

The TaxaideR

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First Thoughts: Much Ado About Changes!

In my last editorial exactly five weeks ago today, I mentioned that I was writing from somewhere besides my office desk for the first time in a while. Well, that has not changed much, except that I am not exactly writing from my reading table at home this time but of course, I am still at home like many of you probably are. It's been six weeks and counting now since I started 'remote working' along with my work colleagues and millions of people all over the world.

If anything at all, the new reality has shown that sometimes, our big and fancy offices and our physical presence in these offices might just be overrated after all. While business revenues have been significantly affected across the globe due to the impact of the pandemic, people have been able to work regardless aided by technology. Virtual meeting platforms have become the norm more than the exception.

Further speaking about changes, I also recall that in my last editorial on 26th March, I quoted that 'as at 6.55pm Nigerian time on that day, there were **510,645 total cases**, **23,079 total deaths** and **122,245 recoveries** reported worldwide. Today, exactly five weeks later, as at 2.43pm Nigerian time, there are **3,244,595 total cases**, **229,182 deaths** and **1,016,419 recoveries**. I would represent this information in the table below.

	March 26	April 30	Change	% Increase
Total Cases	510,645	3,244,595	+2,733,950	535.39%
Total Deaths	23,079	229,182	+206,103	893.03%
Recoveries	122,245	1,016,419	+894,174	731.46%

Source: Worldometers

It is not my intention to scare you with these figures but to make you understand that we should be more careful than ever at this time. It is baffling that some naysayers still think the Covid-19 pandemic is not real but a ploy by some powers that be to enrich themselves. I have no words for them at this time. Please, stay safe. Ensure you take all relevant precautions including washing your hands regularly, use of face masks and maintaining social distancing. This is particularly important now that the lockdown order is being relaxed with effect from Monday, 4th May 2020 across some states in Nigeria, particularly the more affected states like Lagos, Ogun and Abuja. We continue to pray that these times pass and very soon too.

The palliative measures by the Federal Government and various State governments as well as relevant tax authorities are still in place and over the next few weeks, we would be running a series on the available tax incentives you stand to enjoy as an individual, a business owner or part of a corporate entity. Stay tuned to our TaxThursday bulletins, our website and of course our mobile application, TBook.

Please be reminded that the deadline for Financial Institutions to file Information Returns on all Reportable Accounts maintained in their Financial Institution in 2019 to the Federal Inland Revenue Service (FIRS) is barely a month away on **May 31, 2020**. At this time, we have no information of any change in this date and we would be sure to inform you if this changes. Please reach out to us on any of our available channels to ensure your Financial Institution is compliant.

In this issue:

- Regarding the May 31st deadline for the FIRS' Common Reporting Standard filing for Financial Institutions, we reproduce our detailed article, '**Nigeria's Common Reporting Standards – 6 Crucial Things Your Financial Institution Should Know**' which gives a detailed insight on the subject. You can also watch the accompanying video on this [here](#).
- Still on the Covid-19 pandemic and its impact on the global economy, *Oke David*, a young lawyer, virtual intern at Citi and also a good friend of the house writes an interesting article titled: '**COVID-19, the Saudi-Russia oil Stand-off and the Nigerian Economy**'. Trust me, it is an enlightening and thought-provoking piece.
- The Federal Inland Revenue Service (FIRS) has achieved great strides in its Q1 2020 tax collections, recording a 15% increase to stand at N1.2 trillion compared to Q1 2019 (N1.046 trillion). Read more [here](#).
- President Buhari has announced a gradual easing of Lagos, Ogun, Abuja lockdown which would begin on May 04, 2020. Read more [here](#).
- The International Monetary Fund (IMF) has approved a loan of US\$3.4bn to help Nigeria combat COVID-19 and support the Federal Government following the impact the declining global oil price is having on the Nigerian economy. Read more [here](#).

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Till Next Time

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Nigeria's Common Reporting Standard – 6 Crucial Things Your Financial Institution Should know and Implement

Overview

Tax Authorities in Nigeria have been and will always be looking for means to avoid or reduce profit shifting, base erosion and to also get information on the financial accounts of individuals and corporate entities in different jurisdiction, which is not a surprise that Nigeria signed a Common Reporting Standards (CRS) Multilateral Competent Authority Agreement (MCAA) a few months after the Voluntary Asset and Income Declaration Scheme (VAIDS) back in 2017.

The Common Reporting Standard is the means by which the tax authorities locate and tax any offshore taxable income or gains which is suspected to have been hidden in over 100 jurisdictions which are party to the CRS MCAA. The CRS is seen as a “weapon” against tax evasion and a possible increase of revenue generation.

Financial Institutions in Nigeria such as Banks, Investment houses, Insurance companies, Asset managers among others might be faced with compliance and reporting obligations set out in the CRS.

1. **What is the Common Reporting Standard?**

Common Reporting Standard sets out the information required for Automatic Exchange of Financial account Information on a global level between the tax authorities of different jurisdictions (Countries) that have agreed to be a party of such exchanges. Nigeria, being the 94th jurisdiction (Country) to join the CRS MCAA can either receive or deliver CRS information between more than 100 jurisdictions.

2. **What is the Legal Backing?**

In exercise of the powers conferred by Section 61 of the Federal Inland Revenue Service (FIRS) (Establishment) Act, the FIRS issued the Income Tax (Common Reporting Standard) Regulations (CRS Regulation) to provide legal backing for CRS Implementation in Nigeria.

3. Who Does the CRS Apply to?

Financial Institutions in Nigeria such as Banks, Financial institutions, Investment entities (Asset/portfolio managers) and Insurance companies could have additional statutory obligations under the CRS. For the CRS to apply, the institution must be;

- A Company, Partnership or a Trust, CRS does not apply to Sole-proprietorships and Individuals
- A Nigerian company or Nigerian branch of a foreign resident company
- Be a financial institution that performs key financial function and the CRS regulations categorized them as:
 - Custodial Institutions - Businesses that hold financial assets (equity and debt) for customers for example, asset managers etc. 20% or more of the gross income of the business for the last three years or as at year end should be attributable to custodial services
 - Depository Institutions - Institutions that accept deposits in the ordinary course of business
 - Investment Entities - Businesses that provide portfolio management, trade in money market or manage financial assets or monies on behalf of client
 - Specified Insurance Companies - This is an Insurance company (or the holding company of an Insurance company) obligated to make payments under an insurance contracts with a cash value or under an annuity contract.

4. As a Financial Institution What Steps Do We Need to take to ensure compliance with CRS Regulation?

▮

Steps to be taken by Financial Institutions to ensure compliance would include the following;

- Current onboarding forms should indicate the required information needed to file the CRS report
- A KYC update should be done on already onboarded Clients (Reportable Persons)
- Review the Financial Accounts with the Financial Institutions i.e. review the financial account managed by the financial institutions on behalf of clients
- Identify the Reportable accounts, i.e. accounts held by individuals or corporates other than Financial Institutions, Central Banks, International Organisation, Government Entity etc.
- Apply the Due Diligence rule after the Reportable accounts have been identified
- Report Relevant information at the Federal Inland Revenue Service (FIRS) before the due date, kindly note that in absence of a Reportable Account(s), reports should still be filed which would then imply a nil report

5. **What is the Deadline for Filing Information Returns?**

Information Returns on all Reportable Accounts maintained in your Financial Institution in 2019 is due to be submitted to FIRS on May 31, 2020.

6. **What are the Penalties for Non-Compliance with the CRS Regulation?**

Any Reportable Financial Institution (RFI) that does not meet its obligation for filing when due as stipulated in the Regulation, the following penalties for non-compliance would apply;

- Failure to comply with duty or obligation imposed by the regulation, N10million for each failure + N1 million for subsequent month in which default/failure continues
- Failure by RFI to file information return; N10million in the first month of default + N1million for subsequent month in which defaults continues
- Providing false or incorrect information - N5million
- Failure by RFI or any person to comply with the FIRS' requirement in the exercise of its powers under the Regulation, N1million in the first instance + N100,000 for subsequent day the failure occurs

Failure by RFI to keep records, N10million in the first month which failure occurs + N1m for subsequent month in which failure occurs

In the event that you or your financial institution require assistance with Filing Information Returns and compliance with CRS Regulation, Taxaide's Professional Personnel can assist in ensuring that all the steps required to comply under the Regulation are duly performed. Taxaide's technology flagship, Taxaide Technologies Limited (Taxtech) are also able to deploy easy to use technology for the automation of your CRS compliance process.

COVID-19, THE SAUDI-RUSSIA OIL WAR AND THE NIGERIAN OIL ECONOMY

-Oke David-

Introduction

Over 90% of Nigeria's foreign exchange earnings is derived from the Oil and Gas Sector, constituting the very essence of the nation's economy - a development following the 1956 breakthrough discovery of oil (in commercial quantity) in Oloibiri, the present day Bayelsa state. The Appropriation Acts of the Nigerian government, from past to present evidence a monotonous economy; one dependent on oil exports.

By the estimation of The Appropriation Act of 2020 (a budget of sustainable growth and job creation), **crude oil production volume is put at 2.18 million barrels per day with a \$57 benchmark per barrel.** This was or appeared to be a good deal as the price of Brent Crude was approximately \$70 per barrel as at January 2020. But things would soon change as global events have recently taken an ugly turn, most remarkable of which is the emergence of the novel Coronavirus (Covid-19) and the resultant Saudi-Russia Oil War forcing oil prices to fall to a record low. Nigeria, with an economy dependent on oil exports therefore becomes one of the most hit countries.



COVID-19, the Saudi-Russia oil standoff and the Nigerian Economy

The Covid-19 pandemic has affected 210 countries with over 3 million cases and over 200,000 deaths globally as of 28th April, 2020. With the rapid spread of the virus, oil demand by countries in Europe and Asia who are major buyers of oil has reduced drastically, resulting in an unprecedented devastation of economies, especially those dependent on it. The Organisation of Petroleum Exporting Countries (OPEC) as expected held its 178th Extraordinary Meeting in Vienna,



Austria on the 5th of March 2020 in high hopes of cushioning the effects of the decline in oil demand. The disagreement between Saudi-Arabia and Russia, two of the world's biggest oil producers, on production cuts however would soon dash those hopes.

What would this disagreement mean? A level of demand largely disproportionate to the supply of oil. Economists would very quickly agree that prices will fall where supply is higher than demand. Global oil prices are therefore falling, in line with the principles of microeconomics. Economies, like Nigeria's, dependent on oil revenue would therefore experience a downturn.

How is Nigeria responding to the impending economic crisis?

Due to the crash in oil revenue, the Federal Government of Nigeria on Wednesday, March 18, 2020 announced a slash in the 2020 Budget by N1.5 trillion, including the N457 billion the government spends on fuel importation (PMS under-recovery). The government took this step to avert the looming recession amidst the Covid-19 pandemic. More immediate measures taken by the country include the release of contingency funds to the Nigeria Centre for Disease Control and provision of economic stimulus package to cushion the impact of the

disease on households and businesses hit by the downturn. The Central Bank of Nigeria has also directed Deposit Money Banks 'to consider temporary and time-limited restructuring of the tenor and loan terms for businesses' in some listed sectors. While the government strives commendably to contain both the virus and the looming economic recession, it would appear there are more genies out of the bottle. These other issues would include: breach of terms of Production Sharing Contracts (PSCs) and Joint Operating Agreements (JOAs), shut down of economically unviable oil fields, financial indebtedness, exposure of guarantors and insolvency of operating companies, Suspension of projects that have not reached the Final Investment Decision (FID), inability to pay oil workers' salaries and wages due to fall in companies' revenue amongst others.



Recommendation

The World Health Organisation (WHO) has pointed out unequivocally that, concerning the Covid-19 pandemic, there is no end in sight. Sadly, there is also no known vaccine. Economies would therefore either take the bull by the horn or remain in the doldrums. The Nigerian oil and gas sector, oil operators and other stakeholders must take certain (legal) measures in order to ride out the storm. Some of these measures include:

1. Contract Renegotiation/Price Reviews:

Huge disputes and legal claims are expected, following the outright cancellation or suspension of some contracts, depending on their terms in an effort to reflect the economic realities on ground and price of oil in the global market. It is therefore recommended that contract renegotiation and alternative dispute resolution mechanisms in the event of disagreements be employed.

2. Debt Restructuring:

Companies in the oil and gas sector will obviously face a cash flow problem or a financial distress. Liquidating company debts during an oil price crash may adversely affect the company, and the result of this ranges from pay cut for senior executives to lay-off of staff and possibly insolvency. Debt restructuring agreements with creditors will afford these companies more time to source for funds.

3. Force Majeure:

Force Majeure refers to an event beyond the control of the parties, which frustrates or delays the performance of a contractual obligation. A study of model Force Majeure clauses entered into by the Nigerian Oil and Gas sector would reveal that a fall in global oil price does not qualify as a force majeure event capable of relieving parties from liabilities for delay in performance or non-performance of a contract. It is recommended that drafts of Force Majeure clauses should include phrases which would accommodate fall in prices resulting from a pandemic.

Conclusion

While analysts are yet uncertain about the full effects of the crises, we do know they are bad. The wild combination of oil price collapse and the coronavirus pandemic is not only sad. It is an invitation to aggravated poverty. Would the coronavirus pass? Yes, absolutely. But its devastating effects are what we may be left to grapple with. Nigeria is involved in a volatile market that it has very little control over. It is therefore expedient that the nation's oil and gas sector takes active steps to cushion the effects of these crises. More than this, Nigeria needs to diversify its economy. Otherwise, we are at the mercy of a volatile revenue source.



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