REDMOND TAX
& Advisory

WE KNOW TAX

October 2026

6% WHT

On the Sale of *Rented Property* in Uganda: *The Tax Appeals Tribunal* Clarifies When It Applies.

Last month, our legal team at **REDMOND Associated Advocates** won a case that every property buyer in Uganda should know about. Their client, Sylvia Birungi, had bought a block of flats, only to be handed a UGX 102 million withholding tax bill. The Tax Appeals Tribunal set that bill aside. As **REDMOND TAX & ADVISORY**, we are hardly neutral, but having worked with the legal team to build the case, we can explain exactly why it succeeded.

Ask most people whether Uganda taxes the profit on selling a rented building and they will say yes. The honest answer is: **it depends on what the building does. Two identical blocks on the same street can sell for the same price, yet one sale is fully taxable and the other is completely tax free.** That idea sits at the heart of Sylvia Birungi v Uganda Revenue Authority (TAT Application No. 294 of 2025), decided on 18 September 2026. Before we tell Sylvia's story, it helps to understand how Uganda taxes gains on property, and why the Uganda Revenue Authority (URA) keeps running into trouble when it treats every building as if it were the same.



Uganda has no capital gains tax, only taxable gains

A capital gain is the profit you make when you sell something for more than it cost you. Many countries have a standalone capital gains tax. Uganda does not. The Income Tax Act taxes three kinds of income only: employment income, business income and property income. Property income is the passive return on owning things: rent, interest, dividends and royalties.

A gain on selling an asset is taxed only when it becomes business income. As a general rule, the Act says a gain on selling an asset becomes business income when the asset disposed is a business asset. That means an asset used or held ready for use in a business, held for sale in a business, or owned by a company or partnership. Every other capital gain is exempt under section 21(1)(j), with just two exceptions that Parliament added deliberately:

- gains on selling shares in a private limited company; and
- gains on selling a commercial building.

Those exceptions tell you something important. If gains on every building, rented or not, commercial or not, were already taxable, Parliament would not have needed to single out commercial buildings. For every other asset, the starting point is exemption.

How a taxable gain works, and where the 6% comes in

When a business asset is sold, the seller's gain (the sale price less what the asset cost, including improvements) is added to the seller's business income and taxed at the seller's normal rate. To collect something up front, section 130(2), in force since July 2019, requires a resident person who buys a business or a business asset to withhold 6% of the gross price and pay it to URA. The seller then claims that amount as a credit against the final tax.

A worked example. A seller bought a block for UGX 1.2 billion and sells it for UGX 1.75 billion, a gain of UGX 550 million. Assume a 30% tax rate.

- If it is a business asset: tax on the gain is UGX 165 million. The buyer withholds 6% of the price, UGX 105 million, and the seller pays the remaining UGX 60 million.
- If it is a passive investment asset: the gain is exempt. Tax due is nil, and nothing should be withheld.

If a business asset is sold at a loss: there is no tax on the gain, yet the buyer must still withhold UGX 105 million, and the seller must then claim it back.

Two things follow. The 6% is a blunt tool: it is calculated on the price, not the profit. And it lands on the buyer. If the buyer does not withhold, URA collects the tax, plus penalties, from the buyer, even though the gain belonged to the seller.

Same bricks, different tax

The table below imagines four buildings on the same street, each worth the same. What separates them is not the bricks, but what each building earns and how.

The Building	What It Earns	How the Law Sees It	Gain on Sale	Buyer Withholds 6%?
Grace lets 32 flats to residential tenants on ordinary tenancies	Rent	Property income from an investment asset	**Exempt**	**No**
Peter runs the same flats as serviced apartments, with daily cleaning, breakfast and a front desk	Fees for accommodation and services	Business income from a business asset	Taxable	Yes
Kato Developers Ltd builds flats in order to sell them	Sale proceeds	Trading stock of a company	Taxable as trading profit	Yes
Nakato owns an office and shop block let to traders	Rent	Property income from a commercial building	Taxable under the express exception	Expect URA to require it; in our view s. 130(2) does not apply



Tax follows the use, not the bricks.

The right question is never "is this a valuable building that makes money?" It is "what does this building earn, and how actively?"

The law draws these lines for good reasons. Business income comes from active effort: trading, providing services, taking commercial risk. Rent comes from passively letting someone use a space. The Act keeps the two in separate worlds. Rental income carries its own tax under section 5, kept apart from the tax on business income and with limited deductions. Residential rental buildings are also shut out of industrial building deductions, the capital allowances that qualifying commercial buildings can claim.

The Act also chooses its words with care. Section 130(1) makes a buyer withhold on an asset bought from a non resident, while section 130(2) uses the narrower business asset for sales between residents. Tax statutes are read strictly, a rule the Supreme Court applied in URA v Kajura (SCCA No. 9 of 2015), adopting the old English warning that "there is no equity about a tax". URA cannot widen a word Parliament chose to keep narrow.

- Labels instead of facts. In Dr Amos Nzeyi v URA (TAT Application No. 005 of 2024, decided in 2025), URA assessed about UGX 1.82 billion on a single sale of 42 acres of bushy land held for nine years, relying almost entirely on a box ticked on Dr Nzeyi's TIN registration. The Tribunal held that "ticking a box on a taxpayer registration form is not sufficient proof of an enterprise." Nzeyi case established that a single sale of land held long term, with no improvements, is not trading, and URA must prove an enterprise from what the seller actually did, not from how he is registered. In Comfort Homes (U) Ltd v URA (TAT Application No. 66 of 2020), URA had likewise leaned on a seller's tax profile that listed real estate among his activities. Comfort Homes established that the 6% rule could not reach a sale agreed before it came into force, but the buyer carries the burden of proof, so a buyer who disputes an assessment must come with the evidence.



- Rent when it suits, business when it suits. In Lake Victoria Hotel Ltd v URA (TAT Application No. 300 of 2024, decided in 2025), a company leased out an entire four star hotel, with 132 rooms, suites, bars and conference rooms, for USD 850,000 a year. The company said this was business income. URA insisted it was rent, and won: payment for the use or occupation of buildings is rent, and rental income is ring fenced. Lake Victoria established that the character of a payment depends on what it is paid for, not on how grand or busy the building is. Money paid for the use or occupation of a building is rent, even when the building is a hotel. However within a year, in Birungi, URA argued that rent from 32 ordinary flats turned the building into a business asset. The two positions are hard to reconcile.

- Shield and sword. URA uses a building's residential character as a shield when it refuses capital allowances, and accepts rental tax returns on the same building year after year as property income. Then, at the point of sale, it turns that character into a sword and calls the same building a commercial or business asset. A building cannot be residential when the owner claims an allowance and commercial when URA claims tax. Birungi closes that gap: because buildings let for residential accommodation fall outside the meaning of a commercial building, URA cannot deny the allowance on that basis and then tax the sale as if the building were commercial.

Taken together, these cases, most of them turning on the 6% withholding tax, continue to provide unwritten guidance on how disposals of property should be treated: look at what the property earns and how the seller actually used it, not at labels on a form. URA has largely ignored that guidance, and that is how disputes such as Birungi, among many others, keep arising. The cost of these shortcuts falls on buyers. URA picks up property sales from stamp duty records, often months later, and sends the buyer a bill for 6% of the whole price plus penalties. To contest it at the Tribunal, the buyer will generally have to pay 30% of the disputed tax first.

Sylvia Birungi vs URA: another case decided on its own facts

In 2024, Sylvia bought a four storey block of 32 one bedroom flats in Nkumba, Wakiso, for UGX 1.75 billion from a private individual. In January 2025, prompted by stamp duty records, URA opened a compliance review. It assessed UGX 102 million in withholding tax and rejected her objection.

URA said Sylvia runs rental businesses and the block was a business asset and further a commercial property.

The new angle: ask what the property earns

Sylvia's case turned the question around. Instead of asking whether the building looked like a business, it asked what the building earned, and proved the answer. That moved the inquiry away from labels, which URA can attach at will, to evidence, which the taxpayer can produce. Five points carried the argument.

From page 4

Sylvia Birungi vs URA: another case decided on its own facts (continued)

- The asset follows its income. Section 20(2) says rent keeps its character as rent for every purpose of the Act. An asset that earns property income is an investment asset. It cannot, at the same time, be a business asset earning business income. The character of the income fixes the character of the asset, not the other way round, and a gain on selling an investment asset that is not a commercial building is exempt.

- Proof in both owners' hands. Documentation, not description, fixes the category a building falls into. Here the evidence showed that the block earned rent, and only rent, before and after the sale: rent receipts paid to the seller's property managers, tenants who had been there since 2022 and stayed through the sale, sworn statements from those tenants, the change of landlord notice, the new tenancy agreements and Sylvia's own rental tax returns. Even the seller's receipts helped: terms forbidding tenants to alter walls and requiring them to hand the premises back in their original condition are the habits of someone preserving an asset for its yield, not preparing it for a quick sale. That distinction matters. Had the records shown a building bought, improved and held for a quick resale, the activity would look like trading in real estate, the block would be held for sale in a business, and the gain would be business income.

- The building's nature. A block of one bedroom flats is suited to one use only: residential accommodation. It is built as homes for tenants, not as shops, offices or a hotel, which places it outside the commercial building exception. The answer would be different if the tenants used the premises for commercial purposes, such as shops or offices. Because renting is not a business, the building would still fail the business asset test, but it would fall within the meaning of a commercial building, a term widened under the Income Tax (Approved Industrial Buildings) Regulations, 2003, and so outside the exemption in section 21(1)(j). The gain would then be taxed as business income, but not as a gain on a business asset. That is why tenancy agreements recording how the premises are actually used matter as much as the rent receipts.

- Consistency. URA had accepted the rent as property income, and the law denies residential buildings capital allowances. Having accepted the building's income as rent, URA could not switch labels at the point of sale simply because a different label would raise more tax.

- No tax, nothing to withhold. Withholding is only a collection tool. Where the law imposes no tax on the gain, there is nothing to withhold. The 6% is an advance payment towards a tax that must exist; it is not a separate tax on the sale price. The High Court made the same point in Luwaluwa Investments Ltd v URA (Civil Appeal No. 43 of 2022): "Where the transaction is not amenable to income tax, there can be no withholding since there is no tax to remit."



What the Tribunal decided

- Active versus passive. The difference is the level of activity. Rent from basic leasing is passive property income; business income needs active, ongoing commercial operations, trade or substantial extra services. The Act deals with the two separately, and they "cannot and should not be treated as one and the same."



- Ordinary letting is not a business. Letting residential property on ordinary landlord and tenant terms lacks the repeated and systematic transactions of trade. An asset that earns property income is an investment asset unless the law expressly says otherwise, as Parliament did for shares in private companies in 2010 and commercial buildings in 2014.

- Services can change the picture. A landlord who provides cleaning, security or meals may be carrying on a business, as in Sharad Karia v URA (TAT Application No. 57 of 2023, upheld by the High Court in Civil Appeal No. 83 of 2024), where furnishings, amenities and facilities took the letting beyond an ordinary landlord and tenant relationship and the flats were taxed for VAT as serviced apartments. The VAT law's separate treatment of ordinary letting, the Tribunal added, confirms that ordinary leasing is not a business. The implication is clear: had the block been run as a serviced apartment business, it would have been an asset used in a business, and so a business asset on which the buyer must withhold. That is why the building's residential use mattered.

- Residential is not commercial. Regulation 6(2) of the Income Tax (Approved Industrial Buildings) Regulations, 2003 excludes a building let out or used for residential accommodation from the meaning of an approved commercial building, so the block did not come within the commercial building exception in section 21(1)(j).

- No business asset, no duty to withhold. Section 130(2), unlike section 130(1), applies only to the purchase of a business asset. Sylvia bought from an individual, the tenancies were ordinary with no extra services, the seller was not trading in property, and she kept letting the flats as he had. The block was an investment asset earning passive rent, not an asset held for use in a business, so she had no duty to withhold. The assessment was set aside, with costs to Sylvia.

How Birungi differs from the earlier cases

CASE	THE PROPERTY	THE REAL QUESTION	OUTCOME
Comfort Homes v URA (2022)	Land bought by a company from an individual	Did the new 6% rule reach a sale agreed before it started?	No withholding, on timing. The buyer carries the burden of proof.
Luwaluwa v URA (TAT → High Court 2023)	Afrique Suites, sold by Equity Bank after a loan default	Was a lender's repossessed property a business asset?	Yes, but withholding reaches only any surplus beyond the debt.
Amos Nzeyi v URA (2025)	42 acres of undeveloped land held for nine years	Was the seller trading in land?	No: one sale, long holding, no improvements.
Lake Victoria Hotel v URA (2025)	A whole hotel leased out for a fixed annual sum	Is the payment rent or business income?	Rent: payment for the use of buildings.
Sharad Karia v URA (2023, High Court 2024)	Furnished apartments with services	Is it letting, or a business supply for VAT?	A business: services went beyond landlord and tenant.
Birungi v URA (2026)	Block of 32 flats let to residential tenants	What does the building earn?	Rent, so an investment asset. No withholding.

Nzeyi was the easier case: bare land, one sale, nothing happening on it. Birungi was harder because the building was busy. Rent came in every month, tenants came and went, and the flats had been renovated. URA presented all that activity as proof of trade. The Tribunal looked past the activity to the character of the income: collecting rent month after month is passive, however regular it is.

Lake Victoria supplies the other half of the picture: money paid for the use or occupation of a building is rent, even when the building is a hotel. Sharad Karia marks the boundary: add enough services and letting becomes a business. Put together, the cases give owners a working test.

Look at what the property earns.
If it earns rent on ordinary terms, it is an investment, and selling it should not attract income tax or the 6% withholding tax.

Quick guide: will tax bite?

SITUATION	GAIN TAXED?	BUYER WITHHOLDS 6%?
Individual sells a long-held home or residential rental block let on ordinary terms	Generally no	Generally no
Individual sells bare land held long term, in a single sale	Generally no	Generally no
Individual sells offices, shops or a warehouse (a commercial building)	Yes	Expect URA to require it, but in our view section 130(2) does not apply
Property sold by a company or partnership	Usually yes	Usually yes
Developer or land dealer selling plots or units built for sale	Yes	Yes
Serviced or short-stay apartments with cleaning, meals and similar services	Likely yes	Likely yes
Seller is not resident in Uganda	Depends on the asset	Yes, on any asset (section 130(1))
Mixed-use building, such as shops below and flats above	Grey area	Take advice

Based on the Tribunal and court rulings discussed in this article.



A word of caution: buildings let for commercial use



Care is needed at the other end of the scale. Take an individual who lets a building for non-residential use, say to a school or as offices. The rent is still passive property income, so the building remains an investment asset, not a business asset. The school or the firm in the offices is running a business, but that business belongs to the tenant, not the landlord. URA cannot borrow the tenant's trade to argue that the landlord's building is "used in a business"; the landlord's only activity is letting. The gain on its sale is therefore not a gain on the disposal of a business asset, and on that footing alone it would be exempt.

The tenant's use matters in one place only: the commercial building exception. Section 21(1)(j) expressly excepts gains on commercial buildings from the exemption, and the Income Tax (Approved Industrial Buildings) Regulations, 2003 define an approved commercial building widely enough to catch schools and offices. The gain on selling such a building is therefore taxable. It is brought into the landlord's business income, but by force of the commercial building exception, not because the building is a business asset. In other words, the gain becomes business income; it does not become business income from the sale of a business asset.

That distinction is what decides the 6%. Section 130(2) looks for a business asset, and a building let on ordinary terms by an individual is not one, whatever its use. Hence, in our view, the buyer should not withhold under section 130(2) unless the buyer is separately a withholding agent under the general withholding provisions.

From our perspective, the position is this:

- Residential letting: the gain on sale is exempt from income tax, and there is nothing to withhold.
- Commercial letting: the gain on sale is taxable as business income, but not as a gain on the sale of a business asset, so section 130(2) withholding should not apply unless the buyer is a withholding agent under the general provisions.

Practical lessons

IF YOU ARE BUYING

Know who you are buying from.

A company or partnership seller usually means you must withhold. An individual seller means you need to ask more questions.

Ask what the property earns.

Get the tenancy agreements, rent receipts and the seller's rental tax returns. Sylvia won on evidence that covered both owners.

Put it in the contract.

Agree who bears the 6% if it applies, and require the seller to help with evidence if URA comes calling. Assume URA will see the sale through stamp duty records.

IF YOU ARE SELLING

Keep records.

How long you held the property, and how you used it, are your strongest defences.

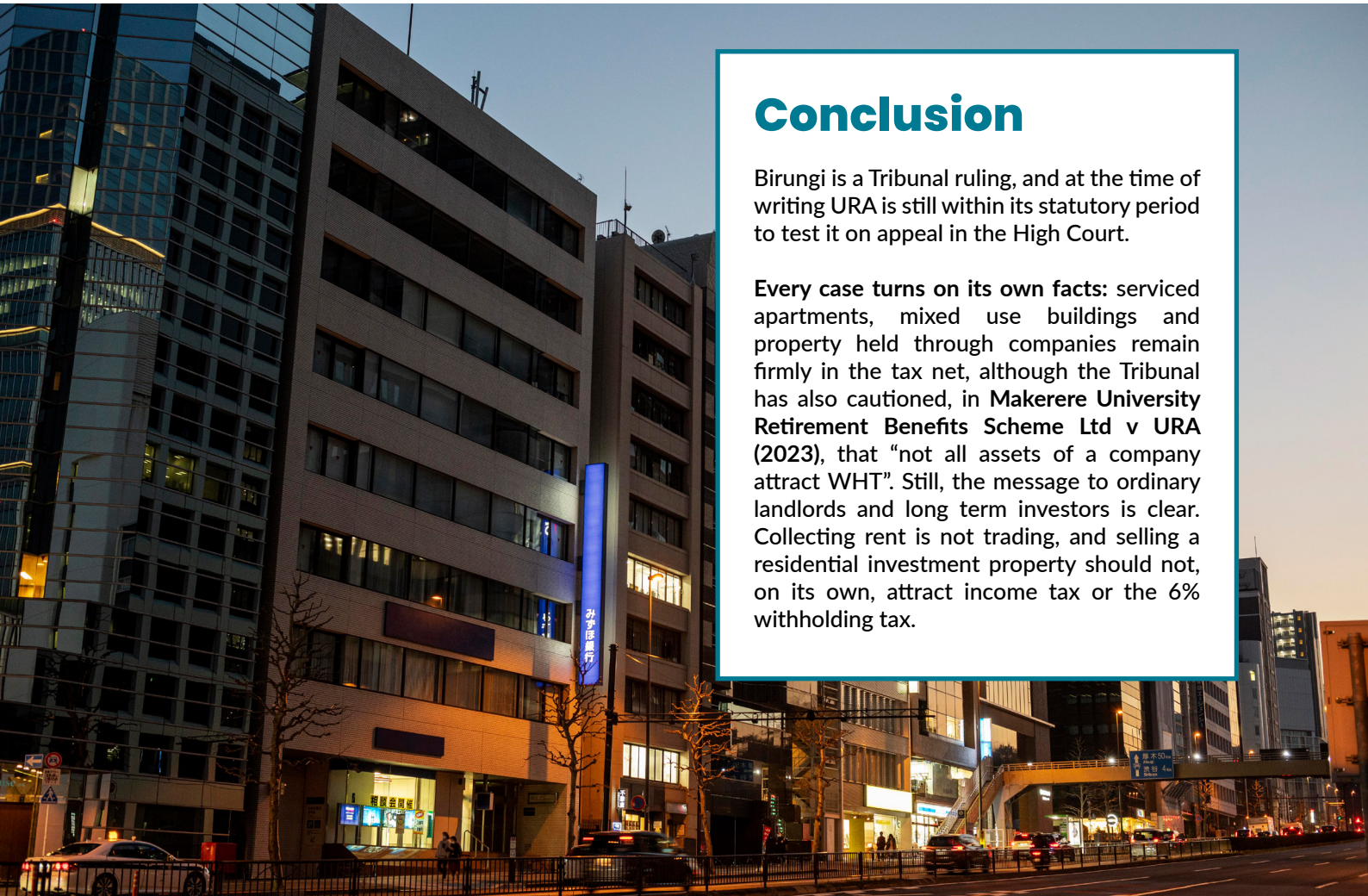
Know where the line is.

Adding hotel-style services, or frequently buying, developing and selling, can turn an investment into a business.

IF URA ASSESSES YOU

Move quickly.

Object within 45 days of the assessment. To take the matter to the Tribunal you will generally need to pay 30% of the tax in dispute first, which is refundable if you win.



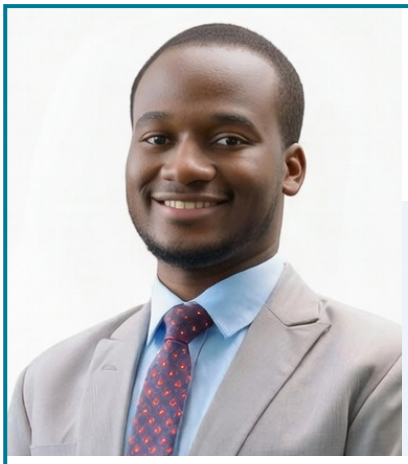
Conclusion

Birungi is a Tribunal ruling, and at the time of writing URA is still within its statutory period to test it on appeal in the High Court.

Every case turns on its own facts: serviced apartments, mixed use buildings and property held through companies remain firmly in the tax net, although the Tribunal has also cautioned, in **Makerere University Retirement Benefits Scheme Ltd v URA (2023)**, that "not all assets of a company attract WHT". Still, the message to ordinary landlords and long term investors is clear. Collecting rent is not trading, and selling a residential investment property should not, on its own, attract income tax or the 6% withholding tax.

Contact for this publication

Authors: REDMOND TAX & ADVISORY



Alfred Habaasa

Head – REDMOND TAX & ADVISORY
+256 778 444 143
ahabaasa@redmondadvocates.co.ug

Alfred Habaasa boasts a decade-plus career in tax consultancy and regulation. Notably, he led Transfer Pricing and International Tax initiatives for the extractives sector during his tenure at the Uganda Revenue Authority (URA). Also a former Senior Tax Advisor with EY Uganda, Alfred leverages his extensive regulatory and private-sector experience to navigate complex tax landscapes.

Alfred now heads REDMOND TAX & ADVISORY an independent Uganda tax practice in affiliation with REDMOND Associated Advocates

Education

- Certified Public Accountant (CPA) Uganda
- Fellow with the ACCA
- LLM in Energy Economics & Law- University of Aberdeen
- LLB Makerere University
- Advanced Diploma in International Taxation (ADIT)
- B.Sc. In Applied Accounting - Oxford Brookes University



Mwesigye Duncan

Tax Associate
+256 756 685292
Duncan.Mwesigye@redmondadvocates.co.ug

REDMOND ASSOCIATED ADVOCATES



KENEDY Kushaba

Managing Partner - Litigation and Oil & Gas
+256 777 799 978
kenedy.kushaba@redmondadvocates.co.ug



Noah Mukiza

Legal Associate
+256 772 053 620
Noah.mukiza@redmondadvocates.co.ug



Kaggwa Andrew

Legal Associate
+256 782 926 451
Andrew.Kagwa@redmondadvocates.co.ug

The material in this article is for general guidance only and does not constitute professional or legal advice. Accordingly, **REDMOND TAX & ADVISORY, REDMOND ASSOCIATED ADVOCATES**, or individual partners accept no liability for the consequences of anyone acting, or refraining from acting, in reliance on the information contained herein or for any decision based on it. No part of the article may be published or reproduced without prior written consent from **REDMOND TAX & ADVISORY** and without appropriate reference. While reasonable care is taken to ensure accuracy, the material may not reflect the most current legal developments; therefore, always consult a qualified tax lawyer before taking any decision, particularly in relation to any specific tax matter.