

FINANCE ACT 2020

CHANGES OCCASIONED BY THE FINANCE ACT 2020

The President Buhari on 31st December 2020 signed into law the Finance Act 2020. The Act amends among others the Capital Gains Tax Act, Companies Income Tax Act, Industrial Development (Income Tax Relief) Act, Personal Income Tax Act, Tertiary Education Trust Fund (Establishment Etc.) Act, Custom and Excise Tariff Etc. (Consolidation) Act, Value Added Tax Act, Stamp Duties Act and Companies and Allied Matters Act. We have here highlighted the important further amendment done by the Finance Act 2020 to the Finance Act 2019 as well as highlighted important insertions or amendments to the various Acts by the Finance Act 2020.

CHANGES IN THE FINANCE ACT 2020 AFFECTING THE FINANCE ACT 2019

Capital Gains Tax Amendments (CGTA):



Finance Act 2019	Finance Act 2020
Compensation for loss of employment below N10m to be exempted from CGTA	By the amendment of the CGTA compensation for loss office will not be chargeable unless it is more than N10m and only the amount in excess of N10m will be chargeable

OTHER IMPORTANT CHANGES OCCASIONED BY THE FINANCE ACT 2020

❖ **Companies Income Tax Act :**

- Now, for interest on loan to be exempted from CIT, it must be of loan issued in respect of primary agricultural production as opposed to the previous provision of agricultural trade or business.
- Interest on foreign loans and on loans granted for primary agricultural production, fabrication of local plant and providing work capital for any cottage company shall be exempted CIT where moratorium is not less than 12 months as opposed to the previous provision of 18 months.
- Cost of Donations whether in cash or in kind made by companies to any fund set up by the Federal Government or state government in respect of any pandemic or natural disaster shall be tax deductible. Allowable amounts for deduction shall however be limited to 10% of assessable profits after deductions of other allowable donations.

- Minimum tax payable as CIT is now 0.5% of gross turnover less franked investment income as opposed to 0.5% of gross profit. Minimum tax shall be reduced to 0.25% for tax returns prepared and filed for any year of assessment falling due between 1 January 2020 and 31st December 2021 or both days inclusive.
- Gross premium now means total premiums written, received and receivable excluding unearned premiums and premiums returned to the insured
- Gross income now means total income earned by a life insurance business including all investment income (excluding franked investment income), fees, commission and income from other assets but excluding premiums received and claims paid by re-insurers
- Incentives to the gas industry under CITA are not available to companies that have claimed incentives for trade or business of gas utilization under any law in Nigeria including PPTA or Income Tax Relief Act in respect of same qualifying expenditure
- A company which is not a Nigerian company but derives profit from Nigeria or is taxable in Nigeria under CITA, is to submit return for the relevant year of assessment containing audited financial statement, statement containing amounts of profit and source.

- Service of notice of assessment by FIRS in respect of CIT can now be done by post, courier, email and any other electronic means
- Every company including exempted companies are liable to maintain books of account in English language. Failure to provide makes the defaulter liable to pay a fine of N100,000 for the first month and N50,000 for each subsequent month the default continues.
- Tax payable by insurance companies will be 0.25% for tax returns prepared and filed for any year of assessment falling due between 1 Jan 2020 and 31st Dec 2021.
- A real estate investment company will be exempted from tax on dividend and rental income if it meets the requirement of being established within an export processing zone or free trade zone to qualify it for exemption.

❖ **Industrial Development (Income Tax Relief) Act:**

- Small and medium sized companies engaged in primary agricultural production upon application to the president through the minister will be entitled to an initial tax-free period of four years which may be extended by another maximum term of 2 years subject to the companies' satisfactory performance. The company will not be granted similar relief under any other Act.

❖ **Personal Income Tax Act :**

- The profits of businesses comprising of furnishing of technical, management consultancy or professional services to a person resident in Nigeria by an individual, executor or trustee outside Nigeria are considered derived from and taxable in Nigeria to the extent that the individual, executor or trustee has Significant Economic Presence. The Act however provides that withholding tax shall be the final tax for companies that do not fall under the services of technical, management consultancy or professional services
- According to the new amendment, contribution to pension, provident or other retirement benefits fund, society or scheme, recognized under the Pension Reform Act are allowable deductions under the PITA without conditions.
- Assessable income for a business that ceases to operate shall be the amount of income from the beginning of the accounting period until the date of cessation of the business and such tax shall be payable within 3 months from cessation as opposed to the previous provision of paying tax on income for the year in which cessation of business occurs.

- Premium paid by an individual in respect of insurance of his life or the life of his spouse or a contract of deferred annuity on his life or the life of his spouse is now an allowed deduction under the PITA.
- Persons who earn the National Minimum Wage or less are no longer subject to taxation under the PITA.

❖ **Capital Gains Tax Act:**

- The CGT now imposes a duty on the person who pays compensation for loss of office i.e., the employer to deduct and remit the tax at the point of payment.
- A ship or aircraft used in international traffic is seen as situated in Nigeria if the owner is resident in Nigeria and an interest or right in or over a ship or aircraft is situated in Nigeria if the person entitled is resident in Nigeria.
- Every person that disposes of a chargeable asset is to not later than 30th June and 31st December compute the Capital Gains Tax, file self-assessment return and pay tax of the chargeable tax

❖ **Tertiary Education Trust Fund (Establishment Etc.) Act :**

- The tax rate of 2% as Tertiary Education Tax to be charged on companies registered in Nigeria will no longer be charged on small companies by virtue of the amendment.

❖ **Custom and Excise Tariff, Etc, (Consolidation) Act:**

- Imported goods have been included to goods liable to be charged with excise duties under the Custom, Excise Tariff Act.
- Telecommunication services provided in Nigeria shall now be charged with excise rates as determined by an order of the president.
- The duties chargeable on tractors has been reduced from 35% to 5%; Duty chargeable on Motor Vehicles for transport of more than 10 persons reduced from 35% to 10%; Levy on motor vehicles for transport of persons(cars) has been reduced from 30% to 5%; duty for motor vehicles for transport of goods has been reduced from 35% to 10%; vehicles that enjoy exemption from applicable duties will continue to enjoy same.
- Airlines registered in Nigeria and providing commercial air transport services are now entitled duty-free importation of their aircraft, engines, spare parts and components whether purchased or leased.



❖ **Value Added Tax Act:**

- If goods are physically present in Nigeria at the time of supply, are imported into Nigeria or installed in Nigeria or where the beneficial owner of the rights over the goods is a taxable person in Nigeria and the goods or right are situated, registered or exercisable in Nigeria, a taxable supply is said to have taken place.
- Non-resident persons that make taxable supply of goods or services shall register for tax and obtain a Tax Identification Number.
- Introduction of new definition of animal feed to mean raw, semi-processed, processed and otherwise enhanced and animal feed that is fed to domesticated and other animals raised for human consumption are part of goods exempted under the VATA
- Introduction of new definition for commercial aircraft spare parts and components which is one of the goods exempted under the VATA to mean parts, engines, propellers, radio apparatus, instruments, appliances, furnishing or any of the parts of the listed items
- Hire, rental or lease of tractors, ploughs and other agricultural equipment for agricultural purposes are now items exempted under the VATA

❖ **Federal Inland Revenue Service Act (FIRS Act):**

- Banks, insurance companies, stock broking firms or any other financial institution may be in relation to international tax treaty and other exchange of information obligations required by the FIRS to prepare and submit returns of transactions involving specified sums. Names and addresses of connected customers.
- Introduction of data protection and privacy of taxpayer's information. It is now an offence for any member or former member of the board to communicate or attempt to communicate taxpayer information to any person other than a person legally authorized to collect the tax information or misuse the information. Penalty is fine not exceeding N1,000,000 or fine not exceeding 3 years.

❖ **Companies and Allied Matters Act:**

- Dividends of public limited companies which have been unclaimed for 6 years or more from the date declared are to immediately be transferred to the Unclaimed Funds Trust Fund and will be a special debt owed by the Federal Government to the shareholders and made available for claim by the shareholder at any time.

❖ **Stamp Duties Tax Act:**

- The Act now includes the provision of stamp duty charge of N50 on electronic transfers of N10,000 and above.
- Revenue in respect of stamp duty shall be shared amongst the federal and state governments at 15% and 85% respectively.

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