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TEMPLARS Transcripts: Tax Digest

Policy and Tax Administration

- **Federal Inland Revenue Service directs banks to deduct stamp duties charges on Loans**

In line with the directive of the Federal Inland Revenue Service (the "**FIRS**") to all banks, the banks have notified their customers in a notice issued on 2 May 2024, stating their obligation to henceforth deduct and remit 0.375% as stamp duties on all loans backed by legal mortgage, shares, debentures, or bonds. The charge will be applied on the value of the legal mortgage, shares, debentures or bonds. (the "**Affected Loans**") The deduction is to be made on the value of the loan.

This directive comes as part of the administrative powers of the FIRS to implement various tax laws including the Stamp Duties Act. The Affected Loans are loans which banks typically grant to individuals or corporates to buy a home with repayment terms and accrued interest. By this directive, a bank issuing the Affected Loans is now required to deduct and remit the stamp duty applicable.

- **Proposed Tax Relief for Small Businesses**

Mr Taiwo Oyedele, the Chairman of the Presidential Committee on Fiscal Policy and Tax Reforms (the "**Committee**"), recently unveiled underway plans of the Committee to provide tax reliefs to small businesses in the informal sector which was published on the official site of the Committee.

Mr. Taiwo Oyedele announced that the FGN will offer significant tax relief to 95% for small businesses in the informal sector. Businesses earning NGN25,000,000 (**Twenty-Five Million Naira**) or less annually will be exempt from various taxes that have previously hindered their progress. The aim is to address the challenges of multiple taxation faced by small businesses at federal, state, and local levels.

Mr Taiwo Oyedele noted that the proposed tax reforms are targeted at the top 5%, the elite and the middle class. This proposed tax relief follows the proposed reintroduction of a telecom tax, which is part of efforts to secure a $750 million loan from the World Bank. The Committee is reportedly drafting key legislations to implement necessary changes to the fiscal policies and tax reforms in Nigeria.

- **Clarification on Proposed VAT Reforms**

Following several news reports suggesting that the Committee is proposing an increased VAT rate, Mr Taiwo Oyedele, via his LinkedIn page, made clarifications on the proposed reforms to the VAT administration in Nigeria and noted that the Committee is proposing several changes to the Value Added Tax.

Mr. Taiwo Oyedele assured the public that discussions are ongoing on reforming the VAT system to benefit both businesses and the public. The proposed reforms as clarified by Mr Taiwo Oyedele include:

1. Grant of full input VAT credit for businesses to reduce their cost of doing business and minimise the strain on their cash flows.
2. Removal of VAT on an expanded list of basic food, educational and healthcare items to protect the poor.
3. Harmonization of all consumption taxes into one (VAT only) and adjust the revenue sharing formula in favour of states to address multiplicity of taxes.
4. Removal of VAT on export of service and intellectual property to promote non oil exports.
5. An increase of the threshold for VAT exemption for small businesses.
6. Enhancing the VAT refund process to reduce the strain on working capital of businesses.
7. Introduction of VAT fiscalisation and electronic invoicing.
8. consequential upward adjustment to the VAT rate on items not exempted to avoid a significant drop in revenue.

Overall, the proposed reform is aimed at creating a less complex and more efficient tax system and balancing out revenue for both federal and state governments.

- **President Bola Ahmed Tinubu Suspends implementation of the Cybersecurity Levy**

The Nigerian government has suspended the implementation of the Cybersecurity Levy (the "**Levy**"). The announcement was made following the issuance, by way of a circular, of an implementation guideline to all commercial, merchant, non-interest and payment service banks, financial institutions, mobile money operators and payment service providers on the collection and remittance of the National Cybersecurity Levy by the Central Bank of Nigeria (the "CBN").

The Levy, though recently publicized by the CBN, was imposed by the Cybersecurity Act, 2024 as amended, to raise funds for cybersecurity initiatives through a 0.5% deduction on electronic transactions to be paid into the National Cybersecurity

Fund (**NCF**) under the administration of the Office of the National Security Adviser (**ONSA**).

Further to the suspension, the CBN via its Circular dated 17 May 2024 withdrew its earlier circular on the implementation of the cybersecurity levy.

- **Nigeria is set to launch its first Tax Inspectors Without Borders- Criminal Tax Investigations Program**

Nigeria in collaboration with the United Nations Development Program (UNDP) and the Organisation for Economic Co-operation and Development (OECD) is set to launch the Tax Inspectors Without Borders - Criminal Tax Investigation Programme (**TIWB-CI**), a collaborative initiative of both the OECD and the UNDP. This signifies a major step forward in Nigeria's fight for combating tax evasion and fostering transparency in its fiscal systems, including curbing illicit financial flows.

The TIWB-CI program focuses on three key objectives:

i. Building capacity of tax crime investigators in developing countries through the provision of real-time assistance in investigation of criminal cases.

ii. Facilitating knowledge sharing and skill development among tax authorities in developing nations

iii. Effective resolution of cases by strengthening of tax crime enforcement frameworks

This comprehensive program will be executed in three phases over a period of 24-30 months, offering participating countries support and guidance. Upon completion, the programme's impact and achievements is to be evaluated based on inputs from all stakeholders, in alignment with a standardized evaluation framework for the TIWB-CI programme.

An introductory virtual/hybrid session was held on Tuesday, May 7th, 2024, at the FIRS Headquarters in Abuja. This session engaged other agencies to foster collaboration against tax-related crimes.

The TIWB-CI program holds particular importance for Nigeria being a nation grappling with a low revenue-to-GDP ratio. By combating tax evasion and prosecuting tax offenders, Nigeria expects to bolster its revenue collection and safeguard government income. Ultimately, the program will create a fairer and more supportive environment for businesses and economic growth within the country.

- **Federal Government Considers Reinstating Telecom Tax for World Bank Loan**

The FGN is evaluating the possibility of reintroducing the previously suspended tax on telecommunication services. According to the Stakeholder Engagement Plan for Nigeria – Accelerating Resource Mobilisation Reforms programme between Nigeria and the World Bank ("**ARMOR program**"), this action is being considered to secure a new loan of $750 million from the World Bank.

President Bola Ahmed Tinubu had previously suspended the 5% telecom tax in July 2023 via an executive order. Information obtained from the ARMOR program indicates that discussions between the FGN and the World Bank are currently ongoing, and that the tax suspension may be lifted to meet the ARMOR program's objectives which includes the proposed World Bank loan.

The proposed tax reforms under the ARMOR Program are expected to have a significant impact on various industries, including producers of alcoholic beverages, tobacco products, telecommunication and banking services, as well as the general tax-paying public, importers and international traders. Key industry representatives, like the Association of Licensed Telecom Operators of Nigeria and the banking sector's Committee of Bankers, are actively participating in discussions regarding the proposed tax measures contemplated under the ARMOR Program.

Legislative Advancements

- **President Bola Ahmed Tinubu issues the Oil and Gas Companies (Tax Incentives, Exemption, Remission, Etc) Order 2024**

In a bid to promote investment in the Nigeria's oil and gas sector, President Bola Ahmed Tinubu recently signed the Oil and Gas Companies (Tax Incentives, Exemption, Remission, etc.) Order 2024 (the "**Executive Order**"). This Executive Order introduced a range of fiscal incentives designed to support companies operating within the industry.

The Executive Order provides companies engaged in the development of NAG greenfield projects in onshore and shallow waters, with first gas production on or before 1 January 2029, with (i) a gas tax credit at the rate of US$1.00 per thousand cubic feet or 30% of the fiscal gas price, whichever is lower, where the Hydrocarbon liquid (the "HCL") content does not exceed 30 barrels per million Standard Cubic Feet (SCF) and (ii) a gas tax credit at the rate of US$0.50 where the HCL content exceeds 30 barrels per million SCF but does not exceed 100 barrels per million SCF. Companies with a production start date after 1 January 2029, would be eligible for a tax allowance at a rate of US$0.50 per thousand SCF, or 30% of the fiscal gas price, whichever is lower, provided the HCL content does not exceed 100 barrels per million SCF.

The Executive Order which aims to enhance the Nigeria's energy landscape emphasizes adherence to the guidelines issued by the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) in determining HCL contents accurately. More details on the Executive Order can be found here.

- **The Minister of Finance issues the Implementation Guidelines for the Oil and Gas Companies (Tax Incentives, Exemption, Remission, Etc.) Order 2024 (the "Implementation Guidelines")**

Further to the Executive Order, the Ministry of Finance in collaboration with the FIRS and the NUPRC, issued the Implementation Guidelines for the Oil and Gas Companies (Tax Incentives, Exemption, Remission, Etc.) Order 2024 (the "**Implementation Guidelines**") in April 2024. The Implementation Guidelines contains the following three sub-guidelines aimed at implementing the various fiscal incentive under the Order:

a. The Federal Inland Revenue Service Guideline on the applicability of Tax Credits and Allowances for Non-Associated Gas Greenfield Development; (the "**GTC Guideline**").
b. The Federal Inland Revenue Service Guideline on the applicability of the Midstream Capital and Gas Utilization Allowance; (the "**GUIA Guidelines**") and
c. The Nigerian Upstream Petroleum Regulatory Commission Guideline on Hydrocarbon Liquid Content in a Non-Associated Gas Field (the HCL Guidelines).

Whilst the GTC Guidelines provide for the application and implementation of the gas tax credit and the gas allowance granted in respect of NAG greenfield development in onshore and shallow water location, the GUIA Guidelines provide for the implementation of the Gas Utilization Investment Allowance. The HCL Guidelines, on its part, provide for the determination of the HCL content in NAG Fields. Our review of the Implementation Guidelines can be found here.