Executive summary

The Federal Executive Council (FEC) of Nigeria, on 6 June 2018, approved the report of the National Tax Policy Implementation Committee (the Committee) on Tax Laws Reform (TLR) which seeks to remove obsolete, ambiguous and contradictory provisions in the tax laws as well as increase Government revenue.

The report of the Committee includes two Executive Orders and five Amending Bills. The two executive orders are the Value Added Tax Act (Modification) Order and Review of Goods Liable to Excise Duties and Applicable Rate Order. The five amending bills include the Companies Income Tax Act (Amendment) Bill and the Value Added Tax Act (Amendment) Bill. Others are Customs, Excise, Tariff etc. (Consolidation) Act (Amendment) Bill, Personal Income Tax Act (Amendment) Bill and the Industrial Development (Income Tax Relief) Act (Amendment) Bill.

Detailed discussion

The highlights of the approved Executive Orders and Amendment Bills are summarized below.
Executive Orders

Value Added Tax Act (Modification) Order
This Order calls for the alteration of the scope of exempted and zero-rated goods and services by: (i) limiting exemption to oil exports (rather than all exports); (ii) exempting residential property leases or rentals; (iii) exempting transport services for use by general public; (iv) exempting life insurance; and (v) deleting of obsolete provisions.

Review of Goods Liable to Excise Duties and Applicable Rate Order, 2017
This Order addresses: (i) an increase tax rate on sin products by the introduction of specific rate system in addition to the existing ad valorem system; (ii) discouraging dumping and stopping discrimination against local businesses; (iii) expansion of the scope of local goods liable to duties to include eight additional lines in line with the Economic Community of West African States (ECOWAS) directive; and (iv) correction of clerical errors.

Amending Bills

Companies Income Tax Act (CITA)
Amendments to CITA include:

a. Deletion of Section 16 (7) which restricts the carryforward of losses by insurance companies to four years and replacing of this section with a new subsection that allows the indefinite carry forward of losses.

b. Reduction of the tax rate for Small and Medium scale Enterprises (SMEs) from 20% to 15% to stimulate growth of SMEs.

c. Amendment of Section 19 to avoid double taxation of retained earnings on which tax has been paid and to exclude exempt profits from excess dividend tax.

d. Deletion of the commencement rule provisions to reduce the impact of double taxation on new companies.

e. Amendment of Section 31(2)(a)(ii) to allow for the indefinite carryforward of losses made by companies during their commencement period.

f. Deletion of Section 39(1xe) to remove bureaucracy regarding ministerial approval for loans obtained for gas projects and to improve the process of doing business.

g. Deletion of other overlapping and obsolete provisions.

Value Added Tax (VAT) Act (VATA)
Amendments to VATA include:

a. Amendment of Section 2 and 46 in order to include “intangible property” as a chargeable items and define “taxable supplies,” respectively.

b. Inclusion of guidelines on turnover thresholds for VAT registration and empowering the Ministry of Finance to amend the threshold.

c. Imposition of the obligation to self-account for VAT on recipients of taxable supplies by nonresident companies (NRCs) regardless of whether the NRC has charged VAT on its invoice.

d. Deletion of other overlapping and obsolete provisions.

Customs Excise and Tariff Act (CETA)
Amendments to CETA include:

a. Increase in the tax rate on “sin” products by the introduction of a specific rate system in addition to the existing ad valorem system.

b. Discourage dumping and stop discrimination against local businesses.

c. Expansion of the scope of local goods liable to duties to include eight additional lines in line with the ECOWAS directive and correction of clerical errors.

Personal Income Tax Act (PITA)/Pension Contribution
Amendments to PITA and the Pension Contribution include:

a. Modification of Section 58 of PITA regarding the mode of delivery of notice of objection to include delivery in person, by courier or via electronic mail, to accommodate developments in the Information and Communications Technology (ICT).

b. Steps for easy implementation of Double Taxation Treaties as it pertains to foreign employees.

c. Modification of Section 87 to make the different names adopted by State Revenue Authorities admissible by law.

d. Deletion of overlapping and obsolete provisions.
Industrial Development (Income Tax Relief) Act (IDITRA) and Tertiary Education Trust Fund (Establishment, Etc.) Act

Amendments to IDITRA include:

a. Extending the tax relief granted under IDITRA to Tertiary Education Tax, National Information Technology Development levy and other taxes imposed on profits of companies.

b. Restricting the capital allowance claimable on capital expenditure incurred during the tax relief period of a company to annual allowance upon expiration of the tax holiday.

Implications

The FEC’s approval of the modifications in the Executive Orders and the proposed Amending Bills should provide the platform for improved tax compliance and also provide clarity to some of the ambiguities in the tax laws.

Although there is an inherent challenge in respect of the timely execution and enactment of the Amending Bills, taxpayers should consider the proposed amendments in their future decision-making processes.

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