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Tax Data Card Nigeria

2019

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2019 Tax Data Card

Introduction

This publication is a summary of the major tax laws in Nigeria, prepared for general purpose only.

It is not a replacement for specific advice. We accept no liability for any action taken or inaction based on the contents of the publication.

Except otherwise indicated, references to tax laws in this publication are from the Laws of the Federation of Nigeria (LFN) 2004 as amended.

The average exchange rate used is US$1 =₦ 305

1. COMPANY INCOME TAX (CIT)

The principal law is the Companies Income Tax Act (CITA) which imposes CIT on profits accruing in, derived from, brought into or received in Nigeria. It is payable by companies that are registered in Nigeria and non- resident entities carrying on business in Nigeria.

Items	Comments
Rate [S 40(1)]	30%
Small Company tax rate [S 40(6)]	20%. Applicable to companies engaged in Agriculture, manufacturing, mining and those engaged wholly in exports, within the first five years of operation, and where the annual turnover is less than ₦1 million.
Taxation of Companies [S 9(1), S 30]	Any company doing business in Nigeria, whether resident (registered in Nigeria) or non-resident (a company registered outside Nigeria). Non-resident companies are liable to tax on the profit or income derived from Nigeria. Where actual profits cannot be determined, the Federal Inland Revenue Service (FIRS) may apply a deemed profit rate on turnover derived from Nigeria. In practice, profit is deemed at 20% which is then taxed at the income tax rate of 30%, resulting in an effective tax of 6% of turnover. The FIRS issued a notice for non-resident companies to commence filing their tax returns on actual basis effective 1 January 2015. Detailed guidelines have not been provided.
Taxable Income [S9, S 13]	A resident company is liable to tax on its worldwide income being its profits accruing in, derived from, brought into, and received in Nigeria. A non-resident company is liable to tax on its income derived from Nigeria, that is, income attributable to its Nigerian operation.
Excess Dividend Tax S 19,	Where a company pays dividend from profit on which tax is not payable because :- • It has no tax payable; or • Its taxable profit is less than the dividend paid; The company would be charged to tax on the dividend declared or paid as if the dividend is the total taxable profit of the company for the relevant year of assessment.
Interim dividends [S 43]	Interim dividends are also liable to advance income tax at 30%. This will be used to offset the final income tax liability for the year.

Basis of assessment [s.29]	The basis of assessment for both resident and non-resident companies is preceding year basis. This means tax is charged on profits for the accounting year ending in the preceding year of assessment. For example, if a company makes up its accounts to 31 December each year, in 2019 tax year, it will be assessed to tax on the profits computed for the accounting year ended 31 December 2018. Different rules apply during commencement of business, change of accounting date and cessation.
Minimum tax [S 33 (1) & (2)]	This is imposed where a company has no taxable profit or the tax payable is less than the minimum tax computed as the highest of: 0.5%of gross profit 0.5% of net assets 0.25% of paid up share capital 0.25% of turnover up to ₦500,000 Plus 0.125% of turnover in excess of ₦500,000
Exemption from minimum tax	A company is exempted from minimum tax if it meets any of the following conditions: • It is within its first four calendar years of business. • It has at least 25% of its paid up capital as imported equity. • It carries on Agricultural trade or business.
Filing requirements S 52(1), S 55	Filing requirements include a self-assessment return in the prescribed form and the following supporting documents. • Audited accounts • Tax and capital allowance computation • A statement in writing containing the amount of profit for the year from each and every source. The self-assessment return must be signed by an authorized officer of the company.
Due date for filing S 55(2)	Within 6 months of the company's accounting year end. However, a new company must file its returns within 18 months from the date of incorporation or 6 months after the end of its first accounting period, whichever is earlier. In practice, tax returns may be delayed until the first working day of the following calendar year for companies with financial year end date between January and June. This is to align the tax returns with the relevant government fiscal year.

Due date for payment of CIT S 77(5) and Self-Assessment Regulations S 3	Two months from the filing due date in case of a lump sum payment or in such instalments as may be approved by the FIRS, not exceeding three instalments. In the case of instalments, evidence of payment of the first instalment must be submitted along with the tax returns. FIRS has introduced e-filing under the Integrated Tax Administration System (ITAS). Companies may create a tax profile with the FIRS and file their returns electronically once the system becomes fully functional.
Offences and Penalties	Late filing of returns – S 55(3)(5) Failure to file tax returns attracts a penalty of ₦25,000 for the first month in which the failure occurs and ₦5,000 for each subsequent month in which the failure continues. Upon conviction, the responsible officer of the company may be liable to a fine of ₦100,000 or 2 years imprisonment or both. Late payment or non-payment of tax - S 85(1) Penalty is 10% of the amount of tax payable and interest at the monetary policy rate (MPR) currently at 14% plus a spread to be announced by the Finance Minister. The FIRS published a public notice in July 2017 stating that the finance minister has approved a spread of 5% which translates to an interest rate of 19% on unpaid taxes effective July 1, 2017.
Statute of limitations S 66	The tax authority may issue additional assessment within six years from the relevant tax year. However, the limitation does not apply in the event of a fraud, willful default or neglect by the company.
Gas Utilization Incentives [S39 (CITA)]	Companies engaged in gas utilization (downstream operations) may be granted the following incentives subject to satisfactory performance of the business: • Additional investment allowance of 15% of the tax free period. • Tax free dividend during the tax free period under certain conditions. • Accelerated capital allowance after the tax free perid.
Tax waiver on Bonds *[Companies Income Tax (Exemption of Bonds and Short Term Government Securities) Order 2011]*	The following are exempt from companies income tax for 10 years effective from 2 January 2012: 1. Short term Federal Government securities such as Treasury Bills and Promissory Notes. 2. Bonds and Promissory Notes. 3. Bonds issued by corporate and supra-nationals and 4. Interest earned by holders of bonds and securities listed above.
Capital Allowance	These are granted on tangible non-current assets in lieu of accounting depreciation. Other than Research and Development, intangible non-current assets are generally not regarded as qualifying capital expenditures for capital allowance purpose. However, the amortization of most intangible assets over their useful lives is tax deductible (with the exception of internally generated intangible assets and intangible assets with definite lives).

Qualifying assets and applicable rates are stated below:

Qualifying Expenditure	**Initial Allowance**	**Annual Allowance**
Building (Industrial & Non-Industrial)	15%	10%
Mining	95%	Nil
Plant:		
• Agriculture Production	95%	Nil
• Others	50%	25%
Furniture and Fittings	25%	20%
Motor Vehicles:		
• Public transportation	95%	Nil
• Others	50%	25%
Plantation Equipment	95%	Nil
Housing Estate	50%	25%
Ranching and Plantation	30%	50%
Research and Development	95%	Nil

(IA = Initial Allowance, AA = Annual Allowance)

Investment Allowance

This is granted at the rate of 10% to companies that incur expenditure on plant and equipment. It is calculated on cost and granted in the year of assessment in which the asset is first put into use. It is not taken into account in determining the tax written down value of the asset.

Rural investment tax relief is available to businesses on infrastructure costs incurred if located not less than 20km away from the following facilities at the rates below:

No facilities at all	100%
No electricity	50%
No water	30%
No tarred (paved) road	15%

Transfer Pricing Regulations

[TP Regulations/S22(CITA)]

The Income Tax (Transfer Pricing) Regulations, 2018 (“TP Regulations”) was published in August 2018 to replace the Income Tax (Transfer Pricing) Regulations 2012. The TP Regulations are applicable to accounting periods commencing after 12 March 2018.

The TP Regulations require companies to file TP declaration and TP disclosure forms along with the income tax returns every year. While the TP declaration form requires companies to provide information about its business, its parent company, its directors and its related parties; the TP disclosure form requires companies to report the values of related party transactions engaged in during the reporting period. After the first filing, updated TP declaration forms need to be filed where there are changes to the information provided.

TP documentation (containing a master file and a local file) is required to demonstrate that pricing of related party transactions comply with the arm’s length principle. This documentation must be in place when filing the income tax and transfer pricing returns with the FIRS. Companies with annual related party transactions under N300 million are exempted.

The Nigeria TP Regulations are to be applied in a manner consistent with the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, and the UN Practical Manual on Transfer Pricing for Developing Countries.

Offences and penalties

The TP Regulations introduced penalties for different offences/acts of non-compliance as summarised below:

Type of offence	Penalty
Failure to file TP declaration	₦10million in the first instance and ₦10,000 for every day failure continues.
Failure to file updated TP declaration/provide notification about directors	₦25,000 for every day in which the default continues.
Failure to file TP disclosure	higher of: ₦10million or 1% of the value of related party transactions not disclosed; and ₦10,000 for every day in which the default continues.
Incorrect disclosure of transactions	higher of: ₦10million or 1% of the value of related party transactions incorrectly disclosed.
Failure to provide TP documentation within the time specified under the Regulations	higher of: ₦10million or 1% of the total value of all controlled transactions; and ₦10,000 for every day in which the default continues.
Failure to furnish information or documents within the time specified by FIRS	1% of the value of each related party transaction for which information or document for which information relates; and ₦10,000 for every day in which the default continues.

Country By Country Reporting	The Income Tax (Country by Country Reporting) Regulations, 2018 (“CbC Regulations) was issued in June 2018. Scope: This is applicable to: • Accounting years commencing 1 January 2018. • Multinational enterprises (MNEs) with consolidated group revenues of ₦160 billion (US$ 522 million) and above. MNEs headquartered in Nigeria are to prepare and submit annual CbC reports, no later than 12 months after the last day of the MNE group’s accounting year end. Prior to the submission of the CbC reports, Nigeria headquartered MNEs will be required to notify the FIRS (in the format provided) that they are the party with the responsibility for filing the CbC reports on or before the last day of the group’s accounting year end. Subsidiaries of MNEs (who meet the threshold) with headquarters outside Nigeria are to notify the FIRS of the identity and tax residence of the entity within the group who has the responsibility to file the CbC report on behalf of the group. This notification (in the format provided) must be made on or before the last day of the group’s accounting year end. Groups that operate solely in Nigeria are not affected by the Regulations.
Offences and penalties	Failure to file CbC report attracts a penalty of ₦10 million in the first instance and additional ₦1 million for every month in which the failure continues. False declaration or filing incorrect information attracts a penalty of ₦10 million. Failure to provide notification attracts a penalty of ₦5 million in the first instance and additional ₦10,000 for every day of default.

2. PETROLEUM PROFIT TAX (PPT)

PPT is levied on the income of companies engaged in the upstream petroleum operations.

<table>
<tr><th>Items</th><th>Comments</th></tr>
<tr><td>Rate
S 21(1)(2) of PPTA
Deep Offshore PSC Act S 3(1)</td><td>

85% for petroleum operations carried out under a Joint Venture (JV) arrangement with the Nigerian National Petroleum Corporation (NNPC) or any traditional oil concession after 5 years.
65.75% for non PSC operation in its first 5 years during which the company has not fully amortized all pre-production capitalized expenditure
50% for petroleum operations under Production Sharing
Contracts (PSC).

</td></tr>
<tr><td>Applicable royalties

[Petroleum Drilling & Production Regulations – S61 (1)(a)]</td><td>
Rates: The holder of an Oil Prospecting License (OPL) or an Oil Mining Lease (OML) is required to pay royalties to the Federal Government as soon as production begins. This is usually in form of monthly cash payments at the prescribed rate or by way of royalty oil.

The rates are:

In respect of JV Operations

<table>
<tr><th>Area</th><th>Rate (%)</th></tr>
<tr><td>Onshore production</td><td>20</td></tr>
<tr><td>Offshore production up to 100 metres water depth</td><td>18.50</td></tr>
<tr><td>Offshore production beyond 100 metres water depth</td><td>16.66</td></tr>
</table>
</td></tr>
<tr><td>[Deep Offshore & Inland Basin Production Sharing Contracts (PSC) Acts (1999) – S 5]</td><td>
In respect of PSCs the royalty rates are graduated according to the depth of water from which the oil is produced. These are:

<table>
<tr><th>Area</th><th>Rate (%)</th></tr>
<tr><td>201 to 500 metres water depth</td><td>12</td></tr>
<tr><td>501 to 800 metres water depth</td><td>8</td></tr>
<tr><td>801 to 1,000 metres water depth</td><td>4</td></tr>
<tr><td>Areas in excess of 1,000 metres water depth</td><td>0</td></tr>
</table>
</td></tr>
<tr><td>Marginal Field Operations (Fiscal Regime) Regulations S.I. No. 8 2006 paragraph 2</td><td>
The Marginal field operations royalty rates are:
<table>
<tr><th>Area</th><th>Rate (%)</th></tr>
<tr><td>Production below 5,000 bpd</td><td>2.5%</td></tr>
<tr><td>Production between 5,000 and 10,000 bpd</td><td>7.5%</td></tr>
<tr><td>Production between 10,000 and 15,000 bpd</td><td>12.5%</td></tr>
<tr><td>Production between 15,000 and 25,000 bpd</td><td>18.5%</td></tr>
</table>
</td></tr>
<tr><td>Petroleum Act Section 61(b)</td><td>
The gas royalty rates are:

<table>
<tr><th>Area</th><th>Rate (%)</th></tr>
<tr><td>Onshore</td><td>7%</td></tr>
<tr><td>Offshore</td><td>5%</td></tr>
</table>
</td></tr>
</table>

Taxable companies
S 8(1), 2(1)

PPT is levied on upstream income of companies engaged in petroleum operations.

Petroleum operations is defined as the winning or obtaining and transportation of petroleum or chargeable oil in Nigeria by or on behalf of a company for its own account by any drilling, mining, extracting or other like operations or process, not including refining at a refinery, in the course of a business carried on by the company engaged in such operations, and all operations incidental thereto and any sale of or any disposal of chargeable oil by or on behalf of the company.

Exemptions/Incentives

S 60 (1) S 10 (1) and 11(1, 2) of PPTA, the Deep Offshore PSC Act S 5]

In addition to investment allowances, the following incentives are available to upstream companies:

- Dividend distribution is not liable to withholding tax
- Graduated royalty rates and lower PSC tax rates to encourage offshore production
- Tertiary Education Tax is treated as a tax deductible expense for petroleum companies
- Gas income is taxable at CIT rate of 30% while capital investment for gas are deductible as capital allowances against crude oil income at the higher PPT rate.

[Schedule II (paragraph 5) of PPTA]

Investment Allowance

Petroleum Investment Allowance (PIA) is granted to a petroleum company in the first year a Qualifying Capital is incurred. The following PIA rates are applicable to companies in JV operations:

QCE for	Rate (%)
Onshore Operations	5
Offshore operations:	
- Up to and including 100m of water depth	10
- Between 100m and 200m water depth	15
- Beyond 200m water depth	20

PSC Operations are entitled to Investment Tax Credit (ITC) at 50% of QCE for PSC executed prior to July 1998 and investment tax allowance (ITA) of 50% for PSC executed with effect from July 1998.

[Schedule II (paragraph 6) of PPTA]

Annual Allowance

This is granted in addition to PIA, ITC, and ITA in lieu of depreciation. The rate is 20% for all categories of QCE in the first four years and 19% in the fifth year. The balance of 1% is retained in the books until the QCE is disposed.

Filing requirements
S 30(2), S 33

- Companies engaged in petroleum operations shall submit returns, in a form prescribed by the FIRS, of its estimated tax for such accounting period.
- Estimated tax returns must be filed within two months of the fiscal year (which runs from 1 January to 31 December).
- Actual tax returns must be filed within five months after the end of the accounting period, that is, not later than 31 May.

Due dates S 45, S 30(2), S 33	• Tax is payable on actual year basis in 12 equal monthly installments with a final 13th instalment (if there is an underpayment). The first instalment for the year is due by the end of March.
Offences and Penalties S 46(1)a, S 51	• Late submission of returns: Initial penalty of ₦10,000 and • ₦2,000 for each day such failure continues • Late payment of tax: 5% of the tax payable
Statute of limitations S 36	The tax authority may carry out tax audit and issue additional assessment within six years from the relevant tax year. However, the limitation does not apply in the event of a fraud, willful default or neglect by the company.
NDDC Levy S 14, NDDC Act 2000	The Act requires every oil and gas company operating onshore and offshore the Niger Delta to pay 3% of its annual budget to the Fund established by the Act.

3. CAPITAL GAIN TAX (CGT)

CGT is chargeable on capital gains accruing to any person (company or individual) making a disposal of assets.

Items	Comments
Rate S 2 (1)	10%
Chargeable Assets S 3	• Options, debts and incorporeal property generally • Any currency other than Nigeria currency • Any form of property created by the person disposing of it, or otherwise coming to be owned without being acquired • Goodwill • Copyrights • Buildings • Chattels etc
Compensation for loss of employment S6 , S43	The Lagos State Internal Revenue Service (LIRS) has issued a public notice appointing employers and other payers as tax agents required to withhold CGT at 10% on any compensation for loss of employment or office. Employers are also required to file annual returns containing relevant information as prescribed by the LIRS regarding payments to disengaging employees.
Exemptions/Incentives S 26- S 30, S32- S 40	These include gains from disposal of • Shares and stocks. • Nigerian government securities. • Life assurance policies. • Main residence or dwelling house of an individual. • Compensation for wrong or injuries suffered by an individual. • Decorations awarded for valour or gallant conduct.

Allowances S 14 and Reliefs S 32	Deductions • Initial cost of the asset • Stamp duties • Cost of enhancing the value of the asset • Expenditure incurred in establishing, preserving or defending the title to, or right over the asset • Incidental expenses for the purpose of acquiring or disposing of the assets; and • Cost of advertisement to find a seller during acquisition and advertisement cost to find a buyer during disposal. Rollover relief This can be claimed where proceeds of disposal are used to purchase a new asset of the same class within 12 months before or after the disposal of the old asset. The classes of the assets eligible for relief are: Class 1: - 1A: (i) Building (ii) Land - 1B: Plant or machinery which does not form part of the building Class 2 - Ships Class 3 - Aircraft Class 4 - Goodwill
Statute of limitations S 42 (3)	6 years after the end of the year of assessment in which that gain accrues.

4. PERSONAL INCOME TAX

Personal Income Tax (PIT) is a tax levied on individuals including employees, partners in a partnership, unincorporated trust, joint ventures, families and communities. It is imposed based on source and residency rules.

<table>
<tr><th>Items</th><th>Comments</th></tr>
<tr><td>Rates
[schedule 6)</td><td>PIT rate is applied on a graduated scale and taxable income bands as set out below:
<table>
<tr><th>Tax Band (₦)</th><th>Rate (%)</th></tr>
<tr><td>First 300,000</td><td>7</td></tr>
<tr><td>Next 300,000</td><td>11</td></tr>
<tr><td>Next 500,000</td><td>15</td></tr>
<tr><td>Next 500,000</td><td>19</td></tr>
<tr><td>Next 1,600,000</td><td>21</td></tr>
<tr><td>Above 3,200,000</td><td>24</td></tr>
</table>
Note: As a result of the consolidated relief allowance of at least 21% of gross income, the top marginal tax rate is 18.96% for income above ₦20 million as only 79% of income is taxed at 24% while for income below ₦20 million the top marginal rate is 19.2%. (See reliefs and allowances below).</td></tr>
<tr><td>Minimum tax
S 37, schedule 6</td><td>Every taxable person is liable to a minimum income tax of 1% of their gross income. This is triggered where actual tax payable after all reliefs and allowances is less than 1% of gross income.</td></tr>
</table>

Treatment of Benefits in Kind S 4, S 5	Benefits in Kind (BIK) provided to an employee by the employer such as official cars, accommodation, etc. are deemed to be part of the employee's gross emoluments. For items other than accommodation, the deemed annual benefit is 5% of the cost where the asset is owned by the employer or the actual rent paid where the asset is leased by the employer. 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.
Taxable Income S 6, S 10	**Business income** PIT is applicable on the business income earned by individuals, partnerships, trusts and other unincorporated entities which have an identifiable place of operation in Nigeria. Other conditions that create PIT obligation include: • the individual, executor or trustee habitually operates a trade or business through a person in Nigeria authorized to conclude contracts on his behalf; • the trade or business in Nigeria involves a single contract for surveys, deliveries, installations or construction; or • the trade or business is carried out in a manner which in the opinion of the relevant tax authority is deemed to be artificial. The PIT so determined will be payable to the relevant state tax authority where the individuals, partners, trustees are resident. **Employment income** In the case of employment income, a person is liable to tax under two criteria: 1. If the duties of employment are wholly or partly performed in Nigeria, unless: • the duties are performed on behalf of an employer who is in a country other than Nigeria, and • the remuneration of the employee is not borne by a fixed base of the employer in Nigeria; and • the employee is not in Nigeria for a period or periods amounting to an aggregate of 183 days or more, inclusive of annual leave or temporary period of absence in any twelve month period; and • the remuneration of the individual is liable to tax in that other country under the provisions of the avoidance of double taxation treaty with that other country. 2. If the employer is in Nigeria unless the employment duties are wholly performed and the remuneration paid outside Nigeria.

Reliefs / Deductions
S 33, Schedule 6

Consolidated relief allowance	Higher of ₦200,000 and 1% of gross income, plus 20% of gross income*
Child allowance	₦2,500 for each child up to a maximum of four children, provided that none is above 16 years or married unless in a recognised school, under articleship or learning a trade.
Dependent relatives	₦2,000 for each dependent relative up to a maximum of two who are widowed or infirmed or incapacitated by old age.
Deductions allowed	NHF contribution, National Health Insurance Scheme, Life Assurance Premium, National Pension Scheme and Gratuities.
Reimbursements	Expenses incurred in the performance of employment duties from which it is not intended that the employee should make any gain or profit.
Interest and dividend	Interest earned from treasury bills, government and corporate bonds are exempt while withholding tax at 10% is the final tax on other interests and dividend.
Interest on mortgage	Interest paid on mortgage loan for owner's occupied property in any year is granted as a relief in the following year.
Life assurance premium	Life assurance premium paid in the prior year is granted as a relief in the current year. Only policy on the life of the individual and spouse is eligible.
Disability allowance	A deduction of ₦3000 or 20% of earned income, whichever is higher, in the case of a disabled person who uses special equipment or the services of an attendant in the course of a paid employment.

** Gross income includes salaries, wages, fees, allowances or other gain or profit from employment including compensations, bonuses, premiums, benefits in kind, gratuities, superannuation, and any other income derived solely by reason of employment.*

Filing and due dates Section 41 (3)	Individuals are to file returns not later than 31 March annually in respect of the preceding year. Employers are required to file the following documents: • Employers' Declaration Form (Form H1): showing the income of the employees, taxes deducted and remitted in the preceding year. This is due by 31 January. • Employers' Remittance Card (Form G): showing the monthly remittances and reference number on the receipt. Copies of the receipt are to accompany the form G. • Declaration of estimated income and application for tax reliefs (Form A).
Due date for payment S. 41(3), 81	PAYE must be remitted on or before the 10th day of the month following the payment of salary (e.g. PAYE tax deducted from January salary should be remitted by 10th of February). For individuals under direct assessment, payment must be made along with returns within 90 days of the fiscal year i.e. not later than 31 March.
Penalty for non-payment of tax S 76, 77	10% per annum of the amount plus interest on annual basis at bank lending rate (in practice a one-off interest rate of 15% to 21% is applied). Late filing attracts a fine of ₦500,000.
Statute of Limitation S 55	6 years except in the event of a fraud, willful default or neglect by the taxable person in which case there is no limitation.

5. INFORMATION TECHNOLOGY TAX

IT Tax is payable by specified companies with turnover of ₦100 million and above. The tax when paid is tax deductible for company income tax purposes. The tax is governed by the National Information Technology Development Act (NITDA) 2007.

<table>
<tr><th>Items</th><th>Comments</th></tr>
<tr><td>Rate
S 12 (2)(a))(a)]</td><td>1% of profit before tax.</td></tr>
<tr><td>Taxable companies
NITDA Schedule 111</td><td>• GSM service providers and all telecommunications companies
• Cyber companies and internet providers
• Pension managers and pension related companies
• Banks and other financial institutions
• Insurance companies</td></tr>
<tr><td>Filing requirements and due date
S 16 (2)</td><td>IT Tax is assessed by the FIRS and is payable within 60 days of service of a notice of assessment. In practice companies self-assess the tax along with CIT returns.</td></tr>
<tr><td>Offences and Penalties
S 16(4)</td><td><table>
<tr><th>Offence</th><th>Penalty</th></tr>
<tr><td>S 16 (4): Nonpayment within specified time</td><td>Unpaid tax plus 2% of the tax payable.</td></tr>
<tr><td>S 18 (a): First offence when penalties are not stated</td><td>₦200,000 or one year imprisonment or both.</td></tr>
<tr><td>S 18 (b): Second and subsequent offence</td><td>₦500,000 or three year imprisonment or both.</td></tr>
</table></td></tr>
</table>

6. TERTIARY EDUCATION TAX (TET)

TET is payable by all Nigerian companies on assessable profit, that is, tax adjusted profit before capital allowances. The relevant law is the Tertiary Education Trust Fund (Establishment etc.) Act 2011

Items	Comments
Rate S 1 (2)	2%
Taxable persons S 1(2)	All companies registered in Nigeria.
Exemptions S 1(2)	Non-resident companies and all unincorporated entities are exempted from Tertiary Education Tax.
Filing requirements	There is no specific filing requirement. However, in practice, the tax is self-assessed by filling form 4D-EDT together with corporate income tax.
Due dates S 2(2)	Based on the Tertiary Education Tax Act, the FIRS is required to issue assessments for the tax which must be paid within 60 days of the service of notice of assessment. In practice, the tax is self-assessed and paid 6 months after the accounting year end date.
Penalty for non-compliance S 10(2), 11(1)	5% of the tax in addition to the principal tax, for failure to pay after two months of service of assessment notice. If after two months, the failure continues, then the following additional penalties may apply on conviction: • First offenders: One million Naira or imprisonment for a term of 6 months or both; • Second or subsequent offenders: Two million Naira or imprisonment for a term of 12 months or both.
Statute of limitation S 36 of CITA	The FIRS may raise additional assessment within six years from the relevant year of assessment. However, in the event of a fraud, willful default or neglect by the company, the statute of limitation will not apply.

7. WITHHOLDING TAX

WHT is an advance payment of income tax deductible at source on specified transactions. It can be applied as a tax credit against income tax liability in most instances. The relevant provisions are in the CITA, PITA, PPTA, and WHT Regulations.

<table>
<tr><th>Items</th><th>Comments</th></tr>
<tr><td>Rates
CITA S 78 - S 81, PITA S 68 - S 72, and
WHT Regulations</td><td>
<table>
<tr><th>Transactions</th><th>Companies</th><th>Individual</th></tr>
<tr><td>Dividend, Interest and rent</td><td>10%</td><td>10%</td></tr>
<tr><td>Royalties</td><td>10%</td><td>5%</td></tr>
<tr><td>Hire of equipment, motor vehicles, plants, and machinery</td><td>10%</td><td>10%</td></tr>
<tr><td>Commission, consultancy, technical and management fees, legal fees, audit fees, and other professional fees</td><td>10%</td><td>5%</td></tr>
<tr><td>Building, construction and related activities excluding one single delivery, survey, and installation.</td><td>5%</td><td>5%</td></tr>
<tr><td>All types of contracts and agency arrangements, other than sales in the ordinary course of business</td><td>5%</td><td>5%</td></tr>
<tr><td>Directors' fees</td><td>N/A</td><td>10%</td></tr>
</table>

The rate of WHT on dividend, interest and royalty is reduced to 7.5% when paid to a corporate recipient resident in a treaty country. In the case of individuals, 7.5% is applied on dividend and interest and 5% on royalty.</td></tr>
<tr><td>Filing requirements</td><td>Withholding tax returns should include a schedule showing vendor Tax Identification Number, name and address, type of contract, rate applied, amounts, and evidence of payment.</td></tr>
<tr><td>Due date for payment
CITA S 82, PITA S 74</td><td>In the case of WHT deducted from companies, remittance is due to the Federal Inland Revenue Service (FIRS) within 21 days after the duty to deduct WHT arose.
In the case of WHT deducted from individuals and unincorporated entities, remittance is due to the State Internal Revenue Service (SIRS), within 30 days after the duty to deduct WHT arose.
For FIRS WHT, the schedule of WHT deducted must be submitted in electronic form and must contain specific information such as the Tax Identification Number (TIN) of the various suppliers from whom the tax has been deducted.</td></tr>
<tr><td>Offences and Penalties
CITA S 85, PITA S 74
FIRS Act S 40</td><td>• Failure to remit WHT due to the FIRS: a penalty of 10% per annum and interest at CBN’s lending rate.
• Failure to remit WHT due to SIRS: 10% of tax due, in addition to the principal tax and interest at the CBN monetary policy rate (14%).</td></tr>
<tr><td>Statute of limitations
CITA S 66</td><td>The tax authority may issue additional assessment within six years from the relevant tax year. However, the limitation does not apply in the event of a fraud, willful default or neglect by the company.</td></tr>
<tr><td>Obligation to deduct WHT
CITA S 78- S 81, PITA S 68 – S 72, and
WHT Regulations</td><td>Persons required to deduct WHT are all companies, and organisations or establishments that operate Pay-As-You-Earn Scheme.</td></tr>
</table>

TAX TREATIES [S 45 (CITA)]

Nigeria has entered into a number of treaties for the avoidance of double taxation on income and capital gains. Efforts are ongoing to expand Nigeria's treaty network while some signed agreements are currently undergoing ratification process at the legislature.

Items	Comments
In-force bilateral treaties	Nigeria currently has in-force double tax treaties for taxes on income and capital gains with Belgium, Canada, China, Czech Republic, France, Netherlands, Pakistan, Philippines, Romania, Slovakia, Spain, South Africa and United Kingdom. There is a shipping and air transport double taxation avoidance agreement with Italy
Pending treaties	Nigeria has pending double tax treaties with Mauritius, Kenya, Kuwait, Singapore, Sweden, South Korea, Poland, Qatar and the UAE which are yet to be ratified.
Multilateral treaties	Nigeria is a party to the following multilateral treaties: • 1975 ECOWAS Treaty • 1931 League of Nations Motor Vehicle Convention and Final Protocol • 1961 Vienna Convention on Diplomatic Relations • 1969 Vienna Convention on the Law of Treaties • 1997 Draft Protocol on the ECOWAS Value Added Tax (pending) • 1997 Draft Protocol on the ECOWAS Community Levy (pending) • 2015 OECD's Mutual Administrative Assistance in Tax Matters • 2016 Multilateral Competent Authority Agreement for the automatic exchange of Country-by-Country Reports.
Unilateral relief	Unilateral tax relief is available by way of deduction for tax suffered on income earned abroad and taxable in Nigeria.
Nigeria's Model Tax Treaty 2013	Nigeria has a model tax treaty to guide the negotiation of double taxation avoidance agreements with other countries. The model treaty is similar to the OECD Model Convention except in certain areas such as taxation of Royalty and Technical Service Fees.
Common wealth tax relief *[S 44 CITA]*	Available in respect of profits earned from a commonwealth country which is also liable to tax in Nigeria provided that the commonwealth country has a similar tax relief in place. In respect of a Nigerian Company, the relief granted is 50% of the *commonwealth tax rate subject to a limit of 50% of the Nigerian tax rate. In respect of a nonresident company, the relief is 50% of the commonwealth tax rate provided it is not more than 50% of the Nigerian tax rate otherwise the relief is the rate by which the Nigerian tax rate exceeds 50% of the commonwealth tax rate. **Commonwealth tax rate means the income tax rate applicable in the relevant commonwealth country to which the tax relief relates**

8. VALUE ADDED TAX (VAT)

VAT is chargeable on the supply of taxable goods and services except items specifically stated as exempt or zero-rated. The relevant law is the VAT Act LFN 2004 as amended.

Item	Comments
Rate S 4	Standard rate of 5% of the value of goods and services.
Taxable Persons S 46	A taxable person means an individual or body of individuals, family, corporations sole, trustee or executor or a person who carries out in a place an economic activity, a person exploiting tangible or intangible property for the purpose of obtaining income therefrom by way of trade or business or a person or agency of government acting in that capacity.
Registration S 8, S 10	Residents: immediately on commencement of business. Non-residents: registration is required by a non-resident company that carries on business in Nigeria before issuing its first invoice, using the address of the Nigerian party with whom it has a subsisting contract.
Exemptions S 3, Schedule I Fiscal Policy Measures (2007), VAT Exemption Order (2011), VAT (Exemption of Commission on Stock Exchange Transactions) Order,2014	• Oil exports (wrongly written as “All exports”) • Medical and pharmaceutical products • Basic food items • Books and educational materials • Baby products • Plants, machinery and good imported for use in the export processing zones or free trade zones • Plant, machinery and equipment purchased for utilization of gas in downstream operations • Tractors, plough and agricultural implements purchased for agricultural purposes • All exported services • Medical services • Services rendered by community banks and mortgage institutions • Plays and performances by educational institutions as part of learning • Plant, machinery and equipment (including steel structures) for the manufacture of cement and allied products • Vegetable oil • Motorcycle (CKD)/Bicycle (SKDs) and their spare parts • Corporate bonds and government securities (10 years from 2012) • Commissions on transactions in the Nigerian Stock Exchange (NSE) including commissions earned on the traded value of the shares payable to the Securities Exchange Commission (SEC), Central Securities Clearing System (CSCS) and the NSE. This exemption is valid for 5 years from 25 July 2014.

Zero rated Goods and Services (Schedule I, Part 111) (VAT Amendment Act 2007)	• Non-oil exports • Goods and services purchased by diplomats • Goods purchased for humanitarian donor-funded projects
Filing requirements S 12, S 13A	The following should be submitted to the tax authority. • Completed VAT returns form • VAT schedule showing Tax Identification number (TIN), name and address, date of transaction, invoice number, contract sum, rate applied, tax paid and month of return.
Due date S 15	21st day of the month following the month of transaction.
Offences and Penalties S 8, S 19, S 29, S 32 – S 35	• Failure to register for VAT: ₦10,000 for the first month and • ₦5,000 for every subsequent month • Failure to remit VAT: 5% per annum of the amount of tax not remitted plus interest at bank lending rate. • Failure to issue tax invoice: Fine of 50% of the cost of the goods or services for which tax invoice was not issued. • Failure to register is an offence liable upon conviction to a fine of ₦5,000 and sealing of the business premises if no registration is done after one month. • Failure to keep proper records: Fine of ₦2,000 for every month in which failure continues. • Failure to collect VAT: penalty of 150% of the amount not collected plus 5% interest above the CBN Monetary Policy Rate. • Failure to submit returns: Fine of ₦5,000 for every month in which failure continues.
VAT Deduction at Source S 13	The following are required to deduct VAT on their incoming invoices and remit directly to the FIRS: • Oil and gas companies including oil service companies • Governments, ministries, departments, and agencies • Resident entities in respect of transactions with non-residents.
Recoverable input VAT S 17	• Recoverable input VAT is restricted to goods purchased or imported directly for resale and goods which form the stock-in-trade used for the direct production of any new product on which the output VAT is charged. • VAT on overhead, service and general administration expenses are not allowed as deduction from output VAT. • VAT on fixed assets (capital items) which is to be capitalized along with the cost of the capital item is not allowed as deduction from output VAT.
VAT refund and carry forward S 16, FIRSEA S 23	• Excess input VAT may be carried forward as credit against future VAT payable. Alternatively, the FIRS Establishment Act (FIRSEA) provides for a cash refund on application within 90 days of FIRS decision subject to a tax audit.

9. CUSTOMS AND EXCISE DUTIES

Customs duties are taxes payable on goods imported into or exported from Nigeria. Excise duties are payable on the manufacture, sale or use of specified locally manufactured goods. The tax may also be levied on services, consumption and imported goods.

The various duties are governed by the Custom and Excise Management Act (CEMA) and several other Acts and Regulations relating to customs and excise matters.

<table>
<tr><th>Items</th><th>Comments</th></tr>
<tr><td>Rates</td><td>
- Import duties apply on various goods based on Harmonized System (HS) Codes at rates ranging between 5% to 35%.
- Excise Duties is normally charged on applicable products either on the basis of ad valorem, specific or both.
</td></tr>
<tr><td>Excisable goods</td><td>
<table>
<tr><th colspan="5">RATES (₦)</th></tr>
<tr><th>Products</th><th>2017</th><th>2018</th><th>2019</th><th>2020</th></tr>
<tr><td>Tobacco</td><td>0.2</td><td>20% + 1</td><td>20% + 2</td><td>20% + 2.9</td></tr>
<tr><td>Beer & Stout</td><td>0.2</td><td>0.3</td><td>0.35</td><td>0.35</td></tr>
<tr><td>Wines</td><td>0.2</td><td>1.25</td><td>1.5</td><td>1.5</td></tr>
<tr><td>Spirit</td><td>0.2</td><td>1.5</td><td>1.75</td><td>2</td></tr>
</table>
</td></tr>
<tr><td>ECOWAS Common External Tariff</td><td>
The 15 Member States of the Economic Community of the West African States on 25th October, 2013 adopted the ECOWAS Common External Tariff (CET). The ECOWAS CET was designed to set the same customs duties, import quotas, preferences or other non-tariff barriers to trade applicable to all goods entering the territory of any of the countries within the region.
Structure of the CET
<table>
<tr><th>Category</th><th>Type of Goods</th><th>Duty Rate</th></tr>
<tr><td>0</td><td>Basic Social Goods</td><td>0%</td></tr>
<tr><td>1</td><td>Basic Goods, Raw Goods, Capital Goods</td><td>5%</td></tr>
<tr><td>2</td><td>Inputs and Semi-Finished Goods</td><td>10%</td></tr>
<tr><td>3</td><td>Finished Goods</td><td>20%</td></tr>
<tr><td>4</td><td>Specific Goods for Economic Development</td><td>35%</td></tr>
</table>
</td></tr>
<tr><td>Filing requirements
S 125</td><td>
Excise Duties
Unit Cost Analyses (UCA) are agreed periodically with the Nigeria Customs Service.
There are no filing requirements, however manufacturers are required to keep the following records of manufacture and return (a) Material Register (b) Operation Register (c) Finished Product Register.
</td></tr>
<tr><td>Due date for payment
S 17b General Excise Regulations, CEMA.</td><td>
Import duties: This is payable upon importation prior to or at the port of entry.
Excise Duty: This is due and payable immediately on manufacture of excisable goods. The Board may however at its discretion deem the duty to become due and payable at a stage not later than the delivery of the goods from the products store.
</td></tr>
</table>

Exports Expansion Grant (EEG)	The Export Expansion Grant (EEG) is a post-shipment incentive designed to improve the competitiveness of Nigerian products and commodities and expand the country's volume and value of non-oil exports. The incentives was introduced by the Federal Government through the Export (Incentives and Miscellaneous Provisions) Act, No. 18 of 1986 as amended by the Export (Incentives and Miscellaneous Provisions) Act, No. 65 of 1992, Cap. E19, Laws of the Federation of Nigeria (LFN). • Exporters are divided into 4 categories with applicable EEG rate between 5% and 15% depending. • Proceeds of qualifying export transactions must be fully repatriated within 300 days calculated from export date and as approved by the EEG implementation committee. • Exporters are required to present an Export Expansion Plan as a prerequisite for participating in the EEG • The negotiable duty credit certificate (NDCC) has been replaced with the export credit certificate (ECC). • The ECC can be used to settle all Federal Government taxes such as value added tax (VAT), companies income tax (CIT), withholding tax (WHT) etc. • The ECC is valid for only two years and may be negotiated and transferred once to final beneficiaries. • In order to fund the administration of the scheme, EEG beneficiaries are to pay 2% of the value of the ECC upon collection of the certificate and 4% cost of collection when utilised.
Offences and Penalties S 101 -S 114 of CEMA	With respect to Excise Duties, offences include but are not limited to: 1. Unlawful manufacture of product liable to excise duty 2. Excess or deficiency in the product stock 3. Concealing product liable to excise duty 4. Manufacturing of product without an excise license 5. Improper record keeping. Penalties vary depending on the type of product liable to excise duty. Common penalties include fines, forfeiture of product, forfeiture of equipment and materials used in the manufacture of product, imprisonment etc.

10. STAMP DUTIES ACT

Stamp duty is tax on documents evidencing transactions between persons.

Items	Comments
Rate Section 8	Stamp duty is chargeable either at fixed rates or ad valorem (i.e., in proportion to the value of the consideration) depending on the class of instrument.
Instruments liable to Stamp Duty Section 3(1)	All instruments relating to an act to be performed in Nigeria must be stamped, except such instrument is specifically exempted.

Exemptions/Incentives S 104 Central Bank of Nigeria Circular (15 January 2016)	- Instruments in connection with a scheme for the reconstruction or amalgamation of companies may enjoy relief from stamp duties subject to specified condition – S.104 (1) - Transfer from self to self, whether inter or intra bank i.e. transfers between accounts held by the same person - Any form of withdrawals or transfers from savings accounts Salaries
Stamping requirements	Every instrument evidencing a transaction/agreement including every written document.
Due date to stamp S 12, S 23 (1)	Payment is made on stamping of instruments
Offences and Penalties Section 23(1)	Late stamping: ₦20; Where the unpaid duty exceeds ₦20: a further penalty in the form of interest on the stamp duty payable at the rate of 10% per annum subject to a maximum of the unpaid duty.

11. PENSION

All employers in the public sector, and private employers that have 15 or more employees are required, under the Pension Reform Act (PRA) 2014, to participate in a contributory pension scheme in favour of their employees.

Items	Comments
Rate S 4	Not less than 18% of monthly emoluments* (with a minimum contribution of 10% by the employer and up to 8% by the employee). The employer and/or the employee may make additional voluntary contributions. Where an employer decides to solely contribute to the scheme, the contribution shall not be less than 20% of the employee's monthly emolument.
Obligated persons S 2 (1),(2),(3)	All employers in the public sector, and private employers with 15 or more employees.
Exemptions/Incentives S 5 (1), [Guidelines on Cross Border Arrangements]	- Persons mentioned in Section 291 of the constitution of the Federal Republic of Nigeria, 1999 (as amended), members of the Armed Forces, the Intelligence, and Secret Services of the Federation. - Expatriate employees may join the scheme at their discretion and with the agreement of their employers.
Filing requirements S 11(3)	A monthly schedule showing details of employees' Retired Saving Account (RSA) PIN and their monthly contributions.
Voluntary Contribution	The LIRS and the Joint Tax Board issued Notices in 2017 on voluntary pension contributions to curb possible abuse. PENCOM also issued a directive to PFAs and PFCs to limit the frequency of withdrawals that can be made to once every 2 years and tax any amount withdrawn within 5 years.

Due dates S 11(3)	Not later than 7 working days after the payment of employees salary
Offences and Penalties S 99 - S 104	A Pension Fund Administrator (PFA) or Pension Fund Custodian (PFC) that reimburses or pays a staff, officer or director for a fine imposed on such person, is liable to a minimum penalty of ₦5 million and will forfeit the amount paid or reimbursed. Misappropriation of pension: prison term of up to 10 years or a fine of 3 times the funds misappropriated, or both. Also, the convicted person is required to refund the diverted funds and forfeit any property or fund diverted, with accrued interest. For PFCs, the Act imposes a penalty of at least ₦10 million, upon conviction, where the PFC fails to hold the funds to the exclusive preserve of the PFA or where it applies the funds to meet its own financial obligations (in the case of a Director, ₦5 million or a term of 5 years imprisonment or both). Any person, PFC or PFA that refuses to produce required information or produces false or misleading information is liable on conviction to a fine of not less than ₦200,000 or prison term of not less than 3 years, or both. A fine of ₦100,000 may be imposed for every day the offence continues. For employers, failure to deduct or remit contributions to the PFC shall, in addition to the remittance already due, be liable to a penalty of not less than 2% of the total contribution Where no specific penalty is prescribed, a person who contravenes any provision of the Pensions Reform Act will be liable on conviction to a fine of not less than ₦250,000, or a term of not less than one year imprisonment, or both.

“monthly emoluments” means” total emolument as defined in the employee’s contract of employment, provided it is not less than the total of the employee’s basic salary, housing and transport allowance”.

12. INDUSTRIAL TRAINING FUND (ITF) CONTRIBUTION

The ITF was established by Decree 47 of 1971 and amended in 2011. The main objective of the Fund is to generate a pool of indigenous trained manpower to meet the needs of the Nigeria economy.

Items	Comments
Rate S 6(1)	1% of annual payroll cost
Obligated persons S 6 (1)	All employers with a minimum of 5 employees or annual turnover of ₦50 million.
Incentive S 7(1)	An employer is entitled to a refund up to 50% of contributions made if adequate (documented) training courses are provided as prescribed by the ITF.
Filing requirements and due dates S 6(2)b	Employers who are filing for the first time are required to file with ITF Form 7a (and also include certificate of incorporation), so you may want to include Form 7a or revise it to "the applicable ITF form".
Offences and Penalties S 9(1)	5% of the unpaid amount to be added for each month or part of a month after the date on which payment should have been made.
Statute of limitations S 11	The contribution is recoverable at any time within 6 years from the due date.

Payroll is defined as the sum total of all basic pay allowances and other entitlements payable within and outside Nigeria to any employee in an establishment, public or private.

Employees mean all persons whether or not they are Nigerians employed in any establishment in return for salary, wages or other consideration, and whether employed full-time or part-time and includes temporary employees who work for periods of not less than 30 days in a year.

13. NATIONAL HOUSING FUND (NHF)

The aims and objectives of the NHF is to provide loans to Nigerians for developing, purchasing or renovating houses and encourage housing finance among low and medium income earners. The Fund provides long term loans to Mortgage Institutions for lending to contributors of the Fund.

Items	Comments
Rate S 4	2.5% of monthly basic salary.
Exemptions	Nigerians earning less than ₦3,000 per annum and all expatriates regardless of income level.
Filing requirements	A schedule of payment indicating the amount deducted from each employee and the period covered to be submitted to the Federal Mortgage Bank of Nigeria.

Penalty S 20	• Failure to deduct or remit - Employers ₦50,000, self-employed person • ₦5,000 or one year imprisonment on conviction or both. • Preventing or obstructing deduction or remittance: ₦5,000 or one year imprisonment or to both (on conviction). • Failure by authorised employee to make deduction on behalf of the employer: ₦50,000 or imprisonment for 5 years or both (on conviction)

14. LOCAL CONTENT ACT (OIL AND GAS SECTOR)

The Nigerian Local Content Act was promulgated on 22 April 2010. It applies to all matters pertaining to Nigerian content in respect of all operations or activities carried out in or connected with the oil and gas industry. The levy is governed by the Nigerian Oil and Gas Industry Content Development Act (NOGICDA) 2010.

Items	Comments
Rate of levy Section 104	1% of contract sum. The levy is to be deducted at source.
Taxable persons Section 104	Operators, contractors, subcontractor, alliance partner or any entity awarding a contract to another entity for the execution of a project, operation, transaction or activity in the Nigerian oil and gas upstream sector.
Exemptions/Incentives Section 48	The minister of petroleum is required to consult relevant arms of government on appropriate fiscal framework and tax incentives, for foreign and indigenous companies that establish facilities, factories, production units or other operations in Nigeria for the purpose of carrying out production, manufacturing or for providing services otherwise imported into Nigeria.
Filing requirements Section 17, 18, 24, 29, 39, 44, 49, 51, 52, 60.	Returns and approval of the Nigerian Content Development and Monitoring Board (NCDMB) is required for contracts above USD 1 million. Specified returns are also required by operators regarding financial services, legal, contracts and procurement, insurance, technology transfer, employment and training, annual performance report.
Due dates	In practice payments are made on a periodic basis - monthly, quarterly etc.
Offences and Penalties Section 68	Fine of 5% of contract sum or cancellation of project
Others	The NCDMB issues specific guidelines for the implementation of specific aspects of the Act e.g. Marine Vessel Utilization, ICT, Equipment Component Manufacturing, Expatriate Quotas, Fabrication and Welding etc.

15. COASTAL AND INLAND SHIPPING (CABOTAGE) ACT

This Act restricts the use of foreign vessels in domestic coastal trade with the purpose of promoting indigenous tonnage and to establish a cabotage vessel financing fund; and for related matters.

<table>
<tr><th>Items</th><th>Comments</th></tr>
<tr><td>Scope and rate
S.43 Cabotage Act</td><td>2% surcharge of the contract sums earned by vessels engaged in coastal trade in Nigeria.</td></tr>
<tr><td>Offences and Penalties</td><td>
<table>
<tr><th>Offence</th><th>Penalty</th></tr>
<tr><td>Unauthorised vessels engaged in different activities in Nigerian waters (S3-6)</td><td>Not less than N10 million and/or forfeiture of vessel. (S 35a)</td></tr>
<tr><td>Operating without licence (S 21)</td><td>Not less than N15 million and/or forfeiture of vessel. (S 35b)</td></tr>
<tr><td>Failure to register with the Special Register for Vessels and Ship Owning Companies (S 22)</td><td>Not less than N5 million (S 35c)</td></tr>
<tr><td>Willful noncompliance with requirements in the Act (S 36)</td><td>- 100,000 for individuals.
- 5 million for corporate body</td></tr>
<tr><td>False or misleading information (S 37)</td><td>- ₦500,000 for individual
- ₦15million for corporate body. And/or forfeiture of the vessel involved with the offence.</td></tr>
<tr><td>Others</td><td>An offence can be deemed to be committed by:
- A shipping company, if the offence is by a vessel.
- Every director or officer of the company or body, if the offence is by the company.
- Every partner or officer of the body, if the offence is by the partnership.
₦500,000 and above upon conviction where no penalty is prescribed.</td></tr>
</table>
</td></tr>
</table>

16. LOCAL CONTENT REGULATION (POWER SECTOR)

This is governed by Regulations issued by the Nigerian Electricity Regulatory Commission (NERC) in 2013. The Commission exercises its powers to make Regulations under Section 32(1) and 96 of the Electric Power Sector Reform Act 2005.

Items	Comments
Filing requirements Section 12	Each licensee is required to prepare and submit to the Commission an annual technology transfer report.
Due dates	There is no specified due date for filing annual technology transfer report or for submitting Nigerian Content plan for projects. However the practice is to submit local content plans before the issuance of invitation to tenders.
Offences and Penalties Section 17, 27	The NERC may establish such penalties as it deems fit to ensure the effective discharge of duties and compliance under the Act and the Regulation. Failure to prepare and submit an acceptable technology transfer report when due shall render a licensee liable to fines and other sanctions as may be determined by the Commission.
Others Sections 8	A Nigerian Content plan and Certification is required for contracts and purchase orders above ₦15 million, awarded in the Nigerian Power sector.

17. LOCAL CONTENT GUIDELINES (INFORMATION AND COMMUNICATIONS TECHNOLOGY SECTOR)

The National Information Technology Development Agency (NITDA) issued Guidelines for local content requirements for all companies operating in the Nigerian ICT industry and referenced to the powers conferred on it by section 6 of the National Information Technology Development Agency Act of 2007. The Guidelines have a commencement date of 3 December 2013.

Items	Comments
Incentives Section 10.2 (2),11.1(5)	• 5 years import duty waiver on computer components used locally for assembly of hardware. • Possibility for access to grants and seed capital for smaller software companies (potentially from the NITDA fund arising from the 1% of profit before tax being collected from certain companies).
Relief and allowances Section 15(2,3)	• 120% tax deduction for R&D expenses incurred by ICT training companies • 140% tax deduction for long term R&D on local raw materials and expenses on patentable research.

Filing requirements Section 10.3	Multinational companies are required to provide a local content development plan for the creation of jobs, recruitment of local engineers (not sales people), human capital development and value creation for the local ecosystem.
Offences and Penalties Section 8	Any breach of the Guidelines shall be construed as a breach of the provisions of the National Information Technology Development Agency Act of 2007.
Statute of limitations	Not Applicable
Others S 10.1(d), S 10.2 (c) (e) S 10.1 (1) (3) (4) (5)	• Minimum share capital for Original Equipment Manufacturers ("OEMs") and Original Design Manufacturers (ODMs) of N2 billion and N5 billion respectively. • OEMs are expected to maintain at least 50% local content by value either directly or through outsourcing to local manufacturers engaged in any segment of the product value chain. • ODMs must conceptualize, design and produce all hardware within • Nigeria. • Maintenance of active certification with NITDA by OEMs and ODMs, which are renewable every four years based on specified conditions.

PIONEER STATUS EXEMPTIONS

The primary objective of the pioneer legislation is to grant income tax exemption to companies operating in approved industries on their approved products. This is governed by the Industrial Development (Income Tax Relief) Act [IDITRA]

Items	Comments
Criteria	This is applicable to businesses that; 1. Are not being carried on in Nigeria at all or not at a scale suitable to the economic requirements of the country; 2. Have favourable prospects of further development in Nigeria; 3. Are deemed to be beneficial for public interest.
Incentives	The incentives granted under IDITRA are: • Exemption from companies income tax during pioneer period. The tax free period is for three years initially and can be extended for another two years subject to satisfactory performance of the business. • Exemption of dividend distributed from pioneer profits from withholding tax; • Capital allowances and tax losses are suspended during pioneer period and can be utilized after the expiration of the tax holiday.
Approved list of industries *Official Gazette No. 84 (2018)*	A list of 27 new industries have been added to the existing 44 pioneer products and industries. Some of the new industries include electricity and gas supply, e-commerce, waste management/recycling; creative industries, oil refining and petrochemical; regional shared service centers, preservation of food crops, photography, and real estate investment trusts (REITs).
Considerations for obtaining pioneer status	The following are the considerations for obtaining a pioneer status: • Company must be engaged in an activity listed as a pioneer industry or product; • Application for an extension must be within the first year of production/service; • Non-current tangible asset of the company must be over N100 million; • Make full payment of fees when due; • All required legal and regulatory compliance documentation must be provided; During the pioneer period, a performance report must be submitted to the NIPC annually for monitoring and evaluation purposes.
Mode of Application *Reg. 2, [Pioneer Status Incentive Regulations 2014]*	Application for pioneer status is addressed to the Minister of Industry through the Nigeria Investment Promotion Commission (NIPC) in such form as may be specified by the minister from time to time subject to the approval of the President of the Federal Republic of Nigeria. There is an application fee of ₦200,000 for new applicants, due diligence fee of N500,000, Service charge deposit of N2,500,000 and an annual service charge of 1% of actual tax savings payable to the NIPC no later than 30 June (for all applications received from 7 August 2017).
Compliance requirements (S.15&55, CITA)	Pioneer companies are mandated to file self-assessment returns to include audited financial statements, tax exempt profits, schedule of fixed assets and self-assessment forms.
Tax memorandum account	A pioneer company must keep a memorandum account (section 17 accounts) for the purpose of distributing tax free dividends from pioneer profits. The company may distribute profits credited into the account free of withholding tax to the extent of the amount in credit.

18. NIGERIA EXPORT PROCESSING ZONE ACT

The Nigeria Export Processing Zone Act ("NEPZA") and subsidiary legislation under it regulate matters relating to free trade zones in Nigeria.

Items	Comments
Approved Enterprise S 28 of NEPZA	An "approved enterprise" means any enterprise established within a Zone approved by NEPZA
Tax Status S 8 of NEPZA S 18(1)(a) of NEPZA	Approved enterprises operating within the Zone are exempt from all federal, state and local government taxes, levies, duties and rates. Foreign exchange regulations are not applicable within the Zones.
Obligations Various laws and practice	Tax authorities often require approved enterprises to deduct and remit taxes such as PAYE and related contributions. Also, when dealing with a non-exempt counterparty, obligation to charge VAT at 5% and/or deduct withholding tax at the relevant rates may be applicable. This is on the basis that only the approved enterprises enjoy tax exemptions and not their employees or suppliers.
Incentives and special rules S 8 NEPZA S18(1) of NEPZA S 17 of NEPZA S 12 (1) of NEPZA	Available exemptions and incentives include: • Exemption from all federal, state and local government taxes, levies and rates. • Exemption from legislative provisions pertaining to taxes, levies, duties and foreign exchange regulations. • Repatriation of capital investment including any capital appreciation. • Remittance of profits and dividends earned by foreign investors. • Exemption from import or export licence requirements. • Sale of up to 25% of production in the Customs Territory against a valid permit, and on payment of appropriate duties. • Export to the Customs Territory shall be subject to the same customs and licensing requirements as apply to goods imported from other countries. • Rent free land at construction stage and thereafter, rent as determined by the Zone Authority. • Up to 100% foreign ownership of business. • Employment of foreign managers and qualified personnel. • Imports of any capital goods, consumer goods, raw materials, components or articles intended to be used in an approved activity, including for the construction, alteration, reconstruction, extension or repair of premises in the Zone or for equipping such premises are free of customs duties.
Filing requirements S 19 of NEPZA	An approved enterprise is required to submit to the Zone Authority at such intervals as may be prescribed, statistical data and such information and returns as regards the sales and purchases and other operations of the enterprise.
Offences and Penalties S 25 of NEPZA	Non-compliance under the Act is punishable on conviction by a fine of ₦100,000 or imprisonment for a term of three months, or both fine and imprisonment. Where a body corporate is guilty of an offense committed with the consent or connivance of a director, manager, secretary other similar officer, or any person purporting to act in any such capacity, they as well as the body corporate are guilty of the offence.

Schedule of Topics for 2019

Date	Topic	Venue
15th January	Adopting to the new reality: Compliance under the 2018 TP Regulations and implication for Current Practices	Landmark Towers
19th February	Dynamics of the Nigerian Tax Environment: Recent Developments, Expected changes and Future outlook	Landmark Towers
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Contacts

Taiwo Oyedele

Partner/Head of Tax & Regulatory Services
PricewaterhouseCoopers Nigeria
Email: taiwo.oyedele@pwc.com
Telephone: 27112700
Ext: 50002

Kenneth Erikume

Partner, Tax Reporting & Strategy
PricewaterhouseCoopers Nigeria
Email: kenneth.y.erikume@pwc.com
Telephone: 27112700
Ext: 50004

Caveat

We have issued this Tax Data Card to provide a high level insight into key areas of taxation in Nigeria. It covers various taxes including corporate and individual income tax, capital gains tax, withholding tax, social security contributions, VAT, Excise duty and Stamp duty.

There are a number of other taxes and levies payable to federal, state or local governments, which have not been included.

Although we have taken all reasonable care in compiling the data card, we do not accept responsibility for any errors or inaccuracies contained in the document.

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