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TEMPLARS Transcripts: Tax Digest

Policy and Tax Administration

- **Presidential Fiscal and Tax Reforms Committee's Proposal to Reduce the VAT Rate on Essential Items, amongst other Reforms**

In our update on tax policies and development in the country in May, we highlighted that the Presidential Committee on Fiscal Policy and Tax Reforms (the **Committee**), led by its Chairman, Taiwo Oyedele, was preparing a proposal for several tax initiatives including the removal of Value Added Tax (**"VAT"**) on essential items,[1] to protect the lower-income class.

On 4 September 2024, the Chairman during an interview with Channels TV, confirmed that the proposal had been made to the Federal Government for zero percent (0%) VAT on essential items, and increased VAT rate on non-essential items, amongst others. Explaining the rationale for the reform, the Chairman noted that the goal is to make it possible for Nigerians to afford necessities, as many essential items constituting 82% of the total consumption of an average household currently attract VAT. He mentioned that the upward rate adjustment on non-essential items is to partly offset the impact of the reduction in rate and exemption for essential items ensuring that the masses are protected and to provide some cushion for states who earn 85% of VAT revenue. Additionally, he noted that many small businesses are required to charge VAT on their sales, but with the proposal, over 97% of Small and medium-sized enterprises (SMEs) will be exempted from charging VAT on their sales.

[1] Essential items include food, public transportation, house rents, education (whether private or public), health and other necessities critical to the well-being of Nigerians.

Below are some highlights of the proposed reforms:

- Zero percent (0%) VAT on food, health, education, and exemption for rent, transportation, and small businesses.

- Zero percent (0%) VAT on export of services and intellectual property to facilitate export growth. We note that exported services are currently exempted from VAT Act, however, with the proposal they will be zero rated.

- Increased VAT rate from 7.5% to 10% by 2025 with a projected increase to 15% by 2030 and a corresponding reduction of CIT from 30% to 25%, and reduced PIT for persons earning N1,500,000 and below.

- Removal of VAT, Withholding Tax (WHT) and Companies Income Tax (CIT) on small businesses,[2] as well as Personal Income Tax (PIT) on the employees of small businesses, to ensure that taxes are not disproportionately borne by the lower income earners in the country.

- Tax reliefs to companies that significantly increase their workforce and/or offer transportation relief to employees to stimulate employment generation.

- Utilisation of tax refund to offset other types of tax liability and easier procedure for VAT refunds without the need for extensive tax audits to help business cash flows.

- Consolidation of taxes such as education tax, information technology levy, police tax etc into one tax type at the rate of 4 percent (4%) to be subsequently reduced to 2 percent (2%) for the dual aim of reducing duplicity of taxes and general cost on businesses.

- Discontinuation of other forms of consumption taxes existing in some states in addition to VAT (resulting in multiplicity of taxes), such that only VAT will be charged.

- Alteration of the VAT sharing formula entitling states and local government to about 90% with the federal government receiving 10% of VAT collected. This is aimed at having the states discontinue their state-imposed consumption taxes.

- Replacement of the concept of Pioneer Status Incentive with the concept of Priority Sector Incentives with the relevant considerations being: (i) a minimum level of investment required before eligibility for the incentive; and (ii) length of time for the enjoyment of the incentive.

Overall, the proposal suggests methods to increase efficiency in collection of taxes to improve transparency, and to align the collection system with global best practices. Ultimately, it is expected that job creation will be stimulated, and cost relief will be provided to individuals and businesses across the country, thereby stimulating growth and strengthening the revenue base of the country.

- **Federal Government to Introduce New Tax Laws to Regulate of Cryptocurrency Industry.**

  On August 17, 2024, the executive chairman of the Federal Inland Revenue Service (**"FIRS"**), Dr Zacch Adedeji, while speaking at the FIRS 2024 Stakeholders Engagement with the Senate and House of Representatives Committees on Finance in Lagos noted that new tax laws will be introduced to "overhaul the whole process of revenue administration in Nigeria". Particularly, the Chairman mentioned that these new tax laws will include regulations for the cryptocurrency industry as he underscored the urgent need for governing cryptocurrency taxation in Nigeria.

  Presently, there is no comprehensive framework regulating taxation of cryptocurrency or digital assets in Nigeria. The Capital Gains Tax Act as amended by the Finance Act (the **"CGTA")** is the only law that provides for the taxation of digital assets in Nigeria. This came as a consequence of the Finance Act 2023, amendment of section 3 of the CGTA to include *digital assets* as a chargeable asset for capital gains tax in Nigeria. However, there are no guidelines outlining the steps required to ensure compliance. Prior to this, in 2022 the Securities and Exchange Commission (SEC) had issued "Rules on Issuance, Offering Platforms and Custody of Digital Assets". This was the first attempt at a comprehensive regulation of digital and virtual assets in Nigeria despite the Central Bank of Nigeria (CBN) prohibitive measures on cryptocurrency transactions.

  It is expected that the new law which is mooted to be introduced in September will resolve the seeming disparity in the CBN and SEC position, provide sufficient guidance and regulate the taxation of the growing cryptocurrency industry in Nigeria.

- **Institutional Concerns Linger Over the Imposition of the Banks' Windfall Tax**

  In our August edition of the tax digest, we highlighted the proposed introduction of a windfall tax levied at 70% on realised profits made by Nigerian banks from foreign exchange transactions in the 2023 to 2025 financial year.

  The Chartered Institute of Directors Nigeria (**''CIoD''**), in a statement signed by Bamidele Alimi, director-general/CEO, CIoD, have expressed concern about the windfall tax stating that it was against the overriding philosophy of Nigeria's tax policy of supporting economic growth and development.

  He mentioned that having to remit windfall tax for the 2023 financial year when audited reports have been submitted and dividends allocated to shareholders is ill-timed. Further, he noted that considering banks are currently engaged in recapitalisation efforts to meet the Central Bank of Nigeria's (**CBN**) minimum capital requirements, the imposition of such a high tax could divert essential funds away from these efforts, hampering banks' ability to strengthen their capital bases.

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[2] The threshold for small companies for the purpose of the proposal is an annual turnover of N50,000,000 (Fifty Million Naira) as against N25,000,000 (Twenty-Five Million) provided in CITA.

Additionally, he highlighted that the high windfall tax can reduce the lending capacity of banks, as the excessive tax burden on banks could lead to a reduction in available capital for lending, thereby slowing down economic activities and the passing of these costs to consumers.

- **ICPC Inaugurates Anti-Corruption Unit in FIRS to Boost Transparency**

  On 27 August 2024, in line with the Federal Government policy of creating Anti-Corruption and Transparency Units ("**ACTU**") in all ministries, departments and agencies, the Independent Corrupt Practices and Other Related Offences Commission (ICPC) inaugurated a 12-member ACTU within the FIRS. This was officially launched at the FIRS headquarters in Abuja where the ACTU was mandated to enforce a zero-tolerance policy towards corruption and unethical practices within the revenue agency.

  The ICPC Chairman, Dr. Musa Adamu Aliyu, outlined the ACTU's mandate, which includes sensitizing staff on corruption, examining systems vulnerable to malpractice, developing and enforcing ethical codes, monitoring budget implementation, and initiating preliminary investigations into complaints.

  The expectation is that the ACTU will collaborate with the management of the FIRS as well as other relevant stakeholders and grow the FIRS into a reputable, transparent and efficient organisation.