Thanks Taxes Court Victory

Government officials paid sh6b in oil case bonuses

By Chris Kiwawulo

The finance ministry has confirmed that close to sh6b was paid out to government officials as bonus for their role in the case that Uganda won against oil companies in London.

The beneficiaries included officials from the Uganda Revenue Authority (URA), the treasury, office of the Attorney General/Solicitor General and energy ministry, among others.

At least 42 core, non-core and support staff of the ministries and URA received payments, according to the finance ministry spokesperson, Jim Mugunga.

He said the money was paid and that it was duly authorised by Government.

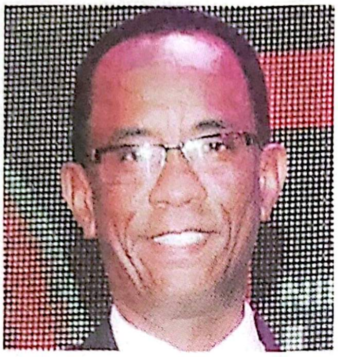
"Those who were paid were 42. They were paid a gross amount of sh6b, which was subject to deductibles including taxes and NSSF (National Social Security Fund) in the case of URA staff," Mugunga explained.

He said the payment was generated by URA after the finance ministry appointed and mandated the tax body as the accounting officer.

Mugunga said the payment was in appreciation of the team's efforts that led to the landmark victory in the oil tax case for Uganda.

In April 2013, Uganda won a landmark $434m (sh1.5 trillion) oil tax case in London against Heritage Oil and Gas Ltd, which had declined to pay taxes to URA after it sold its stake to Tullow Oil. Following the case, thee Government recovered the taxes and costs of the case that amounted to several million dollars.

Mugunga, however, disputed the list of alleged beneficiaries that was circulating on the social media yesterday. He argued that the list had more people than those who benefitted.



"The payment was made in appreciation of the team's efforts." Mugunga

"The authenticity of the list on social media is suspect because it has the wrong number of people authorised to be paid and it has no deductibles," Mugunga observed.

However, he declined to share with *New Vision* the official list of the beneficiaries, saying he did not want to demonise them.

The case

In April 2013, Uganda won a landmark $434m (sh1.5 trillion) oil tax case in London against Heritage Oil and Gas Ltd.

A three-member arbitration team ruled against the three core tax claims by Heritage, which was contesting the decision by URA to tax their $1.45b transaction with Tullow Oil.

This was the second time Heritage Oil had lost in the case. The company first lost in Uganda's Tax Appeals Tribunal, which upheld that the transaction was taxable. After losing the case in Uganda, Heritage took the matter to London.

The arbitrators included Prof. Campbell Maclachlan, the chairperson; Julian Lew for Heritage and Ahmed Kosheri for Uganda. Heritage argued that its transaction with Tullow did not attract capital-gains tax.

But Uganda argued that the transaction attracted a tax, that the tax dispute with Heritage could not be handled in London exclusively; that Heritage Oil had forfeited its right to have the matter handled in London when it subjected itself before the Uganda Tax Appeals Tribunal and lastly that the tax could not be determined in London. The arbitrators agreed with the Government on all these core issues.

The tax dispute started when Heritage Oil and Gas Ltd announced its intention to transfer its Ugandan petroleum assets to Italian giant ENI in December, 2010.

Tullow Oil Uganda, which had a 50% stake in the assets, exercised its first right of option under the same terms. But URA demanded 30% of the $1.45b deal in capital gains tax before the transaction was approved.

Heritage was against paying the tax, claiming that the transaction was not taxable in Uganda. The firm demanded to settle the tax dispute via the International Court of Arbitration in London.

Heritage deposited only $121m into the treasury. The balance of $283.5m was deposited in an escrow account held by Standard Chartered Bank in the UK, and Tullow was seeking to access the money.

The London ruling conclusively affirmed that oil transactions in Uganda are subject to a 30% capital gains tax.