

FINANCE ACT, 2020

EXPLANATORY MEMORANDUM

This Act amends the Capital Gains Tax Act, Cap. C1, Companies Income Tax Act Cap. C21, Personal Income Tax Act, Cap. P8, Customs and Excise Tariff, Etc. (Consolidated) Act, Cap. C49, Value Added Tax Act, Cap. V1, Nigeria Export Processing Zones Act, Cap. N107, Oil and Gas Export Free Zone Act, Cap. O5, Industrial Development (Income Tax Relief) Act, Cap. I17, Stamp Duties Act, Cap. S8, Laws of the Federation of Nigeria, 2004; Tertiary Education Trust Fund (Establishment) Act No. 16, 2011, Federal Inland Revenue Service (Establishment) Act No. 13, 2007, Fiscal Responsibility Act No. 31, 2007, Public Procurement Act No. 14, 2007 and Companies and Allied Matters Act No. 3, 2020.

FINANCE ACT, 2020

Arrangement of sections

Section:

1. Amendment of Cap. C1, C21, P8, C49, V1, N107, O5, I17, S8, LFN, 2004; Act No 16, 2011, Act No. 13, 2007, Act No. 31, 2007, Act No. 14, 2007 and Act No. 3, 2020.

PART I – CAPITAL GAINS TAX ACT

2. Amendment of section 2.
3. Amendment of section 24.
4. Amendment of section 36.
5. Amendment of Schedule.

PART II – COMPANIES INCOME TAX ACT

6. Amendment of section 11.
7. Amendment of section 13.
8. Amendment of section 14.
9. Amendment of section 16.
10. Amendment of section 23.
11. Amendment of section 25.
12. Amendment of section 27.
13. Amendment of section 33.
14. Amendment of section 39.
15. Substitution for section 53.
16. Amendment of section 55.
17. Substitution for section 63.
18. Amendment of section 68.
19. Amendment of section 69.
20. Amendment of section 77.

21. Amendment of section 105.

22. Amendment of Second Schedule.

PART III – INDUSTRIAL DEVELOPMENT (INCOME TAX RELIEF) ACT

23. Amendment of section 1.

24. Amendment of section 25.

PART IV – PERSONAL INCOME TAX ACT

25. Insertion of new section 6A.

26. Amendment of section 20.

27. Substitution for section 24.

28. Substitution for section 25.

29. Amendment of section 33.

30. Amendment of section 37.

31. Amendment of section 108.

32. Amendment of sections 23, 48, 73, 86, 89, 93 and 106A.

33. Amendment of third Schedule.

PART V – TERTIARY EDUCATION TRUST FUND (ESTABLISHMENT, ETC) ACT

34. Amendment of section 1.

35. Deletion of section 10.

36. Amendment of section 11.

PART VI – CUSTOMS AND EXCISE TARIFF, ETC (CONSOLIDATION) ACT

37. Substitution for section 21.

38. Amendment of First Schedule.

39. Amendment of Second Schedule.

PART VII – VALUE ADDED TAX ACT

40. Substitution for section 2.

41. Insertion of new section 2A.

- TheNigerialawyer
42. Substitution for section 4.
 43. Substitution for section 10.
 44. Amendment of section 46.
 45. Amendment of Parts I – II to the Schedule.

PART VIII – STAMP DUTIES ACT

46. Amendment of section 2.
47. Amendment of section 89.
48. Insertion of new section 89A.

PART IX – FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT

49. Amendment of section 8.
50. Amendment of section 23.
51. Amendment of section 25.
52. Amendment of section 26.
53. Insertion of new section 28A.
54. Amendment of section 39.
55. Amendment of section 50.
56. Amendment of section 69.
57. Amendment to the Fifth Schedule.

PART X – NIGERIA EXPORT PROCESSING ZONES ACT

58. Amendment of section 18.

PART XI – OIL AND GAS EXPORT FREE ZONE ACT

59. Amendment of section 18.

PART XII - COMPANIES AND ALLIED MATTERS ACT

60. Substitution for section 432.

PART XIII – FISCAL RESPONSIBILITY ACT

61. Amendment of section 12.

62. Substitution for section 22.

PART XIV – PUBLIC PROCUREMENT ACT

63. Substitution for section 15.

64. Substitution for section 17.

65. Substitution for section 20.

66. Amendment of section 22.

67. Amendment of section 24.

68. Amendment of section 25.

69. Amendment of section 27.

70. Amendment of section 30.

71. Amendment of section 35.

72. Substitution for section 36.

73. Amendment of section 58.

74. Amendment of section 60.

PART XV – ESTABLISHMENT OF CRISIS INTERVENTION FUND AND UNCLAIMED FUNDS TRUST FUND

75. Establishment of Crisis Intervention Fund.

76. Utilization of Crisis Intervention Fund.

77. Establishment of Unclaimed Funds Trust Fund.

78. Functions of the Debt Management Office as they relate to the Trust Fund.

79. The Governing Council.

80. Commencement date.

81. Citation.

FINANCE ACT, 2020

A Bill

For

An Act to amend the Capital Gains Tax Act, Cap. C1, Companies Income Tax Act, Cap. C21, Personal Income Tax Act, Cap. P8, Customs and Excise Tariff, Etc. (Consolidated) Act, Cap. C49, Value Added Tax Act, Cap. V1, Nigeria Export Processing Zones Act, Cap. N107, Oil and Gas Export Free Zone Act, Cap. O5, Industrial Development (Income Tax Relief) Act, Cap. I17, Stamp Duties Act, Cap. S8, Laws of the Federation of Nigeria, 2004; Tertiary Education Trust Fund (Establishment) Act No. 16, 2011, Federal Inland Revenue Service (Establishment) Act No. 13, 2007, Fiscal Responsibility Act No. 31, 2007, Public Procurement Act No. 14, 2007 and Companies and Allied Matters Act No. 3, 2020; and for related matters.

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Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria—

1. The Capital Gains Tax Act, Cap. C1, Companies Income Tax Act, Cap. C21, Personal Income Tax Act, Cap. P8, Customs and Excise Tariff, Etc. (Consolidated) Act, Cap. C49, Value Added Tax Act, Cap. V1, Nigeria Export Processing Zones Act, Cap. N107, Oil and Gas Export Free Zone Act, Cap. O5, Industrial Development (Income Tax Relief) Act, Cap. I17, Stamp Duties Act, Cap. S8, Laws of the Federation of Nigeria, 2004; Tertiary Education Trust Fund (Establishment) Act No. 16, 2011, Federal Inland Revenue Service (Establishment) Act No. 13, 2007, Fiscal Responsibility Act No. 31, 2007, Public Procurement Act No. 14, 2007 and Companies and Allied Matters Act No. 3, 2020 are amended as set out in this Act. Amendment of Cap. C1, C21, P8, C49, V1, N107, O5, I17, S8, LFN, 2004; Act No 16, 2011, Act No. 13, 2007, Act No. 31, 2007, Act No. 14, 2007 and Act No. 3, 2020.

PART I - CAPITAL GAINS TAX ACT (CGTA)

2. Section 2 of the Act is amended by inserting after subsection (3), a new subsection “(4)”: Amendment of section 2.

“(4) Subject to the provisions of section 31 of this Act, every person having disposed a chargeable asset shall, not later than 30 June and 31 December of that year, compute the capital gains tax, file self-assessment return, and pay the tax computed in respect of the chargeable assets disposed in the periods.”
3. Section 24 (f) of the Act is amended by inserting after the word, "aircraft", in line 1, the words, "used in international traffic". Amendment of section 24.

4. Section 36 (2) is amended by:

Amendment of section
36.

(a) substituting for subsection (2), new subsection "(2)":

"(2) Sums obtained by way of compensation for loss of office, up to a maximum of ₦10,000,000.00, shall not be chargeable gains and subject to tax under this Act.

Provided that any sum in excess of ₦10,000,000.00 shall not be so exempt but the excess amount shall be chargeable gains and subject to tax accordingly."; and

(b) inserting after subsection (2), new subsections "(3)" and "(4)":

"(3) For the purpose of subsection (2), any person who pays compensation for loss of office to an individual is required, at the point of payment of such compensation, to deduct and remit the tax due under this section to the relevant tax authority.

(4) The tax so deducted shall be remitted within the time specified under the Pay-As-You-Earn regulations issued pursuant to the Personal Income Tax Act."

5. The Schedule to the Act is amended by deleting Part IX (returns) and Part X (assessments).

Amendment of
Schedule.

PART II - COMPANIES INCOME TAX ACT

6. Section 11 of the Act is amended:

Amendment of section
11.

(a) in subsection (2), by substituting for:

(i) paragraph (a), a new paragraph "(a)":

"(a) primary agricultural production, or", and

(ii) concluding paragraph to subsection (2), a new concluding paragraph:

"shall be exempted from tax, provided the moratorium is not less than 12 months and the rate of interest on the loan is not more than the base lending rate at the time the loan was granted, refinanced or otherwise restructured."

(b) by substituting for subsection (4), a new subsection "(4)":

"(4)" In this section:

"primary agricultural production" means:

- (a) primary crop production comprising the production of raw crops of all kinds, but excluding any intermediate or final processing of crops or any other associated manufactured or derivative crop product;
- (b) primary livestock production comprising the production of live animals and their direct produce such as live or raw meat, live or raw poultry, fresh eggs and milk of all kinds, but excluding any other associated manufactured or derivative livestock product;
- (c) primary forestry production comprising the production of timbers of various kinds such as firewood, charcoal, uncultivated materials gathered and other forestry products of all kinds, including seeds and saplings, but excluding the intermediate and final processing of timber and any other manufactured or derivative timber product; and
- (d) primary fishing production comprising the production of fish of all kinds, including ornamental fish, but excluding any intermediate or final processing of any other manufactured or derivative fish product."

7. Section 13 (2) of the Act is further amended by substituting for the proviso in paragraph, (e), a new "proviso": Amendment of section 13.

"Provided that the withholding tax applicable to the income under this paragraph shall be the final tax on the income of a non-resident recipient who does not otherwise fall within the scope of subsection (2) (a) - (d)."

8. Section 14 of the Act is amended by inserting after subsection (4), a new subsection "(5)": Amendment of section 14.

"(5) The provisions of this section does not apply to income from leasing, containers, non-freight operations or any other incidental income liable to tax under section 9 of this Act."

9. Section 16 of the Act is further amended by:

Amendment of section
16.

(a) substituting for subsection (12), a new subsection "(12)":

"(12) For the purpose of this section, the tax payable by any insurance company for any year of assessment shall not be less than:

(a) 0.5% of the gross premium for non-life insurance business,

(b) 0.5% of the gross income- for life insurance business:

Provided, that the applicable minimum tax under this section shall be reduced to 0.25% for tax returns prepared and filed for any year of assessment falling due on any date between 1st January 2020 and 31st December 2021, both days inclusive."; and

(b) inserting, after subsection (12), a new subsection "(13)":

"(13) For the purpose of subsection (12):

"gross premium' means the total premiums written, received and receivable excluding unearned premium and premiums returned to the insured; and

"gross income" means total income earned by a life insurance business including all investment income (excluding franked investment income), fees, commission and income from other assets but excluding premiums received and claims paid by re-insurers."

10. Section 23 of the Act is further amended:

Amendment of section
23.

(a) in subsection (1B), by substituting for paragraph (c), a new paragraph "(c)":

"(c) a real estate investment company from tax on dividend and rental income if it does not meet the conditions stipulated in subsection (1) (s);" and

(b) by deleting subsection (1C).

11. Section 25 of the Act is amended by inserting, after subsection (7), new subsections "(8)" and "(9)":

Amendment of section
25.

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“(8) Donations made by companies in cash or kind to any fund set up by the Federal Government or any State Government, or to any agency designated by the Federal Government or to any similar Fund or purpose in consultation with any Ministry, Department or Agency of the Federal Government, in respect of any pandemic, natural disaster or other exigency shall be allowed as deductions as follows:

(a) the cost of in-kind donations made to the Government and any designated agency shall be allowed as deductions; or

(b) where companies have either procured or manufactured items for contribution, the cost of purchase, manufacture or supply of such in-kind contributions shall be allowed as deductions:

Provided that requisite documentation evidencing the donation and the cost thereof are provided to the relevant tax authority and demonstrated to be wholly, reasonably, exclusively and necessarily incurred in relation to the procurement, manufacture or supply of the in-kind contributions.

(9) Notwithstanding the provisions of subsections (2) and (3), amounts allowable for deduction, in respect of subsection (8), in any year of assessment shall be limited to 10% of assessable profits after deduction of other allowable donations made by the company.”

12. Section 27 of the Act is amended by substituting for paragraph (k), a new paragraph “(k)”: Amendment of section 27.

“(k) penalty or fine imposed pursuant to a legislation enacted by the National Assembly or State House of Assembly.”

13. Section 33 of the Act is amended by substituting for subsection (2), a new subsection “(2)”: Amendment of section 33.

“(2) For the purpose of subsection (1), the minimum tax to be levied and paid shall be 0.5% of gross turnover of the company less franked investment income:

Provided, that the applicable minimum tax is reduced to 0.25% for tax returns prepared and filed for any year of assessment falling due on any date between 1 January 2020 and 31 December 2021, both days inclusive.”

14. Section 39 of the Act is amended by substituting for:

Amendment of section
39.

- (a) the opening sentence of subsection (1), starting with the words, "A company", and ending with the words, "that is", a new opening sentence:

"(1) Where a company is engaged in a trade or business of gas utilisation in downstream operations, the company shall, in respect of that trade or business, be granted the following incentives"; and

- (b) subsections (2) and (3), new subsections "(2)" and "(3)":

"(2) The tax-free period of a trade or business shall start on the day the trade or business commences production as certified by the Ministry of Petroleum Resources.

(3) This section does not apply with respect to any company that has claimed an incentive for trade or business of gas utilisation under any law in Nigeria, including the Petroleum Profits Tax Act or the incentives under the Industrial Development (Income Tax Relief) Act in respect of the same qualifying capital expenditure."

15. Substitute for section 53 of the Act, a new section "53":

Substitution for section
53.

"Self-
assessment of
tax payable.

53. (1) Every company filing a return under section 52, 55 or 58 of this Act shall:

(a) in the return, compute the tax payable by the company for the year of assessment; and

(b) forward with the tax return, evidence of payment of the tax due.

(2) Where, by a deliberate and dishonest act, the returns filed fail to declare the true and correct amount of profits or tax payable by the company, the company is immediately liable to pay any outstanding tax so identified and assessed.

(3) The outstanding tax shall be subject to penalty and interest, in accordance with the provisions of this Act or any other relevant law, and the penalty and interest shall accrue from the date the incorrect return was filed".

16. Section 55 of the Act is amended by:

Amendment of section
55.

(a) inserting, after subsection (1), a new subsection "(1A)":

"(1A) Where any company other than a Nigerian company derives profit from or is taxable in Nigeria under section 13 (2) of this Act, such company shall be required to submit a return for the relevant year of assessment containing:

- (a) the company's full audited financial statements and the financial statement of the Nigerian operations, attested by an independent qualified or certified accountant in Nigeria;
- (b) tax computation schedules based on the profits attributable to its Nigerian operations;
- (c) a true and correct statement, in writing, containing the amount of profits from each and every source in Nigeria; and.
- (d) duly completed Companies Income Tax Self-Assessment Forms:

Provided that in a year of assessment where a company other than a Nigerian company only earns income on which withholding tax is the final tax under this Act, the obligation to file a tax return in the manner prescribed shall not apply to such company in that year of assessment.";

(b) inserting, after subsection (6), a new subsection "(7)":

"(7) Notwithstanding anything contained in this section, the Service may by notice specify the form of the accounts to be included in a tax return, instead of audited accounts specified in subsection (1) (a), in respect of small and medium companies as defined under this Act."; and

(c) renumbering the section appropriately.

17. Substitute for section 63 of the Act, a new section "63":

Substitution for section
63.

"Books of
account.

63. (1) Every company, including a company granted exemption from incorporation, shall, whether or not the company is liable to pay tax under this Act, maintain books or records of accounts, containing sufficient information or data of all transactions.

- (2) The books and records required to be maintained under subsection (1) shall be in the English language and shall, for the purposes of tax account, be consistent with the format that may be prescribed by the Service.
- (3) Where a record of a company is maintained in a language other than the English language, the company shall, on demand by the Service, produce, at its own expense, a translation in English language, which shall be certified by a sworn translator.
- (4) Any company that on request by the Service, fails to provide any record or book prescribed under subsections (1) - (3) shall be liable to pay as penalty:
 - (a) ₦100,000 in the first month in which the failure occurs; and
 - (b) ₦50,000 for each subsequent month in which the failure continues.
- (5) Where, in the opinion of the Service, a company fails or refuses to maintain books or records of accounts that are consistent with the provisions of subsections (1), (2) and (3) or adequate for the purposes of tax, the Service may, by notice in writing, require it to maintain such records, books and accounts as the Service considers adequate, in such form and language as may be specified in the notice.
- (6) Any direction of the Service made under subsection (5) shall be subject to objection and appeal in like manner as an assessment.
- (7) Any book or record required to be kept under this section shall be kept for a period of at least six years after the year of assessment in which the income relates."

18. Section 68 of the Act is amended by inserting, after the word, "post", in line 1, the words, "courier service, email or any other electronic means, as directed by the Service in any notice issued pursuant to this Act or any other relevant law".

Amendment of section 68.

19. Section 69 of the Act is amended by inserting, after the word, "writing", in line 2, the words, "delivered in person, by courier service, email or any other electronic means, as directed by the Service in any notice issued pursuant to this Act or any other relevant law".

Amendment of section 69.

20. Section 77 of the Act is amended:

Amendment of section
77.

- (a) in subsection (2), by substituting for the words, "two months", in line 3, the expression, "30 days", wherever they appear in the subsection;
- (b) by deleting subsections (6) and (7); and
- (b) by renumbering the section appropriately.

21. Section 105 of the Act is amended by:

Amendment of section
105.

- (a) substituting for the definitions of "gross turnover" and "Nigerian company", new definitions:

"gross turnover" means the gross inflow of economic benefits during the period arising in the course of the operating activities of an entity when those inflows result in increases in equity, other than increases relating to contributions from equity participants, including sales of goods, supply of services, receipt of interest, rents, royalties or dividends; and

"Nigerian company" means any company formed or incorporated under any law in Nigeria";

- (b) inserting the definition of "public character":

"public character" with respect to any organisation or institution means "organisation or institution:

- (a) that is registered in accordance with relevant law in Nigeria; and
- (b) does not distribute or share its profit in any manner to members or promoters."

22. Part II, paragraph 1 to the Second Schedule is amended by substituting for subparagraph (1) (j), a new subparagraph (1) "(j)":

Amendment of Second
Schedule.

"(j) capital expenditure that is incurred on the development or acquisition of software or other such capital outlays on electronic applications".

PART III - INDUSTRIAL DEVELOPMENT (INCOME TAX RELIEF) ACT

23. Section 1 of the Act is amended by inserting, after subsection (7), a new subsection "(7)": Amendment of section 1.

"(7) Any small or medium sized company engaged in primary agricultural production shall be granted, pursuant to an application to the President, through the Minister, an initial tax-free period of four years which may be extended, subject to the satisfactory performance of such primary agricultural production, for an additional maximum period of two years, and such company cannot be granted similar tax holiday incentive under any other Act in force in Nigeria"

24. Section 25 of the Act is amended by inserting, in alphabetical order, the following definitions: Amendment of section 25.

"medium sized company" means a company that earns gross turnover greater than ₦25,000,000 but less than ₦100,000,000 per annum, or as otherwise defined by the Companies Income Tax Act;

'primary agricultural production' means:

- (a) primary crop production comprising the production of raw and semi-processed crops of all kinds, but excluding any intermediate or final processing of crops or any other associated manufactured or derivative crop product;
- (b) primary livestock production comprising the production of live animals and their direct produce such as live or raw meat, live or raw poultry, fresh eggs and milk of all kinds, but excluding any other associated manufactured or derivative livestock product;
- (c) primary forestry production comprising the production of timbers of various kinds such as firewood, charcoal, uncultivated materials gathered and other forestry products of all kinds, including seeds and saplings, but excluding the intermediate and final processing of timber and any other manufactured or derivative timber product; and
- (d) primary fishing production comprising the production of fish of all kinds, including ornamental fish, but excluding any intermediate or final processing of any other manufactured or derivative fish product.;

'small sized company' means a company that earns gross turnover of ₦25,000,000 or less per annum, or as otherwise defined by the Companies Income Tax Act."

PART IV - PERSONAL INCOME TAX ACT

25. The Act is amended by inserting, after section 6, a new section "6A":

Insertion of new section
6A.

"Profits of a trade or business of furnishing of services carried out outside Nigeria.

6A. (1) Notwithstanding the provisions of section 6 of this Act, where an individual, executor, or trustee outside Nigeria carries on a trade or business that comprises the furnishing of technical, management, consultancy or professional services to a person resident in Nigeria, the gains or profits of the trade or business shall be deemed to be derived from and taxable in Nigeria to the extent that the individual, executor or trustee has significant economic presence in Nigeria:

Provided that the withholding tax applicable to income pursuant to this Act shall be the final tax on the income of a non-resident recipient who does not otherwise fall within the scope of section 6 of this Act.

(2) For the purpose of this section, the Minister may by Order, determine what constitutes the significant economic presence of a non-resident individual, executor or trustee."

26. Section 20 (1) of the Act is amended by substituting for paragraph (g), a new paragraph "(g)":

Amendment of section
20.

"(g)" a contribution to a pension, provident or other retirement benefits fund, society or scheme, recognised under the Pension Reform Act".

27. Substitute for section 24 of the Act, a new section "24":

Substitution for section
24.

"New trades

24. The assessable income of an individual from a trade, business, profession or vocation carried on by such individual in Nigeria, for its first year of assessment and the two following years of assessment (which years are in this subsection respectively referred to as "the first year", "the second year" and "the third year") shall be ascertained in accordance with the following provisions:

(a) for the first year, the assessable income shall be the income from the date on which the individual commenced such trade, business, profession or vocation in Nigeria to the end of its first accounting period;

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(b) for the second year, the assessable income shall be the income from the first day after the trade or business' first accounting period to the end of its second accounting period; and

(c) for the third year and for each subsequent year thereafter, the assessable income shall be the profits from the day after the accounting period just ended."

28. Substitute for section 25 of the Act, a new section "25":

Substitution for section 25.

"Cessation of trades, etc.

25. Where an individual permanently ceases to carry on a trade, business, profession or vocation in Nigeria, such individual's assessable income therefrom shall be the amount of income from the beginning of the accounting period to the date of cessation and the tax thereof shall be payable within three months from the date of cessation."

29. Section 33 of the Act is amended:

Amendment of section 33.

(a) by substituting for subsections (2) and (3), new subsections "(2)" and "(3)":

"(2) For the purposes of this Section, "gross income" means income from all sources less all non-taxable income, income on which no further tax is payable, tax-exempt items listed in paragraph (2) of the Sixth Schedule and all allowable business expenses and capital allowance.

(3) There shall be allowed a deduction of the annual amount of any premium paid by the individual during the year preceding the year of assessment to an insurance company in respect of insurance on his life or the life of his spouse, or of a contract for a deferred annuity on his own life or the life of his spouse."; and

(b) renumbering the section appropriately.

30. Section 37 of the Act is amended by inserting, after the word, "income", a new "proviso":

Amendment of section 37.

"Provided that minimum tax under this section or as provided for under the Sixth Schedule to this Act shall not apply to a person in any year of assessment where such person earns the National Minimum Wage or less from an employment."

31. Section 108 of the Act is amended by inserting the definitions of the "Board" and "National Minimum Wage":

Amendment of section 108.

"Board" means the Joint Tax Board established under section 86 of this Act; and

"National Minimum Wage" means the extant National Minimum Wage pursuant to the National Minimum Wage Act.

32. Sections 23, 48, 73, 86, 89, 93 and 106A of PITA are amended by substituting for the word, "Service", the word, "Board" wherever it appears in the sections. Amendment of sections 23, 48, 73, 86, 89, 93 and 106A.

33. The Third Schedule to the Act is further amended by inserting, after paragraph 32, a new paragraph "33": Amendment of Third Schedule.

"33. The income of a person from an employment where such person earns gross income of National Minimum Wage or less from such employment."

PART V - TERTIARY EDUCATION TRUST FUND (ESTABLISHMENT, ETC.) ACT

34. Section 1 of the Act is amended by substituting for subsection (2), a new subsection "(2)":

"(2) The tax, at the rate of two percent, shall be charged on the assessable profit of a company registered in Nigeria, other than a small company as defined under the Companies Income Tax Act".

Amendment of section 1.

35. Section 10 of the Act is deleted.

Deletion of section 10.

36. The Act is amended by deleting section 11 (3).

Amendment of section 11.

PART VI - CUSTOMS AND EXCISE TARIFF, ETC. (CONSOLIDATION) ACT

37. Substitute for section 21, a new section "21":

Substitution for section 21.

"Goods liable to excise duty

21. (1) Goods imported and those manufactured in Nigeria and specified in the Fifth Schedule to this Act shall be charged with duties of excise at the rates specified under the duty column in the Schedule.

(2) Telecommunication services provided in Nigeria shall be charged with duties of excise at the rates specified under the duty column in the Schedule as the President may by Order prescribe pursuant to section 13 of this Act."

38. The First Schedule to the Act is amended by inserting and replacing, as the case may be, the following duties and levies: Amendment Of First Schedule.

(a) Duty on Tractors (HS Headings 8701) from 35% to 5%;

(b) Duty on Motor Vehicles for the transport of more than ten persons (HS Headings 8702) from 35% to 10%;

(c) Levy on Motor Vehicles for the transport of persons [cars] (HS Headings 8703) from 30% to 5%; and

(d) Duty for Motor Vehicles for the Transport of Goods (HS Headings 8704) from 35% to 10%:

Provided that vehicles exempt from applicable duties and levies shall continue to enjoy such exemption.

39. The Second Schedule of the Act is amended by substituting for Paragraph 1, a new Paragraph "1": Amendment of Second Schedule.

"1. Airlines registered in Nigeria and providing commercial air transport services are entitled to duty-free importation of their aircrafts, engines, spare parts and components whether purchased or leased."

PART VII - VALUE ADDED TAX ACT

40. Substitute for section 2 of the Act, a new section "2": Substitution for section 2.

"Taxable goods and services.

2. (1) The tax shall be charged and payable on all supplies of goods and services in Nigeria other than those listed in the First Schedule to this Act.

(2) For the purposes of this Act, goods and services consumed or otherwise utilised in Nigeria are supplied in Nigeria."

(3) Notwithstanding the provisions of subsection (1), a taxable supply shall be deemed to take place in Nigeria if:

(a) in respect of goods:

(i) the goods are physically present in Nigeria at the time of supply, imported into Nigeria, assembled in Nigeria or installed in Nigeria, or

(ii) the beneficial owner of the rights in or over the goods is a taxable person in Nigeria and the goods or right is situated, registered or exercisable in Nigeria;

(b) in respect of a service:

(i) the service is rendered in Nigeria by a person physically present in Nigeria at the time of providing the service,

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(ii) the service is provided to and consumed by a person in Nigeria, regardless of whether the service is rendered within or outside Nigeria or whether or not the legal or contractual obligation to render such service rests on person within or outside Nigeria, or

(iii) the service is connected with existing immovable property (including the services of agents, experts, engineers, architects, valuers, etc.), where the property is located in Nigeria; and

(c) in respect of an incorporeal:

(i) the exploitation of the right is made by a person in Nigeria,

(ii) the right is registered in Nigeria, assigned to or acquired by, a person in Nigeria, regardless of whether the payment for its exploitation is made within or outside Nigeria, or

(iii) the incorporeal is connected with a tangible or immovable asset located in Nigeria."

41. Insert after section 2 of the Act, a new section "2A":

Insertion of new section
2A.

"Time
of
supply.

2A. (1) For the purposes of this Act, supply shall be deemed to take place at the time an invoice or receipt is issued by the supplier, or payment of consideration is due to, or received by the supplier in respect of that supply, whichever occurs first.

(2) A taxable supply shall be deemed to take place where the supplier and recipient are connected persons and invoices are not issued, in the case of:

(a) a supply of goods which are to be removed, the time of removal of the goods;

(b) a supply of goods which is not to be removed, at the time when they are available to the recipient;

(c) furnishing of a service, upon the furnishing of the service;

(d) an incorporeal, when such incorporeal becomes available for the use of the recipient.

(3) Notwithstanding the provisions of subsection (1) or (2):

- (a) where goods are supplied under any rental agreement or where services are furnished under any agreement or law which provides for periodic payments, they shall be deemed to be successively supplied for successive parts of the periods of the agreement or as determined by such law, and each of the successive supplies shall be deemed to occur when payment becomes due or is received, whichever is earlier;
- (b) where, and to the extent that, supply of taxable goods and services are:
 - (i) progressively or periodically made under any agreement or law which provides for the consideration for that supply to be paid in instalments or periodically and in relation to the progressive or periodic supply, or
 - (ii) made in relation to any construction, erection, assembly, manufacturing, alteration, improvement or repair activity under any agreement or law which provides for the consideration for that supply to become due and payable in instalments or periodically in relation to the progressive nature of the work,

those supplies shall be deemed to be successively made, and each such successive supply shall be deemed to take place whenever any payment becomes due or is received or an invoice relating to only that payment is issued, whichever occurs first; and

- (c) where goods are supplied under an instalment credit agreement, that supply shall be deemed to take place at the time the goods are delivered or the time any payment of consideration is received by the supplier in respect of the supply, whichever occurs first.”

42. Substitute for section 4 of the Act, a new section “4”:

Substitution for section 4.

“Rate of tax.

- 4. The tax shall be computed at the rate of 7.5% with effect from 1 February 2020, on the value of all goods and services, except that goods and services listed under Part III of the First Schedule to this Act shall be taxed at zero rate.”

43. Substitute for section 10 of the Act, a new section "10":

Substitution for section 10.

"Registration by non-resident companies.

10. (1) For the purpose of this Act, a non-resident person that makes a taxable supply of goods or services to Nigeria shall register for tax with the Service and obtain Tax Identification Number (TIN).
- (2) A non-resident person shall include the tax on its invoice for all taxable goods or services.
- (3) The taxable person to whom the supply of taxable goods or services are made in Nigeria or such other person as may be appointed by the Service shall withhold and remit the tax to the Service in the currency of the transaction.
- (4) Notwithstanding the provision of subsection (1) of this section, a non-resident person that makes a supply of taxable goods or services in Nigeria may appoint a representative, for the purposes of its tax obligations.
- (5) The Service may issue a guideline for the purposes of giving effect to the provisions of this section."

44. Section 46 of the Act is amended by:

Amendment of section 46.

(a) inserting the following new definitions:

"animal feed" means raw, semi-processed, processed and otherwise enhanced animal feed that is fed to domesticated and other animals raised and slaughtered for human consumption to provide beef, goat, lamb, pork, chicken, fish and other kinds of meat, as well as other animals cultivated and raised for the production of milk, eggs as well as other sources of protein and nutrients edible by humans; and

'commercial aircraft spare parts and components' means parts, engines, propellers, radio apparatus, instruments, appliances, furnishing, parts of any of the foregoing, and generally any other article of whatever description maintained for installation in a commercial aircraft in substitution for parts or articles removed"; and

(b) substituting for the definition of "goods" and "services", new definitions:

"goods", for the purposes of this Act, means all forms of tangible properties, movable or immovable, but does not include, land and building, money or securities;

"services" means:

- (a) anything, other than goods, or services provided under a contract of employment; and
- (b) includes any intangible or incorporeal (product, asset or property) over which a person has ownership or rights, or from which he derives benefits, and which can be transferred from one person to another, excluding interest in land and building, money or security.

45. The Schedule to the Act is further amended:

- (a) in Part I, by inserting, after item 10, a new item "11":

"11. Commercial aircrafts, commercial aircraft engines, commercial aircraft spare parts."

- (b) in Part II, by inserting, after item 5, new items "6" and item "7":

"6. Airline transportation tickets issued and sold by commercial airlines registered in Nigeria.

7. Hire, rental or lease of tractors, ploughs and other agricultural equipment for agricultural purposes."

Amendment of Parts I – II to the Schedule.

PART VIII - STAMP DUTIES ACT

46. Section 2 of the Act is amended by substituting for the definition of "stamp", a new definition:

Amendment of section 2.

"stamp" means an impressed pattern or mark by means of an engraved or inked die, an adhesive stamp, an electronic stamp or an electronic acknowledgement for denoting any duty or fee, provided that the Service shall utilise adhesive stamp produced by the Nigerian Postal Service pursuant to its enabling Act."

47. Section 89 of the Act is further amended:

Amendment of section 89.

- (a) in subsection (1), by deleting the words, "or electronic inscription", in line 2;
- (b) in subsection (2), by deleting the words, "or any acknowledgement of duty charged on an electronic transaction", in lines 4 and 5;

(c) by deleting subsection (3); and

(d) renumbering the section appropriately.

48. Insert, after section 89 of the Act, a new section "89A":

Insertion of new section
89A.

"Electronic
money
transfer
levy.

89A. (1) There is imposed a levy, to be referred to as the Electronic Money Transfer Levy, on electronic receipts or electronic transfer for money deposited in any deposit money bank or financial institution, on any type of account, to be accounted for and expressed to be received by the person to whom the transfer or deposit is made.

(2) The levy shall be imposed as a singular and one-off charge of ₦50 on electronic receipts or electronic transfers of money in the sum of ₦10,000 or more.

(3) The Minister of Finance shall, subject to the approval of the National Assembly, make regulations for the imposition, administration, collection and remittance of the Levy.

(4) Notwithstanding any formula that may be prescribed by any other law, the revenue accruing by virtue of the operation of this section, shall, on the basis of derivation, be distributed as follows:

(a) 15% to the Federal Government and the Federal Capital Territory, Abuja; and

(b) 85% to the State Governments.

PART IX - FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT

49. Section 8 (1) of the Act is amended by:

Amendment of section
8.

(a) inserting, after paragraph (s), a new paragraph "(t)":

"(t) provide assistance in the collection of revenue claims or any other administrative assistance in tax matters with respect to any agreement or arrangement made between the Government of the Federal Republic of Nigeria and the Government of any country or other persons or bodies as may be deemed necessary in that regard."; and

(b) renumbering the subsection appropriately.

50. Section 23 of the Act is amended by substituting for subsection (4) - (6), new subsections "(4)" - "(6)": Amendment of section 23.

“(4) For the purposes of tax refund, the Accountant-General of the Federation shall open a dedicated account for each tax-type into which shall be paid money for settling tax refunds.

(5) The dedicated accounts created pursuant to subsection (4) shall, be administered by the Service and be funded from the respective accounts of Government into which revenue of each tax-type is remitted.

(6) For the purposes of each dedicated account, the Service shall prepare an annual budget for tax refund as may be approved by the National Assembly.”

51. Section 25 of the Act is amended by inserting, after subsection (2), new subsections “(3)” – “(5)”: Amendment of section 25.

“(3) The Service may deploy any proprietary or third party payment, processing or other digital platform or application to collect and remit taxes due on international transactions in the supply of digital services to and from a person in Nigeria, in the case of transactions carried out through remote, digital, electronic or other such platform.

(4) The Service may deploy proprietary technology to automate the tax administration process including tax assessment and information gathering provided it gives 30 days' notice to the taxpayer.

(5) The Service may receive assistance in the collection of revenue claims or any other administrative assistance in tax matters with respect to any agreement or arrangement made between the Government of the Federal Republic of Nigeria and the Government of any country or other persons or bodies as may be deemed necessary in that regard.”

52. Section 26 of the Act is amended by substituting for subsections (1) - (3), new subsections "(1)" - "(3)": Amendment of section 26.

“(1) For the purposes of obtaining full information in respect of the taxation of an individual, company or any person or for the purpose of performing any function conferred on it by this Act, the Service shall give notice to any individual, company or person, requiring such individual, company or person to, within the time specified by the notice:

- (a) complete and deliver to the Service any return specified in such notice;
 - (b) appear personally before an officer of the Service for examination with respect to a matter to which such notice relates;
 - (c) produce or cause to be produced for examination, books, documents or records, at the place and time stated in the notice, which time may be from day-to-day, or for such period as the Service may deem necessary;
 - (d) provide, orally or in writing, any information specified in such notice;
 - (e) grant the Service access to records, data or information stored or otherwise residing in computers or other electronic devices, including magnetic media or cloud computing facilities maintained, operated, controlled or owned by the individual, company or person.
- (2) For the purposes of subsection (1) (a) – (e), the time specified by such notice shall not be less than 30 days from the date of service of such notice.
- (3) A person who defaults in complying with the provisions of this section:
- (a) where the default relates to a tax liability, is liable, in addition to the tax liability, to a penalty of 10% of the tax and interest at the prevailing Central Bank of Nigeria minimum rediscount rate; or
 - (b) where the contravention relates to issues other than a tax liability, is liable to a penalty of ₦25,000.00 in the first month, and ₦10,000.00 for every subsequent month thereafter, in which the default continues".

53. Insert, after section 28 of the Act, a new section "28A":

Insertion of new section 28A.

"Information to be delivered by bankers and others.

28A. (1) In relation to international tax treaty and other exchange of information obligations and without prejudice to section 26 of this Act, every bank, insurance company, stock-broking firm, or any other financial institution shall prepare and submit, as may be specified by way of notice, rules, regulations, guidelines, or circulars issued by the Service, returns of:

- (a) transactions involving the specified sum;

(b) names, addresses (including foreign addresses), or any other information of its customers connected with those transactions:
or

(c) names, addresses, or any other information of new or existing customers.

(2) Any person, who fails to comply with the notice, rules, regulations, guidelines, or circulars issued by the Service for the purposes of this section is liable to an administrative penalty of ₦25,000.00 in the first month of failure, and ₦10,000.00 for every month in which the failure continues".

54. Substitute for section 39, a new section "39":

Substitution for section 39.

"Information and documents to be confidential.

39. (1) Without prejudice to the provisions of any other Act concerning data privacy, data protection and unlawful disclosure of taxpayer information, taxpayer information shall be confidential.

(2) Except as otherwise provided under this Act, any other law or any enabling agreement or arrangement or as otherwise authorized by the Minister, any member or former member of the Board or any employee or former employee of the Service or any agent or any other person who communicates or attempts to communicate taxpayer information to any person other than to a person legally authorised to collect the tax or misuses the information commits an offence and shall be liable on conviction to a fine not exceeding ₦1,000,000.00 or to imprisonment for a term not exceeding three years or to both.

55. Section 50 of the Act is amended by substituting for subsection (5), a new subsection (5):

Amendment of section 50.

"(5) Where any agreement or arrangement with any other country, government or tax authority for exchange of information or with respect to relief for double taxation of income or profits includes provisions for the exchange of taxpayer information with that country for the purpose of implementing a tax relief or preventing avoidance of tax, or for such other purposes as may be enshrined in the agreement or arrangement, the obligation as to secrecy imposed by this Act shall not prevent the disclosure of such information to the authorised officers of the Government of such country."

56. Section 69 of the Act is amended by inserting the following definitions:

Amendment of section
69.

(a) "taxpayer information" includes:

(i) any information received or generated by the Service pursuant to its powers under this Act or any extant Legislation,

(ii) any information in any form received, accessed or produced by the Service under any agreement or arrangement with any country, government or tax authority, such as Double Taxation Agreements, Tax Information Exchange Agreements, and Common Reporting Standard, Country-by-Country Reporting or any other exchange of information agreement or arrangement,

(iii) written or electronic documents, returns, assessments, lists and copies of such lists relating to profits or items of profits of any person or to such matter which forms the basis of any agreement or arrangement with any country, government or tax authority; and

(b) 'Nigeria', for the purposes of this Act and the laws listed in the First Schedule to this Act, means the Federal Republic of Nigeria, and when used in a geographical sense, includes the territorial waters of the Federal Republic of Nigeria, and any area outside the territorial waters, including the continental shelf, which in accordance with international law has been or may hereafter be designated, under the law of the Federal Republic of Nigeria, as an area within which the right of the Federal Republic of Nigeria with respect to the seabed, its subsoil, its superjacent waters and their natural resources may be exercised now and in the future.

57. Paragraph 20 of the Fifth Schedule to the Act is amended by:

Amendment of the Fifth
Schedule.

(a) inserting, after subparagraph (2) (vii), a new subparagraph "(2) (viii)":

"(viii) conduct its hearing remotely via virtual means, using such technology or application as may be necessary to ensure fair hearing."; and

(b) renumbering the subparagraph appropriately.

PART X - NIGERIA EXPORT PROCESSING ZONES ACT

58. Section 18 (1) of the Act is amended by substituting for paragraph (a), a new paragraph "a)": Amendment of section 18.

"(a) exemption from taxes, levies, duties and foreign exchange regulations in accordance with section 8 of this Act, subject always to the provisions of the Banks and Other Financial Institutions Act, 2020; provided that all companies registered and operating in the Zone shall comply with the provisions of section 55 (1) of the Companies Income Tax Act and render returns in the manner prescribed therein, to the Federal Inland Revenue Service and all penalties prescribed in the Companies Income Tax Act and the Federal Inland Revenue Service (Establishment) Act that may apply in the event of non-compliance with section 55 (1) of the Companies Income Tax Act shall apply to such companies in the event of default to comply".

PART XI - OIL AND GAS EXPORT FREE ZONE ACT

59. Section 18 (1) of the Act is amended by substituting for paragraph (a), a new paragraph "a)": Amendment of section 18.

"(a) exemption from taxes, levies, duties and foreign exchange regulations in accordance with section 8 of this Act, subject always to the provisions of the Banks and Other Financial Institutions Act, 2020; provided that all companies registered and operating in the Zone shall comply with the provisions of Section 55 (1) of the Companies Income Tax Act and render returns in the manner prescribed therein, to the Federal Inland Revenue Service and all penalties prescribed in the Companies Income Tax Act and the Federal Inland Revenue Service (Establishment) Act that may apply in the event of non-compliance with the said section 55 (1) of the Companies Income Tax Act shall apply to such companies in the event of default to comply."

PART XII - COMPANIES AND ALLIED MATTERS ACT

60. Substitute for section 432 of the Act, a new section "432": Substitution for section 432.

"Right of a shareholder to claim for dividend.

432. (1) Dividends are special debts due to and recoverable by shareholders within 12 years, and actionable only when declared.

(2) Dividends that are unclaimed after 12 years should be included in the profits that should be distributed to the other shareholders of the company.

(3) Notwithstanding subsections (1) and (2), dividends of a public limited liability company quoted on the Nigerian Stock Exchange which has remained unclaimed for a period of six years or more from the date of declaring the dividend shall be immediately transferred to the Unclaimed Funds Trust Fund.

(4) Such unclaimed dividends transferred to the Unclaimed Funds Trust Fund shall be a special debt owed by the Federal Government to the shareholders and shall be available for claim by the shareholder at any time, pursuant to the aforementioned perpetual trust.”

PART XIII - FISCAL RESPONSIBILITY ACT

61. Section 12 of the Act is amended by substituting for subsection (2), a new subsection “(2)”: Amendment of section 12.

“(2) Aggregate expenditure for a financial year may exceed the ceiling imposed by the provisions of subsection (1) if, in the opinion of the President, as may be published in the Official Gazette of the Government of the Federation, or official directives or orders by the President, or through an Appropriation Act, Virement or other Money Act pursuant to sections 59 or 306 of the Constitution of the Federal Republic of Nigeria, 1999:

- (a) the Federation, or any part thereof, is at war;
- (b) the Federation is in imminent danger of invasion or involvement in a state of war;
- (c) there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security;
- (d) there is clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger;
- (e) there is an occurrence or imminent danger, or the occurrence of any pandemic or disaster or such other natural calamity, affecting the community or a section of the community in the Federation; or

- (f) there is any other public danger which clearly constitutes a threat to the existence of the Federation.”

62. Substitute for section 22 of the Act, a new section “22”:

Substitution for section 22.

“Operation surplus and general reserve fund.

22. (1) Notwithstanding the provisions of any written law governing the corporation, each corporation shall establish a general reserve fund and shall allocate thereto at the end of each financial year, one-fifth of its operating surplus for the year, provided that the cost to revenue ratio of each corporation shall not exceed fifty per cent or such other ratio as the Minister, upon the approval of the National Assembly, may approve for that particular corporation by way of order published in the Official Gazette.

(2) The balance of the operating surplus shall be paid to the Consolidated Revenue Fund of the Federation in accordance with the Constitution of the Federal Republic of Nigeria, 1999 on a quarterly basis, in accordance with such financial guidelines or regulations that the Minister may issue from time to time in consultation with the National Assembly:

Provided that nothing in this Act or any written law governing the corporation shall prevent the Minister from effecting a direct deduction from the Treasury Single Account, or other such relevant account, of that corporation to enforce due compliance with this section.

(3) The Minister shall cause a financial reconciliation between the quarterly direct deductions and aggregate annual deductions of operating surpluses to be concluded for each corporation not later than three months following the statutory deadline for publishing each corporation's accounts, and a report of the reconciliation shall be provided to the National Assembly.”

PART XIV - PUBLIC PROCUREMENT ACT

63. Substitute for section 15 of the Act, a new section “15”:

Substitution for section 15.

“Scope of application

“15. This Act applies to:

- (a) all public procuring and disposal entities under the three arms of the Federal Government;

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(b) the Federal Government of Nigeria and all procurement entities;

(c) all entities outside paragraphs (a) and (b) which derive at least 35% of the funds appropriated or proposed to be appropriated for any type of procurement described in this Act from the Federation share of Consolidated Revenue Fund;

(d) without limiting paragraphs (b) and (c) to:

(i) Federal Government, Ministries; Departments and Agencies,

(ii) Federal Government Institutions,

(iii) Federal Government owned Enterprises, Corporations, Councils, Authorities and Commissions provided that they utilise public funds,

(iv) Federal Tertiary and Non-Tertiary Educational Institutions,

(v) Federal Hospitals and other Health Institutions,

(vi) the Central Bank of Nigeria and other Federal Government owned Financial Institutions,

(vii) the National Defence and National Security Agencies;

(viii) the National Assembly, and

(ix) the Judiciary.”

64. Substitute for section 17 of the Act, a new section “17”:

Substitution for section 17.

“Approving authority

17. (1) Subject to the monetary and prior review thresholds for procurements in this Act as may from time to time be determined by the Council, the following shall be the approving authority for the conduct of public procurement:

(a) in the case of:

(i) a government agency, parastatal, or corporation, a parastatal's Tender's Board,

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- (ii) a Ministry or Extra-Ministerial entity, the Ministerial Tender's Board,
 - (iii) the National Assembly, the Parastatals Tenders Board, and
 - (iv) the Judiciary, the Judicial Bodies Tender's Board and the Courts Tender's Board;
- (b) in the case of any other public procurement the value of which exceeds the Ministerial Tender's Board threshold, or any other threshold set by the Bureau and approved by the Council:
- (i) the Federal Executive Council for the Executive Arm of Government,
 - (ii) the National Assembly Tender's Board for the Legislative Arm of Government, and
 - (iii) the National Judicial Council Tender's Board for the Judicial Arm of Government.
- (2) The chief executive and accounting officer of the procuring entity shall chair the parastatal Tender's Board; the Permanent Secretary shall chair the Ministerial Tender's Board; while the President or his representative shall chair the Federal Executive Council.
- (3) The accounting officers of the parastatals under the National Assembly shall chair the Parastatals Tender's Board, while the Clerk to the National Assembly shall chair the National Assembly Tender's Board.
- (4) The Secretaries and Chief Registrars shall chair the Boards of the Judicial Bodies respectively; while the Chief Justice of Nigeria, or his representative, shall chair the National Judicial Council Tender's Board.
- (5) The Secretary to the Government of the Federation or his representative, shall be the Secretary of the Federal Executive Council; the Secretary, Directorate of Procurement, Estate and Works shall serve as Secretary to the National Assembly Tender's Board, while the Executive Secretary of the National Judicial Council, or his representative, shall be the secretary of the National Judicial Council Tender's Board.

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(6) For the Parastatal Tender's Board and the Ministerial Tender's Board, the Directors of Procurement shall be the secretaries, and in the case of the judiciary, the Secretaries of the judicial bodies and the Chief Registrars of the Courts thereof shall be the secretaries."

65. Substitute for section 20 of the Act, a new section "20":

Substitution for section 20.

"Accounting officer

20. (1) The accounting officer of a procuring entity shall be the person charged with line supervision of the conduct of all procurement processes:

- (a) in the case of ministries, the Permanent Secretary;
- (b) in the case of extra-ministerial departments and corporations, the Director-General or officer of co-ordinate responsibility;
- (c) in the case of the National Assembly, the Clerk; and
- (d) in the case of the Judiciary, the Secretaries of the judicial bodies and the Chief Registrars of the Courts.

(2) The accounting officer of every procuring entity shall have overall responsibility for the planning of, organisation of tenders, evaluation of tenders and execution of all procurements and, in particular shall be responsible for:

- (a) ensuring compliance with the provisions of this Act by his entity and liable in person for the breach or contravention of this Act or any regulation made hereunder whether or not the act or omission was carried out by him personally or any of his subordinates and it is not material that he had delegated any function, duty or power to any person or group of persons;
- (b) constituting the Procurement Committee and its decisions;
- (c) ensuring that adequate appropriation is provided specifically for the procurement in the Federal budget;
- (d) integrating his entity's procurement expenditure into its yearly budget;

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(e) ensuring that no reduction of values or splitting of procurements is carried out such as to evade the use of the appropriate procurement method;

(f) constituting the Evaluation Committee;

(g) liaising with the Bureau to ensure the implementation of its regulations.

(3) The accounting officer of each procuring entity is empowered to purchase or approve contracts without open competitive tendering provided the value of such procurement (low value procurement) does not exceed certain threshold set by the Bureau and approved by the Council.

(4) For the low-value procurement, the advert shall be for one week on the notice board of the procuring entity.

(5) The Bureau shall prescribe the procedure and other conditions applicable for different procuring entities and for different goods, works and services to be procured.

(6) The accounting officer shall render a quarterly report to the Parastatal Tender's Board.

(7) Each employee of a procuring entity and each member of a board or committee of a public entity shall ensure that this Act, within the areas of assigned responsibility of the employee or member, is complied with.

(8) All bidders for the procurement of any goods, works and services for any public entity shall comply with all relevant provisions of this Act.

(9) Any stakeholder, be it the accounting officer, an officer of the procuring entity, a member of a committee or board of a public entity and any bidder of public goods, works and services, who fails to independently perform within the respective assigned responsibility as prescribed under this Act and who contravenes the provisions of this Act, shall be guilty of an offence."

66. Section 22 of the Act is amended by substituting for subsection (1) and (5), new subsections "(1)" and "(5)": Amendment of section 22.

"(1) There is established by this Act:

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(a) for the Executive Arm of Government:

(i) the parastatals Tender's Board in each procuring entity,

(ii) the Ministerial Tender's Board in each Ministry and Extra-Ministerial Department, and

(iii) the Federal Executive Council;

(b) for the Legislative Arm of Government:

(i) the Parastatals Tender's Board in each procuring entity under the legislature, and

(ii) the National Assembly Tender's Board in the National Assembly; and

(c) for the Judicial Arm of Government:

(i) the judicial bodies and Courts Tender's Boards in each parastatal under the Judiciary and all Courts, and

(ii) the National Judicial Council Tender's Board.

(5) The decisions of all Tender's Boards shall be confirmed respectively by the political heads of the procuring entities, provided that the political heads are not the Chairmen of the Tender's Board."

67. Section 24 of the Act is amended by substituting for subsections (1) and (2), new subsections "(1)" and "(2)": Amendment of section 24.

"(1) Except as provided by this Act:

(a) all procurements of goods, works and services by all procuring entities shall be conducted by open competitive bidding; and

(b) any procuring entity that applies any other procurement option prescribed in this Act, the accounting officer of the entity shall submit a request and obtain the approval of the Bureau.

(2) Any reference to open competitive bidding in this Act means the process by which a procuring entity, based on previously

defined criteria, effects public procurements by offering to every interested bidder, equal simultaneous information and opportunity to offer the goods, works and services needed.

68. Section 25 of the Act is amended by substituting for subsection (2), a new subsection “(2)”: Amendment of section 25.

“(2) Every invitation to an open competitive bid shall, in the case of goods, works and services:

(a) under International Competitive Bidding, the invitation for bid shall be advertised in at least two national newspapers and one relevant internationally recognised publication, any official website of the procuring entity and Bureau as well as the procurement journal of not more than four weeks for contracts within the thresholds of the Parastatals and Ministerial Tender's Boards and not more than six weeks for contracts above the threshold of the Ministerial Tender's Board before the deadline for the submission of the bids for the goods, works and services; and

(b) valued under National Competitive Bidding, the invitation for bids shall be advertised on the notice board of the procuring entity, any official websites of the procuring entity; at least two national newspapers, and in the procurement journal not more than four weeks for contracts within the thresholds of the Parastatals and Ministerial Tender's Boards and not more than six weeks for contracts above the threshold of the Ministerial Tender's Board before the deadline for submission of the bids for the goods, works and services.”

69. Section 27 of the Act is amended by substituting for subsection (1), a new “(1)”: Amendment of section 27.

“(1) All bids in response to an invitation to open competitive bidding shall be submitted in writing, electronic or any other format stipulated in the tender documents signed (physically or electronically) by an official authorised to bind the bidder to a contract and placed in a sealed envelope.”

70. Section 30 of the Act is amended by:

Amendment of section 30.

(a) substituting for paragraph (e), a new paragraph “(e)”:

“(e) call-over to the hearing of all present, the name and address of each bidder, the total amount of each bid, the bid currency, validity period, completion period and shall ensure that these details are recorded by the

Secretary of the Tenders Board or his delegate in the minutes of the bid opening"; and

(b) inserting a new subsection "(2)":

"(2) This exercise shall be carried out by the procurement department of the procuring entity in the presence of the legal officer or other relevant official of the entity and all those specified in section 19 (b) of this Act:

Provided always that the procuring entity shall in lieu of subsection (1) (a) to (e) above, comply with any Regulations that the Bureau may make for electronic and virtual procurement pursuant to section 18 of this Act, which Regulations shall ensure the security, transparency, integrity and fairness of such electronic and virtual procurement processes."; and

(c) renumbering the section appropriately.

71. Section 35 of the Act is amended by:

Amendment of section 35.

(a) substituting for subsection (1), a new subsection "(1)":

"(1) In addition to any other regulation as may be prescribed by the Bureau, a mobilisation fee of not more than 30% for local contractors only may be paid to a supplier or contractor supported by an unconditional bank guarantee or insurance bond issued by an institution acceptable to the procuring entity until the mobilisation fee is fully amortised or recovered.";

(b) inserting, after subsection (2), a new subsection "(3)":

"(3) Where the Bureau has set prior review thresholds in the procurement regulations, no funds shall be disbursed from the Treasurer or Federation Account or any bank account of any procuring entity for any procurement falling above the set thresholds unless the cheque, payments or other form of request for payment is accompanied by a "Certificate" of "No Objection" to award of contract duly issued by the Bureau."

72. Substitute for section 36 of the Act a new section "36":

Substitution for section 36.

"Contract performance guarantee

36. (1) The provision of a performance guarantee or an unconditional insurance bond shall be a precondition for the award of any procurement contract upon which any mobilisation fee is to be paid, provided the performance guarantee or unconditional insurance bond is not less than 10% of the contract value.

(2) All contracts approved by a Tender's Board requiring the opening of irrevocable letter of credit shall be stated explicitly in the contract agreement and the procuring entity shall liaise with the Central Bank of Nigeria, for further guidelines."

73. Section 58 of the Act is amended by substituting for subsection (2), a new subsection "(2)":

Amendment of section 58.

"(2) Any offence in contravention of this Act shall be tried by the Federal High Court or a tribunal set up by the Chief Justice of Nigeria."

74. Section 60 of the Act is amended by substituting for the definitions of contract, procuring entity and public procurement, the following new definitions:

Amendment of section 60.

"contract' means an agreement entered in writing between a procuring entity and a contractor, supplier or consultant;

"procuring entity' means any public body or Government organ engaged in procurement and includes a Ministry, Extra-Ministerial Department, Government Agency, Parastatal, Corporation, Commission, National Assembly and Judiciary; and

"Public Procurement' means the acquisition by any means of goods, works or services by the Government."

INSERTION PART XV UNDER THIS ACT

"PART XV - ESTABLISHMENT OF CRISIS INTERVENTION FUND AND UNCLAIMED FUNDS TRUST FUND

75. There shall be provided out of the Consolidated Revenue Fund and the Special Accounts listed in the First Schedule to this Act upon the coming into operation of this Act the sum of ₦500,000,000,000.00 or other such sums as may be approved by the National Assembly for the establishment of a Fund to be known as the Crisis Intervention Fund.

Establishment of the Crisis Intervention Fund.

76. The Crisis Intervention Fund may be utilised for making funds available to meet expenditure as provided in the Annual Appropriation Act to meet any crisis related expenditure or other such exigencies that may arise pursuant to section 12 of the Fiscal

Utilisation of the Crisis Intervention Fund.

Responsibility Act and section 306 of the Constitution of the Federal Republic of Nigeria, 1999.

77. (1) Subject to section 44 (1) and (2) (h) of the Constitution of the Federal Republic of Nigeria, 1999, there is established, by way of a trust, as a sub-fund of the Crisis Intervention Fund, an Unclaimed Funds Trust Fund:

Establishment of
Unclaimed Funds Trust
Fund.

(2) From the commencement of this Act, any unclaimed dividend of a public limited liability company quoted on the Nigerian Stock Exchange and any unutilised amounts in a dormant bank account maintained in or by a deposit money bank which has remained unclaimed or unutilised for a period of not less than six years from the date of declaring the dividend or domiciling the funds in a bank account shall be transferred immediately to the Unclaimed Funds Trust Fund:

Provided that this section shall not apply to official bank accounts owned or belonging to the Federal Government, State Government or Local Government, or any of their Ministries, Departments or Agencies.

(3) The Debt Management Office established by the Debt Management Office (Establishment, etc.) Act 2003 or subsequent statutes which replace this Act shall supervise the operations of the fund.

(4) The unclaimed dividend and unutilised amounts in a dormant bank account shall be transferred either by the public limited company, Registrar or deposit money bank.

(5) The Unclaimed Funds Trust Fund shall be governed by a Governing Council chaired by the Minister responsible for Finance and a Co-Chairperson from the private sector, as may be appointed by the President on the recommendation of the Minister responsible for Finance subject to confirmation by the Senate, provided that the private sector Co-Chairperson shall be a qualified person of irreproachable integrity such as to render the person a fit and proper person to serve in this capacity.

(6) Other members of the Governing Council shall include:

- (a) Governor of the Central Bank of Nigeria;
- (b) the Director-General of Securities and Exchange Commission;
- (c) the Managing Director of National Deposit Insurance Corporation;
- (d) a representative of the Registrars of Companies;
- (e) two representatives of the shareholders' association;
- (f) a representative of the Bankers' Committee; and

(g) the Director-General of the Debt Management Office as the Secretary to the Trust Fund.

- (7) The Secretariat of the Trust Fund shall be in the Debt Management Office and the Debt Management Office shall operate the Trust Fund with the Central Bank of Nigeria and Securities and Exchange Commission.
- (8) All public limited liability companies quoted on the Nigerian Stock Exchange and deposit money banks shall render annual return of unclaimed dividend and unutilised amounts in a dormant bank account in a format prescribed by the Debt Management Office of the Federation.
- (9) The Debt Management Office shall prepare and submit the financial statement of the Unclaimed Dividends Trust Fund to the Office of the Auditor-General for the Federation for audit.
- (10) Failure by any company or deposit money bank to transfer the unclaimed dividends or unutilised amounts in a dormant bank account to the Unclaimed Funds Trust Fund constitutes an offence under this Act and the company or deposit money bank is liable upon conviction, to a fine of not less than five times the value of the unclaimed dividends and unutilised funds in a dormant bank account plus accumulated interest on the amount not transferred at the Central Bank of Nigeria's Monetary Policy Rate:

Provided that this section shall not apply to official bank accounts owned or belonging to the Federal Government, State Government or Local Government, or any of their Ministries, Departments or Agencies.

- (11) Such unclaimed dividends and unutilised amounts in a dormant bank account transferred to the Unclaimed Funds Trust Fund shall be a special debt owed by the Federal Government to the shareholders and dormant bank account holders respectively and shall be available for claim, together with the yield thereon, by the shareholder and the bank account holder at any time, pursuant to the aforementioned perpetual trust.

78. The Debt Management Office shall:

- (a) maintain a reliable database of all unclaimed dividends and dormant bank balances constituting the debt owed by the Trust Fund which shall be verified and reconciled with the Securities and Exchange Commission, and the Central Bank of Nigeria on a bi-annual basis;
- (b) liaise with the relevant Registrars of Companies, deposit money banks or the National Deposit Insurance Corporation, as the case may be, to make adequate arrangement for the repayment of the verified interest and capital obligations due to the relevant shareholders, depositors or their legal beneficiaries, as the case may be;

Functions of the Debt Management Office as they relate to the Trust Fund.

- The Nigerian lawyer
- (c) prepare and submit the financial statement of the Trust Fund to the Office of the Auditor-General for the Federation for audit;
 - (d) prepare and implement a plan for the efficient management of the obligations of the Trust Fund, which plan shall include setting guidelines, modalities and other arrangements, which may include an annual sinking fund, for the servicing of the interest and capital obligations of the Trust Fund;
 - (e) set guidelines for managing Federal Government financial risks and currency exposure with respect to all loans;
 - (f) collect, collate, disseminate information, data and forecasts on debt management related to the Trust Fund with the approval of the Governing Council; and
 - (g) carry out such other functions, which may be mandated by an Act of the National Assembly.

79. The Governing Council shall:

The Governing Council.

- (a) approve policies, strategies and procedures to be adopted by the Governing Council for the achievement of its objectives;
- (b) review, from time to time, the economic and political impact of the management strategies and public engagement strategies relating to the transparency and accountability of the Trust Fund;
- (c) appoint, as and when necessary, technical committees comprised of persons with requisite technical competence from the private or public sector to advise the Governing Council on such matters as may be determined from time to time;
- (d) receive bi-annual reports from the Debt Management Office of failure by any company or deposit money bank to transfer the unclaimed dividends or unutilised amounts in a dormant bank account to the Trust Fund, which failure shall constitute an offence under this Act and the company or deposit money bank shall be liable upon conviction, to a fine of not less than thrice the value of the unclaimed dividends and unutilised funds in a dormant bank account plus accumulated interest on the amount not transferred at the Central Bank of Nigeria's Monetary Policy Rate; and

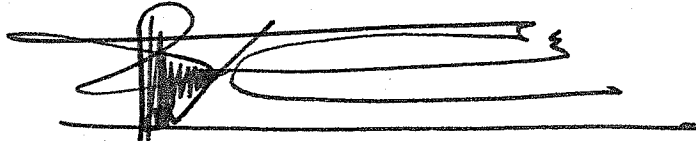
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(e) perform such other functions as may, from time to time,
be necessary to achieve the objectives of the Trust Fund.”

80. This Act takes effect from 1 January, 2021 or such other date that shall be indicated by the National Assembly by law (or by Presidential Order). Commencement date.

81. This Act may be cited as the Finance Act, 2020. Citation.

I, CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THIS BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.



OJO O. A., fnia, fcia
CLERK TO THE NATIONAL ASSEMBLY

24TH.. DAY OF DECEMBER....., 2020

Schedule to the Finance Bill, 2020

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
Finance Bill, 2020	An Act to amend the Capital Gains Tax Act Cap. C1, Companies Income Tax Act Cap. C21, Personal Income Tax Act Cap. P8, Customs and Excise Tariff, Etc. (Consolidated) Act Cap. C49, Value Added Tax Act Cap. V1, Nigeria Export Processing Zones Act Cap. N107, Oil and Gas Export Free Zone Act Cap. O5, Industrial Development (Income Tax Relief) Act Cap. I17, Stamp Duties Act Cap. S8, Laws of the Federation of Nigeria, 2004; Tertiary Education Trust Fund (Establishment) Act No. 16, 2011, Federal Inland Revenue Service (Establishment) Act No. 13, 2007, Fiscal Responsibility Act No. 31, 2007, Public Procurement Act No. 14, 2007 and Companies and Allied Matters Act No. 3, 2020; and for related matters.	This Bill amends the Capital Gains Tax Act Cap. C1, Companies Income Tax Act Cap. C21, Personal Income Tax Act Cap. P8, Customs and Excise Tariff, Etc. (Consolidated) Act Cap. C49, Value Added Tax Act Cap. V1, Nigeria Export Processing Zones Act Cap. N107, Oil and Gas Export Free Zone Act Cap. O5, Industrial Development (Income Tax Relief) Act Cap. I17, Stamp Duties Act Cap. S8, Laws of the Federation of Nigeria, 2004; Tertiary Education Trust Fund (Establishment) Act No. 16, 2011, Federal Inland Revenue Service (Establishment) Act No. 13, 2007, Fiscal Responsibility Act No. 31, 2007, Public Procurement Act No. 14, 2007 and Companies and Allied Matters Act No. 3, 2020.	15 th December, 2020	17 th December, 2020

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.



OJO O. A., fma, fcia
Clerk to the National Assembly

24th Day of DECEMBER....., 2020



MUHAMMADU BUHARI, GCFR
President of the Federal Republic of Nigeria

31st Day of December....., 2020

I ASSENT