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Newsletter

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REVIEW OF THE FINANCE ACT 2019

On Monday 13 January 2020, President Muhammadu Buhari signed the Finance Bill 2019 into law. Quite significantly, the new Act is aimed at curing the deficiencies of major primary tax legislations through the amendment of obsolete and contentious provisions and the introduction of sweeping reforms to the Companies Income Tax (CIT), 2004; Value Added Tax Act, 2007; Capital Gains Tax Act, 2007; amongst others.

HIGHLIGHTS OF THE ACT

1. INCREASE IN VALUE ADDED TAX RATE TO 7.5%

The Value Added Tax (VAT) rate has now been reviewed upward from 5% to 7.5%.

2. DIGITAL TAXATION FOR NON-RESIDENT COMPANIES (NRCS)

The Act provides for the taxation of NRCs carrying on activities such as consultancy, technical, management or professional services in Nigeria on digital platforms; provided that they have "significant economic presence" (SEP) in Nigeria, and their profit can be linked to such activities. It also empowers the Minister of Finance to determine what will amount to Significant Economic Presence. While the Minister of Finance is yet to make such determination, the intention of the draftsman is to expand the scope of taxable businesses in Nigeria to include e-commerce activities.

3. TAX IDENTIFICATION NUMBER (TIN) AND EMAIL USE

Corporate bank customers are now required to provide TIN as a pre-condition for opening or maintaining their accounts. Email correspondence is now an acceptable means of communication with tax authorities.

4. REMOVAL OF RESTRICTIONS REGARDING INSURANCE FIRMS

Insurance companies are now able to carry their losses forward indefinitely and life and non-life insurance businesses would no longer be liable to special minimum tax provision

5. EXCEPTIONS TO EXCESS DIVIDEND TAX (EDT) PROVISIONS

EDT would now apply only to untaxed distributions other than profits specifically exempted from tax and franked investment income. This amendment removes the element of double taxation caused by EDT and should encourage corporate savings and retention of profits

6. EXPANSION OF THE CATEGORIES OF EXEMPT INCOME

The categories of exempt income have now been expanded to include the profit of small companies, dividends declared by small manufacturing companies, rental income of Real Estate Investment Companies (REICs) etc.

7. MINISTERIAL APPROVAL NO LONGER REQUIRED

Expenses incurred under management services between non-related parties would no longer require ministerial approval to be tax-deductible. In other words, any entity which enters into a management service agreement with an unrelated entity is now able to claim tax deductions for management fees without the approval of the Minister or the National Office for Technology Acquisition and Promotion (NOTAP).

8. NEW COMPANY INCOME TAX (CIT) RATES

SIZE	TURNOVER	RATES
SMALL	Less than N25M	0%
MEDIUM	From N25M - N100M	20%
LARGE	Greater than N100M	30%

The Act introduces new CIT rates, based on companies' revenue. This provision is intended to provide tax relief to small and medium sized companies (SMEs).

9. INTRODUCTION OF EARLY TAX PAYMENT BONUS

Under the Act, taxpayers who pay their tax liability at least 90 days before due date would be entitled to a bonus of 2% and 1% of the tax paid for medium and large companies respectively. While this is laudable, it may not achieve its aim of timely payment of tax because the proposed bonus may not be as beneficial to the taxpayer as the interest the tax payable would yield if invested, even in risk-free securities.

10. TAX EXEMPTION ON ASSETS SOLD IN A RESTRUCTURING EXERCISE

Capital Gain Tax would no longer be applicable to assets sold or transferred to a related party in a restructuring exercise. This exemption only applies when the acquired assets are not disposed of within 365 days from the date of restructuring.

CONCLUSION

The new Act is a welcome development to the tax landscape in Nigeria as it seeks to expand the tax net to include businesses operating on digital platforms while also increasing VAT rates from 5% to 7.5%. It is expected this would drive increased revenue and foster economic growth.

The Act also seeks to promote the growth of small businesses, particularly with the exemptions introduced for small and medium sized enterprises.

While these interventions are commendable, there is need for the Federal Government of Nigeria (FGN) to be more efficient in delivering people centered infrastructure projects whilst demonstrating accountability on the utilization of these additional fiscal revenues in Nigeria.

We are available to assist you with this and other legal and tax related issues you may have at any time.

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