

2019 Finance Bill Passes Second Reading at the Senate

The 2019 Finance Bill passed its second reading at the Senate on Wednesday 8 October 2019. The bill is expected to promote fiscal equity and raise revenue for government amongst other things. The proposed changes in the finance bill will cover majority of the tax laws in existence at the moment and it is expected to be enacted by the National Assembly at the same time as the passage of the 2020 National Budget and the 2020 Appropriation Act. We have highlighted below, a summary of some of the proposed changes to the tax laws by the finance bill:

Value Added Tax

Section 4: Rate of VAT

Increase in VAT rate from 5% to 7.5%.

Section 10: Non-Resident Companies

- 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 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.

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.

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).
- Services rendered by Microfinance Banks.

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.

Companies Income Tax

Section 9: Change of Tax

Introduction of a specialized tax framework for Securities Lending Transactions.

Section 3: Nigerian Company

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 and 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 Schedule: Interest on foreign loans

Restriction on tax exemption on foreign loans.

Seventh Schedule: Introduction of Thin Capitalization rules

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

Updates to Other Tax Laws

Personal Income Tax Act

Section 33: Deletion of tax relief for children and dependent relatives.

Capital Gains Tax (CGT) Act

- **Section 50:** Clarity on the circumstances under which CGT will apply to transfer of assets during business reorganization.
- **Section 52:** Increase of the maximum amount of “compensation for loss of office” exempted from tax to 10 million naira.

Petroleum Profits Tax Act

Section 60: Deletion of exemption for dividend paid out of petroleum profits.

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 incentivize local production.

Stamp Duties:

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

The bill is formulated to meet the critical needs of the country by intensifying revenue-generating efforts and ensuring that all bottlenecks associated with fiscal and tax policies are adjusted.

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