

Key Highlights of Nigeria's Finance Act 2021



The Finance Act 2021 (the “Act”) was recently signed into law by the President of the Federal Republic of Nigeria on 31 December 2021. The Act introduces various changes to 12 different laws in Nigeria. We have highlighted below, some of the key changes introduced by the Act.

Capital Gains Tax

1. Disposal of shares of a Nigerian company will be subject to Capital gains tax at the rate of 10% except, the;
 - a. proceed are reinvested in the acquisition of shares in the same company or another Nigeria within the same year of assessment; or
 - b. disposal proceed is less than N100m in any 12 consecutive months; or
 - c. transfer of shares is under a Regulated Security Lending Transaction.¹

Companies Income Tax

2. Facilities used solely for the (i) storage or display of goods or merchandise and (ii) collection of information shall be regarded as fixed base of a foreign company.
3. Agency expenses of the head office of a Nigerian company is no longer deductible for the purpose of determining profits of a life insurance company.
4. There is a compliance obligation on insurance companies to provide the Federal Inland Revenue Service with full particulars of an actuarial revaluation of unexpired risks no later than three months after such revaluation.



¹The Companies Income Tax Act defines “Regulated Securities Lending Transaction” as any securities lending transaction conducted pursuant to rules made by the Securities and Exchange Commission.

5. In the computation of Minimum Tax Payable for insurance companies (which is 0.5% of gross turnover), franked investment income shall be deducted from gross turnover.²
6. Profits of companies carrying on Upstream, Midstream or Downstream petroleum operations which are export – centric are not exempted from taxes.
7. The FIRS has power to assess and charge tax on a deemed turn-over basis on foreign companies that are engaged in online cable, radio and electronic commerce services to the extent that such companies have significant economic presence in Nigeria.
8. Where a portion of an asset is used in generating taxable income, the asset shall be pro-rated and only the portion relating to the taxable income shall be allowed for capital allowance. The provision of this section shall apply only where the non-taxable income portion is more than 20% of the total income. This restriction shall not apply to a company that enjoys pioneer status.
9. Any capital allowance or unabsorbed allowances of a small or medium company shall be treated as having been claimed and consumed by the company in each such year of assessment and the balance carried forward to future years. Therefore, irrespective of the fact that small and medium companies may not pay tax or may pay a lower rate of tax, they are expected to apply capital allowance on their assessable profits with the residue capital allowance carried forward for subsequent years. Please note that these provisions do not apply to companies with pioneer status.
10. Minimum tax is to be levied at 0.5% of gross turnover less franked investment income except for returns filed between January 1, 2020, and December 31, 2021; that is the three accounting periods between 1 Jan 2019 to 31 Dec 2021.
11. The grant of Gas – Utilization Incentive is subject to the following:
 - a. It is claimable once by the same company.
 - b. A restructured company that has enjoyed this incentive cannot enjoy the incentive again.
 - c. The incentive shall not apply where a company has claimed an incentive for utilization of gas under any other law in Nigeria.

²Please note that Gross Turnover means “gross premium and other income” in the case of non-life insurance business and “gross income”, in the case of life insurance business.

12. Where an objection or appeal is yet to be determined, the collection of tax shall be suspended until determination, however the undisputed tax assessment should be paid. Where the objection or appeal has been determined, the tax is to be paid within one month after service of the notice of assessment on the company.

13. WHT on interest earned from a unit trust shall be the final tax.



Custom and Excise Duty

14. Non-alcoholic, carbonated, and sweetened beverages is subject to excise duty of N10 per liter



Federal Inland Revenue Service Establishment Act

15. The penalty for contravening Section 28 of the FIRS (Establishment) Act will now be N2,000,000 for each return not filed or incorrect returns or information not provided and the penalty shall be payable for each quarter of default

16. FIRS may deploy proprietary or third-party technology to automate tax administration including assessment and information gathering provided it gives a 30-day notice to taxpayers. There is an administrative penalty of N25,000 for each day a company fails to grant access to FIRS.

17. Where a bank contravenes the provisions of the FIRS (Establishment) Act with respect to quarterly returns to the FIRS by bankers, such a bank shall be liable to a penalty of N1,000,000.00 for each returns or information not provided or incorrect information and returns provided and the penalty shall be payable for each quarterly returns not filed.

Nigeria Police Trust Fund Levy

18. FIRS (Establishment) Act shall apply to the administration, assessment, collection, accounting, returns and enforcement of the payment of the NPTF levy of 0.05% of profit after tax.



Personal Income Tax

19. Sums paid under annuity contracts are no longer tax deductible for the purpose of PIT computations.
20. The penalty for banks that contravene section 47 of PITA shall be N1,000,000.00 for each of the quarterly returns not filed or incorrectly filed.
21. Persons who contravene the provisions of PITA and no penalty is provided shall be liable to a penalty of N20,000.00 and N2,000.00 for every day the failure continues.
22. New customer returns filed by a bank will now be done quarterly and the penalty for banks that contravene section 49 of PITA shall be N1,000,000.00 for each of the quarterly returns not filed or incorrectly filed .

Tertiary Education Tax

23. The rate of Tertiary Education Tax (TET) is now 2.5% of assessable profit of a Nigerian company, small companies are not required to pay TET.

Stamp Duties

24. The Minister of Finance, subject to the approval of the National Assembly, shall make regulations for the imposition, administration, collection, remittance, including distribution of arrears of Stamp Duty and Electronic Money Transfer Levy collected between 2015 and 2019 fiscal years within 30 days from the effective date of the Finance Act 2021.

Value Added Tax

25. Non-residents that make taxable supplies to persons in Nigeria shall register for tax, charge, collect and remit VAT to FIRS. The VAT will only be withheld when the non-resident or its appointed agent fails to collect the VAT.
 26. The exemption from VAT registration and compliance obligation applicable to small companies with annual turnover less than N25m should now exclude companies engaged in upstream petroleum operations irrespective of turnover.
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National Agency for Science and Engineering Infrastructure Act


27. A levy for the benefit of the National Agency for Science and Engineering Infrastructure (the "Agency") has been introduced. The levy shall be 0.25% of profit before tax of companies with turn-over of N100million and above operating in the following sectors: (i) banking, mobile telecommunication, ICT, aviation, maritime, oil and gas. The levy shall be administered and collected by the FIRS and credited to the account of the Agency.

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