



# POLICY IMPLICATIONS OF FINANCE ACT, 2020

(TOWARDS TAX POLICY REFORMS & ECONOMIC RECOVERY)

(A MONOGRAPH)



CITN TAX PRACTICE SERIES NO. 37

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# **POLICY IMPLICATIONS OF FINANCE ACT, 2020 (TOWARDS TAX POLICY REFORMS & ECONOMIC RECOVERY)**



## **VISION**

To be one of the foremost professional associations in Africa and beyond

## **MISSION**

To build an Institute which will be a citadel for the advancement of taxation in all its ramifications

## **MOTTO**

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## **CORE VALUES**

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## FOREWORD

His Excellency, President Muhammadu Buhari on Thursday, 8 October 2020, presented the 2021 Budget Proposal to the Joint session of the National Assembly. A major highlight of his budget presentation speech was the expression of government's intention to present the Finance Bill, 2020 for consideration and passage into law. The Federal Executive Council (FEC), on Wednesday, 18th November 2020 approved the Finance Act (Amendment Bill), 2020. Thereafter, the approved bill was presented to the National Assembly for legislative action. It was passed by the Senate on 17th December, 2020. Subsequently, The National Assembly transmitted same to the President for his assent, in line with the provisions of Section 58 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). The President's assent to the bill was given on 31st December, 2020 aligning with the 2021 Budget implementation cycle.

It is commendable that the annual review of the finance act has become consistent with the expectations of stakeholders, particularly in tandem with the need to shape the direction of government fiscal policy and support the actualization of the revenue projections of government. As with recent amendments, circa 14 laws were amended including the Capital Gains Tax Act, Companies Income Tax Act, Industrial Development (Income Tax Relief) Act, Personal Income Tax Act, Tertiary Education Trust Fund (Establishment, ETC.) Act, Customs and Excise Tariff, ETC (Consolidation) Act, Value Added Tax Act, Stamp Duties Act, Federal Inland Revenue Service (Establishment) Act, Nigerian Export Processing Zones Act, Oil and Gas Export Free Zone Act, Companies and Allied Matters Act, Fiscal Responsibility Act, Public Procurement Act, and specific provisions were enacted through the Establishment of Crises Intervention Fund and Unclaimed Funds Trust Fund.

It is equally worthy of commendation that the process of enacting this new legislation was done in a timely manner allowing for its implementation at the beginning of the new fiscal year. This notwithstanding, we advise that in proposing future amendments, stakeholders-wide consultations should be activated early to allow for more comprehensive and inclusive comments. An important take-away from this new Act is the concerted move by government to reform the fiscal policy space to hinge against the shocks that the COVID-19 Pandemic has continued to have on economies all the world over, Nigeria inclusive.

As part of CITN's contribution towards expanding the frontiers of knowledge and promoting a tax driven economy for our nation, we have reviewed the Act, its implication for the various sectors, its potential for enhancing the ease of doing business, promoting investment and possible areas for future amendments. Stakeholders' comments were also reviewed and documented in this publication to provide an encompassing and wide spectrum review of the Act.

We hope that this publication will be of immense benefit to those who seek knowledge and a better understanding of our tax legislations.

Dame Gladys Olajumoke Simplice, FCTI  
14th President/Chairman of Council  
Chartered Institute of Taxation of Nigeria  
Lagos, February, 2021



## PREFACE

The Institute set up an Ad–Hoc Finance Act Drafting Committee to quickly review the Finance Bill, 2020 which resulted to an initial position paper submitted and presented during the public hearing organized by the National Assembly. It is worthy to state that some of the recommendations of the Institute were considered.

It is no longer news that the President of the Federal Republic of Nigeria signed the Finance Bill, 2020 into an Act, therefore, necessitating the need to examine the Act in all its ramifications and the implications on stakeholders.

There is the need for comprehensive discourse based on globally acceptable scientific framework which will assist not only its implementation but hedge against possible adverse multiplier effects in the near future.

The CITN Finance Act, 2020 Position Drafting Committee brought together prominent academics, professionals and staff of the Research and Professional Standard at a 2-day roundtable retreat to discuss the various implications of the New Finance Act.

The meeting reconciled 'Finance Act, 2019 with Finance Act, 2020', drawing implications and conclusions on various stakeholders with some challenges; and signaling critical issues where necessary for future amendments. This is with a view to advising various organs and practitioners on the implementation of relevant sections of the Finance Act to hedge against risk/losses from ignorance.

Drawing from various experiences of the members of the Ad–Hoc Committee, and as a proactive Institute, we came up with some advice and recommendations while the opinions expressed represent the view of the Institute.

We do hope that this 'Monograph' which is one of the series from the Institute will provide basic guides to the implementation of the 'Finance Act, 2020'.

Thank you.

**Professor Godwin Emmanuel OYEDOKUN, FCTI, FCA, CFE, FFAR**  
Professor of Management and Accounting, Lead City University, Ibadan &  
Council Member, Chartered Institute of Taxation of Nigeria  
Chairman, Education Committee of CITN

## **ABOUT THE INSTITUTE**

The Chartered Institute of Taxation of Nigeria started on February 4, 1982 as an Association of Tax Administrators and Practitioners (ATP). Thereafter, it transformed into Nigeria Institute of Taxation, which was formally launched on February 21, 1982 and statutorily recognized on May 6, 1987 as a company Limited by Guarantee.

The Institute was chartered by the Federal Government of Nigeria by the enabling Act No. 76 of 1992 (now CITN Act, CAP C10, Vol. 2, Laws of the Federation of Nigeria, 2004) and was charged with the responsibility, among others, of regulating and controlling the practice of the tax profession in its entire ramifications and determining what standards of knowledge and skills are to be attained by persons seeking to become professional Tax Practitioners or Administrators.

### **THE CHARTER OF THE INSTITUTE**

The aims and objectives of the Institute as laid down in its charter (Act No. 76 of 1992), among others, are:-

- To determine what standards of knowledge and skill are to be attained by persons seeking to become registered members of the taxation profession;
- To raise, maintain and regulate the standard of taxation practice amongst its members;
- To promote professional ethics and efficiency in tax administration and practice; and
- To encourage, promote and co-ordinate research for the advancement of taxation practice and administration in Nigeria.

Under the Act, the Institute is the only professional body empowered to regulate tax practice and administration in Nigeria and only its members can practice Taxation. The Act sets out the rules as regards membership composition and officers of Council, etc.

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## **INTRODUCTION**

The Institute set up an Ad-Hoc Committee to quickly review the Finance Bill, 2020 which resulted to an initial position paper submitted and presented during the public hearing organized by National Assembly, it is worthy to state that some of the recommendations of the Institute were considered.

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The meeting reconciled 'Finance Act, 2019 with Finance Act, 2020', drew implications and conclusions on various stakeholders with some challenges and signaling, where necessary. This is with a view to advising various organs and agents on the implementation of relevant sections of the Finance Act to hedge against risk/losses from ignorance.

Drawing from various experiences of the members of the Ad-Hoc Committee, and as a proactive Institute, we came up with some advice and recommendations while the opinions expressed represent the view of the Institute.

This paper is organized as follows:

Capital Gains Act, Cap C1, LFN 2004

Companies Income Tax Act, Cap C21, LFN 2004 as amended.

Industrial Development (Income Tax Relief) Act as amended

Personal Income Tax Act, Cap P8, LFN 2004 as amended

Value Added Tax Act, Cap VI, LFN, 2004 as amended

Tertiary Education Trust Fund (Establishment, Etc.) Act

Customs and Excise Tariff, etc. (Consolidation) Act, Cap C49, LFN 2004 as amended

FIRS (Establishment) Act as amended

**PART I**  
**CAPITAL GAINS ACT, CAPC1, LFN 2004**

**Section 2 of Capital Gains Tax Act –  
Computation of capital gains tax**

The Act amended section 2 of CGTA by inserting after sub-section (3) a new sub-section 4 thus: *'Subject to the provisions of section 31 of this Act, every person having disposed a chargeable asset shall, not later than 30 June and 31 December of that year, compute the capital gains tax, file self-assessment return, and pay the tax computed in respect of the chargeable assets disposed in the periods'.*

**Section 24 of Capital Gains Tax Act –  
Location of Assets**

The Act amended section 24(f) of CGTA by inserting after the word, 'aircraft' in line 1, the words, *'used in international traffic'*

**Section 36 of Capital Gains Tax Act –  
Personal Injury**

This Act amended section 36(2) of CGTA by:

(a) Substituting for subsection (2), a new subsection (2) :-

*(2) Sums obtained by way of compensation for loss of office, up to a maximum of Ten Million Naira (N10,000,000.00) shall not be chargeable gains and subject to tax under this Act. Provided that any sum in excess of Ten Million Naira (N10,000,000.00) shall not be so exempt but the excess amount shall be chargeable gains and subject to tax accordingly.*

(b) inserting after subsection (2), new subsection (3) and (4) as follows:

*(3) For the purpose of subsection (2), any person who pays compensation for loss of office to an individual is required, at the point of payment of such compensation, to deduct and remit the tax due under this section to the relevant tax authority.*

*(4) The tax so deducted shall be remitted within*

*the time specified under the Pay-As –You-Earn regulations issued pursuant to the Personal Income Tax Act.*

*(5) The schedule to the Act is amended by deleting Part IX (returns) and Part X (assessments).*

## **PART II COMPANIES INCOME TAX ACT, CAP C21, LFN 2004, (AS AMENDED).**

### **Section 11 of the Act is amended**

In subsection (2), by substituting for (i) paragraph (a) a new paragraph “(a) primary agricultural production, or”, and (ii) concluding paragraph to subsection (2), a new concluding paragraph-

Shall be exempted from tax, provided the moratorium is not less than 12 months and the rate of interest on the loan is not more than the base lending rate at the time the loan was granted, refinanced or otherwise restructured.”

(a) By substituting for subsection (4) a new subsection “(4)’ in this section –

*“primary agricultural production” means –*

*(a) **Primary Crop Production** comprising the production of raw crops of all kinds, but excluding any intermediate or final processing of crops or any other associated manufactured or derivative crop product;*

*(b) **Primary Livestock Production** comprising the production of live animals and their direct produce such as live or raw meat, live or raw poultry, fresh eggs and milk of all kinds, but excluding any other associated manufactured or derivative livestock product;*

*(c) **Primary forestry Production** comprising the production of timbers of various kinds such as firewood, charcoal, uncultivated materials gathered and other forestry products of all kinds, including seeds and saplings, but excluding the intermediate and final processing of timber and any other manufactured or derivative timber product; and*

*(d) **Primary Fishing Production** comprising the production of fish of all kinds, including ornamental fish, but excluding any intermediate or final processing of any other manufactured or derivative fish product.”*

### **Section 13 (2) of Companies Income Tax Act –**

Section 13 of the Act is further amended by substituting for the proviso in paragraph, (e), a new “proviso” -

*Provided that the withholding tax applicable to the income under this paragraph shall be the final tax on the income of a non – resident recipient who does not otherwise fall within the scope of subsection (2) (a) – (d)*

### **Section 14 of Companies Income Tax Act – Companies engaged in shipping or air transport**

Section 14 of the Act is amended by inserting after subsection (4), a new subsection (5)–

*The provisions of this section does not apply to income from leasing, containers, non-freight operations or any other incidental income liable to tax under section 9 of this Act.*

### **Section 16 of the Act is further amended by –**

(a) substituting for subsection (12), a new subsection (12)–

*For the purpose of this section, the tax payable by any insurance company for any year of assessment shall not be less than –(a) 0.5% of the gross premium for non-life insurance business,*

*(b) 0.5% of the gross income for life insurance business –*

*Provided, that the applicable minimum tax under this section shall be reduced to 0.25% for tax returns prepared and filed for any year of assessment falling due on any date between 1<sup>st</sup> January 2020 and 31<sup>st</sup> December 2021, both days inclusive.; and*

c) Inserting, after subsection (12), a new subsection “(13)” –

*(13) For the purpose of subsection (12) – “gross premium” means the total premiums written, received and receivable excluding unearned premiums returned to the insured; and*

*“gross income” means total income earned by a life insurance business including all investment*

*income (excluding franked investment income), fees, commission and income from other assets but excluding premiums received and claims paid by re-insurers.*

### **Section 23 of Companies Income Tax Act – Profits Exempted**

Section 23 of the Act is further amended –

(a) in subsection (1B), by substituting for paragraph (c) a new paragraph (c) –

*(c) a real estate investment company from tax on dividend and rental income if it does not meet the conditions stipulated in subsection (1) (s); and*

*(b) by deleting subsection (1C)*

### **Section 25 of Companies Income Tax Act – Deductibility of Donations for Tax Purposes**

Section 25 of the Act is amended by inserting, after subsection (7), new subsections (8) and (9)

*“(8) Donations made by companies in cash or kind to any fund set up by the Federal Government or any State Government or to any agency designated by the Federal Government or any similar Fund or purpose in Consultation with any Ministry, Department or Agency of the Federal Government, in respect of any pandemic, natural disaster or other exigency shall be allowed as deductions as follows –*

*(a) the cost of in-kind donations made to the Government and any designated agency shall be allowed as deductions; or*

*(b) where companies have either procured or manufactured items for contribution, the cost of purchase, manufacture or supply of such in-kind contributions shall be allowed as deductions-*

*Provided that requisite documentation evidencing the donation and the cost thereof are provided to the relevant tax authority and demonstrated to be wholly, reasonably, exclusively and necessarily incurred in relation to the procurement, manufacture or supply of the in-kind contributions”*

*(9) Notwithstanding the provisions of subsections (2) and (3), amounts allowable for deduction, in respect of subsection (8), in any year of assessment shall be limited to 10% of assessable profits after deduction of other allowable donations made by the company.*

### **Section 27 of Companies Income Tax Act – Penalty imposed by legislation**

Section 27 of the Act is amended by substituting for paragraph (k), a new paragraph “(k)” –

*(k) penalty or fine imposed pursuant to a legislation enacted by the National Assembly or state House of Assembly*

Section 33 of Companies Income Tax Act – Minimum tax

### **Section 33 of the Act is amended by substituting for paragraph (k), a new paragraph (k) as follows:**

*For the purpose the purpose of subsection (1), the minimum tax to be levied and paid shall be 0.5% of gross turnover of the company less franked investment income-*

*Provided, that the applicable minimum tax is reduced to 0.25% for tax returns prepared and filed for any year of assessment falling due on any date between 1 January 2020 and 31 December, 2021, both days inclusive*

### **Section 39 of Companies Income Tax Act – Trade or business of gas utilization**

Section 39 is amended by substituting for –

(a) by substituting for the opening sentence of subsection (1), starting with the words “A company” and ending with the words “that is” a new opening sentence

*“(1) Where a company is engaged in a trade or business of gas utilization in downstream operations, the company shall, in respect of that trade or business, be granted the following incentives”; and*

(b) subsections (2) and (3), a new subsection (2)



and (3) –

*(2) “The tax-free period of a trade or business shall start on the day the trade or business commences production as certified by the Ministry of Petroleum Resources.”*

*“(3) This Section shall does apply with respect to any company that has claimed an incentive for trade or business of gas utilization under any law in Nigeria including the Petroleum Profits Tax Act or the incentive under the Industrial Development (Income Tax Relief) Act in respect of the same qualifying capital expenditure.”*

### **Section 53 of Companies Income Tax Act –Self-Assessment Tax Payable**

Substitute for section 53 of the Act, a new section “(53)” –

*“53 (1) Every company filling a return under section 52, 55 or 58 of this Act shall –*

*(a) in the return, compute the tax payable by the company for the year of assessment; and*

*(b) forward with the tax return, evidence of payment of the tax due.*

*(2) Where, by a deliberate and dishonest act, the returns filed fail to declare the true and correct amount of profits or tax payable by the company, the company shall be immediately liable to pay any outstanding tax so identified and assessed.*

*(3) The outstanding tax shall be subject to penalty and interest, in accordance with the provisions of this Act or any other relevant law, and the penalty and interest shall accrue from the date the incorrect return was filed”*

### **Section 55 of Companies Income Tax Act –Returns and Provisional accounts**

Section 55 of the Act is amended by –

(a) inserting, after subsection (1), a new subsection (1A) –

*“(1A) Where any company other than a Nigerian company derives profit from or is taxable in Nigeria under the provisions of*

*Section 13(2) of this Act, such company shall be required to submit a return for the relevant year of assessment containing –*

*(a) the company's full audited financial statements and the financial statement of the Nigerian Operations, attested by an independent qualified or certified accountant in Nigeria;*

*(b) tax computation schedules based on the profits attributable to its Nigerian operations; and*

*(c) a true and correct statement, in writing, containing the amount of profits from each and every source in Nigeria.*

*(d) duly completed Companies Income Tax Self-Assessment forms –*

*Provided that in a year of assessment where a company other than a Nigerian company only earns income on which withholding tax is the final tax under this Act, the obligation to file a tax return in the manner prescribed shall not apply to such company in that year of assessment.*

(b) inserting, after subsection “(6)” a new subsection “(7)” –

*“(7) Notwithstanding anything contained in this section, the Service may by notice specify the form of the accounts to be included in a tax return, instead of audited accounts specified in paragraph (a) of subsection (1) of this section, in respect of small and medium companies as defined under this Act.”*

(c) renumbering the section accordingly.

### **Section 63 of Companies Income Tax Act– Maintaining Books or records of account:**

This Act substitute for Section 63 of the Act, a new section 63–

(1) *Every Company, including a company granted exemption from incorporation, shall, whether or not the company is liable to pay tax under this Act, maintains books or records of accounts,*

*containing sufficient information or data of all transactions*

- (2) *The books and records required to be maintained under subsection(1) shall be in the English Language and shall, for the purpose of tax account, be consistent with the format that may be prescribed by the service.*
- (3) *Where a record of a company is maintained in a language other than the English Language, the company shall, on demand by the service, produce, at its own expense, a translation in English language, which shall be certified by a sworn translator.*
- (4) *A company that on request by the Service, fails to provide any record or book prescribed under subsections(1)-(3) shall be liable to pay as penalty-*
  - a) *N100,000 in the first month in which the failure occurs; and*
  - b) *N50,000 for each subsequent month in which the failure continues.*
- (5) *Where, in the opinion of the service, a company fails or refuses to maintain books or records of accounts that are consistent with the provisions of subsections(1), (2) and (3) or adequate for the purposes of tax, the service may, by notice in writing, require it to maintain such records, books and accounts as the Service considers adequate, in such form and language as may be specified in the notice.*
- (6) *Any direction of the service made under subsection(5) shall be subject to objection and appeal in like manner as an assessment.*
- (7) *Any book or record required to be kept under this section shall be kept for a period of at least six years after the tear of assessment in which the income relates*

## **Section 68 of Companies Income Tax Act - Service of notice of assessment**

Section 68 of the Act is amended by inserting after the word, “post” in line 1 the words,  
*“courier service, email or any other electronic means, as directed by the Service in any notice issued pursuant to this Act or any other relevant law”*

## **Section 69 of Companies Income Tax Act - Revision of assessment in case of objection**

Section 69 of Act is amended by inserting after the words “writing” in line 2, the words,  
*“delivered in person, by courier service, email or any other electronic means, as directed by the Service in any notice issued pursuant to this Act or any other relevant law”*

## **Section 77 of Companies Income Tax Act - Time within which tax is to be paid**

Section 77 of the ACT is amended-

- (a) in subsection (2) by substituting for the words, “two months” in line 3, the expression, “30 days”, wherever they appear in the subsection;
- (b) by deleting subsection (6) and (7); and
- (c) by renumbering the section appropriately.

## **Section 105 of Companies Income Tax Act - Interpretation**

Section 105 of the Act is amended by –(a) substituting for the definition of “gross turnover” and “Nigerian company”, new definitions-

*“gross turnover” means the gross inflow of economic benefits during the period arising in the course of the operating activities of an entity when those inflows result in increases in equity, other than increases relating to contributions from equity participants, including sales of goods, supply of services, receipt of interest, rents royalties or dividends; and*

*“Nigeria company” means any company*

*formed or incorporated under any law in Nigeria”*

*(b) Inserting the definition of “public character”-*

*“public character” with respect to any “organization or institution –*

*(a) that is registered in accordance with relevant law in Nigeria; and*

*(b) does not distribute or share its profit in any manner to members or promoters.”*

### **Second Schedule to the Act**

Part II, paragraph 1 to the Second Schedule is amended by substituting for subparagraph 1(j), a new subparagraph (1) “j” –

*“(j) capital expenditure that is incurred on the development or acquisition of software or other such capital outlays on electronic applications”.*

## **PART III INDUSTRIAL DEVELOPMENT (INCOME TAX RELIEF) ACT (AS AMENDED)**

**Section 1 of the Industrial Development (Income Tax Relief) Act** is amended by inserting, after subsection (7) a new subsection “(7)”,

*“(7) Any small or medium sized company engaged in primary agricultural production shall be granted, pursuant to an application to the President, through the Minister, an initial tax-free period of four years which may be exempted subject to the satisfactory performance of such primary agricultural production, for an additional maximum period of two years, and such company cannot be granted similar tax holiday incentive under any other Act in force in Nigeria”*

### **Section 25 of Industrial Development (Income Tax Relief) Act- Definitions of medium sized & small sized companies**

Section 25 of the Act is amended by inserting, in alphabetical order, the following definitions –

**“Medium sized company”** means a company that earns gross turnover greater than N25,000,000 but less than N100,000,000 per annum, or as otherwise defined by Companies Income Tax Act;

*primary agricultural production means-*

*(a) **Primary Crop Production** comprising the production of raw crops of all kinds, but excluding any intermediate or final processing of crops or any other associated manufactured or derivative crop product;*

*(b) **Primary Livestock Production** comprising the production of live animals and their direct produce such as live or raw meat, live or raw poultry, fresh eggs and milk of all kinds, but excluding any other associated manufactured or derivative livestock product;*

*(c) **Primary Forestry Production** comprising the production of timbers of various*

*kinds such as firewood, charcoal, uncultivated materials gathered and other forestry products of all kinds, including seeds and saplings, but excluding the intermediate and final processing of timber and any other manufactured or derivative timber product; and*

*(d) **Primary Fishing Production** comprising the production of fish of all kinds, including ornamental fish, but excluding any intermediate or final processing of any other manufactured or derivative fish products. “small sized company” means a company that earns gross turnover of N25,000,000 or less per annum, or as otherwise defined by the Companies Income Tax Act.”*

## **PART IV PERSONAL INCOME TAX ACT, CAP P8, LFN, 2004.**

### **Section 6 of Personal Income Tax Act –Business or trade only partially carried on or deemed to be carried on in Nigeria**

Section 6 of the Personal Income Tax Act (PITA) is amended by inserting after section 6 a new Section “6A” –

*6A. (1) Notwithstanding the provisions of section 6 of this Act, where an individual, executor, or trustee outside Nigeria carries on a trade or business that comprises the furnishing of technical, management, consultancy or professional services to a person resident in Nigeria, the gains or profits of the trade or business shall be deemed to be derived from and taxable in Nigeria to the extent that the individual, executor or trustee has significant economic presence in Nigeria –*

*Provided that the withholding tax applicable to income pursuant to this Act shall be the final tax on the income of a non-resident recipient who does not otherwise fall within the scope of Section 6 of this Act.*

*(2) For the purpose of this section, the Minister may by Order, determine what constitutes the significant economic presence of a non-resident individual, executor or trustee.*

### **Section 20 of Personal Income Tax Act – Deductions allowed**

Section 20 of the Act is amended by substituting for paragraph (g) a new paragraph “(g)” –

*“(g) a contribution to a pension, provident or other retirement benefits fund, society or scheme recognized under the Pension Reform Act”*

## **Section 24 of Personal Income Tax Act – New trades**

Substitute for section 24 of the Act a new section “24”–

*“24. The assessable income of an individual from a trade, business, profession or vocation carried on by such individual in Nigeria, for its first year of assessment and the two following years of assessment (which years are in this subsection respectively referred to as “the first year”, “the second year” and “the third year”) shall be ascertained in accordance with the following provisions–*

- (a) for the first year, the assessable income shall be the income from the date on which the individual commenced such trade, business, profession or vocation in Nigeria to the end of its first accounting period;*
- (b) for the second year, the assessable income shall be the income from the first day after the trade or business' first accounting period to the end of its second accounting period; and*
- (c) for the third year and for each subsequent year thereafter, the assessable income shall be the profits from the day after the accounting period just ended.”*

## **Section 25 of Personal Income Tax Act – Cessation of trades, etc.**

Substitute for section 25 of the Act, a new section “25”–

*“25. where an individual permanently ceases to carry on a trade, business, or profession or vocation in Nigeria, such individual's assessable income therefrom shall be the amount of income from the beginning of the accounting period to the date of cessation and the tax thereof shall be payable within three months from the date of cessation.”*

## **Section 33 of Personal Income Tax Act (PITA) – Consolidated Relief Allowance**

Section 33 of the Act is amended -

- (a) by substituting for subsection(2) and (3), new subsection “(2)” and “(3)” –*
- (2) For the purposes of this Section, “gross income” means income from all sources less all non-taxable income, income on which no further tax is payable, tax-exempt items listed in paragraph (2) of the Sixth Schedule and all allowable business expenses and capital allowance.*
- (3) There shall be allowed a deduction of the annual amount of any premium paid by the individual during the year preceding the year of assessment to an insurance company in respect of insurance on his life or the life of his spouse, or of a contract for a deferred annuity on his own life or the life of his spouse.” And*
- (b) re numbering the section appropriately.*

## **Section 37 of Personal Income Tax Act – Proviso on National Minimum Wage**

Section 37 of the Act is amended by inserting, after the word, “income” a new proviso” as follows-

*“provided the minimum tax under this section or as provided for under the Sixth Schedule of this Act shall not apply to a person in any year of assessment where such person earns the Minimum Wage or less from an employment”*

## **Section 108 of Personal Income Tax Act - National Minimum Wage**

Section 108 of the Act is amended by inserting the definitions of the word “Board” and National Minimum Wage Act –

*“Board” means the Joint Tax Board established under section 86 of this Act.” And “National Minimum Wage” means the extant National*



*Minimum Wage Act*

Section 23, 48, 64,73,86,89,93,and 106A of the Act are amended by substituting for the word “Service”, the word “Board”, wherever it appears in the sections.

The Third Schedule to the Act is further amended by inserting, after paragraph 32, a new paragraph “33” –

“3. The income of a person from an employment where such person earns gross income of National Minimum Wage or less from such employment.”

**Part V**

**TERTIARY EDUCATION TRUST FUND (ESTABLISHMENT, ETC.) ACT (AS AMENDED)**

**Section 1 of Tertiary Education Trust Fund (Establishment, Etc.) Act –Imposition of education tax**

Section 1 of the Tertiary Education Trust Fund (Establishment, Etc.) Act (TETFUND) is amended by substituting for subsection (2), a new subsection“(2)”-

*“(2). The tax, at the rate of two percent, shall be charged on the assessable profit of a company registered in Nigeria, other than a small company as defined under the Companies Income Tax Act”.*

**Section 10 of TETFUND Act is deleted.**

**This Act is amended by deleting section 11(3).**

**Part VI**  
**CUSTOMS & EXCISE TARIFF ETC**  
**(CONSOLIDATION), ACT (AS**  
**AMENDED)**

*commercial air transport services are entitled to duty-free importation of their aircrafts, engines spare parts and components whether purchased or leased”*

**Section 21 of Customs & Excise Tariff Etc.**  
**(Consolidation), Act**

Substitute for section 21, a new section “21”

21. (1) *“Goods imported and those manufactured in Nigeria and specified in the Fifth schedule to this Act shall be charged with duties of excise at the rates specified under the duty column in the schedule”*

*(2) Telecommunication services provided in Nigeria shall be charged with duties of excise at the rates specified under the duty column in the Schedule as the President may by Order prescribe pursuant to Section 13 of this Act”*

**First Schedule to Customs & Excise Tariff, etc, Act.**

The First Schedule to the Act is amended by inserting and replacing, as the case may be, the following duties and levies-

- a) *Duty of Tractors( HS Heading 8701) from 35% to 5%;*
- b) *Duty on Motor Vehicles for the transport of more than ten persons(HS Heading 8702) from 35% to 10%;*
- c) *Levy on Motor Vehicles for the transport of persons(cars) HS Headings 8703) from 30% to 5%; and*
- d) *Duty on Motor Vehicles for the Transport of Goods(HS Headings 8704) from 35% to 10%-*

*Provided that vehicles exempt from applicable duties and levies shall continue to enjoy such exemption.*

**Second Schedule to Customs & Excise Tariff, etc, Act.**

The Second Schedule to the Act is amended by substituting for paragraph 1, a new paragraph 1, a new Paragraph-

*“1. Airlines registered in Nigeria and providing*



## **Part VII** **VALUE ADDED TAX ACT (AS AMENDED)**

### **Section 2 of Value Added Tax Act**

Substitute for section 2 of the Act, a new section “2” –

2. – (1) The tax shall be charged and payable on all supplies of goods and services in Nigeria other than those listed in the First Schedule to this Act.

(2) For the purpose of this Act, goods and services consumed or otherwise utilized in Nigeria are supplied in Nigeria

(3) Notwithstanding the provisions of subsection (1), a taxable supply shall be deemed to take place in Nigeria if–

*a) in respect of goods –*

*(i) the goods are physically present in Nigeria at the time of supply, imported into Nigeria, assembled in Nigeria or installed in Nigeria, or*

*(ii) the beneficial owner of the rights in or over the goods is a taxable person in Nigeria and the goods or right is situated, registered or exercisable in Nigeria;*

*(b) in respect of services–*

*(i) the service is rendered in Nigeria by a person physically present in Nigeria at the time of providing the service*

*(ii) the service is provided to and consumed by a person in Nigeria, regardless of whether the service is rendered within or outside Nigeria or whether or not the legal or contractual obligation to render such service rests on person within or outside Nigeria, or*

*(iii) the service is connected with existing immovable property( including the services of agents, experts, engineers, architects, valuers, etc), where the property is located in Nigeria; and*

*(c.) in respect of an incorporeal–*

*(i) the exploitation of the right is made by a person in Nigeria*

*(ii) the right is registered in Nigeria, assigned to or acquired by, a person in*

*Nigeria, regardless of whether the payment for its exploitation is made within or outside Nigeria, or*

*iii) the incorporeal is connected with a tangible or immovable asset located in Nigeria*

### **Section 2A of Value Added Tax Act - Time of Supply**

*Insert after section 2 of the Act, a new section “2A”–*

*2A. –(1) For the purpose of this Act, supply shall be deemed to take place at the time an invoice or receipt is issued by the supplier, or payment of consideration is due to, or received by the supplier in respect of that supply, whichever occurs first*

*(2) A taxable supply shall be deemed to take place where the supplier and recipient are connected persons and invoices are not issued, in the case of–*

*(a) A supply of goods which are to be removed, the time of removal of the goods;*

*(b) A supply of goods, which is not to be removed, at the time when they are available to the recipient;*

*(c) Furnishing of a service, upon the furnishing of service; and*

*(d) An incorporeal, when such incorporeal becomes available for the use of the recipient*

*(3) Notwithstanding the provisions of subsection (1) or (2)–*

*(a) where goods are supplied under any rental agreement or where services are furnished under any agreement or law which provides for periodic payments, they shall be deemed to be successively supplied for successive parts of the periods of the agreement or as determined by such law, and each of the successive supplies shall be deemed to occur when payment becomes due or is received, whichever is earlier;*

*(b) where, and to the extent that, supply of taxable goods and services are—*

*(i) progressively or periodically made under any agreement or law which provides for the*

consideration for that supply to be paid in instalments or periodically and in relation to the progressive or periodic supply, or

(ii) made in relation to any construction, erection, assembly, manufacturing, alteration, improvement or repair activity under any agreement or law which provides for the consideration for that supply to become due and payable in instalments or periodically in relation to the progressive nature of the work, those supplies shall be deemed to be successively made, and each such successive supply shall be deemed to take place whenever any payment becomes due or is received or an invoice relating to only that payment is issued, whichever occurs first; and

(c) where goods are supplied under an instalment credit agreement, that supply shall be deemed to take place at the time the goods are delivered or the time any payment of consideration is received by the supplier in respect of the supply, whichever occurs first.”

#### **Section 4 of Value Added Tax Act**

Substitute for section 4 a new section “4” –

4. The tax shall be computed at the rate of 7.5% with effect from 1 of February 2020, on the value of all goods and services, except that goods and services listed under Part III of the First Schedule to this Act shall be taxed at zero rate.”

#### **Section 10 of Value Added Tax Act**

Substitute for section 10 of the Act, a new section “10” –

10. (1) For the purpose of this Act, a non-resident person that makes a taxable supply of goods or services to Nigeria shall register for tax with the Service and obtain Tax Identification Number (TIN).

(2) A non-resident person shall include the tax on its invoice for all taxable goods or services.

(3) The taxable person to whom the supply of taxable goods or services are made in Nigeria or such other person as may be appointed by the Service shall withhold and remit the tax to the

Service in the currency of the transaction.

(4) Notwithstanding the provision of subsection (1) of this section, a nonresident person that makes a supply of taxable goods or services in Nigeria may appoint a representative, for the purposes of its tax obligations.

(5) The Service may issue a guideline for the purposes of giving effect to the provisions of this section.”

#### **Section 46 of Value Added Tax Act**

Section 46 of the Act is amended by –

(a) inserting the following new definitions –

**“animal feed”** means raw, semi-processed, processed and otherwise enhanced animal feed that is fed to domesticated and other animals raised and slaughtered for human consumption to provide beef, goat, lamb, pork, chicken, fish and other kinds of meat, as well as other animals cultivated and raised for the production of milk, eggs as well as other sources of protein and nutrients edible by humans; and

**“commercial aircraft spare parts and components”** means parts, engines, propellers, radio apparatus, instruments, appliances, furnishing, parts of any of the foregoing, and generally any other article of whatever description maintained for installation in a commercial aircraft in substitution for parts or articles removed”; and

(b) substituting for the definition of “goods” and “services”, new definitions –

**“goods”**, for the purposes of this Act, means all forms of tangible properties, movable or immovable, but does not include, land and building, money or securities;

**“services”** means— (a) anything, other than goods, or services provided under a contract of employment; and (b) includes any intangible or incorporeal (product, asset or property) over which a person has ownership or rights, or from which he derives benefits, and which can be transferred from one person to another, excluding interest in land and building, money or security.

### **Schedule to Value Added Tax Act**

*The Schedule to the Act is further amended—*

*(a) in Part I, by inserting, after item 10, a new item "11"—*

*"11. Commercial aircrafts, commercial aircraft engines, commercial aircraft spare parts." (b) in Part II, by inserting, after item 5, new items "6" and item "7"—*

*6. Airline transportation tickets issued and sold by commercial airlines registered in Nigeria.*

*7. Hire, rental or lease of tractors, ploughs and other agricultural equipment for agricultural purposes."*

### **PART VIII**

### **STAMP DUTIES ACT (AS AMENDED)**

#### **Section 2 Stamp Duties Act- Definition of Stamp**

Section 2 of the Act is amended by substituting for the definition of stamp", a new definition—"stamp" means an impressed pattern or mark by means of an engraved or inked die, an adhesive stamp, an electronic stamp or an electronic acknowledgment for denoting any duty or fee, provided that the Service shall utilise adhesive stamp produced by the Nigerian Postal Service pursuant to its enabling Act."

#### **Section 89 of Stamp Duties Act**

Section 89 of the Act is further amended—

(a) in subsection (1), by deleting the words, "or electronic inscription" in line 2;

(b) in subsection (2), by deleting the words, "or any acknowledgment of duty charged on an electronic transaction", in lines 4 and 5;

(c) by deleting subsection (3); and

(d) renumbering the section appropriately.

Insert, after section 89 of the Act, a new section "89A"—

#### **Section 89A of Stamp Duties Act**

**89A—**(I) There is imposed a levy, to be referred to as the Electronic Money Transfer Levy, on electronic receipts or electronic transfer for money deposited in any deposit money bank or financial institution, on any type of account, to be accounted for and expressed to be received by the person to whom the transfer or deposit is made.

(2) The levy shall be imposed as a singular and one-off charge of N50 on electronic receipts or electronic transfers of money in the sum of N10,000 or more.

(3) The Minister of Finance shall, subject to the approval of the National Assembly, make regulations for the imposition, administration,

collection and remittance of the Levy.

(4) Notwithstanding any formula that may be prescribed by any other law, the revenue accruing by virtue of the operation of this section, shall, on the basis of derivation, be distributed as follows— (a) 15% to the Federal Government and the Federal Capital Territory, Abuja; and (b) 85% to the State Governments.

## **PART IX FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT (AS AMENDED)**

### **Section 8 of Federal Inland Revenue Service (Establishment) Act – Functions of the Service**

Section 8 of the FIRS Act is amended by –

(a) Inserting after paragraph (s) a new paragraph (t) as follows -

*“(t) Provide assistance in the collection of revenue claims or any other administrative assistance in tax matters with respect to any agreement or arrangement made between the Government of the Federal Republic of Nigeria and the Government of any country or other persons or bodies as may be deemed necessary in that regard.”*

(b) Renumbering the subsection appropriately

### **Section 23 of the FIRS Act – Tax Refund**

Section 23 is amended by substituting subsection (4) –(6), new subsection(4) –(6), as follows:

*4) For the purposes of tax refund, the Accountant-General of the Federation shall open a dedicated account for each tax-type into which shall be paid money for settling tax refunds.*

*5) The dedicated accounts created pursuant to subsection shall, be administered by the Service and be funded from the respective accounts of Government into which revenue of each tax-type is remitted.*

*(6) For the purposes of each dedicated account, the Service shall prepare an annual budget for tax refund as may be approved by the National Assembly.”*

### **Section 25 of the FIRS Act – Administration of tax laws**

Section 25 of the Act is amended by inserting after subsection (2), new subsection “(3)”, and “(5)” –



*(3) The Service may deploy any proprietary or third party payment, processing or other digital platform or application to collect and remit taxes due on international transactions in the supply of digital services to and from a person in Nigeria, in the case of transactions carried out through remote, digital, electronic or other such platform.*

*(4) The Service may deploy proprietary technology to automate the tax administration process including tax assessment and information gathering provided it gives 30 days' notice to the taxpayer.*

*(5) The Service may receive assistance in the collection of revenue claims or any other administrative assistance in tax matters with respect to any agreement or arrangement made between the Government of the Federal Republic of Nigeria and the Government of any country or other persons or bodies as may be deemed necessary in that regard."*

### **Section 26 of the FIRS Act - Call for returns, books, documents and information**

Section 26 of the Act is amended by substituting for subsections (1) - (3), new subsection "(1)" and "(3)" respectively.

*"(1) For the purposes of obtaining full information in respect of the taxation of an individual, company or any person or for the purpose of performing any function conferred on it by this Act, the Service may give notice to any individual, company or person to, within the time specified by the notice—*

*(a) complete and deliver to the Service any returns specified in such notice;*

*(b) appear personally before an officer of the Service for examination with respect to a matter to which such notice relates;*

*(c) produce or cause to be produced for examination, books, documents or records, at the place and time stated in the notice, which time may be from day-to-day, or for such period as the Service may deem necessary;*

*(d) provide, orally or in writing, any information specified in such notice;*

*(e) grant the service access to records, data and information stored or otherwise residing in computers or other electronic devices, including magnetic media or cloud computing facilities maintained, operated, controlled or owned by the individual, company or person.*

*(2) For the purpose of subsection (1) (a)- (e), the time specified by such notice shall not be less than 30 days from the date of service of such notice.*

*(3) A person who defaults in complying with the provisions of this Section—*

*(a) where the default relates to a tax liability, is liable, in addition to the tax liability, to a penalty of 10% of the tax and interest at the prevailing Central Bank of Nigeria minimum rediscount rate; or*

*(b) where the contravention relates to issues other than a tax liability, is liable to a penalty of Twenty-Five Thousand Naira (N25,000.00) in the first months, and Ten Thousand Naira (N10,000.00) for every subsequent month thereafter, in which the default continues."*

### **Section 28A of FIRS Act**

Insert, after section 28 of the Act, a new section "28A"

*(1) In relation to international tax treaty and other exchange of information obligations and without prejudice to section 26 of this Act, every bank, insurance company, stock-broking firm, or any other financial institution shall prepare and submit, as may be specified by way of notice, rules, regulations, guidelines, or circulars issued by the Service, returns of—*

*(a) transactions involving the specified sum ;*

*(b) names, addresses (including foreign addresses), or any other information of its customers connected with those transactions ; or*

*(c) names, addresses, or any other information of new or existing customers.*

*(2) Any person, who fails to comply with the notice, rules, regulations, guidelines, or circulars issued by the Service for the purposes of this section is liable to an administrative*

*penalty of N25,000.00 in the first month of failure, and N 10,000.00 for every month in which the failure continues”*

### **Section 39 of FIRS Act**

Substitute for Section 39, a new Section “39” -

*(1) Without prejudice to the provisions of any other Act concerning data privacy, data protection and unlawful disclosure of taxpayer information, taxpayer information shall be confidential.*

*(2) Except as otherwise provided under this Act, any other law or any enabling agreement or arrangement or as otherwise authorized by the Minister, any member or former member of the Board or any employee or former employee of the Service or any agent or any other person who communicates or attempts to communicate taxpayer information to any person other than to a person legally authorised to collect the tax or misuses the information commits an offence and shall be liable on conviction to a fine not exceeding N1,000,000.00 or to imprisonment for a term not exceeding three years or both.*

Section 50 of the Act is amended by substituting for subsection (5), a new subsection (5) –

*“(5) Where any agreement or arrangement with any other country, government or tax authority for exchange of information or with respect to relief for double taxation of income or profits includes provisions for the exchange of taxpayer information with that country for the purpose of implementing a tax relief or preventing avoidance of tax, or for such other purposes as may be enshrined in the agreement or arrangement, the obligation as to secrecy imposed by this Act shall not prevent the disclosure of such information to the authorized officers of the Government of such country”*

### **Section 69 of FIRS Act**

Section 69 of the Act is amended by inserting

the following definition –

(a) “taxpayer information” includes:

*(i) any information received or generated by the Service pursuant to its powers under this Act or any extant Legislation;*

*(ii) any information in any form received, assessed or produced by the Service under any agreement or arrangement with any country, government or tax authority, such as Double Taxation Agreements, and Common Reporting Standard, Country-by-Country Reporting or any other exchange of information agreement or arrangement;*

*(iii) Written or electronic documents, returns, assessment, list and copies of such lists relating to profits or items of profits of any person or to such matter which forms the basis of any agreement or arrangement with any country, government or tax authority; and*

*(b) 'Nigeria', for the purposes of this Act and the laws listed in the First Schedule to this Act, means the Federal Government of Nigeria, and when used in a geographical sense, includes the territorial waters of the Federal Republic of Nigeria, and any area outside the territorial waters, including the continental shelf, which in accordance with international law has been or may hereafter be designated, under the law of the Federal Republic of Nigeria, as an area within which the right of the Federal Republic of Nigeria with respect to seabed, its subsoil, its superjacent waters and their natural resources may be exercised now and in the future.*

### **Fifth Schedule to the FIRS Act**

Paragraph 20 of the fifth schedule to the Act is amended –

(a) inserting, after subparagraph (2) (vii), a new subparagraph (2) (viii) –

*“(viii) Conduct its hearing remotely via virtual means, using such technology or application as may be necessary to ensure fair hearing.”*

(b) renumbering the subparagraph appropriately.

## **PART XII COMPANIES AND ALLIED MATTERS ACT (AS AMENDED)**

### **Section 432 of Companies & Allied Matters Act.**

Section 432- (1) Dividends are special debts due to and recoverable by shareholders within 12 years and actionable only when declared.

(2) Dividends that are unclaimed after 12 years should be included in the profits that should be distributed to the other shareholders of the company.

(3) Notwithstanding subsections (1) and (2), dividends of public limited liability companies quoted on the Nigerian Stock Exchange which remained unclaimed for a period of six years or more from the date of declaring the dividend shall be immediately transferred to the Unclaimed Funds Trust Fund.

(4) Such unclaimed dividends transferred to the Unclaimed Funds Trust Fund shall be a special debt owed by the Federal Government to the shareholders and shall be available for claim by the shareholder at any time, pursuant to the aforementioned perpetual trust.”

## **PART XIII FISCAL RESPONSIBILITY ACT (AS AMENDED)**

### **Section 12 of Fiscal Responsibility Act**

Section 12 of the Act is amended by substituting for subsection (2), a new subsection (2) –

*“(2) Aggregate expenditure for a financial year may exceed the ceiling imposed by the provisions of subsection (1) of this Section, if in the opinion of the President, as may be published in the Official Gazette of the Government of the Federation, or official directives or orders by the President, or through an Appropriation Act, Virement or other Money Act pursuant to Sections 59 or 306 of the Constitution of the Federal Republic of Nigeria, 1999 –*

*(a) the Federation, or any part thereof, is at war;*

*(b) the Federation is in imminent danger of invasion or involvement in a state of war;*

*(c) there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security;*

*(d) there is clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger;*

*(e) there is an occurrence or imminent danger of the occurrence of any pandemic or disaster or such other natural calamity, affecting the community or a section of the community in the Federation; or*

*(f) there is any other public danger which clearly constitutes a clear and present threat to the existence of the Federation.”*

### **Section 22 of Fiscal Responsibility Act**

(22)- (1) Notwithstanding the provisions of any written law governing the corporation, each corporation shall establish a general reserve fund and shall allocate thereto at the end of each



financial year, one-fifth of its operating surplus for the year, provided that the cost to revenue ratio of each corporation shall not exceed fifty percent or such other ratio as the Minister, upon the approval of the national Assembly, may approve for that particular corporation by way of order in the official Gazette.

(2) The balance of the operating surplus shall be paid to the Consolidated Revenue Fund of the Federation in accordance with the Constitution of the Federal Republic of Nigeria, 1999 on a quarterly basis, in accordance with such financial guidelines or regulations that the Minister may issue from time to time in consultation with the National Assembly –

Provided that nothing in this Act or any written law governing the corporation shall prevent the Minister from effecting a direct deduction from the Treasury Single Account, or other such relevant account, of that corporation to enforce due compliance with this section.

(3) The Minister shall cause a financial reconciliation between the quarterly direct deductions and aggregate annual deductions of operating surpluses to be concluded for each corporation not later than three months following the statutory deadline for publishing each corporation's accounts, and a report of the reconciliation shall be provided to the National Assembly.”

## **PART XIV PUBLIC PROCUREMENT ACT (AS AMENDED)**

### **Section 15 of Public Procurement Act**

Substitute for section 15 of the Act, a new section 15–

'15. This Act applies to –

- (a) All public procuring and disposing entities under the three arms of the Federal Government;
- (b) The Federal Government of Nigeria and all procurement entities
- (c) All entities outside paragraphs (a) and (b) which derive at least 35% of funds appropriated or proposed for any type of procurement described in this Act from the Federation share of the Consolidated Revenue Fund;
- (d) Without limiting paragraphs (b) and (c) to-
  - i. Federal Government, ministries; Departments and Agencies
  - ii. Federal Government Institutions
  - iii. Federal Government owned enterprises, corporations, councils, authority and commissions provided that they utilize public funds
  - iv. Federal tertiary and non- tertiary Educational Institutions
  - v. Federal Hospitals and other health Institutions
  - vi. The Central bank of Nigeria and other Federal Government owned Financial Institutions
  - vii. The National Defense and National Security Agencies
  - viii. The national Assembly, and
  - ix. The Judiciary.

Subject to the monetary and prior review threshold for procurements in this Act as may from time to time be determined by the Council, the following shall be the approving authority for the conduct of public procurement–

- a. In the case of-
  - i. A government agency, parastatal or

- corporation, a parastatal's Tenders Board
- ii. A Ministry or Extra ministerial entity, the Ministerial Tenders Board
- iii. The national Assembly, the National Assembly's Board
- iv. The Judiciary's Tenders board and the Courts Tender board

In case of any other public procurement the value of which exceeds the Ministerial Tenders board threshold, or any other threshold set by the Bureau and approved by the Council 20- (1) The accounting officer of a procuring entity shall be the person charged with line supervision of the conduct of all procurement processes

- a. In the case of ministries, the Permanent Secretary
- b. In the case of extra-ministerial departments and corporations, the Director-General or officer of co-ordinate responsibility
- c. In the case of the national Assembly, the Clerk and

In the case of judiciary, the secretaries of the judicial bodies and the Chief Registrars of the Courts.

## **Section 22 of Public Procurement Act**

Section 22 of the Act is amended by substituting for subsection (1) and (5), new subsections “(1) and “(5)”-

“(1) There is established by the Act-

- a. For the Executive Arm of Government-
  - i) The Parastatals tender board in each procuring entity
  - ii) The ministerial Tenders Board in each ministry
  - iii) The Federal Executive Government

## **Section 24 of Public Procurement Act**

Section 24 of the Act is amended by substituting for subsection (1) and (2), new subsections (1) and (2)-

“(1) Except as provided by this Act-

- (a) all procurements of goods, works and services by all procuring entities shall be conducted by open competitive bidding; and
- (b) any procuring entity that applies any other procurement option prescribed in this Act, the accounting officer of the entity shall submit a request and obtain the approval of the Bureau

2) Any reference to open competitive bidding in this Act means the process by which a procuring entity based on previously defined criteria, effects public procurement by offering to every interested bidder, equal simultaneous information and opportunity to offer the goods, works and services needed.

## **Section 25 of Public Procurement Act**

Section 25 of the Act is amended by substituting for subsection (2), a new subsection (2) –

**(2) Every** invitation to an open competitive bid shall, in the case of goods, works and services-

a) under International Competitive Bidding, the invitation for bid shall be advertised in at least two national newspapers and one relevant internationally recognized publication, any official website of the procuring entity and Bureau as well as the procurement journal of not more than four weeks for contracts within the thresholds of the Parastatals and ministerial Tenders Board s and not more than six weeks for contracts above the threshold of the Ministerial Tenders Board before the deadline for the submission of the bids for the goods, works and services;

b) valued under National Competitive bidding, the invitation the invitation for bid shall be advertised in at least two national newspapers and in the procurement journal of not more than four weeks for contracts within the thresholds of the Parastatals and ministerial Tenders Board s and not more than six weeks for contracts above the threshold of the Ministerial Tenders Board before the deadline for the submission of the bids for the goods, works and services;

### **Section 27 of Public Procurement Act**

Section 27 of the Act is amended by substituting for subsection (1), a new subsection (1) –

“(1) All bids in response to an invitation to open competitive bidding shall be submitted in writing, electronic or any other format stipulated in the tender documents signed (physically or electronically) by an official authorized to bind the bidder to a contract and placed in a sealed envelop.

### **Section 30 of Public Procurement Act**

Section 30 of the Act is amended by-

(a) substituting for paragraph (e) a new paragraph (e)-

“(e) call-over to the hearing of all present, the name and address of each bidder, the total amount of each bid, the bid currency, validity period, completion period and shall ensure that these details are recorded by the Secretary of the Tenders Board or his delegate in the minutes of the bid opening; and

(b) inserting a new subsection “(2)”

“(2) this exercise shall be carried out by the procurement department of the procuring entity in the presence of the legal officer or relevant official of the entity and all those specified in section 19 (b) of this Act

(c) renumbering the section appropriately

### **Section 35 of Public Procurement Act**

Section 35 of the Act is amended by –

(a) substituting for subsection (1), a new subsection (1) –

“(1) In addition to any other regulation as may be prescribed by the Bureau, a mobilization fee of not more than 30% for local contractors only may be paid to a supplier or contractor supported by an unconditional bank guarantee or insurance bond issued by an institution acceptable to the procuring entity until mobilization fee is fully amortized or recovered”.

(b) inserting after subsection (2), a new

subsection “(3)”-

“(3) Where the Bureau has set prior review thresholds in the procurement regulations, no funds shall be disbursed from the treasurer or Federation Account or any bank account of any procuring entity for any procurement falling above the set thresholds unless the cheques, payments or other form of request for payment is accompanied by a “Certificate of No Objection” to award of contract duly issued by the Bureau

### **Section 36 of Public Procurement Act**

Section 36 of the Act is amended by substituting section “36–“

36.- (1) The provision of a performance guarantee or an unconditional insurance bond shall be a precondition for the award of any procurement contract upon which any mobilization fee is to be paid, provided the performance guarantee or unconditional insurance is not less than 10% of the contract value.

### **Section 58 of Public Procurement Act**

Section 58 of the Act is amended by substituting for subsection (2), a new subsection (2) –

“(2) Any offence in contravention of this Act shall be tried by the Federal High Court or a tribunal set up by the Chief Justice of Nigeria”

### **Section 60 of Public Procurement Act**

Section 60 of the Act is amended by substituting for definitions of contract, procuring entity and public procurement, the following new definitions-

“**contract**” means any agreement entered in writing between a procuring entity and a contractor, supplier or consultant;

“**procuring entity**” means any public body or government organ engaged in procurement and includes a Ministry, Extra-Ministerial Department, Government Agency, Parastatal, Corporation Commission, national Assembly

and Judiciary; and  
“Public Procurement” means the acquisition by any means of goods, works or services by the Government”

## **PART XV UNCLAIMED FUNDS TRUST FUND**

### **Section 75 of Finance Act 2020**

75. There shall be provided out of the Consolidated Revenue Fund and the Special Accounts listed in the First Schedule to this Act upon the coming into operation of this Act the sum of N500,000,000,000.00 or other such sums as may be approved by the National Assembly for the establishment of a Fund to be known as the Crisis Intervention Fund.

### **Section 76 of Finance Act 2020**

76. The Crisis Intervention Fund may be utilized for making funds available to meet expenditure as provided in the Annual Appropriation Act to meet any crisis related expenditure or other such exigencies that may arise pursuant to section 12 of the Fiscal Responsibility Act and section 306 of the Constitution of the Federal Republic of Nigeria, 1999.

### **Section 77 of Finance Act 2020**

**77. (1) Subject to section 44** (1) and (2) (h) of the Constitution of the Federal Republic of Nigeria, 1999, there is established, by way of a trust as a sub-fund of the Crisis Intervention Fund, an Unclaimed Funds Trust Fund—

(2) From the commencement of this Act, any unclaimed dividend of a public limited liability company quoted on the Nigerian Stock Exchange and any unutilized amounts in a dormant bank account maintained in or by a deposit money bank which has remained unclaimed or unutilized for a period of not less than six years from the date of declaring the dividend or domiciling the funds in a bank account shall be transferred immediately to the Unclaimed Funds Trust Fund—

Provided that this section shall not apply to official bank accounts owned or belonging to the Federal Government, State Government or Local Government or any of their Ministries,

Departments or Agencies.

(3) The Debt Management Office established by the Debt Management Office (Establishment, etc.) Act 2003 or subsequent statutes which replace this Act shall supervise the operations of the fund.

(4) The unclaimed dividend and unutilized amounts in a dormant bank account shall be transferred either by the public limited company, Registrar or deposit money bank.

(5) The Unclaimed Funds Trust Fund shall be governed by a Governing Council chaired by the Minister responsible for Finance and a Co-Chairperson from the private sector, as may be appointed by the President on the recommendation of the Minister responsible for Finance subject to confirmation by the Senate, provided that the private sector Co-Chairperson shall be a qualified person of irreproachable integrity such as to render the person a fit and proper person to serve in this capacity.

(6) Other member of the Governing Council shall include—

- (a) Governor of the Central Bank of Nigeria;
- (b) the Director-General of Securities and Exchange Commission;
- (c) the Managing Director of National Deposit Insurance Corporation;
- (d) a representative of the Registrars of Companies;
- (e) two representatives of the shareholders' association;
- (f) a representative of the Bankers' Committee; and
- (g) the Director-General of the Debt Management Office as the Secretary to the Trust Fund.

(7) The Secretariat of the Trust Fund shall be in the Debt Management Office and the Debt Management Office shall operate the Trust Fund with the Central Bank of Nigeria and Securities and Exchange Commission.

(8) All public limited liability companies quoted on the Nigerian Stock Exchange and deposit money banks shall render annual return of unclaimed dividend and unutilized amounts in a dormant bank account in a format prescribed by

the Debt Management Office of the Federation.

(9) The Debt Management Office shall prepare and submit the financial statement of the Unclaimed Dividends Trust Fund to the Office of the Auditor – General for the Federation for audit.

(10) Failure by any company or deposit money bank to transfer the unclaimed dividends or unutilized amounts in a dormant bank account to the Unclaimed Funds Trust Fund constitutes an offence under this Act and the company or deposit money bank is liable upon conviction, to a fine of not less than five times the value of the unclaimed dividends and unutilized funds in a dormant bank account plus accumulated interest on the amount not transferred at the Central Bank of Nigeria's Monetary Policy Rate –

Provided that this section shall not apply to official bank accounts owned or belonging to the Federal Government, State Government or Local Government, or any of their Ministries, Departments or Agencies.

(II) Such unclaimed dividends and unutilized amounts in a dormant bank account transferred to the Unclaimed Funds Trust Fund shall be a special debt owed by the Federal Government to the shareholders and dormant bank account holders respectively and shall be available for claim, together with the yield thereon, by the shareholder and the bank account holder at any time, pursuant to the aforementioned perpetual trust.

## **Section 78 of Finance Act 2020**

78. The Debt Management Office shall—

(a) maintain a reliable database of all unclaimed dividends and dormant bank balances constituting the debt owed by the Trust Fund which shall be verified and reconciled with the Securities and Exchange Commission, and the Central Bank of Nigeria on a bi-annual basis;

(b) liaise with the relevant Registrars of Companies, deposit money banks or the National Deposit Insurance Corporation, as the case may be, to make adequate arrangement for



the repayment of the verified interest and capital obligations due to the relevant shareholders, depositors or their legal beneficiaries, as the case may be ;

(c) prepare and submit the financial statement of the Trust Fund to the Office of the Auditor-General for the Federation for audit;

(d) prepare and implement a plan for the efficient management of the obligations of the Trust Fund, which plan shall include setting guidelines, modalities and other arrangements, which may include an annual sinking fund, for the servicing of the interest and capital obligations of the Trust Fund ;

(e) set guidelines for managing Federal Government financial risks and currency exposure with respect to all loans ;

(f) collect, collate, disseminate information, data and forecasts on debt management related to the Trust Fund with the approval of the Governing Council; and

(g) carry out such other functions, which may be mandated by an Act of the National Assembly.

upon conviction, to a fine of not less than thrice the value of the unclaimed dividends and unutilized funds in a dormant bank account plus accumulated interest on the amount not transferred as the Central Bank of Nigeria's Monetary Policy Rate; and

(e) perform such other functions as may, from time to time, be necessary to achieve the objectives of the Trust Fund.”

## **Section 79 of Finance Act 2020**

79. The Governing Council shall—

(a) approve policies, strategies and procedures to be adopted by the Governing Council for the achievement of its objectives;

(b) review, from time to time, the economic and political impact of the management strategies and public engagement strategies relating to the transparency and accountability of the Trust Fund ;

(c) appoint, as and when necessary, technical committees comprised of persons with requisite technical competence from the private or public sector to advise the Governing Council on such matters as may be determined from time to time;

(d) receive bi-annual reports from the Debt Management office of failure by any company or deposit money to transfer the unclaimed dividends or unutilized amounts in a dormant bank account to the Trust Fund, which failure shall constitute an offence under this Act and the company or deposit money bank shall be liable

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**APPENDIX 1: TAX POLICY CONSIDERATIONS FOR FINANCE BILL, 2021  
APPENDIX TO THE CITN TAX SERIES ON IMPLICATIONS OF FINANCE ACT, (FA) 2020 AMENDMENTS**

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
<b>PART I - CAPITAL GAINS TAX ACT (CGTA) AMENDMENTS</b>					
<b>Section 2</b>	<b>Section 2 of Capital Gains Tax Act - Computation of capital gains tax</b>	Section 2 of CGTA is amended by inserting a new sub-section (4) thus:  “(4) Subject to the provisions of section 31 of this Act, every person having disposed a chargeable asset shall, not later than 30 June and 31 December of that year, compute the capital gains tax, file self-assessment return, and pay the tax computed in respect of the chargeable assets disposed in the periods.”	<p>The amendment imposes obligation on taxpayers to file CGT returns of disposal of chargeable assets twice in a year by 30 June and 31 December of the same year, whether or not rollover relief applies to such assets.</p> <p>This amendment will impact on the existing provisions of CGTA section 43 and the schedule to the Act providing 3 months and 6 months filing due date of CGT returns based on the provisions of Personal Income Tax Act (PITA) and Companies Income tax Act (CITA), respectively.</p> <p>Though this conflict in due dates may be confusing, taxpayers and Tax Practitioners need to adjust their tax compliance calendar to reflect the amendment pending when any conflicting provisions will be addressed in subsequent Finance Bills.</p>	<ul style="list-style-type: none"> <li>• Tax Practitioners</li> <li>• Individuals</li> <li>• Corporate Taxpayers</li> <li>• FIRS</li> <li>• State IRS</li> </ul>	Amendment of conflicting provisions of section 2 and section 43 and schedule of CGTA (i.e. 30 June and 31 December due date versus 3 months in PITA and 6 months in CITA)
<b>Section 3</b>	<b>Section 24 of Capital Gains Tax Act - Location of Assets</b>	Section 24(1) of CGTA is amended by: inserting after the word, “aircraft” in line 1, the words, “used in international traffic”.	<p>The amendment implies that CGT is payable on disposal of aircraft used for international flights and owned by a Nigerian resident. Such aircraft are deemed situated in</p>	<ul style="list-style-type: none"> <li>• FIRS</li> <li>• Shipping and Airlines Operators</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
			<p>Nigeria for CGT purposes.</p> <p>It also suggests that ship or aircraft used solely for local flights is deemed situated in Nigeria, irrespective of whether or not the chargeable asset is owned by a Nigerian resident.</p>		
<b>Section 4</b>	<b>Section 36 of Capital Gains Tax Act – Personal Injury</b>	<p>Section 36(2) of CGTA is amended by:</p> <p>(a) substituting a new subsection (2) as follows:</p> <p>“(2) Sums obtained by way of compensation for loss of office, up to a maximum of Ten Million Naira (N10,000,000.00) shall not be chargeable gains and subject to tax under this Act. Provided however that any sum in excess of N10,000,000.00 shall not be so exempt but the excess amount shall be chargeable gains and subject to tax accordingly”.</p> <p>(b) inserting a new subsection 3 as follows:</p> <p>“(3) For the purpose of subsection (2), any person who pays compensation for loss of office to an individual is required, at the point of payment of such compensation, to deduct and remit the tax due under this section to the relevant tax authority”.</p>	<p>The FA 2019 amendment to Section 36(2) of the CGTA increased the base for CGT on compensation for loss of office from N10,000 to N10 million.</p> <p>To clear any ambiguity on the basis for determining the amount chargeable to CGT, the FA 2020 clarifies the intention of lawmakers and specifies the application of CGT on only the excess over N10 million limit.</p> <p>Considering the challenges with the administration of CGT on the compensation for loss of office, the Act now specifies that collection of the tax will be by way of deduction by the employer and application of the provisions of PITA in relation to remittance of PAYE due on the compensation payment as specified in the Pay As You Earn (PAYE) Regulations</p> <p>Organisations now have the right to</p>	<ul style="list-style-type: none"> <li>• Employers</li> <li>• Employees</li> <li>• FIRS</li> <li>• State IRS</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		(c) inserting a new sub-section 4 as follows: “(4) The tax so deducted shall be remitted within the time specified under the Pay-As-You-Earn regulations issued pursuant to the Personal Income Tax Act”.	deduct CGT when they make redundancy payments to employees.		
Section 5	Amendment of Schedule	The schedule to the Act is amended by: deleting Part IX (returns) and Part X (assessments).	This amendment aligns with the inclusion of provisions for filing of returns in the amended section 2 and requirements for self-assessment in the amended section 4 of CGT Act.  The implication of this is that returns and assessments related to capital gains tax are to be treated in line with the provisions of the CGT Act and not in reference to other Principal Acts, which in this case is the CIT Act.	Corporate taxpayers	
<b>PART II - COMPANIES INCOME TAX ACT (CITA) AMENDMENTS</b>					
Section 6	Section 11 of Companies' Income Tax Act- Charge of tax on interest relating to foreign agricultural loans and certain reliefs	Section 11 of CITA is amended as follows: (a) by substituting in subsection (2) -- (i) a new paragraph “(a)”: “(a) primary agricultural production, or”, and (ii) a new concluding paragraph- “Shall be exempted from tax.	The definition of primary agricultural production is very distinctive and does not include processing or manufacturing outputs from primary agricultural production.  The definition extends to the value chain of primary agricultural production in the raw state. Thus, excluding intermediate and final processing of agricultural products.	<ul style="list-style-type: none"> <li>FIRS</li> <li>Companies engaged in Agriculture</li> <li>Banks that grant agriculture loans</li> <li>Bank of Agriculture</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>provided the moratorium is not less than 12 months and the rate of interest on the loan is not more than the base lending rate at the time the loan was granted, refinanced or otherwise restructured."</p> <p>(b) by substituting a new subsection "(4)";</p> <p>"(4) In this section – "primary agricultural production" means –</p> <p>(a) primary crop production comprising the production of raw crops of all kinds, but excluding any intermediate or final processing of crops or any other associated manufactured or derivative crop products;</p> <p>(b) primary livestock production comprising the production of live animals and their direct produce such as live or raw meat, live or raw poultry, fresh eggs and milk of all kinds, but excluding any other associated manufactured or derivative livestock products;</p> <p>(c) Primary forestry Production comprising the production of timbers of various kinds such as firewood, charcoal, uncultivated materials gathered and other forestry products of all kinds, including seeds and saplings, but</p>	<p>Also there is reduction in the moratorium from 18 months to 12 months as one of the conditions for granting exemption of the interest on loan granted for primary agricultural production from tax.</p> <p>Applicable interest has been extended to include the bank's base lending rate at the time the loan is refinanced or restructured.</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>excluding the intermediate and final processing of timber and any other manufactured or derivative timber products; and</p> <p>(d) primary fishing production comprising the production of fish of all kinds, including ornamental fish, but excluding any intermediate or final processing of any other manufactured or derivative fish product."</p>			
Section 7	Section 13 of Companies Income Tax Act – Nigerian Companies	<p>Section 13 of the CITA is hereby amended by replacing the proviso in line 4 of paragraph (e) with a new proviso -</p> <p>"Provided that the withholding tax applicable to the income under this paragraph shall be the final tax on the income of a non – resident recipient who does not otherwise fall within the scope of subsection (2) (a) – (d)."</p>	<p>By virtue of this amendment, Non-resident companies carrying on business in Nigeria, or having a fixed base of business in Nigeria, or having a dependent agent in Nigeria or having significant economic presence in Nigeria, are expressly required to prepare full audited financial statements of their Nigerian operations, which must be certified by a Nigerian independent auditors which is to be submitted along with their income tax returns to the Federal Inland revenue Service.</p>	<ul style="list-style-type: none"> <li>Non-resident companies</li> <li>Nigerian companies with foreign related companies</li> <li>Nigerian Agents of Non-resident Companies</li> <li>FIRS</li> </ul>	
Section 8	Section 14 of Companies Income Tax Act – Companies engaged in shipping or air	<p>Section 14 of CITA is amended by inserting a new subsection (5) as follows:</p> <p>"(5) The provisions of this section shall not apply to income from leasing, containers, non-freight operations or any other incidental income liable</p>	<p>With this amendment, the specialized taxation of international shipping/airtransport companies, under Section 14 of CITA, would apply only to shipping, Transport and freight income of</p>	<ul style="list-style-type: none"> <li>Foreign Airline Operators</li> <li>Domestic Airline Operators engaged</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
	transport	to tax under section 9 of this Act."	such companies. Other income such as non-freight income, leasing, and other incidental income will be subject to the normal basis of taxation of other non-specialised companies in section 9 of CITA.  The implication of this amendment is that demurrage income, which is incidental to primary shipping income of international shipping companies for their Nigerian operations, may now be chargeable to tax in Nigeria. Thus, it is expected that deduction of demurrage expenses from the taxable demurrage income should be allowable.	<ul style="list-style-type: none"> <li>in International travels</li> <li>Foreign and Domestic Shipping Companies</li> <li>FIRS</li> </ul>	
Section 9	Section 16 of CITA -Minimum Tax for Insurance Companies	<p>Section 16(12) on minimum tax for insurance companies has been amended by substituting a new subsection (12) as follows:</p> <p>"(12) For the purpose of this section, the tax payable by any insurance company for any year of assessment shall not be less than –</p> <p>(a) 0.5% of the gross premium for non-life insurance business,</p> <p>(b) 0.5% of the gross income of the life insurance business</p> <p>Provided, that the applicable minimum tax under this section shall</p>	<p>The 2017 amendment to section 16 of CITA increased the incidence of minimum tax payable by the companies and this was a source of concern for the industry. The FA 2019 amendments addressed this concern by reducing the basis of minimum tax to 0.5% of each of gross income and gross premium for life and non-life insurance, respectively.</p> <p>Since the amendment of minimum tax rate is for all companies, this creates a leveled playing field for all companies, irrespective of the</p>	<ul style="list-style-type: none"> <li>Insurance Companies</li> <li>Re-insurance Companies</li> <li>FIRS</li> </ul>	

FA 2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>be reduced to 0.25% for tax returns prepared and filed for any year of assessment falling due on any date between 1st January 2020 and 31st December 2021, both days inclusive".</p> <p>Inserting a new subsection (13) as follows:                      (13) For the purpose of subsection (12) – "gross premium" means the total premium written, received and receivable excluding unearned premium and premiums reinsured to the insured.</p> <p>"gross income" means total income earned by all life insurance business including all investment income (excluding franked investment income), fees, commission and income from other assets but excluding premiums received and claims paid by re-insurers."</p>	<p>nature of their businesses.</p> <p>The FA 2020 has further reduced the minimum tax rate by 50% from 0.5% to 0.25% for a period of two years. This reduction is Government's initiatives to support companies targeted at alleviating the impact of COVID-19 pandemic on their businesses.</p> <p>Also, the definition of gross premium and gross income is now included in FA 2020 to clearly stating the basis of determining the minimum tax payable by non-life and life insurance companies, respectively. The definition of gross income also places life insurance companies on the same level as other companies with franked investment income, which are exempted from the basis for determination of their income liable to tax.</p>		
Section 10	Section 23 of Companies Income Tax Act – Profits Exempted	<p>Section 23 of the CITA is amended by –</p> <p>(a) substituting in subsection 1B, a new paragraph (c) as follows:                      "a real estate investment company from tax on dividend and rental income if it does not meet the conditions stipulated in subsection 1</p>	<p>This amendment implies that the dividend and rental income of a real estate investment company will only be exempted from tax if it meets the criteria for such exemption as provided in Finance Act 2019</p>	<ul style="list-style-type: none"> <li>Real Estate Investment Companies (REICOs)</li> <li>REICO Investors</li> <li>FIRS</li> </ul>	



FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		(s)" (b) by repealing section 23 (1)(C)			
Section 11	Section 25 of Companies Income Tax Act – Deductibility of Donations for Tax Purposes	<p>Section 25 of CITA is amended by inserting new subsections (8) and (9) as follows:</p> <p>"(8) Donations made by companies in cash or kind to any fund set up by the Federal Government or any State Government, or to any agency designated by the Federal Government or to any similar Fund or purpose in consultation with any Ministry, Department or Agency of the Federal Government, in respect of any pandemic, natural disaster or other exigency shall be allowed as deductions as follows:</p> <p>(i) the cost of in-kind donation made to the Government and any designated agency shall be allowed as deductions;</p> <p>(ii) where companies have either procured or manufactured items for contribution, the cost of purchase or manufacture of such in-kind contributions shall be allowed as deductions –"</p> <p>Provided that requisite documentation evidencing the donation and the cost thereof are</p>	<p>New donations related to crisis support made to the Federal or State Governments or MDAs of Federal Government or funds set up for that purpose are now allowable as deduction for income tax purposes but subject to a limit 10% of the donor's assessable profits after deduction of other donations will be allowed for deduction.</p> <p>These donations will still be subject to the four way test of deductibility – wholly, reasonably, exclusively and necessarily incurred costs for the purpose of purchase or manufacture or supply of the donated materials for the purpose of the crisis</p> <p>Crisis covered by this deductible donation have been identified to include pandemic, natural disaster or other exigency.</p>	<ul style="list-style-type: none"> <li>Corporate taxpayers that donated for Covid-19 support to Government and MDAs FIRS</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>provided to the relevant tax authority and demonstrated to be wholly, reasonably, exclusively and necessarily incurred in relation to the procurement, manufacture or supply of the in-kind contributions."</p> <p>(9) Notwithstanding the provisions of subsections (2) and (3), amounts allowable for deduction, in respect of subsection (8), in any year of assessment shall be limited to 10% of assessable profits after deduction of other allowable donations made by the company."</p>			
Section 12	Section 27 of Companies Income Tax Act – Penalty imposed by legislation	<p>This Act is amended by substituting a new paragraph "(k)" as follows:</p> <p>"(k) Penalty or fine imposed pursuant to a legislation enacted by the National Assembly or state House of Assembly."</p>	<p>The amendment clarifies to all companies that any penalties paid for defaults or breach of any provisions of any Act of Government at both National State levels shall not be deductible for income tax purposes. With this taxpayers are clear about the treatment of any penalties included in their expense for any assessment year.</p>	<ul style="list-style-type: none"> <li>All corporate taxpayers</li> <li>FIRS</li> </ul>	
Section 13	Section 33 of Companies Income Tax Act – Minimum tax	<p>Section 33 of CITA is amended by substituting a new paragraph(k) as follows:</p> <p>(k) For the purpose the purpose of subsection (1), the minimum tax to be levied and paid shall be 0.5% of gross</p>	<p>To cushion the impact of Covid-19 pandemic on businesses, the government introduced a temporary reduction in minimum tax rate for 2020 and 2021 fiscal years (i.e. 1 January to 31 December of each year). This is to</p>	<ul style="list-style-type: none"> <li>Corporate taxpayers that suffered losses during the Covid-19</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>turnover of the company less franked investment income-</p> <p>Provided, that the applicable minimum tax is reduced to 0.25% for tax returns prepared and filed for any year of assessment falling due on any date between 1 January 2020 and 31 December, 2021, both days inclusive</p>	<p>serve as a palliative pending when the pandemic is over.</p> <p>Considering that the relief ends by 31 December 2021 and the Covid-19 vaccines are already being deployed across Nigeria, it is unlikely that the palliative may be extended beyond the 31 December 2021 timeline.</p>	<p>outbreak</p> <ul style="list-style-type: none"> <li>FIRS</li> </ul>	
Section 14	Section 39 of CITA- Trade or business of gas utilization	<p>Section 39 of CITA is amended as follows:</p> <p>(a) by substituting for the first sentence of subsection (1), starting with the words "a company" and ending with the words "that is" a new first sentence of subsection "(1)" as follows -</p> <p>"(1) Where a company is engaged in a trade or business of gas utilization in downstream operations, the company shall, in respect of that trade or business, be granted the following incentives, that is -"; and</p> <p>(b) by substituting subsection (2) for a new subsection (2) as follows:</p> <p>"The tax-free period of a trade or business shall start on the day the trade or business commences production as certified by the Ministry of Petroleum Resources"</p>	<p>This amendment is specific to any company engaged in the business of gas utilization, which shall be entitled to claim the incentives under CITA but cannot enjoy similar incentives under petroleum Profit Tax Act or IDITRA.</p> <p>The FA 2019 amendment to gas utilization incentive places some restrictions on claim of the incentive, which FA 2020 has now amended.</p> <p>Application for pioneer incentives will require demonstration of the economic benefit of the project to Nigeria, which has to be to the satisfaction of the Nigerian Investment Promotion Commission (NIPC).</p>	<ul style="list-style-type: none"> <li>Companies engaged in the utilization of upstream and/or processed gas (excluding companies granted pioneer status incentives)</li> <li>Gas processing company</li> <li>Companies whose plants are powered using gas,</li> <li>Companies that</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>(c) by substituting for subsection (3), a new subsection (3) as follows -</p> <p>“(3) This Section shall not apply with respect to any company that has claimed an incentive for trade or business of gas utilization under any law in Nigeria including the Petroleum Profits Tax Act or the incentive under the Industrial Development (Income Tax Relief) Act in respect of the same qualifying capital expenditure.”</p>		<p>usepower generating gas turbines, etc.</p> <ul style="list-style-type: none"> <li>FIRS</li> </ul>	
Section 15	Section 53 of Companies Income Tax Act – Self-Assessment Tax Payable	<p>Section 53 of CITA is amended by substituting for the existing Section 53, a new Section “(53)” as follows –</p> <p>“53. Self-assessment of tax payable</p> <p>(1) Every company filing a return under sections 52, 55 or 58 of this Act shall –</p> <p>(a) in the return, compute the tax payable by the company for the year of assessment; and</p> <p>(b) forward with the tax return, evidence of payment of the tax due.</p> <p>(2) Where, by a deliberate and dishonest act, the returns filed fail to declare the true and correct amount of profits or tax payable by the company, the company shall be immediately liable to pay any</p>	<p>The amendment to section 53 of CITA makes it mandatory for companies exempted from incorporation but has tax obligations and companies exempted from tax (including free zone or export processing zone companies) to maintain accounting records and prepare certified accounts in English language. Translation of foreign language records to English language is at the cost of the concerned taxpayers.</p> <p>Non-compliance with the above attracts apenalty of N100,000 in the first month in which thefailure occurs, and N50,000 for each subsequentmonth in which the failure continues.</p>	<ul style="list-style-type: none"> <li>All corporate taxpayers</li> <li>Companies exempted from incorporation</li> <li>Corporate Non-for-profit Organisations</li> <li>Companies registered and operating in Export Processing Zones, Oil &amp; Gas Free</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>outstanding tax so identified and assessed.</p> <p>The outstanding tax shall be subject to penalty and interest, in accordance with the provisions of this Act or any other relevant law, and the penalty and interest shall accrue from the date the incorrect return was filed"</p>	<p>The provisions on objection will apply to any disagreement with the FIRS directive on this compliance obligation.</p>	<p>Zones, FIRS, NEPZ Authority</p>	
Section 16	Section 55 of Companies Income Tax Act – Returns and Provisional accounts	<p>Section 55 of CITA is amended as follows:</p> <p>(b) by inserting a new subsection (2) as follows -</p> <p>"(2) Where any company other than a Nigerian company derives profit from or is taxable in Nigeria under the provisions of Section 13(2) of this Act, such company shall be required to submit a return for the relevant year of assessment containing the following -</p> <p>(a) the company's full audited financial statements and the financial statement of the Nigerian Operations, attested by an independent qualified or certified accountant in Nigeria;</p> <p>(b) tax computation schedules based on the profits attributable to its Nigerian operations; and</p>	<p>Amendment to section 55 requires non-resident companies to comply with the self-assessment requirement of filing tax returns with the FIRS in relation to the profits derived from their Nigerian operations in any year of assessment.</p> <p>Such returns shall include, but not limited to; full audited accounts, certified by qualified Nigerian accountant, tax computations for Nigerian operations, self-assessment forms, etc.</p> <p>NRCs without taxable presence in Nigeria but only earns income on which WHT is the final tax are excluded from filing the self-assessment returns.</p> <p>Small and medium companies may have different specification for their</p>	<ul style="list-style-type: none"> <li>Non-resident Companies</li> <li>Small and Medium Companies</li> <li>FIRS</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>(c) a true and correct statement, in writing, containing the amount of profits from each and every source in Nigeria.</p> <p>(d) duly completed Companies Income Tax Self-Assessment forms</p> <p>Provided that in a year of assessment where a company other than a Nigerian company only earns income on which withholding Tax is the final tax under this Act, the obligation to file a tax return in the manner prescribed shall not apply to such company in that year of assessment.</p> <p>(c) by inserting a new subsection "(7)" after the existing subsection (6) as follows -</p> <p>"(7) Notwithstanding anything contained in this Section, the Service may by notice specify the form of the accounts to be included in a tax return, instead of audited accounts specified in subsection (1)(a), in respect of small and medium companies as defined under this Act."</p> <p>(d) renumbering the section appropriately.</p>	tax returns, which may not include audited accounts.		
Section 17	Section 63 of CITA –Books of	Section 63 is amended by substituting a	The amendment of this section makes it mandatory for every		



FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
	account	<p>new section 63 as follows:</p> <p>(1) Every Company, including a company granted exemption from incorporation, shall, whether or not the company is liable to pay tax under this Act, maintains books or records of accounts, containing sufficient information or data of all transactions</p> <p>(2) The books and records required to be maintained under subsection (1) shall be in the English Language and shall, for the purpose of tax account, be consistent with the format that may be prescribed by the service.</p> <p>(3) Where a record of a company is maintained in a language other than the English Language, the company shall, on demand by the service, produce, at its own expense, a translation in English language, which shall be certified by a sworn translator</p> <p>(4) A company that on request by the Service, fails to provide any record or book prescribed under subsections (1)-(3) shall be liable to pay as penalty-</p> <p>a) N100,000 in the first month in</p>	<p>company, whether exempted from incorporated or not, to maintain accounting records with sufficient information on all transactions of the company in a format to be prescribed by the FRS and in English language. Translation from foreign language to English language will be at the expense of the taxpayer.</p> <p>Failure to comply with this filing obligation will attract penalty</p> <p>a) N100,000 in the first month in which the failure occurs; and</p> <p>b) N50,000 for each subsequent month in which the failure continues</p> <ul style="list-style-type: none"> <li>• The provisions of the tax laws in relation to objection and appeal are also applicable to such taxpayers.</li> <li>• Records must be kept for a minimum of 6 years after the year of assessment the income relates to.</li> </ul>		

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		<p>which the failure occurs; and</p> <p>b) N50,000 for each subsequent month in which the failure continues</p> <p>(5) Where, in the opinion of the service, a company fails or refuses to maintain books or records of accounts that are consistent with the provisions of subsections (1), (2) and (3) or adequate for the purposes of tax, the service may, by notice in writing, require it to maintain such records, books and accounts as the Service considers adequate, in such form and language as may be specified in the notice.</p> <p>(6) Any direction of the service made under subsection(5) shall be subject to objection and appeal in like manner as an assessment.</p> <p>(7) Any book or record required to be kept under this section shall be kept for a period of at least six years after the year of assessment in which the income relates</p>			
Section 18	Section 68 of CITA - Service of notice of	Section 68 of CITA is amended by inserting in line 1 after the words "registered post", the word,	Adjusting to the reality of the "new normal", the FA 2020 amendment gave legal backing to electronic tax administration and use of	<ul style="list-style-type: none"> <li>All corporate taxpayers</li> <li>FIRS</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		"courier service, email or any other electronic means, as directed by the Board in any Regulation issued pursuant to this Section"	courier services for communication between the FIRS and taxpayers. This includes the service of notices and objections.		
Section 19	Section 69 of CITA - Revision of assessment in case of objection	Section 69 of CITA is amended in subsection (1) by inserting after the words "in writing" and before the word "to" in line 2, the following words, "delivered in person, by courier service, email or any other electronic means, as directed by the Board in any Regulation issued pursuant to this Section"	Objection notices can now be served using electronic means and use of courier services in view of the global changes to modes of communication resulting from the pandemic.	<ul style="list-style-type: none"> <li>All corporate taxpayers</li> <li>FIRS</li> </ul>	
Section 20	Section 77(2) of CITA - Time within which tax is to be paid	Section 77 of CITA is amended - (a) in subsection 2 by substituting for the words "two months" in line 3, the expression "30 days" wherever they appear in the subsection (b) by deleting subsections (6) and (7); and (c) by renumbering the subsections appropriately.	<p>By virtue of this FA 2020 amendment, the statutory timeline for payment of provisional tax or undisputed tax liabilities has been reduced by effectively one month from two months to 30 days.</p> <p>This also implies that if notice of objection to an assessment issued by the FIRS is not submitted within the allowed timeline of 30 days, the amount in question becomes payable.</p> <p>The amendment also reinstated the payment of provisional tax by a self-assessment filer by deleting subsection 6 and 7. The implication of this is that all companies that file self-assessment must ensure that</p>	<ul style="list-style-type: none"> <li>All corporate taxpayers</li> <li>FIRS</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
			the payment is made not later than the due date for filing the self-assessment returns.		
<b>Section 21</b>	<b>Section 105: Interpretation (New Definition of Gross Income)</b>	<p>Section 105 is amended by:</p> <p>(a) substituting for the definition of "gross turnover" and "Nigerian company", new definitions as follows:</p> <p>"gross turnover" means the gross inflow of economic benefits during the period arising in the course of the operating activities of an entity when those inflows result in increases in equity, other than increases relating to contributions from equity participants, including sales of goods, supply of services, receipt of interest, rents royalties or dividends; and</p> <p>"Nigerian company" means any company formed or incorporated under any law in Nigeria"</p> <p>(b) inserting the definition of "public character"</p> <p>"Public character" with respect to organization or institution means "organization or institution – (a) that is registered in accordance with the relevant law in Nigeria; and (b) does not distribute or share its profits in any manner to members or</p>	<p>Amendment to this section introduced new definitions of gross turnover, Nigerian company and public character to provide clarity on the terms for guidance in the interpretation and application of the terms for tax purposes.</p> <p>Gross turnover has been defined from the perspective of inflow of economic benefits and extended to include the receipt of passive income such as royalties or dividends.</p> <p>Nigerian company has also be clearly defined specifically in relation to incorporation in Nigeria.</p> <p>Public character is defined based on registration in Nigeria and non-distribution of the organization or institution's profits in any way to its promoters or members. This requirement has to be met for donations to such organisations or institutions to the deductible for the donor's tax purposes.</p>	<ul style="list-style-type: none"> <li>• All corporate taxpayers</li> <li>• Not-for-profit Organisations/Institutions</li> <li>• FIRS</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
Section 22	Part II Second Schedule to Companies Income Tax Act	<p>Part II, paragraph 1 to the Second Schedule is amended by substituting a new subparagraph 1(i) –</p> <p>(i) capital expenditure that is incurred on the development or acquisition of software or other such capital outlays on electronic applications”.</p>	<p>The amendment is for inclusion of a new category of Qualifying Capital Expenditure (QCE) in relation to software development or acquisition includes electronic applications as qualifying for capital allowance claims.</p>	<ul style="list-style-type: none"> <li>All companies with qualifying software expenditure</li> <li>Companies with qualifying investments in electronic applications</li> <li>FIRS</li> </ul>	<p>Amendment of the relevant sections of PITA to align with the capital allowance claim on software development and electronic applications for enterprises, partnership and sole proprietors</p>
<b>PART III - INDUSTRIAL DEVELOPMENT (INCOME TAX) RELIEF ACT (IDITRA) AMENDMENTS</b>					
Section 23	Section 1(7): Industrial Development (Income Tax Relief) Act – Tax holiday for engaged company in primary agricultural production	<p>Section 1 of the Industrial Development (Income Tax Relief) Act is amended by inserting, after subsection (7) a new subsection“(7)” as follows:</p> <p>Any small or medium sized company engaged in primary agricultural production shall be granted, pursuant to an application to the president, through the minister, an initial tax-free period of four years which may be exempted subject to the satisfactory performance of such primary agricultural production, for an additional maximum period of two</p>	<p>The amendment to this section 1(7) of IDITRA is in alignment to the amendments to section 11(2) of CITA in relation to the exemption of interest on loans granted by banks for primary agricultural production from tax subject to specified conditions.</p> <p>The objective of this amendment is to encourage investment in the agricultural sector by granting tax holiday for maximum period of 6 years.</p>	<ul style="list-style-type: none"> <li>Small and medium companies engaged in Agricultural production</li> <li>Nigerian Investment Promotion Commission (NIPC)</li> <li>FIRS</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		years, and such company cannot be granted similar tax holiday incentive under any other Act in force in Nigeria ‘	<p>The definition of primary agricultural production however excludes intermediate or final processing of the primary agricultural products as well as manufacturing or derivative of the products.</p> <p>Typically, small and medium companies engage more in primary agricultural productions. The tax relief period would assist such companies to stabilise within the gestation period of the agricultural production cycle.</p>		
Section 24	Section 25 of Industrial Development (Income Tax Relief) Act- Definitions of medium sized & small sized companies	<p>Section 25 of the Act is amended by inserting, in alphabetical order, the following definitions:</p> <p>“Medium sized company: means a company that earns gross turnover greater than N25,000,000 but less than N100,000,000 per annum, or as otherwise defined by Companies Income Tax Act.</p> <p>Primary Agricultural production means-</p> <p>(a) Primary Crop Production comprising the production of raw crops of all kinds, but excluding any intermediate or final processing of crops or any other associated manufactured or</p>	<p>This amendment provides for the definition of medium sized company, primary agricultural production and small sized company as an inclusion in IDITRA to align with the Finance Act 2019 amendments to CITA, which classified companies by annual turnover amount and also differentiated the applicable income tax rates based on this turnover threshold.</p> <p>With the definitions provided, the qualifying company and agricultural production for pioneer incentive specified in section 1(7) of IDITRA can be easily identified.</p>	<ul style="list-style-type: none"> <li>Small and medium companies engaged in Agricultural production</li> <li>NIPC</li> <li>FIRS</li> </ul>	<p>There is need for alignment of the basis for determination of small and medium companies in CAMA 2020 and CITA/IDITRA based on FA 2019/FA 2020 amendments to the tax laws.</p>



FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>derivative crop products;</p> <p>(b) Primary Livestock Production comprising the production of live animals and their direct produce such as live or raw meat, live or raw poultry, fresh eggs and milk of all kinds, but excluding any other associated manufactured or derivative livestock products;</p> <p>(c) Primary Forestry Production comprising the production of timbers of various kinds such as firewood, charcoal, uncultivated materials gathered and other forestry products of all kinds, including seeds and saplings, but excluding the intermediate and final processing of timber and any other manufactured or derivative timber products; and</p> <p>(d) Primary Fishing Production comprising the production of fish of all kinds, including ornamental fish, but excluding any intermediate or final processing of any other manufactured or derivative fish products.</p> <p>"Small sized company" means a company that earns gross turnover of N25,000,000 or less per annum, or as otherwise defined by the Companies Income Tax Act."</p>			

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
<b>PART IV - PERSONAL INCOME TAX ACT (PITA) AMENDMENTS</b>					
25	<b>Section 6A of Personal Income Tax Act – Profits of a trade or Business of furnishing of services carried out outside Nigeria</b>	<p>Section 6 of the Personal Income Tax Act (PITA) is amended by inserting a new Section 6A, after the existing Section 6 as follows-</p> <p>"6A. (1) Notwithstanding the provisions of section 6 of this Act, where an individual, executor, or trustee outside Nigeria carries on a trade or business that comprises the furnishing of technical, management, consultancy or professional services to a person resident in Nigeria, the gains or profits of the trade or business shall be deemed to be derived from and taxable in Nigeria to the extent that the individual, executor or trustee has significant economic presence in Nigeria.</p> <p>Provided that the withholding tax applicable to income pursuant to this Act shall be the final tax on the income of a non-resident recipient who does not otherwise fall within the scope of Section 6 of this Act.</p> <p>(2) For the purpose of this Section, the Minister may by Order determine what constitutes the significant economic presence of a non-resident individual, executor or trustee.</p>	<p>This amendment introduced a new section 6A to PITA on Significant Economic Presence rules to certain categories of non-resident individuals, executors and trustees. This is to align with similar provisions on SEP for companies, which was introduced in the Finance Act 2019 amendments to CITA.</p> <p>For such categories of non-resident individuals that has SEP, their income from technical, management and consultancy services provided to a person resident in Nigeria shall be liable to tax in Nigeria and required to file tax returns in Nigeria apart from the deduction of 10% withholding tax at source.</p> <p>The guideline on the definition of SEP in line with the new section 6A is to be issued by the Minister of Finance.</p>	<ul style="list-style-type: none"> <li>Non-resident individuals, executors and trustees</li> <li>Nigerian beneficiaries of the technical, management and consultancy services</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
26	<b>Section 20(1)(g) of PITA – Deductions allowed for Contribution to Pension</b>	Section 20 of PITA is amended by substituting for paragraph (g) in subsection (1), a new paragraph "(g)" as follows – “(g) a contribution to a pension, provident or other retirement benefits fund, society or scheme recognized under the Pension Reform Act”	The amendment to section 20(1) (g) of PITA clarifies that only pension contributions that are recognized in Nigeria under the Pensions Reform Act (PRA) 2014 qualify as tax deductible for individuals.  This implies that any pension contribution by a person resident in Nigeria to a foreign pension scheme shall be disregarded for PIT purposes.	<ul style="list-style-type: none"> <li>Employers with foreign employees</li> <li>Employees with foreign pension schemes</li> </ul>	
27	<b>Section 24 of Personal Income Tax Act – New trades (Commencement Rule)</b>	Substituting for section 24, a new Section "24" as follow - "24. The assessable income of an individual from a trade, business, profession or vocation carried on by such individual in Nigeria, for its first year of assessment (which years are in this subsection respectively referred to as "the first year", "the second year" and "the third year") shall be ascertained in accordance with the following provisions –  (a) for the first year, the assessable income shall be the income from the date on which the individual commenced such trade, business, profession or vocation in Nigeria to the end of its first accounting period;  (b) for the second year, the assessable income shall be the income from the first day after the trade or	The amendment to commencement rule in section 24 of PITA is in alignment to similar amendments introduced in Finance Act 2019 amendment to CITA. This implies that tax will be applied on actual year basis (i.e. based on the individual's accounting year).  The incidence of double taxation or exclusion of income for some period at commencement will be addressed by this amendment.	<p>Individuals, Sole proprietors and Partnerships that are commencing a new business or had commenced the business in the past one to two years</p>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		business' first accounting period to the end of its second accounting period; and  (c) for the third year and for each subsequent year thereafter, the assessable income shall be the profits from the day after the accounting period just ended."			
28	Section 25 of PITA – Cessation of trades, etc.	Substituting for section 25, a new section 25 as follows – "25. where an individual permanently ceases to carry on a trade, business, or profession or vocation in Nigeria, such individual's assessable income therefrom shall be the amount of income from the beginning of the accounting period to the date of cessation and the tax thereof shall be payable within three months from the date of cessation."	This amendment to cessation rule in section 25 of PITA also follows the same alignment similar to the amendments for commencement rule in section 24 of CITA. The risk of domestic double taxation is also eliminated with this amendment.	Individuals, Sole proprietors and Partnerships that are ceasing business or ceased business activities in the past one year	
29	Section 33 of Personal Income Tax Act (PITA) – Consolidated Relief Allowance	Section 33(2) & (3) of PITA is amended - (a) by substituting for subsections (2) & (3), new subsections (2) & (3) as follows:- "(2) For the purposes of this section, "gross income" means income from all sources less all non-taxable income, income on which no further tax is payable, tax-exempt items listed in paragraph (2) of the Sixth Schedule and all allowable business expenses and capital allowance.	Up until this amendment to section 33(2) of PITA there was no definition of gross income for individual's PAYE purpose.  With the definition of gross income to include income from all sources and exclude all non-taxable income, tax-exempt income, income on which no further tax is payable, allowable deductions for pension, NHF, NHIS, life insurance	<ul style="list-style-type: none"> <li>High networth individuals</li> <li>Employees with non-taxable income or tax-exempt items like gratuity, life</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>(3) There shall be allowed a deduction of the annual amount of any premium paid by the individual during the year preceding the year of assessment to an insurance company in respect of insurance on his life or the life of his spouse, or of a contract for a deferred annuity on his own life or the life of his spouse."; and</p> <p>(b) Renumbering the section appropriately.</p>	<p>premium, and gratuities, as well as allowable business deductions and capital allowances.</p> <p>The impact of all these adjustments in the determination of gross income is a higher taxable pay compared to pre-Finance Act 2020 era. This will have higher PIT implications on high-income earners, as the CRA will significantly reduce.</p> <p>The amendment to section 33(3) is a correction of an inadvertent deletion of life insurance relief in Finance Act 2019 amendments to PITA. With the reinstatement of life insurance premium relief under section 33, individuals can go ahead to claim deduction for annual premium paid by an individual in respect of insurance or a contract of deferred annuity on his life, or the life of his spouse.</p>	<p>insurance premium, etc.</p> <ul style="list-style-type: none"> <li>All Employers</li> </ul>	
30	Section 37 of Personal Income Tax Act – Provision on National Minimum Wage	<p>Section 37 of the Act is amended by inserting, after the word, "income" a new proviso"-</p> <p>"provided the minimum tax under this section or as provided for under the Sixth Schedule of this Act shall not apply to a person in any year of assessment where such person earns the Minimum</p>	<p>With the establishment of the National minimum wage threshold as N30,000 per month, the Finance Act 2020 amendment seeks to exclude minimum wage earners from payment of income tax (which includes exclusion of earners of minimum wage income from payment of minimum tax)</p>	<ul style="list-style-type: none"> <li>Minimum wage earners</li> <li>Casual workers with daily income of N1,000</li> <li>All Employers</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		Wage or less from an employment"		having staff with annual salaries of N360,000 per annum or below	
31	<b>Section 108 of Personal Income Tax Act – Interpretation of Terms</b>	<p>Section 108 of PITA is amended by- (a) by inserting the definition of the word "Board" as follows-</p> <p>"Board" means the Joint Tax Board established under Section 86 of this Act."</p> <p>"National Minimum Wage" means the extant national Minimum Wage pursuant to the National Minimum Wage Act.</p>	<p>The definition of Board under PITA to mean Joint Tax Board (JTB) is in line with the provision of PITA on the functions of the JTB, which is primarily advisory on PIT matters amongst the states as well as for the FCT-IRS.</p> <p>With this definition of Board there is the need for a review of the functions of the JTB to be able to effectively perform the roles and responsibilities assigned to the Board under PITA.</p> <p>The inclusion of national minimum wage as criteria for exemption of some category of employees from tax requires the definition of national minimum wage, being the basis for determining individuals exempted from paying any tax. This will ensure uniformity in the application of the amendment and clarity of the taxpayer population in question.</p>	<ul style="list-style-type: none"> <li>Minimum wage earners</li> <li>Employers</li> <li>Self employed</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
32	<b>General Amendment of Sections Section 23, 48, 73, 86, 89, 93 and 106A of PITA</b>	Sections 23, 48, 73, 86, 89, 93 and 106A of PITA are amended by substituting for the word "Service", the word "Board", wherever it appears in the Sections.	The general amendment is emphasising the existence of the JTB, and further strengthen its role within the provisions of the PITA.		
33	<b>Amendment of third Schedule</b>	The third Schedule to the Act is further amended by inserting, after paragraph 32, a new paragraph "33" - "33. The income of a person from an employment where such person earns gross income of National Minimum Wage or less from such employment."	The exemption of minimum wage income earners from the payment of income tax requires the inclusion of their income in the list of income exempted from tax under the third schedule of PITA, which has been addressed with this amendment.		
<b>PART V - TERTIARY EDUCATION TRUST FUND (ESTABLISHMENT, ETC.) ACT (TETFEA) AMENDMENTS</b>					
34	<b>Section 1 of Tertiary Education Trust Fund (Establishment, Etc.) Act – Imposition of education tax</b>	Section 1 of the Tertiary Education Trust Fund (Establishment, Etc.) Act (TETFUND) is amended by substituting for a new subsection "2" as follows-  "(2). The tax, at the rate of 2 percent, shall be charged on the assessable profit of a company registered in Nigeria, other than a small company as defined under the Companies Income Tax Act"	Finance Act 2019 amendments to CITA granted exemption from income tax to small companies as defined in the Act. The clarification provided by the FIRS in the 2020 Information Circular 04 extended this exemption to tertiary education tax (TET) payable by the small companies, without any amendments to TET in Finance Act 2019. This amendment provides legal backing for the exemption of small companies as defined in CITA from payment of TET.  With this amendment, the exemption of small companies from payment of both CIT and TET	Small companies	



FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
			has now legally aligned.		
35	Section 10 – Offences	Section 10 of TETFUND Act is deleted	<p>This amendment deletes the whole section on offences under the TETFUND Act in relation to any contravention of or non-compliance with the provisions of the Act.</p> <p>This deletion is to recognize that the only offence under the Act is failure to file returns and pay education tax, which has been addressed in section 11 on penalties.</p>	All medium and large companies	
36	Section 11 - Penalties	Section 11 of the TETFUND Act is amended by deleting subsection “(3)”	<p>Deletion of Best of judgement assessment for education tax liability on any company.</p> <p>The implications of this deletion is that every company is expected to file self assessment for education tax alongside the income tax assessment and pay the education tax due to the tax authorities. Failure to do that shall be a punishable offence.</p>	All medium and large companies	
<b>PART VI - CUSTOMS &amp; EXCISE TARIFF ETC. (CONSOLIDATION) ACT (CETA) AMENDMENTS</b>					
37	Section 21(1) & (2) of Customs & Excise Tariff Etc. (Consolidation)	<p>Section 21 of this Act (CETA) is amended by substituting for section 21, a new section “21”-</p> <p>21. (1) Goods imported and those</p>	<p>The FA 2020 amendment to CETA expanded excisable goods to include imported goods, which would ordinarily qualify as excisable if manufactured locally as long as</p>	<ul style="list-style-type: none"> <li>Telecoms and IT companies</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
	) Act-Goods liable to excise duty	manufactured in Nigeria and specified in the Fifth schedule to this Act shall be charged with duties of excise at the rates specified under the duty column in the schedule.  (2) Telecommunication Services provided in Nigeria shall be charged with duties of excise at the rates specified under the duty column in the schedule as the President may by Order prescribe pursuant to Section 13 of this Act"	they are listed in the 5 <sup>th</sup> Schedule to CETA.  By implication, this amendment exempts from excise duties, goods and raw materials that are not locally manufactured or available in Nigeria.		
38	Amendment of the First Schedule to the Act	The First Schedule to the Act is amended by inserting and replacing, as the case may be, the following duties and levies-  a) Duty of Tractors (HS Heading 8701) from 35% to 5%  b) Duty on Motor Vehicles for the transport of more than ten persons (HS Heading 8702) from 30% to 10%  c) Levy on Motor Vehicles for the transport of persons (cars) HS Headings 8703) from 30% to 5%; and  d) Duty on Motor Vehicles for the Transport of Goods (HS Headings 8704) from 35% to 10%  Provided that vehicles exempt from applicable duties and levies shall	Customs duties on tractors and motor vehicles for transportation have been reduced from 35% and 30% to 5% and 10% respectively.  The reduction is geared towards the development of critical sectors of the economy as well as reformation of fiscal incentive policies for job creation.		

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39	<b>Amendment of the Second Schedule to the Act</b>	<p><i>continue to enjoy such exemption</i></p> <p>The Second Schedule to the Act is amended by substituting a new paragraph 1 as follows-</p> <p>"1. Airlines registered in Nigeria and providing commercial air transport services are entitled to duty-free importation of their aircrafts, engines, spare parts and components whether purchased or leased"</p>	<p>Schedule to the CEITA was amended to remove customs duties on importation of aircrafts and the ancillary components used for commercial airline business.</p> <p>This is to achieve the ease of doing business objective, create employment, and use fiscal incentives to revamp the aviation business in Nigeria which has been adversely affected by the Covid-19 pandemic.</p>		
<b>PART VII - VALUE ADDED TAX ACT AMENDMENTS</b>					
40	<b>Section 2 of Value Added Tax Act – Taxable Goods and Services</b>	<p>Substitution for section 2 of the Act, a new section "2"-</p> <p>(1) The tax shall be charged and payable on all supplies of goods and services in Nigeria other than those listed in the First Schedule to this Act.</p> <p>(2) For the purpose of this Act, goods and services consumed or otherwise utilized in Nigeria are supplied in Nigeria</p> <p>(3) Notwithstanding the provisions of subsection (1), a taxable supply shall be deemed to take place in Nigeria if-</p> <p>a) In respect of goods:</p> <p>(i) the goods are physically present in Nigeria at the time of supply, imported into Nigeria, assembled in</p>	<p>Further to the FA 2019 amendment to section 2 of VATa by expanding taxable goods and services to include intangible assets, the FA 2020 expanded taxable supplies to include goods and services, consumed or utilized in Nigeria. This includes incorporeal property registered, located to an asset/immovable property, or exploited in Nigeria).</p> <p>The inclusion of incorporeal property is a fall out of the CNOOC Exploration and Production case, where it was ruled that interest in oil and gas assets are intangible assets that are not liable to VAT.</p>	All taxpayers with VATable transactions	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>Nigeria or installed in Nigeria, or</p> <p>(ii) the beneficial owner of the rights in or over the goods is taxable person in Nigeria and the goods or right is situated, registered or exercisable in Nigeria</p> <p>(b) In respect of services-</p> <p>(i) the service is rendered in Nigeria by a person physically present in Nigeria at the time of providing the service</p> <p>(ii) the service is provided to and consumed by a person in Nigeria, regardless of whether the service is rendered within or outside Nigeria or whether or not the legal or contractual obligation to render such service rests on person within or outside Nigeria, or</p> <p>(1) the service is connected with existing immovable property (including the services of agents, experts, engineers, architects, valuers, etc.), where the property is located in Nigeria; and</p> <p>(2) in respect of an incorporeal-</p> <p>(3) the exploitation of the right is made by a person in Nigeria</p> <p>ii) the right is registered in Nigeria, assigned to or acquired by, a</p>	<p>The definition of supply in FA 2020 seems to imply that the disposal of an intangible property, which does not include interest in land and building, money or securities, will now fall under the purview of Nigerian VAT.</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>person in Nigeria, regardless of whether the payment for its exploitation is made within or outside Nigeria, or</p> <p>iii) the incorporeal is connected with a tangible or immovable asset located in Nigeria.</p>			
41	Section 2 VAT Act- Time of Supply (Insertion of New section 2A)	<p>After section 2 of the Act, a new section 2A is inserted as follows:</p> <p>1) For the purpose of this Act, supply shall be deemed to take place at the time an invoice or receipt is issued by the supplier, or payment of consideration is due to, or received by the supplier in respect of that supply, whichever occurs first</p> <p>2) A taxable supply shall be deemed to take place where the supplier and recipient are connected persons and invoices are not issued, in the case of-</p> <p>a) A supply of goods which are to be removed, the time of removal of the goods</p> <p>b) A supply of goods, which is not to be removed, at the time when they are available to the recipient</p> <p>c) Furnishing of a service, upon the furnishing of service</p> <p>d) An incorporeal, when such incorporeal becomes available for</p>	<p>The new section 2A introduced by FA 2020 defines the determination of when supply is made for VAT purposes. Supply is made whenever any of the following occurs in respect of the supply: (i) issuance of invoice, or (ii) issuance of receipt, or (iii) payment of consideration is due to, or (iv) consideration is received by the supplier.</p> <p>From the perspective of related party transactions, taxable supply takes place in the absence of invoices, when any of the following occurs: (i) the time of removal of removable goods; (ii) when non removable goods are available to the recipient (iii) when services are provided (iv) when incorporeal property becomes available for recipient's use.</p> <p>The expansion of time of supply addresses the different mode of supply including progressive or periodical or instalmental credit</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>the use of the recipient</p> <p>3) Notwithstanding the provisions of subsection (1) or (2)-</p> <p>(a) where goods are supplied under any rental agreement or where services are furnished under any agreement or law which provides for periodic payments, they shall be deemed to be successively supplied for successive parts of the periods of the agreement or as determined by such law, and each of the successive supplies shall be deemed to occur when payment becomes due or is received, whichever is earlier;</p> <p>(b) where, and to the extent that, supply of taxable goods and services are—</p> <p>(i) progressively or periodically made under any agreement or law which provides for the consideration for that supply to be paid in instalments or periodically and in relation to the progressive or periodic supply, or</p> <p>(ii) Made in relation to any construction, erection, assembly, manufacturing, alteration, improvement or repair activity under any agreement or law which provides for the consideration for that supply to become due and payable in instalments or periodically in relation to the progressive nature of the</p>	<p>supplies, or under construction, erection, assembly, or manufacturing contract.</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		work, those supplies shall be deemed to be successively made, and each such successive supply shall be deemed to take place whenever any payment becomes due or is received or an invoice relating to only that payment is issued, whichever occurs first ; and (c) where goods are supplied under an instalment credit agreement, that supply shall be deemed to take place at the time the goods are delivered or the time any payment of consideration is received by the supplier in respect of the supply, whichever occurs first."			
42	<b>Section 4 of Value Added Tax Act (VATA) – Rate of Tax</b>	Section 4 of the Value added Tax Act (VATA) is amended by substituting for section 4 a new section 4 as follows:  The tax shall be computed at the rate of 7.5% with effect from 1 of February 2020, on the value of all goods and services, except that goods and services listed under Part III of the First Schedule to this Act shall be taxed at zero rate."	Though FA 2019 increased the VAT rate from 5% to 7.5% but effective date was 1 February 2020 which does not coincide with the effective date of the FA 2019.  FA 2020 seeks to provide legal basis for the 1 February 2020 date pronounced by the Hon. Minister of Finance, Budget and National Planning.		
43	<b>Section 10 VAT Act- Registration of Non-resident companies</b>	A new Section 10 is substituted for section 10 of the Act as follows:  (1) For the purpose of this Act, a non-resident person that makes a taxable supply of goods or services to Nigeria shall register for tax with the Service and obtain Tax Identification Number (TIN).	FA 2020 completely changed section 10 requirements for registration of Non Resident Companies for output VAT purposes.  NRCs are now mandated to register in Nigeria and have a TIN.		



FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>(2) A non-resident person shall include the tax on its invoice for all taxable goods or services.</p> <p>(3) The taxable person to whom the supply of taxable goods or services are made in Nigeria or such other person as may be appointed by the Service shall withhold and remit the tax to the Service in the currency of the transaction.</p> <p>(4) Notwithstanding the provision of subsection (1) of this section, a nonresident person that makes a supply of taxable goods or services in Nigeria may appoint a representative, for the purposes of its tax obligations.</p> <p>(5) The Service may issue a guideline for the purposes of giving effect to the provisions of this section."</p>	<p>Also, NRCs should include Nigerian VAT on their invoices.</p> <p>Nigerian client/employer of the NRCs have VAT withholding responsibilities as provided by FA 2020. Thus, the VAT collection agent for transactions with NRCs is the Nigerian employer or beneficiary of the services provided by the NRC.</p>		
44	Section 46 of Value Added Tax Act – Interpretation New Definitions	<p>Section 46 is amended by:</p> <p>(a) inserting the following new definitions-</p> <p>"<b>animal feed</b>" means raw, semi-processed, processed and otherwise enhanced animal feed that is fed to domesticated and other animals raised and slaughtered for human consumption to provide beef, goat, lamb, pork, chicken, fish and other kinds</p>	<p>FA 2020 expanded the list of VAT exempt items and also provides definition of new terms introduced included in the VAT exemption Schedule, such as animal feed, commercial airline spare parts and components, goods and services.</p> <p>The objective of this is to provide fiscal incentives to boost agricultural production and also</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>of meat, as well as other animals cultivated and raised for the production of milk, eggs as well as other sources of protein and nutrients edible by humans; and</p> <p><b>"commercial aircraft spare parts and components"</b> means parts, engines, propellers, radio apparatus, instruments, appliances, furnishing, parts of any of the foregoing, and generally any other article of whatever description maintained for installation in a commercial aircraft in substitution for parts or articles removed"; and</p> <p>(b) substituting, for the definition of "goods" and "services", new definitions—</p> <p><b>"goods"</b>, for the purposes of this Act, means all forms of tangible properties, movable or immovable, but does not include, land and building, money or securities;</p> <p><b>"services"</b> means—</p> <p>(a) anything, other than goods, or services provided under a contract of employment; and</p> <p>(b) includes any intangible or incorporeal (product, asset or property) over which a person has ownership or rights, or from which he derives benefits.</p>	<p>align the provisions of CITA in relation to airline industry to boost the sectors for economic development of the country.</p> <p>"Goods" for VAT purposes have been defined as excluding land, and building, money or securities.</p> <p>"Services" has also been defined by FA 2020 to exclude employment contract, but includes intangible or incorporeal product, asset or property.</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
<b>PART VIII - STAMP DUTIES ACT (SDA) AMENDMENTS</b>					
<b>44</b>	<b>Section 2 Stamp Duties Act- Definition of Stamp</b>	Section 2 of the Act is amended by substituting for the definition of stamp", a new definition—"stamp" means an impressed pattern or mark by means of an engraved or inked die, an adhesive stamp, an electronic stamp or an electronic acknowledgement for denoting any duty or fee, provided that the Service shall utilise adhesive stamp produced by the Nigerian Postal Service pursuant to its enabling Act."	FA 2020 amendment to section 2 of SDA is identify the role of Nigerian Postal Service (NIPOST) in the production of stamps for the purpose of FIRS utilization of adhesive stamps introduced in the FA 2019 amendment to SDA.	<ul style="list-style-type: none"> <li>• All individual and corporate tax payers</li> <li>• FIRS</li> <li>• NIPOST</li> </ul>	
<b>45</b>	<b>Section 89 SDA- Electronic Money Transfer Levy</b>	Section 89 of the Act is further amended— (a) in subsection (1), by deleting the words, "or electronic inscription" in line 2; (b) in subsection (2), by deleting the words, "or any acknowledgement of duty charged on an electronic transaction", in lines 4 and 5; (c) by deleting subsection (3); and (d) renumbering the section appropriately.	FA 2020 amendment to section 89 is to correct some provisions introduced or amended by FA 2019.  This implies that the annual Finance Act cycle has helped to strengthen our tax system as errors or omissions in the Acts or amendments to the Acts are addressed as identified.		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
46	<b>New Section 89A - Electronic Money Transfer Levy</b>	<p>Section 89 is amended by inserting a new section "89A"</p> <p>"89A.—(1) There is imposed a levy, to be referred to as the Electronic Money Transfer Levy, on electronic receipts or electronic transfer for money deposited in any deposit money bank or financial institution, on any type of account, to be accounted for and expressed to be received by the person to whom the transfer or deposit is made.</p> <p>(2) The levy shall be imposed as a singular and one-off charge of N50 on electronic receipts or electronic transfers of money in the sum of N10,000 or more.</p> <p>(3) The Minister of Finance shall, subject to the approval of the National Assembly, make regulations for the imposition, administration, collection and remittance of the Levy.</p> <p>(4) Notwithstanding any formula that may be prescribed by any other law, the revenue accruing by virtue of the operation of this section, shall, on the basis of derivation, be distributed as follows— (a) 15% to the Federal Government and the Federal Capital Territory, Abuja; and (b) 85% to the State Governments.</p>	<p>The insertion of a new section 89A is to amend the FA 2019 introduction of N50 stamp duty on money deposits or use of POS for payment or money transfer of N10,000 and above. This has been re-designated as Electronic Money Transfer Levy (EMTL).</p> <p>FA 2020 goes further to address the agitations of the State governments on the jurisdiction of the Federal government to collect the N50 transactions between individuals and banks, which ordinarily is collectible by the States. The FA 2020 introduction section 89A(3) provides for the Minister of Finance to make regulations on the imposition, administration, collection and remittance of EMTL, which is subject to the approval of the National Assembly.</p> <p>Though the EMTL collected is from both individuals and Corporates, section 89A (4) provides for the sharing of the levy between the FGN &amp; FCT on one hand and the State Governments on the order hand in the ratio 15% to 85%, respectively.</p>		

PART IX - FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT AMENDMENTS					
FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
47	Section 8 of FIRS (Establishment) Act – Functions of the Service	Section 8 of the FIRS Act is amended by – (a) Inserting after paragraph (s) a new paragraph (t) as follows – “(t) Provide assistance in the collection of revenue claims or any other administrative assistance in tax matters with respect to any agreement or arrangement made between the Government of the Federal Republic of Nigeria and the Government of any country or other persons or bodies as may be deemed necessary in that regard.” (b) Renumbering the subsection appropriately.	The FA 2020 amendment to section 8 of FIRS gives FIRS the legal backing to now provide assistance to and/or receive assistance from foreign Governments, or any other persons or bodies, in relation to claim of revenues or any tax matters.		
48	Section 23 of the FIRS Act – Tax Refund	Section 23 is amended by substituting new subsection (4) –(6): 4) For the purposes of tax refund, the Accountant-General of the Federation shall open a dedicated account for each tax-type into which shall be paid money for settling tax refunds. 5) The dedicated accounts created pursuant to subsection shall, be administered by the Service and be funded from the respective accounts of Government into which revenue of each tax-type is remitted. 6) For the purposes of each dedicated account, the Service shall prepare an	Amendment to section 23 of FIRSEA provides for the Accountant-General of the Federation to open dedicated accounts for each tax-type to set aside funds for settling tax refunds.  The FIRS is required to administer the dedicated accounts and settle the tax refunds from collections for each tax-type.  For proper accountability, the FIRS is required to prepare annual budget for tax refund for approval by the National Assembly.	Taxpayers with refunds that have been audited and agreed	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		annual budget for tax refund as may be approved by the National Assembly."			
49	Section 25 of the FIRS Act – Administration of tax laws	<p>Section 25 of the FIRS Act is amended by inserting new subsection (3), (4), and (5) as follows –</p> <p>(3) The Service may deploy any proprietary or third party payment, processing or other digital platform or application to collect and remit taxes due on international transactions in the supply of digital services to and from a person in Nigeria, in the case of transactions carried out through remote, digital, electronic or other such platform.</p> <p>(4) The Service may deploy proprietary technology to automate the tax administration process including tax assessment and information gathering provided it gives 30 days' notice to the taxpayer.</p> <p>(5) The Service may receive assistance in the collection of revenue claims or any other administrative assistance in tax matters with respect to any agreement or arrangement made between the Government of the Federal Republic of Nigeria and the Government of any country or other persons or bodies as may be deemed</p>	<p>FA 2020 amendment to section 25 of FIRSEA introduced FIRS use of digital platform for tax remittances in relation to digital international transactions across Nigerian borders.</p> <p>FIRS can now legally deploy technology for tax administration.</p>	All taxpayers	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		necessary in that regard."			
50	<b>Section 26 of the FIRS Act - Call for returns, books, documents and information</b>	<p>Section 26 of the FIRS Act is amended by substituting new subsections (1), (2) and (3) as follows:</p> <p>"(1) For the purpose of obtaining full information in respect of the taxation of an individual, company or any person or for the purpose of performing any function conferred on it by this Act, the Service may give notice to any individual, company or person to, within the time specified by the notice –</p> <p>(a) complete and deliver to the Service any returns specified in such notice;</p> <p>(b) appear personally before an officer of the Service for examination with respect to a matter to which such notice relates;</p> <p>(c) produce or cause to be produced for examination, books, documents or records, at the place and time stated in the notice, which time may be from day-to-day, of for such period as the Service may deem necessary;</p> <p>(d) provide, orally or in writing, any information specified in such notice;</p> <p>(e) grant the service access to records, data and information stored or otherwise residing in computers or other</p>	<p>FA 2020 amendment to section 26 (1), (2) &amp; (3) of FIRSEA empowers the FIRS to call for returns, documents or any information required for tax administration from any person, which must be provided within 30 days of making the request.</p> <p>The mode of demanding for and/or providing the request may be in oral or writing and may require physical appearance or providing access to Enterprise Resource Planning (ERP) system and/or electronic records as well as digital operations of the respondent. The penalty regime in FIRSEA has been extended by FA amendment to section 26(3) of FIRSEA to include failure to comply with FIRS request for returns, information or documents, which attracts 10% of any tax liability related to the FIRS demand for documentation or representation plus interest at MRR. For any other case, the penalty is a fixed amount, which compounds on monthly basis for as long as the default continues.</p>		



FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>electronic devices, including magnetic media or cloud computing facilities maintained, operated, controlled or owned by the individual, company or person.</p> <p>(2) For the purpose of paragraphs (a) to (d) of subsection (1) above, the time specified by such notice shall not be less than 30 days from the date of service of such notice.</p> <p>(3) A person who defaults in complying with the provisions of this Section –</p> <p>(a) where the default relates to a tax liability, is liable, in addition to the tax liability, to a penalty of 10 percent of the tax and interest at the prevailing Central Bank of Nigeria minimum rediscount rate; or</p> <p>(b) where the contravention relates to issues other than a tax liability, is liable to a penalty of Twenty-Five Thousand Naira (₦25,000.00) in the first months, and Ten Thousand Naira (₦10,000.00) for every subsequent month thereafter, in which the default continues."</p>	All persons need to have processes in place to attend to FIRS's requests promptly and mitigate the penalties and interest. However, the FIRS should also enlighten all stakeholders on these amendments.		
51	Section 28 of FIRS Act – International Tax Treaty	<p>Section 28 of the Act is amended by inserting a new section "28A"</p> <p>28A. -- (1) In relation to international tax treaty and other exchange of information obligations and without prejudice to section 26 of this bankers</p>	FA 2020 amendment to section 28 by inserting a new section 28A is a means of domesticating the Common Reporting Standards (CRS) for Nigeria, which is an offshoot of the Multilateral Agreement on Exchange of		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>and Act, every bank, insurance company, stock-broking firm, or any other financial institution shall prepare and submit, as may be specified by way of notice, rules, regulations, guidelines, or circulars issued by the Service, returns of—</p> <p>(a) transactions involving the specified sum;</p> <p>(b) names, addresses (including foreign addresses), or any other information of its customers connected with those transactions; or</p> <p>(c) names, addresses, or any other information of new or existing customers.</p> <p>(2) Any person, who fails to comply with the notice, rules, regulations, guidelines, or circulars issued by the Service for the purposes of this section is liable to an administrative penalty of N25,000.00 in the first month of failure, and N 10,000.00 for every month in which the failure continues"</p>	<p>Financial Information. The compliance and reporting requirements for Financial Institutions provided in the Nigerian Common Reporting Standards Regulation 2018 was effective from September 2019.</p>		
52	Section 39 of FIRS Act – Information and documents to be confidential	<p>Section 39 of the FIRS Act is amended by substituting a new Section 39 as follows –</p> <p>39:– (1) Without prejudice to the provisions of any other Act concerning data privacy, data protection and</p>	<p>FA 2020 amendment to section 39 of FIRSEA emphasised the confidentiality of taxpayer information and documents. It is expected that this amendment will provide the legal recourse for any taxpayer that suffers damages by</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>unlawful disclosure of taxpayer information, taxpayer information shall be confidential.</p> <p>(2) Except as otherwise provided under this Act, any other law or any enabling agreement or arrangement or as otherwise authorized by the Minister, any member or former member of the Board or any employee or former employee of the Service or any agent or any other person who communicates or attempts to communicate taxpayer information to any person other than to a person legally authorised to collect the tax or misuses the information commits an offence and shall be liable on conviction to a fine not exceeding One Million Naira (₦1,000,000.00) or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.</p>	<p>virtue of a breach of confidentiality by any staff of FIRS but the provisions of the new section 39(2) does not specify this. The determination of a breach of confidentiality seems to be at the discretion of or determined by the FIRS. There is need for further clarify on the expectation gap.</p> <p>Fine for breach of confidentiality, on conviction of the concerned FIRS staff is a maximum of N1 million or 3 years imprisonment or both</p>		
53	Section 50 of FIRS Act – Official secrecy and confidentiality	<p>Section 50 of the FIRS Act is amended by substituting a new subsection (5) as follows –</p> <p>"(5) Where any agreement or arrangement with any other country, government or tax authority for exchange of information or with respect to relief for double taxation of income or profits includes provisions for the exchange of taxpayer information with that country for the purpose of</p>	<p>By virtue of the new section 50 of FIRSEA substituted in FA 2020, the confidentiality requirements under section 39 FIRS cannot be extended to disclosure of information related to information exchanged with other countries under the exchange of information provision in a tax treaty between Nigeria and the other country or any other exchange of information agreement or arrangement with a</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		implementing a tax relief or preventing avoidance of tax, or for such other purposes as may be enshrined in the agreement or arrangement, the obligation as to secrecy imposed by this Act shall not prevent the disclosure of such information to the authorized officers of the Government of such country."	foreign country.		
54	Section 69 of FIRS Act – Interpretation (Definition of Terms)	<p>Section 69 of the FIRS Act is amended by inserting the following definition –</p> <p>(a) "taxpayer information" includes:</p> <p>(i) Any information received or generated by the Service pursuant to its powers under this Act or any extant Legislation;</p> <p>(ii) Any information in any form received, assessed or produced by the Service under any agreement or arrangement with any country, government or tax authority, such as Double Taxation Agreements, and Common Reporting Standard, Country-by-Country Reporting or any other exchange of information agreement or arrangement;</p> <p>(iii) Written or electronic documents, returns, assessment, list and copies of such lists relating to profits or items of profits of any person or to such matter which forms the basis of any agreement or arrangement with any country,</p>	<p>FA 2020 amendment to interpretation section 69 of FIRSEA expanded the definition of taxpayer information to include written and/or electronic taxpayer information received from the taxpayer, information on taxpayer received or generated by FIRS in the course of tax administration, information gathered through exchange of information with other countries such as information provided in compliance with the requirements of the Common Reporting Standards and Country by Country Reporting Regulations, both effective from 2018.</p> <p>Definition of Nigeria was also extended to cover areas such as seabed, its subsoil, its superjacent waters and their natural resources within which the right of Nigeria may be exercised now and in the future.</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		government or tax authority. (b) 'Nigeria', for the purpose of this Act and the laws listed in the First Schedule			
55	The Fifth Schedule of the FIRS Act – Paragraph 20(2) of the fifth schedule to the Act	Paragraph 20 of the Fifth Schedule to the FIRS Act is amended by inserting a new subparagraph "(2)(viii)" in the list as follows – “(viii) Conduct its hearing remotely via virtual means, using such technology or application as may be necessary to ensure fair hearing.” (b) renumbering the subparagraph appropriately	FA 2020 amendment to the Fifth Schedule of FIRSEA makes it legally acceptable for remote hearing of TAT matters through virtual means. This is driven by the Covid-19 pandemic experience.	All tax payers	
<b>PART X - NIGERIA EXPORT PROCESSING ZONES ACT (NEPZA) AMENDMENTS</b>					
58	Section 18 (1) of the Nigeria Export Processing Zones Act	Section 18(1) of the Act is amended by substituting a new paragraph "(a)" - “(a) exemption from taxes, levies duties, and foreign exchange regulations in accordance with section 8 of this Act, subject always to the provisions of the Banks and Other Financial Institutions Act, 2020; provided that all companies registered and operating in the Zone shall comply with the provisions of section 55 (1) of the Companies Income Tax Act and render returns in the	Section 18(1) of the Nigeria Export Processing Zone Act (NEPZA) provides for exemption of entities operating in Export Processing Zones (EPZs) referred to as “Approved Enterprises”, from all legislative provisions pertaining to taxes, levies, duties and foreign exchange regulations. Such approved enterprises have argued, prior to FA 2020 amendments, that tax filing obligations do not apply to them	<ul style="list-style-type: none"> <li>• NEPZA</li> <li>• Authorities Export Processing Zone Managers</li> <li>• Companies registered and operating in Export processing (Approved)</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<i>manner prescribed therein, to the Federal Inland Revenue Service and all penalties prescribed in the Companies Income Tax Act and the Federal Inland Revenue Service (Establishment) Act that may apply in the event of non-compliance with section 55 (1) of the Companies Income Tax Act shall apply to such companies in Inc event of default to comply".</i>	<p>thereby making it difficult for the Federal Inland Revenue Services and even some State Revenue Services from having information on activities within the Zones.</p> <p>FA 2020 amendment to NEPZA, now includes arequirement for Approved Enterprises (i.e. entities registered and operating within the EPZ), to comply with filing a yearly self-assessment return as provided in Section 55(1) of CITA and render returns to the FIRS in the manner prescribed in the section.</p> <p>Failure to comply with the specified provisions of CITA will attract all relevant penalties stipulated in the CITA and FIRSEA.</p> <p>The FA 2020 amendment made reference to provision in the Banks and Other Financial Institutions Act, (BOFIA) 2020, in relation to foreign exchange regulations in the Zones. There is need for clarity on what the exception to BOFIA 2020 seeks to achieve, as BOFIA 2020 is silent on NEPZ matters.</p>	Enterprises)	

PART XI - OIL AND GAS EXPORT FREE ZONE ACT (OGEFZA) AMENDMENT				
FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders
57	Section 18 (1) of the Oil and Gas Export Free Zone Act	Section 18 (1) of the Act is amended by substituting a new paragraph "(a)" <p>"(a) exemption from taxes, levies, duties, and foreign exchange regulations in accordance with section 8 of this Act, subject always to the provisions of the Banks and Other Financial Institutions Act, 2020; provided that all companies registered and operating in the Zone shall comply with the provisions of section 55 (1) of the Companies Income Tax Act and render returns in the manner prescribed therein, to the Federal Inland Revenue Service and all penalties prescribed in the Companies Income Tax Act and the Federal Inland Revenue Service (Establishment) Act that may apply in the event of non-compliance with the said section 55 (1) of the Companies Income Tax Act shall apply to such companies in the event of default to comply"</p>	<p>Section 18(1) of the Nigeria Export Processing or Free Zone Act provides for exemption of entities operating in Free Trade Zones (FTZs) referred to as "Approved Enterprises", from all legislative provisions pertaining to taxes, levies, duties and foreign exchange regulations.</p> <p>Such approved enterprise have argued, prior to FA 2020 amendments, that tax filing obligations do not apply to them thereby making it difficult for the Federal Inland Revenue Services and even some State Revenue Services from having information on activities within the Zones.</p> <p>FA 2020 amendment to NEPZA Act and by extension OGEFZA, now includes arequirement for Approved Enterprises (i.e. entities registered andoperating within the FTZ), to complywith filing a yearly self-assessmentreturn as provided in Section 55(1) of CITA andrender returns to the FIRS in themanner prescribed in the section.</p> <p>Failure to comply withthe specified provisions of CITA will attract allrelevant penalties stipulatedin the CITA and FIRSEA.</p>	<ul style="list-style-type: none"> <li>• NEPZA</li> <li>• Authorities Export Processing /Free Zone Managers</li> <li>• Companies registered and operating in Export processing / Free Zones (Approved Enterprises)</li> </ul>



FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
			The FA 2020 amendment made reference to provision in the Banks and Other Financial Institutions Act, (BOFIA) 2020, in relation to foreign exchange regulations in the Zones. There is need for clarity on what the exception to BOFIA 2020 seeks to achieve, as BOFIA 2020 is silent on NEPZ and FTZ matters.		
<b>PART XII - COMPANIES AND ALLIED MATTERS ACT (CAMA) AMENDMENTS</b>					
<b>58</b>	<b>Section 432 of CAMA – Right of Shareholder to claim for Dividend</b>	<p>Section 432 of CAMA is amended by substituting a new section “432”</p> <p>“432- (1) Dividends are special debts due to and recoverable by shareholders within 12 years and actionable only when declared.</p> <p>(2) Dividends that are unclaimed after 12 years should be included in the profits that should be distributed to the other shareholders of the company.</p> <p>(3) Notwithstanding subsections (1) and (2), dividends of public limited liability companies quoted on the Stock Exchange which remained unclaimed for a period of six years or more from the date of declaring the dividend shall be immediately transferred to the Unclaimed Dividend Funds Trust.</p> <p>(4) Such unclaimed dividends transferred to the Unclaimed Dividend</p>	<p>The recent amendment to CAMA includes the introduction of section 432 on the right of shareholders of companies not listed on the Nigerian Stock exchange (NSE) to claim for dividend declared by the company within 12 years.</p> <p>Otherwise, on expiration of 12 years such dividends will be credited to retained earnings and distributed to other shareholders. This in our view is unconstitutional and against the intent of section 44 of the Constitution of the Federal Republic of Nigeria, 1999 that does not support the compulsory acquisition of the property of any individual.</p> <p>FA 2020 amendment to this section 432 of CAMA is specifically in relation to dividends of publicly quoted companies that are listed</p>	<ul style="list-style-type: none"> <li>Federal Government</li> <li>Individuals</li> <li>Corporate Taxpayers</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<i>Funds Trust Fund shall be a special debt owed by the Federal Government to the shareholders and shall be available for claim by the shareholder at any time, pursuant to the aforementioned perpetual trust."</i>	<p>on the Nigerian Stock Exchange, which shall be available in perpetuity following the transfer of such dividend to Unclaimed Fund Trust Fund (UFTF) if not claimed within (6) years or more from the date of declaration.</p> <p>The implication of this transfer is de-recognition of the dividend by the transferor since the transferred dividend becomes a debt owed by the Federal Government of Nigeria.</p> <p>FA 2020 provision on creation of the UFTF also includes that the shareholder may claim the dividends at any time.</p> <p>One of the legs on which social contract stands is trust and transparency in the operation of the UFTF will go along way to build trust in government ability to manage the funds for the shareholders.</p>		
<b>PART XIII - FISCAL RESPONSIBILITY ACT (FRA) AMENDMENTS</b>					
59	<b>Section 12 of the Fiscal Responsibility Act –</b>	<p>Section 12 of the Act is amended by substituting a new subsection (2) as follows:</p> <p>"(2) Aggregate expenditure for a financial year may exceed the ceiling imposed by the provisions of subsection</p>	<p>The Fiscal Responsibility Act (FRA) 2007 was enacted to incorporate prudent management of nation's resources into government spending pattern. It is also to ensure long-term macro-economic stability of the national economy.</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>(1) of this Section, if in the opinion of the President, as may be published in the Official Gazette of the Government of the Federation, (or official directives or orders by the President, or through an Appropriation Act, Virement or other Money Bill pursuant to Sections 59 or 306 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended);</p> <p>(a) the Federation, or any part thereof, is at war;</p> <p>(b) the Federation is in imminent danger of invasion or involvement in a state of war;</p> <p>(c) there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security;</p> <p>(d) there is clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger;</p> <p>(e) there is an occurrence or imminent danger of the occurrence of any pandemic or disaster or such other natural calamity, affecting the community or a section of the</p>	<p>amongst other objectives.</p> <p>FA 2020 amendment to section 12 of the FRA is to expand the conditions under which the president may exceed the aggregate expenditure ceiling, which has been appropriated by the National Assembly for each financial year. This became necessary with the experience of government during the outbreak of Coronavirus pandemic and the subsequent nationwide #EndSars protest.</p> <p>FA 2020 amendment provides that the aggregate spending limit may be exceeded if in the opinion of the President, there is a present threat to national security or sovereignty of Nigeria. This situation has been expanded to include, but not limited to, wars, breakdown of public order or public safety, pandemic, natural disaster and any other public danger threatening the existence of Nigeria.</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		community in the Federation; (f) there is any other public danger which clearly constitutes a clear and present threat to the existence of the Federation;			
62	<b>Section 22 of the Fiscal Responsibility Act – Operation surplus and general reserve fund</b>	<p>Section 22 is amended by substituting a new section “22”</p> <p>(22) - (1) Notwithstanding the provisions of any law governing the corporation, each corporation shall establish a general reserve fund and shall allocate thereto at the end of each financial year, one-fifth of its operating surplus for the year, provided that the cost to revenue ratio of each corporation shall not exceed fifty percent or such other ratio as the Minister, upon the approval of the national Assembly, may approve for that particular corporation by way of order in the official Gazette.</p> <p>(2) The balance of the operating surplus shall be paid to the Consolidated Reserve Fund of the Federation in accordance with the Constitution of the Federal Republic of Nigeria, 1999 on a quarterly basis, in accordance with such financial guidelines or regulations that the Minister may issue from time to time in consultation with the National Assembly—</p>	<p>In order to ensure accountability and proper monitoring of expenditure of government corporations, FA 2020 now provides for spending limit for each corporation as against the previous provision of section 22 of FRA that provides for every statutory corporation to allocate one-fifth of its operating surplus to the corporation's general reserve fund and pay the balance to Consolidated Revenue Fund (CRF) of the Federation. FA 2020 specifically limits the cost to revenue ratio of each corporation to 50% or such other ratio as the Minister may direct subject to approval by National Assembly. The Minister of Finance shall address any corporation's non-compliance through direct deduction from the corporation's TSA.</p>	Government Establishments	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>Provided that nothing in this Act or any written law governing the corporation shall prevent the Minister from effecting a direct deduction from the Treasury Single Account, or other relevant account, of that corporation to enforce due compliance</p> <p>(3) The Minister shall cause a financial reconciliation between the quarterly direct deductions and aggregate annual deductions of operating surpluses to be concluded for each corporation not later than three months following the statutory deadline for publishing each corporation's accounts, and a report of the reconciliation shall be provided to the National Assembly.</p>			
<b>PART XIV - PUBLIC PROCUREMENT ACT AMENDMENTS</b>					
63	Section 15 of PPA- Scope of Application	<p>Section 15 is amended by substituting a new section 15-</p> <p>"15. This Act applies to –</p> <p>(a) All public procuring and disposing entities under the three arms of the Federal Government;</p> <p>(b) The Federal Government of Nigeria and all procurement entities</p> <p>(c) All entities outside paragraphs (a) and (b) which derive at least 35% of funds appropriated or proposed for any type of procurement described in this Act from the Federation share of the</p>	<p>The FA 2020 amendment to section 15 PPA is to expand the scope of application of the Public Procurement Act 2007, which initially places the monitoring and oversight of public procurement in Nigeria under the National Council on Public Procurement and the Bureau of Public Procurement ("the Bureau"). With FA 2020 amendment, the scope of application of the PPA now includes all public procuring and disposal entities under the three (3) arms of the Federal Government -</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>Consolidated Revenue Fund;</p> <p>(d) Without limiting paragraphs (b) and (c) to-</p> <p>i. Federal Government, ministries; Departments and Agencies</p> <p>ii. Federal Government Institutions</p> <p>iii. Federal Government owned enterprises, corporations, councils, authority and commissions provided that they utilize public funds</p> <p>iv. Federal tertiary and non- tertiary Educational Institutions</p> <p>v. Federal Hospitals and other health Institutions</p> <p>vi. The Central bank of Nigeria and other Federal Government owned Financial Institutions</p> <p>vii. The National Defense and National Security Agencies</p> <p>viii. The national Assembly, and</p> <p>ix. The Judiciary.</p>	<p>Executive, Legislative and Judiciary – including national defence/security agencies, government ministries, parastatals, institutions, departments and agencies.</p> <p>The scope also includes all entities that derive at least 35% of the funds appropriated or proposed to be appropriated for any type of procurement including Federal educational institutions.</p>		
64	Section 17 (1) of PPA- Approving Authority	<p>Section 17 is amended by substituting a new section "17" –</p> <p>17. – (1) Subject to the monetary and prior review threshold for procurements in this Act as may from time to time be determined by the Council, the</p>	<p>The new section 17 introduced by FA 2020 provides that the Parastatal's Tender Board and Court's Tender Board have the approving authority for public procurements are to approve procurements by the National</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>following shall be the approving authority for the conduct of public procurement-</p> <p>a. In the case of-</p> <p>i. A government agency, parastatal or corporation, a parastatal's Tenders Board</p> <p>ii. A Ministry or Extra ministerial entity, the Ministerial Tenders Board</p> <p>iii. The national Assembly, the National Assembly's Board</p> <p>iv. The Judiciary's Tenders board and the Courts Tender board</p> <p>b. In case of any other public procurement the value of which exceeds the Ministerial Tenders board threshold, or any other threshold set by the Bureau and approved by the Council</p>	<p>assembly and Judiciary respectively.</p> <p>Approving authority of procurements above the Ministerial Tender's Board threshold shall lie with the Tender's Board for each respective arm of government. Each Tender's Board has its members composition also stated in the new section 17 of PPA.</p>		
65	Section 20 of PPA- Accounting Officer	<p>Section 20 is amended by substituting a new section "20"-</p> <p>20- (1) The accounting officer of a procuring entity shall be the person charged with line supervision of the conduct of all procurement processes</p> <p>a. in the case of ministries, the Permanent Secretary</p> <p>b. in the case of extra-ministerial departments and corporations, the Director-General or officer of co-</p>	<p>The FA 2020 amendment to section 20 of PPA replaced the old section 20 with a definition of an accounting officer as the person charged with the supervision of the conduct of all procurement processes. The amendments also define the responsibilities and powers of accounting officers. Finally, the new section 20(4). (5) and (6) provides for the procedures for the procurement exercise by</p>		



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		<p>ordinate responsibility</p> <p>c. in the case of the National Assembly, the Clerk; and</p> <p>d. in the case of judiciary, the secretaries of the judicial bodies and the Chief Registrars of the Courts.</p>	any procuring entity. This is to entrench transparency in the procurement process.		
64	<b>Section 22 of PPA- New Establishments</b>	<p>Section 22 of the Act is amended by substituting for subsection new subsections "(1) and "(5)"-</p> <p>"(1) There is established by the Act-</p> <p>a. For the Executive Arm of Government-</p> <p>i) The Parastatals tender board in each procuring entity</p> <p>ii) The ministerial Tenders Board in each ministry</p> <p>iii) The Federal Executive Government</p>	FA 2020 amendment to section 22 of PPA establishes new Tenders Boards in the three arms of the Federal Government for the purpose of approving procurements.		
65	<b>Section 24 of PPA- New Substitutions</b>	<p>Section 24 of the Act is amended by substituting for subsection (1) and (2), new subsections (1) and (2)-</p> <p>"(1) Except as provided by this Act-</p> <p>(a) all procurements of goods, works and services by all procuring entities shall be conducted by open competitive bidding; and</p> <p>(b) any procuring entity that applies any other procurement option prescribed in this Act, the accounting officer of the entity shall</p>	<p>FA 2020 amendment to section 24 of PPA requires that procuring entity desiring to undertake procurement without going through competitive bid has to submit a request for such as obtain approval from Bureau for Public Procurement (BPP).</p> <p>FA 2020 amendment also redefines open competitive bid in relation to public procurements to include equal simultaneous information</p>		

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		<p>submit a request and obtain the approval of the Bureau</p> <p>2) Any reference to open competitive bidding in this Act means the process by which a procuring entity based on previously defined criteria, effects public procurements by offering to every interested bidder, equal simultaneous information and opportunity to offer the goods, works and services needed.</p>	<p>and opportunity for every interested bidders to make offers for the tender.</p>		
68	Section 25 of PPA- Competitive bidding	<p>Section 25 of the Act is amended by substituting a new subsection (2) –</p> <p>(2) Every invitation to an open competitive bid shall, in the case of goods, works and services-</p> <p>a) under International Competitive Bidding, the invitation for bid shall be advertised in at least two national newspapers and one relevant internationally recognized publication, any official website of the procuring entity and Bureau as well as the procurement journal of not more than four weeks for contracts within the thresholds of the Parastatals and ministerial Tenders Board s and not more than six weeks for contracts above the threshold of the Ministerial Tenders Board before the deadline for the submission of the bids for the goods, works and services;</p>	<p>The amendment to section 25 of PPA seeks to reduce the time before the deadline for submission of international and national bids for public works from minimum of 6 weeks to maximum of 4 weeks for some contracts while timeline for international bids still remains at 6 weeks.</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		b) valued under National Competitive bidding, the invitation the invitation for bid shall be advertised in at least two national newspapers and in the procurement journal of not more than four weeks for contracts within the thresholds of the Parastatals and ministerial Tenders Board s and not more than six weeks for contracts above the threshold of the Ministerial Tenders Board before the deadline for the submission of the bids for the goods, works and services;			
69	<b>Section 27 of PPA - Submission of bids</b>	Section 27 of the Act is amended by substituting for subsection (1), a new subsection (1) – “(1) All bids in response to an invitation to open competitive bidding shall be submitted in writing, electronic or any other format stipulated in the tender documents signed (physically or electronically) by an official authorized to bind the bidder to a contract and placed in a sealed envelop.	With the change of the global environment to digitalization, the use of technology has been embraced for most transactions. This amendment to section 27 provides for electronic submission of biddings as opposed to the physical delivery of documents that was prevalent during the pre-covid-19 era.		
70	<b>Section 30 of PPA- Call Over</b>	Section 30 of the Act is amended by- (a) substituting for paragraph (e) a new paragraph (e) - “(e) call-over to the hearing of all present, the name and address of each bidder, the total amount of each bid, the bid currency, validity period, completion period and shall ensure that these details are recorded by the	Amendment to section 30 of PPA introduces additional information requirements to be called out by the procuring entity during the bid opening process, which includes validity period and completion period.		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>Secretary of the Tenders Board or his delegate in the minutes of the bid opening; and</p> <p>(b) inserting a new subsection "(2)" – "(2) this exercise shall be carried out by the procurement department of the procuring entity in the presence of the legal officer or relevant official of the entity and all those specified in section 19 (b) of this Act</p> <p>(c) renumbering the section appropriately</p>			
71	<b>Section 35 of PPA- Mobilization</b>	<p>Section 35 of the Act is amended by -</p> <p>(a) substituting a new subsection (1) – "(1) In addition to any other regulation as may be prescribed by the Bureau, a mobilization fee of not more than 30% for local contractors only may be paid to a supplier or contractor supported by an unconditional bank guarantee or insurance bond issued by an institution acceptable to the procuring entity until mobilization fee is fully amortized or recovered".</p> <p>(b) inserting after subsection (2), a new subsection "(3)" – "(3) Where the Bureau has set prior review thresholds in the procurement regulations, no funds shall be disbursed</p>	FA 2020 amendment to section 35 of PPA increases the maximum mobilization fee payable to any contractor or supplier from 15% to 30%. This is also subject to some conditions, which must be met such as full compliance with the threshold set by the Bureau for Public Procurement.		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		from the treasurer or Federation Account or any bank account of any procuring entity for any procurement falling above the set thresholds unless the cheques, payments or other form of request for payment is accompanied by a "Certificate of No Objection" to award of contract duly issued by the Bureau.			
72	<b>Section 36 of PPA- Performance Guarantee</b>	Section 36 of the Act is amended by substituting section "36 -" 36. (1) The provision of a performance guarantee or an unconditional insurance bond shall be a precondition for the award of any procurement contract upon which any mobilization fee is to be paid, provided the performance guarantee or unconditional insurance is not less than 10% of the contract value.	The amendment to section 36 of PPA provides for the issuance of an insurance bond (IB) as alternative to performance guarantee (PG), subject to specified conditions. The issuance of either a PG or IB of not less than 10% of the contract value is a precondition for the award of a procurement contract and subsequent payment of mobilization fees.		
73	<b>Section 58 of PPA- Jurisdiction</b>	Section 58 of the Act is amended by substituting a new subsection (2) – "(2) Any offence in contravention of this Act shall be tried by the Federal High Court or a tribunal set up by the Chief Justice of Nigeria"	This provision clearly specifies the jurisdiction of courts or tribunal over offences committed in relation to the Public Procurement Act		
74	<b>Section 60 of PPA- Definitions</b>	Section 60 of the Act is amended by substituting for definitions of contract, procuring entity and public procurement, the following new definitions-  "contract" means any agreement	Definition of terms was provided in FA 2020 to guide the government and public sector procurement process. This will also guide the implementation of the amendments introduced by the Finance Act.		

FA 2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>entered in writing between a procuring entity and a contractor, supplier or consultant;</p> <p>"procuring entity" means any public body or government organ engaged in procurement and includes a Ministry, Extra-Ministerial Department, Government Agency, Parastatal, Corporation Commission, national Assembly and Judiciary; and</p> <p>"Public Procurement" means the acquisition by any means of goods, works or services by the Government"</p>			
<b>PART XV – ESTABLISHMENT OF CRISISINTERVENTION FUND (CIF) AND UNCLAIMED FUNDSTRUST FUND (UFTF)</b>					
<b>75</b>	<b>The Establishment of Crisis/Intervention Fund</b>	<p>There shall be provided out of the Consolidated Revenue Fund and the Special Accounts listed in the First Schedule to this Act upon the coming into operation of this Act the sum of N500,000,000.00 or other such sums as may be approved by the national Assembly for the establishment of a Fund to be known as Crisis Intervention Fund</p>	<p>FA 2020 establishes the Crisisintervention Fund (CIF) and theUnclaimed Funds Trust Fund(UFTF).</p> <p>The N500 billion Fund was created out of the Consolidated RevenueFund and Special Accounts to fund crisis-related expendituresand other exigencies.</p> <p>This provision of the FA 2020 also covers dormant account funds, which have been so dormant for over 6 years.</p> <p>The provisions for the creation of Funds for Crisis Intervention and</p>		

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			<p>Unclaimed Funds is not related to any tax law and also not tied to any Principal Act.</p> <p>There is the need to rectify this for proper order and to give the provisions proper backing of an extant law.</p> <p>Our perceived view is that the amendments in the Finance Act should be hinged on existing Principal Acts rather than having standalone provisions.</p> <p>However, another school of thought is of the view that since this provision is in accordance with the Constitution of the Federal Republic of Nigeria and also relates to government expenditure, the Finance Act can be used as the legal basis for such provisions.</p>		
76	Utilization of the Crisis Intervention Fund	The Crisis Intervention Fund may be utilized for making funds available to meet expenditures as approved in the Annual Appropriation Act to meet any crisis related expenditure or other such exigencies that may arise pursuant to section 12 of the Fiscal Responsibility Act and section 306 of the Constitution of the Federal Republic of Nigeria, 1999.	The essence of this provision is to define the mode of utilization of the funds set aside for eventualities of any future national or global crisis that may have attendant impact on the country's economy and citizens.		



FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
77	<b>The Establishment of Unclaimed Funds Trust Fund</b>	<p>"(1) Subject to section 44 (1) and (2) (h) of the Constitution of the Federal Republic of Nigeria, 1999, there is established, by way of trust, as a sub-fund of the Crisis Intervention Fund, an Unclaimed Dividends Funds Trust Fund</p> <p>(2) From the commencement of this Act, any unclaimed dividend of a public limited liability company quoted on the Nigerian Stock Exchange any unutilized amounts in a dormant bank account maintained in or by a deposit money bank which has remained unclaimed or unutilised for a period of not less than 6 years from the date of declaring dividend or domiciling the funds in a bank account shall be transferred immediately to the Unclaimed Funds Trust Fund- Provided that this section shall not apply to official bank accounts owned or belonging to the Federal Government, State Government or local Government, or any their Ministries, Departments or Agencies</p> <p>(3) The Debt management Office established by the Debt Management Office (Establishment, etc.) Act 2003 or subsequent statutes, which replace this Act, shall supervise the operations of the Fund.</p> <p>(4) The unclaimed dividend and</p>	<p>The Unclaimed Funds Trust Fund was created Finance Act 2020 as a sub-fund under the Crisis Intervention Fund. The UFTF is to be funded from unclaimed dividend of a public limited liability company quoted on the Nigerian Stock Exchange and amount in dormant bank account maintained in or by a deposit money bank (DMB), which have remained unclaimed for a period of 6 years from the date of domiciling the funds in a bank.</p> <p>The UFTF is to be managed by the Debt Management Office. Failure to transfer the unclaimed dividend and unutilized funds attracts penalty for any erring PLCs, Registrars or DMBs. Though the FA 2020 provision on UFTF penalty did not specify who bears the penalty, we expect that PLCs, Registrars or DMBs will be held liable for any non-compliance.</p> <p>The need for a good governance structure for the UFTF was not overlooked as the FA 2020 makes provision for composition of the UFTF governance board. The Fund is under the supervision of the DMO co-chaired by the HMoFBNP and a qualified person of irreproachable integrity from the private sector.</p>	<ul style="list-style-type: none"> <li>Shareholders of listed companies with unclaimed dividends</li> <li>Bank customers with dormant accounts</li> <li>All Banks</li> <li>All listed companies</li> </ul>	

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>unutilised amounts in dormant bank accounts shall be transferred either by the public limited company, Registrar or the deposit money bank.</p> <p>(5) The unclaimed Funds Trust Fund shall be governed by a governing Council chaired by the Minister responsible for Finance and a Co-chairperson from the private sector as may be appointed by the President on the recommendation of the minister responsible for Finance subject to confirmation by the Senate, provided that the private sector Co-Chairperson shall be a qualified person of irreproachable integrity such as to render a fit and proper person to serve in this capacity.</p> <p>(6) Other members of the governing Council shall include-</p> <ul style="list-style-type: none"> <li>a. Governor of Central Bank of Nigeria</li> <li>b. the Director-General of Securities and Exchange Commission</li> <li>c. the managing Director of national Deposit Insurance Corporation'</li> <li>d. a representative of Registrars of Companies</li> <li>e. two representatives of the Shareholders' association</li> <li>f. a representative of the Bankers' Committee</li> <li>g. the Director-General of the Debt Management Office as the Secretary of the Trust Fund</li> </ul>	<p>The interest of the public is also represented in the board by inclusion of two representatives from shareholders' association.</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>(7) The Secretariat of the Trust Fund shall be in the Debt Management Office and the Debt Management Office shall operate the Trust Fund with the Central bank of Nigeria and Securities and Exchange Commission</p> <p>(8) All public limited liability companies quoted on the Nigeria Stock Exchange and deposit money banks shall render annual return of unclaimed dividend and unutilised amounts in a dormant account in a format prescribed by the Debt Management Office of the Federation.</p> <p>(9) The Debt Management Office shall prepare and submit the financial statement of the Unclaimed Dividends Trust Fund to the office of the Auditor General for the Federation.</p> <p>(10) Failure by any company or deposit money bank to transfer the unclaimed dividends or unutilised amounts in a dormant bank account to the Unclaimed Funds Trust Fund constitutes an offence under this Act and the company or deposit money bank is liable upon conviction, to a fine of not less than five times the value of the unclaimed dividends and unutilised funds in a dormant bank account plus accumulated interest on the amount</p>			

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		<p>not transferred at the CBN monetary Policy Rate.</p> <p>Provided that this section shall not apply to official bank accounts owned or belonging to the Federal Government, State Government or local Government, or any their Ministries, Departments or Agencies</p>			
78	<b>Unclaimed Funds-Trust Functions of the Debt Management Office</b>	<p>The Debt management Office shall-</p> <p>(a) maintain a reliable database of all unclaimed dividends and dormant bank balances constituting the debt owed by the Trust Fund which shall be verified and reconciled with the Securities and Exchange Commission, and the Central bank of Nigeria on a bi-annual basis</p> <p>(b) liaise with the relevant Registrars of companies, deposit money banks or the national Deposit Insurance Corporation, as the case may be, to make adequate arrangements for the repayment of the verified interest and capital obligation due to the relevant shareholders, depositors or their legal beneficiaries, as the case may be;</p> <p>(c) prepare and submit the financial statements of the trust Fund to the Office of the Auditor General for the Federation</p> <p>(d) prepare and implement a plan for the efficient management of the</p>	<p>The FA 2020 listed the functions of the DMO in relation to the UTF to include proper record keeping and maintain of sinking fund to meet the obligations of the fund to the shareholders and bank account holders upon successful verification.</p>		

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		obligations of the Trust fund, which plan shall include setting guidelines, modalities and other arrangements which may include an annual sinking fund, for the servicing of the interest and capital obligations of the trust Fund			
79	Unclaimed Funds Trust Fund-Governing Council	<p>The Governing Council shall-</p> <p>a. approves policies, strategies, and procedures to be adopted by the Governing Council for the achievement of its objectives</p> <p>b. review, from time to time, the economic and political impact of the management strategies and public engagement strategies relating to the transparency and accountability of the trust Fund</p> <p>c) appoint, as and when necessary, the technical committees comprised of persons with requisite technical competencies from the private or public sector to advise the Governing Council on such matters as may be determined from time to time</p> <p>d) receive bi-annual report from the Debt management Office of failure by any company or deposit money bank to transfer the unclaimed dividends or unutilised amounts in a dormant bank account from the Trust Fund, which failure shall constitute an offence under this Act and the company or deposit money bank shall be liable upon</p>			

FA2020	Principal Act (As Amended)	Finance Act, 2020 Amendments	Implications of Proposed Changes	Affected Stakeholders	Proposals for FA 2021 Amendments
		conviction, to a fine of not less than five times the value of the unclaimed dividends and unutilised funds in a dormant bank account plus accumulated interest on the amount not transferred at the CBN monetary Policy Rate. e) perform such other functions as may from time to time be necessary to achieve the objectives of the Fund.			
80	<b>Finance Act 2020: Effective Date</b>	This Act takes effect from 1 <sup>st</sup> January 2021 or such other date that shall be indicated by the National Assembly by law (or by Presidential Order)	The Act was signed into law on 31 December 2020 and become effective from 1 <sup>st</sup> January 2021	All taxpayers	
81	<b>Finance Act 2020- Citation</b>	This Act may be cited as the Finance Act, 2020	Though the Finance Act is effective from 1 January 2021, the citation follows the sequence set up by the FA 2019. The implication of this is that the effective date for the Finance Acts is the fiscal year subsequent to the year cited for the Act.		

**Extraordinary**



# Federal Republic of Nigeria Official Gazette

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*Government Notice No. 1*

The following is published as supplement to this *Gazette*:

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## FINANCE ACT, 2020



### ARRANGEMENT OF SECTIONS

#### *Section :*

1. Amendment of Cap. C1, C21, P8, C49, V1, N107, O5, 117, S8, LFN, 2004 ; Act No. 16, 2011, Act No. 13, 2007, Act No. 31, 2007, Act No. 14, 2007 and Act No. 3, 2020.

#### PART I—CAPITAL GAINS TAX ACT

2. Amendment of section 2.
3. Amendment of section 24.
4. Amendment of section 36.
5. Amendment of Schedule.

#### PART II—COMPANIES INCOME TAX ACT

6. Amendment of section 11.
7. Amendment of section 13.
8. Amendment of section 14.
9. Amendment of section 16.
10. Amendment of section 23.
11. Amendment of section 25.
12. Amendment of section 27.
13. Amendment of section 33.
14. Amendment of section 39.
15. Substitution for section 53.
16. Amendment of section 55.
17. Substitution for section 63.
18. Amendment of section 68.
19. Amendment of section 69.
20. Amendment of section 77.
21. Amendment of section 105.
22. Amendment of Second Schedule.

#### PART III—INDUSTRIAL DEVELOPMENT (INCOME TAX RELIEF) ACT

23. Amendment of section 1.
24. Amendment of section 25.

**PART IV—PERSONAL INCOME TAX ACT**

- 25. Insertion of new section 6A.
- 26. Amendment of section 20.
- 27. Substitution for section 24.
- 28. Substitution for section 25.
- 29. Amendment of section 33.
- 30. Amendment of section 37.
- 31. Amendment of section 108.
- 32. Amendment of sections 23, 48, 73, 86, 89, 93 and 106A.
- 33. Amendment of third Schedule.

**PART V—TERTIARY EDUCATION TRUST FUND (ESTABLISHMENT, ETC.) ACT**

- 34. Amendment of section 1.
- 35. Deletion of section 10.
- 36. Amendment of section 11.

**PART VI—CUSTOMS AND EXCISE TARIFF, ETC (CONSOLIDATION) ACT**

- 37. Substitution for section 21.
- 38. Amendment of First Schedule.
- 39. Amendment of Second Schedule.

**PART VII—VALUE ADDED TAX ACT**

- 40. Substitution for section 2.
- 41. Insertion of new section 2A.
- 42. Substitution for section 4.
- 43. Substitution for section 10.
- 44. Amendment of section 46.
- 45. Amendment of Parts I-II to the Schedule.

**PART VIII—STAMP DUTIES ACT**

- 46. Amendment of section 2.
- 47. Amendment of section 89.
- 48. Insertion of new section 89A.

**PART IX—FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT**

- 49. Amendment of section 8.
- 50. Amendment of section 23.
- 51. Amendment of section 25.
- 52. Amendment of section 26.
- 53. Insertion of new section 28A.
- 54. Amendment of section 39.
- 55. Amendment of section 50.
- 56. Amendment of section 69.
- 57. Amendment to the Fifth Schedule.

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**PART X—NIGERIA EXPORT PROCESSING ZONES ACT**

58. Amendment of section 18.

**PART XI—OIL AND GAS EXPORT FREE ZONE ACT**

59. Amendment of section 18.

**PART XII—COMPANIES AND ALLIED MATTERS ACT**

60. Substitution for section 432.

**PART XIII—FISCAL RESPONSIBILITY ACT**

61. Amendment of section 12.

62. Substitution for section 22.

**PART XIV—PUBLIC PROCUREMENT ACT**

63. Substitution for section 15.

64. Substitution for section 17.

65. Substitution for section 20.

66. Amendment of section 22.

67. Amendment of section 24.

68. Amendment of section 25.

69. Amendment of section 27.

70. Amendment of section 30.

71. Amendment of section 35.

72. Substitution for section 36.

73. Amendment of section 58.

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**PART XV—ESTABLISHMENT OF CRISIS INTERVENTION FUND  
AND UNCLAIMED FUNDS TRUST FUND**

75. Establishment of Crisis Intervention Fund.

76. Utilization of Crisis Intervention Fund.

77. Establishment of Unclaimed Funds Trust Fund.

78. Functions of the Debt Management Office as they relate to the Trust Fund.

79. The Governing Council.

80. Commencement date.

81. Citation.



## FINANCE ACT, 2020

### Act No. 1

AN ACT TO AMEND THE CAPITAL GAINS TAX ACT, CAP. C1, COMPANIES INCOME TAX ACT, CAP. C21, PERSONAL INCOME TAX ACT, CAP. P8, CUSTOMS AND EXCISE TARIFF, ETC. (CONSOLIDATED) ACT, CAP. C49, VALUE ADDED TAX ACT, CAP. V1, NIGERIA EXPORT PROCESSING ZONES ACT, CAP. N107, OIL AND GAS EXPORT FREE ZONE ACT, CAP. O5, INDUSTRIAL DEVELOPMENT (INCOME TAX RELIEF) ACT, CAP. I17, STAMP DUTIES ACT, CAP. S8, LAWS OF THE FEDERATION OF NIGERIA, 2004; TERTIARY EDUCATION TRUST FUND (ESTABLISHMENT) ACT NO. 16, 2011, FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT NO. 13, 2007, FISCAL RESPONSIBILITY ACT NO. 31, 2007, PUBLIC PROCUREMENT ACT NO. 14, 2007 AND COMPANIES AND ALLIED MATTERS ACT NO. 3, 2020; AND FOR RELATED MATTERS.

[31st Day of December, 2020]

Commencement.

ENACTED by the National Assembly of the Federal Republic of Nigeria—

1. The Capital Gains Tax Act, Cap. C1, Companies Income Tax Act, Cap. C21, Personal Income Tax Act, Cap. P8, Customs and Excise Tariff, Etc. (Consolidated) Act, Cap. C49, Value Added Tax Act, Cap. V1, Nigeria Export Processing Zones Act, Cap. N107, Oil and Gas Export Free Zone Act, Cap. O5, Industrial Development (Income Tax Relief) Act, Cap. I17, Stamp Duties Act, Cap. S8, Laws of the Federation of Nigeria, 2004; Tertiary Education Trust Fund (Establishment) Act No. 16, 2011, Federal Inland Revenue Service (Establishment) Act No. 13, 2007, Fiscal Responsibility Act No. 31, 2007, Public Procurement Act No. 14, 2007 and Companies and Allied Matters Act No. 3, 2020 are amended as set out in this Act.

Amendment of Cap. C1. C21. P8. C49. V1. N107. O5. I17. S8. LFN, 2004; Act No 16, 2011, Act No. 13, 2007, Act No. 31, 2007, Act No. 14, 2007 and Act No. 3, 2020.

### PART I—CAPITAL GAINS TAX ACT (CGTA)

2. Section 2 of the Act is amended by inserting after subsection (3), a new subsection “(4)” :

Amendment of section 2.

“(4) Subject to the provisions of section 31 of this Act, every person having disposed a chargeable asset shall, not later than 30 June and 31 December of that year, compute the capital gains tax, file self-assessment return, and pay the tax computed in respect of the chargeable assets disposed in the periods.”

3. Section 24 (f) of the Act is amended by inserting after the word, “aircraft”, in line 1, the words, “used in international traffic”.

Amendment of section 24.

**A 6**

**2021 No. 1**

**Finance Act, 2020**

Amendment  
of  
section 36.

**4. Section 36 (2) is amended by—**

**(a) substituting for subsection (2), new subsection “(2)”—**

“(2) Sums obtained by way of compensation for loss of office, up to a maximum of ₦10,000,000.00, shall not be chargeable gains and subject to tax under this Act.

Provided that any sum in excess of ₦10,000,000.00 shall not be so exempt but the excess amount shall be chargeable gains and subject to tax accordingly.”; and

**(b) inserting after subsection (2); new subsections “(3)” and “(4)”—**

“(3) For the purpose of subsection (2), any person who pays compensation for loss of office to an individual is required, at the point of payment of such compensation, to deduct and remit the tax due under this section to the relevant tax authority.

(4) The tax so deducted shall be remitted within the time specified under the Pay-As-You-Earn regulations issued pursuant to the Personal Income Tax Act.”

Amendment  
of  
Schedule.

**5. The Schedule to the Act is amended by deleting Part IX (returns) and Part X (assessments).**

#### **PART II—COMPANIES INCOME TAX ACT**

Amendment  
of  
section 11.

**6. Section 11 of the Act is amended—**

**(a) in subsection (2), by substituting for—**

**(i) paragraph (a), a new paragraph “(a)”—**

“(a) primary agricultural production, or”, and

**(ii) concluding paragraph to subsection (2), a new concluding paragraph—**

“shall be exempted from tax, provided the moratorium is not less than 12 months and the rate of interest on the loan is not more than the base lending rate at the time the loan was granted, refinanced or otherwise restructured.”

**(b) by substituting for subsection (4), a new subsection “(4)” :**

“(4) In this section—

“primary agricultural production” means—

**(a) primary crop production comprising the production of raw crops of all kinds, but excluding any intermediate or final processing of crops or any other associated manufactured or derivative crop product ;**

**(b) primary livestock production comprising the production of live animals and their direct produce such as live or raw meat, live or raw**



poultry, fresh eggs and milk of all kinds, but excluding any other associated manufactured or derivative livestock product ;

(c) primary forestry production comprising the production of timbers of various kinds such as firewood, charcoal, uncultivated materials gathered and other forestry products of all kinds, including seeds and saplings, but excluding the intermediate and final processing of timber and any other manufactured or derivative timber product ; and

(d) primary fishing production comprising the production of fish of all kinds, including ornamental fish, but excluding any intermediate or final processing of any other manufactured or derivative fish product.”

7. Section 13 (2) of the Act is further amended by substituting for the proviso in paragraph, (e), a new “proviso”—

Amendment  
of  
section 13.

“Provided that the withholding tax applicable to the income under this paragraph shall be the final tax on the income of a non-resident recipient who does not otherwise fall within the scope of subsection (2) (a)-(d).”

8. Section 14 of the Act is amended by inserting after subsection (4), a new subsection “(5)—

Amendment  
of  
section 14.

“(5) The provisions of this section does not apply to income from leasing, containers, non-freight operations or any other incidental income liable to tax under section 9 of this Act.”

9. Section 16 of the Act is further amended by—

Amendment  
of  
section 16.

(a) substituting for subsection (12), a new subsection “(12)—

“(12) For the purpose of this section, the tax payable by any insurance company for any year of assessment shall not be less than—

(a) 0.5% of the gross premium for non-life insurance business,

(b) 0.5% of the gross income for life insurance business—

Provided, that the applicable minimum tax under this section shall be reduced to 0.25% for tax returns prepared and filed for any year of assessment falling due on any date between 1st January 2020 and 31st December 2021, both days inclusive.”; and

(b) inserting, after subsection (12), a new subsection “(13)—

“(13) For the purpose of subsection (12)—

“gross premium” means the total premiums written, received and receivable excluding unearned premium and premiums returned to the insured ; and

“gross income” means total income earned by a life insurance business including all investment income (excluding franked investment income), fees, commission and income from other assets but excluding premiums received and claims paid by re-insurers.”

**A 8**

**2021 No. 1**

**Finance Act, 2020**

Amendment  
of  
section 23.

**10. Section 23 of the Act is further amended—**

(a) in subsection (1B), by substituting for paragraph (c), a new paragraph “(c)—

“(c) a real estate investment company from tax on dividend and rental income if it does not meet the conditions stipulated in subsection (1) (s) ;” and

(b) by deleting subsection (1C).

Amendment  
of  
section 25.

**11. Section 25 of the Act is amended by inserting, after subsection (7), new subsections “(8)” and “(9)”—**

“(8) Donations made by companies in cash or kind to any fund set up by the Federal Government or any State Government, or to any agency designated by the Federal Government or to any similar Fund or purpose in consultation with any Ministry, Department or Agency of the Federal Government, in respect of any pandemic, natural disaster or other exigency shall be allowed as deductions as follows—

(a) the cost of in-kind donations made to the Government and any designated agency shall be allowed as deductions ; or

(b) where companies have either procured or manufactured items for contribution, the cost of purchase, manufacture or supply of such in-kind contributions shall be allowed as deductions—

Provided that requisite documentation evidencing the donation and the cost thereof are provided to the relevant tax authority and demonstrated to be wholly, reasonably, exclusively and necessarily incurred in relation to the procurement, manufacture or supply of the in-kind contributions.

(9) Notwithstanding the provisions of subsections (2) and (3), amounts allowable for deduction, in respect of subsection (8), in any year of assessment shall be limited to 10% of assessable profits after deduction of other allowable donations made by the company.”

Amendment  
of  
section 27.

**12. Section 27 of the Act is amended by substituting for paragraph (k), a new paragraph “(k)—**

“(k) penalty or fine imposed pursuant to a legislation enacted by the National Assembly or State House of Assembly.”

Amendment  
of  
section 33.

**13. Section 33 of the Act is amended by substituting for subsection (2), a new subsection “(2)—**

“(2) For the purpose of subsection (1), the minimum tax to be levied and paid shall be 0.5% of gross turnover of the company less franked investment income—

Provided, that the applicable minimum tax is reduced to 0.25% for tax returns prepared and filed for any year of assessment falling due on any date between 1 January 2020 and 31 December 2021, both days inclusive.”



Finance Act, 2020	2021 No. 1	A 9
<p><b>14. Section 39 of the Act is amended by substituting for—</b></p> <p>(a) the opening sentence of subsection (1), starting with the words, “A company”, and ending with the words, “that is”, a new opening sentence—</p> <p>“(1) Where a company is engaged in a trade or business of gas utilisation in downstream operations, the company shall, in respect of that trade or business, be granted the following incentives” ; and</p> <p>(b) subsections (2) and (3), new subsections “(2)” and “(3)”—</p> <p>“(2) The tax-free period of a trade or business shall start on the day the trade or business commences production as certified by the Ministry of Petroleum Resources.</p> <p>(3) This section does not apply with respect to any company that has claimed an incentive for trade or business of gas utilisation under any law in Nigeria, including the Petroleum Profits Tax Act or the incentives under the Industrial Development (Income Tax Relief) Act in respect of the same qualifying capital expenditure.”</p>	<p>Amendment of section 39.</p>	
<p><b>15. Substitute for section 53 of the Act, a new section “53”—</b></p> <p>“Self- assessment of tax payable.      53.—(1) Every company filing a return under section 52, 55 or 58 of this Act shall—</p> <p>(a) in the return, compute the tax payable by the company for the year of assessment ; and</p> <p>(b) forward with the tax return, evidence of payment of the tax due.</p> <p>(2) Where, by a deliberate and dishonest act, the returns filed fail to declare the true and correct amount of profits or tax payable by the company, the company is immediately liable to pay any outstanding tax so identified and assessed.</p> <p>(3) The outstanding tax shall be subject to penalty and interest, in accordance with the provisions of this Act or any other relevant law, and the penalty and interest shall accrue from the date the incorrect return was filed”.</p>	<p>Substitution for section 53.</p>	
<p><b>16. Section 55 of the Act is amended by—</b></p> <p>(a) inserting, after subsection (1), a new subsection “(1A)”—</p> <p>“(1A) Where any company other than a Nigerian company derives profit from or is taxable in Nigeria under section 13 (2) of this Act, such company shall be required to submit a return for the relevant year of assessment containing—</p> <p>(a) the company’s full audited financial statements and the financial statement of the Nigerian operations, attested by an independent qualified or certified accountant in Nigeria ;</p> <p>(b) tax computation schedules based on the profits attributable to its Nigerian operations ;</p>	<p>Amendment of section 55.</p>	

(c) a true and correct statement, in writing, containing the amount of profits from each and every source in Nigeria ; and.

(d) duly completed Companies Income Tax Self-Assessment Forms—

Provided that in a year of assessment where a company other than a Nigerian company only earns income on which withholding tax is the final tax under this Act, the obligation to file a tax return in the manner prescribed shall not apply to such company in that year of assessment.” ;

(b) inserting, after subsection (6), a new subsection “(7)” —

“(7) Notwithstanding anything contained in this section, the Service may by notice specify the form of the accounts to be included in a tax return, instead of audited accounts specified in subsection (1) (a), in respect of small and medium companies as defined under this Act.”; and

(c) renumbering the section appropriately.

Substitution  
for section  
63.

17. Substitute for section 63 of the Act, a new section “63”—

“Books of account. 63. (1) Every company, including a company granted exemption from incorporation, shall, whether or not the company is liable to pay tax under this Act, maintain books or records of accounts, containing sufficient information or data of all transactions.

(2) The books and records required to be maintained under subsection (1) shall be in the English language and shall, for the purposes of tax account, be consistent with the format that may be prescribed by the Service.

(3) Where a record of a company is maintained in a language other than the English language, the company shall, on demand by the Service, produce, at its own expense, a translation in English language, which shall be certified by a sworn translator.

(4) Any company that on request by the Service, fails to provide any record or book prescribed under subsections (1) - (3) shall be liable to pay as penalty—

(a) ₦100,000 in the first month in which the failure occurs ; and

(b) ₦50,000 for each subsequent month in which the failure continues.

(5) Where, in the opinion of the Service, a company fails or refuses to maintain books or records of accounts that are consistent with the provisions of subsections (1), (2) and (3) or adequate for the purposes of tax, the Service may, by notice in writing, require it to maintain such records, books and accounts as the Service considers adequate, in such form and language as may be specified in the notice.

(6) Any direction of the Service made under subsection (5) shall be subject to objection and appeal in like manner as an assessment.

(7) Any book or record required to be kept under this section shall be kept for a period of at least six years after the year of assessment in which the income relates.



<i>Finance Act, 2020</i>	<b>2021 No. 1</b>	<b>A 11</b>
<p><b>18.</b> Section 68 of the Act is amended by inserting, after the word, “post”, in line 1, the words, “courier service, email or any other electronic means, as directed by the Service in any notice issued pursuant to this Act or any other relevant law”.</p>		Amendment of section 68.
<p><b>19.</b> Section 69 of the Act is amended by inserting, after the word, “writing”, in line 2, the words, “delivered in person, by courier service, email or any other electronic means, as directed by the Service in any notice issued pursuant to this Act or any other relevant law”.</p>		Amendment of section 69.
<p><b>20.</b> Section 77 of the Act is amended—</p> <p>(a) in subsection (2), by substituting for the words, “two months”, in line 3, the expression, “30 days”, wherever they appear in the subsection ;</p> <p>(b) by deleting subsections (6) and (7) ; and</p> <p>(c) by renumbering the section appropriately.</p>		Amendment of section 77.
<p><b>21.</b> Section 105 of the Act is amended by—</p> <p>(a) substituting for the definitions of “gross turnover” and “Nigerian company”, new definitions—</p> <p>“gross turnover” means the gross inflow of economic benefits during the period arising in the course of the operating activities of an entity when those inflows result in increases in equity, other than increases relating to contributions from equity participants, including sales of goods, supply of services, receipt of interest, rents, royalties or dividends ; and</p> <p>“Nigerian company” means any company formed or incorporated under any law in Nigeria” ;</p> <p>(b) inserting the definition of “public character”—</p> <p>“public character” with respect to any organisation or institution means “organisation or institution—</p> <p>(a) that is registered in accordance with relevant law in Nigeria ; and</p> <p>(b) does not distribute or share its profit in any manner to members or promoters.”</p>		Amendment of section 105.
<p><b>22.</b> Part II, paragraph 1 to the Second Schedule is amended by substituting for subparagraph (1) (j), a new subparagraph (1) “(j)”—</p> <p>“(j) capital expenditure that is incurred on the development or acquisition of software or other such capital outlays on electronic applications”.</p>		Amendment of Second Schedule.
<p><b>PART III—INDUSTRIAL DEVELOPMENT (INCOME TAX RELIEF) ACT</b></p>		
<p><b>23.</b> Section 1 of the Act is amended by inserting, after subsection (7), a new subsection “(7)”—</p> <p>“(7) Any small or medium sized company engaged in primary agricultural production shall be granted, pursuant to an application to the President, through the Minister, an initial tax-free period of four years which may be extended,</p>		Amendment of section 1.

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subject to the satisfactory performance of such primary agricultural production, for an additional maximum period of two years, and such company cannot be granted similar tax holiday incentive under any other Act in force in Nigeria”.

Amendment  
of  
section 25.

24. Section 25 of the Act is amended by inserting, in alphabetical order, the following definitions—

“*medium sized company*” means a company that earns gross turnover greater than N25,000,000 but less than N100,000,000 per annum, or as otherwise defined by the Companies Income Tax Act ;

‘primary agricultural production’ means—

(a) primary crop production comprising the production of raw and semi-processed crops of all kinds, but excluding any intermediate or final processing of crops or any other associated manufactured or derivative crop product ;

(b) primary livestock production comprising the production of live animals and their direct produce such as live or raw meat, live or raw poultry, fresh eggs and milk of all kinds, but excluding any other associated manufactured or derivative livestock product ;

(c) primary forestry production comprising the production of timbers of various kinds such as firewood, charcoal, uncultivated materials gathered and other forestry products of all kinds, including seeds and saplings, but excluding the intermediate and final processing of timber and any other manufactured or derivative timber product ; and

(d) primary fishing production comprising the production of fish of all kinds, including ornamental fish, but excluding any intermediate or final processing of any other manufactured or derivative fish product.

“*small sized company*” means a company that earns gross turnover of N25,000,000 or less per annum, or as otherwise defined by the Companies Income Tax Act.”

#### PART IV—PERSONAL INCOME TAX ACT

Insertion of  
new section  
6A.

25. The Act is amended by inserting, after section 6, a new section “6A”—

—Profits of a trade or business of furnishing of services carried out outside Nigeria. 6A. (1) Notwithstanding the provisions of section 6 of this Act, where an individual, executor, or trustee outside Nigeria carries on a trade or business that comprises the furnishing of technical, management, consultancy or professional services to a person resident in Nigeria, the gains or profits of the trade or business shall be deemed to be derived from and taxable in Nigeria to the extent that the individual, executor or trustee has significant economic presence in Nigeria—

Provided that the withholding tax applicable to income pursuant to this Act shall be the final tax on the income of a non-resident recipient who does not otherwise fall within the scope of section 6 of this Act.



(2) For the purpose of this section, the Minister may by Order, determine what constitutes the significant economic presence of a non-resident individual, executor or trustee."

26. Section 20 (1) of the Act is amended by substituting for paragraph (g), a new paragraph "(g)"— Amendment of section 20.

"(g)" a contribution to a pension, provident or other retirement benefits fund, society or scheme, recognised under the Pension Reform Act".

27. Substitute for section 24 of the Act, a new section "24"— Substitution for section 24.

"New trades 24. The assessable income of an individual from a trade, business, profession or vocation carried on by such individual in Nigeria, for its first year of assessment and the two following years of assessment (which years are in this subsection respectively referred to as "the first year", "the second year" and "the third year") shall be ascertained in accordance with the following provisions—

(a) for the first year, the assessable income shall be the income from the date on which the individual commenced such trade, business, profession or vocation in Nigeria to the end of its first accounting period ;

(b) for the second year, the assessable income shall be the income from the first day after the trade or business' first accounting period to the end of its second accounting period ; and

(c) for the third year and for each subsequent year thereafter, the assessable income shall be the profits from the day after the accounting period just ended."

28. Substitute for section 25 of the Act, a new section "25"— Substitution for section 25.

"Cessation of trades, etc. 25. Where an individual permanently ceases to carry on a trade, business, profession or vocation in Nigeria, such individual's assessable income therefrom shall be the amount of income from the beginning of the accounting period to the date of cessation and the tax thereof shall be payable within three months from the date of cessation."

29. Section 33 of the Act is amended—

(a) by substituting for subsections (2) and (3), new subsections "(2)" and "(3)"— Amendment of section 33.

"(2) For the purposes of this Section, "gross income" means income from all sources less all non-taxable income, income on which no further tax is payable, tax-exempt items listed in paragraph (2) of the Sixth Schedule and all allowable business expenses and capital allowance.

(3) There shall be allowed a deduction of the annual amount of any premium paid by the individual during the year preceding the year of assessment to an insurance company in respect of insurance on his life or the life of his spouse, or of a contract for a deferred annuity on his own life or the life of his spouse." ; and

(b) renumbering the section appropriately.

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Amendment of section 37.	<p><b>30.</b> Section 37 of the Act is amended by inserting, after the word, “income”, a new “proviso”—</p> <p>“Provided that minimum tax under this section or as provided for under the Sixth Schedule to this Act shall not apply to a person in any year of assessment where such person earns the National Minimum Wage or less from an employment.”</p>	
Amendment of section 108.	<p><b>31.</b> Section 108 of the Act is amended by inserting the definitions of the “Board” and “National Minimum Wage”—</p> <p>“<i>Board</i>” means the Joint Tax Board established under section 86 of this Act ; and</p> <p>“<i>National Minimum Wage</i>” means the extant National Minimum Wage pursuant to the National Minimum Wage Act.</p>	
Amendment of sections 23, 48, 73, 86, 89, 93 and 106A.	<p><b>32.</b> Sections 23, 48, 73, 86, 89, 93 and 106A of PITA are amended by substituting for the word, “Service”, the word, “Board” wherever it appears in the sections.</p>	
Amendment of Third Schedule.	<p><b>33.</b> The Third Schedule to the Act is further amended by inserting, after paragraph 32, a new paragraph “33”—</p> <p>“33. The income of a person from an employment where such person earns gross income of National Minimum Wage or less from such employment.”</p>	
Amendment of section 1.	<p><b>PART V—TERTIARY EDUCATION TRUST FUND (ESTABLISHMENT, ETC.) ACT</b></p> <p><b>34.</b> Section 1 of the Act is amended by substituting for subsection (2), a new subsection “(2)—</p> <p>“(2) The tax, at the rate of two percent, shall be charged on the assessable profit of a company registered in Nigeria, other than a small company as defined under the Companies Income Tax Act”.</p>	
Deletion of section 10.	<p><b>35.</b> Section 10 of the Act is deleted.</p>	
Amendment of section 11.	<p><b>36.</b> The Act is amended by deleting section 11 (3).</p>	
Substitution for section 21.	<p><b>PART VI—CUSTOMS AND EXCISE TARIFF, ETC. (CONSOLIDATION) ACT</b></p> <p><b>37.</b> Substitute for section 21, a new section “21”—</p> <p>“Goods 21. (1) Goods imported and those manufactured in Nigeria and liable to specified in the Fifth Schedule to this Act shall be charged with duties of excise at the rates specified under the duty column in the Schedule.</p> <p>(2) Telecommunication services provided in Nigeria shall be charged with duties of excise at the rates specified under the duty column in the Schedule as the President may by Order prescribe pursuant to section 13 of this Act.”</p>	



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38. The First Schedule to the Act is amended by inserting and replacing, as the case may be, the following duties and levies—		Amendment of First Schedule.	
(a) Duty on Tractors (HS Headings 8701) from 35% to 5% ;			
(b) Duty on Motor Vehicles for the transport of more than ten persons (HS Headings 8702) from 35% to 10% ;			
(c) Levy on Motor Vehicles for the transport of persons [cars] (HS Headings 8703) from 30% to 5% ; and			
(d) Duty for Motor Vehicles for the Transport of Goods (HS Headings 8704) from 35% to 10%—			
Provided that vehicles exempt from applicable duties and levies shall continue to enjoy such exemption.			
39. The Second Schedule of the Act is amended by substituting for Paragraph 1, a new Paragraph “1”—		Amendment of Second Schedule.	
“1. Airlines registered in Nigeria and providing commercial air transport services are entitled to duty-free importation of their aircrafts, engines, spare parts and components whether purchased or leased.”			
PART VII—VALUE ADDED TAX ACT			
40. Substitute for section 2 of the Act, a new section “2”—		Substitution for section 2.	
“Taxable goods and services.	2.—(1) The tax shall be charged and payable on all supplies of goods and services in Nigeria other than those listed in the First Schedule to this Act.		
(2) For the purposes of this Act, goods and services consumed or otherwise utilised in Nigeria are supplied in Nigeria.”			
(3) Notwithstanding the provisions of subsection (1), a taxable supply shall be deemed to take place in Nigeria if—			
(a) in respect of goods—			
(i) the goods are physically present in Nigeria at the time of supply, imported into Nigeria, assembled in Nigeria or installed in Nigeria, or			
(ii) the beneficial owner of the rights in or over the goods is a taxable person in Nigeria and the goods or right is situated, registered or exercisable in Nigeria ;			
(b) in respect of a service—			
(i) the service is rendered in Nigeria by a person physically present in Nigeria at the time of providing the service,			
(ii) the service is provided to and consumed by a person in Nigeria, regardless of whether the service is rendered within or outside Nigeria or whether or not the legal or contractual obligation to render such service rests on person within or outside Nigeria, or			

(iii) the service is connected with existing immovable property (including the services of agents, experts, engineers, architects, valuers, etc.), where the property is located in Nigeria ; and

(c) in respect of an incorporeal—

(i) the exploitation of the right is made by a person in Nigeria,

(ii) the right is registered in Nigeria, assigned to or acquired by, a person in Nigeria, regardless of whether the payment for its exploitation is made within or outside Nigeria, or

(iii) the incorporeal is connected with a tangible or immovable asset located in Nigeria.”

Insertion of  
new  
section 2A.

41. Insert after section 2 of the Act, a new section “2A”—

“Time of supply. 2A.—(1) For the purposes of this Act, supply shall be deemed to take place at the time an invoice or receipt is issued by the supplier, or payment of consideration is due to, or received by the supplier in respect of that supply, whichever occurs first.

(2) A taxable supply shall be deemed to take place where the supplier and recipient are connected persons and invoices are not issued, in the case of—

(a) a supply of goods which are to be removed, the time of removal of the goods ;

(b) a supply of goods which is not to be removed, at the time when they are available to the recipient ;

(c) furnishing of a service, upon the furnishing of the service ; and

(d) an incorporeal, when such incorporeal becomes available for the use of the recipient.

(3) Notwithstanding the provisions of subsection (1) or (2)—

(a) where goods are supplied under any rental agreement or where services are furnished under any agreement or law which provides for periodic payments, they shall be deemed to be successively supplied for successive parts of the periods of the agreement or as determined by such law, and each of the successive supplies shall be deemed to occur when payment becomes due or is received, whichever is earlier ;

(b) where, and to the extent that, supply of taxable goods and services are—

(i) progressively or periodically made under any agreement or law which provides for the consideration for that supply to be paid in instalments or periodically and in relation to the progressive or periodic supply, or

(ii) made in relation to any construction, erection, assembly, manufacturing, alteration, improvement or repair activity under any agreement or law which provides for the consideration for that supply to become due and payable in instalments or periodically in relation to the progressive nature of the work,



those supplies shall be deemed to be successively made, and each such successive supply shall be deemed to take place whenever any payment becomes due or is received or an invoice relating to only that payment is issued, whichever occurs first ; and

(c) where goods are supplied under an instalment credit agreement, that supply shall be deemed to take place at the time the goods are delivered or the time any payment of consideration is received by the supplier in respect of the supply, whichever occurs first.”

42. Substitute for section 4 of the Act, a new section “4”—

Substitution  
for section 4.

“Rate of tax. 4. The tax shall be computed at the rate of 7.5% with effect from 1 February 2020, on the value of all goods and services, except that goods and services listed under Part III of the First Schedule to this Act shall be taxed at zero rate.”

43. Substitute for section 10 of the Act, a new section “10”—

Substitution  
for  
section 10.

“Registration by non-resident companies. 10.—(1) For the purpose of this Act, a non-resident person that makes a taxable supply of goods or services to Nigeria shall register for tax with the Service and obtain Tax Identification Number (TIN).

(2) A non-resident person shall include the tax on its invoice for all taxable goods or services.

(3) The taxable person to whom the supply of taxable goods or services are made in Nigeria or such other person as may be appointed by the Service shall withhold and remit the tax to the Service in the currency of the transaction.

(4) Notwithstanding the provision of subsection (1) of this section, a non-resident person that makes a supply of taxable goods or services in Nigeria may appoint a representative, for the purposes of its tax obligations.

(5) The Service may issue a guideline for the purposes of giving effect to the provisions of this section.”

44. Section 46 of the Act is amended by—

Amendment  
of  
section 46.

(a) inserting the following new definitions—

“*animal feed*” means raw, semi-processed, processed and otherwise enhanced animal feed that is fed to domesticated and other animals raised and slaughtered for human consumption to provide beef, goat, lamb, pork, chicken, fish and other kinds of meat, as well as other animals cultivated and raised for the production of milk, eggs as well as other sources of protein and nutrients edible by humans ; and

“*commercial aircraft spare parts and components*” means parts, engines, propellers, radio apparatus, instruments, appliances, furnishing, parts of any of the foregoing, and generally any other article of whatever description maintained for installation in a commercial aircraft in substitution for parts or articles removed” ; and

(b) substituting for the definition of “goods” and “services”, new definitions—

“*goods*”, for the purposes of this Act, means all forms of tangible properties, movable or immovable, but does not include, land and building, money or securities ;

“*services*” means—

(a) anything, other than goods, or services provided under a contract of employment ; and

(b) includes any intangible or incorporeal (product, asset or property) over which a person has ownership or rights, or from which he derives benefits, and which can be transferred from one person to another, excluding interest in land and building, money or security.

Amendment  
of Parts 1-  
11 to the  
Schedule.

45. The Schedule to the Act is further amended—

(a) in Part I, by inserting, after item 10, a new item “11”—

“11. Commercial aircrafts, commercial aircraft engines, commercial aircraft spare parts.”

(b) in Part II, by inserting, after item 5, new items “6” and item “7”—

“6. Airline transportation tickets issued and sold by commercial airlines registered in Nigeria.

7. Hire, rental or lease of tractors, ploughs and other agricultural equipment for agricultural purposes.”

#### PART VIII—STAMP DUTIES ACT

Amendment  
of  
section 2.

46. Section 2 of the Act is amended by substituting for the definition of “stamp”, a new definition—

“*stamp*” means an impressed pattern or mark by means of an engraved or inked die, an adhesive stamp, an electronic stamp or an electronic acknowledgement for denoting any duty or fee, provided that the Service shall utilise adhesive stamp produced by the Nigerian Postal Service pursuant to its enabling Act.”

Amendment  
of  
section 89.

47. Section 89 of the Act is further amended—

(a) in subsection (1), by deleting the words, “or electronic inscription”, in line 2 ;

(b) in subsection (2), by deleting the words, “or any acknowledgement of duty charged on an electronic transaction”, in lines 4 and 5 ;

(c) by deleting subsection (3) ; and

(d) renumbering the section appropriately.



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	48. Insert, after section 89 of the Act, a new section "89A"—		Insertion of new section 89A.
"Electronic money transfer levy."	89A.—(1) There is imposed a levy, to be referred to as the Electronic Money Transfer Levy, on electronic receipts or electronic transfer for money deposited in any deposit money bank or financial institution, on any type of account, to be accounted for and expressed to be received by the person to whom the transfer or deposit is made.		
	(2) The levy shall be imposed as a singular and one-off charge of N50 on electronic receipts or electronic transfers of money in the sum of N10,000 or more.		
	(3) The Minister of Finance shall, subject to the approval of the National Assembly, make regulations for the imposition, administration, collection and remittance of the Levy.		
	(4) Notwithstanding any formula that may be prescribed by any other law, the revenue accruing by virtue of the operation of this section, shall, on the basis of derivation, be distributed as follows—		
	(a) 15% to the Federal Government and the Federal Capital Territory, Abuja ; and		
	(b) 85% to the State Governments.		
	PART IX—FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT		
	49. Section 8 (1) of the Act is amended by—		Amendment of section 8.
	(a) inserting, after paragraph (s), a new paragraph "(i)"—		
	“(i) provide assistance in the collection of revenue claims or any other administrative assistance in tax matters with respect to any agreement or arrangement made between the Government of the Federal Republic of Nigeria and the Government of any country or other persons or bodies as may be deemed necessary in that regard.” ; and		
	(b) renumbering the subsection appropriately.		
	50. Section 23 of the Act is amended by substituting for subsection (4)-(6), new subsections “(4)” - “(6)”—		Amendment of section 23.
	“(4) For the purposes of tax refund, the Accountant-General of the Federation shall open a dedicated account for each tax-type into which shall be paid money for settling tax refunds.		
	(5) The dedicated accounts created pursuant to subsection (4) shall, be administered by the Service and be funded from the respective accounts of Government into which revenue of each tax-type is remitted.		
	(6) For the purposes of each dedicated account, the Service shall prepare an annual budget for tax refund as may be approved by the National Assembly.”		

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Amendment  
of  
section 25.

**51.** Section 25 of the Act is amended by inserting, after subsection (2), new subsections “(3)”-“(5)”—

“(3) The Service may deploy any proprietary or third party payment, processing or other digital platform or application to collect and remit taxes due on international transactions in the supply of digital services to and from a person in Nigeria, in the case of transactions carried out through remote, digital, electronic or other such platform.

(4) The Service may deploy proprietary technology to automate the tax administration process including tax assessment and information gathering provided it gives 30 days’ notice to the taxpayer.

(5) The Service may receive assistance in the collection of revenue claims or any other administrative assistance in tax matters with respect to any agreement or arrangement made between the Government of the Federal Republic of Nigeria and the Government of any country or other persons or bodies as may be deemed necessary in that regard.”

Amendment  
of  
section 26.

**52.** Section 26 of the Act is amended by substituting for subsections (1)-(3), new subsections “(1)”-“(3)”—

“(1) For the purposes of obtaining full information in respect of the taxation of an individual, company or any person or for the purpose of performing any function conferred on it by this Act, the Service shall give notice to any individual, company or person, requiring such individual, company or person to, within the time specified by the notice—

(a) complete and deliver to the Service any return specified in such notice ;

(b) appear personally before an officer of the Service for examination with respect to a matter to which such notice relates ;

(c) produce or cause to be produced for examination, books, documents or records, at the place and time stated in the notice, which time may be from day-to- day, or for such period as the Service may deem necessary ;

(d) provide, orally or in writing, any information specified in such notice ;

(e) grant the Service access to records, data or information stored or otherwise residing in computers or other electronic devices, including magnetic media or cloud computing facilities maintained, operated, controlled or owned by the individual, company or person.

(2) For the purposes of subsection (1) (a)-(e), the time specified by such notice shall not be less than 30 days from the date of service of such notice.

(3) A person who defaults in complying with the provisions of this section—

(a) where the default relates to a tax liability, is liable, in addition to the tax liability, to a penalty of 10% of the tax and interest at the prevailing Central Bank of Nigeria minimum rediscount rate ; or



(b) where the contravention relates to issues other than a tax liability, is liable to a penalty of ₦25,000.00 in the first month, and ₦10,000.00 for every subsequent month thereafter, in which the default continues”.

53. Insert, after section 28 of the Act, a new section “28A”—

Insertion of  
new section  
28A.

“Information to be delivered by bankers and others. 28A.—(1) In relation to international tax treaty and other exchange of information obligations and without prejudice to section 26 of this Act, every bank, insurance company, stock-broking firm, or any other financial institution shall prepare and submit, as may be specified by way of notice, rules, regulations, guidelines, or circulars issued by the Service, returns of—

(a) transactions involving the specified sum ;

(b) names, addresses (including foreign addresses), or any other information of its customers connected with those transactions ; or

(c) names, addresses, or any other information of new or existing customers.

(2) Any person, who fails to comply with the notice, rules, regulations, guidelines, or circulars issued by the Service for the purposes of this section is liable to an administrative penalty of ₦25,000.00 in the first month of failure, and ₦10,000.00 for every month in which the failure continues”.

54. Substitute for section 39, a new section “39”—

Substitution  
for  
section 39.

“Information and documents to be confidential. 39.—(1) Without prejudice to the provisions of any other Act concerning data privacy, data protection and unlawful disclosure of taxpayer information, taxpayer information shall be confidential.

(2) Except as otherwise provided under this Act, any other law or any enabling agreement or arrangement or as otherwise authorized by the Minister, any member or former member of the Board or any employee or former employee of the Service or any agent or any other person who communicates or attempts to communicate taxpayer information to any person other than to a person legally authorised to collect the tax or misuses the information commits an offence and shall be liable on conviction to a fine not exceeding ₦1,000,000.00 or to imprisonment for a term not exceeding three years or to both.

55. Section 50 of the Act is amended by substituting for subsection (5), a new subsection (5)—

Amendment  
of  
section 50.

“(5) Where any agreement or arrangement with any other country, government or tax authority for exchange of information or with respect to relief for double taxation of income or profits includes provisions for the exchange of taxpayer information with that country for the purpose of implementing a tax relief or preventing avoidance of tax, or for such other purposes as may be enshrined in the agreement or arrangement, the obligation as to secrecy imposed by this Act shall not prevent the disclosure of such information to the authorised officers of the Government of such country.”

Amendment  
of  
section 69.

56. Section 69 of the Act is amended by inserting the following definitions—

(a) “taxpayer information” includes :

(i) any information received or generated by the Service pursuant to its powers under this Act or any extant Legislation,

(ii) any information in any form received, accessed or produced by the Service under any agreement or arrangement with any country, government or tax authority, such as Double Taxation Agreements, Tax Information Exchange Agreements, and Common Reporting Standard, Country-by-Country Reporting or any other exchange of information agreement or arrangement,

(iii) written or electronic documents, returns, assessments, lists and copies of such lists relating to profits or items of profits of any person or to such matter which forms the basis of any agreement or arrangement with any country, government or tax authority ; and

(b) ‘Nigeria’, for the purposes of this Act and the laws listed in the First Schedule to this Act, means the Federal Republic of Nigeria, and when used in a geographical sense, includes the territorial waters of the Federal Republic of Nigeria, and any area outside the territorial waters, including the continental shelf, which in accordance with international law has been or may hereafter be designated, under the law of the Federal Republic of Nigeria, as an area within which the right of the Federal Republic of Nigeria with respect to the seabed, its subsoil, its superjacent waters and their natural resources may be exercised now and in the future.

Amendment  
of the Fifth  
Schedule.

57. Paragraph 20 of the Fifth Schedule to the Act is amended by—

(a) inserting, after subparagraph (2) (vii), a new subparagraph “(2) (viii)—

“(viii) conduct its hearing remotely via virtual means, using such technology or application as may be necessary to ensure fair hearing.”; and

(b) renumbering the subparagraph appropriately.

#### PART X—NIGERIA EXPORT PROCESSING ZONES ACT

Amendment  
of  
section 18.

58. Section 18 (1) of the Act is amended by substituting for paragraph (a), a new paragraph “(a)—

“(a) exemption from taxes, levies, duties and foreign exchange regulations in accordance with section 8 of this Act, subject always to the provisions of the Banks and Other Financial Institutions Act, 2020; provided that all companies registered and operating in the Zone shall comply with the provisions of section 55 (1) of the Companies Income Tax Act and render returns in the manner prescribed therein, to the Federal Inland Revenue Service and all penalties prescribed in the Companies Income Tax Act and the Federal Inland Revenue Service (Establishment) Act that may apply in the event of non-compliance with section 55 (1) of the Companies Income Tax Act shall apply to such companies in the event of default to comply”.



PART XI—OIL AND GAS EXPORT FREE ZONE ACT

59. Section 18 (1) of the Act is amended by substituting for paragraph (a), a new paragraph “(a)”—

Amendment of section 18.

“(a) exemption from taxes, levies, duties and foreign exchange regulations in accordance with section 8 of this Act, subject always to the provisions of the Banks and Other Financial Institutions Act, 2020; provided that all companies registered and operating in the Zone shall comply with the provisions of Section 55 (1) of the Companies Income Tax Act and render returns in the manner prescribed therein, to the Federal Inland Revenue Service and all penalties prescribed in the Companies Income Tax Act and the Federal Inland Revenue Service (Establishment) Act that may apply in the event of non-compliance with the said section 55 (1) of the Companies Income Tax Act shall apply to such companies in the event of default to comply.”

PART XII—COMPANIES AND ALLIED MATTERS ACT

60. Substitute for section 432 of the Act, a new section “432”—

Substitution for section 432.

“Right of a shareholder to claim for dividend.

432.—(1) Dividends are special debts due to and recoverable by shareholders within 12 years, and actionable only when declared.

(2) Dividends that are unclaimed after 12 years should be included in the profits that should be distributed to the other shareholders of the company.

(3) Notwithstanding subsections (1) and (2), dividends of a public limited liability company quoted on the Nigerian Stock Exchange which has remained unclaimed for a period of six years or more from the date of declaring the dividend shall be immediately transferred to the Unclaimed Funds Trust Fund.

(4) Such unclaimed dividends transferred to the Unclaimed Funds Trust Fund shall be a special debt owed by the Federal Government to the shareholders and shall be available for claim by the shareholder at any time, pursuant to the aforementioned perpetual trust.”

PART XIII—FISCAL RESPONSIBILITY ACT

61. Section 12 of the Act is amended by substituting for subsection (2), a new subsection “(2)”—

Amendment of section 12.

“(2) Aggregate expenditure for a financial year may exceed the ceiling imposed by the provisions of subsection (1) if, in the opinion of the President, as may be published in the Official Gazette of the Government of the Federation, or official directives or orders by the President, or through an Appropriation Act, Virement or other Money Act pursuant to sections 59 or 306 of the Constitution of the Federal Republic of Nigeria, 1999—

(a) the Federation, or any part thereof, is at war ;

(b) the Federation is in imminent danger of invasion or involvement in a state of war ;

(c) there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security ;

(d) there is clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger ;

(e) there is an occurrence or imminent danger, or the occurrence of any pandemic or disaster or such other natural calamity, affecting the community or a section of the community in the Federation ; or

(f) there is any other public danger which clearly constitutes a threat to the existence of the Federation.”

Substitution  
for  
section 22.

**62.** Substitute for section 22 of the Act, a new section “22”—

“Operation surplus and general reserve fund. 22.—(1) Notwithstanding the provisions of any written law governing the corporation, each corporation shall establish a general reserve fund and shall allocate thereto at the end of each financial year, one-fifth of its operating surplus for the year, provided that the cost to revenue ratio of each corporation shall not exceed fifty per cent or such other ratio as the Minister, upon the approval of the National Assembly, may approve for that particular corporation by way of order published in the *Official Gazette*.

(2) The balance of the operating surplus shall be paid to the Consolidated Revenue Fund of the Federation in accordance with the Constitution of the Federal Republic of Nigeria, 1999 on a quarterly basis, in accordance with such financial guidelines or regulations that the Minister may issue from time to time in consultation with the National Assembly—

Provided that nothing in this Act or any written law governing the corporation shall prevent the Minister from effecting a direct deduction from the Treasury Single Account, or other such relevant account, of that corporation to enforce due compliance with this section.

(3) The Minister shall cause a financial reconciliation between the quarterly direct deductions and aggregate annual deductions of operating surpluses to be concluded for each corporation not later than three months following the statutory deadline for publishing each corporation’s accounts, and a report of the reconciliation shall be provided to the National Assembly.”

#### PART XIV—PUBLIC PROCUREMENT ACT

Substitution  
for  
section 15.

**63.** Substitute for section 15 of the Act, a new section “15”—

“Scope of application “15. This Act applies to—

- (a) all public procuring and disposal entities under the three arms of the Federal Government ;
- (b) the Federal Government of Nigeria and all procurement entities ;



(c) all entities outside paragraphs (a) and (b) which derive at least 35% of the funds appropriated or proposed to be appropriated for any type of procurement described in this Act from the Federation share of Consolidated Revenue Fund ;

(d) without limiting paragraphs (b) and (c) to—

- (i) Federal Government, Ministries; Departments and Agencies,
- (ii) Federal Government Institutions,
- (iii) Federal Government owned Enterprises, Corporations, Councils, Authorities and Commissions provided that they utilise public funds,
- (iv) Federal Tertiary and Non-Tertiary Educational Institutions,
- (v) Federal Hospitals and other Health Institutions,
- (vi) the Central Bank of Nigeria and other Federal Government owned Financial Institutions,
- (vii) the National Defence and National Security Agencies,
- (viii) the National Assembly, and
- (ix) the Judiciary.”

64. Substitute for section 17 of the Act, a new section “17”—

“Approving authority: 17.—(1) Subject to the monetary and prior review thresholds for procurements in this Act as may from time to time be determined by the Council, the following shall be the approving authority for the conduct of public procurement—

Substitution  
for  
section 17.

(a) in the case of—

- (i) a government agency, parastatal, or corporation, a parastatal’s Tender’s Board,
- (ii) a Ministry or Extra-Ministerial entity, the Ministerial Tender’s Board,
- (iii) the National Assembly, the Parastatals Tenders Board, and
- (iv) the Judiciary, the Judicial Bodies Tender’s Board and the Courts Tender’s Board ;

(b) in the case of any other public procurement the value of which exceeds the Ministerial Tender’s Board threshold, or any other threshold set by the Bureau and approved by the Council—

- (i) the Federal Executive Council for the Executive Arm of Government,
- (ii) the National Assembly Tender’s Board for the Legislative Arm of Government, and
- (iii) the National Judicial Council Tender’s Board for the Judicial Arm of Government.

(2) The chief executive and accounting officer of the procuring entity shall chair the parastatal Tender’s Board; the Permanent Secretary shall chair the Ministerial Tender’s Board; while the President or his representative shall chair the Federal Executive Council.

(3) The accounting officers of the parastatals under the National Assembly shall chair the Parastatals Tender's Board, while the Clerk to the National Assembly shall chair the National Assembly Tender's Board.

(4) The Secretaries and Chief Registrars shall chair the Boards of the Judicial Bodies respectively ; while the Chief Justice of Nigeria, or his representative, shall chair the National Judicial Council Tender's Board.

(5) The Secretary to the Government of the Federation or his representative, shall be the Secretary of the Federal Executive Council; the Secretary, Directorate of Procurement, Estate and Works shall serve as Secretary to the National Assembly Tender's Board, while the Executive Secretary of the National Judicial Council, or his representative, shall be the secretary of the National Judicial Council Tender's Board.

(6) For the Parastatal Tender's Board and the Ministerial Tender's Board, the Directors of Procurement shall be the secretaries, and in the case of the judiciary, the Secretaries of the judicial bodies and the Chief Registrars of the Courts thereof shall be the secretaries."

Substitution  
for  
section 20.

**65. Substitute for section 20 of the Act, a new section "20"—**

"Accounting officer 20.—(1) The accounting officer of a procuring entity shall be the person charged with line supervision of the conduct of all procurement processes—

- (a) in the case of ministries, the Permanent Secretary ;
- (b) in the case of extra-ministerial departments and corporations, the Director-General or officer of co-ordinate responsibility ;
- (c) in the case of the National Assembly, the Clerk ; and
- (d) in the case of the Judiciary, the Secretaries of the judicial bodies and the Chief Registrars of the Courts.

(2) The accounting officer of every procuring entity shall have overall responsibility for the planning of, organisation of tenders, evaluation of tenders and execution of all procurements and, in particular shall be responsible for—

- (a) ensuring compliance with the provisions of this Act by his entity and liable in person for the breach or contravention of this Act or any regulation made hereunder whether or not the act or omission was carried out by him personally or any of his subordinates and it is not material that he had delegated any function, duty or power to any person or group of persons ;
- (b) constituting the Procurement Committee and its decisions ;
- (c) ensuring that adequate appropriation is provided specifically for the procurement in the Federal budget ;
- (d) integrating his entity's procurement expenditure into its yearly budget ;
- (e) ensuring that no reduction of values or splitting of procurements is carried out such as to evade the use of the appropriate procurement method ;



- (f) constituting the Evaluation Committee ;
- (g) liaising with the Bureau to ensure the implementation of its regulations.
- (3) The accounting officer of each procuring entity is empowered to purchase or approve contracts without open competitive tendering provided the value of such procurement (low value procurement) does not exceed certain threshold set by the Bureau and approved by the Council.
- (4) For the low-value procurement, the advert shall be for one week on the notice board of the procuring entity.
- (5) The Bureau shall prescribe the procedure and other conditions applicable for different procuring entities and for different goods, works and services to be procured.
- (6) The accounting officer shall render a quarterly report to the Parastatal Tender's Board.
- (7) Each employee of a procuring entity and each member of a board or committee of a public entity shall ensure that this Act, within the areas of assigned responsibility of the employee or member, is complied with.
- (8) All bidders for the procurement of any goods, works and services for any public entity shall comply with all relevant provisions of this Act.
- (9) Any stakeholder, be it the accounting officer, an officer of the procuring entity, a member of a committee or board of a public entity and any bidder of public goods, works and services, who fails to independently perform within the respective assigned responsibility as prescribed under this Act and who contravenes the provisions of this Act, shall be guilty of an offence."

66. Section 22 of the Act is amended by substituting for subsection (1) and (5), new subsections "(1)" and "(5)"—

Amendment  
of  
section 22.

"(1) There is established by this Act—

(a) for the Executive Arm of Government—

- (i) the parastatals Tender's Board in each procuring entity,
- (ii) the Ministerial Tender's Board in each Ministry and Extra-Ministerial Department, and
- (iii) the Federal Executive Council ;

(b) for the Legislative Arm of Government—

- (i) the Parastatals Tender's Board in each procuring entity under the legislature, and
- (ii) the National Assembly Tender's Board in the National Assembly ; and

(c) for the Judicial Arm of Government—

- (i) the judicial bodies and Courts Tender's Boards in each parastatal under the Judiciary and all Courts, and
- (ii) the National Judicial Council Tender's Board.

(5) The decisions of all Tender's Boards shall be confirmed respectively by the political heads of the procuring entities, provided that the political heads are not the Chairmen of the Tender's Board."

Amendment  
of  
section 24.

67. Section 24 of the Act is amended by substituting for subsections (1) and (2), new subsections "(1)" and "(2)"—

"(1) Except as provided by this Act—

(a) all procurements of goods, works and services by all procuring entities shall be conducted by open competitive bidding ; and

(b) any procuring entity that applies any other procurement option prescribed in this Act, the accounting officer of the entity shall submit a request and obtain the approval of the Bureau.

(2) Any reference to open competitive bidding in this Act means the process by which a procuring entity, based on previously defined criteria, effects public procurements by offering to every interested bidder, equal simultaneous information and opportunity to offer the goods, works and services needed.

Amendment  
of section 25.

68. Section 25 of the Act is amended by substituting for subsection (2), a new subsection "(2)"—

"(2) Every invitation to an open competitive bid shall, in the case of goods, works and services—

(a) under International Competitive Bidding, the invitation for bid shall be advertised in at least two national newspapers and one relevant internationally recognised publication, any official website of the procuring entity and Bureau as well as the procurement journal of not more than four weeks for contracts within the thresholds of the Parastatals and Ministerial Tender's Boards and not more than six weeks for contracts above the threshold of the Ministerial Tender's Board before the deadline for the submission of the bids for the goods, works and services ; and

(b) valued under National Competitive Bidding, the invitation for bids shall be advertised on the notice board of the procuring entity, any official websites of the procuring entity; at least two national newspapers, and in the procurement journal not more than four weeks for contracts within the thresholds of the Parastatals and Ministerial Tender's Boards and not more than six weeks for contracts above the threshold of the Ministerial Tender's Board before the deadline for submission of the bids for the goods, works and services."

Amendment  
of  
section 27.

69. Section 27 of the Act is amended by substituting for subsection (1), a new "(1)"—

"(1) All bids in response to an invitation to open competitive bidding shall be submitted in writing, electronic or any other format stipulated in the tender documents signed (physically or electronically) by an official authorised to bind the bidder to a contract and placed in a sealed envelope."



**70. Section 30 of the Act is amended by—**

Amendment  
of  
section 30.

**(a) substituting for paragraph (e), a new paragraph “(e)”—**

“(e) call-over to the hearing of all present, the name and address of each bidder, the total amount of each bid, the bid currency, validity period, completion period and shall ensure that these details are recorded by the Secretary of the Tenders Board or his delegate in the minutes of the bid opening” ; and

**(b) inserting a new subsection “(2)”—**

“(2) This exercise shall be carried out by the procurement department of the procuring entity in the presence of the legal officer or other relevant official of the entity and all those specified in section 19 (b) of this Act—

Provided always that the procuring entity shall in lieu of subsection (1) (a) to (e) above, comply with any Regulations that the Bureau may make for electronic and virtual procurement pursuant to section 18 of this Act, which Regulations shall ensure the security, transparency, integrity and fairness of such electronic and virtual procurement processes.” ; and

**(c) renumbering the section appropriately.**

**71. Section 35 of the Act is amended by—**

Amendment  
of  
section 35.

**(a) substituting for subsection (1), a new subsection “(1)”—**

“(1) In addition to any other regulation as may be prescribed by the Bureau, a mobilisation fee of not more than 30% for local contractors only may be paid to a supplier or contractor supported by an unconditional bank guarantee or insurance bond issued by an institution acceptable to the procuring entity until the mobilisation fee is fully amortised or recovered.” ;

**(b) inserting, after subsection (2), a new subsection “(3)”—**

“(3) Where the Bureau has set prior review thresholds in the procurement regulations, no funds shall be disbursed from the Treasurer or Federation Account or any bank account of any procuring entity for any procurement falling above the set thresholds unless the cheque, payments or other form of request for payment is accompanied by a “Certificate” of “No Objection” to award of contract duly issued by the Bureau.”

**72. Substitute for section 36 of the Act a new section “36”—**

Substitution  
for  
section 36.

“Contract  
performance  
guarantee

**36.—(1)** The provision of a performance guarantee or an unconditional insurance bond shall be a precondition for the award of any procurement contract upon which any mobilisation fee is to be paid, provided the performance guarantee or unconditional insurance bond is not less than 10% of the contract value.

**(2)** All contracts approved by a Tender’s Board requiring the opening of irrevocable letter of credit shall be stated explicitly in the contract agreement and the procuring entity shall liaise with the Central Bank of Nigeria, for further guidelines.”

A 30

2021 No. 1

Finance Act, 2020

Amendment  
of  
section 58.

**73.** Section 58 of the Act is amended by substituting for subsection (2), a new subsection “(2)”—

“(2) Any offence in contravention of this Act shall be tried by the Federal High Court or a tribunal set up by the Chief Justice of Nigeria.”

Amendment  
of  
section 60.

**74.** Section 60 of the Act is amended by substituting for the definitions of contract, procuring entity and public procurement, the following new definitions—

“*contract*” means an agreement entered in writing between a procuring entity and a contractor, supplier or consultant ;

“*procuring entity*” means any public body or Government organ engaged in procurement and includes a Ministry, Extra-Ministerial Department, Government Agency, Parastatal, Corporation, Commission, National Assembly and Judiciary ; and

“*Public Procurement*” means the acquisition by any means of goods, works or services by the Government.”

#### INSERTION PART XV UNDER THIS ACT

##### “PART XV—ESTABLISHMENT OF CRISIS INTERVENTION FUND AND UNCLAIMED FUNDS TRUST FUND

Establishment  
of the Crisis  
Intervention  
Fund.

**75.** There shall be provided out of the Consolidated Revenue Fund and the Special Accounts listed in the First Schedule to this Act upon the coming into operation of this Act the sum of ₦500,000,000,000.00 or other such sums as may be approved by the National Assembly for the establishment of a Fund to be known as the Crisis Intervention Fund.

Utilisation  
of the Crisis  
Intervention  
Fund.

**76.** The Crisis Intervention Fund may be utilised for making funds available to meet expenditure as provided in the Annual Appropriation Act to meet any crisis related expenditure or other such exigencies that may arise pursuant to section 12 of the Fiscal Responsibility Act and section 306 of the Constitution of the Federal Republic of Nigeria, 1999.

Establishment  
of  
Unclaimed  
Funds Trust  
Fund.

**77.—(1)** Subject to section 44 (1) and (2) (h) of the Constitution of the Federal Republic of Nigeria, 1999, there is established, by way of a trust, as a sub-fund of the Crisis Intervention Fund, an Unclaimed Funds Trust Fund—

(2) From the commencement of this Act, any unclaimed dividend of a public limited liability company quoted on the Nigerian Stock Exchange and any unutilised amounts in a dormant bank account maintained in or by a deposit money bank which has remained unclaimed or unutilised for a period of not less than six years from the date of declaring the dividend or domiciling the funds in a bank account shall be transferred immediately to the Unclaimed Funds Trust Fund—

Provided that this section shall not apply to official bank accounts owned or belonging to the Federal Government, State Government or Local Government, or any of their Ministries, Departments or Agencies.



(3) The Debt Management Office established by the Debt Management Office (Establishment, etc.) Act 2003 or subsequent statutes which replace this Act shall supervise the operations of the fund.

(4) The unclaimed dividend and unutilised amounts in a dormant bank account shall be transferred either by the public limited company, Registrar or deposit money bank.

(5) The Unclaimed Funds Trust Fund shall be governed by a Governing Council chaired by the Minister responsible for Finance and a Co-Chairperson from the private sector, as may be appointed by the President on the recommendation of the Minister responsible for Finance subject to confirmation by the Senate, provided that the private sector Co-Chairperson shall be a qualified person of irreproachable integrity such as to render the person a fit and proper person to serve in this capacity.

(6) Other members of the Governing Council shall include—

- (a) Governor of the Central Bank of Nigeria ;
- (b) the Director-General of Securities and Exchange Commission ;
- (c) the Managing Director of National Deposit Insurance Corporation ;
- (d) a representative of the Registrars of Companies ;
- (e) two representatives of the shareholders' association ;
- (f) a representative of the Bankers' Committee ; and
- (g) the Director-General of the Debt Management Office as the Secretary to the Trust Fund.

(7) The Secretariat of the Trust Fund shall be in the Debt Management Office and the Debt Management Office shall operate the Trust Fund with the Central Bank of Nigeria and Securities and Exchange Commission.

(8) All public limited liability companies quoted on the Nigerian Stock Exchange and deposit money banks shall render annual return of unclaimed dividend and unutilised amounts in a dormant bank account in a format prescribed by the Debt Management Office of the Federation.

(9) The Debt Management Office shall prepare and submit the financial statement of the Unclaimed Dividends Trust Fund to the Office of the Auditor-General for the Federation for audit.

(10) Failure by any company or deposit money bank to transfer the unclaimed dividends or unutilised amounts in a dormant bank account to the Unclaimed Funds Trust Fund constitutes an offence under this Act and the company or deposit money bank is liable upon conviction, to a fine of not less than five times the value of the unclaimed dividends and unutilised funds in a dormant bank account plus accumulated interest on the amount not transferred at the Central Bank of Nigeria's Monetary Policy Rate—

Provided that this section shall not apply to official bank accounts owned or belonging to the Federal Government, State Government or Local Government, or any of their Ministries, Departments or Agencies.

(11) Such unclaimed dividends and unutilised amounts in a dormant bank account transferred to the Unclaimed Funds Trust Fund shall be a special debt owed by the Federal Government to the shareholders and dormant bank account holders respectively and shall be available for claim, together with the yield thereon, by the shareholder and the bank account holder at any time, pursuant to the aforementioned perpetual trust.

Functions of  
the Debt  
Management  
Office as  
they relate  
to the Trust  
Fund.

**78. The Debt Management Office shall—**

(a) maintain a reliable database of all unclaimed dividends and dormant bank balances constituting the debt owed by the Trust Fund which shall be verified and reconciled with the Securities and Exchange Commission, and the Central Bank of Nigeria on a bi-annual basis ;

(b) liaise with the relevant Registrars of Companies, deposit money banks or the National Deposit Insurance Corporation, as the case may be, to make adequate arrangement for the repayment of the verified interest and capital obligations due to the relevant shareholders, depositors or their legal beneficiaries, as the case may be ;

(c) prepare and submit the financial statement of the Trust Fund to the Office of the Auditor-General for the Federation for audit ;

(d) prepare and implement a plan for the efficient management of the obligations of the Trust Fund, which plan shall include setting guidelines, modalities and other arrangements, which may include an annual sinking fund, for the servicing of the interest and capital obligations of the Trust Fund ;

(e) set guidelines for managing Federal Government financial risks and currency exposure with respect to all loans ;

(f) collect, collate, disseminate information, data and forecasts on debt management related to the Trust Fund with the approval of the Governing Council ; and

(g) carry out such other functions, which may be mandated by an Act of the National Assembly.

The  
Governing  
Council.

**79. The Governing Council shall—**

(a) approve policies, strategies and procedures to be adopted by the Governing Council for the achievement of its objectives ;

(b) review, from time to time, the economic and political impact of the management strategies and public engagement strategies relating to the transparency and accountability of the Trust Fund ;

(c) appoint, as and when necessary, technical committees comprised of persons with requisite technical competence from the private or public sector to advise the Governing Council on such matters as may be determined from time to time ;



(d) receive bi-annual reports from the Debt Management Office of failure by any company or deposit money bank to transfer the unclaimed dividends or unutilised amounts in a dormant bank account to the Trust Fund, which failure shall constitute an offence under this Act and the company or deposit money bank shall be liable upon conviction, to a fine of not less than thrice the value of the unclaimed dividends and unutilised funds in a dormant bank account plus accumulated interest on the amount not transferred at the Central Bank of Nigeria's Monetary Policy Rate ; and

(e) perform such other functions as may, from time to time, be necessary to achieve the objectives of the Trust Fund.”

80. This Act takes effect from 1st January, 2021 or such other date that shall be indicated by the National Assembly by law (or by Presidential Order).

Commence-  
ment date.

81. This Act may be cited as the Finance Act, 2020.

Citation.

I, certify, in accordance with Section 2 (1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

Ojo O. A., fnia, fcia  
Clerk to the National Assembly  
24th Day of December, 2020.

#### EXPLANATORY MEMORANDUM

This Act amends the Capital Gains Tax Act, Cap. C1, Companies Income Tax Act Cap. C21, Personal Income Tax Act, Cap. P8, Customs and Excise Tariff, Etc. (Consolidated) Act, Cap. C49, Value Added Tax Act, Cap. VI, Nigeria Export Processing Zones Act, Cap. N107, Oil and Gas Export Free Zone Act, Cap. O5, Industrial Development (Income Tax Relief) Act, Cap. I17, Stamp Duties Act, Cap. S8, Laws of the Federation of Nigeria, 2004; Tertiary Education Trust Fund (Establishment) Act No. 16, 2011, Federal Inland Revenue Service (Establishment) Act No. 13, 2007, Fiscal Responsibility Act No. 31, 2007, Public Procurement Act No. 14, 2007 and Companies and Allied Matters Act No. 3, 2020.

**SCHEDULE TO THE FINANCE BILL, 2020**

(1) Short Title of the Bill	(2) Long Title of the Bill	(3) Summary of the Contents of the Bill	(4) Date passed by the Senate	(5) Date passed by the House of Representatives
Finance Bill, 2020.	An Act to amend the Capital Gains Tax Act, Cap. C1, Companies Income Tax Act, Cap. C21, Personal Income Tax Act, Cap. P8, Customs and Excise Tariff, Etc. (Consolidated) Act, Cap. C49, Value Added Tax Act, Cap. V1, Nigeria Export Processing Zones Act, Cap. N107, Oil and Gas Export Free Zone Act, Cap. O5, Industrial Development (Income Tax Relief) Act, Cap. S8, Laws of the Federation of Nigeria, 2004; Tertiary Education Trust Fund (Establishment) Act No. 16, 2011, Federal Inland Revenue Service (Establishment) Act No. 13, 2007, Fiscal Responsibility Act No. 31, 2007, Public Procurement Act No. 14, 2007 and Allied Matters Act No. 3, 2020; and for related matters.	This Bill amends the Capital Gains Tax Act, Cap. C1, Companies Income Tax Act, Cap. C21, Personal Income Tax Act, Cap. P8, Customs and Excise Tariff, Etc. (Consolidated) Act, Cap. C49, Value Added Tax Act, Cap. V1, Nigeria Export Processing Zones Act, Cap. N107, Oil and Gas Export Free Zone Act, Cap. O5, Industrial Development (Income Tax Relief) Act, Cap. S8, Laws of the Federation of Nigeria, 2004; Tertiary Education Trust Fund (Establishment) Act No. 16, 2011, Federal Inland Revenue Service (Establishment) Act No. 13, 2007, Fiscal Responsibility Act No. 31, 2007, Public Procurement Act No. 14, 2007 and Companies and Allied Matters Act No. 3, 2020.	15th December, 2020.	17th December, 2020.

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

I ASSENT.



OJO O. A., fnia, fcia  
Clerk to the National Assembly  
24th Day of December, 2020.

MUHAMMAD BUIHARI, GCPR  
President of the Federal Republic of Nigeria  
31st Day of December, 2020.

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