4.4 Rule of Harmonious construction**

This rule requires that provisions of a statute be read harmoniously in order to give effect to harmonious goals. It requires that when there is a conflict between two or more parts of the law, one provision of the law should not be construed in a manner that defeats another provision of the same law.<sup>77</sup> This rule was discussed and applied in *URA v. Rabbo Enterprises and another*,<sup>78</sup> wherein Art. 139 of the constitution made the original jurisdiction of the high court subject to Art. 152(3) that provides for establishing a Tax Appeals tribunal that was later created. This rule is therefore relevant in the interpretation of petroleum operations tax provisions such as section 89MA that provides for the application of the Tax procedures code Act in light of provisions of the ITA.

#### **5.0 CONCLUSION**

The taxation of petroleum operations in Uganda is premised on a tax regime that is aimed at making the sector an attractive investment while at the same time attempting to generate as much revenue as possible for the government. These competing interests inform the court's use of tools such as statutory interpretation in an attempt to give the tax laws efficacy.

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<sup>75</sup> *supra* n55,Para 91(vi).

<sup>76</sup> *supra* n55,Para 82.

<sup>77</sup> *Commissioner Of Income Tax v M/ S Hindustan Bulk Carriers* (2003) 3 SCC 57.

<sup>78</sup> Civil Appeal No.12 of 2004.

The presence of a business arrangement in form of a profit sharing agreement calls for a business efficacious approach from both the legislature in drafting laws as well the judiciary in interpreting the same. In bringing such approaches to fruition, Tax rates under the Income Tax Act can be revised and made lower from 30% to at least 15%. This initiative will go a long way in making the petroleum explorative industry a very attractive investment arena in the Ugandan investment eco-system and would not be detrimental for the government since it is entitled to a portion under the profit sharing agreement.

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