

WYZE TAX NEWSLETTER

POLICE FUND LEVY: COMPANIES TO CONTRIBUTE 0.005% OF NET PROFIT TO POLICE TRUST FUND

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The National Assembly in April 2019 passed the Nigerian Police Trust Fund (Establishment) Act (the "Act") and was signed into law by the President on 24 June 2019. The Act establishes the Nigeria Police Trust Fund ("the Trust Fund") to receive funds from a levy of 0.005% of the net profit of companies operating a business in Nigeria and other various sources, which will be utilized for the training and welfare of personnel of the Nigeria Police Force.

Section 2 of the Act provides for a 6-year tenure for the Trust Fund, effective from the date of commencement of the Act, after which the Trust Fund shall cease to exist, unless it is extended for any period by an Act of the National Assembly. Section 5 of the Act outlines the purposes of the Trust Fund which includes:

- i. To meet the training and re-training needs of the personnel of the Nigeria Police Force (NPF) and its auxiliary staff within and outside Nigeria;
- ii. To enhance the skills of the personnel of the NPF and its auxiliary staff for improved proficiency in the use of operational equipment and machineries;
- iii. To improve on an overall basis, the performance and efficiency of the NPF personnel in the discharge of their duties and responsibilities;
- iv. To purchase equipment, machineries, including operational vehicles for the NPF;
- v. To construct police stations, provide living facilities, such as quarters or barracks for the NPF;
- vi. To finance the procurement of books, instructional materials, training equipment for use at Police Colleges and such other similar training institutions

Section 4 of the Trust Fund Act lists the sources of funds as follows:

- 0.5% of the total revenue accruing to the Federation Account;
- a levy of 0.005% of the net profit of companies operating a business in Nigeria;
- any take-off grant and special intervention fund as may be provided by the Federal, State or Local Government;

· monies appropriated by the National Assembly in the budget to meet the objective of the Act;

· aids, grants and assistance from international agencies, non-governmental organisations and the private sector; and

· money derived from investment made by the Trust Fund.

The Act also establishes the Trust Fund Board of Trustees, which will be responsible for investing money accruing to the Trust Fund, setting policies for training and retraining of personnel of the NPF, and so on. The Act exempts the Trust Fund from the payment of income tax on any income accruing from investments made by the Trust Fund.

Major assumptions

The establishment of the Police Trust Fund by the Federal Government is indeed a welcome initiative to improve the NPF. However, where it is not properly administered, it will defeat its intended purpose of improving the working and living conditions of the NPF personnel and equipping them for effective performance of their statutory responsibilities.

The levy (0.005% of net profit), although insignificant, but when aggregated, will contribute immensely to the improvement of the NPF. The Act imposes the levy on companies operating in Nigeria, which would include both Nigerian companies and non-resident companies carrying on business in Nigeria. However, there is no provision for the tax-deductibility of the mandatory levy payable under the Act by companies operating in Nigeria.

The Act did not specify the body that will be responsible for collecting the levy, the due date of remittance of the levy, and whether the levy would be payable on demand or by self-assessment, and penalty for failure to remit it. In addition, the Act does not stipulate any penalty for failure to pay the prescribed levy of 0.005%. Thus, the modality for application and enforcement of the levy is still uncertain.

The Act provides for audit and presentation of an annual report to the President. The contributors to the Trust Fund would be interested in the effective use and proper accountability of the funds.