



THE CHARTERED INSTITUTE OF TAXATION OF NIGERIA

IMPORTANT NOTIFICATION IN THE TAX LAWS AS AMENDED THROUGH FINANCE ACT, 2023

In the latter period of the administration of the former President of the Federal Republic of Nigeria, Muhammadu Buhari, GCFR signed the Finance Bill 2023 into an Act on Sunday, May 28, 2023, and by implication, the Act amended specific provisions of the tax laws.

- **The effective date of the Act: May 1, 2023**
- **The Act amended three sections of the Capital Gains Tax Act namely: Sections 3, 5, 31**
 - * Section 3a on the chargeable Assets, the inclusion of “digital assets”
 - * Section 5 on the Exclusion of Loss: The substitution of section 5 of the principal act with a new section 5 (1-4), this section clarifies the amount of loss and gains deductible from the disposition of asset, it clarifies that loss shall only be deductible against same type of assets; and the maximum years to carry such losses forward.
 - * Section 31: replacement of business assets subsection (6) the insertion of Class 5, in addition to the Class 2, 3, and 4 now the subsection under the classes are: class 2 – Ships, class 3 – Aircraft, class 4 – Goodwill, class 5 – Stocks and Shares, for the application of roll-over relief for shares the proceeds must be reinvested in the same year of assessment.
- **The Act amended four sections and the second schedule of the Companies Income Tax Act: Sections 14, 32, 34, 37.**
 - * Section 14 inserts new subsection 4(a) that any companies in air transport and shipping operating in Nigeria shall submit detailed gross revenue statements of its operations that will fully show the sum earned during this period.
 - * New subsection 6, that regulatory agencies in this sector shall mandate all companies taxable to present evidence of income tax filing for the preceding year, and tax clearance certificates paid three preceding tax years.
 - * Section 32 and 34 were deleted but subject to any expenditure on plant and equipment and incurred qualifying capital expenditure on or before this effective date of the repeal of these sections shall continue to enjoy the allowance.
 - * Section 37 was also deleted, to ensure that any company that has set aside reserved funds shall continue to enjoy the exemption until the reserved funds are fully utilized or till the five-year limit has elapsed.
- **The Act amended three sections of the Custom, Excise, Tariff ETC (Consolidation) Act namely: Sections 13, 21, 22.**
 - * Section 13 inserts new subsection (4) which imposed 0.5% on all eligible goods imported into Nigeria from outside Africa to finance capital contributions, subscriptions, and other financial obligations designated for financial and multilateral institutions.
 - * Section 21 is amended by substituting subsection 2 with new subsection 2 that all services provided including telecommunication services shall be deemed for duties of excise at the rates specified and by the order of the President of the Federal Republic of Nigeria.
 - * Section 22 is amended by substituting for subsection (3) and (4) a new subsection with new subsections of the same,
- the two sections clearly defined who is “Minister” and “Tariff Review Board”.
- **The Act amended one section of the Personal Income Tax Act: Section 33.**
 - * Section 33 is amended by substituting for subsection (3) a new subsection of the same, provided that any portion of the deferred annuity before the end of five years from the premium date shall be subjected to tax at the point of withdrawal, therefore, imposition of tax on individuals, spouses, life and contract on premium paid for insurance.
- **The Act amended one section of the Stamp Duties Act: Section 89A**
 - * Section 89A is amended by substituting for subsection (4) a new subsection of the same, this provides sharing formula for the derivation of duties and shall be distributed as 15% for the Federal Government and FCT, 50% for the State Government and 35% for the Local Governments respectively.
- **The Act amended four sections of the Value Added Tax Act namely: Section 7, 14, 16, 46.**
 - * Section 7 is amended by inserting a new subsection (3) – (5), subsection 3 clarifies that where the amount of tax payable is deemed artificial or fictitious, the Service (FIRS) may disregard such disposition or direct that such adjustments shall be made respects liability to tax. Subsection 4 defined “disposition” to include any trust, grant, covenant, scheme, agreement or arrangement, or transaction between persons, etc.
 - * Section 14 is amended by substituting for subsection (3) a new subsection of the same, it empowered the Service (FIRS) to appoint any person to withhold or collect the tax on or before the 14th day of the following month.
 - * Section 16 is amended by inserting a new subsection (3), specifying that where taxable goods are imported into Nigeria were purchased via online or digital platforms by a non-resident supplier that has been appointed by FIRS such taxable goods shall not be further subjected to tax before clearing by NCS, also subject to modalities between FIRS and NCS
 - * Section 46 is amended by substituting for the definition of “building” a new definition of “building” This section redefined building as a permanent structure.
- **The Act amended one section of the Tertiary Education Trust Fund (Establishment etc) Act: Section 1(2).**
 - * Section 1 (2) is amended by substituting for 2.5% rate for 3%, it connotes an upward increase of 0.5% in the Tertiary Education Tax rate, therefore the current rate is 3%.