

## KEY CHANGES INTRODUCED BY THE FINANCE ACT 2019

The Finance Act (“**the Act**”) was enacted on January 13, 2020 with the objective of supporting the implementation of the 2020 National Budget and generally creating an enabling environment for businesses in Nigeria. To achieve this, the Act provides for amendments to existing tax laws such as the Value Added Tax (“**VAT**”) Act, Companies Income Tax Act (“**CITA**”), Personal Income Tax Act, Capital Gains Tax Act and Petroleum Profits Tax Act.

This article sets out the key changes made by the Act to the aforementioned tax laws.

### A. The Companies Income Tax Act (CITA)



#### New Commencement and Cessation Rules

The Act now modifies the commencement and cessation rules such that companies pay taxes based on their accounting periods. This would encourage the growth of new companies as they would not incur excessive tax burden in their early years of operation.



#### Progressive Tax Rates

- Companies with an annual gross turnover of less than ₦25,000,000 are completely exempt from paying income tax, subject to timely filing of returns;
- Companies whose turnover exceeds ₦25,000,000 but is less than ₦100,000,000 will be subject to income tax at the rate of 20%; and
- Companies whose annual gross turnover exceeds ₦100,000,000 will be subject to income tax at the rate of 30%



#### Tax Payment

Where a company pays its tax ninety days before it falls due, such company shall be entitled to a bonus on the tax paid. The aforesaid bonus may also be applied as a credit against the company’s future taxes as follows:

- 2% where it is a medium sized company; and
- 1% for any other company



#### Foreign Loan Exemption

As previously provided under the CITA foreign companies were allowed to enjoy certain levels of exemption from withholding tax where the terms of a loan provided to a Nigerian entity meets the stipulated requirements. The Act has however modified such exemption with respect to interest on income on foreign loans as follows:

Repayment Period including Moratorium	Moratorium	Tax Exemption Allowed
Above 7 years	Not less than 2 years	70%
5-7 years	Not less than 18 months	40%
2-4 years	Not less than 12 months	10%
Below 2 years	Nil	Nil



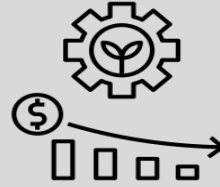
#### Insurance Companies

The Act amends the Companies Income Tax (Amendment) Act, 2007 by deleting the provision that permitted insurance companies to carry forward their losses without paying tax for four years. This suggests that insurance companies can now carry forward their losses indefinitely.



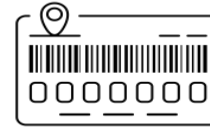
### Real Estate Investment Companies (REICs)

- REICs are exempted from the provision of minimum taxation.
- Dividends and rental incomes received by REICs on behalf of shareholders are now exempt from tax, subject to certain conditions.
- Dividends and mandatory distributions paid out by REICs are construed as allowable deductions from assessable profit.



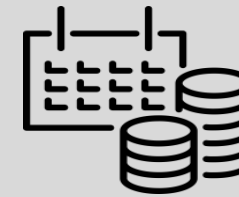
### Agricultural Production

Companies engaged in agricultural production now enjoy an initial tax relief period of five years which may be renewed for a period of three years, subject to satisfactory performance of production.



### Tax Identification

All companies must now have a Tax Identification Number (TIN). Also, all banks and other financial institutions must now demand TIN before opening an account for a company. For companies with an existing account without a TIN, the bank or other financial institution is to request for their TIN on or before April 30, 2020.



### Payment of Tax in Instalments

Payment of income tax by a company may be made in instalments, provided that the company:

- applies to the FIRS in writing;
- attaches evidence of payment of the first instalment to its application; and
- makes the final payment on or before the date due for filing.



### Additional Tax Deductions

All monies donated to a university, tertiary or research institution will now be tax deductible.

## B. The Value Added Tax (VAT) Act



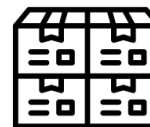
### Increase in VAT Rate

The Act provides for an increase in VAT from 5% to 7.5%. This is expected to significantly increase VAT revenue.



### Compliance Threshold

The Act provides for a revenue threshold for the remittance of VAT. Companies with an annual turnover of ₦25,000,000 or less are exempted from registering for, charging or remitting VAT.



### Definition of "Goods"

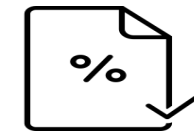
Prior to the enactment of the Act, the VAT Act did not provide for a definition of goods. However, under the Act, the word "goods" is defined to include "any intangible product, asset or property over which a person has ownership or rights, or from which benefits are derived and which can be transferred from one person to another excluding interest in land".



### Place of Supply of Services

Usually the burden of VAT compliance rests on the supplier of services.

The Act has however introduced the concept of "reverse VAT" on imported services. This means that a consumer resident in Nigeria will bear the burden of the VAT charge for services provided by a non-Nigerian resident.














### Exemption from VAT

The Act makes several additions to goods which are to be exempt from VAT. Such goods include; cereals, basic food items, cooking oils, culinary herbs, fish (other than ornamental fish), flour and starch, fruits etc. Services such as education (primary, secondary and tertiary) are also exempt from VAT.

			The concept of reverse VAT essentially transfers the responsibility of VAT compliance from the supply of goods and services to the consumer, thereby reducing the requirement for the seller to register for VAT.	
--	--	--	---	--

**C. The Personal Income Tax Act (PITA)**

 <p><b>Pension Contributions</b></p> <p>Contributions to pension, provident or other retirement benefits fund, society or scheme now constitute allowable deductions.</p>	 <p><b>Claim by a Taxpayer's Spouse</b></p> <p>The Act deletes the provisions in the PITA which allows a person's spouse to claim any part of their allowable deductions.</p>	 <p><b>Tax Identification</b></p> <p>The Act compels every bank and other financial institution to demand a person's TIN before opening an account for business purposes for such person.</p>	 <p><b>Mode of Service of Objection to Tax Assessment</b></p> <p>An objection to tax assessment is sufficiently served if the taxpayer simply sends an email to that effect.</p>
--	---	--	---

D. The Petroleum Profits Tax Act (PPTA)	E. Capital Gains Tax (CGT) Act	F. The Stamp Duties Act	G. The Customs and Excise Tariffs, Etc. (Consolidation) Act
 <p style="text-align: center;"><b>Dividends</b></p> <p>Under the previous PPTA, dividends paid out of after-tax profits were exempted from withholding tax. The Act however revokes this exemption and subjects such profits to withholding tax.</p>	 <p style="text-align: center;"><b>Business Reorganisation</b></p> <p>The Act provides for tax concessions with respect to business reorganisations. Assets transferred in furtherance of company reorganisations are exempt from CGT, subject to certain conditions.</p>	 <p style="text-align: center;"><b>Electronic Stamping</b></p> <p>Electronic stamping is now recognised by the Act.</p>	 <p style="text-align: center;"><b>Excise Duties on Imported Goods</b></p> <p>All imported goods are subject to excise duty, except where the goods:</p> <ul style="list-style-type: none"> <li>• are not locally manufactured; and</li> <li>• relates to a raw material which is not locally available in Nigeria</li> </ul>
	 <p style="text-align: center;"><b>Tax Exemption on Compensation for Loss of Office</b></p> <p>Prior to the Act, the Capital Gains Tax Act provided for the payment of tax at the rate of 10% on sums received as compensation for loss of office. The Act however exempts sums of ₦10,000,000 or less from tax.</p>	 <p style="text-align: center;"><b>Electronic Bank Transactions</b></p> <p>A stamp duty of ₦ 50 is now imposed on all electronic receipts/transfers above ₦10,000 on any account.</p>	
		 <p style="text-align: center;"><b>Additional Exemption from Stamp Duty</b></p> <p>The following additional items are now exempted from stamp duties:</p> <ul style="list-style-type: none"> <li>• Shares, stocks, or securities transferred by a lender to its agent or to a borrower, in furtherance of a regulated securities lending transaction;</li> <li>• Shares, stocks, or securities returned to a lender or its approved agent by a borrower, pursuant to a regulated securities lending transaction; and</li> <li>• All documents relating to a regulated securities lending transaction carried out under the regulations issued by the Securities and Exchange Commission (SEC).</li> </ul>	