SYNOPSIS - TAX INFORMATION

JURISDICTION – NIGERIA

SECTION 3 – PRINCIPAL TAXES IN NIGERIA

Nigeria's fiscal operations adhere to the Federal System of Government. The government's fiscal authority is based on a three-tiered tax structure divided between the Federal, State and Local Governments, with the Federal Assembly and the State Houses of Legislature exercising their legislative (exclusive, concurrent and residual) powers to administer the relevant taxes falling under their jurisdictions.

Tax collection is/are carried out by the Tax Authority for each tier of government; and by a Ministry, Government Department or any other Government Body charged with the responsibility for assessing or collecting a particular tax.

The Taxes and Levies (Approved List for Collection) Act, CAP T-2, Laws of the Federation of Nigeria ("LFN"), 2004 provides a list of the taxes that each tier of government can charge in Nigeria. A schedule of this list is provided at the end of this Section as **Annexure I**.

THE MAJOR TAXES IN NIGERIA

COMPANIES INCOME TAX

This is the annual tax on the profits of registered companies, which profits must accrue in, be derived from, brought into, or received in Nigeria.

The annual tax rate on company profits in Nigeria is thirty per cent (30%).

There is however a twenty per cent (20%) tax concession for certain companies, for the first five years of their operation, i.e. those engaged in agricultural production, or mining of solid minerals with a minimum annual turnover of ₦500,000, and those engaged in manufacturing or in the export promotion business with an annual turnover not exceeding ₦1,000,000.

Subject to certain exceptions, minimum tax is imposed where a company has no taxable income in any year of assessment or the tax payable is less than the minimum tax provided for in Section 33 (2) (a) of the Companies Income Tax Act, CAP C-21, LFN, 2004.

EDUCATION TAX

All incorporated companies in Nigeria are required to pay two per cent (2%) of their assessable profit into an Education Tax Fund.

By Section 3 of the Education Tax Act, CAP E-4, LFN, 2004, the collected Education Tax is disbursed through a Education Trust Fund for the rehabilitation, restoration and consolidation of educational institutions in Nigeria, i.e. the improvement of the standard of educational facilities at all institutions of learning throughout the country.

PERSONAL INCOME TAX

Personal Income Tax is the tax on the aggregate amount of an individual's income for an assessable year, from all sources inside and outside Nigeria, except for income specifically exempted under the Personal Income Tax Act ("PITA"), as amended in 2011.

Personal Income Tax (PAYE) is based on an employee's earnings, and on the direct income or profits of individuals using the self assessment tax system.

The Personal Income Tax rate is applied on a graduated scale on the taxable annual income, as set out below:-

a. First ₦300,000 – 7%
b. Next ₦300,000 – 11%
c. Next ₦500,000 – 15%
d. Next ₦500,000 – 19%
e. Next ₦1,600,000 – 21%
f. Next ₦3,200,000 – 24%

Under the PAYE tax system, employers are required to deduct and account for personal income tax on the total remuneration (salary and benefits) of their employees; and must remit this tax to the relevant tax authorities, on or before the 10th day of the month following the payment of the employees' income.

The official emoluments of the President, the Vice President, Governors and Deputy Governors in the Federal Republic of Nigeria are no longer tax exempted. Their incomes are now fully taxable by the provision of Section 33 (a) of the amended PITA, 2011.

By Section 4 of the PITA, Benefits-In-kind (BIK) provided to an employee by the employer, such as official cars, accommodation, travels, health care, etc are deemed to be part of the employee's gross emoluments. The taxable benefit is five per cent (5%) per annum of the cost, where the asset is owned by the employer or the actual rent paid where the asset is leased by the employer.

By Section 5 of the PITA, BIK on accommodation is taxable based on the annual value of the premises as determined for purposes of local rates or as determined by the relevant tax authority, rather than the declared rent paid.

PETROLEUM PROFITS TAX

Currently in Nigeria, in place of the Companies Income Tax, the Petroleum Profits Tax is levied on the income, for each accounting period, of companies engaged in upstream petroleum activities.

The Petroleum Profits Tax rates vary, depending on the fiscal arrangement entered into the Federal Government and the oil and gas companies. For profits from petroleum operations carried out under a Joint Venture ("JV") arrangement with the Nigerian National Petroleum Corporation ("NNPC"), or any Non-Production Sharing Contract that is over 5 years in tenure, the annual tax rate is 85%.

For profits from non-PSC operations in the first 5 years during which the company has not fully amortised all pre-production capitalised expenditure, the tax rate is 65.75%.

For profits from petroleum operations under Profit Sharing Contracts Structure with the NNPC, the tax rate is 50%.

Royalties are also payable to the Federal Government of Nigeria by the holder of an Oil Prospecting Licence ("OPL") or an Oil Mining Lease ("OML") as soon as oil production begins. This is usually in the form of monthly cash payments at the prescribed rate or by way of royalty oil.

The Nigerian Oil and Gas Industry Content Development Act, which is more commonly described as the Local Content Act, imposes a levy of 1% on every contract awarded to operators and entities in the upstream oil and gas industry; with contributions of this levy invested in a Development Fund managed by Nigerian Content Development and Monitoring Board, to encourage indigenous participation in the oil and gas industry, and build local capacities and competencies.

A new tax regime in the Petroleum sector of the Nigerian economy is expected to take effect once the proposed Petroleum Industry Bill is passed into law by the Nigerian Federal Assembly.

CAPITAL GAINS TAX

Capital Gains Tax ("CGT") is the tax on the capital gains accruing to any legal person (company or individual) when a disposal of chargeable asset occurs.

By Section 2 (1) of the CGT Act, CAP C-1, LFN, 2004, the rate of CGT is ten per cent (10%) of the gain derived when the asset was sold –

gain is the difference between the cost of acquiring the asset and the sale price with approved maintenance expenses excluded when computing this tax.

The CGT in respect of companies are collected by the Federal Tax Authority; while the CGT in respect of individuals are collected by the State Tax Authority where the individual reside.

WITHHOLDING TAX

Withholding tax is an advance tax deduction from any income paid in Nigeria. This advance tax must be remitted to the relevant tax authority for the latter to issue a withholding tax credit note or receipt.

The recipient of the income is entitled to utilise the withheld tax credit note or receipt, against his, her or its final tax obligations.

The Withholding Tax rates in Nigeria are enumerated in **Annexure II** at the end of this Section.

Under the Double Taxation Treaties ("DTT") that Nigeria has signed, the rate of Withholding Tax on dividend, interest and royalty payments is reduced to 7.5% when the receiver of the income is a resident of a DTT country.

VALUE ADDED TAX ("VAT")

Value Added Tax ("VAT") is a consumption tax imposed and charged on goods and services which are not expressly exempted from VAT under Nigerian Law.

Except for the VAT-exempted or zero-rated goods and services, the current rate of VAT charged in Nigeria is five per cent (5%) of the value of the goods and services supplied or delivered.

Accordingly to PricewaterhouseCoopers Manual on "Doing Business and Investing in Nigeria", businesses usually pay VAT on goods and services that they purchase ("which is known as Input VAT"), and charge VAT on the goods and services that they supply (which is commonly known as "Output VAT").

Taxable persons must within six months of their commencement of business, register for VAT with the Federal Board of Inland Revenue Service ("FIRS"). And subsequently render to FIRS, on or before 21st day of each month, a VAT return on all the goods and services that were purchased or sold during the preceding month.

Where the Output VAT exceeds the Input VAT, the taxable person shall remit to FIRS, the excess Output VAT collected; while should the Input VAT exceed the Output VAT, the taxable person shall be entitled to a refund of the excess Input VAT on its production of the supporting documents that may be requested for by FIRS, from time to time.

A non-resident company that does business in Nigeria must also register for VAT compliance, using the address of the person with whom it has a subsisting contract, as its address in Nigeria for purposes of correspondence relating to VAT.

LAGOS STATE CONSUMPTION TAX LAW

In 2009, the Lagos State Government of Nigeria signed into Law the Lagos State Hotel Occupancy and Restaurant Consumption Law ("the Lagos State Consumption Law"). This Law imposes a five per cent (5%) consumption tax on all goods and services consumed in Hotels, Restaurants, and Event Centres within the territory of Lagos State.

The 5% Lagos State Consumption Tax excludes the computation of this tax on the further 5% VAT charged on the same goods and services.

The Lagos State Consumption Tax has been criticised for infringing the double taxation rule. The Lagos State Government has however contended that consumption tax is a residual matter under the Federal Constitution of Nigeria. The Final decision of a superior court of record in Nigeria is expected to resolve this legal controversy on which tier of government has the authority to impose consumption tax in Nigeria.

EDO STATE CONSUMPTION TAX LAW

The Edo State Government of Nigeria, in 2011, also enacted into Law a Hotels and Events Centres Occupancy and Restaurants Consumption Law, which imposes a five per cent (5%) consumption tax on all the items, consumed or utilised in Hotels, Restaurants, Event Centres and other related facilities in Edo State.

The same double taxation criticism and the Edo State Government's contention that this is a residual matter under the Nigerian Federal Constitution, is awaiting final determination in superior courts of record in Nigeria.

STAMP DUTIES

There is in Nigeria a Stamp Duties Act, CAP S-8, LFN, 2004. This Law requires that all written instruments in Nigeria, that are of a contractual nature, must be stamped before they can be admissible in any judicial or quasi-judicial proceedings.

The care and management of Stamp Duties collection or administration in Nigeria is imposed on the Commissioner for Stamp Duties at the

Federal tier of Government, and the Commissioner for Stamp Duties for each State in the Federation of Nigeria.

The Federal Government of Nigeria has the exclusive jurisdiction to charge and collect Stamp Duties on written instruments where one or both or all the parties are incorporated companies. The opposite is the case that a State Commissioner for Stamp Duties has the exclusive authority to charge and collect Stamp Duties on written instruments where all the parties are individuals.

Stamp duty is generally charged at the fixed rate of seventy-five kobo (75k) on every fifty Naira (₦50) of consideration for land documentation, while other forms of documentations are generally charged *ad valorem*, which means according to a proportion of the value or consideration of the transaction.

Unlike other taxes that ascribe criminal penalties for default, the Stamp Duties Law only provides a bar to the admission in evidence of any unstamped document in judicial or quasi-judicial proceedings.

PROPERTY TAXES

Real Estate Conveyance Tax

Land in urban areas of every State in the Federation of Nigeria is vested in the State Governor of every State, by virtue of the provisions of the Land Use Act, CAP L-5, LFN 2004.

The consent of the Governor of every State is therefore required for any transfer of any interest in any land (real property) situated in urban areas. And the relevant State Governments impose some charges for the grant of such Governor's Consent: - in the form of Consent fees, Capital Gains Tax (for individuals), Stamp Duties charges, Registration fees, Ground Rent or Land Use Charge, Tenement Rates, Improvement or Development Charges. The rates for these charges and fees vary from State to State.

Some States have Laws that consolidate the above property levies and taxes into one charge; an example is the Lagos State Land Use Charge Law.

There is also a Bill before the Nigerian National Assembly seeking to establish a Property Tax for properties in the Federal Capital Territory, Abuja. This Law will, when passed, charge different rates of Property Tax on different commercial and non-commercial properties in the Federal Capital Territory.

INHERITANCE AND GIFT TAXES

The generally held opinion in Nigeria is that there is no Inheritance and Gift Taxes in Nigeria. This opinion is however doubtful as there is in enforcement a ten per cent (10%) Estate Fee charged on a deceased person's Estate when the Executors or Administrators of that Estate apply for Letters of Administration, with or without a Will.

Also, the Personal Income Tax Act, as amended in 2011, imposes Personal Income Tax on Individuals, Communities, Families, Trustees or an Estate with its beneficiaries wherever any payment or benefit accrues out of any settlement, trust, or estate.

SOCIAL SECURITY/CONTRIBUTORY SCHEMES

PENSION CONTRIBUTIONS

The failure of the previous Pension and other Social Security Contributory Schemes to fulfil their statutory objectives led to the enactment of the Pension Reforms Act in 2004.

This new Pension Scheme mandatorily requires employers to contribute a minimum of 7.5% of each employee's entire income to that employee's Pension Savings Account, while each employee is also mandatorily required to contribute a further minimum of 7.5% of such employee's total income to the employee's Pension Savings Account.

Private individuals and entrepreneurs especially in the private sector are entitled to join this scheme by opening a retirement Savings Account into which monthly pension contributions will be made.

Employers are also mandatorily required to maintain a Life Insurance Policy in favour of each of their employees for a minimum of three times the annual total emolument of the employee.

EMPLOYEE'S COMPENSATION

There is also the Employee's Compensation Act, which repealed the Workmen's Compensation Act, and makes provision for an improved, guaranteed and adequate compensation in the event of any death, injury, disease, or disability arising out of or in the course of employment and related matters.

The Employees Compensation Act requires Employers to register with the Nigerian Social Insurance Trust Fund ("NSITF") and make a one per cent (1%) contribution of their total monthly payroll to the Employee's Compensation Fund.

INDUSTRIAL TRAINING FUND (ITF)

The Industrial Training Fund (Amendment) Act, 2011 established the Industrial Training Fund ("ITF") into which employers with a minimum of Five (5) employees, whether Nigerians or expatriates, or employers with an annual turnover of Fifty Million Naira (₦50,000,000) and above, are obligated to contribute one per cent (1%) of their entire annual payroll to ITF, for these contributions to be used to promote and encourage skills acquisition and commerce in management, technical and entrepreneurial development.

The ITF Governing Council may refund up to fifty per cent (50%) of an employer's contribution to the Industrial Training Fund, if the ITF Governing Council is satisfied that the training programmes of the employer are in accordance with the ITF reimbursement criteria.

NATIONAL HEALTH INSURANCE SCHEME

The National Health Insurance Scheme Act established the National Health Insurance Scheme (NHIS) with the objective of ensuring that voluntary contributors to the scheme have access to qualitative health care services which do not cause the contributors financial hardship from very expensive medical bills.

The NHIS Act generally requires an employer who has a minimum of Ten (10) employees to make voluntary health care insurance contributions at such rate and in such manner as the NHIS Council may from time to time determine. Presently, employees are required to make a minimum contribution of five per cent (5%) of their basic salary, while employers contribute ten per cent (10%) of each employee's basic salary, to the NHIS.

Contributions to the scheme are exempted from any form of taxation.

NATIONAL HOUSING FUND

The National Housing Fund Act, CAP N-45, LFN, 2004 established the National Housing Fund into which every employer is required to deduct 2.5% of the monthly salary of every employee and remit these contributions to the National Housing Fund for the provision of affordable houses and housing loans to deserving contributors. Self-employed persons are also entitled to join this Housing Fund and make contributions in return for the benefits enumerated in the National Housing Fund Act.

The monthly contributions to the National Housing Fund attract a modest interest rate of Four per cent (4%) per annum.

Contributors who have not obtained a housing loan under this fund are allowed, on the attainment of sixty years of age or full retirement, to receive a complete refund of all their contributions with interest earned within three months of their making such a refund application.

All the above contributions under this section are exempted from tax under Nigerian Law.

IMPORT AND EXPORT TAX

The Customs and Excise Management Act ("CEMA") is the principal legislation that regulates the management and collection of taxes and duties on non-exempt materials manufactured for sale within Nigeria; like Spirits or Alcohol, Beer and Tobacco; or for export outside Nigeria, or other non-exempt materials brought from outside Nigeria into Nigeria for any legitimate purpose.

Subject to the Customs, Excise, Tariff, etc (Consolidation) Act, there is also in Nigeria the Import (Prohibition) Act, which makes regulations for the prohibition of certain imports into Nigeria, either for trade or otherwise, as such imports may be contaminated by toxic substances.

To protect the local market, the Export (Prohibition) Act equally prohibits the export of certain arable food items from Nigeria.

Stiff fines, other penalties which include confiscation of the prohibited items, with terms of imprisonment, apply to any breach of the above legislations.

INFORMATION TECHNOLOGY TAX

The National Information Technology Development Agency Act, 2007 established the National Information Technology Development Agency ("NITDA"), with this Agency charged with the statutory authority of developing and regulating information technology practices, activities and systems in Nigeria.

All information technology companies, from GSM service providers, to internet and cyber companies, pension managers and pension related companies, insurance, Banks and other similar financial institutions, who have an annual turnover of One Hundred Million Naira (₦100,000,000) and above are required to pay a levy of one per cent (1%) of their annual profit before tax ("PBT") to the National Information Technology Development Fund ("NITD Fund"), which Fund is administered or managed by NITDA.

All levies and contributions to the NITD Fund are exempted from all the forms of income tax in Nigeria.

The Federal Inland Revenue Service is statutorily required to assess and collect the Information Technology Levy, and remit the collected levies to the NITD Fund, administered by the NITDA.

TAX INCENTIVES AND EXEMPTIONS

PIONEER STATUS

The Industrial Development (Income Tax Relief) Act, as amended, makes provisions for the President of Nigeria to approve tax relief for certain Pioneer Industries to be issued with Pioneer Certificates, which Certificates exempts such Pioneer Industries from Corporation Tax, for a certain period of time, in order for more favourable economic growth to be promoted in certain sectors of the Nigerian economy.

The initial tax relief period for a Pioneer Company with pioneer status certification is Three (3) years, with not more than a further term of Two (2) years tax relief granted on satisfactory grounds been shown that benefits were obtained by the concerned industry during the initial term granted to the pioneer company.

Dividend income in the hands of a shareholder, arising from the certified tax exempted profits of a pioneer certified Company, are also exempted from income tax that will otherwise be payable by such a shareholder.

LIQUIFIED NATURAL GAS

Another income that enjoys tax exemption and incentives in Nigeria are profits derived from oil and gas exploration and production by petroleum entities with whom the Federal Government of Nigeria has signed a Memorandum of Understanding, as well as various Associated Gas Framework Agreements providing for these special fiscal arrangements.

Vendors in the liquefied natural gas industry also enjoy exemptions from the payment of import duty and other related duties in the importation of materials required in the liquefied natural gas industry.

EXPORTS

Interest income earned on loans granted to manufacturers engaged in exports from Nigeria, by licensed Banks are exempted from taxation provided a certificate of exemption is obtained from the National Export Promotion Council (“NEPC”).

ANNEXURE I

Below is a list of Nigeria's Federal Tax System, as provided in the Taxes and Levies (Approved List for Collection) Act:-

FEDERAL GOVERNMENT	STATE GOVERNMENT	LOCAL GOVERNMENT
• **Companies Income Tax**. • **Withholding Tax** (applies to Companies; Residents of the Federal Capital Territory, Abuja; and Non-Resident Individuals). • **Personal Income Tax** (applies to personnel of the Armed Forces; Police; Ministry of Foreign Affairs; and Residents of the Federal Capital Territory, Abuja). • **Capital Gains Tax** (applies to Corporate Bodies; Residents of the Federal Capital Territory, Abuja; and Non-Resident Individuals). • **Petroleum Profits Tax**. • **Value Added Tax.** • **Education Tax.** • **Stamp Duties** (applies to Corporate Bodies and Residents of the Federal Capital Territory, Abuja).	• **Personal Income Tax** in respect of (a) Pay-As-You-Earn [PAYE] and (b) Direct Taxation [Self Assessment] (applies to Residents of the various States). • **Withholding Tax** (applies to individuals only). • **Capital Gains Tax** (individuals only). • **Stamp Duties** (applies to Instruments executed by individuals only). • **Taxes on Pool Betting, Lotteries, Gaming, and Casino**. • **Road Taxes** (e.g. Vehicle Licence). • **Business Premises Registration Fees** in respect of Urban and rural areas; with their respective maximum fee threshold for registration and renewal. • **Development Levy** (individuals only). • **Street Name Registration Fees** in the State Capital only. • **Market Taxes and Levies**, where state finance is involved. • **Fees for Right of Occupancy on urban land owned by the State Government**. • **Miscellaneous Revenue** (e.g. Hotel Consumption Tax)	• **Motor Park Levies/Fees.** • **Fees for Domestic Animal Licenses.** • **Fees for Bicycles, Trucks, Canoes, Wheelbarrows, Carts and Canoes**, other than mechanically propelled truck. • **Fees for Right of Occupancy on land rural areas** (except those of Federal and State Governments). • **Cattle Tax**, payable by Cattle Farmers only. • **Merriment** (Entertainment) and **Road Closure Levy.** • **Fees for Radio and Television** (other than radio and television transmitter). • **Fees for vehicle radio licence** (to be imposed by the Local Government of the State in which the car is registered). • **Charges for wrongful parking.** • **Fees for public convenience, sewage and refuse disposal.** • **Customary burial ground permit fees.** • **Fees for permits for religious establishments.** • **Fees for permits for sign boards, bill boards and advertisement.**
Other taxes authorised under different Laws include **Mining Rents and Royalties, Customs** i.e. **Import and Excise Duties.**		

ANNEXURE II

Kind of payment	Rate at which tax is to be deducted on a payment to a company.	Rate at which tax is to be deducted on a payment to an individual.
1. Dividend, Interest, and Rent.	**10%**	**10%**
2. Royalties.	**10%**	**5%**
3. All aspects of building, construction and related activities.	**5%**	**5%**
4. All types of contracts and agency arrangements, other than outright sale and purchase of goods and property in the ordinary course of business.	**5%**	**5%**
5. Hiring of equipment, motor vehicle, plants and machinery.	**10%**	**10%**
6. Commission, fees for technical and management services, fees for consultancy and professional services – legal fees, audit fees etc.	**10%**	**5%**
7. Director's fees.	**N/A**	**10%**

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1. Companies Income Tax Act.
2. Taxes and Levies (Approved List for Collection) Act.
3. Education Tax Act.
4. Personal Income Tax Act.
5. Petroleum Profits Tax Act.
6. Nigerian Oil and Gas Industry Content Development Act.
7. Capital Gains Tax Act.
8. Value Added Tax Act.
9. Lagos State Hotel Occupancy and Restaurant Consumption Law.
10. Edo State Hotels and Events Centres Occupancy and Restaurants Consumption Law.
11. Stamp Duties Act.
12. Land Use Act.
13. Lagos State Land Use Charge Law.
14. Pension Reforms Act.
15. Employee's Compensation Act.
16. Industrial Training Fund (Amendment) Act.
17. National Health Insurance Scheme Act.
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19. Customs and Excise Management Act.
20. Export (Prohibition) Act.
21. Import (Prohibition) Act.
22. National Information Technology Development Agency Act.
23. Industrial Development (Income Tax Relief) Act.