KPMG

Finance Bill, 2019 passes Second Reading at the Senate

KPMG in Nigeria

Issue 11.3 | November 2019

The Finance Bill, 2019 ("Finance Bill" or "the Bill") submitted by His Excellency, President Muhammadu Buhari, GCFR, to the joint session of the National Assembly on 14 October 2019 passed its Second Reading at the Senate yesterday, Wednesday, 6 November 2019. The objectives of the Bill, as outlined by the President, are to:

- promote fiscal equity;
- reform domestic tax laws;
- introduce tax incentives for investments in infrastructure and capital markets;
- support small businesses; and
- raise revenues for the Government.

The Bill contains vast changes to the *Companies Income Tax Act, Value Added Tax (VAT) Act, Petroleum Profits Tax Act (PPTA), Personal Income Tax Act, Capital Gains Tax Act (CGTA), Customs and Excise Tariff Etc. (Consolidation) Act and Stamp Duties Act.* It is expected that the Bill will be enacted by the National Assembly at the same time as the passage of the 2020 National Budget and the 2020 Appropriation Act. The initiative is laudable and the proposed modifications to the fiscal rules around taxation are clearly aimed at creating an enabling business environment and alleviating the tax burden for small and medium enterprises. This is expected to encourage growth and investment by that sector of the economy.

Below is a snapshot of some proposed changes to the tax laws by the Bill:

Companies Income Tax Act (CITA)

Section 9 Charge of Tax

Introduction of a specialized tax framework for Securities Lending Transactions

Section 13 Digital Economy

Expansion of the basis for taxing non-resident companies with significant economic presence in Nigeria by including digital/electronic services and services rendered outside Nigeria to a Nigerian beneficiary

Section 16 Insurance taxation

Amendment of Section 16 of CITA to place insurance companies on the same level with companies in other sectors by deleting provisions on:

- restriction of deductible claims and outgoings to percentage of total premium
- restriction of period to carry forward tax losses to four years
- special punitive deemed profit basis for minimum tax computation
- restriction of deductible unexpired risk and introduction of time-apportionment basis

Section 19 Excess Dividend Tax

Elimination of double taxation risks by exempting dividends paid out of:

- retained earnings that have suffered tax under CITA, PPTA and CGTA
- exempted profits/income
- franked investment income
- rental income received by Real Estate Investment Companies for distribution to their shareholders

Section 29 Commencement & Cessation basis

- Deletion of the old basis for computing basis periods for new businesses and businesses ceasing operation
- Introduction of simplified "actual year basis" for computing basis period during commencement and cessation periods

Section 33 Minimum Tax

Limitation of the basis for minimum tax computation to turnover, exemption of companies with a gross annual turnover of less than 25 million Naira from minimum tax and repeal of the minimum tax exemption granted to companies with 25% imported equity

Section 77 Bonus for early payment of CIT liabilities

2% and 1% bonus for a medium-sized and a large company, respectively, where companies income tax liability is paid before 90 days to the due date of filing/ payment

Third and Seventh Schedules

Third Schedule – Interest on foreign loans

Restriction on tax exemption on foreign loans

Seventh Schedule – Introduction of Thin Capitalisation rules

- Introduction of thin capitalisation rules on loans obtained from foreign connected persons
- The rules restrict interest deductibility to 30% of Earnings Before Interest, Tax, Depreciation and Amortisation in any given tax year
- Deductible interest expense not fully utilized can be carried forward for a maximum of 5 years

Value Added Tax Act

Section 4 – Rate of VAT

Increase in VAT rate from 5% to 7.5%

Section. 15 – Introduction of VAT compliance threshold

Exemption of companies with an annual turnover of 25 million Naira or less from VAT registration and filing obligations

Expansion of VAT exemption list to include:

- Basic food items (agro and aqua based staple foods) such as – additives, cereals, cooking oils, culinary herbs, fish of all kinds (other than ornamented), flour and starch, fruits, live or raw meat and poultry, milk, nuts, pulses, roots, salt, vegetables, and water;
- Locally manufactured sanitary towels, tuition (primary, secondary and tertiary education); and
- Services rendered by Microfinance Banks

Section 10 – Non-resident companies (NRCs)

- Introduction of "place of supply" rules for goods and services
- Imposition of obligation on Nigerian customer of an NRC to self-account for the VAT

Section 47 – Definition of Goods and Services

- Expansion of the definition of goods to include intangible products, property and assets (but excluding land)
- Inclusion of a definition for services

Exported and Imported services

- Amendment of the definition of exported service to mean -

"a service rendered within or outside Nigeria by a person resident in Nigeria to a person resident outside Nigeria, provided that a service provided to a fixed base or permanent establishment of a non-resident person in Nigeria shall not qualify as exported service"

- Deletion of definition of imported service

Other Tax Laws

Section 33 of Personal Income Tax Act

Deletion of tax relief for children and dependent relatives

Section 60 of Petroleum Profits Tax Act

Deletion of exemption for dividend paid out of petroleum profits

Stamp Duties

- Clarification on the mode of stamping instruments
- Exemption of share transfers and payments made in a Regulated Securities Lending transaction

Capital Gains Tax (CGT) Act

- **Section 50** – clarity on the circumstances under which CGT will apply to transfer of assets during business reorganisation
- **Section 52** – increase of the maximum amount of "compensation for loss of office" exempted from tax to 10 million naira.

Customs and Excise Duties

Amendment of the 5th Schedule to the Customs and Excise Tariff Etc. (Consolidation) Act to include "goods imported" into Nigeria in order to incentivise local production

The presentation of the Finance Bill by the Executive, while the Budget is pending with the National Assembly for consideration, is a welcome development as this is unprecedented since Nigeria's transition to democracy in 1999. It is sincerely hoped that the precedent set this year will become the norm in the years to come in accordance with global best practices.

We will publish detailed reviews of the Finance Bill, 2019 in due course.

For further enquiries on the above, please contact:

Wole Obayomi
NG-FMTAXEnquiries@ng.kpmg.com

home.kpmg/ng
home.kpmg/socialmedia