THE NIGERIAN 2019 FINANCE ACT: THE GOOD AND THE FLIP SIDES

(A MONOGRAPH)

The Chartered Institute of Taxation of Nigeria

Tax Professionals' House
Plot 16, Otunba Jobi Fele Way Central Business District,
Alausa Ikeja. P.O. Box 1087, Ebute-Metta, Lagos, Nigeria, West Africa
Tel: 09080888815
Email: citn@citn.org, Website: www.citn.org

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THE NIGERIAN 2019 FINANCE ACT: THE GOOD AND THE FLIP SIDES

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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
Integrity and Service

EDITED BY:

Professor Ishola Rufus Akintoye, FCA,FCTI,FNIM,FNAA,MNES
Professor of Accounting & Strategic Financial Management &
CITN Professorial Chair Occupant

Taofeek Adewale Oyebamiji, PhD, FCTI, FCA, MBA
Senior Lecturer, Babcock University, &
Managing Partner, Seyi Katola & Co (Chartered Accountants & Tax Practitioners)

Ucheagu James Chukwuma, PhD, FCTI
CFO, Valmon Securities Limited, Lagos

Mary Fidelis Abiahu, M.Sc, MCIB, FCA, ACTI
Assistant Director (Head) Research & Technical, CITN

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All enquiries to be directed to:

The Registrar/Chief Executive

The Chartered Institute of Taxation of Nigeria
Tax Professionals' House
Plot 16, Otunba Jobi Fele way,
CBD, Alausa Ikeja
P.O. Box 1087, Ebute-Metta, Lagos State, Nigeria.
Tel: 09080888815
E-mail: citn@citn.org.
Website: www.citn.org

ABUJA LIASON OFFICE
David Olorunleke House
Block 26 (27), Abidjan Street, Wuse Zone 3,
Abuja, FCT, Nigeria
Tel: (234) 09-2918349

FOREWORD

On the 8th of October 2019, President Muhammadu Buhari submitted the 2019 Finance Bill to a joint session of the National Assembly alongside the 2020 Appropriation Bill. The “Finance Bill 2019” was introduced to address the strategic objectives outlined by the President in his speech- to promote fiscal equity by mitigating instances of regressive taxation; create reformation of domestic tax laws to align with global best practices; introduce tax incentives to drive investments in infrastructure and capital market; support small and medium businesses in line with the ongoing Ease of Doing Business Reforms; and to raise revenues for Government, by various fiscal measures, including a proposed increase in the rate of Value Added Tax from 5% to 7.5%.

The Bill was passed by the Senate on Thursday, 21 November 2019 while the House of Representatives passed the version of the Bill on Thursday, 28 November 2019. The harmonized version of the Bill passed by both houses of the National Assembly was transmitted to the President on Friday, December 20, 2019 and assented into law by the President on 13th January 2020.

It is an observed fact that in Nigeria, amendment to tax laws do not take place so often. The enactment of the Finance Act 2019 provided the opportunity to affect several amendments to a number of tax laws in Nigeria, including the Companies Income Tax Act, 2004; Value Added Tax Act, 2007; Customs and Excise Tariff (Consolidation) Act, 2004; Personal Income Tax Act, 2007; Capital Gains Tax Act, 2007; Stamp Duties Act, 2007; and Petroleum Profit Tax Act, 2004. These amendments have been intended to reform the Nigeria's tax system for enhanced implementation and effectiveness.

Though a welcomed development, however, there are lots of challenges that have been thrown up by these amendments. As the professional body charged with the statutory right to regulate the practice of taxation in Nigeria, we owe it a duty to put the records as much clear as possible to guide our members, the taxpaying public and the government agencies charged with the responsibility to implement these tax laws.

The positions put together by the Institute's Professorial Chair in Taxation is in keeping with the Institute's effort to ensure that we continue to provide thought leadership in these areas of taxation. It is my desire that every member of the Institute should always seek out proper guide to avoid misinterpretation and misapplication of relevant tax laws, events which might lead to misconduct on the part of the practitioners and run contrary to the provisions of the Professional Code of Conduct for Members of the Institute. As a body, the Institute will strive to ensure regular update of the body of knowledge available to our members on a regular basis.

Finally, as this publication goes out into your reading shelves, it goes with my commendation and my goodwill, trusting that it will create a stopgap in many of the challenging and grey areas that followed the assent of the Finance Act 2019 in law.

Dame Gladys Olajumoke Simplice, FCTI
14th President and Chairman of Council
Chartered Institute of Taxation of Nigeria
Lagos.
March, 2020.

PREFACE

It is no more news that various comments have been passed on the 2019 Finance Act both at the proposal stage and even now after signing the Bill into an ACT by the Federal Government of Nigeria. Many of these comments are subjective, incoherent and casual not based on any epistemological platform necessary for sustainability as in many previous policy documents in Nigeria. It is therefore not surprising that most of those policies were unable to produce desired results, short-lived and abandoned.

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

The CITN Professorial Chair brought together prominent academics, professionals and Doctoral Students on a 2-day round-table seminar to discuss the various implications of the New Act.

The meeting reconciled 'The Principal Acts' with the amendments in the 'New Finance Act', 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 ACT so as to hedge against risk/losses from ignorance.

Drawing from various experiences of the participants, we came up with some advice and recommendations. The opinions expressed are the personal views of participants at the seminar based on their past experiences which are necessarily advisory.
We do hope that this 'Monograph' which is the 2nd in the series will provide basic guides to the implementation of the '2019 Finance Act'.

Thank you.

Professor Ishola Rufus AKINTOYE, PhD, FCA(4001), FCTI(680)
BA, BSc,MBA,MSc,PhD(FM),PhD(Acctg),FCA,FCTI,FNIM,FNAA,MNES
irakintoye@yahoo.com , ir.akintoye@gmail.com, akintoyer@babcock.edu.ng
+234-8035369293; 8072090181
The Chartered Institute of Taxation Professorial Chair Occupant
*Federal Commissioner on the Tax Appeal Tribunal, FCT-Abuja, Nigeria

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 also 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 practise Taxation. The Act sets out the rules as regards membership, composition and officers of Council, etc.

Adefisayo Awogbade, MSc., FCTI, FCA
Registrar/Chief Executive
Tax Professionals' House
Plot 16, Otunba Jobi Fele Way
Central Business District, Alausa, Ikeja
P.O. Box 1087, Ebute Metta, Lagos State, Nigeria
Tel: 09080888815

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Elizabeth Adebanjo, MBA, AISM, ACGPN	**- Assistant Director, Students Affairs**

PARTICIPANTS/CONTRIBUTORS

Professor Ishola Rufus AKINTOYE, FCTI	- Chairman/ Professorial Chair Occupant
Professor Teju SOMORIN, FCTI (PP)	
Professor Segun Ajibola, FCTI, FCIB	
Professor Godwin Emmanuel Oyedokun, FCTI	
Dr Titilayo Enitan Fowokan, FCTI	
Dr Samuel Olajide Dada, FCTI	
Dr James Chukwuma, FCTI	
Dr Taofeek Adewale Oyebamiji, FCTI	
Dr Omotayo Oluranti Akintoye, ACTI	
Dr Mike Ekwe, ACTI	
Grade Adeleye	- PhD Student/Mentee
Yemisi Adedokun	- PhD Student/Mentee
Sunday Solarin	- PhD Student/Mentee
Ramon Adetola	- PhD Student/Mentee
Toyin Ogunwale	- PhD Student/Mentee
Taiwo Asifat	- PhD Student/Mentee
Dr Lanre Olasunkanmi FCTI	- Assistant Director, Finance & Accounts, CITN
Mary Fidelis Abiahu, ACTI	- Assistant Director, Research & Technical, CITN

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INTRODUCTION: 2019 FINANCE ACT

It is no longer news that the President and Commander of the Federal Republic of Nigeria, Muhammadu Buhari has finally signed the 2019 Finance Bill into an Act on January 12, 2020. With the Presidential assent, the long-desired amendments to the various gaps and conflicting provisions in the Nigerian Tax Legislation were expected to have been bridged.

The Chartered Institute of Taxation of Nigeria (CITN), through her Professorial Chair on Taxation endowed Babcock University recently organized a two-day intensive workshop to review the Act with a view to conducting its impact analysis to the various stakeholders and identify some other unresolved issues and unintended negative consequences arising from the Act for future amendments.

The workshop x-rayed seven-part Act covering the amendments to the Companies Income Tax Act, Cap C21, LFN 2004, Value Added Tax Act, Cap VI, LFN, 2004, Customs and Excise Tariff, etc. (Consolidation) Act, Cap C49, LFN 2004, Personal Income Tax Act, Cap P8, LFN 2004, Capital Gains Tax Act, Cap C1, LFN 2004, Stamp Duties Act, Cap S8, LFN 2004, and Petroleum Profit Tax Act, Cap P13, LFN 2004 as amended. While some of these amendments have direct economic impacts on the stakeholders, especially the taxpayers and government, some ware directed at reducing the complexities and ambiguities in the principal Act.

This paper is organized as follows:

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

Petroleum Profit Tax Act, Cap P13, LFN 2004 as amended;

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

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

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

Capital Gains Tax Act, Cap C1, LFN 2004 as amended; and

Stamp Duties Act, Cap S8, LFN 2004 as amended.

PART I

COMPANIES INCOME TAX ACT, CAP C21, LFN 2004 (AS AMENDED).

SECTION 2 of the Finance Act, 2019 amended section 9(1) of CITA by deleting the word, "in respect" after the word "Nigeria" in line 3, and inserted the words, "that are not subject to tax under the Capital Gain Tax Act, Petroleum Profits Tax Act and Personal Income Tax Act, such profits shall include".

The objective of this amendment is hedge against potential double taxation arising from definition of profit subject to tax under the Companies Income Tax Act, thereby eliminating possible ambiguities from subjective interpretations.

Another notable amendment to Section 9(1)(C) is the expanded definition of interest and dividend to "include compensating payments received by a Borrower from its approved agent or a Lender in a Regulated Securities Lending Transaction provided that the underlying transaction giving rise to the compensating payment is a receipt of interest by a lender……."

This amendment seeks to expand taxable income from capital market transactions which was not specifically covered by the provision of CITA, 2004 as amended. This amendment has the potential to increase the scope of income liable to Companies Income Tax and by extension improvement in tax revenue accruable to government.

SECTION 3 of the Finance Act amended section 10 of CITA by substituting a new section 10. By virtue of this amendment, the RC number which hitherto is used as the official identification of the company has been replaced by a Tax Identification Number (TIN). Section 10 (2) of the new section 10 imposes a duty on every person engaged in banking and other financial services in Nigeria to require all companies to provide their TIN as a precondition for opening a bank account, or in the case of an account already opened within three months of the passage of the Act, require such TIN to be provided by all companies as a precondition for the continued operation of their bank accounts.

The requirements for TIN as a precondition to open a corporate account or as a condition for the continued operation of an existing corporate accounts is a welcome development as this amendment will reduce incidence of tax evasion and thus widen the tax net.

However, informal sector may not be fully captured with this stride because of their poor banking culture.

By virtue of **SECTION 4** of the Finance Act, 2019, Section 13 of CITA is amended by inserting after the word "from", in line 2, the words, "or taxable in".

In subsection (2), by inserting a new paragraph (c), and (f)

(c) if it transmits, emits or receives signals, sounds, messages, images or data of any kind by cable, radio, electromagnetic systems or any other electronic or wireless apparatus to Nigerian in respect of any activity, including electronic commerce, application store, high frequency trading, electronic data storage, online adverts, participate network platform, online payments and so on, to the extent that the company has significant economic presence in Nigeria and profit can be attributable to such activity.

(e) If the trade or business comprises the furnishing of technical, management, consultancy or professional services outside of Nigeria to a person resident in Nigeria, to the extent that the company has significant economic presence in Nigeria and profit can be attributable to such activity.

Provided that any withholding tax applicable under the Section 81 of this Act shall be the final tax on the income

The amendment to section 13 of CITA will reduce incidence of tax evasion and thus widen the tax net. Also, the insertion of is to capture non-resident companies engaged in telecom and electronic transactions in Nigeria.

However, Nigeria must key into OECD standards for optimal realization of this feat.

With reference to paragraph (e), Finance Act empowers the Minister of Finance to define the term "significant economic presence". This may not extinguish fear of subjectivity in the definition.

SECTION 5 of the Finance Act is amended by inserting a new subsection (6) after subsection (5) "Investment income for the purpose of taxation of a life insurance company under this section means income derived from investment of shareholders' funds".

We observed a drafting error here as the investment income for a life insurance company **is income derived from investment of life insurance funds**. For a company that runs both general and life insurance business, the shareholders' funds comprises of both paid up capital, and undistributed reserves from both life and non-life businesses. The determination of the shareholders' funds attributable to life business becomes an issue of subjectivity. We therefore recommend this for future amendment.

SECTION 6(a) of the finance Act amended section 16(7) of CITA by deleting after the word, "business", in line 6, the words, "and in all cases, the period of carrying forward of a loss shall be limited to four years of assessment"

The deletion of the expression that limit carry-over of losses for an insurance company to a maximum of four years is a good development as one of the horizontal inequity concerns in CITA has been removed. This implies that insurance companies, like every other company, can carry over its losses indefinitely until it is relieved.

SECTION 6 paragraphs (a) and (b) amended section 16 paragraphs (a) and (b) by substituting the existing paragraph (a) and (b) of Section 16 (8) with a new paragraphs (a) and (b) as follow-

"(a) reserve for unexpired risks, calculated on a time apportionment basis of the risks accepted in the year".

"(b) For outstanding claims and outgoings, an amount equal to the total estimated amount of all outstanding claims and outgoings, with a further amount representing 10 percent of the estimated figure for outstanding claims in respect of claims incurred but not reported at the end of the year".

From the drafting of this section of the Finance Act, 2019, it is unclear which section and subsections amendment was sought by the provisions of section 6, paragraph (b). Although, the amendment contained in section 6 paragraph (b) appears to have amended Section 16 (8) paragraphs (a) and (b). This is a potential source of disputes between taxpayers and FIRS and requires clarifications through future amendment.

With the amendments to Section 16(8) paragraphs (a) and (b), the subjectivity associated with the determination of reserve for unexpired risk whose computations lacks a clear philosophy has now been addressed to reflect accrual basis (time apportionment), while adjustments of reserve for outstanding claims and outgoing for unutilized amount make the long run accrual equals the actual amount of claims and outgoings.

SECTION 6 PARAGRAPH (c) of the Finance Act amended section 16 (9)(c) by deleting after the word, "outgoing", in line 1, the expression, "except that after allowing for all the outgoing and allowance under the Second Schedule to this Act a may be restricted under the provisions of this Act for any year of assessment, not less than an amount equal to 20 percent of the gross incomes shall be available as total profit of the company for tax purposes."

The deletion of expression which pegged normal allowable business outgoings to an amount which made total profit assessable to tax to 20% of gross incomes is a welcome development as it removes arbitrariness associated with this section of the Act.

SECTION 6 PARAGRAPH (d) which inserted a new subsection 12 to section 16 of CITA has now pegged minimum tax payable by any insurance company to a 0.5% of gross premium in the case of non-life insurance businesses and 0,5% of gross income in the case of life assurance businesses.

SECTION 7 of the Finance Act amended section 19 of CITA by inserting a new subsection "(2)" - "The provisions of subsection (1) shall not apply to

(a) dividends paid out of the retained earnings of a company, provided that the dividends are paid out of profits that have been subjected to tax under this Act, Petroleum Profits Tax Act, or the Capital Gains Tax Act;

(b) dividends paid out of profits that are exempted from income tax by any provision of this Act, the Industrial Development (Income Tax Relief) Act, the Petroleum Profit Tax Act, or the Capital Gains Tax Act or any other legislation;

(c) profits or income of a company that are regarded as franked investment income under this Act; and

(d) distributions made by a real estate investment company to its shareholders from rental income and dividend income received on behalf of those shareholders, whether such dividends are paid out of profits for the year in which the dividend is declared or out of profits of previous reporting periods."

The insertion of subsection 2 paragraphs (a), (b), (c), and (d) to section 19 of CITA is a welcome development as it eliminates the potential double taxation arising from taxation of excess dividends. However, since companies are prohibited from reducing its paid up capital and payment of dividends out of losses constitutes reduction of capital under section 105 and section 380 of the Companies and Allied Matters Act 2004, any distribution if profits as dividends must in the first place be out of distributable reserves as permitted by CAMA 2004. Hence it is our candid opinion that deletion of Section 19 of CITA would have been appropriate than introduction of a new subsection 2 that introduces complexity into the section.

SECTION 8 of the Finance Act amended the provision of Section 20 of CITA by deleting paragraph (b). This is considered a good development to the Nigerian Tax System as the amendment abolished double taxation associated with excess dividend received by a non-Nigerian Companies.

By virtue of **SECTION 9** of the Finance Act 2019, the deletion of paragraph (n) of subsection 1 makes the interest on foreign currency domiciliary account in Nigeria accruing on or after 1 January 1990 which was hitherto exempted taxable in the hand of the recipient company in Nigeria

The substitution of paragraph (o) with a new paragraph (o) makes the profits of a small company tax exempt in a relevant year of assessment provided that such company comply with tax registration and tax return filing stipulations of the Act. Small company is defined in section 22 paragraph (c) as "a company that earns gross turnover of ₦25,000,000 or less.

This implies that companies whose annual turnover is less than or equal to ?25,000,000 are exempted from payment of Companies Income Tax in Nigeria. However, since some income of these companies could have suffered deductions at source (WHT), the Act is silent to the treatment of these advance payments of Companies Income Tax on whether it will constitute final tax or refundable to the company.

The therefore calls for amendment of this section by making specific provision on the treatment of WHT suffered at source by the income of companies under this category.

Also, the substitution of paragraph (q) is granted the exemption based on the portion utilized of the proceeds in respect of goods exported utilized for the purchase of raw materials, plant, equipment and spare parts.

The insertion of new paragraphs "(s)".."(u)" is to encourage real estate investment and perhaps bridge the housing gap in the country, encourage capital market transactions and agricultural production, stimulate food sufficiency by providing additional tax in the agribusiness and remove double taxation incidence. However, investor wishing to take advantage of incentives provided by these amendments are to look beyond tax in their portfolio analysis.

The amendment of paragraph "(a)" of section 24 of CITA by virtue of **SECTION 10 PARAGRAPH "(B)"** of Finance Act which substituted paragraph (a) for a new paragraph "(a)".

With this amendment, interest on loan for generating profit is now subject to the provision of the seventh schedule on deductible interest.

This provision is in conformity with action 4 of the OECD/G20 Base Erosion and Profit Shifting (BEPS) report. Companies will therefore need to review the interest payable on their related party loan amendment on an annual basis to ensure consistency with limitation of interest deduction rule. This rule does not however apply to subsidiaries of foreign companies engaged in the business of banking or insurance.

The amendments to paragraphs "(k)" and "(l)" has therefore raised the bar on both regulatory and tax scrutiny to real estate operations. Meaning that dividends and mandatory distributions should initially be approved by SEC before distributions.

SECTION 11 of the Finance Act amended section 27(1), paragraphs (g) (i), by substituting these paragraphs for new paragraphs "(g)" "(i)"

By virtue of these amendments, the discretionary approval on related parties transactions by either the minister or Board is hereby abolished and now subject to the provisions of Transfer Pricing Regulation 2018. (Critical stakeholders like auditors, regulators, business owners, professionals and tax practitioners must understand the implications of non-compliance with the Transfer Pricing Regulations or stand the risk of related parties' expenses being disallowed.)

27(b) paragraphs "(j)"- "(l)" new insertions broaden "deductions not allowed for tax purposes" and clearly specified any penalty borne by companies as disallowable deductions.

SECTION 12 of the Finance Act, 2019 amended section 29(1), (3) and (4) of CITA

By virtue of the amendment to section 29(3) The first two years are on the actual year basis. However, third year is on PYB, leading to double taxation in the third year. This means that incidence of double tax is not eliminated but reduced when compared with old provision. There is therefore imminent challenge during the transition from actual year basis to preceding year basis in the third year. The initial concern of double taxation inherent in the old commencement provision has only removed the overlap between the basis periods for the first and second years of assessment.

By virtue of the new section 29(4) the new cessation rule has therefore eliminated the possibility of revising assessable profit for the penultimate year and will create a gap (i.e. profit in the penultimate year will not be taxed.

The proviso under section 9(c) of the Finance Act amending Section 29(9)(c) is included to prevent artificial transactions emanating from business re-organisation.

SECTION 13 of the Finance Act deleted after "on" in line 8, the words" but such deductions shall not be made against the profit of the company after the fourth year from the year of commencement of such business"

The deletion of expression is a welcome development as it removes the restriction on loss relief for commencement of businesses.

SECTION 14 of the Finance Act, 2019 amended section 33 by substitution for subsection (2), a new subsection "(2)" which redefined computation to 0.5% of gross turnover of the company, less franked investment income, and substituted for paragraph (b), a new paragraph "(b)" "a company that earns gross turnover of less than ?25,000,000 in the relevant year of assessment."

With this amendment, the minimum tax parameters on capital, net asset etc. are now eliminated. However, the ambiguity in the "gross turnover" of the new parameter calls for clarity.

For small companies, turnover below #25m threshold are exempted from tax.

SECTION 15 of the Finance Act, 2019 amended Section 39 of CITA by deleting paragraph (e) of Subsection (1) of CITA and insertion of Subsection (3) eliminated the possibility of claiming tax incentives under section 39 of CITA and tax holiday under pioneer legislation. The amendment contained in section 15 of Finance Act seeks the elimination of bureaucratic bottleneck of Ministerial approval for interest on loan, deductible in downstream operations. Double claims of tax-free period of CITA and IDTRA is also eliminated.

SECTION 16 of the Finance Act amended section 40 of CITA by removing the flat rate of 30% and introduce graduated rates of 0%, 20% and 30% rates to companies in line with turnover categorization into small, medium and large respectively. By virtue of section 22 of the Finance Act, 2019, small, medium-sized and large companies and categorized by turnover as follows:

S/N	Category	Criteria (by Turnover)
1	Small	₦25,000,000
2	Medium-Sized	>₦25,000,000 but <₦100,000,000
3	Large	₦100,000,000

SECTION 17 of the Finance Act deleted sections 41 and 43 of the Companies Income Tax Act. With the deletion of section 41 the tax relief for replacement of obsolete plant and machinery has been removed. Also, deletion of section 43 implies WHT is payable on interim dividend paid by Nigeria companies.

SECTION 18 of the Finance Act amended, by deleting section 77(1) of CITA. With this amendment, payment of provisional tax is no longer applicable in Nigeria.

Also, the substitution of subsection 5 with a new subsection "(5)" and an insertion of section "(5)(a)" and "(5)(b)" imply that payment of annual tax assessment should be paid in lumpsum or installment not later than due date of payment. This is subject to approval of installment payment plan by FIRS. Early tax payment 90 days before due date of filling attract self-assessment bonus of 2% and 1% for medium size and large companies respectively. Companies must take advantage of this window of incentive and avoid penalties for late payment.

By virtue of **SECTION 19** of the Finance Act, Section 78 of the CITA is amended by inserting a new subsection "(6)" which seeks to remove WHT on compensating payments which qualify as interest from a lender to an approved agent on behalf of a borrower. This is also because the underlying transaction is also exempted from tax in section 23 of CITA.

SECTION 20 of the Finance Act amended section 80, by substituting for section (5), a new subsection "(5)" which exempt:

(1) the company or person making distribution or dividend to real estate investment companies;

(2) a borrower making compensating payment to an approved agent or lender provided that the payments qualify as dividend; and

(3) an approved agent making compensating payment received from a borrower which qualify as dividend, from WHT.

The newly inserted subsection "(6)" mandates real estate investment companies to deduct WHT from dividend distributed from his own shareholders.

The insertion of a "proviso" after the word "tax", in line 3 by virtue of **SECTION 21** of the Finance Act makes WHT tax rates for construction of road, bridges and power plants 2.5%

Compensating payment made under registered security lending transactions are excluded from WHT deduction at source.

There is need for clarity in the interchangeably use of Registered Securities Lending Transaction and Regulated Securities Lending Transaction.

The amendments contained in **SECTION 22** of the Finance Act substituted for the word, "Board", the word, "Service" and defining the word, Service" as the Federal Inland Revenue Service". The implication of this is that FIRS is now properly described as Service and not Board in line with the provision of FIRS Establishment Act 2007 therefore reference to FBIR is no longer applicable

Definitions of new terms were introduced by the Finance Act such as Compensating Payments, Gross Turnover, Regulated Securities Lending Transaction etc**.**

SECTION 23 of the Finance Act, 2019 amended the Third Schedule to CITA by granting a reduction of tax exemption on interest on foreign loan across board by 30%. This amendment has included proper definition of Moratorium and repayment periods. This means that foreign companies that grant loan to Nigeria companies must meet these criteria to qualify for exemption.

The section also introduced the Seventh Schedule which specifies conditions for the deductibility of interest on inter- company loan whereby excess interest on foreign inter-company loan are disallowed for tax purposes. Also thin capitalization rule is now introduced by way of interest reduction cap based on 30% of EBIT.

PART II

PETROLEUM PROFIT TAX ACT, CAP P13, LFN 2004 (AS AMENDED)

SECTION 24 of the Finance Act, 2019 deleted Section 60 of the PPTA. By virtue of this amendment, dividend paid by companies covered under the provision of PPTA will now be subject, like other dividend, to Deduction at Source (Withholding Tax) at the rate of 10%. However, the WHT rate is reduced to 7.5% when paid to an individual resident in a country with Double Taxation Treaty with Nigeria.

The direct impact of this amendment is that the recipient tax liabilities would be increased by the amount of dividend received by the applicable tax rate (10% or 7.5%).

PART III

PERSONAL INCOME TAX ACT, CAP P8, LFN 2004 (AS AMENDED)

*"The deletion of Subsections 4, 5 and 6 of section 33 of PITA therefore implies increased tax burden of taxpayers in different income tax brackets by the tax rate applicable to their income tax bracket multiplied by ₦14,000. For example, a taxpayer whose taxable income exceeds ₦3,200,000 in any year of assessment will have incremental annual tax burden (incremental annual revenue to government) of ₦3,360 (₦14,000*24%), whereas a taxpayer in the lowest tax bracket will suffer annual incremental tax burden of ₦960 (₦14,000*7%)"*

SECTION 25, of the Finance Act, 2019 amended S.2(2), 49(1), 86(2((a) and ((8), 102(1) and 108(f) of PITA, Cap P8, LFN 2004 as amended by substituting for the words, "the Federal Board of Inland Revenue", the words, "the Federal Inland Revenue Service" wherever they appear in the Act.

This amendment is desirable because since the passage of the Federal Inland Revenue Service (Establishment) Act, 2007, these amended sections of PITA has not been amended to reflect the new name of FIRS. With these amendments, the possible legal interpretation issue arising from the FIRS name and its predecessor body, FBIR has been laid to rest.

SECTION 26 of the Finance Act, 2019 amended S.20(1)(g) of PITA by substituting for paragraph (g) a new paragraph "(g)"….."(g)" "a contribution to a pension, provided and other retirement benefit fund, society or scheme"

Although, the word "provident" was erroneously written as "provided" in the new paragraph, the amendment of this paragraph removes the absolute discretionary power of the Joint Tax Board (JTB) for approval of any Pension, provident, and other retirement benefit fund, society or scheme before it could eligible as allowable deductions. This could be as a result of the background fact that most of these schemes have been superseded by the Pension Reform Act, 2004 as amended in 2014. We however recommend that the typographical error observed in the new paragraph g be considered for future amendments.

SECTION 27 of the Act deleted S. 33(4), 33(5) and 33(6) of PITA which hitherto governed Spousal, Children and Dependent Relative allowances.

"The new subsection (1) which requires a person engaged in banking business to demand for a Tax Identification Number (TIN) from a person intending to open a bank account for the purposes of the person's business operations. The new requirement also makes TIN as a precondition for exiting account holders to continue to operate their bank accounts"

The 2011 amendments to PITA failed to delete these sub-sections of section 33 when Consolidated Reliefs and Allowances (CRA) was granted in lieu of all allowances and reliefs. Since then, many States' Internal Revenue Services have resorted to the use of discretion in granting these allowances. The deletion of Subsections 4, 5 and 6 of section 33 of PITA therefore implies increased tax burden of taxpayers in different income tax brackets by the tax rate applicable to their income tax bracket multiplied by ₦14,000. For example, a taxpayer whose taxable income exceeds ₦3,200,000 in any year of assessment will have incremental annual tax burden (incremental annual revenue to government) of ₦3,360 (₦14,000*24%), whereas a taxpayer in the lowest tax bracket will suffer annual incremental tax burden of ₦960 (₦14,000*7%).

SECTION 28 of the 2019 Finance Act also inserted a new subsection (1) which requires a person engaged in banking business to demand for a Tax Identification Number (TIN) from a person intending to open a bank account for the purposes of the person's business operations. The new requirement also makes TIN as a precondition for exiting account holders to continue to operate their accounts.

This amendment is desirable and aimed at bringing more taxable individuals who are currently classified as 'hard to tax' into the tax net, thereby expanding the coverage ratio of the States' tax authorities. However, a perceived implementation challenge is the determination of whether the account will be operated for business purposes especially in the light of the low tax morale of Nigerian citizens. The potential impact of this requirement will be reluctance of the bankable populace to open a bank account with its potential negative effect the financial inclusion policy of the government. Citizens who perceive this as a bate to enter the tax net might refuse to open bank account.

SECTION 29 of the Act amended section 58(1) by inserting after the word "writing" in line 2, the words" delivered in person, by courier service or via electronic mail.

This amendment is aimed at reducing the compliance cost for the individual taxpayers. The introduction and the medium of delivery of objection notices. The inclusion of courier services and electronic mails as means of delivery of objections will in no small measure reduce the time associated and the attendant costs associated with compliance.

SECTION 30 of the Finance Act, 2019, extended the penalty for failure to deduct or remit deduction at source to cover Section 73 of the PITA.

With this amendment, the scope of penalty to deduct and remit all deductions at source under Sections 69, 70,71,72 and 73 of PITA.

By virtue of **SECTION 31** of the Finance Act, 2019, the Third Schedule to PITA has been amended. The deletion of the words "under the authority of the Railway Loan (International Bank) Act" from paragraph 6(1)(b) has made all loan interests on government bond raised to secure repayment of loans obtained from International Bank for Reconstruction and Development (IBRD) tax exempt.

This amendment is aimed at attracting investors into the Nigerian Bond Market thereby deepening the capital market operations.

The deletion of words on or after 1 January, 1997 from paragraph 7, line 1 of Third Schedule is an attempt to make interest on any loan granted by a Bank to a person engaged in agricultural trade or business, fabrication of any local plant and machinery and loan granted for the purpose working capital to any cottage industry established by a person under the Family Economic Advancement Programme tax exempt.

However, the provision of paragraph 7 of Third Schedule to PITA is inconsistent with the provision of Section 2(1) of Banks and Other Financial Institutions Act, 1991 which prohibits an unincorporated entity from running a banking business. Therefore, paragraph 7 of the Third Schedule to PITA should not have been covered under the PITA. We therefore recommend its deletion in entirety.

The deletion of paragraphs 10, 15, 18, 20 and 24 from Third Schedule to PITA is a welcome development as arbitrary grant of tax exemption to certain employment income from some organizations such as Ohio University of Athens, Ohio etc. creates horizontal inequity as similarly situated taxpayers would not suffer the same burden of tax.

The conditions for exemption of gratuities payable to employees in private sector under paragraph 18 (a), (b) and (c) is also a welcome development as it addresses some of the horizontal inequities associated with making exemption of gratuities conditional in some cases and not in others.

SECTION 32 of the Finance Act, 2019 deleted the word "Board" and substituted it with the Word "Service" and defined same as the "Federal Inland Revenue Service".

This amendment is consistent with the amendment under Section 25 of the Finance Act.

PART IV

VALUE ADDED TAX ACT, CAP VI, LFN, 2004 (AS AMENDED)

SECTION 33 of the Act amended section two of the VAT Act by substituting for section 2, a new section "2" which redefined goods and services and expanded the scope of what constitutes goods and services in Nigeria.

The amendment seeks to broaden the scope of VATable goods by providing definitions for "goods" and "services". The redefinition of "goods" and services" provides clarity as to what is VATable. This is in conformity with the principle of certainty in taxation. Hitherto, VATability of incorporeal assets were controversial due to the ambiguity around the meaning of goods and services. In the erstwhile Act "goods" are limited to moveable tangible goods. By this amendment financial instruments such as Shares, and incorporeal assets are subject to VAT because the instrument confers a "right" on the beneficial owner of the asset. The scope of "goods" has been expanded to capture intangible assets that confer ownership and are transferable.

SECTION 34 of the Finance Act amended section 4 of VAT Act by substituting for the expression, 5%, the expression, 7.5%.

This amendment is expected to increase government revenue from VAT and tax yield. Since, VAT is an indirect tax, the 2.5% increase is expected to fuel inflation with the attendant negative impact on the purchasing power on the final consumers of the VATable goods and services. The Act expanded the scope of exemption as a palliative to the tax burden.

However, the efficiency of the utilization of the incremental revenue will determine how quickly the entire economy will return to equilibrium.

By virtue of **SECTION 35** of the Finance Act, 2019, section 8 of the VAT Act was amended. With this amendment which substituted for section 8 of Value Added Tax Act, a new section "8", failure to register for VAT now attracts penalty of an amount of ₦50,000 for the first month in which the failure occurs and ₦25,000 for subsequent month in which the failure continues.

The Act introduced a new requirement that firms that are in cessation deregister for VAT after 90 days of cessation

The Act seeks to ensure improved compliance of taxable persons using deterrence mechanism. It is expected that the 400% increase in penalty will serve as deterrence to non-compliance. Early registration will enable the businesses recover the input VAT expended within the first 6 months allowed in the Original Act and government will not lose revenue within same period. Tax practitioners are expected to take proactive measures to ensure that their firms/clients comply accordingly and save them from paying penalty which is a non- allowable expense in tax computations

The reform contained in subsection 3 seeks to maintain an accurate database of taxable persons by requiring that firms that are in cessation apply for deregistration within 90 days of cessation.

However, we recommend that, for effective monitoring, the FIRS and CAC have inter-agency collaboration whereby TIN is generated alongside the RC number and inscribed on the company's incorporation certificate. It is expected that this collaboration will reduce tax evasion and eliminate compliance cost associated with registration for VAT and CIT.

SECTION 36 of the Act amended section 10 of the VAT Act substituting for section 10, a new section "10" by inserting a new subsection "2" and "4". By virtue of this amendments companies operating in the oil and gas sector and other having business dealings with non-resident companies have obligations to deduct and remit VAT in respect of VATable transactions between them and non-resident companies.

The Act seeks to address the ambiguity as to whether supplies from outside Nigeria to persons resident in Nigeria is VATable. This ambiguity has generated controversy between the taxpayer and the Service for quite some time and has been an issue of litigation. This reform seeks to resolve the ambiguity by clarifying that goods and services are taxable in the place of supply or destination since the goods and services are consumed and received in Nigeria, This implies that goods supplied whether locally or from abroad and received or consumed in Nigeria are subject to tax in Nigeria. In the same vein services rendered (whether locally or imported) to a beneficiary in Nigeria in subject to tax in Nigeria.

The reform has also formalised the inclusion of Oil and Gas firms as taxable persons within the ambit VAT person by empowering the Service to direct the companies to deduct VAT at source.

It is noteworthy that where a Non-Resident Company supplied goods or services ex-VAT, the recipient or consumer of the goods or services shall bear the VAT element of the invoice value. By these reforms contracting parties will be conscious of the cost of any omission.

The requirement under section 10(2) of the VAT Act requiring a non-resident company to include VAT in its invoice and the recipient of the goods or service in Nigeria shall remit the tax in the currency of the transaction has now been deleted from section 10 and inserted to section 14(3) by virtue of **SECTION 37** of the Finance Act, 2019.

Also the insertion of subsection 4 in section 14 of VAT requires a person to whom taxable supplies is made in Nigeria and which is issued an invoice on which no tax is charged, such a person shall, self- account for the tax payable and remit the output tax to the Service within the timeline prescribed.

SECTION 38 of the Finance Act 2019 amended section 15 (1) and (2) by introducing a threshold of ₦25m turnover in a calendar year. In determining the threshold, capital supplies of the person's assets and taxable supply made partly or solely for cessation of business of business are excluded.

However, we observed a drafting error which make provision of section 38 inconsistent with section 22 of the Finance Act. Section 38 which amended section 15(1) by substitution states that "A taxable person, who in the course of a business, has made taxable supplies or expects to make taxable supplies, the value of which, either singularly or cumulatively in any calendar year is ₦25,000,000 or more, shall render to the service on or before ……."

The above provision which implies a small company as those with turnover of less than ₦25,000,000 is inconsistent with the provision of section 22 of the Act, which define small company as those with turnover of ₦25,000,000 or less as shown in the table below.

S/N	Category	Criteria (by Turnover)
1	Small	₦25,000,000
2	Medium-Sized	>₦25,000,000 but <₦100,000,000
3	Large	₦100,000,000

The above connotes that within the ambit of CITA small company's turnover is ₦25,000,000 and it is tax exempt. However, within the context of VAT, a company whose turnover is ₦25,000,000 is a medium-sized company and such a company is not excluded from the operations of VAT Act. This drafting error, as simple as it could portend great interpretation issues and lead to the use of discretion.

The amendment to section 16(1) of the VAT Act by virtue of **SECTION 39** of the Finance Act, now gives the taxpayer the right to utilize excess of input VAT over output VAT in subsequent months or be entitled to a refund subject to production of certain documents as the Service may require. This is good development as it has the potential of reducing costs associated with claiming of tax refund under VAT Act.

SECTIONS 40, 41, 42, 43 AND 44 of the Finance Act, 2019 amended sections 19, 21 t0 24, 28, 32 and 35 of the VAT Act.

SECTION 40 substituted for section 19, a new subsection "19" which now requires imposition of penalty for non-remittance of VAT collected at the rate of 10% of the tax not paid and interest at the prevailing CBN minimum re-discount rate. This amendment seeks to increase penalty for non-remittance from 5% to 10% but reduced the interest by the difference between the commercial lending rate hitherto contained in the VAT Act to the prevailing CBN minimum rediscount rate.

The practical implementation challenged envisaged is the application of CBN minimum rediscount rates due to the continuous MPR adjustment by the Monetary Policy Committee, especially where there are rate changes within a fiscal year.

We recommend that government should consider reviewing this section by specifying a rate that is punitive enough to stimulate voluntary compliance. This rate could be adjusted annually to reflect realities in the money market.

The deletion of Part IV (sections 21 to 24) of the VAT Act by **SECTION 41** of the Finance Act which amended section 28 of the VAT Act, has removed the redundant technical committee established by virtue of Part IV of the VAT Act.

By virtue of **SECTION 42** of the Finance Act, failure to notify the Service of a change of address has now been expanded to cover permanent cessation of business and attract a penalty of ?50,000 for the first month in which the failure occur and ?25,000 for each subsequent month in which the failure continues.

SECTION 43 of the Finance Act has now deleted section 32 of the VAT Act which imposes a fine of ?5,000 and sealing of the VATable person's business premises for failure to register for VAT

SECTION 44 of the Finance Act which amended section 35 of VAT act has now raised the fine associated with failure to render monthly return from ?5,000 to ?50,000 in the month of default and ?25,000 for every month in which the default continues.

It is not clear if the default is on simple basis or cumulative basis. The ambiguity surrounding this provision has the potential of introducing subjectivity in the computation of fine associated with failure to submit return.

SECTION 45 of the Finance Act substituted for section 42 of the VAT Act, a new section 42 which exempted assets sold during business re-organization from imposition of VAT provided that such sale is at arm's length.

SECTION 46 of the Act defined new terms such as "commencement of business", "basic food items ", "recognized group of companies", "exported services", "goods" etc.

The definition of goods to include "all forms of tangible properties that a movable at the point of supply but does not include money or securities" has now exempted building from the definition of goods in Nigeria.

The Act however fails to address the treatment of input VAT of building materials employed in the construction of building by the Real Estate Investment Companies (REIC). It is expected that the FIRS will issue operational guidelines to clarify this position pending the future amendment to the Act.

By virtue of **SECTION 47** of the Finance Act, The First Schedule of the Value Added Tax is amended by insertion of paragraph “10” which exempted locally manufacture sanitary towels, pads or tampons, services of microfinance banks, people's banks and mortgage banks as well as tuition relating to nursery, primary, secondary and tertiary education from VAT.

The expansion of Parts 1 and II of the First Schedule has now formally exempted activities of microfinance banks and tuition fee from the operation of VAT.

PART V

CUSTOMS AND EXCISE TARIFF, ETC. (CONSOLIDATION) ACT, CAP C49, LFN 2004 (AS AMENDED)

SECTION 48 of the Finance Act, 2019 amended Section 21 CET. Cap. C49 LFN 2004 by substituting for subsection (1) a new subsection “(1)” which reads

“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 provided that this subsection shall not apply to

(a) Good that are not locally produced in Nigeria; and

(b) Raw materials that are not locally available in Nigeria.”

Conceptually, excise duties are payable on locally manufacture goods, while custom duties are payable on imported goods.

An attempt to charge imported goods with the duties of excise is considered a deviation from international best practice.

If the intention of the government is to make “Made-in-Nigeria” products competitive, reduction in the rate of tariff or outright removal of excise duties and or increase in import duties on imported goods will be a better strategy, rather than inclusion of imported goods on the list of goods to be charged with the duties of excise.

We therefore recommend an amendment of this subsection by removing the words “Goods imported” from line 1 of the new subsection “1”.

PART VI

CAPITAL GAINS TAX ACT, CAP C1, LFN 2004 (AS AMENDED)

SECTION 49 of the Finance Act 2019 amended section 32 of the Capital Gain Tax Act by Substituting for section 32, a new section “32” which exempted gain arising from sales of a trade or business arising from business re-organization from capital gain tax provided the such sale and subsequent resale of such business is not with 365 days. The “proviso” in the new substituted section is to ensure that all such transfer or sale of trade or business are at arm' length before they can be exempted from CGT, otherwise the relief granted will be rescinded.

SECTION 50 of the Finance Act amended section 36(2) of the CTA Act by substituting for the expression “₦10,000” in line 3, the expression “₦10,000,000 and deleting the phrase “in any year of assessment” in line 3.

With this amendment, sums obtained by way of compensation for loss of office shall not, however, be chargeable gains, except where the amount of such compensation or damages exceeds ₦10,000,000.

In **SECTION 51** of the Finance Act 2019, the terms “Service”, “recognized group of companies”, were defined.

PART VII

STAMP DUTIES ACT, CAP S8, LFN 2004 (AS AMENDED)

SECTION 52 of the Finance Act, 2019 amended Section 2 of the Stamp Duties Act by redefining the words “stamp”, “stamped” and “instrument” by expanding these definitions to include electronic stamp or an electronic acknowledgement in the definition of “stamp”; material digitally tagged with electronic stamp or notional stamp on an electronic receipt in the definition of “stamped” and electronic documents in the definition of “instrument”.

By virtue of expanding the definition of “stamp”, “stamped” and “instrument”, electronic receipt of funds, and other e-commerce related transactions requiring payment of stamp duties have been brought into the scope of the Stamp Duties Act. This is an attempt to take tax advantage of increasing digitalized economy. This amendment, if properly harnessed by the government, has the potential of improving the revenue of government at the Federal and State Levels.

SECTION 53 of the Finance Act, 2019 amended Section 4 of the Stamp Duties Act by substituting for the words, “the Federal Government” and “the State Government” in line 1 of subsections 1 and 2 respectively, the words “the Federal Inland Revenue Service” and “the relevant tax authority in a State” respectively.

This amendment has therefore put into rest the tussle between NIPOST and FIRS over the administration of the Stamp Duties Act at the Federal Level. This amendment is line with the practice in other developed climes where the responsibility for administration of all taxes is vested in a single agency. However, the major concern is the capacity of the FIRS to cope with the even increasing responsibilities for tax laws administration at the federal level.

Another important amendment is contained in **SECTION 54** of the Finance Act, 2019, which substituted section 89 with new Section 89 with subsections (1), (2), (3) and (4). The new Section 89(3) has increased the minimum deposit that attracts stamp duty of ₦50.00 to ₦10,000.00 from ₦1,000 (current practice not backed by law).

However, the proviso in section 89(3) of the Act, granted exemption **ONLY** to money transferred electronically between accounts of the same owner within the same bank. The fundamental question or fairness concern raised by this proviso is: Does a transfer from one account to another account of the same person in another bank constitute a receipt?

It is our candid belief that transfer between same person's account whether intra or inter bank does not constitute receipts under

Section 89(1) of the Stamp Duties Act. This therefore calls for amendment of the new Section 89(3) of the Stamp Duties Act.

SECTION 55 of the Finance Act, 2019 deleted the Section 90 of the Stamp Duties Act as this section is a redundant provision.

SECTION 56 of the Finance Act amended the Schedule to the Stamp Duties Act by expanding the exemption list to include certain transactions under the regulation issued by the Securities and Exchange Commission. These amendments are desirable to promote capital and money market activities in Nigeria.

OUR FINAL THOUGHTS AND SOME GENERAL CONCERNS ABOUT THE FINANCE ACT 2019

WHT on dividends paid out of the profits of companies engaged in petroleum operations

The introduction of 10% WHT on dividends paid out of the profits of companies engaged in petroleum operations has been seen to be excessive; since such incomes would have already been subjected to 85% petroleum profits tax prior to payment of the dividends. *Will the public not continue to agitate more until this is addressed?*

Increase in VAT Rate

The increase from 5% to 7.5% may likely drive up the prices of consumables as the additional tax will surely be passed by suppliers of goods and services to the final consumers.

Will the increase in VAT result in a corresponding rise in the cost of inputs used in the production of goods and services generally, where such inputs are not specifically included in the exemption list specified in the First Schedule to the VAT Act?.

Stamp Duties

Should section 102 of the Stamp Duties Act not be amended to exempt from ad valorem stamp duties rate, trust deeds issued in respect of bonds transactions?

Exemption of SMES

The Act also exempts MSMEs from VAT registration, filling of returns and exemption from payment of CIT, pegging it below N25 million in turnover per year. *Will the SMEs not manipulate their turnover to perpetually remain under N25million?*

Increase in the penalty payment for defaulters

Increase in the naira penalty in the first month of payment default to N50,000 (from N5,000) and N25,000 for every month the default continues limit impact as those companies that will be affected will be turning over more than N25 million. *Will this amount to much for companies with Turnover of over N25 million?*

Significant Presence

Most digital and multinational technology companies do not have a physical presence in Nigeria, yet make significant income in Nigeria from online activities. Such companies pay no tax to Nigeria because they do not have a physical presence in Nigeria. With the amendment by Finance Act, physical presence will no longer be an issue.

By virtue of the Finance Act, once you have a significant economic presence in Nigeria, you are liable to tax whether you are resident here or not. In effect, non-residents, who previously had no fixed address would now be taxed under the new Act. *Is the FIRS positioned to handle this Or will need to urgently position herself for this challenge?*

Amendment of Section 16 of CITA

This section has over the years been an inhibitor of growth to the insurance business in Nigeria. In tax practice, all expenses wholly and reasonably incurred to generate a particular amount of revenue are generally allowable for tax purposes in their entirety. This has not the case under section 16 as it limits allowable claims expense, commission, and other direct expenses to 25% of the total premium. Operators in the Insurance Industry have been calling for a review of this section to no avail. Insurance companies are greatly relieved.

Now insurance companies will be assessed and taxed like other sectors in the economy. The limitation of losses carried forward to four years of assessment has been abolished. Insurance companies can now carry forward losses indefinitely, deduct reserve for unexpired risks on time apportionment bases while special minimum tax for insurance has also been abolished. This is quite laudable.

VALUE ADDED TAX ACT. NO 102, 1993

➢ Section 2 of the original Act states that "the tax shall be charged and payable on the supply of all goods and services (In this Act referred to as "taxable goods and services") other than those goods and services listed in the Fifth Schedule to this Act.

Amendment: The amendment seeks to broaden the scope of VATable goods by providing definitions for "goods" and "services".

Implications

The definition of "goods" and "services" provides clarity as to what should be Vated. This is in conformity with the principle of certainty in taxation. Hitherto Vatability of incorporeal assets were controversial due to the ambiguity around the meaning of goods and services. In the erstwhile Act "goods" are limited to moveable tangible goods. By this amendment financial instruments such as Shares and incorporeal assets are subject to VAT because the instrument confers a "right" on the beneficial owner of the asset. The scope of "goods" has been expanded to capture intangible assets that confer ownership and are transferable.

The amendment of Section 2 of the Original Act will impact Stakeholders in various ways:

Practitioners

The controversy on whether intangible assets can be Vated has been resolved by this amendment. Practitioners can now make reference to the expanded Fifth Schedule. The degree of certainty has been improved in the amendment. The time wasted on arguing the validity of issues can now be saved.

Administrators

The likelihood of litigation is reduced and this will reduce cost of administration on the part of FIRS and SIRS.

Government Policy

We expect the changes made on Section 2 of the erstwhile Act to impact positively on fiscal stability. The clarity on the ambiguity of the old Act provides certainty around Vatability of "goods" and "services" which has a positive influence on policy objectives. We also expect increase in government revenue from the expansion of scope of Vatable goods and services.

Tax Payer

The clarifications resulting from this amendment will most likely reduce disputes between the tax payer and tax authority. More items of basic necessities have been included in the exemption which is a relief to consumers.

Tax Consultants/Advisors

It will facilitate impact assessment of fiscal changes on Clients business for better advisory services to their Clients

Academic

Conceptual issues are better understood and will facilitate impactful research.

Professional Association

It will facilitate membership training and the Associations will have better engagements with relevant Government Agency

General Public

The increase in government revenue resulting from a broad tax base is expected to improve the lot of the general public through improved infrastructure and job creation.

Challenges/Gaps Identified

There are no challenges or gaps identified.

Suggestions

We advocate for the involvement of relevant Stakeholders such as Professional Associations, Practitioners, Consultants and Academicians in future Amendments and legislations.

Section 4 of Original Act is on Rate of Tax

The Act stipulates that tax shall be computed at the rate of 5%.

The Amendment raised the rate of VAT from 5% to 7.5%.

Implications of the Amendment

This amendment is expected to increase government revenue from VAT and tax yield. Tax Payers are expected to bear additional tax burden. The Act expanded the scope of exemption as a palliative to the tax burden.

Possible Impact of Amendment

Practitioners

This amendment is a mere increase in rate therefore will not have any impact on Practitioners. The Practitioners role is compute with the revised rate.

Administrators

The 50% increase in rate will assist Administrators such as FIRS and SIRS to achieve revenue target in the fiscal year.

Government Policy

This amendment will assist government achieve an increase in non-oil revenue and an increase in Revenue to GDP ratio which will help to reduce the current high debt service to GDP ratio.

Tax Payer

By the rate increase the burden of tax in increased. This burden will come in form of increase in prices of goods and services of items outside the scope exemption because unit cost of production of affected items will increase. This is so because VAT incurred on fixed assets and overheads cannot be set off against VAT collect from sales.

Tax Consultants/Advisors

This amendment will require impact assessment of business models to enable Consultants proffer professional advice on which models best suits the Client's needs and how to mitigate the impact.

Academics

The amendment may trigger studies on Impact Analysis to determine potential effect of fiscal policies on macroeconomic indices.

General Public

The general public is expected to experience hike in inflation occasioned by increase in cost of goods and services. On the positive side the expected increase in government revenue will facilitate better budget performance that will reflect on the welfare of the citizens, all things being equal. Furthermore, with the exemption of Micro Finance Banks from VAT, it is expected that Micro, Small and Medium Scale Enterprises will benefit from the exemption.

Suggestions

We recommend for review of VAT distribution formula. Emphasis should be to empower the States and Local government to provide adequate social amenities. To this end we recommend a 50:50 sharing ratio between the states and Local Government.

➢ Section 8 of the Original Act covers Registration. The Act stipulates in subsection [1] that a taxable person shall within 6 months of the commencement of business register for the purpose of tax.

Subsection [2] of the Act specified the penalty for failure to register within the specified period thus N10,000 for the first month in which the failure occurs and 5000 for subsequent months.

Amendment

The Finance Act requires that every business register for VAT upon commencement of business. The amended Act states that taxable persons that fail to comply shall incur a penalty of:

N50000 in the first month that the failure occurs and

N25000 in subsequent months

The Act introduced a new requirement that firms that are in cessation deregister for VAT after 90 days of cessation.

Implications

The Act seeks to ensure improved compliance of taxable persons. It is expected that the 500% increase in penalty will serve as deterrence to non-compliance. Early registration will enable the businesses recover the input VAT expended within the first 6 months allowed in the Original Act and government will not lose revenue within same period.

The reform seeks to maintain an accurate database of taxable persons by requiring that firms that are in cessation apply for deregistration within 90 days of cessation

Impact of the amended sections on:

Practitioners

As professionals Practitioners are expected to take necessary measures to ensure that their firms comply accordingly and save them from paying penalty which is a non-allowable expense in tax computations.

Administrators

FIRS will have to increase their surveillance on businesses to new businesses that need to register for VAT and existing businesses that have not complied. This may increase cost of monitoring.

Government Policies

Monitoring on the part of Administrators and compliance by tax payers will determine success or otherwise of government policies.

Tax Payers

Tax Payers are expected to act proactively to avoid high cost of penalty that is not allowable for tax purposes. They are expected to put necessary mechanisms in place to ensure compliance.

Tax Consultants/Advisors

Consultants are expected to render timely advice to their Clients on the implications of non-registrations and late registrations. Consultants who fail to act on time may lose their retainership for lack of professionalism.

Academic

The tax reform will provide a new vista for Researchers in the area of Tax Compliance.

Challenges

Tax Administrators may contend with monitoring of new businesses and existing ones to ensure compliance.

Suggestions

For effective monitoring the FIRS should have a portal linked to CAC and the Banks. In the event that every firm has a TIN and is linked to Banks account of firms, tax avoidance will be minimal.

- Section 10 of the Original Act provides for Registration by Non-Resident Companies. Subsection 1 of the Act provides that a non-resident company that carries on business in Nigeria shall register for the tax using the address of the person of whom it has subsisting contract as its address for the purpose of correspondence.

Subsection 2 of the erstwhile Act provides that the non-resident company shall include the tax in its invoice and the recipient of the goods or service in Nigeria shall remit the tax in the currency of the transaction.

The Finance Act amended these sections by adding that the Service may direct the companies in the oil and gas industry to deduct VAT at source and remit to the Service. Also, the old section 14 was amended to include new sub-sections 3 and 4 which provide that:

Subsection 3 'A non-resident company shall include the tax in its invoice and the recipient of the goods or service in Nigeria shall remit the tax in the currency of the transaction".

Subsection 4: "where a person to whom taxable supplies is made in Nigeria is issued an invoice on which no tax is charged, such a person shall, self- account for the tax payable and remit the output tax to the Service within the timeline prescribed".

Implications

The Act seeks to address the ambiguity as to whether supplies from outside Nigeria to persons resident in Nigeria can be Vated. This ambiguity has generated controversy between the tax payer and the Service for quite some time and has been an issue of litigation. This reform seeks to resolve the ambiguity by clarifying that goods and services are taxable in the place of supply or destination since the goods and services are consumed and received in Nigeria, This implies that goods supplied whether locally or from abroad and received or consumed in Nigeria are subject to tax in Nigeria. In the same vein services rendered (whether locally or imported) to a beneficiary in Nigeria in subject to tax in Nigeria.

The reform has formalised the inclusion of Oil and Gas firms as taxable persons within the ambit VAT by empowering the Service to direct the companies to deduct VAT at source.

It is noteworthy that where a Non-Resident Company supplied goods or services ex-VAT, the recipient or consumer of the goods or services shall bear the VAT element of the invoice value. By these reforms contracting parties will be conscious of the cost of any omission.

Impact of the Reform

Practitioners

The clarifications provided by the reform will enable practitioners to render their professional services efficiently in the area of tax planning.

Administrators

The cost of litigation in matters of controversy will be reduced to the barest minimum and ease of collection will be enhanced. The reform has settled the controversy around the Vatability of services provided by non-residents to taxable persons in Nigeria by introducing reverse charge rule.

Government Policy

This reform aligns government policy with global best practice (in agreement with the principles of Organization for Economic Cooperation and Development) and the canon of certainty. Government revenue target may improve on the back additional revenue from NRC transactions. However this may impact negatively on Government's policy on Ease of Doing Business.

Tax Payer

On the part of NRCs, cost of doing business will rise which may affect foreign direct investments and portfolio investment. The reform engenders certainty in the tax system which is expected to enhance the tax management strategies of the tax payer. The introducing of self-accounting of VAT implies higher cost of doing business as taxable persons are to self-account for supply of goods and services of NRCs

Tax Consultants/Advisors

The removal of the ambiguity in the erstwhile Act will enhance advisory services and the frequency of engagements with relevant Authorities on behalf of Clients. The reforms will make room for effective retainership between Consultants and their Clients.

Academic

These reforms may spur the interest of Researchers to investigate the impact of the reforms on government policies. Academic institutions may update their curriculum with the latest developments.

Professional Associations

Associations such as CITN and ICAN are likely to update their curriculum to provide students with up-to-date information.

General Public

These reforms will lead to increase in cost of production which may result to increase in inflation. An increase in inflation will further erode the purchasing power of general public.

Suggestions

To mitigate the impact of potential inflation associated with the reform, government is expected to utilize the increased revenue in the provision of social amenities for the general public.

- Section 15 of the Original Act covers Rendition of Return by Taxable persons.

Subsection 1 of the Act provides that taxable persons shall render return on or before 30th day following that in which the supply or purchase was made. Subsection 2 provides that a person who imports taxable goods shall render return on all goods imported into Nigeria.

The Finance Act 2020 amended section 15 (1) and (2) by introducing a threshold of N25m turnover in a calendar year. In determining the threshold, capital supplies are excluded and taxable supply made partly or solely for cessation of business of business.

The amendment provides that taxable persons that falls short of the threshold test shall be exempted from VAT registration, collection and filing returns.

Implications

The reform seeks to incentivise small business and make them more competitive. It is expected that this measure will encourage more small business to come into the tax net to take advantage of the reliefs provided by the Finance Act, 2020. The amendments also cushion the effect of increase in VAT rate.

Impact of the Reform

Practitioners

Practitioners in the SMEs are expected align the records of their firms with the reform

Administrators

FIRS are relieved of the burden of monitoring compliance of businesses that fall short of the threshold and focus their efforts on big firms. Cost of monitoring is expected to reduce.

Government Policy

The measure is expected to create more opportunities for growth of SMEs thereby providing opportunities for employment and economic growth. The reforms promote the principle of fairness by recognizing the difficult operating environment that SMEs contend with.

Tax Payer

Tax Payers that do not meet the threshold are relieved of the burden of compliance. It is expected to improve their competitiveness. It is expected to boost investment of the SMEs from the savings made. On the flip side, companies that do not meet the threshold may not be able to recover their input VAT.

Tax Consultants/Advisors

Consultants are expected to advise their clients regarding their business models to take full advantage of the reforms.

General Public

The reform is expected to have a positive impact on the general public on the back of increased activities of small businesses

Challenges

Potential disadvantage of the reform is that input VAT of firms that do not meet threshold cannot be recovered. It may give room for tax avoidance as some companies can reorganize to limit their turnover around the threshold.

Suggestions

All companies within and outside threshold should be allowed to register for VAT. This will facilitate database of taxable persons and enhance future reforms.

➢ Section 16 of the Original Act provides that a taxable person shall render returns where the output tax exceeds the input tax and where the input tax exceeds the output tax be entitled to a refund of the excess tax upon production of the required documents.

The Finance Act, 2020 amended this section by allowing the excess of input over output VAT to be utilized as a credit in subsequent months.

Implications

Within the ambit of the old Act VAT is accounted for on accrual basis. The reform implies that VAT is to be accounted for on cash basis. This allows for a set off of input VAT against output VAT. Where the taxable person does not have input VAT, the person is allowed to remit only the output VAT, In the event that a taxable person is entitled to VAT refund, the reforms allows the refund to be set off against subsequent collections failing which the excess can be refunded.

Impact of the Reform

Tax Payer

It is expected that the cost of claiming refunds will be reduced

➢ Sections 19, 28 and 35 of the old Act deals with effect of non-remittance, failure to notify of change in address and failure to submit returns respectively

The amendment to section 19 increased the penalty from 5% to 10% for failure to remit the tax within the specified period. Failure to notify the Service of change in address in the old Act attracts a fine of 5000. The new Act increased the fine to 50000 in the first month of failure and 25000 in subsequent months. Failure to submit returns as specified in the old Act attracts a penalty of 5000. The new Act increased the penalty to 50000 for the first month and 25000 for subsequent months of non-compliance.

Implications

Non-compliance is taken very seriously in the new Act hence stiffer measures are taken by way increased amount of penalty. It is expected that the upward review of penalty will encourage compliance as taxable persons are not likely to bear the burden of penalty that not tax allowable.

Impact of the Reforms

Practitioners

Practitioners are expected to ensure that their organizations do not fall victim of non-compliance failing which they face the risk of termination.

Administrators

As more taxable persons avoid penalty through increased compliance, cost of administering the law will reduce significantly.

Government Policy

Increased compliance will enhance government revenue and the achievement of fiscal objectives.

Tax Payer

Increased amount of penalty will discourage non-compliance

➢ Section 42 of the new Act provides conditions for VAT exemptions on assets sold or transferred to a Nigerian company in company reorganizations or group reorganizations:

That the sale to the Nigerian company must be for better organization of trade or business

The companies in the reorganization are part of the group 365 days before the reorganization and the affected assets are not sold 365 days after the concluding the reorganization.

Implications

The Acts seeks to avoid artificial transactions and window dressing that are not designed for better organization of trade or business.

It aims to ensure that group reorganizations are designed to produce efficiency and productivity and the entity remains a going concern.

➢ **OTHER MISECELLANEOUS CHANGES IN THE FINANCE ACT**

Key amendments to section 46 of the old Act includes:

Definition of "basic food items" to mean agro and aqua based staple foods for VAT exemption purposes. The items that qualify for VAT exemption were listed. The scope of exemption was expanded to include locally produced towels, sanitary pads, bottle water and tuition for nursery, secondary and tertiary education.

Exemption of Micro Finance Banks' services from VAT .

Definition of exported services as services rendered by a person within or outside Nigeria by a person resident in Nigeria to a non-resident outside Nigeria.

Implications

The expansion of the definition of basic food items will provide palliatives to tax payers especially on basic necessities and cushion the burden of tax.

VAT exemption on Micro finance services will encourage businesses in that area. Since their services are designed to impact the grassroots, this measure will encourage more investments.

A clear definition of exported service will resolve the controversy as to destination and recipient of the service as a result; government will unlock the revenue potential of the service.

Impact of the Reforms

Tax Payer

These reforms will promote fairness and certainty in the tax system. Tax payers are in a better position to manage cost of tax compliance.

Government Policy

These measures are more likely to increase government revenue and spur increased economic activities which multiplier effect is better performance of the economy.

Suggestions

Tax reforms should be annually to align the Nigerian Tax System with global best practices and in tune with changing economic realities.

REVIEW OF CAPITAL GAINS TAX ACT, CAP. C1, LFN, 2004

➢ Section 36 of the old Act provides for Personal Injury. The Act states in 36(2) that "Sums obtained by way of compensation for loss of office shall not, however, be chargeable gains, except where the amount of such compensation or damage exceeds N10000 in any year of assessment"

In the amendment, the Finance Act increased the amount of compensation from N10000.00 to N10, 000,000.00 while the other letters of the old Act remain unchanged

Implications

The Finance Act seeks to review upwards the minimum threshold for CGT exemption in respect of Compensation for loss of employment as a termination benefit. The new threshold aligns with current economic realities in terms of inflation, minimum wage, exchange rate and other economic parameters. With this review Entities are encouraged to pay compensation for loss of office due to the tax incentive. The minimum threshold of N10m will accommodate a wide spectrum of workers

Impact of the Reform

Tax Payer

The reform is an incentive to Tax Payers to seek for termination benefits as against terminal benefits. Entities are equally encouraged to pay compensation for loss of office for the benefit of their employees. It is a significant relief to the working class.

➢ Section 32 of the old Act provides that "A person shall not be chargeable to tax under this Act in respect of the gains arising from the acquisition of shares of a company either taken over, absorbed or merged by another company as a result of which the acquired losses its identity as a limited company provided that no cash payment is made in respect of the shares acquired"

However, the Finance Act modified this Section by introducing certain conditions to be satisfied in business re-organizations before exemption of CGT can be granted. Under the revised Act, companies would be deemed members of group where they have remained members for a minimum of 365 days preceding the date of restructuring and the underlying assets transferred remained the property of the group for a period of not less than 365 days succeeding the date of reorganization.

Implications

In practice Tax Payers structure deals to take advantage of tax concessions. The revised Act seeks to discourage group re-organizations consummated only for tax purposes rather than better the organization. It seeks to ensure that synergistic benefits of business combinations are sustained in the long term. The focus of business combinations will not be mainly on tax benefits rather on the terms that will enhance the going concern of the new Entity. The revised Act also seek to eliminate double taxation arising from subjecting the asset transferred to tax within the group in addition to the tax arising from the benefits of the business combination.

Impact of the Reform

Tax Payer

The revision will compel tax Payers to focus on cost benefit analysis of re-organization that will engender synergies and economic benefits for the group with less consideration on tax advantages.

Government Policy

The reform is a measure to eliminate tax leakages and ensure that business re-organization produce economic benefits that will spur economic growth.

Tax Administrators

FIRS will need to scrutinize the submissions of Tax Payers to ensure tax concessions are enjoyed upon satisfaction of the conditions precedent.

Key Objectives of the FINANCE Bill

In the President's letter of October 14, 2019 forwarding the Bill for legislative consideration, the following were listed as the five (5) key strategic objectives of the Bill:

i. Promoting fiscal equity by mitigating instances of regressive taxation;

ii. Reforming domestic tax laws to align with global best practices;

iii. Introducing tax incentives for investments in infrastructure and capital markets;

iv. Supporting small businesses in line with the FGN's ongoing Ease of Doing Business Reforms; and

v. Raising required revenue for government, by various fiscal measures, including a proposed increase in the rate of Value Added Tax (("VAT") from 5% to 7.5%.

Background to the Finance Act 2019

Its introduction in 2016

The Finance Act was originally introduced as a Finance Bill (the "Bill") in 2016 by a former Minister of Finance Mrs Kemi Adeosun. The Finance Act, previously an Executive Finance Bill was prepared by the Honourable Minister for Finance, Budget and National Planning, and consequently approved by His Excellency, the President, Muhammadu Buhari.

The changes in the provisions contained in the Finance Act are intended to incentivize economic activities in order to stimulate the GDP growth and facilitate increase in the revenue generated.

14 October 2019

His Excellency, President Muhammadu Buhari, during a Joint Sitting of the National Assembly, (comprising the Senate and House of Representatives of the Federal Republic of Nigeria), presented it along with the 2020 Appropriation Bill (the "2020 Budget").

7th November 2019

The Bill scaled the Second Reading.

21st November 2019

On Thursday, November 21, 2019, the Bill 2019 was passed by the Senate after scaling through third reading on the floor of the Senate.

27th November 2019

The House of Representatives passed it on Wednesday 27 November 2019.

13 January 2020

Presidential Assent

On 13 January 2020, His Excellency, President Muhammadu Buhari, GCFR, signed the Finance Bill, 2019 into law to become the Finance Act, 2020. (hereinafter referred to as "the Finance Act"). A Bill becomes an **Act** only after the President has given assent to it.

What happened after the Presidential Assent

Ministers Announcement

Following the President's assent, the Honorable Minister for Finance, Budget and National Planning announced 1 February 2020 as the effective date for implementing the Value Added Tax rate increase from 5% to 7.5%.

Certification of the Bill

20th Day of DECEMBER

What Does it Mean to Certify A Bill

2. (1) *The Clerk of the national Assemble shall forthwith after enactment, prepare a copy of each Bill as passed by both Houses of the National Assembly embodying all amendments agreed to, and shall endorse on the Bill and sign a certificate that the copy has been prepared as prescribed by this section and is a true copy of that Bill.*[1] *(Section 2.1,* Acts Authentication Act)

[1] Acts Authentication Act, Chapter 4 Laws of the Federation of Nigeria 1990. An Act to make provision for the authentication and recording of Acts of National Assemble.

The Gazette, Is it Finance Act 2019 or Finance Act 2020?

The Gazette refers to the Act as FINANCE ACT, 2019 , but technically it should be Finance Act 2020 because it was signed in 2020.

Whose Duty is it to Assign a Number to an Act

4.(2) *The numbers shall be* ***assigned by the Clerk of the National Assemble*** *forthwith upon the return to him of the duplicate Schedule as approved and where necessary in an year the numbers already assigned in printed copies of Acts may be altered under the authority of this subsection on* certificate by *the Clerk of the National Assembly and if altered, a notice thereof shall be published in the Federal Gazette.* **(Section 4(2)** Acts Authentication Act, Cap 4 LFN 1990).

5.(1) *Every Act when numbered shall immediately be set up in far and legible type by the Government printer and have endorsed on the back that it is published by authority; and an impression in triplicate from the type set up shall be struck off by the Government Printing on vellum or on paper of an enduring quality.* **(Section 5(1)** Acts Authentication Act, Cap 4 LFN 1990).

Whose Duty is it to Gazette an Act

(2) A duplicate of the Schedule when passed and signed shall be returned to the Clerk of the National Assemble who shall cause a copy to be published in the Federal Gazette; and the production of a copy of the Federal Gazette containing the Schedule as published shall be conclusive evidence for all purposes. (Section 3(2) **A**cts Authentication Act, Cap 4 LFN 1990).

6. Every Act which purports to be published by authority and bears a number and reference to a year and a date of commencement or reference to a section shall be received in all Courts and by all persons as sufficient evidence that it has been assented to in the President's name. **(Section 6** Acts Authentication Act, Cap 4 LFN 1990).

5. Tax Laws Amended by the FA 2019

Companies Income Tax Act, Cap C21,

Value Added Tax Act, Cap. VI,

Customs and Excise Tariff, Etc. (Consolidation) Act, Cap. C49,

Personal Income Tax Act, Cap. P8,

Capital Gains Tax Act, Cap. C1,

Stamp Duties Act, Cap. S 8,

Petroleum Profit Tax Act, Cap. P13, Laws

Of all the amendments made by the Finance Act, the increase in the VAT rate from 5% to 7.5% has been perceived by many as the most remarkable.

5.1 Structure of the Finance Act 2019

Arrangement of Sections

57 Sections

22 Sections and the Schedules Amended/ Deleted/Substituted in CITA,

One Section Deleted in PPTA,

11 Sections Amended in PITA and the Third Schedule,

17 Sections Amended/Deleted/Substituted in VATA, and the First Schedule

1 Section Amended in CET.

3 Sections of CGT amended

4 Sections and the Schedule amended in SDA

PART I - COMPANIES INCOME TAX ACT

2. Amendment of section 9.
3. Substitution for section 10.
4. Amendment of section 13.
5. Amendment of section 16.
6. Amendment of Act No. 11, 2007.
7. Amendment of section 19.
8. Amendment of section 20.
9. Amendment of section 23.
10. Amendment of section 24.
11. Amendment of section 27.
12. Amendment of section 29.
13. Amendment of section 31.
14. Amendment of section 33.
15. Amendment of section 39.
16. Substitution for section 40.
17. Deletion of sections 41 and 43.
18. Amendment of section 77.
19. Amendment of section 78.
20. Amendment of section 80.
21. Amendment of section 81.
22. Amendment of section 105.
23. Amendment of the Schedules.

PART II PETROLEUM PROFIT TAX ACT

24. Deletion of section 60.

PERSONAL INCOME TAX ACT

25. Amendment of sections 2, 49, 86, 102 and 108.
26. Amendment of section 20.
27. Amendment of section 33.
28. Amendment of section 49.
29. Amendment of section 58.
30. Amendment of section 74.
31. Amendment of the Third Schedule.
32. Amendment of section 108.

PART IV VALUE ADDED TAX ACT

33. Substitution for section 2.
34. Amendment of section 4.
35. Substitution for section 8.
36. Substitution for section 10.
37. Amendment of section 14.
38. Substitution for section 15.
39. Amendment of section 16.
40. Substitution for section 19.
41. Deletion of sections 21 - 24.
42. Substitution for section 28.
43. Deletion of section 32.
44. Substitution for section 35.
45. Substitution for section 42.
46. Amendment of section 46.
47. Amendment of First Schedule.

PART V-CUSTOMS AND EXCISE TARIFF ETC (CONSOLIDATION) ACT

48. Amendment of CET.

PART VI - CAPITAL GAINS TAX ACT

49. Substitution for section 32.
50. Amendment of section 36.
51. Amendment of section 46.

PART VII - STAMP DUTIES ACT

52. Amendment of section 2.
53. Amendment of section 4.
54. Substitution for section 89.
55. Deletion of section 90.
56. Amendment of Schedule.

References

Akintoye, I. R. *et al* (2020). 2019 Finance Act: The Good and The Flip Sides. A 2-day Seminar by the CITN Professorial Chair at the Lagos Airport Hotel Feb. 21-22, 2020.

Federal Republic of Nigeria. (2020). Finance Act, 2019. Official Gazette No. 6, Vol. 107, Government Notice No. 11. Lagos: Federal Government Printer.

(https://en.wikipedia.org/wiki/Finance_Act edited on 25 November 2019

(https://en.wikipedia.org/wiki/Finance_Act

(https://home.kpmg/mu/en/home/insights/2018/01/TaxAlerts2018/taxalerts2018.html)

(https://www.lexology.com/library/detail.aspx?g=584e9d38-77b8-4693-b19a-2a439b796cb2 16/2/2020)

TEJUTAX Reference Book on the Nigerian Tax System 2012

Nigerian Tax Laws

Appendix 1

SELECTED SECTIONS OF STAMP DUTY	FINANCE ACT	IMPACT	ADMINISTRATORS	PROFESSIONALS /PRACTITIONERS	TAX PAYERS/ SME'S/GENERAL PUBLIC	ACADEMICS	THE CHALLENGE/ OUR CONCERNS
Section 2	It was amended to include electronic documents and electronic stamp. transactions. **SECTION 52** of the Finance Act, 2019 amended Section 2 of the Stamp Duties Act by redefining the words "stamp", "stamped" and "instrument" by expanding these definitions to include electronic stamp or an electronic acknowledgement in the definition of "stamp"; material digitally tagged with electronic stamp or notional stamp on an electronic receipt in the definition of "stamped" and electronic documents in the definition of "instrument". **SECTION 53** of the Finance Act, 2019 amended Section 4 of the Stamp Duties Act by substituting for the words, "the Federal Government" and "the State Government" in line 1 of subsections 1 and 2	Ambiguities in the old tax law has been addressed by including electronic transactions and acknowledgements. By virtue of expanding the definition of "stamp", "stamped" and "instrument", electronic receipt of funds, and other e-commerce related transactions requiring payment of stamp duties have been brought into the scope of the Stamp Duties Act. This is an attempt to take tax advantage of increasing digitalized economy. This amendment, if properly harnessed by the government, has the potential of improving the revenue of government at the Federal and State Levels. Another important amendment is contained in **SECTION 54** of the Finance Act, 2019, which substituted section 89 with	This is a great step towards minimizing the process of tax administration and therefore making it easier to administer tax considering the introduction of technology. This amendment has therefore put into rest the tussle between NIPOST and FIRS over the administration of the Stamp Duties Act at the Federal Level. This amendment is line with the practice in other developed climes where the responsibility for administration of all taxes is vested in a single agency. However, the major concern is the capacity of the FIRS to cope with the even increasing responsibilities for tax laws administration at the federal level.	The introduction of electric documents and electronic stamp will also aid the work of professionals and reduce loss and or misplacement of documents containing vital information.	This amendment will ease the stress of tax payers as they do not have to write. Electronic documents can now be used and electronic stamps can also be appended on them. The general public will now find it easy to do transaction and get it signed. It is also believed that this will hasten the process and capture a lot of tax payers within the shortest time possible.	This is a way forward and is a proof through research that the world has indeed gone global. This is a huge encouragement to academics not to stop looking into ways by which the tax system of Nigeria can be helped.	**SECTION 52:** However, the major concern is the capacity of the FIRS to cope with the even increasing responsibilities for tax laws administration at the federal level. It is our candid belief that transfer between same person's account whether intra or inter bank does not constitute receipts under Section 89(1) of the Stamp Duties Act. This therefore calls for amendment of the new Section 89(3) of the Stamp Duties Act.

	respectively, the words "the Federal Inland Revenue Service" and "the relevant tax authority in a State" respectively. **SECTION 55** of the Finance Act, 2019 deleted the Section 90 of the Stamp Duties Act as this section is a redundant provision. **SECTION 56** of the Finance Act amended the Schedule to the Stamp Duties Act by expanding the exemption list to include certain transactions under the regulation issued by the Securities and Exchange Commission. These amendments are desirable to promote capital and money market activities in Nigeria.	new Section 89 with subsections (1), (2), (3) and (4). The new Section 89(3) has increased the minimum deposit that attracts stamp duty of ₦50.00 to ₦10,000.00 from ₦1,000 (current practice not backed by law). However, the provision in section 89(3) of the Act, granted exemption **ONLY** to money transferred electronically between accounts of the same owner within the same bank. The fundamental question or fairness concern raised by this proviso is: Does a transfer from one account to another account of the same person in another bank constitute a receipt?					
Section 89	This section has increased the amount to be charged to N50 from N10,000 and above. This was formally N4 and it has also introduced electronic transactions.	The stamp duty is a measure to raise revenue for government. However, we can't really see how these rates are applied on the document. What rate is being used should be specified as this is not in the document as it creates an uncertainty.					

CUSTOMS AND EXCISE TARIFF, ETC. (CONSOLIDATION) ACT, CAP C49, LFN 2004 AS AMENDED

SECTION 48 of the Finance Act, 2019 amended Section 21 CET. Cap. C49 LFN 2004 by substituting for subsection (1) a new subsection "(1)" which reads:

"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 provided that this subsection shall not apply to

(a) Good that are not locally produced in Nigeria; and
(b) Raw materials that are not locally available in Nigeria."

Conceptually, excise duties are payable on locally manufacture goods, while custom duties are payable on imported goods.

An attempt to charge imported goods with the duties of excise is considered a deviation from international best practice.

If the intention of the government is to make "Made-in-Nigeria" products competitive, reduction in the rate of tariff or outright removal of excise duties and or increase in import duties on imported goods will be a better strategy, rather than inclusion of imported goods on the list of goods to be charged with the duties of excise.

We therefore recommend an amendment of this subsection by removing the words "Goods imported" from line 1 of the new subsection "1".

VALUE ADDED TAX ACT

Value Added Tax Act 1993, 2004, 2007. Cap 102	**FINANCE ACT**	**IMPACT/ Implication**	**ADMINISTRATORS**	**PROFESSIONALS/ PRACTITIONERS**	**TAX PAYERS/ SME'S**	**ACADEMICS**	**GENERAL PUBLIC**
Section 2 **VALUE ADDED TAX ACT. NO 102, 1993** ➢ Section 2 of the original Act states that "the tax shall be charged and payable on the supply of all goods and services (In this Act referred to as "taxable goods and services") other than those goods and services listed in the Fifth Schedule to this Act. Amendment: The amendment seeks to broaden the scope of VATable goods by providing definitions for "goods" and "services"	This section was substituted and "goods in Nigeria was added". 2.2 says "Goods are physically present in Nigeria at the time of supply, imported into Nigeria for use by a person, assembled in Nigeria or installed in Nigeria". It also says that the beneficial owner of the right in or over the goods is a taxable person in Nigeria and the goods or right is situated, registered or exercisable in Nigeria. For services, they must be rendered in Nigeria by a person physically present in Nigeria at the time of service	The gap of the original act has been addressed. The gap is the inclusion of "Nigeria" in the Finance Act. The definition of "goods" and "services" provides clarity as to what should be Vated. This is in conformity with the principle of certainty in taxation. Hitherto Vatability of incorporeal assets were controversial due to the ambiguity around the meaning of goods and services. In the erstwhile Act "goods"are limited to moveable tangible goods. By this amendment financial instruments such as Shares and incorporeal assets are subject to VAT because the instrument confers a "right"on the beneficial owner of	The administrators have done well by including "Nigeria". This has removed all forms of ambiguity from the tax law. **SECTION 2:** • **Administrators** The likelihood of litigation is reduced and this will reduce cost of administration on the part of FIRS and SIRS. • **Government Policy** We expect the changes made on Section 2 of the erstwhile Act to impact positively on fiscal stability. The clarity on the ambiguity of the old Act provides certainty around Vatability of "goods" and "services" which has a positive influence on policy objectives. We also expect increase in government revenue	This will help the practitioners and professionals to know how to advise their clients as the new act has given a clear direction. The amendment of Section 2 of the Original Act will impact Stakeholders in various ways: • **Practitioners** The controversy on whether intangible assets can be Vated has been resolved by this amendment. Practitioners can now make reference to the expanded Fifth Schedule. The degree of certainty has been improved in the amendment. The time wasted on arguing the validity of issues can now be saved. **SECTION 2:** • **Tax Consultants/ Advisors** It will facilitate impact assessment of fiscal changes on Clients business for better advisory services to their Clients.	This should impact tax payers and SME's profitable as they are aware of the circumstances of they being taxed. **SECTION 2:** • **Tax Payer** The clarifications resulting from this amendment will most likely reduce disputes between the tax payer and tax authority. More items of basic necessities have been included in the exemption which is a relief to consumers.	**SECTION 2** **Academic** Conceptual issues are better understood and will facilitate impactful research.	They are now officially aware of the provisions of this new act. This will guide them in making profitable decisions. • **General Public** The increase in government revenue resulting from a broad tax base is expected to improve the lot of the general public through improved infrastructure and job creation. • **Suggestions** We advocate for the involvement of relevant Stakeholders such as Professional Associations, Practitioners, Consultants and Academicians in future Amendments and legislations.

VALUE ADDED TAX ACT Cont'd

	provision. The service is provided to a person in Nigeria whether the service is rendered inside or outside Nigeria.	the asset. The scope of "goods" has been expanded to capture intangible assets that confer ownership and are transferable.	from the expansion of scope of Vatable goods and services.	• **Professional Association** It will facilitate membership training and the Associations will have better engagements with relevant Government Agency			
Section 4 Rate of Tax. The original rate was 5% ➢ Section 4 of Original Act is on Rate of Tax The Act stipulates that tax shall be computed at the rate of 5%.	The amendment raised the rate of VAT from 5% to 7.5%. The current rate of Tax is 7.5%	The new rate of tax is okay. This amendment is expected to increase government revenue from VAT and tax yield. Tax Payers are expected to bear additional tax burden. The Act expanded the scope of exemption as a palliative to the tax burden	**Administrators** The 50% increase in rate will assist Administrators such as FIRS and SIRS to achieve revenue target in the fiscal year. **Government Policy** This amendment will assist government achieve an increase in non-oil revenue and an increase in Revenue to GDP ratio which will help to reduce the current high debt service to GDP ratio.	**Tax Consultants/ Advisors** This amendment will require impact assessment of business models to enable Consultants proffer professional advice on which models best suits the Client's needs and how to mitigate the impact. **Practitioners** This amendment is a mere increase in rate therefore will not have any impact on Practitioners. The Practitioners role is compute with the revised rate.	**Tax Payer** By the rate increase the burden of tax in increased. This burden will come in form of increase in prices of goods and services of items outside the scope exemption because unit cost of production of affected items will increase. This is so because VAT incurred on fixed assets and overheads cannot be set off against VAT collectible from sales. This new rate of tax is good as it only applies to goods not exempted in the Act. This means that an average citizen will not be negatively affected.	**Academics** The amendment may trigger studies on Impact Analysis to determine potential effect of fiscal policies on macroeconomic indices.	**General Public** The general public is expected to experience hike in inflation occasioned by increase in cost of goods and services. On the positive side the expected increase in government revenue will facilitate better budget performance that will reflect on the welfare of the citizens, all things being equal. Furthermore, with the exemption of Micro Finance Banks from VAT, it is expected that Micro, Small and Medium Scale Enterprises will benefit from the exemption. **Suggestions** We recommend for review of VAT distribution formula. Emphasis should be to empower the States and Local government to provide adequate social amenities. To this end we recommend a 50:50 sharing ratio between the states and Local Government.

VALUE ADDED TAX ACT Cont'd

SELECTED SECTIONS OF VAT	FINANCE ACT	IMPACT	ADMINISTRATOR	PROFESSIONALS/ PRACTITIONERS	TAX PAYERS/ SME/GENERAL PUBLIC	ACADEMIC	The Challenge/ Our Concerns
Section 8 of the Original Act covers Registration. "The Act stipulates in subsection [1] that a taxable person shall within 6 months of the commencement of business register for the purpose of tax." Subsection [2] of the Act specified the penalty for failure to register within the specified period thus N10,000 for the first month in which the failure occurs and 5000 for subsequent months. **Section 8** Registration, penalty for failure to register and caseation for business. Registration must be done within 6months of the	The Finance Act requires that every business register for VAT upon commencement of business. The amended Act states that taxable persons that fail to comply shall incur a penalty of: N50000 in the first month that the failure occurs and N25000 in subsequent months The Act introduced a new requirement that firms that are in cessation deregister for VAT after 90 days of cessation. Registration should be made at the commencement of business. Failure will attract N50,000 in the first month in which the failure occurs and N25,000 for subsequent months in which the failure occurs. When a taxable person permanently ceases to run business, he shall notify the service of its intention to deregister for tax purposes within 90days	The Act seeks to ensure improved compliance of taxable persons. It is expected that the 500% increase in penalty will serve as deterrence to non-compliance. Early registration will enable the businesses recover the input VAT expended within the first 6 months allowed in the Original Act and government will not lose revenue within same period. The reform seeks to maintain an accurate database of taxable persons by requiring that firms that are in cessation apply for deregistration within 90 days of cessation Failure to notify the service about caseation or dominancy within 90days should attract a penalty. Companies or vatable persons involved in any form of vatable items should be registered irrespective of the level of turnover so as to have a reliable database	FIRS will have to increase their surveillance on businesses to new businesses that need to register for VAT and existing businesses that have not complied. This may increase cost of monitoring. **Government Policies** Monitoring on the part of Administrators and compliance by tax payers will determine success or otherwise of government policies. The new act is a step in the right direction. Administrators should buckle up as this act has increased the work they have to do as regards record keeping.	Professionals and practitioners should encourage their clients to register on time and notify the service of their intention to deregister on time also so that they won't have to pay the heavy fines. **Tax Consultants/ Advisors** Consultants are expected to render timely advice to their Clients on the implications of non-registrations and late registrations. Consultants who fail to act on time may lose their retainership for lack of professionalism. **Practitioners** As professionals Practitioners are expected to take necessary measures to ensure that their firms comply accordingly and save them from paying penalty which is a non-	Tax Payers are expected to act proactively to avoid high cost of penalty that is not allowable for tax purposes. They are expected to put necessary mechanisms in place to ensure compliance. The new act will serve as a deterrent to tax payers who fail to register or fail to deregister.	The tax reform will provide a new vista for Researchers in the area of Tax Compliance.	Tax Administrators may contend with monitoring of new businesses and existing ones to ensure compliance. **Suggestions** For effective monitoring the FIRS should have a portal linked to CAC and the Banks. In the event that every firm has a TIN and is linked to Banks account of firms, tax avoidance will be minimal.

VALUE ADDED TAX ACT Cont'd

commencement of the Act or the business. Failure attracts N10,000 in the first month in which the failure occurs and N5,000 for each subsequent month in which the failure continues.		that can be profiled and monitored. We suggest that for SME's that are purportedly exempted from VAT registration, we can't see the benefit to them since they are still subject to input VAT (they are disadvantaged). We are of the opinion that the government should exempt these SME's from input VAT in the nearest future.		allowable expense in tax computations.			
Section 10 Registration by non-resident companies. 10(1) Non-resident companies operating in Nigeria are to register for tax with the board using the address of the person with whom it has a subsisting contract as its address for purposes of correspondence relating to the tax. A non-resident company shall include the tax in its invoice and the person enjoying the goods or services in Nigeria shall remit the tax in the currency of the transaction.	There is a substitution for section 10(1). It replaced the word "board" with "service". 10(2). The service may by notice determine and direct the companies operating in the oil and gas sector which shall deduct VAT at source and remit same to the service. 10(3) amends (2) of the old act and says that a non-resident company shall include the tax on its invoice for the supply of taxable services. 10(4) is also new and says the person enjoying the service in Nigeria shall withhold and remit the tax directly to the service in the currency of payment.	Section 10(4) has eliminated the problem of exchange rate used by companies. We believe that this amendment is in conformity with the principle of certainty of taxation.	The new act has corrected the error in the name of the board. By this, confusion as regards tax administration has been taken care of.	This new act will reduce the stress of practitioners as it gives answer.			

VALUE ADDED TAX ACT Cont'd

Section 14 Reverse Charge. A taxable person shall on supplying taxable goods or services to his accredited distributors etc. as the case may be collect the tax on goods and services at the rate specified in Section 2 of the Act. The tax collected in this wise shall be known as output tax.	The amendment is by inserting subsection 3 and 4 after subsection 2. The sub-section 3 now says non-resident companies shall include the tax and the person to whom the services are supplied in Nigeria shall remit the tax in the currency of transaction while subsection 4 says a person to whom taxable supply is made in Nigeria is issued an invoice on which no tax is charged, shall self-account for the tax payable and remit the output tax to the service within the timeline prescribed under section 15	We expect the service to streamline its administration such that this provision in the amendment will be effectively applied.		Practitioners and professionals should take note of this amendment.			
Section 15 (1) Taxable Person to render report. Subsection (2) a person who imports taxable goods into Nigeria shall be taxed for all that he imports.	The value of these supplies is excluded: Taxable supply of a capital asset of the taxpayer, a taxable supply made solely as a consequence of a person selling the whole or a part of that business.	This amendment has addressed the ambiguity in the earlier provision that did not distinguish between taxable supply and non-taxable supply. The current dispensation will enable the service to determine taxable supply within the turnover reported by the entity.		Practitioners should take note of these exemptions and advise their clients appropriately.	Tax payers are encouraged to source for their products locally. By so doing, they avoid paying taxes on them.		
Section 16 Remission of tax	There is a change from "board" to "service". Instead of refund if the output exceeds the input, the credit is carried over to the next tax payable against subsequent months. There could be a refund in case there is an excess not utilized.	We admit that the amendment is in order. However, the proviso that enables the taxable person to claim refund of excess tax of the period of carrying that credit is not specified.		Practitioners should take note of this amendment especially as regards refund and advise their client appropriately.			

VALUE ADDED TAX ACT Cont'd

Section 19 Effect of non-remittance of tax	There is an increase in the penalty for defaulters and this is justified	The increase is justified	This penalty should be enforced on defaulters so that it can serve as a deterrent to others	Professionals should advice their clients against defaulting so that they can be spared from the penalty.	This will serve as a deterrent to tax payers.		
Section 21 Establishment and composition of VAT technical committee	The word "VAT Act" is deleted						
Section 28 Failure to notify change of address will pay a penalty of N5000	The penalty has been increased to N50,000 in the first month and N25000 in subsequent months	This is not a problem when taxpayers are properly examined.	Administrators should ensure that tax payers are properly examined.	Practitioners should guide their client against the act that leads to paying this penalty	Tax payers should ensure that they notify this change on time so as to prevent being fined.		
Section 42 Signification	The new act talks about business reorganization. It is saying that where there is a reorganization such that the asset of the company is transferred to another, as long as that transaction is for the betterment of the organization, such asset employed in such trade or business is sold or transferred, no tax shall apply under this act to the sale or transfer of the asset to the extent that one company has control over the other.	This amendment seeks to encourage business expansion through mergers and acquisition.			Tax payers should take advantage of this provision and engage in mergers and acquisitions.		
Section 46 Interpretation	Changes such as from "board" to service anywhere it is found in the Act. It further defined commencement of business and basic food items. It also expanded the scope of exempt goods.	The amendment is encouraging to the extent that the scope of exemption has been expanded. The error contained in the old act has also been corrected as the word "board" has been substituted to "service". It also corrected major errors in terms of definition of terms used in the act.					

- Section 10 of the Original Act provides for Registration by Non-Resident Companies. Subsection 1 of the Act provides that a non-resident company that carries on business in Nigeria shall register for the tax using the address of the person of whom it has subsisting contract as its address for the purpose of correspondence.

Subsection 2 of the erstwhile Act provides that the non-resident company shall include the tax in its invoice and the recipient of the goods or service in Nigeria shall remit the tax in the currency of the transaction.

The Finance Act amended these sections by adding that the Service may direct the companies in the oil and gas industry to deduct VAT at source and remit to the Service. Also, the old section 14 was amended to include new sub-sections 3 and 4 which provide that:

Subsection 3 'A non-resident company shall include the tax in its invoice and the recipient of the goods or service in Nigeria shall remit the tax in the currency of the transaction".

Subsection 4: "where a person to whom taxable supplies is made in Nigeria is issued an invoice on which no tax is charged, such a person shall, self- account for the tax payable and remit the output tax to the Service within the timeline prescribed".

Implications

The Act seeks to address the ambiguity as to whether supplies from outside Nigeria to persons resident in Nigeria can be Vated. This ambiguity has generated controversy between the tax payer and the Service for quite some time and has been an issue of litigation. This reform seeks to resolve the ambiguity by clarifying that goods and services are taxable in the place of supply or destination since the goods and services are consumed and received in Nigeria, this implies that goods supplied whether locally or from abroad and received or consumed in Nigeria are subject to tax in Nigeria. In the same vein services rendered (whether locally or imported) to a beneficiary in Nigeria in subject to tax in Nigeria.

The reform has formalised the inclusion of Oil and Gas firms as taxable persons within the ambit VAT by empowering the Service to direct the companies to deduct VAT at source.

It is noteworthy that where a Non-Resident Company supplied goods or services ex-VAT, the recipient or consumer of the goods or services shall bear the VAT element of the invoice value. By these reforms contracting parties will be conscious of the cost of any omission.

Impact of the Reform

Practitioners

The clarifications provided by the reform will enable practitioners to render their professional services efficiently in the area of tax planning.

Administrators

The cost of litigation in matters of controversy will be reduced to the barest minimum and ease of collection will be enhanced. The reform has settled the controversy around the Vatability of services provided by non-residents to taxable persons in Nigeria by introducing reverse charge rule.

Government Policy

This reform aligns government policy with global best practice (in agreement with the principles of Organization for Economic Cooperation and Development) and the canon of certainty. Government revenue target may improve on the back additional revenue from NRC transactions. However, this may impact negatively on Government's policy on Ease of Doing Business.

Tax Payer

On the part of NRCs, cost of doing business will rise which may affect foreign direct investments and portfolio investment. The reform engenders certainty in the tax system which is expected to enhance the tax management strategies of the tax payer. The introducing of self-accounting of VAT implies higher cost of doing business as taxable persons are to self-account for supply of goods and services of NRCs.

Tax Consultants/Advisors

The removal of the ambiguity in the erstwhile Act will enhance advisory services and the frequency of engagements with relevant Authorities on behalf of Clients. The reforms will make room for effective retainership between Consultants and their Clients.

Academic

These reforms may spur the interest of Researchers to investigate the impact of the reforms on government policies. Academic institutions may update their curriculum with the latest developments.

Professional Associations

Associations such as CITN and ICAN are likely to update their curriculum to provide students with up-to-date information.

General Public

These reforms will lead to increase in cost of production which may result to increase in inflation. An increase in inflation will further erode the purchasing power of general public.

Suggestions

To mitigate the impact of potential inflation associated with the reform, government is expected to utilize the increased revenue in the provision of social amenities for the general public.

- Section 15 of the Original Act covers Rendition of Return by Taxable persons.

Subsection 1 of the Act provides that taxable persons shall render return on or before 30th day following that in which the supply or purchase was made. Subsection 2 provides that a person who imports taxable goods shall render return on all goods imported into Nigeria.

The Finance Act 2020 amended section 15 (1) and (2) by introducing a threshold of N25m turnover in a calendar year. In determining the threshold, capital supplies are excluded and taxable supply made partly or solely for cessation of business of business.

The amendment provides that taxable persons that falls short of the threshold test shall be exempted from VAT registration, collection and filing returns.

Implications

The reform seeks to incentivize small business and make them more competitive. It is expected that this measure will encourage more small business to come into the tax net to take advantage of the reliefs provided by the Finance Act, 2020. The amendments also cushion the effect of increase in VAT rate.

Impact of the Reform

Practitioners

Practitioners in the SMEs are expected align the records of their firms with the reform

Administrators

FIRS are relieved of the burden of monitoring compliance of businesses that fall short of the threshold and focus their efforts on big firms. Cost of monitoring is expected to reduce.

Government Policy

The measure is expected to create more opportunities for growth of SMEs thereby providing opportunities for employment and economic growth. The reforms promote the principle of fairness by recognizing the difficult operating environment that SMEs contend with.

Tax Payer

Tax Payers that do not meet the threshold are relieved of the burden of compliance. It is expected to improve their competitiveness. It is expected to boost investment of the SMEs from the savings made. On the flip side, companies that do not meet the threshold may not be able to recover their input VAT.

Tax Consultants/Advisors

Consultants are expected to advise their clients regarding their business models to take full advantage of the reforms.

General Public

The reform is expected to have a positive impact on the general public on the back of increased activities of small businesses

Challenges

Potential disadvantage of the reform is that input VAT of firms that do not meet threshold cannot be recovered. It may give room for tax avoidance as some companies can reorganize to limit their turnover around the threshold.

Suggestions

All companies within and outside threshold should be allowed to register for VAT. This will facilitate database of taxable persons and enhance future reforms.

- Section 16 of the Original Act provides that a taxable person shall render returns where the output tax exceeds the input tax and where the input tax exceeds the output tax be entitled to a refund of the excess tax upon production of the required documents.

The Finance Act, 2020 amended this section by allowing the excess of input over output VAT to be utilised as a credit in subsequent months.

Implications

Within the ambit of the old Act VAT is accounted for on accrual basis. The reform implies that VAT is to be accounted for on cash basis. This allows for a set off of input VAT against output VAT. Where the taxable person does not have input VAT, the person is allowed to remit only the output VAT, In the event that a taxable person is entitled to VAT refund, the reforms allows the refund to be set off against subsequent collections failing which the excess can be refunded.

Impact of the Reform

Tax Payer

It is expected that the cost of claiming refunds will be reduced

- Sections 19, 28 and 35 of the old Act deals with effect of non-remittance, failure to notify of change in address and failure to submit returns respectively

The amendment to section 19 increased the penalty from 5% to 10% for failure to remit the tax within the specified period. Failure to notify the Service of change in address in the old Act attracts a fine of 5000. The new Act increased the fine to 50000 in the first month of failure and 25000 in subsequent months. Failure to submit returns as specified in the old Act attracts a penalty of 5000. The new Act increased the penalty to 50000 for the first month and 25000 for subsequent months of non-compliance.

Implications

Non-compliance is taken very seriously in the new Act hence stiffer measures are taken by way increased amount of penalty. It is expected that the upward review of penalty will encourage compliance as taxable persons are not likely to bear the burden of penalty that not tax allowable.

Impact of the Reforms

Practitioners

Practitioners are expected to ensure that their organizations do not fall victim of non-compliance failing which they face the risk of termination.

Administrators

As more taxable persons avoid penalty through increased compliance, cost of administering the law will reduce significantly.

Government Policy

Increased compliance will enhance government revenue and the achievement of fiscal objectives.

Tax Payer

Increased amount of penalty will discourage non-compliance

- Section 42 of the new Act provides conditions for VAT exemptions on assets sold or transferred to a Nigerian company in company reorganizations or group reorganizations:

That the sale to the Nigerian company must be for better organization of trade or business

The companies in the reorganization are part of the group 365 days before the reorganization and the affected assets are not sold 365 days after the concluding the reorganization.

Implications

The Acts seeks to avoid artificial transactions and window dressing that are not designed for better organization of trade or business.

It aims to ensure that group reorganizations are designed to produce efficiency and productivity and the entity remains a going concern.

➢ OTHER MISCELLANEOUS CHANGES IN THE FINANCE ACT

Key amendments to section 46 of the old Act includes:

Definition of "basic food items" to mean agro and aqua based staple foods for VAT exemption purposes. The items that qualify for VAT exemption were listed. The scope of exemption was expanded to include locally produced towels, sanitary pads, bottle water, a tuition for nursery, secondary and tertiary education.

Exemption of Micro Finance Banks' services from VAT.

Definition of exported services as services rendered by a person within or outside Nigeria by a person resident in Nigeria to a non-resident outside Nigeria.

Implications

The expansion of the definition of basic food items will provide palliatives to tax payers especially on basic necessities and cushion the burden of tax.

VAT exemption on Micro finance services will encourage businesses in that area. Since their services are designed to impact the grassroots, this measure will encourage more investments.

A clear definition of exported service will resolve the controversy as to destination and recipient of the service as a result; government will unlock the revenue potential of the service.

Impact of the Reforms

Tax Payer

These reforms will promote fairness and certainty in the tax system. Tax payers are in a better position to manage cost of tax compliance.

Government Policy

These measures are more likely to increase government revenue and spur increased economic activities which multiplier effect is better performance of the economy.

Suggestions

Tax reforms should be annually to align the Nigerian Tax System with global best practices and in tune with changing economic realities.

SELECTED SECTIONS OF CITA	FINANCE ACT	IMPACT	ADMINISTRATOR	PROFESSIONALS/ PRACTITIONERS	TAX PAYERS/ SME/GENERAL PUBLIC	ACADEMIC	The Challenge/ Our Concerns
Section 2	The act amended section 9(1) of CITA by deleting the word, "in respect" after the word "Nigeria" in line 3, and inserted the words, "that are not subject to tax under the Capital Gain Tax Act, Petroleum Profits Tax Act and Personal Income Tax Act, such profits shall include",	The objective of this amendment is hedge against potential double taxation arising from definition of profit subject to tax under the Companies Income Tax Act, thereby eliminating possible ambiguities from subjective interpretations.		This amendment seeks to expand taxable income from capital market transactions which was not specifically covered by the provision of CITA, 2004 as amended. This amendment has the potential to increase the scope of income liable to Companies Income Tax and by extension improvement in tax revenue accruable to government.			
Section 3	The Finance Act amended section 10 of CITA by substituting a new section 10. By virtue of this amendment, the RC number which hitherto is used as the official identification of the company has been replaced by a Tax Identification Number (TIN). Section 10 (2) of the new section 10 imposes a duty on every	The requirements for TIN as a precondition to open a corporate account or as a condition for the continued operation of an existing corporate accounts is a welcome development as this amendment will reduce incidence of tax evasion and thus widen the tax net.					However, informal sector may not be fully captured with this stride because of their poor banking culture.

	person engaged in banking and other financial services in Nigeria to require all companies to provide their TIN as a precondition for opening a bank account, or in the case of an account already opened within three months of the passage of the Act, require such TIN to be provided by all companies as a precondition for the continued operation of their bank accounts.						
Section 4	Finance Act, 2019, Section 13 of CITA is amended by inserting after the word "from", in line 2, the words, "or taxable in". In subsection (2), by inserting a new paragraph (c), and (f) (c) if it transmits, emits or receives signals, sounds, messages, images or data of any kind by cable, radio, electromagnetic systems or any other electronic or wireless apparatus to Nigerian in respect of any activity, including electronic commerce, application store, high frequency		With reference to paragraph (e), Finance Act empowers the Minister of Finance to define the term "significant economic presence". This may not extinguish fear of subjectivity in the definition				The amendment to section 13 of CITA will reduce incidence of tax evasion and thus widen the tax net. Also, the insertion of is to capture non-resident companies engaged in telecom and electronic transactions in Nigeria. However, Nigeria must key into OECD standards for optimal realization of this feat.

	trading, electronic data storage, online adverts, participate network platform, online payments and so on, to the extent that the company has significant economic presence in Nigeria and profit can be attributable to such activity. (e) If the trade or business comprises the furnishing of technical, management, consultancy or professional services outside of Nigeria to a person resident in Nigeria, to the extent that the company has significant economic presence in Nigeria and profit can be attributable to such activity. Provided that any withholding tax applicable under the Section 81 of this Act shall be the final tax on the income.						
Section 5	Finance Act is amended by inserting a new subsection (6) after subsection (5) "Investment income for the purpose of taxation of a life insurance company under this section means income derived from investment of shareholders' funds".						We observed a drafting error here as the investment income for a life insurance company **is income derived from investment of life insurance**

							funds. For a company that runs both general and life insurance business, the shareholders' funds comprises of both paid up capital, and undistributed reserves from both life and non-life businesses. The determination of the shareholders' funds attributable to life business becomes an issue of subjectivity. We therefore recommend this for future amendment.
Section 6a	Finance Act amended section 16(7) of CITA by deleting after the word, "business", in line 6, the words, "and in all cases, the period of carrying forward of a loss shall be limited to four years of assessment".	The deletion of the expression that limit carry-over of losses for an insurance company to a maximum of four years is a good development as one of the horizontal inequity concerns in CITA has been removed. This implies that insurance companies, like every other company, can carry over its losses indefinitely until it is relieved.					

Section 6b	Paragraphs (a) and (b) amended section 16 paragraphs (a) and (b) by substituting the existing paragraph (a) and (b) of Section 16 (8) with a new paragraphs (a) and (b) as follow- "(a) reserve for unexpired risks, calculated on a time apportionment basis of the risks accepted in the year" "(b) For outstanding claims and outgoings, an amount equal to the total estimated amount of all outstanding claims and outgoings, with a further amount representing 10 percent of the estimated figure for outstanding claims in respect of claims incurred but not reported at the end of the year".	With the amendments to Section 16(8) paragraphs (a) and (b), the subjectivity associated with the determination of reserve for unexpired risk whose computations lacks a clear philosophy has now been addressed to reflect accrual basis (time apportionment), while adjustments of reserve for outstanding claims and outgoing for unutilized amount make the long run accrual equals the actual amount of claims and outgoings.			From the drafting of this section of the Finance Act, 2019, it is unclear which section and subsections amendment was sought by the provisions of section 6, paragraph (b). Although, the amendment contained in section 6 paragraph (b) appears to have amended Section 16 (8) paragraphs (a) and (b). This is a potential source of disputes between taxpayers and FIRS and requires clarifications through future amendment.		
Section 6c	Finance Act amended section 16 (9)(c) by deleting after the word, "outgoing", in line 1, the expression, "except that after allowing for all the outgoing and allowance under the Second Schedule to this Act a may be restricted under the	The deletion of expression which pegged normal allowable business outgoings to an amount which made total profit assessable to tax to 20% of gross incomes is a welcome development as it					

	provisions of this Act for any year of assessment, not less than an amount equal to 20 percent of the gross incomes shall be available as total profit of the company for tax purposes."	removes arbitrariness associated with this section of the Act.					
Section 6d	The Act inserted a new subsection 12 to section 16 of CITA has now pegged minimum tax payable by any insurance company to a 0.5% of gross premium in the case of non-life insurance businesses and 0,5% of gross income in the case of life assurance businesses.						
Section 7	Finance Act amended section 19 of CITA by inserting a new subsection "(2)" - "The provisions of subsection (1) shall not apply to (a) dividends paid out of the retained earnings of a company, provided that the dividends are paid out of profits that have been subjected to tax under this Act, Petroleum Profits Tax Act, or the Capital Gains Tax Act;	The insertion of subsection 2 paragraphs (a), (b), (c), and (d) to section 19 of CITA is a welcome development as it eliminates the potential double taxation arising from taxation of excess dividends.					It is our candid opinion that deletion of Section 19 of CITA would have been appropriate than introduction of a new subsection 2 that introduces complexity into the section.

	(b) dividends paid out of profits that are exempted from income tax by any provision of this Act, the Industrial Development (Income Tax Relief) Act, the Petroleum Profit Tax Act, or the Capital Gains Tax Act or any other legislation; (c) profits or income of a company that are regarded as franked investment income under this Act; and distributions made by a real estate investment company to its shareholders from rental income and dividend income received on behalf of those shareholders, whether such dividends are paid out of profits for the year in which the dividend is declared or out of profits of previous reporting periods."						
Section 9	Finance Act 2019, the deletion of paragraph (n) of subsection 1 makes the interest on foreign currency domiciliary account in Nigeria	The substitution of paragraph (o) with a new paragraph (o) makes the profits of a small company tax exempt in a relevant					This implies that companies whose annual turnover is less than or equal to ?25,000,000 are

	accruing on or after 1 January 1990 which was hitherto exempted taxable in the hand of the recipient company in Nigeria.	year of assessment provided that such company comply with tax registration and tax return filing stipulations of the Act. Small company is defined in section 22 paragraph (c) as "a company that earns gross turnover of ?25,000,000 or less. The insertion of new paragraphs "(s)".."(u)" is to encourage real estate investment and perhaps bridge the housing gap in the country, encourage capital market transactions and agricultural production, stimulate food sufficiency by providing additional tax in the agribusiness and remove double taxation incidence. However, investor wishing to take advantage of incentives provided by these amendments are to look beyond tax in their portfolio analysis.					exempted from payment of Companies Income Tax in Nigeria. However, since some income of these companies could have suffered deductions at source (WHT), the Act is silent to the treatment of these advance payments of Companies Income Tax on whether it will constitute final tax or refundable to the company. We therefore call for amendment of this section by making specific provision on the treatment of WHT suffered at source by the income of companies under this category.
Section 11	Finance Act amended section 27(1), paragraphs (g) (i), by substituting these paragraphs for new paragraphs "(g)" "(i)".			Critical stakeholders like auditors, regulators, business owners, professionals and	Critical stakeholders like auditors, regulators, business owners,		

				tax practitioners must understand the implications of non-compliance with the Transfer Pricing Regulations or stand the risk of related parties' expenses being disallowed.)	professionals and tax practitioners must understand the implications of non-compliance with the Transfer Pricing Regulations or stand the risk of related parties' expenses being disallowed.)		
Section 12	Finance Act, 2019 amended section 29(1), (3) and (4) of CITA	By virtue of the amendment to section 29(3) The first two years are on the actual year basis. However, third year is on PYB, leading to double taxation in the third year. This means that incidence of double tax is not eliminated but reduced when compared with old provision. There is therefore imminent challenge during the transition from actual year basis to preceding year basis in the third year. The initial concern of double taxation inherent in the old commencement provision has only removed the overlap		By virtue of the new section 29(4) the new cessation rule has therefore eliminated the possibility of revising assessable profit for the penultimate year and will create a gap (i.e. profit in the penultimate year will not be taxed.	The provision under section 9(c) of the Finance Act amending Section 29(9)(c) is included to prevent artificial transactions emanating from business re-organization		

		between the basis periods for the first and second years of assessment.					
Section 13	Finance Act deleted after "on" in line 8, the words" but such deductions shall not be made against the profit of the company after the fourth year from the year of commencement of such business".	The deletion of expression is a welcome development as it removes the restriction on loss relief for commencement of businesses.					
Section 14	Finance Act, 2019 amended section 33 by substitution for subsection (2), a new subsection "(2)" which redefined computation to 0.5% of gross turnover of the company, less franked investment income, and substituted for paragraph (b), a new paragraph "(b)" "a company that earns gross turnover of less than ?25,000,000 in the relevant year of assessment."	With this amendment, the minimum tax parameters on capital, net asset etc. are now eliminated.					However, the ambiguity in the "gross turnover" of the new parameter calls for clarity.
Section 15	Finance Act, 2019 amended Section 39 of CITA by deleting paragraph (e) of Subsection (1) of CITA and insertion of Subsection (3) eliminated	The amendment contained in section 15 of Finance Act seeks the elimination of bureaucratic bottleneck of Ministerial approval					

	the possibility of claiming tax incentives under section 39 of CITA and tax holiday under pioneer legislation.	for interest on loan, deductible in downstream operations. Double claims of tax-free period of CITA and IDTRA is also eliminated.					
Section 16	Finance Act amended section 40 of CITA by removing the flat rate of 30% and introduce graduated rates of 0%, 20% and 30% rates to companies in line with turnover categorization into small, medium and large respectively.						
Section 17	Finance Act deleted sections 41 and 43 of the Companies Income Tax Act.	With the deletion of section 41 the tax relief for replacement of obsolete plant and machinery has been removed. Also, deletion of section 43 implies WHT is payable on interim dividend paid by Nigeria companies.					
Section 18	Finance Act amended, by deleting section 77(1) of CITA. With this amendment, payment of provisional tax is no longer applicable in Nigeria.	Also, the substitution of subsection 5 with a new subsection "(5)" and an insertion of section "(5)(a)" and "(5)(b)" imply that payment of annual tax			Companies must take advantage of this window of incentive and avoid penalties for late payment.		

		assessment should be paid in lumpsum or installment not later than due date of payment. This is subject to approval of installment payment plan by FIRS. Early tax payment 90 days before due date of filling attract self-assessment bonus of 2% and 1% for medium size and large companies respectively					
Section 19	Finance Act, Section 78 of the CITA is amended by inserting a new subsection “(6)” which seeks to remove WHT on compensating payments which qualify as interest from a lender to an approved agent on behalf of a borrower..						
Section 20	Finance Act amended section 80, by substituting for section (5), a new subsection “(5)” which exempt: (1) the company or person making distribution or dividend to real estate investment companies;			The newly inserted subsection “(6)” mandates real estate investment companies to deduct WHT from dividend distributed from his own shareholders			

	(2) a borrower making compensating payment to an approved agent or lender provided that the payments qualify as dividend; and (3) an approved agent making compensating payment received from a borrower which qualify as dividend, from WHT.						
Section 21	Finance Act makes WHT tax rates for construction of road, bridges and power plants 2.5%.	Compensating payment made under registered security lending transactions are excluded from WHT deduction at source.					There is need for clarity in the interchangeably use of Registered Securities Lending Transaction and Regulated Securities Lending Transaction.
Section 22	The amendments contained in section 22 of the Finance Act substituted for the word, “Board”, the word, “Service” and defining the word, Service” as the Federal Inland Revenue Service”.	The implication of this is that FIRS is now properly described as Service and not Board in line with the provision of FIRS Establishment Act 2007 therefore reference to FBIR is no longer applicable .					
Section 23	Finance Act, 2019 amended the Third Schedule to CITA by granting a reduction of	This amendment has included proper definition of Moratorium and					

	tax exemption on interest on foreign loan across board by 30%.	repayment periods. This means that foreign companies that grant loan to Nigeria companies must meet these criteria to qualify for exemption. The section also introduced the Seventh Schedule which specifies conditions for the deductibility of interest on inter- company loan whereby excess interest on foreign inter-company loan are disallowed for tax purposes. Also, thin capitalization rule is now introduced by way of interest reduction cap based on 30% of EBIT.					
Part II PETROLEUM PROFIT TAX ACT, CAP P13, LFN 2004 AS AMENDED	**SECTION 24 of** the Finance Act, 2019 deleted Section 60 of the PPTA. By virtue of this amendment, dividend paid by companies covered under the provision of PPTA will now be subject, like other dividend, to Deduction at Source (Withholding Tax) at the rate of 10%. However, the WHT rate is reduced to 7.5% when paid to an individual	The direct impact of this amendment is that the recipient tax liabilities would be increased by the amount of dividend received by the applicable tax rate (10% or 7.5%).					

	resident in a country with Double Taxation Treaty with Nigeria.						
PART III PERSONAL INCOME TAX ACT, CAP P8, LFN 2004 AS AMENDED	*"The deletion of Subsections 4, 5 and 6 of section 33 of PITA therefore implies increased tax burden of taxpayers in different income tax brackets by the tax rate applicable to their income tax bracket multiplied by ₦14,000. For example, a taxpayer whose taxable income exceeds ₦3,200,000 in any year of assessment will have incremental annual tax burden (incremental annual revenue to government) of ₦3,360 (₦14,000*24%), whereas a taxpayer in the lowest tax bracket will suffer annual incremental tax burden of ₦960 (₦14,000*7%)"*						
SECTION 25, of the Finance Act, 2019 amended S.2(2), 49(1), 86(2((a) and ((8), 102(1) and 108(f) of PITA, Cap P8, LFN	*"The new subsection (1) which requires a person engaged in banking business to demand for a Tax Identification Number (TIN) from a person intending to open a bank account for the purposes of the person's business operations. The new*						

	requirement also makes TIN as a precondition for exiting account holders to continue to operate their bank accounts"						
SECTION 26 of the Finance Act, 2019 amended S.20(1)(g) of PITA by substituting for paragraph (g) a new paragraph "(g)"….."(g)" "a contribution to a pension, provided and other retirement benefit fund, society or scheme".	Although, the word "provident" was erroneously written as "provided" in the new paragraph, the amendment of this paragraph removes the absolute discretionary power of the Joint Tax Board (JTB) for approval of any Pension, provident, and other retirement benefit fund, society or scheme before it could eligible as allowable deductions. This could be as a result of the background fact that most of these schemes have been superseded by the Pension Reform Act, 2004 as amended in 2014. We however recommend that the typographical error observed in the new paragraph g be considered for future amendments.						
SECTION 27 of the Act deleted S. 33(4), 33(5) and 33(6) of PITA which hitherto	The 2011 amendments to PITA failed to delete these sub-sections of section 33 when Consolidated Reliefs and						

governed Spousal, Children and Dependent Relative allowances.	Allowances (CRA) was granted in lieu of all allowances and reliefs. Since then, many States' Internal Revenue Services have resorted to the use of discretion in granting these allowances. The deletion of Subsections 4, 5 and 6 of section 33 of PITA therefore implies increased tax burden of taxpayers in different income tax brackets by the tax rate applicable to their income tax bracket multiplied by ₦14,000. For example, a taxpayer whose taxable income exceeds ₦3,200,000 in any year of assessment will have incremental annual tax burden (incremental annual revenue to government) of ?3,360 (₦14,000*24%), whereas a taxpayer in the lowest tax bracket will suffer annual incremental tax burden of ?960 (₦14,000*7%).						
SECTION 28 of the 2019 Finance Act also inserted a new subsection (1) which requires a person	This amendment is desirable and aimed at bringing more taxable individuals who are currently classified as 'hard to tax' into the tax						

engaged in banking business to demand for a Tax Identification Number (TIN) from a person intending to open a bank account for the purposes of the person's business operations. The new requirement also makes TIN as a precondition for exiting account holders to continue to operate their accounts.	net, thereby expanding the coverage ratio of the States' tax authorities. However, a perceived implementation challenge is the determination of whether the account will be operated for business purposes especially in the light of the low tax morale of Nigerian citizens. The potential impact of this requirement will be reluctance of the bankable populace to open a bank account with its potential negative effect the financial inclusion policy of the government. Citizens who perceive this as a bate to enter the tax net might refuse to open bank account.						
SECTION 29 of the Act amended section 58(1) by inserting after the word "writing" in line 2, the words" delivered in person, by courier service or via electronic mail.	This amendment is aimed at reducing the compliance cost for the individual taxpayers. The introduction and the medium of delivery of objection notices. The inclusion of courier services and electronic mails as means of delivery of objections will in no small measure reduce the time associated and the attendant costs associated with compliance.						

SECTION 30 of the Finance Act, 2019, extended the penalty for failure to deduct or remit deduction at source to cover Section 73 of the PITA.	With this amendment, the scope of penalty to deduct and remit all deductions at source under Sections 69, 70,71,72 and 73 of PITA.						
By virtue of **SECTION 31** of the Finance Act, 2019, the Third Schedule to PITA has been amended. The deletion of the words "under the authority of the Railway Loan (International Bank) Act" from paragraph 6(1)(b) has made all loan interests on government bond raised to secure repayment of loans obtained from International Bank for Reconstruction and Development (IBRD) tax exempt.	This amendment is aimed at attracting investors into the Nigerian Bond Market thereby deepening the capital market operations. The deletion of words on or after 1 January, 1997from paragraph 7, line 1 of Third Schedule is an attempt to make interest on any loan granted by a Bank to a person engaged in agricultural trade or business, fabrication of any local plant and machinery and loan granted for the purpose working capital to any cottage industry established by a person under the Family Economic Advancement Programme tax exempt. However, the provision of paragraph 7 of Third Schedule to PITA is inconsistent with the provision of Section 2(1)						

	of Banks and Other Financial Institutions Act, 1991 which prohibits an unincorporated entity from running a banking business. Therefore, paragraph 7 of the Third Schedule to PITA should not have been covered under the PITA. We therefore recommend its deletion in entirety. The deletion of paragraphs 10, 15, 18, 20 and 24 from Third Schedule to PITA is a welcome development as arbitrary grant of tax exemption to certain employment income from some organizations such as Ohio University of Athens, Ohio etc. creates horizontal inequity as similarly situated taxpayers would not suffer the same burden of tax. The conditions for exemption of gratuities payable to employees in private sector under paragraph 18 (a), (b) and (c) is also a welcome development as it addresses some of the horizontal inequities associated with making exemption of gratuities conditional in some cases and not in others.						

SECTION 32 of the Finance Act, 2019 deleted the word “Board” and substituted it with the Word “Service” and defined same as the “Federal Inland Revenue Service”.	This amendment is consistent with the amendment under Section 25 of the Finance Act.						
PART V CUSTOMS AND EXCISE TARIFF, ETC. (CONSOLIDATION) ACT, CAP C49, LFN 2004 AS AMENDED	**SECTION 48** of the Finance Act, 2019 amended Section 21 CET. Cap. C49 LFN 2004 by substituting for subsection (1) a new subsection “(1)” which reads “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 Provided that this subsection shall not apply to (a) Good that are not locally produced in Nigeria; and (b) Raw materials that are not locally available in Nigeria.”						If the intention of the government is to make “Made-in-Nigeria” products competitive, reduction in the rate of tariff or outright removal of excise duties and or increase in import duties on imported goods will be a better strategy, rather than inclusion of imported goods on the list of goods to be charged with the duties of excise. We therefore recommend an amendment of

	Conceptually, excise duties are payable on locally manufacture goods, while custom duties are payable on imported goods. An attempt to charge imported goods with the duties of excise is considered a deviation from international best practice.						this subsection by removing the words “Goods imported” from line 1 of the new subsection “1”.
PART VI CAPITAL GAINS TAX ACT, CAP C1, LFN 2004 AS AMENDED, Section 32	Section 32 of the old Act provides that “A person shall not be chargeable to tax under this Act in respect of the gains arising from the acquisition of shares of a company either taken over, absorbed or merged by another company as a result of which the acquired losses its identity as a limited company provided that no cash payment is made in respect of the shares acquired”. However, the Finance Act modified this Section by introducing certain conditions to be satisfied in business re-organizations before exemption of CGT can be granted. Under the	In practice Tax Payers structure deals to take advantage of tax concessions. The revised Act seeks to discourage group re-organizations consummated only for tax purposes rather than better the organization. It seeks to ensure that synergistic benefits of business combinations are sustained in the long term. The focus of business combinations will not be mainly on tax benefits rather on the terms that will enhance the going concern of the new Entity. The revised Act also seek to eliminate double	**Tax Administrators** FIRS will need to scrutinize the submissions of Tax Payers to ensure tax concessions are enjoyed upon satisfaction of the conditions precedent.		**Tax Payer** The revision will compel tax Payers to focus on cost benefit analysis of re-organization that will engender synergies and economic benefits for the group with less consideration on tax advantages. Government Policy. The reform is a measure to eliminate tax leakages and ensure that business re-organization		**Tax Payer** The revision will compel tax Payers to focus on cost benefit analysis of re-organization that will engender synergies and economic benefits for the group with less consideration on tax advantages. Government Policy The reform is a measure to eliminate tax leakages and ensure that business re-organization produce economic benefits that will

	revised Act, companies would be deemed members of group where they have remained members for a minimum of 365 days preceding the date of restructuring and the underlying assets transferred remained the property of the group for a period of not less than 365 days succeeding the date of reorganization	taxation arising from subjecting the asset transferred to tax within the group in addition to the tax arising from the benefits of the business combination.			produce economic benefits that will spur economic growth.		spur economic growth.. **Tax Administrators** FIRS will need to scrutinize the submissions of Tax Payers to ensure tax concessions are enjoyed upon satisfaction of the conditions precedent.
Section 36	Section 36 of the old Act provides for Personal Injury. The Act states in 36(2) that "Sums obtained by way of compensation for loss of office shall not, however, be chargeable gains, except where the amount of such compensation or damage exceeds N10000 in any year of assessment" In the amendment, the Finance Act increased the amount of compensation from N10000.00 to N10, 000,000.00 while the other letters of the old Act remain unchanged. The Finance Act seeks to review upwards the minimum threshold for CGT exemption in	The reform is an incentive to Tax Payers to seek for termination benefits as against terminal benefits. Entities are equally encouraged to pay compensation for loss of office for the benefit of their employees. It is a significant relief to the working class.			The reform is an incentive to Tax Payers to seek for termination benefits as against terminal benefits. Entities are equally encouraged to pay compensation for loss of office for the benefit of their employees. It is a significant relief to the working class.		

	respect of Compensation for loss of employment as a termination benefit. The new threshold aligns with current economic realities in terms of inflation, minimum wage, exchange rate and other economic parameters. With this review, Entities are encouraged to pay compensation for loss of office due to the tax incentive. The minimum threshold of N10m will accommodate a wide spectrum of workers.						

Appendix 2

Extraordinary

Federal Republic of Nigeria Official Gazette

No. 6 Lagos - 14th January, 2020 Vol. 107

Government Notice No. 11

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

Act No.	*Short Title*	*Page*
1	Finance Act, 2019	A1-24

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FINANCE ACT, 2019

ARRANGEMENT OF SECTIONS

Section:

1. Amendment of Cap. C21, Cap. V1, Cap. C49, Cap. P8, Cap. C1, Cap. S8 and Cap. P13, LFN, 2004.

PART I—COMPANIES INCOME TAX ACT

2. Amendment of section 9.
3. Substitution for section 10.
4. Amendment of section 13.
5. Amendment of section 16.
6. Amendment of Act No. 11, 2007.
7. Amendment of section 19.
8. Amendment of section 20.
9. Amendment of section 23.
10. Amendment of section 24.
11. Amendment of section 27.
12. Amendment of section 29.
13. Amendment of section 31.
14. Amendment of section 33.
15. Amendment of section 39.
16. Substitution for section 40.
17. Deletion of sections 41 and 43.
18. Amendment of section 77.
19. Amendment of section 78.
20. Amendment of section 80.
21. Amendment of section 81.
22. Amendment of section 105.
23. Amendment of the Schedules.

PART II—PETROLEUM PROFIT TAX ACT

24. Deletion of section 60.

PART III—PERSONAL INCOME TAX ACT

25. Amendment of sections 2, 49, 86, 102 and 108.
26. Amendment of section 20.
27. Amendment of section 33.
28. Amendment of section 49.
29. Amendment of section 58.

30. Amendment of section 74.
31. Amendment of the Third Schedule.
32. Amendment of section 108.

PART IV—VALUE ADDED TAX ACT

33. Substitution for section 2.
34. Amendment of section 4.
35. Substitution for section 8.
36. Substitution for section 10.
37. Amendment of section 14.
38. Substitution for section 15.
39. Amendment of section 16.
40. Substitution for section 19.
41. Deletion of sections 21 - 24.
42. Substitution for section 28.
43. Deletion of section 32.
44. Substitution for section 35.
45. Substitution for section 42.
46. Amendment of section 46.
47. Amendment of First Schedule.

PART V—CUSTOMS AND EXCISE TARIFF ETC. (CONSOLIDATION) ACT

48. Amendment of CET.

PART VI—CAPITAL GAINS TAX ACT

49. Substitution for section 32.
50. Amendment of section 36.
51. Amendment of section 46.

PART VII—STAMP DUTIES ACT

52. Amendment of section 2.
53. Amendment of section 4.
54. Substitution for section 89.
55. Deletion of section 90.
56. Amendment of Schedule.
57. Citation.

A3

FINANCE ACT, 2019

Act No. 1

AN ACT TO AMEND THE COMPANIES INCOME TAX ACT, CAP C21, VALUE ADDED TAX ACT, CAP. VI, CUSTOMS AND EXCISE TARIFF, ETC. (CONSOLIDATION) ACT, CAP. C49, PERSONAL INCOME TAX ACT, CAP. P8, CAPITAL GAINS TAX ACT, CAP. C1, STAMP DUTIES ACT, CAP. S8, PETROLEUM PROFIT TAX ACT, CAP. P13, LAWS OF THE FEDERATION OF NIGERIA, 2004 TO PROVIDE FOR THE REVIEW OF TAX PROVISIONS AND MAKE THEM MORE RESPONSIVE TO TAX REFORM; AND FOR RELATED MATTERS.

[13*th Day of January*, 2020] Commencement.

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

1. The Companies Income Tax Act, Cap C21, Value Added Tax Act, Cap. VI, Customs and Excise Tariff, Etc. (Consolidation) Act, Cap. C49, Personal Income Tax Act, Cap. P8, Capital Gains Tax Act, Cap. C1, Stamp Duties Act, Cap. S8, Petroleum Profit Tax Act, Cap. P13, Laws of the Federation of Nigeria, 2004 are amended as set out in this Act.

Amendment of Cap. C21, Cap. VI, Cap. C49, Cap. P8, Cap. C1, Cap. S8 and Cap. P13. LFN. 2004.

PART I—COMPANIES INCOME TAX ACT

2. Section 9 of the Companies Income Tax Act (CITA) is amended—

Amendment of section 9.

(*a*) in subsection (1)—

(*i*) by deleting after the word, "Nigeria", in line 3, the words, "in respect" and inserting the words, "that are not subject to tax under the Capital Gains Tax Act, Petroleum Profits Tax Act and Personal Income Tax Act, such profits shall include",

(*ii*) by inserting after paragraph (*c*), a new paragraph "(*d*)"—

"(*d*) for the purposes of this Act—

(*i*) interest includes compensating payments received by a borrower from its approved agent or a lender in a Regulated Securities Lending Transaction provided that the underlying transaction giving rise to the compensating payment is a receipt of interest by a lender on the collateral it received from its approved agent or a borrower in a Regulated Securities Exchange Transaction,

(*ii*) dividend includes compensating payments received by a lender from its approved agent or borrower in a Regulated Securities Lending Transaction if the underlying transaction giving rise to the compensating payment is a receipt of dividends by a borrower on any shares or securities received from its approved agent or a lender in a Regulated Securities Lending Transaction";

(*b*) in paragraph (*g*), by inserting a "proviso" after the word, "bonds", in line 4—

"Provided that for the purpose of this section, securities or shares shall not be deemed to be disposed of by a lender, borrower or approved agent or acquired by a borrower, approved agent or lender if such securities or shares are transferred from a lender and subsequently returned by a borrower in a Regulated Securities Lending Transaction" ;

(*c*) by inserting after paragraph (*g*), a new paragraph "(*h*)"—

"(*h*) profits from securities lending other than compensating payments to the lender or borrower."

Substitution for section 10.

3. Substitute for section 10 of CITA, a new section "10"—

10.—(1) Every company shall have a tax identification number (TIN), which shall be displayed by the company on all business transactions with other companies and individuals and on every document, statement, returns, audited account and correspondence with revenue authorities, including the Federal Inland Revenue Service, Ministries and all Government Agencies.

(2) Every person engaged in banking or other financial services in Nigeria shall require all companies to provide their TIN as a precondition for opening a bank account or, in the case of an account already opened within three months of the passage of this Act, the bank shall require such TIN to be provided by all companies as a precondition for the continued operation of their bank accounts."

Amendment of section 13.

4. Section 13 of CITA is amended—

(*a*) in subsection (2)—

(*i*) by inserting after the word, "from", in line 2, the words, "or taxable in",

(*ii*) by inserting after paragraph (*b*), a new paragraph "(*c*)", and renumbering the subsection appropriately—

"(*c*) if it transmits, emits or receives signals, sounds, messages, images or data of any kind by cable, radio, electromagnetic systems or any other electronic or wireless apparatus to Nigeria in respect of any activity, including electronic commerce, application store, high frequency trading, electronic data storage, online adverts, participative network platform, online payments and so on, to the extent that the company has significant economic presence in Nigeria and profit can be attributable to such activity";

(*b*) by inserting after paragraph (*d*),a new paragraph "(*e*)"—

"(*e*) if the trade or business comprises the furnishing of technical, management, consultancy or professional services outside of Nigeria to a person resident in Nigeria to the extent that the company has significant economic presence in Nigeria :

Provided that the withholding tax applicable to 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*)-(*e*)." ;

(*c*) by inserting a new subsection "(4)"—

"(4) For the purpose of subsection (2) (*c*) and (*e*), the Minister may by order, determine what constitutes the significant economic presence of a company other than a Nigerian company".

5. Section 16 of CITA is amended by inserting after subsection (5), a new subsection "(6)"— Amendment of section 16.

"(6) Investment income for the purpose of taxation of a life insurance company under this section means income derived from investment of shareholders' funds."

6. Section 16 of CITA is further amended— Amendment of Act No. 11. 2007.

(*a*) in subsection (7) by deleting after the word, "business", in line 6, the words, "and in all cases, the period of carrying forward of a loss shall be limited to four years of assessment" ;

(*b*) substituting for paragraphs (*a*) and (*b*), new paragraphs" (*a*)" and "(*b*)"—

"(*a*) reserve for unexpired risks, calculated on a time apportionment basis of the risks accepted in the year ;

(*b*) for outstanding claims and outgoings, an amount equal to the total estimated amount of all outstanding claims and outgoings, provided that any amount not utilised towards settlement of claims and outgoings shall be added to the total profits of the following year";

(*c*) in subsection (9)(*c*), by deleting after the word, "outgoing", in line 1, the expression, "except that after allowing for all the outgoing and allowance under the Second Schedule to this Act as may be restricted under the provisions of this Act for any year of assessment, not less than an amount equàl to 20 percent of the gross incomes shall be available as total profit of the company for tax purposes."

(*d*) inserting after subsection (11), 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 businesses ; or

(*b*) 0.5% of gross income for life assurance businesses."

7. Section 19 of CITA is amended by— Amendment of section 19.

(*a*) inserting a new subsection "(2)"—

"(2) The provisions of subsection (1) shall not apply to—

(*a*) dividends paid out of the retained earnings of a company, provided that the dividends are paid out of profits that have been subjected to tax under this Act, the Petroleum Profits Tax Act, or the Capital Gains Tax Act ; Cap. P13. LFN. 2004. Cap. C1. LFN. 2004.

(*b*) dividends paid out of profits that are exempted from income tax by any provision of this Act, the Industrial Development (Income Tax Relief) Act, the Petroleum Profits Tax Act, or the Capital Gains Tax Act or any other legislation ;

Cap. 17. LFN. 2004.

(*c*) profits or income of a company that are regarded as franked investment income under this Act ; and

(*d*) distributions made by a real estate investment company to its shareholders from rental income and dividend income received on behalf of those shareholders,

whether such dividends are paid out of profits of the year in which the dividend is declared or out of profits of previous reporting periods" ; and

(*b*) renumbering the section appropriately.

Amendment of section 20.

8. Section 20 of CITA is amended by deleting paragraph (*b*).

Amendment of section 23.

9. Section 23(1) of CITA is amended—

(*a*) in subsection (1),—

(*i*) by deleting paragraph (*n*),

(*ii*) by substituting for paragraphs (*o*) and (*q*), new paragraphs "(*o*)" and "(*q*)"—

"(*o*) the profits of a small company in a relevant year of assessment :

Provided that—

(*i*) such company shall, without prejudice to this exemption, comply with the tax registration and tax return filing stipulations of this Act and be subject to the provisions as regards time of filing, penalties for breach of statutory duties and all other provisions of this Act in all respects during the period which its profits are below the tax paying threshold, or

(*ii*) they are dividends received from small companies in the manufacturing sector in the first five years of their operations ;

(*q*) the profits of any Nigerian company in respect of goods exported from Nigeria, if the proceeds of such exports are used for the purchase of raw materials, plant equipment and spare parts :

Provided that tax shall accrue proportionately on the portion of such proceeds which are not utilised in the manner prescribed."

(*iii*) by inserting after paragraph (*r*), new paragraphs "(*s*)"-"(*u*)"—

"(*s*) the dividend and rental income received by a real estate investment company on behalf of its shareholders provided that—

(*i*) a minimum of 75% of dividend and rental income is distributed, and (*ii*) such distribution is made within 12 months of the end of the financial year in which the dividend or rental income was earned" ;

(*t*) the compensating payments, which qualify as dividends under section 9(1)(*c*) of this Act, received by a lender from its approved agent or a borrower in a Regulated Securities Lending Transaction, such payments are deemed to be franked investment income and shall not be subjected to further tax in the hands of the Lender ;

(*u*) the compensating payments, which qualify as dividends or interest under section 9(1)(*c*) of this Act, received by an approved agent from a borrower or lender on behalf of a lender or borrower in a Regulated Securities Lending Transaction" ;

(*b*) by inserting after subsection (1), new subsections "(1A)"–"(1C)"—

"(1A) Nothing in this section shall be construed to exempt from deduction at source, the tax which a company making payments is to deduct under sections 78, 79 or 80 of this Act, such that the provisions of sections 78, 79 and 80 of this Act shall apply to a dividend, interest, rent or royalty paid by a company exempted from tax under subsection (1) (*a*) to (*e*), (*h*) to (*l*), (*o*), (*q*), (*r*) and (*t*).

(1B) Nothing in this section shall be construed to exempt—

(*a*) shareholders from tax on the dividend or rental income received from a real estate investment company,

(b) a real estate investment company from tax on management fee, profits or any other income earned for and on its own account, and

(c) a real estate investment company from tax on dividend and rental income that is not distributed after 12 months from the end of the financial year in which the dividend or rental income was earned ;

(1C) Any company engaged in agricultural production shall be granted the following incentives in addition to other incentives in this Act—

(*a*) an initial tax free period of five years which may be subject to satisfactory performance of agricultural production, be renewed for an additional maximum period of three years, and

(*b*) such company cannot be granted similar incentive under any other Act in Nigeria."

10. Section 24 of CITA is amended— Amendment of section 24.

(*a*) by inserting after the word, "profits", in line 5, the words, "chargeable to tax" ;

(*b*) by substituting for paragraph (*a*), a new paragraph "(*a*)"—

"(*a*) subject to the provisions of the Seventh Schedule to this Act, any sum payable by way of interest on debt borrowed and employed as capital in acquiring the profits of a company" ; and (*c*) by inserting after paragraph (*j*), new paragraphs "(*k*)" and "(*l*)"—

"(*k*) dividends or mandatory distributions made by a real estate investment company duly approved by the Securities and Exchange Commission, to its shareholders ; and

(*l*) compensating payments, which qualify as interest under section 9(1)(*c*) of this Act, made by a lender to its approved agent or a borrower in a Regulated Securities Lending Transaction."

Amendment of section 27.

11. Section 27(1) of CITA is amended by—

(*a*) substituting for paragraphs (*g*)–(*i*), new paragraphs "(*g*)"–"(*i*)"—

"(*g*) any expense whatsoever incurred within or outside Nigeria involving related parties as defined under the Transfer Pricing Regulations, except to the extent that it is consistent with the Transfer Pricing Regulations ;

Cap. C1. LFN. 2004.

(*h*) any expense incurred in deriving tax exempt income, losses of a capital nature and any expense allowable as a deduction under the Capital Gains Tax Act for the purpose of determining chargeable gains ;

(*i*) any compensating payment made by a borrower, which qualifies as dividends under section 9(1)(*c*) of this Act, to its approved agent or to a Lender in a Regulated Securities Exchange Transaction" ; and

(*b*) inserting new paragraphs "(*j*)"–"(*l*)"—

"(*j*) any compensating payment made by an approved agent, which qualifies as interest or dividends under section 9(1)(*c*) of this Act, to a borrower or lender in a Regulated Securities Exchange Transaction ;

(*k*) any penalty prescribed by any Act of the National Assembly for violation of any statute ; and

(l) any tax or penalty borne by a company on behalf of another person."

Amendment of section 29.

12. Section 29 of CITA is amended—

(*a*) insubsection (1), by substituting for the word, "year", before the word, "immediately", in line 3, the words, "accounting period" ;

(*b*) by substituting for subsections (3) and (4), new subsections "(3)" and "(4)" :

"(3)The assessable profits of any company from any trade or business (or in the case of a company other than a Nigerian company) 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 profits shall be the profits from the date in which it commenced to carry on such trade or business in Nigeria to the end of its first accounting period ;

(b) for the second year, the assessable profits shall be the profits from the first day after its first accounting period to the end of its second accounting period ; and

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

(4) Where a company permanently ceases to carry on a trade or business (or in the case of a company other than a Nigerian company, permanently ceases to carry on a trade or business in Nigeria) in an accounting period, its assessable profits therefrom shall be the amount of the profits from the beginning of the accounting period to the date of cessation and the tax thereof shall be payable within six months from the date of cessation." ; and

(c) in subsection (9)—

(i) by inserting after the word, "companies", in line 6, the words, "and have been so for a consecutive period of at least 365 days prior to the date of reorganisation", and

(ii) by inserting in the concluding paragraph after the word, "thereof", in line 5, a new "proviso"—

"Provided also that if the acquiring company were to make a subsequent disposal of the assets thereby acquired within the succeeding 365 days after the date of transaction, any concessions enjoyed under this subsection shall be rescinded and the companies shall be treated as if they did not qualify for the concessions stipulated in this subsection as at the date of initial reorganisation."

13. Section 31(2)(a)(ii) of CITA is amended by deleting after the word, "on", in line 8, the words, "but such deductions shall not be made against the profit of the company after the fourth year from the year of commencement of such business". Amendment of section 31.

14. Section 33 of CITA is amended— Amendment of section 33.

(a) by substituting for subsection (2), a new subsection "(2)"—

"(2) For the purposes of subsection (1) of this section, the minimum tax to be levied and paid shall be 0.5% of gross turnover of the company, less franked investment income." ; and

(b) in subsection (3), by substituting for paragraph (b), a new paragraph "(b)"—

"(b) a company that earns gross turnover of less than ₦25,000,000 in the relevant year of assessment."

15. Section 39 of CITA is amended— Amendment of section 39.

(a) in subsection (1), by deleting paragraph (e) ; and

(b) by inserting after subsection (2), a new subsection "(3)" and renumbering the section appropriately—

Cap. 17. LFN. 2004.

"(3) This section shall not apply with respect to any company that has claimed or wishes to claim the incentives under the Industrial Development (Income Tax Relief) Act in respect of the same qualifying capital expenditure."

Substitution for section 40.

16. Substitute for section 40 of CITA, a new section "40"—

"Rates of Tax

"40. There shall be levied and paid for each year of assessment in respect of total profits of every company, tax as follows, in the case of a—

(*a*) small company, tax as provided under section 23 (1)(*o*) of this Act ;

(*b*) medium-sized company, tax at the rate of 20 Kobo for every Naira ; and

(*c*) large company, tax at the rate of 30 Kobo for every Naira."

Deletion of sections 41 and 43.

17. Sections 41 and 43 of CITA are deleted.

Amendment of section 77.

18. Section 77 of CITA is amended by—

(*a*) deleting subsection (1) ;

(*b*) substituting for subsection (5), a new subsection "(5)"—

"(5) Every Company shall make payment of tax due on or before the due date of filing, in one lump sum or in installments :

Provided that, where the taxpayer pays in installments—

(*a*) the taxpayer shall first write, with evidence of payment of the first installment, and obtain the approval of the Service to pay in such number of installments as may be approved by the Service ; and

(*b*) the final installment must be paid on or before the due date of filing." ;

(*c*) by inserting after subsection (5), new subsections "(5A)" and "(5B)"—

"(5A) Where a company pays its tax 90 days before the due date as provided under Section 55 of this Act, such company shall be entitled to a bonus of—

(*a*) 2%, if such company is a medium-sized company ; and

(*b*) 1% for any other company ;

on the amount of tax paid, which shall be available as a credit against of its future taxes.

(5B) Any balance of taxes unpaid as at the due date shall attract interest and penalties as provided in this Act or any other relevant law for failure to pay on the due date in accordance." ; and

(*d*) renumbering the section appropriately.

19. Section 78 of CITA is amended by inserting after subsection (5), a new subsection "(6)"— Amendment of section 78.

"(6) The provisions contained in subsection (1) - (5) shall not apply to a lender when making compensating payments, which qualify as interest under section 9(1)(*c*) of this Act, to an approved agent that is due to a borrower in a Regulated Securities Lending Transaction :

Provided that nothing in this subsection, shall be construed as exempting the approved agent from the provisions of subsection (1)-(5) when making the same payments to the borrower or as exempting the lender from deducting tax when making the payments directly to the borrower."

20. Section 80 of CITA is amended by— Amendment of section 80.

(*a*) substituting for subsection (5), a new subsection "(5)"—

"(5) The provisions contained in subsection (1)-(5) of this section shall not apply to—

(*a*) a company or person making any distribution or dividend payment to a real estate investment company ;

(*b*) a borrower making compensating payments to its approved agent or to a lender, provided that such payments qualify as dividends under section 9(1)(*c*) of this Act ; and

(*c*) an approved agent making compensating payments received from a Borrower, which qualify as dividends under section 9(1)(*c*) of this Act, to a lender" ; and

(*b*) inserting after subsection (5), a new subsection "(6)"—

"(6) Nothing in this section shall be construed to exempt a real estate investment company from deducting tax at source from the dividend it distributes to its own shareholders."

21. Section 81 of CITA is amended— Amendment of section 81.

(*a*) in subsection (2), by inserting a "proviso" after the word, "tax", in line 3 :

Provided that in the case of road, bridges, building and power plant construction contract, the rate shall not exceed two and a half percent" ; and

(*b*) by inserting after subsection (7), a new subsection "(8)"—

"(8) The provisions of this section shall not apply to compensating payments made under a Registered Securities Lending Transaction".

22. Section 105 (1) of CITA is amended by— Amendment of section 105.

(*a*) substituting for the word, "Board", the word, "Service" and defining, the word, "Service"—

"Service" means the Federal Inland Revenue Service as defined in the Federal Inland Revenue Service (Establishment) Act, 2007" ;

(*b*) substituting for the word, "Board", wherever it appears in CITA, the word, "Service" ; and

(*c*) defining the terms—

"*approved agent*" means any person approved by the Securities and Exchange Commission to function as an intermediary for the conduct of a Regulated Securities Lending Transaction ;

"*bank*" means an establishment authorized by the government to accept deposits, pay interest, clear checks, make loans, act as an intermediary in financial transactions, and provide other financial services to its customers or any other such institution as defined under the Banking and Other Financial Institutions Act, Cap. B3, Laws of the Federation of Nigeria, 2004 ;

"*banking*" means business conducted or services offered by a bank ;

"*borrower*" means an approved borrower in a Regulated Securities Lending Transaction ;

"*compensating payments*" means any payments made in lieu of interest or dividend pursuant to a Regulated Securities Lending Transaction ;

"*financial institutions*" includes depository institutions, custodial institutions, investment institutions and insurance companies ;

"*financial services*" includes depository services, custodial services, investment services and insurance services ;

"*gross turnover*" means the gross inflow of economic benefits (cash, revenues, receivables, other assets) arising from the operating activities of a company, including sales of goods, supply of services, receipt of interest, rents, royalties or dividends ;

"*large company*" means any company which is not a small or medium-sized company ;

"*lender*" means an approved lender in a Regulated Securities Lending Transaction ;

"*medium-sized company*" means a company that earns gross turnover greater than ₦25,000,000 but less than ₦100,000,000 ;

"*real estate investment company*" means for the purpose of this Act, a company duly approved by the Securities and Exchange Commission to operate as a real estate investment scheme in Nigeria ;

"*recognised group of companies*" means a group of companies as prescribed under the relevant accounting standard ;

"*Regulated Securities Lending transaction*" means any securities lending transaction conducted pursuant to rules made by the Securities and Exchange Commission ;

"*small company*" means a company that earns gross turnover of N25,000,000 or less.

23. The Schedules to CITA are amended— Amendment of the Schedules.

(*a*) in the Third Schedule—

(*i*) by updating the table of tax exemption on interest on foreign loans as follows—

Repayment period	*Grace period including 'Moratorium*	*Tax exemption allowed*
Above 7 years.................	Not less than 2 years	70%
5-7 years........................	Not less than 18 months	40%
2-4 years........................	Not less than 12 months	10%
Below 2 years.................	Nil	Nil,

(*ii*) by inserting a new paragraph "2"—

"(2) For the purpose of this Schedule—

(*a*) "*moratorium*" means a period at the beginning of a loan term during which the borrower is not expected to make any principal or interest repayments, provided that where any principal or interest repayments are made during the period, the tax exemptions provided under this Schedule shall be adjusted by the Service in a proportionate manner ; and

(*b*) "*repayment period*" means the agreed tenor of the loan facility, provided that where the loan is repaid before expiration of this period, the tax exemptions provided under this Schedule shall be adjusted by the Service in a proportionate manner" ; and

(*b*) by inserting after the Sixth Schedule, a new "Seventh Schedule"—

"SEVENTH SCHEDULE

Deductible Interest

1. Notwithstanding any provisions of this Act, where a Nigerian company, or a fixed base of a foreign company in Nigeria, incurs any expenditure by way of interest or of similar nature in respect of debt issued by a foreign connected person, the excess interest thereon shall be a disallowable deduction for the purpose of this Act.

2. For the purposes of paragraph 1, the excess interest shall mean an amount of total interest paid or payable in excess of thirty per cent of earnings before interest, taxes, depreciation and amortisation of the Nigerian company in that accounting period.

3. Nothing contained in paragraph1 shall apply to a Nigerian subsidiary of a foreign company which is engaged in the business of banking or insurance.

4. Where for any assessment year, the interest expenditure is not wholly deducted against income, so much of the interest expenditure as has not been deducted, shall be carried forward to the following assessment year or

assessment years, and it shall be allowed as a deduction against the profits, if any, of any business carried on by it and assessable for that assessment year to the extent permitted in accordance with paragraph 2:

Provided that no interest expenditure shall be carried forward under this paragraph for more than five assessment years immediately succeeding the assessment year for which the excess interest expenditure was first computed.

5. Any person who violates the provisions of this Schedule shall be liable to a penalty at ten per cent and interest at the Central Bank of Nigeria monetary policy rate plus a spread to be determined by the Minister on any adjustments made by the Service relating to excess interest charged in any year.

6. For the purposes of this section, the expressions—

(*a*) "*connected persons*" means—

(*i*) any person controlled by or under common control, ownership or management,

(*ii*) any person who is not connected but receives an implicit or explicit guarantee or deposit for the provision of corresponding or matching debt, or

(*iii*) any related party as described under the Nigerian Transfer Pricing Regulations 2018.

(*b*) "*debt*" means any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession".

PART II—PETROLEUM PROFIT TAX ACT

Deletion of section 60.

24. Section 60 of the Petroleum Profit Tax Act is deleted.

PART III—PERSONAL INCOME TAX ACT

Amendment of sections 2, 49, 86, 102 and 108. Cap. P8. LFN, 2004.

25. Sections 2 (2), 49(1), 86(2)(*a*) and (8), 102(1), and 108 (*f*) of Personal Income Tax Act (PITA) are amended by substituting for the words, "the Federal Board of Inland Revenue", the words, "the Federal Inland Revenue Service" and wherever they appear in the Act.

Amendment of section 20. Cap. P8. LFN, 2004.

26. Section 20(1) of PITA is amended by substituting for paragraph (g), a new paragraph "(*g*)"—

"(*g*) a contribution to a pension, provided or other retirement benefits fund, society or scheme."

Amendment of section 33. Cap. P8. LFN, 2004.

27. Section 33 of PITA is amended by deleting subsections (4), (5) and (6).

Amendment of section 49. Cap. P8. LFN, 2004.

28. Section 49 of PITA is amended by—

(*a*) inserting before subsection (1), a new subsection (1)—

"(1) A person engaged in banking shall require that a person intending to open a bank account for the purposes of the person's business operations shall provide a tax identification number as a precondition for opening or continue operating of such bank account." ; and

(b) renumbering the section appropriately.

29. Section 58 (1) of PITA is amended by inserting after the word "writing", in line 2, the words "delivered in person, by courier service or via electronic mail". Amendment of section 58. Cap. P8. LFN. 2004.

30. Section 74 of PITA is amended by— Amendment of section 74. Cap. P8. LFN. 2004.

(a) deleting the word, "or" after the figure, "71", in line 1 ; and

(b) inserting after the figure, "72", in line 1, the expression, "or 73".

31. The Third Schedule to PITA is amended— Amendment of the Third Schedule. Cap. P8. LFN. 2004.

(a) in paragraph 6 (1) (b), line 3, by deleting the words, "under the authority of the Railway Loan (International Bank) Act ;

(b) in paragraph 7, line 1, by deleting the words, "on or after January 1997" ;

(c) by deleting paragraphs 10, 15, 19, 20 and 24 ; and

(d) in paragraph 18, by deleting the proviso to the paragraph.

32. Section 108 of PITA is amended by— Amendment of section 108.

(a) deleting the definition of the word, "Board" ;

(b) inserting in alphabetical order a new definition of the word, "Service—

"*Service*" means the "Federal Inland Revenue Service as defined in the Federal Inland Revenue Service (Establishment) Act, 2007"; and Cap. P8. LFN. 2004.

(c) substituting for the word, "Board", the word, "Service" wherever it appears in the Act.

PART IV—VALUE ADDED TAX ACT

33. Substitute for section 2 of the Value Added Tax Act, a new section "2"— Substitution for section 2.

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

(2) For the purpose of this Act, goods and services shall be deemed to be supplied in Nigeria if—

(a) in respect of goods—

(i) the goods are physically present in Nigeria at the time of supply, imported into Nigeria for use by a person, 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 services are rendered in Nigeria by a person physically present in Nigeria at the time of service provision, or

(ii) the services are provided to a person in Nigeria, regardless of whether the services are rendered within or outside Nigeria."

Amendment of section 4.

34. Section 4 of the Value Added Tax Act is amended in line 1. by substituting for the expression, "5%", the expression, "7.5%".

Substitution for section 8.

35. Substitute for section 8 of the Value Added Tax Act, a new section "8"—

"Registration and deregristration requirements.

8.—(1) A taxable person shall upon commencement of business, register with the service for the purpose of the tax.

(2) A taxable person who fails or refuses to register with the service within the time specified in subsection (1) is liable to pay as penalty an amount of—

(a) N50,000 for the first month in which the failure occurs ; and

(b) N25,000 for each subsequent month in which the failure continues.

(3) Where a taxable person permanently ceases to carry on a trade or business in Nigeria, the taxable person shall notify the service of its intention to deregister for tax purposes within 90 days of such cessation of the trade or business."

Substitution for section 10.

36. Substitute for section 10 of the Value Added Tax Act, a new section "10"—

"Registration by non-resident companies.

10.—(1) For the purpose of this Act, a non-resident company that carries on business in Nigeria shall register for the tax with the Service, using the address of the person with whom it has a subsisting contract, as its address for the purposes of correspondence relating to the tax.

(2) The Service may, by notice, determine and direct the companies operating in the oil and gas sector which shall deduct vat at source and remit same to the service.

(3) A non-resident company shall include the tax on its invoice for the supply of taxable services.

(4) The person to whom the services are supplied in Nigeria shall withhold and remit the tax directly to the service in the currency of payment.

Amendment of section 14.

37. Section 14 (3) of the Value Added Tax Act is amendment by inserting after subsection (2), new subsections "(3)" and "(4)"—

"(3) A non-resident company shall include the tax in its invoice and the person to whom the goods or services are supplied in Nigeria shall remit the tax in the currency of the transaction.

(4) Where a person to whom taxable supplies is made in Nigeria is issued an invoice on which no tax is charged, such a person shall, self-account for the tax payable and remit the output tax to the service within the timeline prescribed under section 15 of this Act."

38. Substitute for section 15 of the Value Added Tax Act, a new section "15"— Substitution for section 15.

"Taxable person to render returns.

15.—(1) A taxable person who, in the course of a business, has made taxable supplies or expects to make taxable supplies, the value of which, either singularly or cumulatively in any calendar year, is ₦25,000,000 or more shall, render to the Service, on or before the 21st day of every month in which this threshold is achieved and on or before the same day in successive months thereafter, a return of the input tax paid and output tax collected by him in the preceding month in such a manner as the Service may prescribe.

(2) In determining whether a person meets the threshold in subsection (1)(*b*), the value of the following taxable supplies shall be excluded—

(*a*) a taxable supply of a capital asset of the person ; and

(*b*) a taxable supply made solely as a consequence of the person selling the whole or a part of its business or permanently ceasing to carry on business :

Provided that any person that does not fall within the threshold in subsection (1) is exempt from the provisions of section 8(2),13, 29, 34 and 35 of this Act."

39. Section 16 of the Value Added Tax Act is amended in subsection (1), by substituting for subsection (1), a new subsection "(1)"— Amendment of section 16.

"(1) A taxable person shall, on rendering a return under section 15 (1) of this Act—

(*a*) if the output tax collected exceeds the input tax paid, remit the excess to the Service ;

(*b*) if the input tax paid exceeds the output tax collected, be entitled to utilise the excess tax as a credit against subsequent months :

Provided that the taxable person would be entitled to a refund from the Service, of excess tax not utilised as a credit, upon provision of such documents as the Service may require."

40. Substitute for section 19 of the Value Added Tax Act, a new section "19"— Substitution for section 19.

"Effect of non-remmitance.

19.—(1) If a taxable person does not remit the tax within the time specified in section 15 of this Act, a sum equal to 10% of the tax not remitted and interest at the prevailing Central Bank of Nigeria minimum re-discount rate, shall, be added to the tax not remitted and the provisions of this Act relating to collection and recovery of unremitted tax, penalty and interest shall apply.

(2) The Service shall notify the taxable person or his agent, of the tax due together with the penalty and interest and if payment is not made within 30 days of such notification, the Service may proceed to enforce payment as provided in section 15 of this Act."

Deletion of sections 21–24.

41. Part IV (sections 21 to 24) of the Value Added Tax Act is deleted.

Substitution for section 28.

42. Substitute for section 28 of the Value Added Tax Act, a new section "28"—

"Failure to notify of change of address or permanent cessation of trade or business.

28. A taxable person who fails to notify the Service of any change of address within 30 days of such change, or who fails to comply with the requirement for notification of permanent cessation of trade or business under section 8 of this Act, is liable to pay—

(*a*) ₦50,000 for the first month in which the failure occurs; and

(*b*) ₦25,000 for each subsequent month in which the failure continues."

Deletion of section 32.

43. Section 32 of the Value Added Tax Act is deleted.

Substitution for section 35.

44. Substitute for section 35 of the Value Added Tax Act, a new section "35"—

"Failure to submit returns.

35. A taxable person who fails to submit returns to the Service, is liable to a fine of ₦50,000 in the month of default and ₦25,000 for every month in which the default continues."

Substitution for section 42.

45. Substitute for section 42 of the Value Added Tax Act, a new section "42"—

"Business sold or transferred.

42. Where a trade or business carried on by a company is sold or transferred to a Nigerian company for the purpose of better organisation of that trade or business or the transfer of its management to Nigeria, and any asset employed in such trade or business is sold or transferred, no tax shall apply under this Act to the sale or transfer of the assets to the extent that one company has control over the other or both are controlled by some other person or are members of a recognised group of companies and have been so for a consecutive period of at least 365 days prior to the date of reorganisation :

Provided that if the acquiring company were to make a subsequent disposal of the assets thereby acquired within the succeeding 365 days after the date of transaction, any concessions enjoyed under this subsection shall be rescinded and the companies shall be treated as if they did not qualify for the concessions stipulated in this subsection as at the date of initial re-organisation.

46. Section 46 of the Value Added Tax Act is amended by— Amendment of section 46.

(*a*) deleting the definition of "Board" ;

(*b*) substituting for the word, "Board", the word, "Service" anywhere it appears in the Act ;

(*c*) inserting in alphabetical order the definitions—

"*commencement of business*"—

business shall be deemed to commence in Nigeria on the date that an entity carries out its first transaction which shall be the earliest of the date it—

(*a*) begins to market or first advertises its products or services for sale ;

(*b*) obtains an operating licence from a regulatory authority in Nigeria ;

(*c*) first sale or purchase ;

(*d*) executes its first trading contract after incorporation ;

(*e*) issues or receives its first invoice ;

(*f*) delivers or receives its first consignment of goods ; or

(*g*) first renders services to its customers ;

"*basic food items*" means agro and aqua based staple food described as—

additives *i.e.* honey whether raw or semi-processed,

bread (white and brown),

cereals *e.g.* maize, rice, wheat, millet, barley, sorghum, oats, fonio, finer millet and others of the same kind, however supplied in such form as grain, flour, crop, bulk or retail, raw or semi-processed,

cooking oils *e.g.* vegetable oil, soya oil, palm oil, groundnut oil, shea butter, beniseed oil, olive oil, coconut oil and others of the same kind :

Provided that they are of a type and grade suitable for culinary purposes and do not contain any substance such as perfume that will make them unsuitable for culinary use,

culinary herbs *e.g.* curry, thyme, onions, ginger, mint and others of the same kind, raw and unprocessed for human consumption,

fish of all kinds other than ornamental whether live, fresh, frozen, smoked or dried,

flour and starch *e.g.* corn flour, plantain flour, cassava flour, beans flour, wheat flour, rice flour, yam flour, garri and others of the same kind, bleached or unbleached, refined or unrefined provided that it is suitable for culinary purposes, fruits *e.g.* pineapples, oranges, mangoes, guavas, grapes fruit, banana, pawpaw and others of the same kind, whether it is fresh or dried,

live or raw meat and poultry e.g. beef, goat, lamb, pork, chicken, and others of the same kind, whether live, butchered, complete, in parts, fresh, frozen, eggs and others of the same kind,

milk, whether fresh, liquid and powdered milk,

nuts *e.g.* groundnut, walnut, cashew nut, hazelnut, kolanut, tigernuts, coconut and others of the same kind, if raw and unprocessed for human consumption, also roasted, fried, boiled, salted or in their shells,

pulses *e.g.* beans, lentils, peas, chickpeas, tamarind and others of the same kind, if raw and unprocessed for human consumption, also roasted, fried, boiled, salted or in their shells,

roots *e.g.* yam, cocoyam, sweet and irish potatoes, water-yam, cassava and others of the same kind, in raw and unprocessed form, also, in form of flakes or flour for human consumption,

salt for culinary use only including fine salt and in retail packs but excluding industrial salt,

vegetables *e.g.* pepper, melons, lettuce, okro, cabbage, carrots and others of the same kind, whether fresh, dried or ground,

water *i.e.* natural water and table water e.g. spring water, rain water, pipe borne water, well water and all-natural water of the same kind, all table water other than sparkling or flavoured water ;

"*recognised group of companies*" means a group of companies as prescribed under the relevant accounting standard" ;

"*exported service*" means a service rendered within or outside Nigeria by a person resident in Nigeria, to a non-resident outside Nigeria :

Provided that a service provided to the fixed base or permanent establishment of a non-resident person shall not qualify as exported services ;

"*goods*" means—

(*a*) "all forms of tangible properties that are movable at the point of supply, but does not include money or securities ; and

(*b*) any intangible 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" ;

"*Service*" means the "Federal Inland Revenue Service as defined in the Federal Inland Revenue Service (Establishment) Act, 2007" ;

"*Services*" means "anything other than goods, money or securities which is supplied excluding services provided under a contract of employment" ; and

"*taxable supplies*" means "any transaction for sale of goods or the performances of a service, for a consideration in money or money's worth" ; and

(*d*) deleting the definition of "imported services".

47. The First Schedule of the Value Added Tax Act is amended by— Amendment of First Schedule.

(a) inserting after paragraph 9, under Part I of the First Schedule to the Value Added Tax Act, a new paragraph "10"—

"10. Locally manufactured sanitary towels, pads or tampons";

(b) substituting for paragraph 2, Part II, a new paragraph "2"—

"2. Services rendered by microfinance banks, people's banks and mortgage institutions." ; and

(c) inserting after paragraph 4, Part II, of the First Schedule to the Value Added Tax Act, a new paragraph "5"—

"5. Tuition relating to nursery, primary, secondary and tertiary education."

PART V—CUSTOMS AND EXCISE TARIFF ETC. (CONSOLIDATION) ACT

48. Part III, section 21 of the Customs and Excise Tariff Etc. (Consolidation) Act, (in this Act referred to as "CET Act") is amended by substituting for subsection (1), a new subsection "(1)"— Amendment of CET. Cap. C49. LFN. 2004.

"(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—

Provided that this subsection shall not apply to—

(a) goods that are not locally produced in Nigeria ; and

(b) raw materials that are not locally available in Nigeria.

PART VI—CAPITAL GAINS TAX ACT

49. Substitute for section 32 of the Capital Gains Tax Act (CGT) Act, a new section "32"— Substitution for section 32.

"Business re-organisation.

32. Where a trade or business carried on by a company is sold or transferred to a Nigerian company for the purposes of better organisation of that trade or business or the transfer of its management to Nigeria, and any asset employed in such trade or business is sold or transferred, no tax shall apply under this Act to the sale or transfer of the assets to the extent that one company has control over the other or both are controlled by some other person or are members of a recognised group of companies and have been so for a consecutive period of at least 365 days prior to the date of re-organisation :

Provided that if the acquiring company were to make a subsequent disposal of the assets acquired within the succeeding 365 days after the date of transaction, any concession enjoyed under this subsection shall be rescinded and the companies shall be treated as if they did not qualify for the concessions stipulated in this subsection as at the date of initial re-organisation."

Amendment of section 36.

50. Section 36(2) of the CGT Act is amended by—

(*a*) substituting for the expression, "₦10,000" in line 3, the expression, "₦10,000,000" ; and

(*b*) deleting the phrase, "in any year of assessment" in line 3.

Amendment of section 46.

51. Section 46(1) of the CGT Act is amended by—

(*a*) deleting the definition of "Board" ; and

(*b*) inserting in alphabetical order definition of—

"*recognised group of companies*" means a group of companies as prescribed under the relevant accounting standard ;

"*Service*"—

"*Service*" means the Federal Inland Revenue Service as defined in the Federal Inland Revenue Service (Establishment) Act, 2007 ; and

(*c*) substituting for the word,"Board", the word, "Service", anywhere it appears in the Act.

PART VII—STAMP DUTIES ACT

Amendment of section 2.

52. Section 2 of the Stamp Duties Act is amended by substituting for the definition of the words, "stamp", "stamped" and "instrument" the following new definitions—

"*stamp*" means an impressed pattern or mark by means of an engraved or inked block die as an adhesive stamp or an electronic stamp or an electronic acknowledgement for denoting any duty or fee ;

"*stamped*" with reference to instruments and material, applies to instruments and material impressed with stamps by means of an engraved or inked block die, adhesive stamps affixed thereto as well as to instruments and material digitally tagged with electronic stamp or notional stamp on an electronic receipt ; and

"*instrument*" includes every written document and electronic documents.

Amendment of section 4.

53. Section 4 of the Stamp Duties Act is amended—

(*a*) in subsection (1), by substituting for the words, "the Federal Government", in line 1, the words, "the Federal Inland Revenue Service" ; and

(*b*) in subsection (2), by substituting for the words, 'the State Government", in line 1, the words, "the relevant tax authority in a State".

Substitution for section 89.

54. Substitute for section 89 of the Stamp Duties Act, a new section 89—

"Duty upon receipt.

89.—(1) For the purpose of this Act, the expression "receipt" includes any note, memorandum, writing or electronic inscription whereby any money, or any bill of exchange or promissory note for money is acknowledged or expressed to have been received or deposited or paid, or whereby any debt or demand, or any part of a debt or demand is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgement, and whether the same is or is not signed with the name of any person.

(2) The duty upon a receipt may be denoted by an adhesive stamp which is to be cancelled by the person by whom the receipt is given before he delivers it out of his hands or by a digital tag with electronic stamp or any acknowledgement of duty charged on an electronic transaction.

(3) Notwithstanding the provisions of the Stamp Duties Act, electronic receipt or electronic transfer for money deposited in any bank or with any banker, on any type of account, to be accounted for and expressed to be received of the person to whom the same is to be accounted for of amounts from ₦10,000.00 upwards shall attract a singular and one-off duty of the sum of ₦50.00 :

Provided that money paid into one's own account or transferred electronically between accounts of the same owner by the owner within the same bank shall not be chargeable to duty.

(4) Any duty paid under subsections (1) to (3) shall be applied as a credit against any duty applicable on an instrument denoted with an adhesive stamp."

55. Section 90 of the Stamp Duties Actis deleted. Deletion of section 90.

56. The Schedule to the Stamp Duties Act is amended by— Amendment of Schedule.

(a) inserting under the category of exempt receipts, a new item—

"receipts given by any person in a Regulated Securities Lending Transaction carried out under regulation issued by the Securities and Exchange Commission" ; and

(b) inserting under the category of general exemption from stamp duty new items (14), (15), (16)—

"(14) Shares, stocks or securities transferred by a lender to its approved agent or a borrower in furtherance of a Regulated Securities Lending Transaction.

(15) Shares, stocks or securities returned to a lender or its approved agent by a borrower in pursuant to a Regulated Securities Lending Transaction.

(16) All documents relating to a regulated securities lending transactions carried out under regulations issued by the Securities and Exchange Commission."

57. This Act may be cited as the Finance Act, 2019. 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.

MOHAMMED ATABA SANI-OMOLORI
Clerk to the National Assembly
20th Day of December, 2019.

EXPLANATORY MEMORANDUM

This Act amends the Companies Income Tax Act, Cap C21, Value Added Tax Act, Cap. VI, Customs and Excise Tariff, Etc. (Consolidation) Act, Cap. C49, Personal Income Tax Act, Cap. P8, Capital Gains Tax Act, Cap. C1, Stamp Duties Act, Cap. S8, Petroleum Profit Tax Act, Cap. P13, Laws of the Federation of Nigeria, 2004 to provide for the review of tax provisions and make them more responsive to tax reform.

SCHEDULE TO THE FINANCE ACT, 2019

(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 Act, 2019.	An Act to Amend the Companies Income Tax Act, Cap C21, Value Added Tax Act, Cap. V1, Customs and Excise Tariff, etc. (Consolidation) Act, Cap. C49, Personal Income Tax Act, Cap. P8, Capital Gains Tax Act, Cap. C1, Stamp Duties Act, Cap. S8, Petroleum Profit Tax Act, Cap. P13, Laws of the Federation of Nigeria, 2004 to provide for the review of tax provisions and make them more responsive to tax reform ; and for related matters.	This Act amends the Companies Income Tax Act, Cap C21, Value Added Tax Act, Cap. V1, Customs and Excise Tariff, Etc. (Consolidation) Act, Cap. C49, Personal Income Tax Act, Cap. P8, Capital Gains Tax Act, Cap. C1, Stamp Duties Act, Cap. S8, Petroleum Profit Tax Act, Cap. P13, Laws of the Federation of Nigeria, 2004 to provide for the review of tax provisions and make them more responsive to tax reform.	11th December, 2019.	28th November, 2019.

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.

MOHAMMED ATABA SANI-OMOLORI
Clerk to the National Assembly
20th day of December, 2019

I ASSENT.

LS

MUHAMADU BUHARI, GCFR
President of the Federal Republic of Nigeria
13th Day of January, 2020.

Finance Act 2019

ABOUT THE CITN PROFESSORIAL CHAIR

The CITN/Babcock Professorial Chair was approved on November 7, 2017 but effectively came into operation in July, 2018. During this period, the professorial Chair collaborated with Babcock University to produce six(6) Doctoral Students specializing in Taxation and Fiscal Policy as part of the 19 graduating PhD Accounting graduates in the same University in 2018, On June 30, 2019, another six(6) PhD candidates mentored by the Chair with dissertations in Taxation and Fiscal Policy were hooded in academic attires for convocation. In 2019, the Chair published a Monograph titled "Maximazing the Benefits of Free Tracde Agreements among Nations: Lessons for Nigeria" as one of her contributions to academic and government fiscal policy and to express the position of CITN on the then ongoing discourse on African Region Free Trade Agreement. In addition, other various academic and professional activities have been engaged in, including paper publications and academic conferences.

This new Monograph is an effort by the CITN professorial Chair on behalf of CITN to lend both an academic and professional voice to the analysis of the newly signed Finance Act by various stakehoders.

THE CHARTERED INSTITUTE OF TAXATION OF NIGERIA,

Professorial Publication 2