

TAX UPDATE

**INCOME TAX ON
PROFIT FROM
BONDS AND
SHORT-TERM
GOVERNMENT
SECURITIES**





Introduction

Following the expiration of the 10-year tax exemption for State Government, corporate and supranational bonds and short term government securities and our earlier update on the expiration which can be accessed [here](#), the Federal Inland Revenue Service (“FIRS”) issued a public notice in February 2022 titled “Public Notice on Payment of Income Tax on Profit from Bonds and Short-Term Government Securities” (the “Notice”). Statements in the Notice represent FIRS’ position on the expected tax treatment of income derived from such instruments going forward. The FIRS indicated in the Notice that with the expiration of the 10-year income tax exemption for certain classes of bonds, which exemption applied from 2nd January 2012 to 1st January 2022, income tax now applies to income derived by companies from bonds and short-term securities (excluding bonds and Eurobonds issued by the Federal Government of Nigeria (“FGN”)) with effect from 2nd January 2022.

Summary of the Notice

The FIRS stated in the Notice that, effective from 2nd January 2022, income derived by corporate entities from the following classes of bonds and short-term securities will be liable to tax:

- (a) Short term FGN securities, such as treasury bills and promissory notes;
- (b) Bonds issued by State and Local Governments and their agencies;
- (c) Bonds issued by corporate bodies including supra-nationals; and
- (d) Interest earned by holders of the Bond and Securities mentioned in paragraph (a) to (c) above.

Income derived from bonds (including Eurobonds) issued by the FGN and investments by individuals in the instruments listed above will, however, continue to enjoy the income tax exemption with no limitation as to time.

The FIRS stated in the Notice that it expects corporate taxpayers to comply with the applicable laws by computing income tax on these categories of income in the self-assessment returns submitted to the FIRS. Corporations and State Governments that issue bonds and short-term securities now have an obligation to withhold tax on interest payments to corporate holders at the applicable rate and remit the tax withheld to the FIRS.

This position was reiterated by the FIRS in the Notice by stating that agents, for the collection of withholding taxes on interest and other payments made to any company on account of income from bonds and other securities, are to deduct WHT on such income derived by companies from bonds and short-term securities effective from 2nd January 2022. Where the nature of the income on the short-term securities is a discount, WHT will not apply since discount income is not subject to WHT. Consequently, the corporate recipient will need to pay the tax due on the basis of self-assessment.

Our Commentary on the FIRS Notice

Interest income earned on Treasury Bills is no longer exempted from tax since the Order granting the exemption has lapsed. Where the FGN issues Treasury Bills at a discount; there is no interest income on which WHT would apply but the discount income will form part of the taxable income of a corporate recipient. In view of the above, it is unclear whether income earned by foreign investors in Nigeria from discounted instruments such as Treasury Bills will be taxed in Nigeria on a deemed profit basis for taxing non-resident companies earning income in Nigeria.

Lastly, we had expected that the FIRS will clarify how income on bonds issued before the sunset date of 1st January 2022 will be treated after that date, but that was not specifically addressed in the Notice. We could infer from the language used in the Notice that the exemption lapsed automatically and that, regardless of whether the eligible bonds were issued before or after the expiration date, tax will apply from 2nd January 2022 on income derived by corporate investors from such bonds. On a last note, interest income accrued to corporate bondholders before the sunset date will not be liable to tax if paid after that date.

This update is for general information purposes only and does not constitute legal advice. If you have any questions or require any assistance or clarification on how this update could apply to you or your business, or require tax advice on any aspect of the Nigerian tax laws, please contact taxteam@uubo.org.