

# HIGHLIGHTS OF PROPOSED CHANGES THROUGH THE **FINANCE BILL** 2019 TO TAX LAWS IN NIGERIA

## Tax Alert

### COMPANIES INCOME TAX ACT

S/N	Section Title	Section number	Proposed Change	Impact on Companies
1	Identification of a Company	S.10(2)	Companies will be required to provide TIN as a pre-condition for opening bank accounts or for continued operation of their bank account	Non-compliance could make the banks place restrictions on the account which will adversely affect business operations
2	Nigerian Companies	S.13(C.)	Income of non-resident companies providing Digital services to Nigerians are to be liable to tax in Nigeria based on Profits attributable to their significant economic presence in Nigeria.	Significant Economic Presence in Nigeria proposed as a rationale for Income attribution for Digital Services in Nigeria; instead of the presence of Fixed base or Permanent establishment in Nigeria
		S.13(F)	Income of non-resident companies with respect to technical, consultancy, professional and management services performed outside Nigeria to be taxable at a final Withholding tax rate of 10%	As above, all such services performed outside Nigeria are also to be taxable based on significant economic presence in Nigeria. Minister is to define "Significant Economic Presence".
3	Insurance Companies	S.16	Indefinite carry forward of losses; deduction of reserve for unexpired risk; and remove minimum tax on Insurance business	Insurance companies will be able to carry forward tax losses indefinitely, deduct reserve for unexpired risks on time apportionment bases while special minimum tax for insurance has been abolished
4	Payment of dividend by a Nigerian Company	S.19(2)	Dividend paid out of retained earnings, which have been previously taxed under CITA, PPTA, CGT; or distributed from Exempt profits or franked investment income are now to be exempted from further tax.	This will remove the controversial double taxation on already-taxed profits or tax-exempt income, when they are distributed as dividend
5	Profits Exempted	S.23(1)	Small businesses with turnover less than N25m to be exempted from Companies Income Tax	This is a welcome incentive to SMEs and may contribute to the growth of Small businesses in Nigeria. However, they still need to comply with registration and filing requirements
		S.23(t)	Dividend and Rental Income received by Real Estate Investment Company to be exempted from CIT provided it satisfies certain conditions	This will remove Income distribution from Real Estates Investment companies from the tax net. This will potentially encourage real estate investments in Nigeria
6	Deductions not Allowed	S.27(1)	Any expense incurred in earning Tax-exempt income to be specifically disallowed as a deduction against other taxable income	Greater scrutiny of businesses that earns both Taxable and Tax-exempt income, so as to avoid arbitrage
			All related party expenses to meet Transfer Pricing requirement before they are allowed as deductible expenses	Companies must ensure that all transactions that generate expenses with related party meets arm's length test under the Nigeria TP regulations
7	Basis for computing Assessable profits	S.29(1)	Change to Commencement / Cessation rule. Elimination of overlaps and gaps to avoid double taxation and complication during commencement.	Companies first year profit will no longer suffer multiple taxation

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9	Payment of minimum tax	S.33(2) &(3)(b)	Minimum tax rate amended to simplified rate of 0.5% of Turnover; and exemption from minimum tax to include small companies with less than N25m Turnover	Companies with at least 25% imported equity capital are to be removed from the exemption list; and will now pay minimum tax.
10	Gas Utilization(Downstream Operations)	S.39(1)(C.)	Companies that enjoy Gas Utilization(downstream Operations) incentives, can no longer as part of the previous incentives enjoy accelerated Capital Allowance	Companies will be required to compute Capital Allowance while in Pioneer period and only carry forward the Tax Written Down Value to the post-pioneer period. This will reduce Capital allowance available to Companies after the pioneer period.
		S.39(3)	Newly introduced sub-section. Any company that has claimed or wishes to claim the incentives under IDITRA cannot enjoy S.39 incentives on the same asset.	This may impact companies that previously enjoyed Pioneer status for QCE under IDITRA; but goes into Gas production & utilization from same asset
11	Rates of Tax	S. 40	New tax rate for medium-sized Company	Medium sized company i.e. company that earns gross turnover greater than N25m but less than N100m now to pay CIT rate of 20%.
			Abolishment of payment of pre-operation levy by Companies yet to commence business	Large company still to pay 30%. This will be a relief for medium sized Company as they will pay less tax on their profits.
13	Returns and Provisional Accounts	S.55(3)	Penalty for non-compliance with CIT filing requirement increased	Penalty for late filing to be increased to N50,000 for first month and N25,000 for each subsequent month the failure occurs
14	Time within which tax is to be paid	S.77(4)	Amendment of provision on Payment of tax due on instalments	Application for instalment payment to be accompanied by the evidence of first instalment payment. The final instalment will be required to be paid on or before the due date of filing. Outstanding balance will attract penalties and interest.
		S.77(5)	New incentive for early tax payment to be introduced.	Companies will be entitled to a bonus if they pay their tax 90 days before due date. The bonus is to be used to offset future tax liabilities. (2% for medium-sized company and 1% for any other Company).
15	Deduction of Tax on Dividend	S.80(5)	Dividend paid to Real Estate Investment Company (REIC) exempt from deduction at source	There will not be deduction of tax on dividend to REIC. However, where REIC wants to distribute dividend to its own shareholders, there will be deduction of tax at source. This is also to encourage investment in real estate.

#### PETROLEUM PROFITS TAX ACT

S/N	Section Title	Section number	Proposed Change	Impact on Companies
16	Restriction on effect of PITA and other Acts	S.60	Exemption on Dividend from Petroleum Profits to be repealed	Companies carrying on Petroleum operations to start deducting WHT on dividends paid out of Petroleum profits

## PERSONAL INCOME TAX ACT

S/N	Section Title	Section number	Proposed Change	Impact on Companies
17	Personal relief and relief for children, dependent	S. 33(4),(5) & (6)	PITA amended by deleting obsolete section on reliefs.	This proposed amendment will address the gap in the Act which made some taxpayer claim those reliefs with the Consolidated Relief Allowance (CRA).
18	Information to be delivered by bankers	S.49(1)	New pre-condition for opening and operating a bank Account	Any person to open or continue to operate a bank account will be required to provide TIN to the bank
19	Revision in the case of an objection	S.58	Mode of delivery of notice of objection	Taxpayers will be able to deliver in person, by courier service or via electronic mail, notice of objection to tax authority. This is a positive move to enhance tax administration efficiency.

## INDIRECT TAXES - VALUE ADDED TAX ACT

S/N	Section Title	Section number	Proposed Change	Impact on Companies
20	Taxable goods and services	S.2	Expansion of VAT scope	Further clarification is given on goods and services that are VATable in Nigeria. The meaning of supply and definition of goods and services has been expanded to cover intangible items other than land, among others
21	Rate of Tax	S.4	Amendment to tax rate.	VAT rate to be 7.5%
22	Registration and deregistration requirements	S. 8	Amendment to VAT registration provision	Companies will be required to register for VAT upon commencement of business. The amendment has eliminated the provision of registration within six months of commencement of business
			Increase in penalty for non-registration	N50,000 for the first month and N25,000 for each subsequent month in which the failure continues.
			Requirement for deregistration upon cessation of business	Companies will be required to notify the Service of intention to deregister for tax purposes within 90 days of cessation of the business or trade
23	Registration by non-resident companies	S.10	Non-resident companies to include VAT on their invoices to Nigerian companies	Companies to self-account for the VAT payable and remit to the Service
24	Taxable person to render returns	S.15(1)	Small Companies with turnover less than N25m not to file VAT	Companies with turnover of N25m and above either singularly or cumulatively in any calendar year is required to file the returns.
25	Remission of Tax	S.40	Clarification of Basis for VAT remittance	Remittance of VAT will be on cash basis, that is, difference between output VAT collected and input VAT paid in the preceding month
26	Failure to Notify Change of Address	S.28	There is new penalty for failure to send notification for change of address or permanent cessation of trade or business	Penalty for failure to notify the service of change of address or cessation of business is now N50,000 for first month and N25,000 for each subsequent month in which the failure occurs
27	Failure to submit returns	S. 35	Penalty for failure to submit returns to be increased.	N50,000 for first month and N25,000 for each subsequent month in which the failure occurs

## CAPITAL GAINS TAX ACT

S/N	Section Title	Section number	Proposed Change	Impact on Companies
28	Personal Injury	S.36(2)	Exemption cap on compensation for loss of employment to be introduced	The proposed amendment to exempt from CGT, amounts below N10m for compensation for loss of employment

## STAMP DUTY ACT

S/N	Section Title	Section number	Proposed Change	Impact on Companies
29	Provision as to duty upon receipt	S.89	Introduction of stamp duty on bank transfer	Stamp duty on bank transfer to apply only on amount from N10,000 and above. Transfers between the same owner's accounts in the same bank also to be exempted

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