

40th Anniversary
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TAX
FLASH CARDS

Tax Flash Cards

Personal Income Tax (PIT)

1 ▶

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Eligibility, Rate, and Tax Authority

The Personal Income Tax Act, Cap. P8 LFN 2004 (the "PITA") governs PIT deduction, remittance, and returns filing in Nigeria.

Persons eligible to pay PIT are individuals, including salaried employees, self-employed individuals, freelancers, investors, and partners in a partnership; sole corporations (aka registered business names); body of individuals (e.g., cooperatives); trustees and estate administrators.

A person whose income is equal to or less than the national minimum wage of NGN30,000 is not subject to PIT.

PIT is assessed at graduated tax rates according to the taxable person's overall income, as follows:

Income (NGN)	Rate (%)
First 300,000	7%
Next 300,000	11%
Next 500,000	15%
Next 500,000	19%
Next 1,600,000	21%
Above 3,200,000	24%

PIT is administered by the relevant tax authority in a State where a taxable person is resident in the relevant year of assessment. The Federal Inland Revenue Service (FIRS) is charged with the collection of PIT from non-resident persons who receive income from Nigeria, individuals who serve in the Nigerian Armed Forces, the Nigerian Police Force (other than in a civilian capacity), and the Nigerian Foreign Service. Residents of the Federal Capital Territory (FCT), Abuja, are to remit their PIT to the FCT Internal Revenue Service.

Persons who are subject to PIT must file a return of income in the prescribed form with the tax authority of the State in which they had their primary place of residence during the relevant year of assessment, or with the FIRS where they are subject to the FIRS's PIT administration.



PIT Obligations for Employers

For individuals in salaried employment, PIT is deducted by employers and is remitted through the Pay As You Earn (PAYE) system. The PAYE Returns are filed by employers on a monthly basis and must be submitted on or before the 10th day of the month following the month to which the tax deductions apply.

Employers are also required to file annual returns for all PAYE deductions made from their employees' income in the past year. The Annual Returns should be filed no later than 31 January of every year.

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PIT Obligations for Self-Employed Individuals

Self-employed individuals, registered business names, general partnerships and unincorporated entities like sole proprietorships are required to calculate their PIT liability i.e., on a self-assessment basis, and file the PIT returns with the tax authority nearest to their place of residence. The returns are filed on a preceding year basis and must be filed on or before 31 March of the relevant year of assessment.

A business entity, whether registered or unregistered, is required to deduct and remit PIT, pay through the PAYE system, and file PAYE returns if it has any employees.

Tax Flash Cards

Personal Income Tax (PIT)



Applicability of PIT to Non-Resident Persons

Where non-resident persons carry on any trade or business that is performed partly in Nigeria, the profits derived from the operations in Nigeria are subject to PIT. The total profits derived by a non-resident person from the specific operations in Nigeria will be subject to PIT, where:

1. the person has a fixed base in Nigeria from which he carries on such business or trade;
2. the person habitually operates a business or trade in Nigeria through a person in Nigeria authorised to conclude contracts on his behalf or on behalf of a related party, or habitually maintains a stock of goods or merchandise in Nigeria on his behalf;
3. the person carries on a trade or business that involves a single contract for surveys, deliveries, installations, or construction;
4. the trade or business is between related parties and the terms of such business relationship are such that the relevant tax authority may deem it artificial or fictitious, after the necessary adjustment by the FIRS; and
5. the person carries on a trade or business that involves the performance of a technical, management, consultancy or professional service to a person in Nigeria, to the extent that such non-resident person has significant economic presence in Nigeria.



Assessment

Taxable persons required by the PITA to file tax returns on a self-assessment basis are expected to do so, using a self-assessment form.

Where a taxable person fails to file a return and pay tax on or before the due date, or where the tax authority has established that there has been an understatement of tax in the return filed by a taxpayer, the tax authority may proceed to conduct an administrative assessment using the best of its judgment, either by relying on available information, third party sources or a trend/ratio analysis to determine the amount assessable and the attendant tax liability.

The tax authority may also conduct administrative assessments on its own accord, whether the time for filing self-assessment returns has elapsed or not.

Tax Flash Cards

Personal Income Tax (PIT)

◀ 6 ▶

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PAYE

The elements of an employee's remuneration that are taxable include the employee's salary, wage, fee, allowance, or other gain or profit from employment, including compensations, bonuses, premiums, benefits in cash or in kind, or other perquisites allowed, granted by the employer to the employee other than reimbursements for expenses incurred by the employee in the performance of his duties. Benefits in kind granted by an employer to an employee include living accommodation, cars, etc., and are generally treated as part of the gross emoluments of the employee and subject to PIT.

5% of expenses incurred by an employer in the provision of any benefit to an employee, other than the provision of living accommodation, will be deemed as the annual benefit accruing to the employee where the employer owns the asset. For assets leased by an employer, the actual rent paid on the asset would be deemed as the benefit accruing to the employee. Living accommodation provided by the employer to the employee is taxable based on the annual value of the premises at an annual rate as determined by the relevant tax authority or any law governing assessments of local rates.

An employee is entitled to a Consolidated Relief Allowance, amounting to N200,000.00, subject to either a minimum of 1% of gross income or 20% of gross income, whichever is higher.

Tax Flash Cards

Personal Income Tax (PIT)



Withholding Tax (WHT) Obligations

WHT is an advance payment of income tax deducted at source on all types of passive income and payments relating to specific types of transactions. Depending on the nature of the transaction, PIT withheld on income or profit accruing to non-resident persons, persons resident in the FCT, Abuja and other taxable persons who are excluded from making remittances and filing tax returns with State tax authorities, should be remitted to the FIRS. Remittances and returns for WHT deducted on payments payable to other taxable persons should be submitted to the appropriate State tax authority.

WHT is required to be deducted at source and remitted to the relevant tax authority within 30 days from the day the tax was deducted or the day that the duty to deduct arose. The penalty for failure to deduct WHT is 10% of the amount not deducted/remitted.

Tax Flash Cards

Personal Income Tax (PIT)



WHT Rates

WHT is deducted at varying rates ranging from 2.5% to 10% depending on the transaction. The WHT rates for individuals are as follows:

TYPES OF PAYMENTS	WHT Rate for Individuals
Dividends, Interest, Rent	10%
Directors Fees	10%
Hire of equipment	10%
Royalties	5%
Commissions, Consultancy, Professional, Technical & Management Fees	5%
Construction (roads, buildings, bridges)	5%
Contract other than sales in the ordinary course of business	5%



Objections & Penalties

A taxpayer that disputes a PIT assessment, is required to apply to the relevant tax authority ("RTA") for a review of the assessment by a notice of objection, stating the precise grounds of objection to the assessment. The notice of objection should be filed within 30 days from the date of the receipt of the notice of assessment from the RTA. Upon receipt of the notice of objection, the RTA may agree with or refuse the objection. Where the RTA accepts the objection, the RTA shall amend the assessment and issue an amended notice of assessment. Where the RTA refuses the objection, it shall issue a notice of refusal to amend (NORA) and may also issue a revised assessment based on its best of judgment. Where the company fails to lodge a valid notice of objection within 30 days, the assessment will be deemed final and conclusive. Where the RTA issues a NORA, and the taxpayer is dissatisfied, the taxpayer is required to file an appeal at the Tax Appeal Tribunal ("TAT") within 30 days from the date of the receipt of the NORA. An award or judgment of the TAT is usually enforced as if it were a judgment of the Federal High Court.

The penalty for non-payment of PIT is 10% per annum of the unpaid tax, plus interest calculated on an annual basis at the base lending rate of the bank, commencing on the date the tax becomes due and continuing until it is paid.

Late filing of PAYE returns attracts a penalty of N500,000 for corporate bodies, and N50,000 for individuals.



Audits

To verify any information relating to a taxable person's income or entries into the required books of account that must be kept in accordance with the PITA, the relevant tax authorities may, from time to time, conduct tax audits.

Where a tax authority intends to conduct an audit in accordance with the PITA's rules, the person or organisation is obligated to provide any information the tax authority requests for the performance of the audit.

The FIRS audit cycle is 63 days long, and the audit is often undertaken in partnership with the Joint Tax Board (JTB). With respect to the tax authorities of different States, the audit cycle and procedures differ, according to the provisions of the domestic laws applicable in such States.



Resolution of Tax Disputes

The Tax Appeal Tribunal (“Tribunal”) has jurisdiction over tax disputes in Nigeria. An appeal to the Tribunal may be brought by an aggrieved taxpayer or the relevant tax authority if the subject matter of the dispute falls within the jurisdiction of the Tribunal.

An aggrieved taxpayer may file an appeal against an assessment or an action of the FIRS or State tax authority on PIT within 30 days from the date of the receipt of such.

A decision made by the Tribunal is enforced in the same manner as a decision of the Federal High Court. Appeals arising from the decision of the Tribunal lie as of right to the Federal High Court.



Exempted Income

There are several categories of income that qualify for exemption under the PITA. A comprehensive list of the exempted income can be found in the Third Schedule to the PITA.