Federal Government of Nigeria Announces Marginal Fields Bid Round 2020: What Fiscal Concessions are available for Operators

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TAX ALERT

The Department of Petroleum Resources (DPR), on behalf of the Federal Government of Nigeria (FGN), has announced the commencement of 2020 Marginal Fields Bid Round exercise. The Bid Round exercise is open to indigenous companies and investors interested in participating in Exploration and Production (E&P) business in Nigeria.

The DPR announced that a total of fifty-seven fields located on Land, Swamp and Shallow offshore terrains are on offer. The DPR indicated that the exercise would be conducted electronically and will include expression of interest/Registration, Pre-qualification, Technical and Commercial bid submission and Bid evaluation. Interested parties are advised to refer to DPR's dedicated portal[1] for the exercise.

This development occurs as the time the Federal Government (a) revoked some Oil Mining and Production Licenses;[1] and (b) enacted the Deep Offshore and Inland Basin Production Sharing Contract (Amendment) Act 2019. These events may have informed the FG's action geared towards boosting activities within the oil and gas industry.

The FGN is looking at generating at least N3.17billion from the payment fees for the marginal oil fields put on offer for bidding.[1] According to the DPR "Guidelines for the Award and Operations of Marginal Fields in Nigeria"[1] the DPR has set the fees payable for the bid as follows:

S/N	Description	Amount
1	Registration fee	₦500,000.00
2	Application fee	₦2,000,000.00 per field
3	Bid Processing fee	₦3,000,000.00 per field
4	Data Prying fee	US$15,000.00 per field
5	Data Leasing fee	US$25,000.00 per field
6	Competent Persons Report	US$50,000.00 per field
7	Field Specific Report	US$25,000.00 per field

What Fiscal Concessions are available to Operators?

The DPR's guidelines defines marginal field as any field that has been discovered and has been left unattended for a period of not less than ten (10) years, from the date of the first discovery or such field as the President may, from time to time, identify as a marginal field. Upon successful bid, some fiscal concessions that marginal fields operators can take advantage of includes:

(a) Petroleum Profit Tax (PPT) @ 65.75% for the first five years of operations[1]

(b) Investment Tax Allowance (ITA) @ 20%[1]

(c) Royalty Rates in Tranches as follows:[1]

Royalties in Tranches	Production Rates
2.5%	5,000 *bopd*
7.5%	5,000-10,000 *bopd*
12.5%	10,000-15,000 *bopd*
18.5%	15,000-25,000 *bopd*

The Petroleum Profit Tax Act (PPTA) Cap P13 Laws of Federation of Nigeria (LFN) 2004, in Section 11, provides the following tax incentive for

Other Fiscal Incentives for Marginal Field Operators

[1] www.marginal.dpr.gov.ng
[2] OML 98, 120, 121, 108, 110 and OPL 206
[3] Page 22, Thursday 4 June 2020, "The Punch Newspaper
[4] Code: DPR Guide 0041 – 2020. Effective Date: June 202
[5] Section 21 (2) of Petroleum Profit Tax
[6] Gazette Number 21 of 5 April 2006.

utilization of associated gas by upstream operators:

> *"(1) The following incentives shall apply to a company engaged in the utilization of associated gas, that is-*
>
> *(a) investment required to separate crude oil and gas from the reservoir into usable products shall be considered as part of the oil field development;*
>
> *(b) capital investment on facilities equipment to deliver associated gas in usable form at utilization or designated custody transfer points shall be treated for tax purposes, as part of the capital investment for oil development;*
>
> *(c) capital allowances, operating expenses and basis of tax assessment shall be subject to the provisions of this Act and the tax incentives under the revised memorandum of understanding."*

It is important to note that, condensates extracted and re-injected into the crude oil stream will be treated as oil and will form part of taxable oil income and not gas. The above incentives are only available to companies that engage in projects for the utilization of associated gas. This incentive is key for applicants that would be successful in the bid, considering the DPR guideline makes utilisation of all gas produced from the farm-out area a full obligation on prospective operators.[1]

Our Comments

Under the Petroleum Profit Tax Act 2004 tax rate for Petroleum Profit Tax (PPT) stands at 85%. This is among the highest tax rates in Nigeria.[1] Generally, concessions are granted to companies where the government intends to encourage investment and growth in a sector. With this kind of huge tax rate there is need for the FGN to continue to incentivize the upstream sector of the oil and gas industry considering the huge capital investment required to play in the sector. Considering the bulk of Nigerian's revenue is derived from the sector it is necessary for the government to continue to encourage the sector. Also, the ripple effects would result in a higher volume of economic activities, local content development and more jobs for local communities.

[7] Gazette Number 21 of 5 April 2006.
[8] Clause 20 of the DPR guideline
[9] Section 21 of PPTA - "*(1) The assessable tax for any accounting period of a company shall be an amount equal to 85% of its chargeable profits of that period.*"

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