



OALP TAX
QUARTERLY
NEWSLETTER –
Q1 2024

Table of Contents

List of Abbreviations

Introduction

1

Judicial Developments

- | | | |
|------------|---|----|
| 1.1 | TAT Rules on the Operation of Sections 16 and 19 of the Companies Income Tax Act | 5 |
| 1.2 | TAT Clarifies the Penalty Regime under Section 49 of the Personal Income Tax Act on the Failure of a Bank to File Returns to the Relevant Tax Authority | 7 |
| 1.3 | TAT Rules on the Powers of FIRS to Treat the Undistributed Profits of a Company as Distributed pursuant to Section 21 of the Companies Income Tax Act. | 9 |
| 1.4 | TAT Rules on the Relevant Tax Authority in respect of Itinerant Workers under the Personal Income Tax Act. | 11 |

2

Government Policies and Tax Administration

2.1	The Oil and Gas Companies (Tax Incentives, Exemption, Remission, etc) Order, 2024	14
2.2	The Federal Ministry of Interior Suspends the Implementation of the Expatriate Employment Levy	17
2.3	FIRS Announces Migration from E-TPPLAT to Taxpro-max Platform for the Filing of Transfer Pricing Returns and Country by Country Reporting Notifications	18
2.4	FIRS Introduces Self-registration Module on Taxpro-max Platform	19
2.5	FIRS Postpones the Implementation of the Guidelines on the Simplified Compliance Regime on Value Added Tax for Non-resident Suppliers of Goods to Nigeria through Digital Platforms	20
2.6	FIRS and NEPZA Issue Guidelines for Tax Compliance by Approved Enterprises Operating in Nigerian Export Processing Zones.	21
2.7	Nigeria Customs Service And Joint Tax Board Strengthen Collaboration through MoU	22
2.8	Customs Approves 90-day Window for Import Duties Regularization on Vehicles	23
2.9	President Tinubu Directs the Implementation of a Streamlined Tax System	24

Conclusion

AIRS	Anambra State Internal Revenue Service
BIR	Bayelsa State Board of Internal Revenue
BIL	Bayelsa State Infrastructural Levy
CAC	Corporate Affairs Commission
CbCR	Country by Country Reporting
CIT	Companies Income Tax
CITA	Companies Income Tax Act
EEL	Expatriate Employment Levy
EPZ	Exporting Processing Zone
ETCC	Electronic Tax Clearance Certificate
E-TP Platform	e-Transfer Pricing Platform
FA 2019	Finance Act 2019
FA 2021	Finance Act 2021
FA 2023	Finance Act 2023
FHC	Federal High Court
FIRS	Federal Inland Revenue Service
FIRSEA	Federal Inland Revenue Service Establishment Act
IOC	International Oil Companies
HCL	Hydrocarbon Liquids
IRR	Internal Rate of Return
JTB	Joint Tax Board
LIRS	Lagos State Internal Revenue Service
NACCIMA	National Association of Chambers of Commerce, Industry, Mines & Agriculture
NAG	Non-Associated Gas
NCS	Nigeria Customs Service
NEPZA	Nigeria Export Processing Zones Authority
NRS	Non-Resident Supplier
NUPRC	Nigerian Upstream Petroleum Regulatory Commission
PAYE	Pay As You Earn
PIA	Petroleum Industry Act
PIT	Personal Income Tax
PITA	Personal Income Tax Act
SCF	Standard Cubic Feet
TAT	Tax Appeal Tribunal
TP	Transfer Pricing
VAT	Value Added Tax
VAT Act	Value Added Tax Act
WHT	Withholding Tax

INTRODUCTION

The Nigerian fiscal landscape in the first quarter of 2024 has been marked by a focus on revenue generation and economic stimulus. This follows the passage of the Appropriation Act 2024, also known as the "Renewed Hope Budget", which set ambitious revenue targets to address the nation's budget deficit. As anticipated in our [Tax Wrap-Up 2023 and 2024 Outlook](#), the first quarter witnessed an intensified revenue collection drive by the Federal Inland Revenue Service and other fiscal regulatory agencies. However, revenue collection has not been the sole focus. The Federal Government has also implemented fiscal incentives aimed at stimulating economic development.

In light of these activities, our quarterly newsletter provides a comprehensive overview of the fiscal developments recorded in the first quarter of 2024. This newsletter highlights key developments that have directly or indirectly impacted the Nigerian tax landscape.

It is divided into two sections:

- Part A: Judicial Developments; and
- Part B: Government Policies

PART A:

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 in the first quarter of 2024.

TAT RULES ON THE OPERATION OF SECTIONS 16 AND 19 OF THE COMPANIES INCOME TAX ACT - FBN INSURANCE LIMITED V FEDERAL INLAND REVENUE SERVICE (TAT/LZ/CIT/030/2022)

On 01.03.2024, the Lagos zone of the Tax Appeal Tribunal (**TAT** or the **Tribunal**) dismissed the appeal of FBN Insurance Limited (the **Appellant**) initiated by a Notice of Appeal dated 21.06.2022 challenging the additional assessment of the Federal Inland Revenue Service (**FIRS** or the **Respondent**) on the Appellant for the 2017 and 2018 year of assessment (**YoA**) under the Companies Income Tax Act (**CITA**).

The Tribunal distilled the following issues for determination namely:

- Whether the Respondent can lawfully subject the income of the Appellant to tax, outside the provisions of section 16 of the CITA?
- Whether the Respondent lawfully assessed the Appellant to tax under section 19 of the CITA?
- Whether the Respondent rightfully assessed the Appellant to additional WHT, interest and penalties inclusive of the 2017 and 2018 YoAs?

It is pertinent to state that the foci of this case revolved around the correct interpretation to be given to sections 16 and 19 of CITA and the extent of application of the said sections. In resolving these issues, the Tribunal held that the non obstante clause as provided for in section 16 of CITA does not obviate the application of section 19 of the extant law such as to preclude the Appellant from being bound by the provisions of section 19 of CITA. The Tribunal considered amongst others, the Indian cases of **Union of India v G.M Kolki**¹ and **Indra Kumar Patodia v Reliance Industries Limited**² where a non obstante clause was interpreted as a restrictive clause, with the power to override specifically quoted provisions deemed to run contrary to the clause, but which does not limit the operation of other provisions of the enactment in the absence of such specificity.

1. 1984 SUPP SCC 196
2. [2012]13 SCC 1

...the Tribunal ruled that the Respondent was right to have assessed the Appellant to tax under section 19 of the CITA, and therefore held the Appellant liable to pay the assessed sum of

₦917,234,580

only.



Flowing from the above, it was concluded that section 16 of CITA would only override other similar but contradictory provisions of CITA where they relate to computation of income tax for insurance companies. In the instant case, the Tribunal deemed that there was no conflict between sections 16 and 19 of the CITA; while section 16 applies specifically to insurance companies, section 19 applies to all Nigerian companies, irrespective of the nature of business undertaken, and this includes the Appellant.

Having viewed sections 16 and 19 of CITA as distinct provisions, the Tribunal ruled that the Respondent was right to have assessed the Appellant to tax under section 19 of the CITA, and therefore held the Appellant liable to pay the assessed sum of ₦917,234,580 (Nine Hundred and Seventeen Million, Two Hundred and Thirty-Four Thousand, Five Hundred and Eighty Naira) only.

From the foregoing, it has become clear that the ambit of taxation for insurance companies is not in any way limited to the provisions of section 16 of CITA. A Nigerian registered insurance company qualifies as a Nigerian company and is therefore bound by the provisions of section 19 of CITA. Thus, any erring Nigerian company that flouts the provisions of section 19 with respect to the payment of excess dividend tax may be assessed under the said section notwithstanding that it had previously been assessed under any other provisions of the CITA.

TAT CLARIFIES THE PENALTY REGIME UNDER SECTION 49 OF THE PERSONAL INCOME TAX ACT ON THE FAILURE OF A BANK TO FILE RETURNS TO THE RELEVANT TAX AUTHORITY - ACCION MICROFINANCE BANK LIMITED V ANAMBRA STATE BOARD OF INTERNAL REVENUE AND ANAMBRA INTERNAL REVENUE SERVICE (TAT/SEZ/001/2023)



The TAT set aside a demand notice issued by the Anambra State Internal Revenue Service (the **AIRS**) to Accion Microfinance bank Limited (the **Appellant** or **Accion MfB**) for purportedly being in contravention of the provisions of section 49(2) of the Personal Income Tax Act (**PITA**) between 2016 and 2022, which required persons engaged in the business of banking to prepare and file returns specifying the names and addresses of new customers to the appropriate tax authority.

In reaching its decision, the TAT distilled three (3) issues for consideration as follows:

- Whether the Appellant is obligated to comply with the provisions of section 49 of the PITA, as amended;
- Whether the Appellant complied, if it is obligated: and
- Whether the Appellant is obligated to pay penalty.

The Appellant instituted this appeal to contest the demand notices issued by the AIRS. These notices, totalling ₦36,000,000.00 (Thirty-Six Million Naira), represented assessed fines for the alleged failure of the Appellant to comply with the monthly filing requirements for new customer records from the period 2016 to 2021, as stipulated by the PITA. The Appellant argued that the issuance of these demand notices by the AIRS was erroneous and exceeded the powers granted under the PITA. The Appellant argued that per section 49(3) of the PITA, the liability prescribed was not that of assessable income to which a demand notice can be issued, but rather, a penalty that could only be imposed following a criminal trial and subsequent conviction. Therefore, in the absence of a conviction, no fine could be legally imposed on the Appellant by the AIRS.

AIRS on its part submitted that the Appellant had admitted its failure to make the necessary monthly returns and as such, was liable under section 49(4) PITA to pay a fine of ₦500,000 (Five Hundred Thousand Naira) for every month in which the default persisted, amounting to the sum of ₦36,000,000 (Thirty-Six Million Naira).

In reaching its decision, the TAT meticulously examined section 49 of the PITA, considering the various amendments enacted over the years by various statutes including the Finance Acts of 2019 and 2021. Section 49(2) CITA previously stipulated that banks operating in Nigeria were obligated to prepare monthly returns listing new customer details. These returns were to be delivered to the relevant tax authority by the 7th of the following month. However, the Finance Act 2021 (FA 2021) amended this requirement, mandating the submission of quarterly returns instead. The TAT further analysed section 49(4) of the PITA, both before and after the FA 2021 amendment. The pre-amendment provision outlined a penalty of ₦500,000 (Five Hundred Thousand Naira) for corporate bodies and ₦50,000 (Fifty Thousand Naira) for individuals who contravened the section, upon conviction. The post-amendment provision now imposes a penalty of ₦1,000,000 (One Million Naira) for each instance of non-submission or submission of incorrect quarterly returns, without the requirement for a conviction.

In interpreting this section, the TAT noted that prior to January 2022, the non-filing of customers returns to the relevant authority constituted a tax crime. The demand notice issued by the AIRS covered the period 2016-2021, which predates the legislative change. Therefore, while the TAT acknowledged the Appellant's admission of non-compliance with section 49 CITA for the stated period, it determined that imposing a penalty would require a criminal trial, and it did not have the jurisdiction to try the alleged tax offenders but could only pass such information of possible criminality to the appropriate criminal prosecuting authorities. However, considering the fact that the Finance Act 2021 amendment removed the stigma of criminality from the penalty section, the TAT refrained from exercising that power.

Accordingly, the TAT set aside the demand notice issued against the Appellant. Nevertheless, the TAT in adhering to the principle that no one should take advantage of his own wrongdoing, decided, in the interest of justice, to consider the circumstances of the appeal beyond 2021, which was the exit date contained in the demand notice, and held that the Appellant was liable to pay the sum of ₦1,000,000 (One Million Naira) for the non-compliance with section 49(4) for the first quarter of 2022.



TAT RULES ON THE POWERS OF FIRS TO TREAT THE UNDISTRIBUTED PROFITS OF A COMPANY AS DISTRIBUTED PURSUANT TO SECTION 21 CITA – RAND MERCHANT BANK NIGERIA LIMITED V. FEDERAL INLAND REVENUE SERVICE (TAT/LZ/WHT/007/2023)



Rand Merchant Bank Nigeria Limited (**RMB** or the **Appellant**), initiated this appeal before the TAT, contesting a demand notice issued by FIRS (the **Respondent**) demanding additional Withholding Tax (**WHT**) liability of ₦602,590,813.53 (Six Hundred and Two Million, Five Hundred and Ninety Thousand, Eight Hundred and Thirteen Naira, and Fifty-Three Kobo). This additional liability had been imposed on the Appellant further to the provisions of section 21 CITA, which permitted the FIRS to treat the undistributed profits of the Appellant as distributed, where it appears to the FIRS, that such refusal to distribute was done with a view to reducing the aggregate tax payable by the company.

The Appellant objected to the additional WHT liability together with penalty and interest contained in the demand notice on the grounds that section 21 of the CITA grants the FIRS the power to treat the undistributed profits as distributed only where such non-distribution was done with a view to evade tax. In the instant case, the Appellant contended that the decision of its board of directors was a legitimate commercial decision for long term sustainability and increased profitability of its business and not for tax avoidance or tax evasion, therefore the imposition of the additional WHT liability was unfounded and unjustified.

FIRS contended on its part that pursuant to section 21 CITA, it had no obligation to prove or establish that the non-distribution was done for tax avoidance purposes, but rather, was empowered to disprove such non-distribution, where it appeared to the FIRS that the reason for same was to reduce the tax chargeable on the profits of the company. Furthermore, the FIRS argued that the Appellant had failed to prove by evidence how the distribution of the dividends would be detrimental to its business.

In arriving at its decision, the TAT interpreted the provisions of Section 21 CITA to mean that the FIRS is vested with the sole and absolute discretion regarding undistributed profits, and to treat same as distributed. In other words, the FIRS has the absolute discretion to allow or disregard the non-distribution of a company's dividends. Further, the TAT agreed with the FIRS' submission that there was no obligation on them to establish tax evasion or avoidance as the ultimate purpose of the Appellant's non-distribution of its profit. Accordingly, the TAT held in favour of the FIRS and upheld the assessed WHT liability.

Regarding the issue raised by the Appellant with respect to the levying of penalties and interests, the TAT held that a prompt objection to a demand notice or an appeal does not, by itself, extinguish tax liabilities and penalties but only puts them in abeyance pending the determination of the appeal. Additionally, the issue of penalties and interest arise when a tax sum is due and payable and not when the tax becomes final and conclusive. Therefore, the fate of interest and penalties are tied to the principal tax. Having established that the Appellant was liable to the WHT liability, the TAT found that the Appellant was also liable to the payment of interest and penalties.



The Tribunal held that the FIRS is vested with the sole and absolute discretion regarding undistributed profits, and to treat same as distributed. In other words, the FIRS has the absolute discretion to **allow** or **disregard** the non-distribution of a company's dividends.

TAT RULES ON THE RELEVANT TAX AUTHORITY IN RESPECT OF ITINERANT WORKERS UNDER THE PERSONAL INCOME TAX ACT - BAYELSA STATE BOARD OF INTERNAL REVENUE V SPECIALITY DRILLING FLUIDS (TAT/SSZ/008/2023)



The Bayelsa State Board of Internal Revenue (**BIR** or the **Appellant**) initiated this appeal against Speciality Drilling Fluids (the **Respondent**) following the refusal of the Respondent to file and pay a revised tax liability in the sum of ₦288,000,000 (Two Hundred and Eighty Million Naira) in respect of Pay as You Earn (**PAYE**) remittances and Bayelsa State Infrastructural Levy (**BIL**) for the 2019 – 2021 YoAs.

BIR contended that the Respondent failed to fulfil its tax obligations despite repeated demands and notifications. BIR further contended that the Respondent had unpaid taxes for the year 2019 – 2021 having carried out series of drilling and allied services for Shell Petroleum Development Company during which the Respondent deployed over fifty host communities' workers of Tunu in Bayelsa State, and other sundry staff. This contention was premised on the ground that pursuant to sections 81 and 82 of the PITA, the Respondent was obligated to make PAYE remittances to BIR, considering that the employees of the Respondent were resident in Bayelsa State.

On its part, the Respondent objected to the submissions of BIR on the basis that it carries on business in Port Harcourt, Rivers State, where it has its principal office with no branch, operational base, oil terminal, oil platform, flow station, factories, quarries, or construction site in Bayelsa State. The Respondent also submitted that it was not an employer of labour whether regular, community, itinerant/casual employee in Bayelsa State, but rather employs its entire staff in Port Harcourt, Rivers State, all of whom are resident in Port Harcourt, Rivers State, and consequently, remits all PAYE taxes to the Rivers State Internal Revenue Service. Finally, it submitted that the BIR had failed to make adequate investigation and follow due administrative process to determine the Respondent's tax liability to Bayelsa State.

Following the arguments from both sides, the TAT formulated two critical issues for determination in the matter as follows:

- Whether from the facts and evidence of this Appeal, the Respondent falls within the tax Jurisdiction of the Appellant to be tax liable to the Appellant; and
- Whether the Appellant has proved its case as required by law to be entitled to the reliefs sought.

In determining whether the Respondent fell under the tax jurisdiction of BIR, the TAT stated that the tax jurisdiction of a taxing authority is determined by law in terms of whether such authority qualifies as a relevant tax authority or not. To this effect, the TAT examined the provisions of section 2(1A) of the PITA, which states that the relevant tax authority in a State shall have powers to collect tax under this Act from itinerant workers. Situating the above provision in the current context, the TAT also examined the provisions of section 108 of the PITA which defined an itinerant worker as:



“An individual irrespective of his status who works at any time in any state during a year of assessment (other than as a member of the armed forces) for wages, salaries or livelihood by working more than one State and work for a minimum of twenty (20) days in at least three (3) months of every assessment year.”

Finally, for the purposes of determining to whom the taxes of itinerant workers were payable to, the TAT considered the provisions of section 2(3) of the PITA which delisted the relevant criteria as follows:



“In the case of an itinerant worker, tax may be collected for any year by any State in which the itinerant worker is found during the year: Provided that— (a) in an assessment for any year upon an itinerant worker, credit shall be given against the tax payable, but not exceeding the amount thereof, for any income tax already paid by him to any other tax authority for the same year; and (b) collection of so much of any tax imposed in a territory on an itinerant worker for a year of assessment as remains unpaid on the itinerant worker leaving that territory during that year shall remain in abeyance during his absence from that territory, and if he returns to that territory having during his absence paid tax in some other territory for that year, credit shall be given against any unpaid tax in the first-mentioned territory, but not exceeding that unpaid amount, for the tax paid in that other territory”

From a holistic read of the foregoing sections, the TAT was able to deduce that an itinerant worker can be in two different tax jurisdictions in a particular YoA; and once a taxable person, individual or company operates in the territory of a tax authority, that tax authority becomes a relevant tax authority notwithstanding whether or not that individual or business will eventually be liable to tax or credit/refund in the territory of another State.

Accordingly, the TAT ruled that the Respondent's drilling contract which had effect within Appellant's territory, with its workers manning such drilling platforms, fell under the tax jurisdiction of the Appellant, and therefore granted the Appellant, the status of a relevant tax authority.

In respect of the second issue, the TAT determined that having established that BIR was a relevant tax authority in respect of the operations of the Respondent, BIR was entitled under section 47 of the PITA to call for returns, books, and documentation of the Respondent. Additionally, further to section 54(3) of the PITA, where a taxable person has not delivered a return within the time allowed and the relevant tax authority is of the opinion that tax is chargeable on that person, the relevant tax authority may, according to the best of its judgement, determine the amount of the assessable, total, or chargeable income and make an assessment accordingly.

In the instant case, the TAT considered that the Appellant wrote five (5) letters before the Respondent eventually responded and objected to the assessment, yet the Respondent did not furnish the Appellant with the documents requested. Moreover, it took the Respondent a period of four (4) months from the date of the first demand to respond to the letters/demands made by the Appellant. Having considered that section 58(1) of PITA (as amended) provides that any assessment that has not been duly objected to, within the stipulated 30 days period become final and conclusive, the Respondent was ordered to pay the liability of ₦288,000,000 (Two Hundred and Eighty Million Naira).



PART B:

GOVERNMENT POLICIES

The government through the FIRS and other regulatory agencies, has continued to stimulate its tax drive by the issuance of guidelines to aid taxpayers' compliance. In this part, we will provide a comprehensive review of recent guidelines and administrative developments implemented by the tax authorities.

THE OIL AND GAS COMPANIES (TAX INCENTIVES, EXEMPTION, REMISSION, ETC) ORDER, 2024

In a move to stimulate domestic gas production and encourage investment in Nigerian oil and gas projects, the President of the Federal Republic of Nigeria, President Bola Ahmed Tinubu, issued the Oil and Gas Companies (Tax Incentives, Exemption, Remission, etc.) Order 2024 (the **Fiscal Incentives Order**) on 28.02.2024. In the following paragraphs, we outline the key provisions of the Fiscal Incentives Order.



Tax Credits for Non-Associated Gas Greenfield Development

The Fiscal Incentives Order under part 1 provides for tax credit incentives to Non-Associated Gas (NAG) greenfield developments in onshore and shallow water locations. According to the Fiscal Incentives Order, NAG developments in onshore and shallow water locations which achieve gas production on or before 1 January 2029 shall be entitled to: (a) a gas tax credit at the rate of US\$1.00 per thousand cubic feet or 30% of the fiscal gas price, whichever is lower, where the Hydrocarbon Liquids (HCL) content does not exceed 30 barrels per million standard cubic feet (SCF); or (b) a gas tax credit of US\$0.50 per thousand cubic feet or 30% of the fiscal gas price, whichever is lower, in the event that the HCL content exceeds 30 barrels per million SCF but does not exceed 100 barrels per million SCF.

According to the Fiscal Incentives Order, the tax credit incentive shall apply for a period of 10 years after which it shall become a gas tax allowance. Furthermore, the tax credit claimable under part 1 of the Fiscal Incentives Order (a) shall not exceed the Companies Income Tax payable by such company in a given tax YoA; and (b) shall not be combined with the associated gas framework agreement incentive on same greenfield NAG project.

Finally, the gas tax credit surplus of any particular year can only be carried forward for a maximum of 3 years. It should also be noted that the fiscal gas price for the calculation of gas tax credit under this Fiscal Incentive Order shall be same with the fiscal gas price for the determination of royalties under the Petroleum Industry Act (PIA)..



Midstream Capital Oil and Gas Utilization Investment Allowance

The second part of the Fiscal Incentives Order grants gas companies, a gas utilization investment allowance at the rate of 25% on qualifying expenditure on plant and equipment incurred in relation to new and ongoing projects in the midstream oil and gas industry. This investment allowance shall be deductible from assessable profit from the year of its purchase and shall not reduce the tax written down value of the relevant asset. The assets shall also continue to enjoy capital allowance under the CITA and other applicable incentives under the CITA and other applicable laws.

It is important to note that a company will only be granted the gas utilization investment expenditure upon the expiration of tax-free period granted under section 39 of the CITA. Also, gas utilization investment incentives shall not apply to qualifying capital expenditure if within 5 years; (a) such plant and equipment is sold or transferred to a person who has acquired the asset for a purpose other than that of the previous holder, or for scrap; (b) the appropriation of the plant and equipment represents the expenditure for a purpose other than for gas utilization; (c) the expenditure incurred for the plant and equipment was in a manner that is fictitious or artificial.³

In addition, where an asset which has claimed gas utilization investment allowance is sold, it shall not be eligible for same allowance in the hands of a subsequent purchaser. Furthermore, where an asset in which gas utilization investment allowance has been claimed is sold or transferred, it shall be the duty of the purchaser to inform the FIRS.

Finally on this incentive, the Fiscal Incentive Order in order to effectively operationalize the gas investment allowance, mandates the FIRS, in conjunction with the Nigerian Midstream and Downstream Petroleum Regulatory Authority to take appropriate steps to implement the gas utilization allowance within 15 days of the date of the Fiscal Incentives Order.

3. Paragraph 7 of the Oil and Gas Companies (Tax Incentives, Exemption, Remission, etc.) Order, 2024.



Incentives for Deep Water Oil and Gas Projects

The Fiscal Incentives Order mandates the Minister of Finance to introduce fiscal incentives to ensure that investments for deep water oil and gas projects achieve a competitive Internal Rate of Return (IRR).⁴ However, pending the introduction of such incentives, the Ministry of Finance Incorporated and the Ministry of Petroleum Incorporated are mandated to take steps to procure NNPC Limited to consider and implement commercial enablers for new brownfield and greenfield investments in the deep water.⁵

These provisions are timely, especially at a period when some of the largest IOCs have divested onshore petroleum projects to refocus their attention on deepwater petroleum projects.⁶ It is also consistent with the Federal Government's plan to raise its oil and condensates output to 2.6 million bpd and to finance its budget by utilising an estimated ₦7.69 trillion from oil and gas revenue.⁷

The Fiscal Incentives Order, which took effect on 28.02.2024, introduces these incentives with the strong potential to significantly stimulate investment in the oil and gas sector, particularly for non-associated gas projects. Effective collaboration among relevant authorities in operationalizing these provisions will be crucial to ensure that industry stakeholders can fully benefit from the incentives contemplated in the Fiscal Incentives Order.

4. Paragraph 10 of the Oil and Gas Companies (Tax Incentives, Exemption, Remission, etc.) order, 2024.

5. Paragraph 11 of the Oil and Gas Companies (Tax Incentives, Exemption, Remission, etc.) order, 2024.

6. Offshore Energy, "Shell offloads its Nigerian onshore business to focus on deepwater and integrated" 17 January 2024 <https://www.offshore-energy.biz/shell-offloads-its-nigerian-onshore-business-to-focus-on-deepwater-and-integrated-gas/>

7. Nairametrics, "FG hopes to triple oil money to N7.69 trillion in 2024" <https://nairametrics.com/2023/12/03/fg-hopes-to-triple-oil-money-to-n7-69-trillion-in-2024/> accessed 11 March 2024.

THE FEDERAL MINISTRY OF INTERIOR SUSPENDS THE IMPLEMENTATION OF THE EXPATRIATE EMPLOYMENT LEVY

On 08.03.2024, the National Association of Chambers of Commerce, Industry, Mines and Agriculture (NACCIMA) through a public statement, announced the temporary suspension of the Expatriate Employment Levy (EEL), which was introduced by the Federal Ministry of Interior.

The statement attributed the suspension of the EEL to a resolution reached at a meeting between the Minister of Interior, the Minister of Industry, Trade and Investment, and other relevant stakeholders. Additionally, the formation of a joint committee was announced. This committee, comprised of members from the Ministry of Industry, Trade and Investment, the Ministry of Interior, NACCIMA, and other stakeholders, will review the EEL policy.

Recall that on 27 February 2024, the Federal Government of Nigeria, through the Ministry of Interior, introduced the EEL as a policy aimed at promoting economic growth, social equity, local workforce development, and achieving a balanced workforce. The EEL, which was designed to be a mandatory annual financial contribution from Nigerian employers who hire foreign labour, stipulated annual fees of US\$15,000 for expatriates in director-level positions and US\$10,000 for others. Exemptions were granted to accredited diplomatic mission staff, government officials, and other entities/individuals listed on the approved exemption list by the Nigerian Immigration Service.

The introduction of the EEL was met with various criticisms regarding its implementation process, the clarity of its provisions, and most significantly, its potential negative economic impact. As it stands, it remains unclear whether the policy will be reinstated, and if so, the extent to which it will be revised.



FIRS ANNOUNCES MIGRATION FROM E-TPPLAT TO TAXPRO-MAX PLATFORM FOR THE FILING OF TRANSFER PRICING RETURNS AND COUNTRY BY COUNTRY REPORTING NOTIFICATIONS



In line with the FIRS' commitment to continuously improve the efficiency of its processes, and to alleviate compliance burden on taxpayers, the FIRS by a public notice announced that the annual filing of TP returns as well as Country-by-Country Reporting (**CbCR**) notifications have been migrated from the e-TP platform to the TaxPro-Max platform. Accordingly, taxpayers will now be able to make the aforementioned filings using their regular login credentials. Taxpayers have also been granted the liberty to re-file returns previously filed on the e-TP platform.

Additionally, taxpayers have been offered the opportunity to regularize and file their outstanding Transfer TP returns and CbCR notifications till 30.06.2024. According to the public notice, taxpayers who file their outstanding TP and CbCR reports on or before 30.06.2024, will be eligible for a waiver of all administrative penalties associated with those filings. These penalties encompass those previously imposed or potentially imposed by the FIRS under the TP Regulations and CbCR Regulations.

Accordingly, taxpayers are advised to initiate their relevant filings as soon as possible, to avoid the imposition of penalties.



FIRS INTRODUCES SELF-REGISTRATION MODULE ON TAXPRO-MAX PLATFORM

The FIRS has announced a significant reform aimed at enhancing the ease of doing business and prioritizing customer satisfaction. This reform involves the introduction of a self-registration module on the TaxPro-Max platform, as detailed in a public notice issued by the FIRS.

According to the notice, the self-registration module enables newly registered business entities to independently complete their tax registration with FIRS. This streamlined process is designed to empower taxpayers, allowing them to finalize their registration from the convenience of their offices or homes, thereby saving valuable time and resources. Specifically, the public notice clarifies that any newly registered corporate or business entity automatically assigned a Tax Identification Number (**TIN**) by the Corporate Affairs Commission (**CAC**) can now seamlessly complete their registration with FIRS on the Tax-Pro Max platform.

The introduction of this self-registration functionality is expected to foster an efficient and transparent tax system, ultimately benefiting both taxpayers and the government. This latest reform aligns with FIRS' ongoing efforts to enhance the business environment, boost revenue generation, and expand its taxpayer base.



FIRS POSTPONES THE IMPLEMENTATION OF THE GUIDELINES ON THE SIMPLIFIED COMPLIANCE REGIME ON VALUE ADDED TAX FOR NON-RESIDENT SUPPLIERS OF GOODS TO NIGERIA THROUGH DIGITAL PLATFORMS

The FIRS issued a public notice announcing the postponement of the implementation of the "Guidelines on Simplified Compliance Regime for Value Added Tax (VAT) for Non-Resident Suppliers" (the **VAT Simplification Guidelines**). This postponement is to allow the FIRS to finalize the development of a streamlined process for the efficient and effective collection and remittance of VAT.

By way of background, the Finance Act 2020 amended the Value Added Tax Act (the **VAT Act**), requiring non-resident suppliers making taxable supplies of goods and services to Nigerian customers to register for VAT and account for VAT on those supplies. Following this amendment, the FIRS issued the aforementioned VAT Simplification Guidelines on 11.10.2021, with a planned effective date of 01.01.2022, for the supply of services and intangibles, and 01.01.2024, for the supply of goods. The VAT Simplification Guidelines had required non-resident vendors that sell goods via digital means to customers in Nigeria to register for VAT in Nigeria, if they meet an annual sales threshold of US\$25,000 (Twenty-Five Thousand United States Dollars).

It is important to note that the postponement does not affect the application of the Guidelines for the supply of services and intangibles by non-resident suppliers which remain in effect since 01.01.2022. Non-resident suppliers in this category should continue to comply with the relevant provisions regarding tax collection and remittance.

FIRS AND NEPZA ISSUE GUIDELINES FOR TAX COMPLIANCE BY APPROVED ENTERPRISES OPERATING IN NIGERIAN EXPORT PROCESSING ZONES.

In collaboration with the FIRS, the Nigeria Export Processing Zones Authority (NEPZA) on 21 February 2024, released a circular with no. NEPZA/LS/SF/161/1/21022024 titled, “Guidelines for Tax Compliance by Approved Enterprises Operating in Nigeria Export Processing Zone” (the **Guidelines**). The Guidelines apply only to approved enterprises operating within the Nigeria Export Processing Zones (EPZs) and aim to provide clarity and standardization in the tax compliance procedures for these approved enterprises.

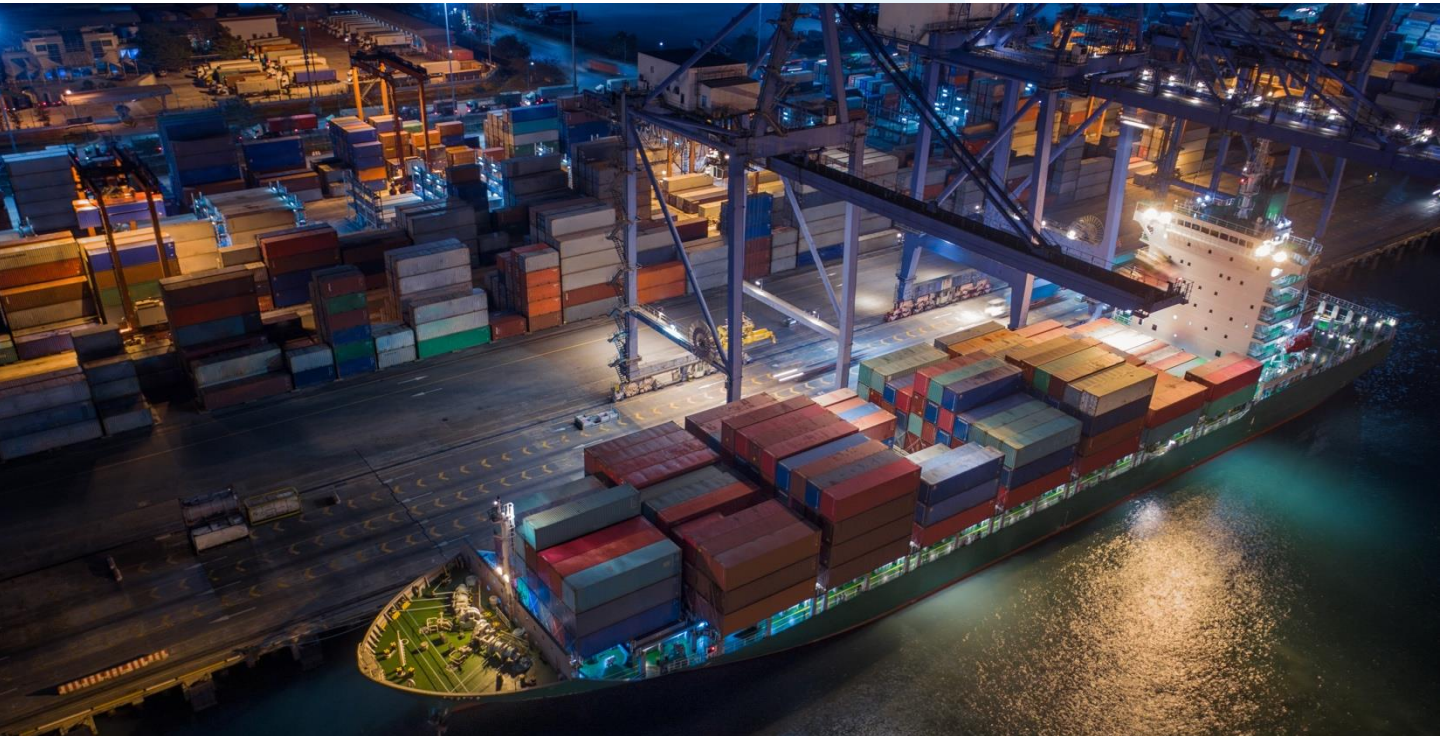
The Guidelines recognize the existence of tax incentives enjoyed by approved enterprises, some of which include the benefit of non-taxable profits of approved enterprises arising from activities undertaken within the EPZs and exemption of licensed approved enterprises from payment of VAT upon purchasing goods within custom territory. These notwithstanding, the Guidelines denote in specific terms, certain qualifiers which may limit or restrict the ability of these approved enterprises to enjoy tax incentives under the NEPZA Act. Some of these restrictions include operating within the EPZs with an invalid licence, or with no licence at all, or engaging in unapproved activities, amongst others.

In addition, it is expected that these approved enterprises satisfy the following tax obligations:



It is pertinent to note that by the provisions of the Guidelines, the FIRS grants a waiver of interest and penalties for non-compliance with tax return obligations under the Finance Act 2020 till date. Further, a moratorium period which lapses on 31 March 2024 was granted to enable free zone entities file up-to-date returns before penalties are imposed and interest accrues.

Although the Guidelines stipulate specific tax compliance procedures; and provide clarity on the tax obligations of approved enterprises within the EPZs, it is left to be seen the extent to which the benefits afforded by the Guidelines are maximized by the approved enterprises, especially in relation to the moratorium period and waiver offered under the Guidelines.



NIGERIA CUSTOMS SERVICE AND JOINT TAX BOARD STRENGTHEN COLLABORATION THROUGH MOU

The Nigeria Customs Service (NCS) and the Joint Tax Board (JTB) have taken a significant step towards enhanced tax management in Nigeria through the signing of a Memorandum of Understanding (MoU) on 18 March 2024. This MoU, formalized at the NCS headquarters in Abuja, signifies a commitment to strengthen and enrich strategic collaboration between the two organizations.

The MoU outlines a framework for integrating fiscal policies and facilitating data exchange between the NCS and JTB. This improved information sharing is expected to significantly improve tax administration and collection efforts in Nigeria.

CUSTOMS APPROVES 90-DAY WINDOW FOR IMPORT DUTIES REGULARIZATION ON VEHICLES



On 3 March 2024, the NCS issued a press release announcing a new initiative to streamline the regularization of import duties on specific categories of vehicles. This initiative is specifically targeted at vehicles brought into Nigeria without the proper customs duties paid or those impounded for being undervalued.

The NCS's directive provides a 90-day window for owners of such vehicles, as well as importers/agents, to rectify the import duties status of their vehicles. Under this directive, vehicle owners were instructed to contact the zonal coordinators (Zones A, B, C, D) and the CAC Federal Capital Territory command, presenting all relevant documents and completing the V-reg process according to the Federal Ministry of Finance's regulations. Notably, the NCS has designated the vehicle identification number valuation method for assessing the value of these vehicles.

In a subsequent press release issued on 22 March 2024, the NCS announced the cancellation of the previously imposed 25% penalty on improperly imported vehicles. Owners will now only be responsible for paying the required import duty. This decision reflects the NCS' commitment to easing economic burdens and encouraging compliance with customs regulations.

This initiative underscores the NCS's commitment to encourage compliance and efficiency in import processes while ensuring adherence to extant regulations. It signifies a proactive approach towards enhancing transparency and facilitating proper import procedures, ultimately contributing to the integrity of Nigeria's customs framework.

PRESIDENT TINUBU DIRECTS THE IMPLEMENTATION OF A STREAMLINED TAX SYSTEM

The FIRS Chairman, during a visit by the management team of Guinness Nigeria, recently disclosed President Bola Tinubu's directive to create a single-digit tax system in Nigeria. This system would limit the total number of taxes paid by businesses and individuals to a maximum of nine. This initiative aims to simplify Nigeria's taxation structure and potentially reduce the overall tax burden for businesses and individuals.

The FIRS Chairman further reiterated FIRS' commitment to expanding the national tax base rather than introducing new taxes or increasing existing ones. This aligns with their recently implemented customer-centric approach, which categorizes taxpayers by size, and offers specialized support.

It was further revealed that President Tinubu's economic plan encompasses more than just a tax reform, but also includes the following initiatives:



A consumer credit scheme aimed at boosting Nigerians' purchasing power.



A streamlined platform to simplify the import process for businesses, reducing delays and costs.



The Renewed Hope Infrastructure Fund, targeting improvements in Nigeria's transportation network, particularly railways and roads. Enhanced infrastructure will decrease the cost of transporting raw materials within the country.

This focus on simplification is further reflected in the mandate of the Presidential Committee on Fiscal Policy and Tax Reforms, tasked with harmonizing multiple taxes and levies across all government levels. The Committee's objective is to establish a system with a few, broad-based, and easily administered taxes.

CONCLUSION



As we enter the second quarter of 2024, tax compliance must remain a top priority for Nigerian taxpayers. The FIRS, on its part must continue its commitment to streamlining the filing process and facilitating voluntary compliance. This has been evident through initiatives like the harmonization of the e-TP Platform with the TaxPro-Max platform, which simplifies TP and CbCR filing procedures. Additionally, the TaxPro-Max self-registration module empowers taxpayers to register independently.

Looking ahead, we can expect continued efforts by the FIRS to enhance tax collection. However, it is important to note the Federal Government's seeming focus on stimulating economic investment through tax incentives. We anticipate the introduction of further tax incentives in Q2 2024 which suggests a potential balance between revenue generation and fostering economic growth.

In addition, the potential for a transition to a single-digit tax system under the Tinubu administration, as well as ongoing discussions of tax reforms or a complete overhaul of existing legislation by the current government, have generated anticipation among taxpayers. These developments, coupled with the FIRS' modernization efforts, are likely to have a significant impact on the Nigerian tax landscape in the coming months.

Our Team



**Olamide
Obajimi**
Managing Associate



**Jonathan
Aluju**
Partner



**Celestina
Nwabueze**
Senior Associate



**Mayowa
Olusegun**
Senior Associate



**Obehi
Irabor**
Associate



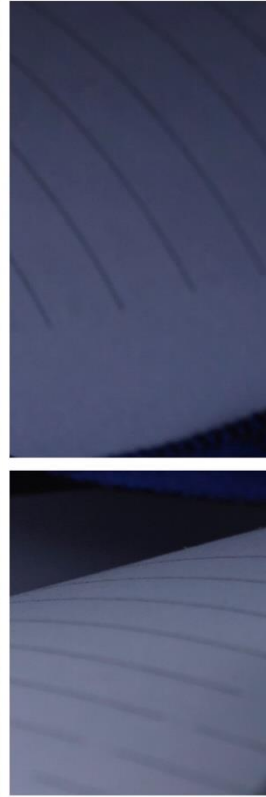
**Anastasia
Nwoye**
Associate



**Sylvester
Innocent**
Associate



**Adanna
Uzowuru**
Associate



CONTACT US:



Lagos

The Adunola
401 Close,
Banana Island,
Ikoyi, Lagos

Abuja

1st & 4th Floors
Leadway House
Plot 1061, Cadastral Avenue,
Central Business District,
Abuja, Nigeria

Port Harcourt

17, Road 315, Trans Amadi
Gardens,
Peter Odili Road,
Port Harcourt, Rivers State.

London

29th Floor, 30 St Mary Axe
London
EC3A 8AF
United Kingdom
+44 (0) 207 337 6012

OHADA

Immeuble Axa,
Rue Franquville
Douala
Cameroon



Jonathan Aluju

jaluju@olaniwunajayi.net

Olamide Obajimi

oobajimi@olaniwunajayi.net



www.olaniwunajayi.net



+234 1 270 2551