THE FINANCE ACT 2019 - HIGHLIGHTS OF SIGNIFICANT PROVISIONS

February 21, 2020.

The Finance Bill 2019, which was presented to the joint sitting of the National Assembly along with the 2020 Appropriation Bill, was signed into law on the 13th of January 2020 by President Muhammadu Buhari, thus becoming the Finance Act (the "**Act**"). The objectives of the Act are to reform tax provisions in Nigeria in line with global best practices, increase revenue generation to support the implementation of government's budgets and to create an enabling environment for businesses operating in Nigeria.

In line with these objectives, the Act amends the Companies Income Tax Act, the Value Added Tax ("**VAT**") Act, the Customs and Excise Tariff Etc. (Consolidation) Act, Personal Income Tax Act, Capital Gains Tax Act, Stamp Duties Act, and the Petroleum Profit Tax Act. Accordingly, this article shall highlight some of the significant provisions of the Act and likely impact of the Act on the Nigerian business environment.

Company-wide reforms

- All companies are now required by law to have and display their tax identification numbers ("**TIN**") in their transactions with other companies or individuals – including, in all documents, statements, audited account, filed returns, and correspondence with revenue authorities and Government ministries, departments and agencies.
- All companies are now required by law to provide their TIN as a precondition for opening or for the continuous operation of a bank account. Companies with pre-existing bank accounts must provide their TIN within three months of the passage of the Act (that is, before 13th March 2020).
- All companies that are not resident in Nigeria are now required by law to pay companies income tax (CIT) on income derived from operating within the digital economy and income derived from providing technical, management, consultancy or professional services to a person resident in Nigeria, provided the non-resident company has <u>significant economic presence</u> in Nigeria. The Act empowers the Minister of Finance to provide guidelines, by an order, on what counts as 'significant economic presence' – which we hope will be done in due course.
- All medium-sized companies whose annual gross turnover is **more than** ₦25, 000, 000 but is **less than** ₦100, 000, 000 will now be subject to a CIT of 20%, as opposed to the initial 30% prior to the passage of the Act.
- All large companies with annual gross turnover of ₦100 Million and above will continue to be subject to the 30% CIT rate.

Small companies

- Companies with **less than** ₦25 million Naira annual gross turnover are completely exempted from paying the CIT for that year provided the CIT returns is not filed late.
- Small and medium sized companies whose taxable supplies do not generate more than ₦25, 000,000.00 are exempted from charging VAT and by default, remitting or rendering a return.

Real Estate Companies

- All real estate investment companies are now exempted from paying CIT on their dividends and rental income provided at least 75% of the dividend and rental income is distributed within 12 months of the end of the financial they were earned.

Oil and Gas Companies

- All companies operating in the oil and gas industry are now required by law to pay further taxes, such as withholding tax, on dividends taken out of profits previously subjected to tax, thus taking out the exemption under the existing law.

Individuals

- All persons are now required by law to provide their TIN in other to open a new bank account for the *purposes of their business operations.*

Agricultural Production Companies

- All agricultural production companies will now enjoy tax free period for an initial five years, renewable for another three, provided they can show satisfactory performance of agricultural production. Similar incentives under existing laws are now repealed.

Loan transactions

- Tax incentives provided on interest generated by foreign lenders have now been capped at 70%, 40% or 10% of the interest, depending on the repayment period and the moratorium/grace period. Prior to the Act, a foreign lender may be entitled to tax incentives of up to 100% of the interest subject to certain conditions.

Business Reorganisations (Mergers and Acquisitions)

- All companies undergoing management reorganisation or business reorganisations with related parties are exempted from paying **VAT** and **CGT** over any transferred asset, provided they have been related parties for at least 365 days prior to the reorganization and the acquired assets are not sold by the acquiring company within 365 days after the business reorganisation.

Other significant changes applicable to business operations[1] in Nigeria

- The Act increases VAT from 5% of the value of the goods or services rendered to 7.5%
- For the purposes of VAT, goods now include intangible assets such as royalties (except interest in land) and tangible assets (except money and securities).
- For the purposes of VAT, goods are deemed supplied in Nigeria if, among other things, the goods are for the benefits of a person taxable in Nigeria and the goods are situated in, registered or exercisable in Nigeria.
- For the purposes of VAT, services are deemed supplied if provided by a person physically present in Nigeria or provided to a person present in Nigeria, even if the services were rendered outside Nigeria. Please note that services rendered to persons outside Nigeria are still exempted from VAT.
- All taxable persons with taxable supplies not exceeding ₦25, 000, 000 in a financial year are exempted from charging and remitting VAT. The Act also excludes proceeds of sale of capital assets, the ceasing of a taxable person's business or

[1] This include companies, business names and individuals

proceeds from the sale of the whole or part of the taxable person's business.

- The Act now allows taxable persons to utilize excess remitted tax as credits for future tax remittances.
- Taxable persons are now required by law to register immediately after commencement of business. Commencement of business is expanded to include the first advert, obtaining operating licence for operation, first sale and contract etc.
- Taxable persons must also notify the regulatory authorities within 30 days of change of address or cessation of business. The Act further increases the penalties for non-compliance with these provisions.

- For the purposes of charging Stamp Duties, receipts subject to stamp duties have been expanded to include electronic transfers of money more than ₦10,000.00 from one bank account to another. Thus, a bank transfer of ₦10,000.00 or more shall now, by law, attract a singular ₦50,00.00 stamp duty. However, this will not apply if the transfer is between accounts held by the same owner in the same bank.

Conclusion

Overall, we note that the Act makes very significant amendments to the provisions of various key Nigerian tax laws. We believe that the changes will bring about increase in revenue generation and generally provide a tax relief for the business operations of small and medium sized enterprises in Nigeria.

As the Act introduced significant amendments that will have an impact on the operations of companies generally, we will advise that corporates reappraise their operations with a view to determining how they may be impacted by the provisions of the Act.

This article is intended to provide an overview of the significant provisions of the Finance Act 2019 and as such should not be taken as purporting to provide legal advice on any matter. Kindly send an email to enquiries@odujinrinadefulu.com. If you need further legal advice on complying with the Act.

Authors

Jide Babalola
Senior Associate

Abolanle Ayoola
Associate

Akorede Omotayo
Associate

Follow us on social media by clicking the links below: