

FIRS Notices You Must Not Ignore



Commencement of VAT implementation

Following the enactment of the Finance Act, 2019 and its subsequent publication in the gazette, the Federal Inland Revenue Service ("FIRS") has issued a public notice stating that the commencement date for the implementation of the new Value Added Tax ("VAT") rate is the 13th of January, 2020.

Under section 2 of the Interpretation Act Cap 123 Laws of the Federation of Nigeria 2004, an Act is passed when the President assents to the Bill for the Act whether or not the Act comes into force. Section 3 of the Acts Authentication Act Cap A2 Laws of the Federation of Nigeria 2004 provides that an Act shall come into force upon the President's assent unless otherwise prescribed by Act. In other words, the date of assent shall be the commencement date unless otherwise stated in the Act itself or by the passing of another Act.

Based on these provisions, the new VAT rate came into force on the 13th of January 2020. However, given the fact that the gazette in which the Finance Act was published was not disseminated to the public until February 2020, the new VAT rate had effectively been given retroactive force. This created a seeming discrepancy among Consumers and Suppliers who were

not certain about the date of implementation especially as the Honourable Minister of Finance, Budget and National Planning had announced at the inauguration of the FIRS Board on the 16th of January 2020 that the new VAT rate would take effect from the 1st of February, 2020.

The clarification given by the FIRS takes into consideration the practical difficulties it could potentially encounter in seeking to enforce compliance with the new VAT rate which effectively commenced mid-January. For the purpose of making returns therefore, Suppliers will only be penalised if their VAT returns for the period commencing from 1st February 2020 do not reflect compliance with the new rate.

Commencement of operations by the Non-Resident Persons' Tax Office

In October 2019, the Federal Inland Revenue Service ("FIRS") established the Non-Resident Persons' Tax Office ("NRPTO") to cater specifically to the administration of taxes payable by non-resident persons. The FIRS in a subsequent Notice has announced that the NRPTO has now commenced operations with effect from the 1st of January, 2020 with its office located at the International Tax Department, 3rd Floor, FIRS Building, 17B Awolowo Road, Ikoyi, Lagos.

The NRPTO is responsible for opening tax files for new non-resident persons, as well as handling the tax affairs of existing non-resident companies and individuals. Commencing from the date of establishment of the NRPTO, all future correspondence in respect of tax compliance obligations should be directed to the NRPTO. Persons who invite non-resident persons for sports, music, movie, cultural or other entertainment events are now required to notify the NRPTO before hosting such events.

The Finance Act, 2019 has broadened the scope of eligibility to tax in Nigeria by non-resident companies. Prior to the amendment of section 13 of the Companies Income Tax Act, Cap C21, Laws of the Federation of Nigeria ("CITA"), a non-resident company would only be liable to companies income tax where it satisfies any of the four conditions set out in section 13(2). The NRPTO provides a framework for the administration of tax payable by non-resident companies and individuals.

FIRS Notice on regularisation of tax status of Dormant Companies

The Federal Inland Revenue Service ("FIRS") has issued a notice to dormant companies to regularise their tax compliance status on or before 30th June 2020. A Dormant Company has been defined as a company that has formally informed FIRS that it will be temporarily out of business for at least a period of one financial year due to understandable exigencies, e.g. adverse economic circumstances.

The FIRS is taking steps to collaborate with the Nigerian Financial Intelligence Unit, Corporate Affairs Commission, Deposit Money Banks and other relevant agencies to ensure that all taxpayers file and pay appropriate taxes as and when due. Failure to regularise will result in sanctions from the FIRS and other collaborating agencies and possible delisting of the company from the companies register at the Corporate Affairs Commission or a lien being placed on its bank accounts.