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TAX 2023 WRAP-UP | 2024 OUTLOOK

01

INTRODUCTION

02

PART A: LEGISLATIVE DEVELOPMENTS

- The Business Facilitation Act 2023
- 2023 Fiscal Policy Measures
- Customs, Excise Tariff (Variation) Order 2023
- Finance Act 2023
- Financial Reporting Council of Nigeria (Amendment) Act 2023

PART B: JUDICIAL DEVELOPMENTS

- EFCC Has No Power to Unilaterally Investigate the Tax Payments of Companies
- TAT Clarifies the Application of NITDA Levy
- TAT Rules on Liability of Gaming and Casino Revenue to VAT
- TAT Rules that reliance on section 90 of CITA as a basis for re-filing of amended Tax returns must have resulted in excessive tax to such taxpayer.
- TAT Rules on FIRS' Appointment of Bolt as Agent of VAT Collection

- TAT Rules on Section 23 of the PPTA With Respect to Posted Price
- TAT Rules On The Wren Test Of Tax Deductibility
- Court of Appeal Affirms that Companies are Liable for Non-Payment of VAT by their Customers.
- TAT Rules on the Unilateral Transfer of Tax Records/ Profile to Another Tax Office by Tax Controllers.
- TAT Rules on the Legality of the Imposition of Penalties Under the Income Tax (Country by Country) Regulations 2018.
- TAT Rules on Right to Appeal A Final and Conclusive Tax Assessment.
- Non-Applicability Of VAT On Rental Income Derived From Real Properties
- TAT Rules That Vat Is Chargeable On The Supply Of Software Licensing
- TAT Rules on the Tax Deductibility of Bad Debts

PART C: GOVERNMENT POLICY AND TAX ADMINISTRATION

- Guideline On the Withholding and Self-Account of VAT
- Guidelines for the Refund of VAT Paid by Diplomats, Diplomatic Missions And International Organisations On Goods And Services Purchased
- FIRS and LIRS Sign MoU on Joint Tax Audit and Investigation
- FIRS signs Memorandum of Understanding (MoU) with HMRC
- FIRS Introduces New Changes to VAT Module with Subsequent Modifications
- LIRS Introduces a New Process for Generating Tax Clearance Certificate
- Federal Government's Decision to Grant a 6-months Tax-Grace Period to Companies in the Shipping Industry to Clear 10-Year Outstanding Tax Bill.

- Federal Government's Introduction of Annual Vehicle Ownership Verification Fee of N1000
- FIRS Public Notice on The Enactment of the Finance Act 2023
- FIRS Public Notice on Tax Compliance of International Shipping Companies
- FIRS Partly Extends Due Date for Submission of CIT Returns for 2023 Year of Assessment
- FIRS Releases Public Notice on Filing of Tax Returns by Enterprises in Nigeria Export Processing Zones and Oil and Gas Free Zones.
- FIRS Publishes Taxpayer Information Guide on Stamp Duty
- Leadership Transitions in the FIRS and the Presidential Fiscal Policy and Tax Reforms Committee
- FIRS Issues Public Notice on Waiver of Penalties and Interests on Outstanding Tax Liabilities.
- Presidential Fiscal Policy and Tax Reforms Committee Holds Public Consultation Events on Fiscal Policy and Tax Reform.
- Exemption of Payment of Import Duty and Value Added Tax on the Import of Liquefied Petroleum Gas.

PART D: LOOKING FORWARD: 2024 OUTLOOK

- Fiscal Impact of the 2024 Appropriation Bill
- Our Projections

03

GLOSSARY

FOREWORD

2023 is most definitive for ushering Nigeria into a new government following the successful conduct of its 2023 general elections. Prior to the elections, the Federal Government released Fiscal Policy Measures which affected both taxes and fiscal regulation. Also, at the sunset of the previous administration of President Muhammed Buhari, the Finance Act 2023 was signed into Law. Undoubtedly, the year 2023 witnessed a dynamic evolution in Nigeria's tax landscape, characterized by both political and legislative developments aimed at steering the nation towards a more robust and progressive fiscal system. These changes, spanning a wide spectrum of taxation policies, have left an indelible mark on the financial landscape, shaping business operations and decisions and the government's approach to revenue generation.

As it relates to legislative development, the year kicked off with the signing into law of the Business Facilitation Act 2023 (**BFA**), which made critical amendments to a number of extant tax legislations and several executive Fiscal Policy Measures which revised certain levies, taxes and charges, particularly on the telecommunication sector. Coming on the heels of the BFA, was the signing into law of the Finance Act 2023 (**FA 2023**), which in similar fashion, amended the relevant tax, excises, and duty statutes in line with the macroeconomic policy reforms of the Federal Government.

On the part of regulators, 2023 witnessed a concerted drive towards bolstering tax revenue generation. The Federal Inland Revenue Service (**FIRS**) and state tax authorities, prominently Lagos State Internal Revenue Service (**LIRS**); implemented a series of measures aimed at fostering greater tax compliance. Of particular note were the targeted measures implemented by the FIRS to procure the compliance of International Shipping Companies with their tax obligations. Most notably, the FIRS recorded a groundbreaking tax collection for H1 of 2023.

The Nigerian judiciary, in continued stride, played a pivotal role in shaping the nation's tax landscape, through a series of landmark decisions emanating from the courts and tribunal. As expected, the Tax Appeal Tribunal (TAT or the Tribunal) provided invaluable guidance on the interpretation and application of tax laws, impacting both taxpayers and tax authorities alike. This report delves into these key judicial pronouncements, offering insightful summaries and analyses of their significance. Worthy of mentioning was the TAT's groundbreaking judgement which held that the Income Tax (Country by Country) Regulations 2018 were not duly issued by the statutorily appointed delegates in line with the FIRSEA, and all penalties issued under the 2018 regulations were unconstitutional.

This report comprehensively examines the key developments that unfolded throughout the year, providing a detailed overview of the legislative changes, landmark judicial decisions, and administrative initiatives which shaped the tax environment for businesses and individuals alike. By delving into these critical events, we aim to provide a comprehensive understanding of the evolving tax landscape in Nigeria and its potential impact on various stakeholders.

Looking ahead, we will also offer a glimpse into the coming fiscal year 2024. This analysis will explore the anticipated changes, potential challenges, and emerging trends that are likely to influence the tax landscape in the year to come. By providing this forward-looking perspective, we aim to equip readers with the knowledge and insights necessary to navigate the evolving fiscal environment and make informed decisions for the future.

Jonathan Aluju

Partner, Olaniwun Ajayi LP

PART A: LEGISLATIVE DEVELOPMENTS

In this part of our Report, we consider key legislations introduced by the Federal Government of Nigeria. In 2023, two pieces of legislation stood out for their profound impact and relevance: the Finance Act 2023, and the Business Facilitation Act 2023. Each of these Acts addressed critical areas and introduced significant changes that will undoubtedly shape the economic and business landscape in the years to come.
Below, we have highlighted salient provisions of the relevant legislations.

THE BUSINESS FACILITATION ACT 2023

The Business Facilitation (Miscellaneous Provisions) Act 2023 was signed into law on 14 February 2023 as part of the Federal Government's initiatives to create an enabling environment for doing business in Nigeria. The BFA was introduced to the National Assembly as an Executive Bill to reform 21 business-related laws and remove bureaucratic impediments to doing business in Nigeria.

In the paragraphs below, we summarily examine the tax legislations and obligations impacted by the BFA.

Obligations under the Industrial Training Fund Act now apply to Employers with more than 25 employees.

The BFA amends the ITF Act by including a new section 6 which requires all employers with 25 or more employees to contribute one percent (1%) of their annual payroll to the ITF in respect of each calendar year or prescribed date. Employers operating within a free trade zone are, however, exempt from this mandatory contribution.
Before the amendment by the BFA, the Act as amended in 2011 applied to employers with a minimum of 5 employees or having less than 5 employees, but with turnover of not less than N50 Million. This amendment also clears the air that employers in the Free Trade Zone are not required to contribute to the Fund.

Persons eligible to contribute 2.5% of monthly income to the National Housing Fund (NHF)

The BFA amends the provisions of the National Housing Fund Act (**NHF Act**) on who can contribute to the NHF by requiring every employee earning the national minimum wage or higher in the public sector or who is self-employed to contribute 2.5 percent (2.5%) of their monthly income to the NHF. Contributing to the NHF is however made voluntary for employees in the private Sector, implying therefore that such employees may decide to continue with the scheme.

It is also important to state that prior to the Amendment of the NHF Act by the BFA, the statutory contribution was 2.5% of basic salary. However, the BFA has by its provision expanded the base to monthly income.

General Purpose Financial Statements must comply with FRCN Standards

The BFA in affirming the supremacy of the financial reporting guidelines as adopted by the Financial Reporting Council Act (**FRCN Act**), introduces a new subsection (3) in section 59 of the FRCN Act which provides that; where there are conflicts between the provisions of the financial reporting guidelines and those of the Companies and Allied Matters Act (CAMA), Investments and Securities Act (**ISA**), Nigerian Investment Promotion Commission Act (**NIPC Act**), Insurance Act, Pensions Reform Act 2014 (**PRA**), Federal Mortgage Bank of Nigeria Act, which deal with financial reporting in terms of form, the guidelines as adopted by the FRCN Act shall prevail.

The new provision requires general purpose financial statements of companies, government organisations and corporations to be prepared in line with standards, regulations, rules, and pronouncements of the FRCN notwithstanding the provisions of any laws relating to form and content of financial statements in Nigeria.

As a consequence, section 378 CAMA now makes clearer the supremacy of the financial reporting standards adopted by the FRCN by providing that the financial statements of a company prepared under CAMA, shall comply with the requirements of the accounting standards prescribed in the statements of accounting standards issued by the FRCN.

The BFA has also amended other provisions of the NIPC Act, Immigration Act, Industrial Inspectorate Act, ISA, National Office for Technology Acquisition and Promotion Act, and the PRA amongst others.

2023 FISCAL POLICY MEASURES

In April 2023, the Minister of Finance, Budget, and National Planning issued a circular introducing new Fiscal Policy Measures on behalf of the Federal Government. The Fiscal Policy Measures 2023 (**FPM 2023**) with an effective date of 1 May 2023, replaced the Fiscal Policy Measures 2022. The FPM 2023 brought forth several alterations to existing taxes and custom duties; and welcomed the introduction of new taxes. These modifications were relevant to the taxation of businesses and individuals throughout Nigeria, particularly those involved in importing goods. Moreover, the FPM 2023 also incorporated various new investment incentives and adjustments to existing incentives, all aimed at attracting investment into Nigeria.

We have highlighted the key additions introduced by the FPM 2023 below:

Introduction of Green Tax in Form of Excise Duty on Single Use Plastics

This was introduced to take effect from 01 June 2023 and its introduction is in alignment with the government's dedication to climate change adaptation and the mitigation of environmental degradation. This is to be charged at the rate of 10 percent. However, following the signing of the Customs Excise Tariff (Variation) (Amendment) Order 2023 signed by the President (the **CET Amendment Order**) by the President, it is pertinent to note that the 10% Green Tax has been indefinitely suspended.

Confirmation of the Excise Duty on Telecommunication Services to Telephone and Internet Services at the Rate of 5%.

Before the introduction of the FPM 2023, the Customs and Excise Tariff, Etc. (Consolidation) Act (**CETA**) was amended through the Finance Act 2020. This amendment included telecommunications services provided in Nigeria as "excisable". Consequently, the confirmation of this excise duty implies that the tax is applicable to all services regulated by the Nigerian Communications Commission (**NCC**), specifically postpaid and prepaid services, at a rate of 5%. In accordance with this, telecommunications companies are required to pay the tax based on the excisable value of postpaid and prepaid services. The FPM 2023 clarifies that telecommunication services surcharges generally include telephone service providers and internet service providers and other related services.

It is important to note that the 5% Excise Tax on telecommunication services has also been suspended.

Import Adjustment Tax (IAT) on Motor vehicles of 2000cc and Above.

As part of the FPM 2023, a Green Tax Surcharge has been introduced for 2023 and 2024, specifically in the form of additional IAT imposed on motor vehicles. Under this surcharge, cars equipped with an engine size ranging from 2000cc to 3999cc will be subject to a 2% rate, while cars with an engine size of 4000cc and above will be charged at a 4% rate. It is important to note that certain vehicle categories, such as those with engine sizes below 2000cc, mass transit buses, electric vehicles, and locally manufactured vehicles, are exempt from this tax surcharge. However, pursuant to the CET Amendment Order, the IAT levy on the vehicles described above has been suspended indefinitely.

Revised excise Duty Rates on Alcoholic Beverages, Cigarettes and Tobacco Products Ranging from 20% -100%.

The FPM 2023 stipulated revised duty rates for alcoholic beverages, which came into effect from 01 June 2023. Further, there will be an upward review of these rates by 01 June 2024.

Supplementary Protection Measures (SPM) for the Implementation of the ECOWAS Common External Tariff (ECOWAS CET) 2022 – 2026

The FPM 2023 includes annexes that contain the approved SPMs, aligning with the provisions of the ECOWAS CET. These SPMs took effect from 01 May 2023 and are as follows:

01	02	03
The IAT list, which introduces additional taxes on 189 tariff lines of the existing ECOWAS CET;	The Import Prohibition List (Trade), which applies exclusively to specific goods originating from non-ECOWAS Member States;	The National list, comprising items with reduced import duty rates designed to foster growth and development in key sectors of the economy.

The FPM 2023 states that this list will continue to form Chapter 99 of the ECOWAS CET, to be implemented in Nigeria. The concessional import duty under Chapter 99 will only be accessible to verified investors/manufacturers who require these items as inputs for their production processes.

THE CUSTOMS, EXCISE TARIFF (VARIATION) ORDER 2023

The Customs Excise Tariff (Variation) Order 2023 (the Order) makes amendments to the First, Third and Fifth Schedules to the CETA. The Order was made by the immediate past President of the Federal Republic of Nigeria, President Muhammed Buhari pursuant to the powers conferred on him by Section 13 CETA.

The amendment to the First Schedule provides an addition, which furnishes a definition of: (a) IAT; (b) A National List; and (c) Green Tax Surcharge. It further prescribes the applicable levies and duties for the above defined in the Schedule to the Order.

The amendment to the Third Schedule is a substitution of the import prohibition list. The amendment made to the Fifth Schedule is a substitution of the "Goods Liable to Excise Duty List" for a new list of Goods and Services Liable to Excise Duty. Under the amendments, telecommunications services are now liable to excise duty at the rate of 5%. This position has been restated by the FA 2023 which is to the effect that all services provided in Nigeria, irrespective of the sector, will be liable to charge 5% as excise duty.

The commencement date of the Order was moved from 27 March 2023 to 01 August 2023, further to the CET Amendment Order. More notably, the CET Amendment Order indefinitely suspended the application of the green tax surcharge – IAT levy on motor vehicles, as well as the application of the excise tax rates and Single Use Plastics tax.

5%

Under the amendments, telecommunications services are now liable to excise duty at the rate of 5%.

THE FINANCE ACT 2023 (FA 2023)

Since 2019, the Finance Act has been consistently enacted on a yearly basis, establishing itself as a steadfast fiscal policy instrument for the Federal Government. The Finance Act periodically initiates amendments to existing legislations in Nigeria, aligning them with global business standards, implementing diverse policy recommendations, and ensuring synchronization between tax laws and contemporary economic demands.

As a final act, the former President, Muhammadu Buhari signed into law, the Finance Bill 2023. Further to its explanatory memorandum, the FA 2023 was passed to amend the relevant tax, excises, and duty statutes in line with the macroeconomic policy reforms of the Federal Government. In a bid to ensure adherence to the 90 days minimum advance notice for tax changes as contained in the 2017 National Tax Policy, President Tinubu signed the Finance Act (Effective Date Variation) Order, 2023 (the Variation Order), which deferred the commencement date of the changes contained in the Act to 01 September 2023. It is important to note that the Variation Order will not be applied retroactively in a manner that would invalidate any action taken under the FA 2023 before the Variation Order was made.

Below, we highlight the notable amendments introduced by the FA 2023 to specific tax statutes and consider any possible implications they may have on the Nigerian economy.

Capital Gains Tax Act – (CGT Act)

01	"Chargeable assets" were expanded to include digital assets.
02	Taxpayers can now deduct losses from gains accrued from the disposal of assets of a similar class and deference of aggregate capital losses which exceed aggregate chargeable gains within a tax year.
03	Shares were included as one of the categories of assets which can benefit from rollover relief. A roll-over is a kind of provision that defers CGT liability to a future date where the proceed of disposal is used to acquire a similar asset.

Companies Income Tax Act (CITA)

01	Introduced new tax returns compliance regime for the Nigerian operations of companies involved in transport business by sea or air. Consequently, for the purpose of filing annual tax returns, companies engaged in shipping and without a separate financial statement of their Nigerian operations, are now required to submit detailed gross revenue statements of their Nigerian operations, showing the amount of full sums receivable during the period, certified by one of the company's directors as well as their company's external auditor and supported with all invoices issued to the relevant customers.
02	Repealed: (a) Rural Investment Allowance Incentive under section 34 CITA; (b) the Reconstruction Investment Allowance under section 32 CITA; and (c) the 25% Income tax exemption for hotels in relation to income derived from tourists in convertible currencies under section 37 CITA.
03	The non restriction on the claim of capital allowance to 66 2/3 % which was previously enjoyed by only companies in the agro-allied industry has now been extended to companies in upstream and mid-stream gas operation.

Customs, Excise Tariff, Etc. (Consolidation) Act

01	A 0.5% levy on has been imposed on eligible goods imported into Nigeria from outside Africa to finance the Federal Government's contribution to multilateral organizations such as the African Union, amongst others, in addition to extant customs duties and other approved charges.
02	All services, including telecommunication services, provided in Nigeria will now be charged with excise duties at rates specified under an Order as the President may prescribe. This amendment seeks to align with FPM 2023 which clarified how excise duties will apply in the telecommunications sector.

Personal income Tax Act (PITA)

01

The FA 2023 amends section 33(3) PITA by allowing continued deductions of premium payments made in respect of deferred annuities contracts made by the taxable individual for themselves or the individual's spouse. However, the new addition is that where any portion of the deferred annuity is withdrawn before the expiration of 5 years from when the premium was paid, such premium payment will be subject to tax at the point of withdrawal. This caveat on the 5-year restriction, which is contained already in the Pension Reform Act 2014 seems to have aligned with the provisions of the PITA on the subject.

Petroleum Profit Tax Act (PPTA)

01

"Deductible expenses" under the PPTA has been expanded to include such amount contributed for de-commissioning and abandonment into a fund approved for such purpose by the Nigerian Upstream Petroleum Regulatory Commission (**NUPRC**) subject to any surplus from the fund being liable to tax upon decommissioning. This amendment has aligned the position of the Petroleum Industry Act 2021 (**PIA**) and the PPTA in relation to contributions to the decommissioning and abandonment fund.

02

The PPTA now aligns with the PIA in relation to the determination of an additional tax liability, after the consideration of the price of crude oil fixed by the government for that purpose. Instead of posted price as previously provided under the PPTA, the PPTA has been amended to replace the posted price with the fiscal price for crude as determined by the NUPRC. However, the PPTA has been made further unattractive by providing that the application of the fiscal oil price will extend to all sales of crude oil whether local or exported, unlike the previous regime or the regime under the PIA where the fiscal oil price applies only to crude oil exported.

03

The FA 2023 also made amendments to the penalty provisions under the PPTA.

Stamp Duties Act (SDA)

01

The distribution formula for the allocation of the revenue from the Electronic Money Transfer Levy was amended to reflect thus: 15% to the Federal Government; 50% to the State Government and 35% to the Local Government.

Tertiary Education Tax Act (TETFUND Act)

01

The FA 2023 increased Education Tax levy from 2.5 percent to 3 percent.

Value Added Tax Act (VAT Act)

01

The FIRS has been empowered pursuant to the FA 2023, to disregard any disposition where it considers such disposition as fictitious, artificial, or done in such a manner as to reduce the amount of any tax payable. Dispositions as contemplated under the FA 2023 have been defined to include trusts, grants, or disposal transactions between related parties, amongst others. It further creates an avenue for appeal to dissatisfied taxpayers in respect of which any such direction has been made.

02

The FA 2023 introduced a new sub-section 16(3) which provides that where goods are imported into Nigeria through a digital platform which is operated by a Non-Resident Supplier appointed as an agent of the FIRS for VAT collection, the importer shall, when clearing goods provide proof of such appointment and the goods shall not be further subjected to tax clearing obligations by the Customs service.

03

The statutory due date for filing of VAT returns for those appointed by the FIRS to withhold VAT has been reduced to the 14th day of the following month that the VATable transaction occurred.

04

The FA 2023 now redefines “building” to mean “any structure permanently affixed to land for all or most of its useful life”.

THE FINANCIAL REPORTING COUNCIL OF NIGERIA AMENDMENT ACT 2023

The Financial Reporting Council of Nigeria Amendment Act 2023 (FRCN Act 2023) was signed into lawby former President Muhammadu Buhari. This amendment introduced essential revisions to align the Financial Reporting Council Act which established more efficient standards and best practices aimed at enhancing the efficacy of financial reporting and corporate governance regulations in Nigeria. Under this review, we will discuss the significant amendments made to the FRCN 2023, while focusing on key changes that impact the functions and regulations governing a specific council, financial reporting standards, fees, and statutory compliance.

Amendment of the FRCN's Functions:

The most noteworthy amendment contained in the FRCN 2023 is the alteration of section 8, which has a profound impact on the functions of the FRCN. FRCN is now mandated to promote compliance with, and adoption of international financial reporting standards issued by bodies such as the International Financial Reporting Standards Foundation, the International Public Sector Accounting Standards Board or such other body as may be designated as such and other body relating to the mandate of the Council. This change aligns FRCN with global reporting standards and enhances its regulatory role. Another crucial development is the empowerment of the council to utilize standard practices and pronouncements from international bodies like the International Organisation of Supreme Audit Institutions. This expansion of FRCN's functions broadens its scope and authority in overseeing matters related to its mandate.

National Repository for Financial Statements

The FRCN Act 2023 introduces the responsibility of maintaining a national repository for electronic submission of General-Purpose Financial Statements by public interest entities. This step enhances transparency and accessibility of financial information, serving the public interest effectively.

Strengthened Guidance

The FRCN Act 2023 reinforces FRCN's authority by entrenching its power to provide guidance to all its members in the establishment of the Board. This move bolsters FRCN's ability to ensure uniformity and consistency within its jurisdiction.

Revised Threshold

The changes to the fee structure for companies and public interest entities based on their market capitalization and annual turnover are significant features of the amendments. The adjustment ensures that larger corporations contribute proportionately higher fees, promoting fairness and sustainability in funding FRCN's operations.

Payment Deadline

The amendment also introduces a payment deadline for dues, specifying that public entities must pay within 120 days of the financial year, while other entities have a similar timeframe. This provision encourages timely financial support for FRCN's activities.

Statutory Compliance

In terms of statutory compliance, the amendment adds the Finance Act 2021, Fiscal Responsibility Act, and Finance Control and Management Act, to the list of relevant legislation concerning accounts, financial reports, annual returns, and other financial documents. This inclusion ensures that the council operates in full compliance with all relevant laws and regulations.

The amendments to the FRCN Act 2023 represent a comprehensive effort to modernize and strengthen the council's regulatory functions, improve financial reporting standards, and ensure fair and sustainable funding. Additionally, the inclusion of statutory compliance measures underscores the commitment to transparency and accountability in financial governance. These changes have far-reaching implications for the Tax sector and are expected to enhance the overall integrity and efficiency of financial reporting and oversight processes.

PART B: JUDICIAL DEVELOPMENTS

In this part, we examine some of the notable decisions of the Nigerian Courts particularly the Tax Appeal Tribunal in the resolution of tax disputes.

EFCC HAS NO POWER TO UNILATERALLY INVESTIGATE THE TAX PAYMENTS OF COMPANIES – WHEATBAKER INVESTMENT AND PROPERTIES LIMITED V. ECONOMIC AND FINANCIAL CRIMES COMMISSION AND FEDERAL INLAND REVENUE SERVICE (SUIT NO: FHC/L/CS/244/21)

In this case, the Economic and Financial Crimes Commission (EFCC) issued an additional assessment after conducting an investigation into the affairs of Wheatbaker Investment and Properties Limited (Wheatbaker). The EFCC had maintained that it was statutorily empowered to investigate and prosecute all economic and financial crimes in order to identify individuals and corporate bodies involved, and to assess the extent of financial loss incurred by the government, private individuals, or organizations. The EFCC also claimed that it had received intelligence alleging economic sabotage and tax evasion which formed the basis of investigation against the Plaintiff.

The Federal High Court ruled that the EFCC lacked the statutory authority to levy taxes and conduct unilateral audits on Wheatbaker (the Appellant). In construing the lawful jurisdiction granted to the EFCC as a law enforcement agent, the court relied on Section 8 of the Federal Inland Revenue Service (Establishment) Act (FIRSEA) and Section 2(1) of the Taxes and Levies Act. The court therefore concluded that EFCC's action to procure a second assessment on the Appellant amounted to double jeopardy and was therefore illegal.

The takeaway from this decided case, is that no law enforcement agency or any other agency has the authority to conduct audit, and issue tax assessment on companies as the assessment and collection of corporate taxes is the exclusive preserve of the FIRS. However, the FIRS may collaborate with relevant law enforcement agencies to examine and investigate taxes in compliance with Section 8(1)(e) of the FIRSEA.

The court therefore concluded that EFCC's action to procure a second assessment on the Appellant amounted to double jeopardy and was therefore illegal.

TAT CLARIFIES THE APPLICATION OF NITDA LEVY - INT TOWERS LIMITED V. FEDERAL INLAND REVENUE SERVICE

The FIRS had issued an additional assessment on INT Towers Limited (INT Towers or the Appellant) in line with the provisions of the National Information Technology Development Agency (NITDA) Act on the basis that INT Towers is a telecommunication company within the provisions of the NITDA Act, and liable to pay 1 percent of its profit before tax to the FIRS. INT Towers has maintained its position that the Company is not a telecommunications company as contemplated under the Third Schedule to the NITDA Act., and therefore not required under the law to pay the NITDA levy.

The Tax Appeal Tribunal held that the principal objects of the Appellant do not fall within the scope of activity defined under the Nigerian Communications Act (NCA) and the National Information Technology Development Agency (NITDA) Act. In interpreting the scope of business that is within the purview of a telecommunication service provider, the Tribunal adopted a literal approach of the NCA and NITDA Act and by reference to the Appellant's exhibits, the Tribunal concluded that the Appellant was a Network Facilities Provider and not a telecommunications company. The Appellant was therefore discharged from the assessment to NITDA levy raised against it by the FIRS.

As noted by the TAT, the provision of collocation and other related services to telecommunication companies does not ipso facto make an entity a telecommunications company liable to NITDA levy. The FIRS in this instance failed to appreciate the nuanced distinction between a telecommunications company and a company providing telecommunications infrastructure and related services.

Telecommunications service providers should therefore review their principal objects and then evaluate if they are within the purview of the NITDA Act.

TAT RULES ON LIABILITY OF GAMING AND CASINO REVENUE TO VAT– TOURIST COMPANY OF NIGERIA PLC V. FEDERAL INLAND REVENUE SERVICE (APPEAL NO. TAT/LZ/VAT/024/2019)

The Appellant contested its liability to Value Added Tax (VAT) on the basis that the Appellant's casino activities did not constitute an exchange of goods or service within the context of the VAT Act. The TAT considered section 2 of the VAT Act which is to the effect that VAT is charged and payable on the supply of taxable goods and service other than those goods and services listed in the First Schedule to the VAT Act. As a result, the Tribunal concluded that the gaming and casino activities not having been exempted by the VAT Act are caught by its provisions.
The Tribunal rightly held that the services provided by the Appellant were taxable under the VAT Act, but we note that this should not be misunderstood as the general rule as it relates to the liability of lottery companies to VAT under the current tax regime. It is noteworthy that this decision was reached as it pertains to the Appellant's liability under its 2014 and 2015 years of assessment.

It is important to note that a company shall be exempt from the provisions of the CITA and the VAT Act where it has been assessed for lottery tax in any year pursuant to the National Lottery (Amendment) Act 2017, which amends the National Lottery Act 2005. This implies that lottery companies are not subject to the provisions of the VAT Act and accordingly not liable to pay VAT.

As a result, under the current tax system, even though the company's gaming activities legitimately qualify as taxable supplies under the VAT Act, a lottery company is not liable to pay VAT because of the exemption granted by the National Lottery (Amendment) Act.

TAT RULES THAT RELIANCE ON SECTION 90 OF CITA AS A BASIS FOR RE-FILING OF AMENDED TAX RETURNS MUST HAVE RESULTED IN EXCESSIVE TAX TO SUCH TAXPAYER- ARDOVA PLC V FEDERAL INLAND REVENUE SERVICE (APPEAL NO. TAT/LZ/CIT/009/2020)

The Appellant filed an appeal against the Respondent's additional assessment issued after the completion of a tax audit exercise for the 2017 and 2018 years of assessment. The main issues for determination before the Tribunal were; (a) whether in the light of section 24 of the CITA, the Appellant was entitled to fully recover shrinkage and product losses incurred in the course of doing its business; and (b) whether the CITA requires a minimum amount of capital allowance that must be claimed in any year of assessment.

On issue 1, the Respondent disallowed a percentage of the Shrinkage and Product loss incurred by the Appellant on the basis that it exceeded the acceptable industry average/benchmark of the industry in which the Appellant is a major player. In dealing with this issue, the TAT restated the provisions of section 24 of the CITA which provides conditions for deductibility of expense being that such expense must be wholly, reasonably, and necessarily incurred in the production of the profit of that company. The TAT further stated that the CITA neither provides for a benchmark for deductibility nor industry average, and therefore declared that the Respondent unlawfully disallowed a valid business expense of the Appellant.

On Issue 2, the Appellant filed an amended tax returns for the 2015 and 2016 years of assessment to take advantage of a tax planning arrangement which would optimize tax for its 2015 and 2016 years of assessment if a lower capital allowance had been claimed by the Appellant, and the remaining accumulated capital allowance carried forward to the following years. In filing the amended/ revised returns, the Appellant relied on the provisions of section 90 of the CITA which provides for the legal basis for filing amended returns. The section provides that; where a company has paid excessive tax by reason of some errors in its tax returns, such payer may at any time not later than 6 years make an application to the FIRS for relief.

The Tribunal held that the filing of amended returns by the Appellant to reducing its capital allowance in the 2015 and 2016 years of assessment so as to benefit a tax advantage cannot be regarded as a mistake within the purview of section 90. The Tribunal maintained that there was no overpayment of tax by the Appellant, and as such cannot claim any relief from the Respondent. The TAT, however, was quick to state that claiming capital allowance below the threshold of 662/3 of the assessable profit of the company does not offend the CITA as the CITA does not make provision for a minimum percentage to be claimed by a taxpayer.

It would appear that the TAT's view in this case is that an amended returns designed as a tax minimization strategy arising from an afterthought will not qualify as a mistake in order to take the relief of filing amended returns as provided under section 90 of the CITA.

TAT RULES ON FIRS' APPOINTMENT OF BOLT AS AGENT OF VAT COLLECTION – BOLT OPERATIONS OU V FEDERAL INLAND REVENUE SERVICE (TAT/LZ/VAT/074/2022).

On 26 May 2023, the Lagos Zone of the Tax Appeal Tribunal (**TAT** or the **Tribunal**) dismissed the matter instituted by Bolt Operations OU (**Bolt** or the **Appellant**) which challenged the legality of FIRS (or the **Respondent**) appointing the Appellant as an agent for the collection of VAT from food vendors and ride-hailers. The main issues for determination before the TAT were:

01 whether the Respondent erred in law when it appointed the Appellant, a Non-Resident Supplier (NRS) as the agent to charge, collect and remit VAT on supplies made by Nigerian resident suppliers to their customers using the Appellant's platform;

02 whether the Respondent's Guidelines that deemed the Appellant as the supplier and the party primarily responsible to charge, withhold and remit VAT on taxable supplies by resident Nigerian suppliers onboarded on the Appellant's platform is ultra vires Section 10 VAT Act;

03 whether it is lawful to appoint the Appellant as the party responsible for charging taxable supplies made by Nigerian resident suppliers who are exempted from VAT obligations by virtue of Section 15(2) of the VAT Act; and

04 whether the Respondent erred in law when it imposed an agency arrangement between the taxable suppliers and the Appellant for purposes of charging VAT, when no such agency arrangement had been wilfully entered into between both parties.

The Appellant objected to its appointment by the FIRS, as an agent for the collection and remittance of VAT in respect of the services provided by the sellers to consumers, pointing out that section 10(3) of the VAT Act only requires an NRS to withhold and collect the VAT charged on taxable supplies made to Nigerian customers.

The Appellant claimed that it is not a Nigerian entity and that it operates on a marketplace model, matching independent businesses with consumers and earning a commission for the service of connecting the businesses with the customers or consumers. The Appellant also claimed that the drivers who use its platform are not its employees, but rather independent cab providers, and that Bolt does not own any of the cars used by the drivers.

In its decision, the TAT agreed with the FIRS' insistence on its unfettered powers to appoint anyone, including the Appellant, as an agent for collection under the VAT Act. According to the TAT, the discretion to appoint "such other person" without any qualification as provided in section 10 (3) of the VAT Act is solely that of the FIRS.

The Tribunal held that the suppliers of the goods or services listed on the Appellant's platform are rendering VATable, goods or services for which there is an obligation to withhold and remit VAT. The Tribunal also held that the FIRS, leveraging on the power granted to it by the VAT Act can appoint Bolt as an agent of both the food vendors and ride-hailers on Bolt's platform, to charge, collect and remit VAT. The Tribunal also lent credence to the decision of the Supreme Court in Aberuagba v AG Ogun State, where the apex court held that for any meaningful sales tax to reach the government, it must be collected by agents.

The dispute between Bolt and the FIRS highlights the disparity between Nigeria's current tax laws and the business model employed by online marketplaces. The VAT Act lacks specific provisions that adequately address the unique nature of services provided through online marketplace platforms or intermediaries. While Section 10(3) of the VAT Act imposes collection and remittance obligations on a resident individual or company dealing with a non-resident supplier, it does not seem to extend this authority to consider business models such as Bolt which offers the service of linking drivers/restaurants with their customers.

The effect of this decision is that Bolt and other like operations may be regarded as an agent of the FIRS for the purpose of VAT collection. The TAT from the tenor of the decision given, has reinforced the FIRS' power to appoint such 'intermediary' companies as Bolt and others for the withholding and remittance of VAT.

TAT RULES ON SECTION 23 OF THE PPTA WITH RESPECT TO POSTED PRICE – PILLAR OIL LIMITED V. FIRS (TAT/LZLPPT/004/2022)

Pillar Oil Limited (the Appellant) filed an appeal against the additional tax liability imposed on it by the FIRS (the Respondent) in respect of the 2016, 2017 and 2018 years of assessment (YOAs). The matter came up before the TAT and judgement was delivered on 22 June 2023 in favour of the FIRS. In reaching its decision, the Tribunal examined two issues for determination viz:

01 Whether based on the evidence before the Tribunal, the requirements of Section 23 of the PPTA with respect to posted price have been met to warrant the Respondent to impose additional assessments on the Appellant in the Year of Assessment (YOA); and

02 Whether the decision of the Respondent to apply the price the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) adopted for oil for royalty purposes, as the posted price envisaged under section 23 of the PPTA is inconsistent with the provisions of Section 9 and Section 23 of the PPTA and Paragraph 61(4) of the Petroleum (Drilling and Production) Regulation 1969.

On the first issue, the Appellant had submitted that the provisions of section 23 of the PPTA should not apply to it because it sold its crude to off takers. Section 23 of the PPTA provides for the payment of additional tax by a company where the tax computed in line with section 9 of the PPTA is less than the tax payable using the posted price as provided for in section 23 of the PPTA.

In addressing issue 1, the Tribunal held that the provisions of section 23 apply to the Appellant and the law is silent on the mode of sale; whether through off-takers or direct sale.

On issue 2, the Tribunal disagreed with the Appellant's argument that the decision of the respondent to use the price impose by NUPRC for royalty purpose as the posted price set under section 23 is arbitrary and inconsistent with the clear provisions of section 9 and 23 of the PPTA and other applicable laws and regulation.

The Tribunal in further affirming the applicability of the relevant posted price relied on by the Respondent, referred to one of the tendered exhibits which specifically stated that the fiscal price in use for royalties and other government obligations in the Nigerian Oil Industry is based on an agreed methodology. This methodology uses market-based crude oil commodity prices as published by Pratts, Argus, and London Oil Review. In essence, both issues were resolved in favour of the FIRS.

TAT RULES ON THE WREN TEST OF TAX DEDUCTIBILITY - CHI LIMITED V. FEDERAL INLAND REVENUE SERVICE (TAT/LZ/CIT/001/2022)

On 11 August 2023, the TAT gave its ruling on the dispute arising from the tax assessment of the Appellant, CHI Limited for the 2017/2018 years of assessment by the FIRS (the "Respondent"). The Appellant in this matter is a manufacturer of fruit juice, still drinks, snacks and dairy products. The Respondent initially assessed the Appellant to a tax liability of NGN11,965,599,834 (Eleven Billion, Nine Hundred and Sixty-Five Million, Five Hundred and Ninety-Nine Thousand, Eight Hundred and Thirty-Four Naira) for EDT, WHT and VAT. After series of reconciliatory meetings, the Respondent revised the tax downward to NGN981,773,651.79 (Nine Hundred and Eighty-One Million, Seven Hundred and Seventy-Three Thousand, Six Hundred and Fifty-One Naira, Seventy-nine Kobo) and after further reconciliatory meetings, the Respondent issued a revised Notice of Assessment in the Sum of 584,697,300.89 (Five Hundred and Eighty-Four Million, Six Hundred and Ninety-Seven Thousand, Three-Hundred Naira, Eighty-Nine kobo).

The Appellant sought amongst other orders, for the recognition of some expenses made as tax-deductible expenses having satisfied the WREN test being wholly, reasonably, exclusively and necessarily for the generation of taxable profits. The Appellant also contended that it was entitled to input VAT incurred on its raw and packaging materials as well as VAT on discounts granted to its distributors. The Appellant also sought that the Respondent be ordered not to disallow monies which were appropriately recognized by the appellant for accounting and tax purposes.

Further, the Appellant sought that the additional tax and penalties imposed by the Respondent be withdrawn and the Notice of Assessment in respect of the years of assessment be dismissed. In seeking these orders, the Appellant formulated the following issues for determination:

Whether the expenses incurred by the Appellant for the purpose of its business were wholly, reasonably, exclusively, and necessarily incurred in the generation of its profits, therefore qualifying as tax-deductible expenses under CITA;

Whether the Appellant correctly applied the tax and accounting treatment to record finance costs comprising exchange gains and losses, revaluation of OPIC loan balances and exchange differences on export sales, and other expenses, and other expenses-repairs and maintenance, and travelling expenses;

Whether the Appellant can validly claim input value added tax (input VAT) on raw and packaging materials only after it sells the finished products, and on discounts granted to its distributors;

Whether the Respondent acted in error when it applied interest and penalty on the Appellant's alleged non-remittance of outstanding WHT and VAT liabilities having not become final and conclusive.

In determining these issues, the TAT considered and ruled on issues 1 and 2 together and, 3 and 4 only. On Issue 1, the Tribunal spotlighted section 24 of the Companies Income Tax Act (CITA) in relation to the tax deductibility of expenses which meet the WREN test. It stated that the deductible expenses must be supported by credible documentary evidence and not subject to the whims and caprices of the taxpayer. In giving its ruling on this issue, it cited the case of MTN Nigeria Communications Plc v. FIRS and Tetra Pak W.A Limited v. FIRS. The Tribunal gleaned from these cases the point that the TAT will grant any expense which meets the WREN test but subject to credible, supportive, and convincing oral and documentary evidence. The Tribunal held that the Appellant failed to adduce credible evidence and except for the sum of 500,000 (Five Hundred Thousand Naira) paid to the Abia State Advertising Agency as same was established through a receipt of payment and which was tendered in evidence as Exhibit A9.

On issue 3, the Tribunal relied on Section 17(1) of the VAT Act and aligned itself with the position of the Respondent which compelled the matching of Input VAT with related Output VAT on goods purchased or imported directly for resale and goods which form the stock-in-trade used for the direct production of any new product on which the output tax is charged. The Tribunal found that the Appellant was unable to prove with credible and supportive oral and documentary evidence that it is allowed to claim input VAT on discounts granted to its distributors. The Tribunal categorically stated that mere production of internal documents would not suffice in discharging the burden of proof required in this instance, an added that the related input VAT must also be free of any discount in as much as the vatable income is net of discount.

In resolving issue 4, the Tribunal restated the ruling of the TAT in MTN v. FIRS where the Tribunal had stated that the issue of an assessment or demand notice not being final and conclusive because of a pending appeal operates as a stay of payment but does not extinguish the right of such a payment. On this basis, the Tribunal held that it is satisfied with the decision of the Respondent in invoking the provision of Section 66(1) of the CITA relating to the charging of interests and penalty on the additional assessments served on the appellant. The Tribunal revised the tax computation to the tune of 584,697,300.89 (Five Hundred and Eighty-Four Million, Six Hundred and Ninety-Seven Thousand, Three Hundred Naira, Eighty-Nine kobo) and awarded costs of 250,000 (Two Hundred and Fifty Thousand Naira) to the Respondent.

COURT OF APPEAL AFFIRMS THAT COMPANIES ARE LIABLE FOR NON-PAYMENT OF VAT BY ITS CUSTOMERS: KANDELITE ENGINEERING CO. LTD V. FIRS [2023] LPELR – 60683

This Appeal borders on the payment and remittance of VAT. Kandelite Engineering Co. Ltd (The **Appellant**) is a registered company engaged in Electrical and Mechanical Engineering, and for the purpose of Section 2 of the VAT Act, the appellant is regarded as a 'Vatable Person', i.e., it is registered under law for the purposes of 'Collection and Remittance' of Value Added Tax to the regulatory body. FIRS (The **Respondent**) acting in its role as the regulatory body brought an action against the Appellant at the Lagos Division of the Tax Appeal Tribunal (TAT), alleging that the appellant has failed and refused to file its tax returns for some years listed. In its decision, the TAT ordered the Appellant to pay to the Respondent a withholding Tax of N3,641,462.00, with the outstanding VAT of N4,327,012.00 for 2004, penalties for late filing of CIT, EDT returns of N1,175,000.00, and the VAT and Penalties for late returns, totalling N21,105,875.31. The Appellant aggrieved by the decision of the tribunal, appealed to the Lagos Division of the Federal High Court. The Court dismissed the appeal for lacking in merit.

The Appellant further appealed the case to the Court of Appeal, there were two (2) issues which were up for determination at the Court of Appeal.

01

Whether the lower court was right in affirming the decision of the TAT that the Appellant was liable for the non-payment of VAT by its customers, in the face of overwhelming evidence that the said invoices were issued but the customers wilfully refused to pay the VAT.

02

Whether the lower court was right in affirming the decision of the TAT that the Appellant was liable for the non-payment of VAT by its customers, by placing reliance on the Best of Judgement (**BOJ**) assessment.

The argument of the Appellant before the court hinged on the fact that it issued invoices on the VAT amount to its customers and therefore it was the duty of the FIRS as the regulatory authority to ensure compliance. They averred that the computation of VAT was in two stages, collection, and remittance, and since the customers had wilfully refused to pay the VAT, it was impossible to proceed to the second stage of remittance, thereby discharging them of any further duty to the Respondent. In response to the Appellant's submission, the Respondent relied on the provisions of VAT Act, it averred that by section 8 of the VAT Act, the Appellant is a taxable person having the duty to collect and remit VAT on goods and services rendered to its client/customers and remit same to the FIRS, the Respondent further contended that there was a legal burden on the Appellant to issue invoices containing the computation of VAT, and Respondent act of separating invoice orders from VAT invoice was done to relief them of the legal burden of collecting the said VAT, and since VAT was not a deducted tax but a charged tax, the Appellant is obligated to include the VAT in the same bill, because it forms part of the customer's bill.

In resolving the first issue, the court did not agree with the submission of the Appellant, the Court relied on the combined reading of sections 8 and 12 of the VAT Act which laid credence to the fact that the law places the burden on the Appellant to collect and remit the said tax on behalf of the Federal Government of Nigeria. Thus, the Appellant was solely responsible for the collection of VAT from its customers.

On the second issue, the Appellant had contended that the assessment by the Respondent which was based on the 'BOJ' assessment was arbitrary and the Respondent went beyond the statutory period provided for making additional assessment. The Court departed from this averment, relying on the provisions of section 18 of VAT Act which states 'Where a taxable person fails to render returns or renders an incomplete or inaccurate return, the Board shall assess, to the best of its judgement, the amount of tax due on the taxable goods and services purchased or supplied by the taxable person.

Therefore, the Respondent has conducted itself in line with its recognised statutory powers. The court went on to affirm the decision of both the TAT and Federal High Court and dismissed the case for lack of merit.

TAT RULES ON THE UNILATERAL TRANSFER OF TAX RECORDS/ PROFILE TO ANOTHER TAX OFFICE BY TAX CONTROLLERS – LITTLE COMPANY NIGERIA LIMITED V FIRS - TAT/LZ/VAT/113/2022

Little Company Nigeria Limited (Little Company or the Appellant), was registered as a Taxpayer, and remitted VAT for the 2019 and 2020 years of assessment (**YOAs**) at the Ikoyi II Micro and Small Tax office (**MSTO**), within whose jurisdiction the Appellant's registered office is situated. In 2021, the Tax Controller of the Ajah 2 MSTO (the Tax Controller), unilaterally transferred the Appellant's tax profile from the Ikoyi II MSTO to the Ajah 2 MSTO, on the basis that one of the business outlets belonging to the Appellant is situated within the Ajah 2 MSTO tax jurisdiction.

On this basis the Appellant instituted an action at the TAT against the respondent, urging the Tribunal to determine whether the Respondent in its administrative power can mandate the transfer of the Appellant's tax profile to Ajah 2 MSTO in line with FIRS guidelines and regulations on segmentation.

The Appellant submitted that pursuant to the FIRS Taxpayer guidelines as well as the FIRS updated Circular on Filing of Returns with the nearest tax office, taxpayers are obligated to register and remit taxes through the tax office nearest to them. The Appellant adduced evidence in the form of its updated Status Report with the Corporate affairs Commission (the **CAC**) showing that the Appellant's registered office is situated at Banana Island, Lagos. The Appellant further submitted that the stated office is the command-and-control centre for the easy administration of the Appellant's business, as well as its operational office. Additionally, the Appellant submitted that its registered office is within the Ikoyi II MSTO, as the nearest tax office to the Appellant is the Ikoyi MSTO, and that it was irrational to insist on the retention of the Appellant's profile at the Ajah 2 MSTO.

The FIRS on its part submitted that the FIRS policy and tax administration process does not allow a taxpayer to unilaterally decide where to file its tax returns and that it is the right of the FIRS to unilaterally transfer the Appellant's profile without its consent to the office the FIRS deems appropriate.

In determining the issue before it, the TAT considered section 7 of the FIRS Act, under which the TAT recognised that the FIRS was granted the responsibility to administer all tax laws listed under the relevant provisions of the FIRS Act. Accordingly, the FIRS had in the exercise of said responsibility, through various information circulars, come up with various guidelines and policies to drive tax administration processes in Nigeria, one of which is the segmentation of Taxpayers into Large, medium and Small Taxpayers Offices.

The TAT further recognised that along with the segmentation policy of the FIRS, came the redistribution of various tax offices along geographical boundaries, which are defined in order for the tax offices to be closer to the taxpayers, and accordingly, taxpayers are segmented to operate from either a Registered Address or Place of Business. From a review of the Audited Accounts of the Appellant for the financial years 2019, 2020 and 2021 (the **Accounts**), the FIRS noted that the stated registered address of the Appellant is Chase Mall, Victoria Island Lagos, while the business address stated in the Accounts is located at Lekki Free Trade Zone Road. Flowing from the above, the TAT noted that the appropriate tax office would ordinarily be the either the Victoria Island MSTO or the Ajah MSTO. Following a careful consideration of section 78 of CAMA as well as judicial decisions, the TAT determined that the residence of a corporation is the place of central management and control of said corporation. Accordingly, the Tribunal found that the transfer of the Tax records of the Appellant by the FIRS was wrong and could not stand.

TAT RULES ON THE LEGALITY OF THE IMPOSITION OF PENALTIES UNDER THE INCOME TAX (COUNTRY BY COUNTRY) REGULATIONS 2018 – CHECKPOINT SOFTWARE TECHNOLOGIES B.V. NIGERIA LIMITED V FIRS TAT/LZ/CIT/121/2022

> **..Accordingly, the FIRS had in the exercise of said responsibility, through various information circulars, come up with various guidelines and policies to drive tax administration processes in Nigeria**

Checkpoint Software Technologies BV Limited (**Check Point** or the **Appellant**) filed an appeal at the TAT contesting the Notices of Administrative Penalties (the **Notices**) levied against it by the FIRS for the late filing of the 2019 and 2020 Country by Country (CBC) Notifications under the Income Tax (Country By Country) Regulations 2018 (the **CBC Regulations**). On 17 August 2023. The TAT gave a ruling in favour of the Appellant, voiding the Notices and declaring same unconstitutional. In reaching the above decision, the TAT considered two issues for determination, viz:

01

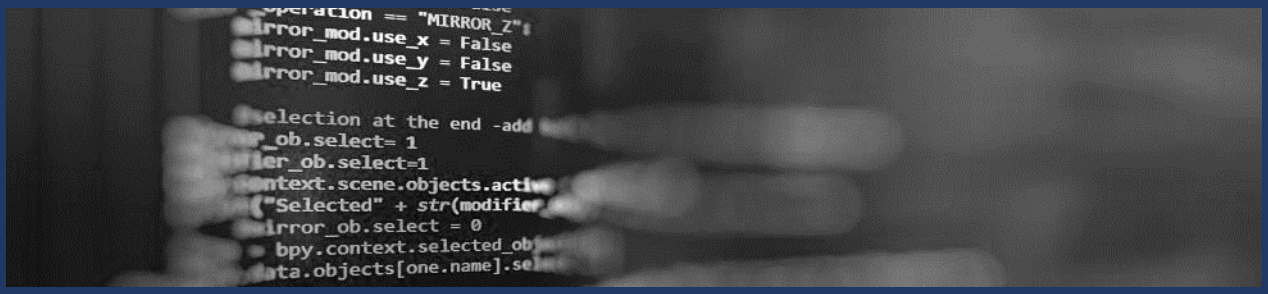
Whether the CBC Regulation 2018, not made by the Board of the FIRS as mandatorily required by section 61 of the FIRS Act, is illegal, unconstitutional, null and void and hence liable to be quashed by the TAT as well as the Notices of Administrative penalties served on the Appellant on the Respondent in respect of the same; and

02

Whether the Respondent can administer the CBC Regulations 2018 against the Appellant.

The Appellant contended that section 61 of the FIRS Act delegated the power to make subsidiary legislation to the Board of the FIRS exclusively. Further, the FIRS Act did not grant the Board any powers to sub-delegate said powers. Accordingly, the CBC Regulations having been issued in 2018, during a period in which there was no substantive Board of the FIRS, following its dissolution in 2012, could not have been validly made. With respect to the Notices, the Appellant submitted that since the late filing of CBC Notifications is a contravention unrelated to tax liability, the applicable penalty is that stipulated under section 26(3)(b) of the FIRS Act. Accordingly, the Appellant submitted that the imposition of penalty for the late filing of the CBC Notifications is beyond the scope of the delegated legislative powers donated to the Board of the FIRS under section 61 of the FIRS Act.

In response, the FIRS submitted that the CBC Regulations were made validly, pursuant to the FIRS Act, as clearly stated in page B69 of the Federal Republic of Nigeria Official Gazette No. 2 Vol. 105 Government Notice No. 16 dated 08 January 2018.



In reaching a decision, the TAT reproduced the provisions of section 61 of the FIRS Act as follows:

> *"The Board may with the approval of the Minister, makes rules and regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration of its provisions and may in particular, make prescribing the; (A) forms for returns and other information required under the Act or any other enactment or law; and (B) procedure for obtaining any information required under this Act or any other enactment or law."*

Following a careful consideration of the above section, the TAT agreed with the submissions of the Appellant. It held that the National Assembly delegated its powers specifically to the Board of the FIRS to make rules, guidelines, and regulations and to no other person or authority. Therefore, only the Board of the FIRS, legally constituted and properly composed, was vested with the powers to make such subsidiary legislations. The TAT further stated that the exercise of delegated powers must always be in strict compliance with the enabling Act and that such powers can only be exercised by the specific person or body addressed, which powers cannot be delegated. Having established that the Board of the FIRS had been dissolved under the period under consideration the TAT held that a legal and legitimate exercise of the delegated powers under the provisions of section 61 of the FIRS Act was not possible meaning that any action or step done in the name of the Board will be null and void. Accordingly, the TAT ruled that the CBC Regulations were not made by the FIRS Board duly constituted and properly composed as it was dissolved and had not been reconstituted by the Government at the time when the said regulation was made.

In determining the second issue as to whether the FIRS could administer the CBC Regulations against the Appellant, the TAT recognised that the FIRS, further to section 61 of the FIRS Act purported to make the CBC Regulations in order to give effect to the provisions of the Country-by-Country Multilateral Competent Authority Agreement, signed by Nigeria and ratified by the Federal Executive Council. However, the TAT further stated that under Nigerian law, international treaties entered into by the Nigerian Government do not become binding until enacted into law by the National Assembly, and as such, courts would generally refrain from enforcing international treaties which have not yet been domesticated. Furthermore, the TAT took the position that the Regulations were to be made within the limit, terms and conditions set by the principal legislation. Therefore, the fact that the CBC Regulations sought to expand the penalties under section 26(3)(b) of the FIRS Act, is unconstitutional.

As such, the Tribunal held that the Notices served on the Appellants by the Respondent are unconstitutional null and void and squashed same. Accordingly, the Tribunal ordered the FIRS to raise fresh notices of the penalties based on the relevant provisions of the FIRS Act.

TAT RULES ON RIGHT TO APPEAL A FINAL AND CONCLUSIVE TAX ASSESSMENT– LAGOS STATE BOARD OF INTERNAL REVENUE V CONSTRUCTION AND ALLIED TECHNICAL SERVICE TAT/LZ/PIT/073/2022

In carrying out its statutory duty, the Lagos State Board of Internal Revenue (**LIRS** or the **Appellant**) conducted an audit on the financial records of Construction and Allies Technical Services Ltd (the **Respondent**) and found that the Respondent had not accurately deducted and remitted the Personal Income Taxes (**PIT**) of its employees, WHT from its transactions, and the development levy owed to the Lagos State Government. The Appellant issued a Demand Notice along with a Notice of Assessment, stating the established liability amounting to ₦2,491,281.67 (Two Million, Four Hundred and Ninety-One Thousand, Two Hundred- and Eighty-One Naira, Sixty-Seven kobo) for the 2015 year of assessment. The Respondent was given 30 days to object or make payment but did neither. Subsequently, the Appellant warned of obtaining a Warrant of Distrain if the outstanding liability wasn't settled within 7 days. However, the Respondent still did not pay or appeal. Consequently, the Appellant filed this case before the TAT.

The following issues were raised for the determination of the TAT:

01

Whether the failure of the Respondent to object to the assessment issued and served on it within the time stipulated by law makes the assessment final and conclusive;

02

Whether the Appellant has proved its claims to entitle it to judgment against the Respondent as per the reliefs sought in the appeal.

On the first issue, the Appellant argued that the Respondent had a mandatory 30-day period to object to the tax assessment, pursuant to Section 58(1) of the PITA; and failure to do so, would result in the loss of the right to object. They also highlighted that the Respondent made a late payment, three months after the audit report, which was not considered in the assessment due to non-inclusion in the audit report. Additionally, the Appellant asserted that the Respondent confirmed during cross-examination that they had not made any Pay As You Earn (**PAYE**) remittances for 2015, as evidenced by the absence of payments in the database at the time of assessment. The Appellant argued that it was the Respondent's duty to object to the assessment when discrepancies were identified and that failing to do so renders the assessment final and conclusive, allowing the assessed payment to be deducted as a set-off.

The Appellant addressed the arithmetic error in the interest calculation, asserting that it does not invalidate the assessment, citing Section 59 of PITA. Ultimately, the Appellant urged the Tribunal to find in their favour and declare the assessed amount for 2015 as final and conclusive debt to the Lagos State Government, with a deduction as a set-off, and payment of the remaining balance to the government.

In its defence, the Respondent argued that the tax assessment was issued over a year after they had already paid their taxes, and it did not account for the remittances made. They conducted an audit and paid the balance along with penalties upon receiving the Notice of Appeal, emphasizing the need for equity in the case, as the assessment did not reflect their actual financial position for that year. The Respondent contested the LIRS assessment on the grounds that it did not use accurate payroll records for the assessment and requested a corrected assessment.

LIRS responded that the payment made in August 2016 was considered late and not reflected in the assessment because it was not in the audit report. They argued that the assessment had become final and conclusive, and the payment could be set off against the assessed liability as per Section 68 of PITA. Ultimately, the TAT, held that when an assessment becomes final and conclusive, and the tax authority refuses to amend it, the taxpayer loses its right to further appeal, and that the tax authority can initiate tax recovery and enforcement procedures.

NON-APPLICABILITY OF VAT ON RENTAL INCOME DERIVED FROM REAL PROPERTIES: NGX REAL ESTATE LIMITED V, FEDERAL INLAND REVENUE SERVICE

NGX is a company specializing in real property acquisition, leasing, hiring, and part-exchange. The company had initially categorized its rental income as exempt from Value Added Tax (**VAT**). However, the situation changed on February 18, 2022, when the Federal Inland Revenue Service (**FIRS**) issued a letter to NGX, alleging that the company had not met its VAT obligations for the 2020 fiscal year. Furthermore, the FIRS set a seven-day deadline for NGX to settle the outstanding tax liabilities.

Unsatisfied with the FIRS position and the lack of resolution, NGX took the matter to the tax appeal tribunal by filing an appeal to have the assessed tax liabilities invalidated.

NGX argued that the FIRS had misinterpreted critical provisions of the VAT Act, as amended by the Finance Act 2019 (**FA 2019**) and had made a mistake by imposing VAT obligations on rental incomes derived from real properties. Relying on the definition of "goods" provided in section 46 of the VAT Act, NGX contended that goods encompass tangible products that are mobile at the point of supply and intangible products, assets, or property whose ownership or rights can be transferred from one person to another. Notably, this definition excludes money, securities, and interest in land.

NGX also referred to the definition of taxable supplies as per section 2(1) of the VAT Act (amended by section 33 of the FA 2019). According to these statutory provisions, NGX maintained that taxable supplies pertain to transactions involving the sale of goods or the provision of services, in exchange for money or its equivalent. The Appellant asserted that taxable supplies, regarding goods, imply the sale of taxable goods. Consequently, land, not falling within the category of taxable goods, should not be considered taxable supplies. NGX also stated that for VAT to apply to a transaction, it must qualify as either a supply of goods or services. As a result, lease transactions involving the granting of possessory rights to a tenant should not be classified as taxable supplies.

Concerning the second issue, NGX contended that the FIRS was incorrect in imposing interests and penalties on the demand and re-assessment notice when these were not yet final and conclusive. Citing paragraph 13(2) and (3) of the 5th schedule to the FIRS Act, NGX maintained that a demand notice or assessment could only become final and conclusive if the objector failed to appeal against such a demand notice or assessment.

The FIRS contended that the applicable law for NGX's income in 2020 was the FA 2019. Referring to the amendment to section 46 of the VAT Act by the FA 2019, the FIRS argued that while the FA 2019 excluded interest in land from VAT, it did not extend this exclusion to buildings. The FIRS further asserted that buildings should not be included in the definition of land, particularly since the FA 2020 explicitly made this distinction. In other words, if the legislature had intended to include buildings as part of land, it would have clearly stated so, as it did in the FA 2020. The respondent also argued that land and buildings were not classified as assets of the same class. Therefore, the exclusion of interest in land from VAT was introduced in the FA 2019, while the exclusion was extended to buildings in the FA 2020. Consequently, interest in buildings should be subject to VAT in the 2020 financial year (the commencement year of the FA 2019) but not in the 2021 financial year (the commencement year of the FA 2020).

Regarding the second issue, the FIRS argued that there was no error in imposing penalties and interest on the VAT assessment since these were statutory levies for failure to pay tax. The FIRS argument was based on the relevant sections of the VAT Act and the FIRS (Establishment) Act of 2007. The FIRS also pointed out that NGX had acknowledged, through a letter dated July 14, that it did not charge VAT on rental income based on the provisions of the FA 2019. The FIRS considered this as a clear indication of a violation of tax law, relieving the FIRS of the burden of proving the same and justifying the application of the maximum penalty.

In summary, the TAT determined that the applicable law was the FA 2019, which clarified the definition of goods and services for VAT purposes. They also concluded that the exemption for interest in land extended to buildings on leased land, based on the legal interpretation of "land" established by previous court cases. This ruling led to the dismissal of the assessment against the FIRS.

TAT RULES THAT VAT IS CHARGEABLE ON THE SUPPLY OF SOFTWARE LICENSING: MTN NIGERIA COMMUNICATIONS PLC V. FEDERAL INLAND REVENUE SERVICE

Following an investigation by the Office of Attorney General of the Federation (**OAGF**) into the Form A (invisible) and Form M (visible) transactions of MTN Nigeria Communications (**MTN** or the **Appellant**), the OAGF provided a report to the FIRS assessing MTN of outstanding import duty, VAT, and WHT liabilities to the sum of $135 Million. Based on the OAGF Report, the FIRS conducted an internal audit, following which it upheld the OAGF's report of the alleged tax liability

Upon refusal by the FIRS to amend the revised assessment, the Appellant filed the suit before the TAT. The following issues were up for determination at the Tribunal.

01 Whether in view of the clear and unequivocal provisions of VAT Act prior to the amendment by the Finance Act, the provision of software licensing and upgrades qualified as a taxable supply of goods and services.

02 Whether the provision/lease of bandwidth capacity by Intelsat Global Services & Marketing Ltd, a non-resident entity, through transponders located in the satellite qualifies as a taxable supply of goods and services.

03 Whether in the absence of the production of any false or untrue document or statement by the Appellant, the Respondent has authority to conduct a tax investigation beyond the 5-year restriction.

04 IWhether training provided by offshore facilitators outside of Nigeria is liable to VAT in Nigeria.

The argument of the Appellant before the Tribunal was hinged on the fact that the software contracts it entered into with several service providers for software licenses and upgrades do not qualify as either supply of 'goods' or 'service' for the purpose of VAT, prior to the amendment by the Finance Act. The Appellant further delineated that the relevant transactions to which the Respondent has assessed it to the additional VAT are software licensing transactions which constitute the grant of incorporeal rights, and urged the TAT to determine whether the supply of software constitutes a supply of service, highlighting that the provisions of VAT Act before the enactment of the FA did not make provision for intangibles and incorporeal properties such as software licensing.

On the issue of the provision of bandwidth capacity by Intelsat Global Services & Marketing Ltd, the Appellant argued by the provisions of section 46 VAT Act as applicable at the relevant time defined imported service to mean ' service rendered in Nigeria by a non-resident to a person resident in Nigeria', and since the bandwidth network capacity was never provided to the Appellant in Nigeria and therefore could not form a valid basis for additional VAT assessment, it would not qualify as an imported service.

With respect to the 5-year restriction rule, the Appellant argued that since the demand was made in 2022, the years 2007 and 2010 to 2017 fall outside the statutory limitation period of 5 years. The Appellant argued that penalties and interest only begin to accrue after an assessment becomes final and conclusive, according to Paragraphs 13(2) and (3) of the Fifth Schedule to the FIRS Act. Therefore, they should not be liable to pay the penalties and interest because the notices have not yet become final and conclusive.

On the first and second issues, the Respondent maintained that no proof was provided that establishes that the Applicant paid VAT on those transactions and a literal interpretation of the provisions of section 2 VAT Act establishes the goods which are exempt from VAT, and whatever name the Appellant choose to accord the transaction it still qualifies as a service and within the ambit of Section 46. On the third issue, the Respondent submitted that the VAT Act does not stipulate any statutory limitation on the recovery of VAT and therefore the 5-year restriction does not cover matters contained in the VAT Act.

In adjudicating the first issue, the Tribunal rejected the Appellant's argument, asserting that the divergence from the Appellant's position was consistent with established legal precedents and, notably, Section 2 of the VAT Act. This section expressly specifies the categories of goods exempt from VAT, which, according to the First Schedule of the Act, do not include Software licensing and upgrades. Consequently, the Tribunal deemed the provision of Software licensing and upgrades as subject to VAT in Nigeria.

Regarding the second issue, pertaining to whether the provision of Bandwidth Capacities by a non-resident entity constitutes a taxable supply of goods and services, the Tribunal referenced the Master Service Agreement (MSA) submitted as evidence. The MSA's contents evidenced a service delivery by a non-resident entity to the Appellant, imposing an obligation on the Appellant to deduct VAT on these transactions and remit the same to the Respondents. Thus, the Tribunal concluded that the supply of Bandwidth Capacities qualifies as a VATable supply, subject to appropriate liabilities.

On the third issue, the Tribunal aligned with the Respondent's submission, affirming the principle that, when a statute is revenue-based, it is prudent to interpret its provisions in favour of government revenue generation. Concerning the fourth issue, the Tribunal deemed the location of service provision immaterial, emphasizing that the critical factor is Nigeria benefiting from the training. Consequently, the training offered by offshore facilitators was deemed VATable under relevant laws in Nigeria.

TAT RULES THAT BAD DEBTS CONSTITUTE VALID TAX DEDUCTIONS, INDEPENDENT OF THE DISCRETION OF THE FIRS BOARD – NPF MICROFINANCE BANK V FIRS TAT/LZ/CIT/024/2022.

NPF, a microfinance bank, classified bad debts, overdraft facilities, and PR expenses as allowable deductions for corporate income tax CIT purposes, citing section 24 of the CITA. The FIRS, upon auditing NPF's 2017-2018 tax years, disallowed these expenses and issued additional assessment notices. NPF contested the FIRS' assessment, claiming it contradicted section 24, which permits wholly, exclusively, necessarily, and reasonably (**WREN**) incurred expenses for generating turnover. Despite ongoing reconciliation efforts, FIRS maintained its position and issued a Notice of Refusal to Amend (**NORA**). Dissatisfied with the FIRS' stance and the issued NORA, NPF appealed to the TAT seeking expense deductions and alleging a violation of fair hearing due to the timing of the assessments during reconciliation. NPF further argued that, based on Sections 69 and 76 of the CITA, the FIRS prematurely issued the additional assessments and NORA, infringing upon their fair hearing rights.

NPF contested the FIRS' calculation of CIT and other taxes, arguing that the FIRS disallowed certain expenses improperly. Additionally, relying on section 24(f) of the CITA and citing the unsecured nature of loans typical in microfinance, NPF argued that certain overdraft facilities had become bad debts. They provided documentary evidence of recovery efforts and emphasized the difficulty in obtaining documents (death certificates or bankruptcy orders) required by the FIRS due to debtor unresponsiveness. Additionally, NPF argued that the CITA did not specify any mandatory documentation for bad debt claims. Furthermore, NPF emphasized the relevance of the CBN's Prudential Guidelines and their reliance on International Auditing Standards (IAS) 39 in distinguishing between collective and specific impairments. Regarding PR expenses, NPF maintained that they were incurred for advertising, directly contributing to the Company's turnover, and therefore qualified as tax-deductible under section 24 of the CITA. Lastly, NPF argued that the FIRS infringed on their right to a fair hearing by issuing additional assessments and an NORA prematurely during ongoing reconciliation meetings, citing Sections 69 and 76 of the CITA.

The FIRS on its part contested the deductibility of NPF's overdraft facilities and debts, arguing that recoverable debts did not meet the criteria for bad debt deductions under section 24(f) of the CITA. They emphasized their discretionary authority in determining uncollectibility and pointed to NPF's engagement of recovery agents and incomplete documentation, including Board Credit Committee records and death certificates, as evidence of potential recovery. Regarding PR expenses, the FIRS argued that NPF failed to demonstrate that the expenses met the WREN test for generating profits. They emphasized the burden of proof resting with the Appellant. Finally, the FIRS defended the timing of their NORA, citing the precedent set in Oando Trading & Supply Limited v. FIRS , which established a 90-day timeframe for issuing the NORA. They emphasized that the specific timing within the 90-day window was inconsequential and refuted NPF's claims of legal or factual shortcomings on their part.

After considering the arguments brought before it, the TAT held in respect of the first issue that distinction between bad and doubtful debts in tax deductions hinges on the burden of proof. While taxpayers must definitively demonstrate bad debts, doubtful debts require only convincing the FIRS Board. Despite the existence of a CBN Regulation providing a template for provisioning in Microfinance banks, the ultimate authority for bad debt allowance rests with the CITA. However, once a debt is demonstrably bad, the Board's discretion becomes irrelevant. Furthermore, the absence of documentation like death certificates or bankruptcy orders cannot serve as grounds for dismissing a loan's classification as bad. Having assessed the debt as bad based on the CBN Regulation and other recovery efforts, the TAT concluded that NPF's position was sound. Consequently, the TAT ruled in favor of the Appellant.

Regarding issue two, the TAT ruled that under the CITA, an expense must satisfy two criteria to be deductible: it must comply with the "WREN" outlined in section 24, and it must not be explicitly disallowed by section 27. Consequently, an expense failing the section 27 test is automatically non-deductible. In this case, NPF's PR expenses passed the Section 27 barrier, leaving the WREN test as the final hurdle for their deductibility. The crucial factor for the TAT was whether these expenses were demonstrably essential for NPF's continued operation. The TAT found NPF's documentation insufficient in clarifying the precise nature and allowable amount of the PR expenses in question. The TAT emphasized that the WREN test's requirements extend beyond mere compliance; it also compels the taxpayer to provide concrete evidence. Therefore, the TAT ruled that the PR expenses failed to meet the necessary evidentiary standards and were not tax-deductible, ultimately resolving the issue in favor of the Respondent.

In respect of the final issue, the TAT held that the issuance of a "letter of intent" by the FIRS does not constitute a violation of NPF's right to a fair hearing as stipulated in section 69 of the CITA. The timeline specified in section 69 is inapplicable to tax audit reports and, furthermore, irrelevant to the fair hearing principle in this context, as tax audits typically precede the issuance of notices of objection to an assessment. Additionally, the Respondent is not legally constrained from raising tax assessments at any point within the tax year, regardless of any ongoing reconciliation efforts between the parties.

The takeaway from this decision is the clarification as to the metric for which the deductibility of bad debts can be established. Following this judgment, it is clear that bad debts must be proved by a taxpayer to have become bad while doubtful debt is deductible when it is established to the satisfaction of the Board of the Respondent. Furthermore, once it has been established that debts are indeed bad, they constitute valid tax deductions, independent of the discretion of the FIRS Board.

PART C: GOVERNMENT POLICY AND TAX ADMINISTRATION

The year 2023 witnessed a continued focus on tax revenue generation, with the FIRS and state tax authorities issuing a series of regulations, circulars, and notices to enhance compliance and optimize revenue collection. The FIRS, exercising its powers under the FIRSEA, introduced several measures to streamline tax processes, expand tax collection channels, and intensify taxpayer education. State tax authorities, particularly the LIRS, mirrored these efforts, aligning their policies with the national agenda of boosting revenue collection.
Accordingly, we will consider some policy highlights from the regulatory authorities in 2023.

Guideline on the withholding and Self-account of VAT

The FIRS published this Information Circular on 03 March 2023 to provide guidance to the general public, tax practitioners and taxpayers on the operation of VAT withholding regime in line with the provisions of the VAT Act (as amended). The key highlights of the Circular are identified below:

- MDAs, companies operating in the oil and gas space and other agent of collection appointed by the FIRS shall withhold VAT at source from payments to vendors, contractors, or suppliers, in addition to other existing obligation under the VAT Act. In ensuring compliance, such agents shall (a) prepare a separate schedule showing the name, tax identification number (TIN), address of the vendor, contractor or supplier, gross amount of the invoice, VAT charged on the supply and the month of return; (b) deduct or withhold the VAT stated on the supplier's invoice; (c) remit the amount withheld directly to the Service in the currency of transaction, separately from VAT collected on sales made by the taxpayer; and (d) file the return of VAT withheld using the relevant module provided on the FIRS' TaxPro-Max (TPM) platform.

- Taxpayers obligated to self-charge for VAT shall ensure compliance as stated above.

- Where any transaction involves two (2) taxpayers that are obligated to withhold VAT, the Circular clarifies that the recipient of the taxable supplies shall be responsible for withholding, remitting, and accounting for the VAT on such transaction.

- In relation to transaction between a Nigerian taxpayer, and a non-resident unappointed supplier, the Nigerian taxpayer shall have the obligation to withhold and/ or self-account for the VAT on that transaction.

- Any person with obligations to withhold VAT is expected to maintain a "VAT Withheld Account" in its books separate from its regular "VAT Account". Such account shall be made available to the FIRS for audit.

- Input tax paid by suppliers of taxable goods shall be allowed as deduction from the output tax in line with the provisions of section 17 of VAT Act and where a taxpayer covered under the Circular requests for a refund, the FIRS shall treat the request in accordance with the guidelines for refund.

Guidelines for The Refund of VAT Paid By Diplomats, Diplomatic Missions and International Organisations on Goods and Services Purchased

On 10 March 2023, the FIRS issued an Information Circular to provide guidance to diplomats and international organizations and to clarify the provisions of the VAT Act on the conditions and processes for refunding VAT on goods and services purchased. Although goods and services purchased by diplomats are listed as zero-rated under Part III of the First Schedule to the VAT Act, the Circular explains that where a diplomat pays VAT on goods and services at the point of purchase, such diplomat will be entitled to a refund of VAT paid.

The categories of persons eligible to apply for refund of VAT as listed in the Circular are:

- Diplomats (foreign employees of embassies/missions not below the rank of third secretary)
- Diplomatic Missions (embassies and High Commissions)
- International Organizations conferred with diplomatic immunities and privileges by an Order of the Minister of Foreign Affairs ("the Ministry") published in a Federal Gazette pursuant to section 11(2)(a) of the Diplomatic Immunities and Privileges Act.

The Circular clarifies that a request for VAT refund on any transaction must be made not later than one year after the transaction date and any amount refundable will be made net of commission, bank charges and Interswitch fees. The process to be followed for the seamless refund of VAT to the Diplomats and Diplomatic Missions as enumerated by the FIRS is highlighted below:

1. Application to the Executive Chairman of the FIRS through the Ministry of Foreign Affairs
2. - Submission of original VAT invoices showing the VAT charges and the refund applications to the FIRS for verification and custody
3. -Return of processed and stamped VAT invoice to the diplomat upon request
4. Collation of the applications by embassies/diplomatic missions to the FIRS through the Ministry on a quarterly basis
5. Vetting of applications by the Ministry to confirm eligibility of beneficiaries for VAT refund.

The Tax invoice to be submitted in support of the refund application must also contain certain information such as (x) name, address and TIN of the taxable person that supplied the taxable goods or service; (y) name and address of the diplomat, mission or organisation receiving the taxable goods or service; (z) description, type, number, unit price and total sales value or consideration for the goods or services sold or purchased; (xx) VAT charged or collected and rate applied; and (yy) date of delivery.

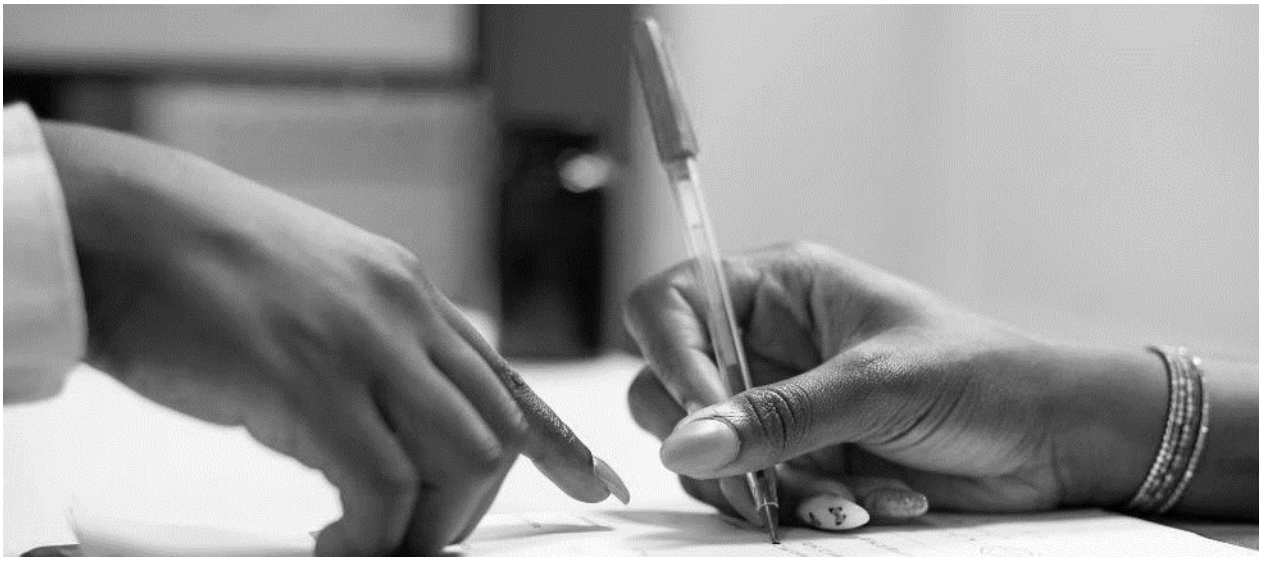
Any fraudulent tax refund claim by an applicant shall be dealt with in accordance with Section 25 of the VAT Act (as amended) and Section 42 of the Federal Inland Revenue Service (Establishment) Act 2007 (as amended) which renders such person guilty of an offence and liable on conviction to a fine not exceeding NGN200,000 in addition to payment of the amount of tax overpaid, to imprisonment for a term not exceeding 3 years, or to both fine and imprisonment.

FIRS And LIRS Sign MOU on Joint Tax Audit and Investigation

On 06 February 2023, the FIRS, and the LIRS signed a Memorandum of Understanding (**MoU**) with the aim of fostering collaboration between the two tax authorities on joint tax audits and investigations, addressing the issue of tax duplication on taxpayers, raising funds for budgetary needs, improving exchange of information for tax assessments, and facilitating staff capacity development. To achieve seamless tax administration, the Mou establishes a Joint FIRS and LIRS Audit and Investigation Team. Both tax authorities have also assured taxpayers of their commitment to protecting confidentiality and safeguarding taxpayers' records and financial information during the information exchange.

It has also been reported that the Ministry of Finance, Budget, and National Planning is putting in place a presumptive tax regime for the purposes of personal income tax and ground rent, which will be issued in due time.

It is noteworthy that this step is in line with section 8(1) of the FIRSEA as amended, which empowers the FIRS to collaborate and facilitate rapid exchange of information with relevant national or international agencies or bodies on tax matters as well as undertake exchange of personnel or other experts with complementary agencies for purposes of comparative experience and capacity building.



FIRS Signs Memorandum Of Understanding (MoU) With HMRC

The FIRS and His Royal Majesty's Revenue and Customs (HMRC) of the United Kingdom signed an MoU on 15 March 2023, to foster collaboration on capacity building between both tax authorities and to improve capacity of tax officers for revenue collection. The agreement was signed in the presence of the former FIRS Executive Chairman, who was accompanied by some FIRS Board and management members, and the Director of HMRC, who was joined by other members of the HMRC Executive Committee.

The former FIRS Chairman, Muhammad Nami stated that the collaboration was in line with two of his cardinal goals for the FIRS: building a data-centric tax authority and improving collaboration and stakeholder relations. He also expressed certainty that the relationship would provide Nigerian revenue officers with the skills of a twenty-first-century tax officer, noting that data collection, interpretation, and subsequent application for tax purposes has become critical if the FIRS is to stay ahead of the taxpayer in current times. In addition, David Yellowly, Head of Capacity Building at the HMRC, stated that the MoU between the Nigerian and UK revenue authorities would see both countries collaborate on Capacity Building, particularly on issues relating to Country-by-Country Reporting Standards, Transfer Pricing, Exchange of Information, Data, and Audit in the Oil and Gas industry.

It is worth noting that the FIRS' collaboration with an international revenue agency such as the HMRC is also a significant step toward better equipping tax officers and is in accordance with section 8(1) of the FIRSEA on collaboration and information exchange.

FIRS Introduces New Changes To VAT Module With Subsequent Modifications

The VAT filing procedures on the TaxPro Max portal have undergone substantial changes implemented by the FIRS. These updates (the Initial Changes), which were effective from the April 2023 filing period, were introduced to streamline the process of claiming input VAT, making sales adjustments, and filing output VAT. The FIRS, on 18 April 2023, organized an awareness event aimed at educating different stakeholders about the revised process and enhanced data requirements for submitting a complete VAT return.

By the Initial Changes made to the portal by the FIRS prior to the improvements on the module, taxpayers are now required to include a sales schedule in their VAT return, providing details such as customer names, Tax Identification Numbers (**TINS**), item descriptions, costs, and the VAT status of transactions. This requirement also applies to collecting agents authorized to deduct VAT at the source. Taxpayers were previously limited to maximum limit of 1000 sales transactions per upload when preparing their VAT return, and so on.

Additionally, taxpayers have the flexibility to adjust their VAT returns for returned or cancelled sales by making corrections in subsequent sales schedules. In these corrections, they need to provide the item ID associated with the credit note. Moreover, if taxpayers have obligations to deduct VAT at the source based on their vendor invoices, they had to utilize the designated digital forms specifically designed for this purpose.

Section 15 of the FIRSEA does not explicitly grant the FIRS the power to exercise most of the administrative moves it made. Consequently, in the exercise of these powers, controversies erupted. By virtue of these controversies, the FIRS responsively made substantial adjustments to the module. Some of the changes introduced are as follows:

01 An opening of all disabled columns on the portal as well as the disabling of the auto credit for purchases;

02 A taxpayer may now be allowed to claim credits for VAT withheld at source (**WVAT**), input VAT for purchases and input VAT for imports;

03 These claims can be made provided they populate and upload the required schedule when filing VAT returns. The credits claimed will be granted to the taxpayer pending verification. Where it is discovered that the claims are false, this will attract penalties to the taxpayer which may ultimately lead to prosecution by the FIRS. Where the suppliers are traced, the liability for that VAT will be raised against them, and where not traced, the liability will be raised to the purchaser.

04 The maximum limit for entries has now been expanded beyond 1000 entries, although the FIRS suggests that entries be uploaded in bits for ease;

05 Taxpayers can now insert '0' in the field requiring customer's TIN where the TIN is not known because it will no longer be a mandatory field when returns are being filed.

While it is commendable that the FIRS has yielded to reasonable public opinion in ensuring that taxpayers can claim credits on VAT in compliance with extant laws, it should be noted that the burden on the taxpayers to ensure that VAT is traced and to participate in the verification process is undue. It may also result in more financial expenditure in order to avoid false claim charges and double taxation. The offence of false claim is also not clear enough in relation to the Law punishing the offence.

We envisage further amendments to this VAT Module as is viability is questionable, considering the legal and practical issues arising therefrom.

Lirs Introduces A New Process For Generating Tax Clearance Certificate

The LIRS issued a Public Notice on the process of obtaining Tax Clearance Certificate (**TCC**) through its end-to-end administration platform. The Notice states that taxpayers can now obtain TCC through the LIRS eTax platform.
In the same vein, the LIRS issued another notice outlining step-by-step guidelines on the process for generating new electronic Tax Clearance Certificate (**eTCC**) as well as the conditions precedent for its application. These conditions as outlined by the LIRS are set out below:

01 Compulsory Filing of Annual Income Returns for the last 3 years in respect of employment income of employees including compensation for loss of office through the eTax platform. In addition, each taxable person is to file their annual income tax returns for the last three (3) years on all sources of income through the eTax platform.

02 Upload of taxpayers' recent passport photograph as a means of identification and validation

03 Update of the taxpayer's residential address prior to application

04 Receipt of tax assessments raised by the Agency for the last 3 years pursuant to the income tax returns filed by the applicant.

05 Payment of tax due for the last 3 years immediately preceding the current year of declaration of the income filed in the returns, in order to determine if no tax is due on such income and to make a demand from the eTCC. The LIRS also noted that a bill reference must be generated for all outstanding assessments before payments can be made for the assessments raised.

Upon fulfillment of the above conditions, the taxpayer must verify specific details on the TCC. In addition, the newly introduced eTCC incorporates two crucial security elements viz a unique certificate number and a QR code. This move is commendable and will enhance the speed of both application and issuance procedures. Furthermore, the incorporation of security measures into the TCCs is envisaged to decrease the fraudulent activities of unscrupulous persons.

Federal Government's Decision to Grant a 6-months Tax-Grace Period to Companies in the Shipping Industry to Clear 10-Year Outstanding Tax Bill.

On the 11 May 2023, the Federal Government, through the then Special Adviser to the President on Revenue, Zacchaeus Adedeji (the current Chairman of the FIRS), announced a six-month grace period for vessel owners to clear their ten-year outstanding tax bill and to balance their accounts within six weeks. This decision was taken after a meeting with the relevant industry stakeholders and ship owners.

In his address, he iterated that the government does not intend to detain ships, rather, the government's commitment is to swiftly resolve the issue to avoid disruptions to the flow of goods both within and outside the country. He added that demand notices were served on ship owners which resulted in a round table discussion. The 6-months grace period is a result of that discussion, so that vessel owners can reconcile with the technical committee which will be set up. He further stated that the technical committee comprises of the regulators, such as the NUPRA, the Nigerian Midstream and Downstream Petroleum Regulatory Authority, Nigerian National Petroleum Company Ltd, FIRS, the Office of Chief of Staff, Special Adviser to the President on Energy and the Special Adviser to the President on Revenue, with the Secretariat, at the FIRS.

Mr. Adedeji noted the technical committee will look at the concerns and reconcile the back taxes as well as set a process that will ensure compliance going forward.

Additionally, we take a hint that this grace period by the Federal Government was to ensure the regularization of their tax compliance status, and to help affected companies avoid any tax penalty or liability for failure to comply during the outstanding years.

Federal Government's Introduction of Annual Vehicle Ownership Verification Fee of N1000

The Federal Government of Nigeria has, in accordance with the National Road Traffic Regulations 2012 as amended, No. 101, Vol. 99 (the **Regulations**), announced the collection of vehicle ownership verification fee on an annual basis.

Regulation 73 (1) of the Regulations which is made pursuant to the Federal Road Safety Commission (Establishment) Act, 2007 states that "the Commission shall establish and maintain a Central Data Base for Vehicles and drivers for the federation". Regulation 73(3) also added that "the Commission shall keep records of all registered vehicles, licenced drivers and transport operators in the Central Data Base".

According to the government, the fee, known as Proof of Ownership Certificate (**POC**), is aimed at tracking the real time status and the integrity of all vehicles registered on the National Vehicle and Identification Scheme (NVIS) database.

Regulation 73(2) of the Regulations states that every Motor Licensing Authority in any State of the Federation shall provide to the Commission copies of any records, documents, or particulars in respect of vehicles and licenced drivers. This can be construed to mean that states are empowered by law to collect and remit such information to the Federal Government.

It is pertinent to state that Lagos State will commence the collection of POC fees from vehicle owners in July 2023. According to the Permanent Secretary of the state's Ministry of Transportation, Mr. Abdulhafiz Toriola, the initiative is aimed to streamline and enhance the process of vehicle ownership verification, which is the annual POC, in line with compliance with the legal requirement fundamental to transparency, security and accountability within transportation network.

FIRS Public Notice on The Enactment of the Finance Act 2023

Pursuant to the Finance Act (Effective Variation) Order 2023 which extended the effective date of the FA 2023 to 01 September 2023, the FIRS issued a public notice which sought to further operationalize the commencement date of the FA 2023. Pursuant to the FA 2023 Public Notice, the amended provisions of the FA 2023 were to take effect as follows:

- All withheld or collected VAT must be remitted to the FIRS not later than the 14th day of the month following that in which the VAT was held or collected.

- In line with the FA 2023 amendment to the VAT Act, which excluded fixtures or structures that can be easily removed from land from the definition of "building", all the items removed from the definition of land have become chargeable to VAT. Consequently, companies letting, trading in or providing services with such items must charge VAT at the prevailing rate with effect from 01 September 2023.

- The new Tertiary Education Tax (**TET**) rate of 3% shall take effect for TET becoming due in respect of the accounting period ending on or after 01 September 2023.

- Further to the repeal of sections 32,34 and 37 of CITA, which granted allowances in respect of capital expenditure incurred in certain circumstances, and tax exemptions on income earned in convertible currencies from tourists by hotels, the said allowances and exemptions are no longer available for tax returns becoming due in respect of the accounting period ending on or after 01 September 2023.

The Public notice effectively conveys the key points of the tax law amendments and provides clear information about the changes, their effective dates, and the implications for businesses and taxpayers which is essential for ensuring compliance and informed decision-making in tax matters.

FIRS Public Notice on Tax Compliance of International Shipping Companies

Further to the 03 June 2021 FIRS Circular on the 'Taxation of International Shipping and Airlines' (the **ISC Circular**) and the 17 December 2021 FIRS Public Notice on 'Tax Compliance of International Shipping lines' (the **ISL Public Notice**), the FIRS issued a Public Notice on the Tax Compliance of International Shipping Companies (**ISCs**) in August 2023 (the **2023 ISC Public Notice**). The ISC Circular sought to provide a reasonable basis for the tax imposed on international shipping lines in Nigeria, and the ISL Public Notice requested all international shipping lines to regularize their tax affairs with the FIRS within three (3) months of the date of that publication.

Following the non-compliance of many ISCs with their tax obligations imposed by extant tax laws, the FIRS, in exercising its regulatory powers issued the 2023 ISC Public Notice requesting all ISCs operating in Nigerian territorial waters in whatever capacity (Containerized, Bulk Cargo, Fishing Trawlers, Crude oil or natural gas lifting vessels, dredging, survey, floating, production, storage and offloading, etc.) to immediately regularize their tax positions at the Non-Residents Tax Office no later than 31 December 2023.

FIRS Partly Extends Due Date for Submission of CIT Returns for 2023 Year of Assessment

On 30 June 2023, the FIRS published a document concerning the submission of Companies Income Tax (**CIT**) for the 2023 (**YoA**). Multiple concerns have arisen from different sources regarding the challenge of adhering to the June 30, 2023, deadline for filing CIT returns pertaining to the 2023 YoA.

The FIRS, in accordance with the provisions of the Companies Income Tax Act, has provided the subsequent guidelines.

- All companies whose CIT returns for the 2023 YoA fall due between 30 June and 31 August 2023 (both days inclusive) are given up to 31 August 2023 to submit their CIT returns to the FIRS.
- The extension of the due date is a one-off gesture for only the 2023 YoA CIT returns which are due as aforesaid.
- The relevant CIT returns shall therefore not attract late filing penalties or interests for late payment if submitted to the FIRS on or before 31 August 2023.

- Where the relevant CIT returns are not filed by the extended date, penalty and interest for late payment shall be computed from the original due date and not the extended date.

- This extension of filing date is only for CIT and does not include returns for WHT, VAT, personal Income tax (PAYE) etc.

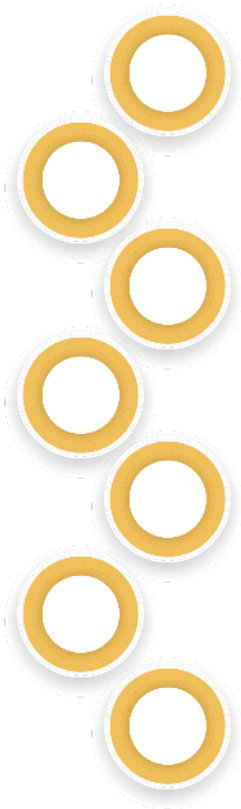
The FIRS urged all relevant taxpayers to take the opportunity afforded by the extension to submit their CIT returns within the specified time, pay the taxes due and avoid payment of interest.

FIRS Releases Public Notice on Filing of Tax Returns by Enterprises in Nigeria Export Processing Zones and Oil and Gas Free Zones.

Following the coming into force of the Finance Act 2020, section 18(1)(a) of the Nigerian Export Processing Zone Act (the **NEPZA Act**) and section 18(1)(a) of the Oil and Gas Free Trade Zone Act (the **OGFZ Act**), have been amended making it mandatory for all Enterprises within the Free Trade Zones and Export Processing Zones to file their tax returns to the FIRS.

Further to the amendments and the subsisting memorandum of understanding between the FIRS, NEPZA and OGZFA, the FIRS released a Public Notice to all enterprises operating withing the Free Trade Zones and Export Processing Zones reiterating the requirement for all affected enterprises to file their tax returns accordingly (the **FTZ Public Notice**).

The FTZ Public Notice provides that Annual Income Tax returns shall contain:



- Audited Financial Statements.
- Computation of Income Tax for the Period (even where no tax is payable).
- Capital Allowance Computation.
- A true and correct statement in writing containing the amount of profit from each and every source.
- Duly completed self-assessment forms as provided by the FIRS and attested to by the director or secretary of the company.
- Evidence of payment of the whole or part of the tax due (if any) into a collecting or designated bank (where applicable).
- Schedules showing the computation of profits arising from transactions carried out (1) within the zones; (2) in the Customs area; and (3) beyond the Customs area.

Additionally, the Public Notice provides that Monthly withholding Tax (WHT) Returns are to be comprised of a schedule of persons and transactions on which WHT was deducted. It further provides that the schedule must clearly show the following:

01 Name, Tax Identification Number (TIN) and the month the return relates at the top of the schedule; and

02 Details of the supplies and the transactions for which the WHT was deducted.

In respect of VAT Returns, per the Public Notice, they are to be filed using the appropriate prescribed format, i.e, VAT Form 002, VAT Form 002A or VAT Form 002B. All returns in this respect are to be filed online, through the Tax Pro-Max platform.

As stated above, the Public Notice reiterates the amendments occasioned by the Finance Act 2020. While these amendments impose an obligation on these enterprises to file their returns for the purposes of transparency, it is pertinent to note that the tax-exempt status of enterprises within Free Trade Zones and Export processing zones are still preserved.

FIRS Publishes Taxpayer Information Guide on Stamp Duty

The FIRS issued a guide containing the necessary information for the payment of Stamp Duty. Stamp Duty forms as a form of an indirect tax under the Stamp Duties Act (SDA), CAP S8 LFN 2004 (as amended). The Federal Inland Revenue Service (FIRS) have the power to impose, charge and collect duties upon a written or electronic document which if executed, makes it a legal document and will be admissible in any court of law. Stamp duties can either be levied at a Flat rate, which is fixed and does not vary with consideration, or an Ad-valorem rate which varies with consideration.

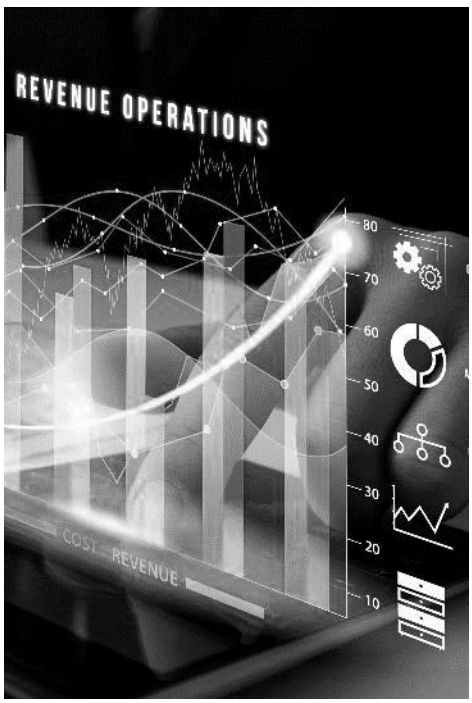
The provision Section 23(1) of the SDA requires that duties must be paid within 30-40 days after they have been executed or within 30 days after they have been received in Nigeria (if executed outside Nigeria). The mode of paying stamp duties can be made by E-Stamping through the TaxProMax Portal.

The failure to comply with provisions of the SDA may result in any of the following consequences (i) Prosecution for offences under the Act, (ii) Payment of penalties of various degrees (iii) Inability to use the relevant instrument as evidence in court or other judicial or quasi-judicial proceedings (iv) Enforcement actions, etc. (v) FIRS may apply a penalty of 10 per cent of the unremitted duty and interest at the prevailing CBN minimum rediscount rate.

Leadership Transitions in the FIRS and the Presidential Fiscal Policy and Tax Reforms Committee

The 2023 general elections in Nigeria marked a significant turning point in the nation's political landscape, ushering in a new era of leadership under President Bola Tinubu. This political transition extended to the realm of fiscal policy and tax administration, as the FIRS and the Presidential Fiscal Policy and Tax Reforms Committee (the Committee) witnessed notable changes in leadership.

The FIRS, responsible for overseeing the assessment and collection of federal taxes in Nigeria, saw a shift in leadership following the appointment of a new Chairman, Mr. Zacch Adedeji. The new Chairman, a seasoned tax expert with a proven track record of success, brought a fresh perspective to the FIRS, emphasizing the need for enhanced tax compliance, improved taxpayer service delivery, and the optimization of revenue collection strategies.



Similarly, the Committee, tasked with advising the President on fiscal policy and tax reform measures, underwent a leadership transformation. The newly appointed Chairman Mr. Taiwo Oyedele, a renowned economist with extensive experience in fiscal policy analysis, brought a renewed focus to the Committee's work, prioritizing the development of comprehensive tax reform strategies aligned with the President's economic agenda.

These leadership transitions in the FIRS and the Committee signal a concerted effort by the new administration to strengthen fiscal governance and enhance revenue generation. The expertise and experience of the newly appointed leaders are expected to contribute to a more robust and efficient tax system, fostering economic growth and sustainable development in Nigeria.

The FIRS, under its new leadership, is expected to implement innovative tax administration strategies, leveraging technology to streamline tax processes, expand tax collection channels, and enhance taxpayer education. The Committee, on the other hand, is poised to play a pivotal role in shaping the direction of fiscal policy, providing expert guidance on the design and implementation of tax reforms that promote economic equity, efficiency, and competitiveness.

The changes in leadership at the FIRS and the Committee reflect the new administration's commitment to fiscal reform and revenue optimization. The combined expertise and experience of the new leaders bode well for Nigeria's future economic trajectory, as they strive to create a tax system that supports sustainable growth and development.

FIRS Issues Public Notice on Waiver of Penalties and Interests on Outstanding Tax Liabilities.

The FIRS issued a public notice dated 02 December 2023, waiving all interests and penalties on all outstanding tax liabilities for taxpayers. This concession, exercised in line with section 32 of the FIRSEA was granted in recognition of the challenges faced by many taxpayers in settling their outstanding tax liabilities, and in line with the commitment of the current administration to support businesses.

Taxpayers were advised that the waiver is subject to the full settlement of outstanding principal liabilities on or before 31 December 2023, after which the full penalty and interest were reinstated where the outstanding undisputed liability remained fully or partially unpaid.

Presidential Fiscal Policy and Tax Reforms Committee Holds Public Consultation Events on Fiscal Policy and Tax Reform

In a bid to develop tax policies which promote economic growth, an equitable taxation system, and improved accountability of the Nigerian fiscal system. the Committee announced the commencement of several public consultation events, which called for the participation of relevant stakeholders and participants in the Nigerian fiscal terrain. These public consultations and stakeholder engagement sessions cut across several industries with a view to promoting collaboration in the development of a tax policy framework that is comprehensive inclusive and responsive to the needs of all stakeholders and the Nigerian populace at large.

The sessions were held between 30 November 2023 and 21 December 2023, and were geared towards several groups ranging from tax practitioners, legal and accounting firms, capital market and financial services experts to trade associations and civil society groups.

Exemption of Payment of Import Duty and Value Added Tax on the Import of Liquefied Petroleum Gas (LPG)

The federal government of Nigeria has recently taken a pivotal step to enhance the Liquefied Petroleum Gas (**LPG**) sector by granting exemptions on customs duty and value-added tax (**VAT**) for imported LPG and its associated equipment. The move is anticipated to have significant repercussions, leading to a potential reduction in the cost of cooking gas within the country.

The Ministry of Finance, through a letter dated 28 November 2023, revealed that the importation of LPG utilizing HS Codes 2711.12.00.00, 2711.13.00.00, and 2711.19.00.00 is now exempt from Import Duty and Value-Added Tax, resulting in a 0% duty rate and 0% VAT rate, effective immediately. The Ministry instructed the Nigeria Customs Service (NCS) and the FIRS to comply with the directive, pending its official gazetting. The NCS is further directed to withdraw all debit notes issued to petroleum marketers who imported LPG using specified codes from August 26, 2019, to the present date.

Other items exempted from import duty and VAT apart from LPG and its equipment include LPG cylinders, LPG cascades, gas leak detectors, steel pipes, steel valves and fittings, LPG dispensers, gas generators, and LPG trucks.

PART D: OUTLOOK FOR 2024

Highlights of the 2024 Appropriation Act

The 2024 Nigerian Appropriation Act, christened "The Renewed Hope Budget," and signed into law on 01 January 2024, proposes a total expenditure of N27.5 Trillion, representing a 10.9% increase from the N24.83 Trillion revised budget for 2023. This increase necessitates a close examination of its potential fiscal impact, considering its implications for revenue generation, debt management, and overall economic stability.

THE ASSUMPTIONS OF THE MTEF

The formulation of the Act draws upon crucial assumptions outlined within the Federal Government's 2024-2026 Medium-term Expenditure Framework (**MTEF**). These assumptions fix the price of crude oil at $77.96 (Seventy-Seven US Dollars and Ninety-Six Cents), with a crude oil production rate of 1.78 million barrels per day. Additionally, the MTEF projects an exchange rate of N750 to $1 and an inflation rate of 21.5%. Experts have described these projections as overly optimistic, ambitious, and not reflective of the current economic realities.

REVENUE PROJECTION AND REDUCED BUDGET DEFICIT

Most notably, the Act projects a revenue of N18.32 trillion, which fixes the total deficit at N9.18 trillion, representing 3.88% of the GDP. Though significant, this marks an improvement from the budget deficit of 2023, which represented 6.11% of the GDP, signaling improved fiscal management in the current administration.

PROPOSED BORROWING TO FINANCE DEFICIT

Despite the reduced deficit, the government plans to finance a significant portion – N7.83 trillion – through borrowing. This reliance on loans raises concerns about potential debt accumulation and its long-term implications for the economy.

The reliance on borrowing to finance the budget deficit raises concerns about Nigeria's long-term debt sustainability. High levels of debt can limit the government's ability to invest in critical areas and make it vulnerable to economic shocks. The 2024 Appropriation Act presents both opportunities and challenges. While the projected revenue increase and reduced budget deficit are positive signs, the reliance on borrowing requires careful management to ensure debt sustainability.

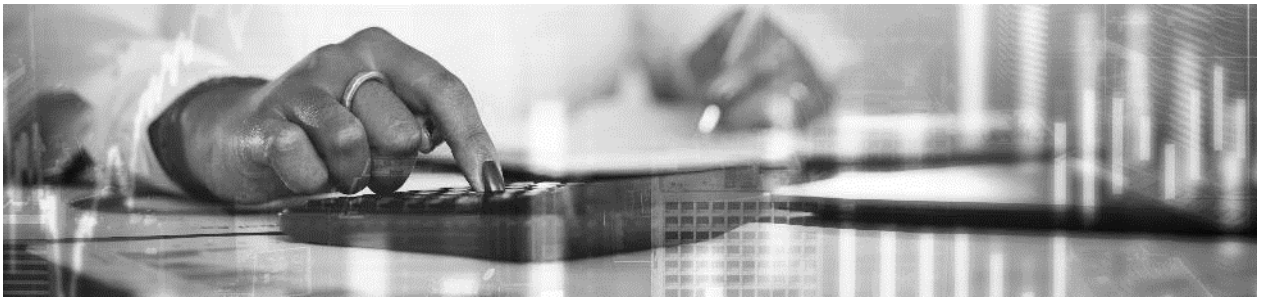
Expiration of Grace Period Granted to ISCs to Regularize Tax Payments.

Significant changes are on the horizon for ISCs operating in Nigerian territorial waters as the deadline to regularize their tax positions approaches rapidly on December 31st, 2023. The FIRS's 2023 ISC Public Notice requires all ISCs, regardless of their specific operations (containerized, bulk cargo, fishing trawlers, etc.), to comply with their tax obligations at the Non-Residents Tax Office. It is expected that most ISCs, taking advantage of the grace period offered, would have complied with the FIRS' directive.

Our Projections

INCREASED REVENUE GENERATION

The Nigerian government has outlined ambitious tax projections for the 2024 fiscal year, aiming to raise 18.32 trillion naira ($45.6 billion) in revenue. This represents a substantial 66% increase compared to the previous year's budget. Accordingly, we anticipate a more robust and intensified tax drive by the FIRS and other state tax authorities; increased tax audits to ensure compliance and identify potential evasion attempts; targeted tax enforcement on specific sectors; and a strengthened tax collection infrastructure.



IMPACT OF THE FINANCE ACT 2023

The FA introduced several new taxes and amendments to existing tax laws. As these provisions continue to be implemented in 2024, the FIRS is expected to prioritize their enforcement and ensure compliance from all taxpayers, including:

- Digital Economy Taxes: Companies operating in the digital economy, such as e-commerce platforms and online businesses, are likely to face increased scrutiny and potential tax liabilities.
- Capital Gains Tax: The expanded scope of capital gains tax will necessitate greater awareness and compliance from individuals and businesses dealing in assets like stocks and real estate.
- Excise Duties: Changes to excise duties on various goods and services, including alcohol, tobacco, and carbonated drinks, may lead to price adjustments and increased tax revenues.

FISCAL POLICY REFORM

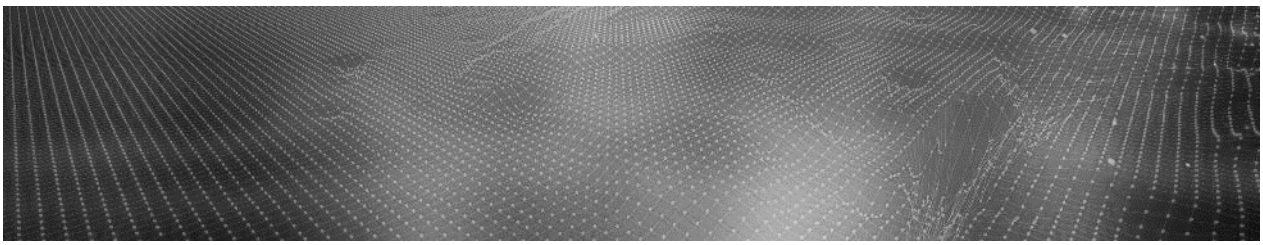
The Fiscal Policy Committee Chairman has expressed his desire to review the 2017 National Tax Policy and indicated that his teams will be recommending the repeal of certain taxes which they consider obsolete and proposing new harmonized taxes as well as modifying the tax system to drive better tax compliance and also improve the tax base. We expect to see the introduction or replacement of taxes, further modification on the use of TaxPro Max and the repeal of existing taxes. We believe overall that tax compliance is likely to be improved.

ADMINISTRATIVE ORDERS, CIRCULARS AND REGULATIONS

Given the extensive amendments to tax statutes under the FA 2023 and the BFA, we expect numerous clarifying orders, notices, and circulars from the tax authorities to address potential ambiguities within the legislation.

TECH-DRIVEN TAX TRANSFORMATION

Following FIRS' success in leveraging tax technology to achieve significant revenue increases in 2022, a wave of technological adoption is expected to sweep through State Internal Revenue Services in 2024. This shift will be driven by several factors including the demonstrated effectiveness of the implementation of technology as evidenced by the success of FIRS' TPM platform; a growing pressure to increase revenue; and continuous technological advancements.



We expect that the adoption of tax technology is likely to manifest in several ways including the implementation of e-filing systems; the development of online tax payment platforms; leveraging data analytics; and the adoption of technology for the provision of enhanced taxpayer education.

GLOSSARY

BFA	Business Facilitation Act 2023
CAC	CAC – Corporate Affairs Commission
CAMA	CAMA – Companies and Allied Matters Act 2020
CET	Customs Excise Tariff
CETA	Customs and Excise Tariff, Etc. (Consolidation) Act
CGT	Capital Gains Tax
CIT	Capital Gains Tax Act
CITA	Companies Income Tax Act
CPROA	Corrupt Practices and Other Related Offences Act
ECOWAS	Economic Community of West African States.
ECOWAS CET	ECOWAS Common External Tariff
EFCC	Economic and Financial Crimes Commission
eTCC	Electronic Tax Clearance Certificate
FA 2020	Finance Act 2020
FA 2023	Finance Act 2023
FHC	Federal High Court
FIRS	Federal Inland Revenue Service
FIRSEA	Federal Inland Revenue Service Establishment
FPM 2023	Fiscal Policy Measures 2023
FRCN	Financial Reporting Council of Nigeria
FRCN Act	Financial Reporting Council of Nigeria Act 2011
FRCN Act 2023	Financial Reporting Council of Nigeria (Amendment) Act 2023
IAT	Import Adjustment Tax

GLOSSARY

ISC	International Shipping Companies
LIRS	Lagos State Internal Revenue Service
MSTO	Micro and Small Tax Office
MTEF	2024-2026 Medium Term Expenditure Framework
NCC	Nigerian Communications Commission
NHF	National Housing Fund
NHF Act	National Housing Fund Act
NIPC Act	Nigerian Investment Promotion Commission Act
NITDA	National Information Technology Development Agency
NRS	Non-Resident Supplier
NUPRC	Nigerian Upstream Petroleum Regulatory Commission
PAYE	Pay As You Earn
PIT	Personal Income Tax
PITA	Personal Income Tax Act
PPA	Public Procurement Act
PPTA	Petroleum Profits Tax Act
PRA	Pension Reform Act 2014
SDA	Stamp Duties Act
SPM	Supplementary Protection Measures
TAT	Tax Appeal Tribunal
TCC	Tax Clearance Certificate
TETFUND Act	Tertiary Education Tax Act
VAT	Value Added Tax
VAT Act	Value Added Tax Act
WHT	Withholding Tax

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