

THE FEDERAL GOVERNMENT OF NIGERIA REVIEWS PIONEER STATUS INCENTIVE LIST: INCLUDES 27 MORE INDUSTRIES AND PRODUCTS

Tax Alert

Introduction

The Federal Government of Nigeria (FGN) on 02 August 2017, announced the review of the list of industries and products qualified for pioneer status incentives. Pioneer status affords eligible businesses initial 3 years and up to 5 years tax holiday geared towards boosting investment and economic activities in the Country.

This is further to the former pioneer status list dated 27 May 2015 containing 44 industries and products eligible for pioneer status in Nigeria. In view of the FGN policy on Economic Recovery and Growth Plan (ERGP) and diversification agenda, it has now extended the list to accommodate additional 27 additional industries and products putting the total at 71. Conversely, the FGN announced that Mineral Oil Prospecting and the Cement Industry have been excluded from pioneer status.

List of New Industries and Products Granted Pioneer Status

The new Industries and products currently included for Pioneer Status are:

1. Mining and processing of coal;
2. Processing and preservation of meat, Poultry and production of meat/poultry products;
3. Manufacture of starches and starch products;
4. Processing of cocoa;
5. Manufacture of animal feeds;
6. Tanning and dressing of Leather;
7. Manufacture of leather footwear, luggage and handbags;
8. Manufacture of household and personal hygiene paper products;
9. Manufacture of paints, vanishes and printing ink;
10. Manufacture of plastic products (builder plastic ware) and moulds;

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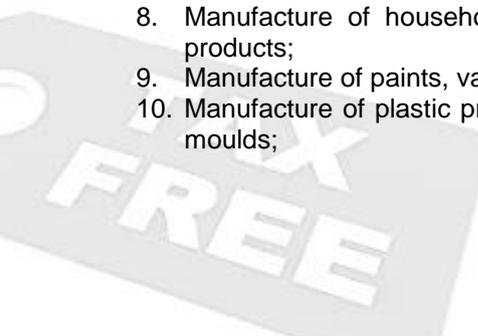
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Abuja

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Port Harcourt

102, Old Aba Road, Shell Industrial Area, Rumuobiakani, Port Harcourt, Rivers State.



11. Manufacture of batteries and accumulators;
12. Manufacture of steam generators;
13. Manufacture of railway locomotives, wagon and rolling stock;
14. Manufacture of metal-forming machinery and machine tools;
15. Manufacture of machinery for metallurgy;
16. Manufacture of machinery for food and beverages processing;
17. Manufacturing of machinery for textile, apparel and leather production;
18. Manufacture of machinery for paper and paperboard production;
19. Manufacturing of plastic and material recovery;
20. Waste treatment disposal and material recovery;
21. E-commerce services;
22. Software development and publishing;
23. Motion picture, video and television programme production, distribution, exhibition and photography;
24. Music production, publishing and distribution;
25. Real estate investment vehicles under the investments and Securities Act;
26. Mortgage backed securities under the investments and Securities Act; and
27. Business process outsourcing.

Our Remarks

The Solid Mineral, Agricultural, Manufacturing, Information Technology and Entertainment industries appear to be the major beneficiaries of the FGN's gesture.

However, we cannot fathom the rationale behind FGN decision to exclude cement industry from the list. The FGN's deeming of cement industry as matured, thereby excluding it from the list may not be in tandem with the reality on the ground. The Bureau of Public Service Reforms (BPSR) in February 2017 estimated that more than 108 million Nigerians are still technically homeless. Similarly, the Nigerian Bureau of Statistics (NBS) reported in February 2015 that as at August 2012, housing shortage was estimated at 17 million, a condition that has been portrayed as not fit for a developing nation. The situation remains the same as at 2017 making the basis of the exclusion unclear.

Also the Government excluded the Mineral Oil Exploration and Production. Presently, the indigenous and marginal field players in the industry produces less than 200,000bpd out of the 2,500,000bpd or less than 10% of the daily production. On the Other hand, the Government promised to assist these small industry players to reach 1mbpd output. With the exclusion of the industry from the list, it remains largely unclear how the industry will be assisted. This seems to be directly opposite the idea of made in Nigeria product being canvassed by the FGN.

In addition, the Industrial Development (Income Tax Relief) Act, Cap 17 Laws of Federation of Nigeria 2004, empowers

the President to grant pioneer to ANY INDUSTRY that is not carried on in Nigeria up to the scale suitable to the economic requirement of Nigeria. The Act in section 1(1) specifically provides that:

“(1) Where the President is satisfied that-

- (a) any industry is not being carried on in Nigeria on a scale suitable to the economic requirements of Nigeria or at all, or there are favourable prospects of further development in Nigeria of any industry; or*
- (b) it is expedient in the public interest to encourage the development or establishment of any industry in Nigeria by declaring the industry to be a pioneer industry and any product of the industry to be a pioneer product..”*

We think that including real estate while excluding cement industry may be counter-productive as both needs to go together. Our view is that more investment is needed in the cement industry to bridge the gap in the housing sector and a pioneer status would definitely be an additional attraction to the would-be investors. We also believe that the government should pronounce how it intends to assist smaller mineral oil exploration and production Companies, so as to provide a clear direction on achieving the set target for them as part of contribution to the National development on the short and long run.

It is also important to state that the Government should ensure that it avoids the unnecessary confusion of the past that resulted in the Nigerian Investment Promotion Commission (NIPC) granting pioneer status to some companies and the Federal Inland Revenue Services (FIRS) denying them of the benefits. In other words, it appears that the Government is giving the incentives on one hand and taking it back on the other hand. Hence, as part of the same Executive Arm of Government, these Agencies should work in team to implement the Government policy and remove all impediments that may frustrate the aims of the policy. For instance, the list must be gazetted as soon as possible and where it has dissenting views, the FIRS must raise issues with their counterparts at the NIPC before pioneer status is awarded and not with the pioneer companies after the award.

Also, Eligible companies must ensure that proper accounts and documentations are kept during and after the pioneer period. This would ensure that issues can be easily resolved with any government agencies, for instance, with the FIRS, where issues on taxation and other compliance matters come up in the post-pioneer period. To build public trust in the scheme, we believe that there must be monitoring of scheme, enforcement of terms of the grant and sanction for obvious deviation from the terms of the grant.

On the overall, we believe it is an excellent step by the Government towards meeting the objectives of the ERGP.

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