

The Federal Government imposes a new Levy on Companies operating in Nigeria to fund the Nigerian Police Force

TAX ALERT

On the 24 July 2019 the President of the Federal Republic of Nigeria assented into law the Nigeria Police Trust Fund (Establishment) Act (NPTFEA) “the Act” 2019. The Act was established with the purpose of funding the Nigerian Police Force (NPF), acquiring state-of-the-art security equipment, training and improving the general well-being of Police officers for effective performance of their duties. Further highlights of key provisions of the Act are as stated below:

Highlights of the Act

- Duration of the Act:

The Trust Fund is expected to be operational for a period of six years following which it may cease to exist except it is extended for another period to be determined by the National Assembly.

- Source of Funding:

The channels for funding the Trust Fund include 0.05% of the total amount due to the Federation Account, 0.005% of the net profits of Companies, take off grants and special intervention funds, appropriations by the National Assembly, aids and grants received from international agencies, non-governmental agencies and private sectors; grants, donations, bequest and gifts whether money, land or any property from any source and; money gotten from investment made by the Trust Fund.

- Constitution a Board of Trustees:

The Act establishes a Board of Trustees that will be

responsible for the administration of the funds, setting out policies, approving the disbursement of money and projects, among others.

- Submission of Report:

The Act provides for the submission of quarterly and annual reports to the President, and the administration of the Trust Fund by the Board. The annual report is to be accompanied by an Auditor’s report.

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Our Comments

(a) Although the funding of the Nigerian Police Force is critical to improving security and necessity is not in doubt, there are concerns over the addition of another layer of earmarked tax burden on



Companies in Nigeria, given the existing multiple taxes already in place for these Companies. Earmarked taxes are no longer fashionable globally as it is an integral part of an income tax.

- (b) However, since the Levy is imposed on all operating businesses in Nigeria, it could extend its coverage to non-resident Companies with activities in Nigeria. The Act does not clearly state whether this will apply to Non-Resident Companies operating in Nigeria.
- (c) The Act did not provide for a system of collection and administration of the levies to be collected from companies. It is expected that the National Assembly revisits the Act through an amendment process or simply an enactment of a subsidiary regulation, which would specify the mode of collection and administration of this Levy by the Federal Inland Revenue Service.
- (d) Apart from the provision in the Act that the Fund, once deducted from net profit is tax-exempt, it is not clear on whether the Fund will be an allowable deduction for tax purpose.
- (e) This Act is silent on the penalty for non-compliance.
- (f) The Act does not state what should be included or otherwise in net profit used in calculating the levy.

In conclusion, it is our view that the underlying concerns should be addressed so as to remove all ambiguities and uncertainties in collection and administration. More so, the government is encouraged to look for other avenues for finding this kind of expenditures instead of imposing further tax burden on already strained businesses in Nigeria.

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