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# **2020 FINANCE ACT AND BUSINESS HEALTH IN NIGERIA**



# OUTLINE

- \* MAJOR POLICY OBJECTIVES OF THE ACT
  - \* *A PRIORI*
  - \* KEY AMENDMENTS INTRODUCED BY THE FINANCE ACT 2020
  - \* KEY REFORMS INTRODUCED
  - \* IMPLICATIONS OF THE CHANGES ON KEY SECTORS
  - \* OVERALL BUSINESS IMPLICATIONS
- CONCLUSION

# MAJOR POLICY OBJECTIVES OF FINANCE ACT 2020

The Finance Act 2020 was signed into law by the President on 31 December 2020 and comes into effect from 1 January 2021.

- Designed to support the implementation of the 2021 Federal Government's Budget of Economic Recovery and Resilience, anchored on the following key objectives:

1. Adopt appropriate counter cyclical fiscal policies to respond to the economic and revenue challenges;
2. Reform extant fiscal policies to prioritise job creation, economic growth and social economic development and domestic revenue mobilisation;
3. Provide fiscal relief for taxpayers; and no new or higher taxes!
4. Propose measures to fund the Federal Government's COVID-19 pandemic as well as any similar crises in the future;
5. Ensuring coordination of fiscal, monetary and trade policies; and
6. Reform the Fiscal Responsibility and Public Procurement Acts.

# *A PRIORI EXPECTATION*

**Finance Act, 2020 seeks to implement Macroeconomic & Fiscal Policies to:**

- ü **Attract & retain Foreign and Domestic Investment in critical sectors;**
- ü **Foster Inclusive, Sustainable & Diversified Economic Recovery & Growth;**
- ü **Create Jobs to create wealth & reduce income inequalities; &**
- ü **Provide immediate fiscal strategies for accelerated Domestic Revenue**

**Mobilisation, in response to the COVID-19 Pandemic & global economic downturn.**

# A PRIORI CONTD.....

## **Specifically, the Finance Act, 2020:**

ü Proposes no New Taxes or Tax Rate Increases as well as very few Tax & Fiscal

Incentives;

ü Adopts Counter-Cyclical Fiscal Policies in response to the COVID-19 Pandemic;

ü Reforms Fiscal Incentives to prioritise Job Creation & Accelerate Economic Recovery;

ü Introduces Tax, Fiscal Responsibility & Public Procurement Reforms; &

ü Fosters closer coordination of Federal Govt.'s Monetary, Trade & Fiscal Policies.

# AMMENDMENT TO THE TAX LAWS

**Finance Act, 2020 – Amended Statutes**

*i. Capital Gains Tax Act, Cap.*

*C1;*

*ii. Companies Income Tax Act,*

*Cap. C21;*

*iii. Personal Income Tax Act,*

*Cap. P8;*

*iv. Customs & Excise Tariff Etc.*

*(Consolidated) Act, Cap. C49;*

*v. Value Added Tax Act, Cap.*

*V1;*

*vi. Nigeria Export Processing*

*Zone Act, Cap. N107;*

*vii. Oil & Gas Export Free Zone*

*Act, Cap. O5;*

**v The Finance Act, 2020 consists of over 80 changes to c.14 laws, viz.**

**viii. Industrial Development (Income Tax Relief) Act, Cap. I17; ix. Stamp Duties Act, Cap. S8;**

**x. Tertiary Education Trust Fund (Establishment) Act No. 16, 2011;**

**xi. Federal Inland Revenue Service (Establishment) Act No. 13, 2007;**

**xii. Fiscal Responsibility Act No. 31, 2007; xiii. Public Procurement Act No. 14, 2007;**

**xiv. Companies & Allied Matters Act No. 3, 2020 and**

**xv. The Establishment of Crisis Intervention Fund & Unclaimed Funds Trust Fund.**



**Finance Act, 2020 – Amended Statutes**

***i. Capital Gains Tax Act, Cap.***

***C1; ii. Companies Income Tax Act,***

***Cap. C21; iii. Personal Income Tax Act,***

***Cap. P8; iv. Customs & Excise Tariff Etc.***

***(Consolidated) Act, Cap. C49; v. Value Added Tax Act, Cap.***

***V1; vi. Nigeria Export Processing***

***Zone Act, Cap. N107; vii. Oil & Gas Export Free Zone***

***Act, Cap. O5;***

# KEY REFORMS INTRODUCED IN THE FA 2020

## Key Reforms introduced include:

1. Compensation for Loss of Office up to **N10million** is exempted from Capital Gains Tax;
2. Cost of Donations made in cash or kind to any approved Fund set up by Federal or any State Government in respect of any Pandemic or natural disaster shall be tax deductible subject to a maximum of 10% of assessable profit after deduction of other allowable donations;
3. 50% reduction in Minimum Tax, from 0.5% to 0.25% of Gross Turnover less Franked Investment Income, for companies in respect of returns for years of assessments due for a period of two years (between 1st January 2020 – 31st December 2021);
4. Exemption of all Low-Income earners of Minimum Wage or less from Personal Income Tax;
5. Exemption of all Micro & Small companies earning **N25million** or less in annual turnover from Tertiary Education Tax;

# KEY REFORMS CONTD . . . .

.6. Exemption of commercial airline tickets, commercial aircraft spare parts & components;

interests in land & buildings; animal feed; hire, rental or lease of agricultural equipment for

agricultural purposes from Value Added Tax at 7.5%;

7. Adjustment to incentives under the Finance Act, 2019 such that any Small or Medium Sized

Company engaged in primary agricultural production may be granted pioneer status (tax relief)

for an initial period of 4 years & an additional 2 years (making a total of 6 years);

8. For companies operating in Free Trade Zones, exemption from taxes is now subject to compliance with tax filing obligations to the FIRS under §55(1) of Companies Income Tax Act;

# KEY REFORMS INTRODUCED INCLUDE:

15. New 50% Cost-to-Revenue Ratio introduced for State-Owned & Government-Owned

Enterprises. Balance of operating surplus of these SOEs / GOEs shall be paid to the Consolidated Revenue Fund of the Federation each quarter. Direct deduction from TSA or

other accounts SOEs / GOEs may be made by HMFBNP t(Honourale Minister of Finance, Budget & National Planning) to enforce compliance;

16. Application of the Public Procurement Act to be extended to the Legislature & Judiciary for

the very first time. Other reforms provide for Electronic & Virtual Procurement & increase in

Mobilisation Fee thresholds from 15% to 30%; &

# REFORMS CONTD...

17. Establishment of a **N500bn Crisis Intervention Fund**, funded by Special Accounts, as well as other sources approved by the National Assembly. Key issues to note include:

- ü The Fund comprises Unclaimed Dividends in a Listed Company & Unutilized Funds in a Dormant Bank Accounts outstanding for 6 years or more;
- ü Fund's Governing Council to be chaired by HMFBNP & Organised Private Sector Co-Chair of impeccable integrity & reputation. Governing Council includes key stakeholders: SEC, Shareholders' Groups, CBN, Bankers' Committee, NDIC & DMO;
- ü Unclaimed Dividends & Bank Balances are subject to a Perpetual Trust managed by DMO. The Perpetual Trust is a special debt owed by the Federal Government of Nigeria, to genuine shareholders and bank customers, together with the relevant yield on the borrowed funds; &
- ü Genuine beneficiaries may claim their funds back from the Federal Government at any time.

# IMPACT ON THE KEY SECTORS

## General implications

- No easy choices or a silver bullet. Limited fiscal space for incentives and to deliver on counter-cyclical measures
- Decision to freeze taxes is commendable, use of emails
- Deduction for Covid-19 donations, reduction in min tax rate, reform to improve tax refunds

## Agriculture

- Rationalisation of incentives for broader sector but additional tax break for primary Agricultural production
- VAT exemption on animal feeds, lease of equipment, and lower import duty on tractors

# IMPACT CONTD.

## Banking and capital market

- Increased tax compliance obligations e.g. CRS
- Unclaimed funds trust fund

## Construction and real estate

- Time of supply rule for construction contracts (VAT rate)
- Exemption of land and building from VAT, REICo tax relief clarification

## Consumer and Industrial products

- Excise duties on imported materials and goods, reduction of import tariffs on vehicles, software as QCE
- Time and place of supply, periodic payments rules for VAT

## Energy & utility sector

- Tax filing obligations with FIRS for Oil & Gas free zone entities
- Rationalisation of gas utilization incentives

# IMPACT CONTD....

## Insurance industry

- Definition of gross income for life and gross premium for non-life businesses
- Deductibility of life premium & reporting under CRS

## Non-resident multinationals & digital economy

- Expanded tax compliance obligations (VAT & CIT), and ability to appoint fiscal representatives
- Introduction of SEP rules under PITA

## Transportation

- VAT exemption for flight tickets, duty waiver for commercial aircrafts, parts and components, and reduction for vehicles
- Rationalisation / clarification of tax rules for foreign airlines & shipping companies



# IMPACT

## MSMEs

- Exemption of small businesses from audited accounts
- Specific exemption from TET for small companies

## Public sector

- Establishment of the Crisis Intervention Fund
- Revenue and expenditure management, control and reporting, public procurement reforms (expanded scope & improved processes)

## Individuals and employers of labour

- Exemption of minimum wage earners from PAYE/PIT
- Withholding obligation for CGT on compensation for loss of employment

# OVERALL BUSINESS IMPLICATIONS

Reduction of minimum tax  
rate from 0.5% to 0.25%

2. Use of emails and other  
electronic means of  
communications with FIRS

3. Potential exemption of SMEs  
from preparing audited  
financial statements

# KEY REFORMS AFFECTING BUSINESSES

## Key Reforms introduced include:

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interests in land & buildings; animal feed; hire, rental or lease of agricultural equipment for agricultural purposes from Value Added Tax at 7.5%;

7. Adjustment to incentives under the Finance Act, 2019 such that any Small or Medium Sized Company engaged in primary agricultural production may be granted pioneer status (tax relief) for an initial period of 4 years & an additional 2 years (making a total of 6 years);

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# CONCLUSION

The Opportunities provided in the Finance Act 2020 should be a motivating factor to small Business set up, Entrepreneurship due to availability of some small venture capital from exemptions. However, improving the ease of doing business in Nigeria is a task that requires consistent affirmative action through policies and laws, and effective implementation of those policies and laws. While more can be still done, the changes introduced in the FA 2020 are further testaments to the commitment of the government to affirmative policy and legislation, and it is hoped that that the attractive changes will be implemented in a manner that will ensure that taxpayers enjoy the maximum benefits thereof.

# QUESTIONS

1. What are Business implications of the Tax Rate Adjustments and Tax Exemptions in the 2020 Finance ACT?
2. What are the Health implications for SMEs in Nigeria of Tax concessions granted in the 2020 Finance Act?
3. What are the probable Entrepreneurial implication of the Finance 2020 in relation to Wage exemption from Taxes?

