



ACHIEVING TAX  
COMPLAINE  
IN YOUR  
PROFESSIONAL  
PRACTICE

- The 3<sup>rd</sup> Webinar of the Series on Ethics organized by:
  - NIGERIAN INSTITUTE OF QUANTITY SURVEYORS (NIQS)
  - In Collaboration with
  - Convention on Business Integrity (CBI)
- 
- Presented by Tunji Rabiou, FCA, ACTI, CPA



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## Part 1: Introduction to Nigeria Tax System

- Introduction
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- Tax Audit process

## Part 2: Specific Taxes Relevant to QS Professionals

- Income Taxes
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## Part 3: Ethical Issues in Tax

- Tax Evasion and Avoidance

## Part 4: Other Important Taxes

- Conclusion



# Presentation Objectives

**After completing the end of this presentation, you should be able to:**

1. Understand the concept and relevance of taxation to nation building and development.
2. Tax Administration, System and Process in Nigeria
3. Understand rights and obligations required of a tax payer.
4. Gain awareness on major taxes applicable to the profession of QS.
5. Critically evaluate the relevance and applicability of Ethics, Corporate Social Responsibility to tax compliance and concept of tax evasion and avoidance.



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## Part 1: Introduction to Nigeria Tax Systems





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# Introduction



## WHAT IS TAX?

- A tax is a levy by Government on her citizens – employe income & Business profits
- It is a compulsory collection
  - Describe as a reward for social capit
  - A cost (that must be minimised)
- Creates income for government
- Governs by principle of fairness, adequ simplicity, transparency, and administrative ease.





# Introduction



## Tax System in Nigeria

- A tax system is a legal system for assessing and collecting taxes.
- Nigeria operates a decentralised tax system, with jurisdictional administration.
- Govern by Tax Policy
  - Provides guidelines, rules, basis for tax legislation and administration
  - Sets broad parameters and other tax related matters.
  - Specifies the principle of taxation.





## TAXES & LEVIES (APPROVED LIST FOR COLLECTION) ACT [1998 NO.21]



| FED GOVERNMENT  | STATE GOVERNMENT   | LOCAL GOVERNMENT  |
|---|--|---|
| Companies Income Tax  | Personal Income Tax in respect of Pay-As-You-Earn (PAYE); and direct taxation (self-assessment)  | Shops and kiosks rates; Tenement rates; On and Off liquor license fees  |
| WHT on companies, residents of the FCT, Abuja and non-residential individuals   | Withholding Tax (individuals only)   | Slaughter slab fees; Marriage, birth and death registration fees  |
| Petroleum Profits Tax   | Capital Gains Tax (individuals only); Stamp duties on instruments executed by individuals  | Naming of street registration fee, excluding any street in the State Capital  |
| Value Added Tax   | Pools betting and lotteries, gaming and casino taxes   | Motor park levies; Domestic animal license fees   |
| Education Tax   | Road taxes   | Bicycle, truck, canoe, wheelbarrow and cart fees, other than mechanically propelled truck   |
| Capital Gains Tax on residents of the FCT, Abuja, bodies corporate and non-resident individuals   | Business premises registration fee in respect of (a) urban areas as defined by each State, maximum of (i)N10,000 for registration; and (ii)N5,000 per annum for renewal of registration                      | Cattle tax payable by cattle farmers only, merriment and road closure levy; radio and television license fees; vehicle radio license fees |
| Stamp duties on bodies corporate and residents of FCT, Abuja  | Development levy (individuals only) not more than N100 per annum will on all taxable individuals   | Wrong parking charges; Public convenience, sewage and refuse disposal fees  |
| Personal Income Tax in respect of members of the armed forces of Nigeria, members of the Nigeria Police Force, Resident of FCT, Abuja and staff of the Ministry of Foreign affairs and non-resident individuals | Naming of street registration fees in the State Capital; Right of Occupancy fees on lands owned by the State Government in urban areas of the State; Market taxes and levies where State finance is involved | Customary burial ground permit fees; Religious places establishment permit fees; Signboard and advertisement permit fees                  |



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# Tax Payer Rights and Obligations



## Rights:

- Right to tax information
- Confidentiality
- Treated with respect and dignity
- To Self-Assessment
- To choose and appoint tax consultant
- To receive refunds for excess payment
- To Objection and Tax Appeal
- To be issued Tax Clearance Certificate.

## Obligations:

- Maintain proper book of records
- File tax returns as and when due.
- Cooperative, well mannered, fair and honest, maintain integrity in assessment and payment.
- Keep abreast of tax laws and amendment.

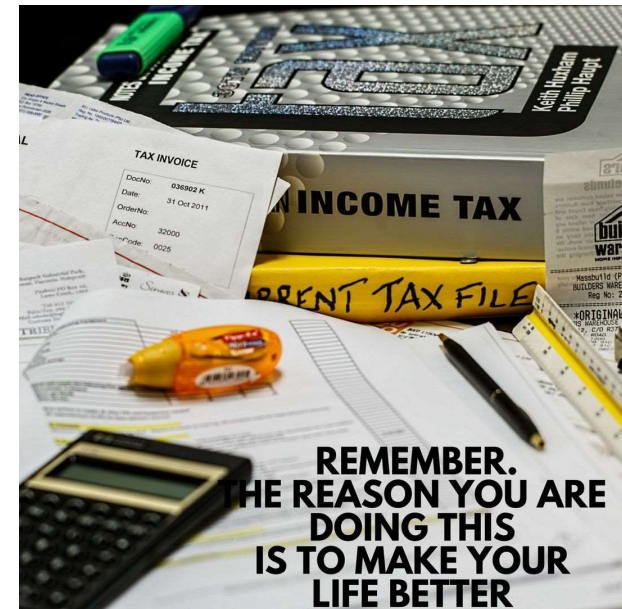




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# General Tax Issues for Professionals

- Taxable period is the fiscal year (Jan 1<sup>st</sup> – 31<sup>st</sup> Dec)
- Self Assessment is for Corporate and Direct Assessment for Individuals
- Statute of limitations is 6 years, additional assessment possible within that period. No limit in the event of fraud, wilful default or concealment or neglect.
- FIRS has released the TaxPro-Max platform for filing Naira denominated tax returns
- FIRS have started writing to banks to freeze the accounts of defaulters.
- CGT now chargeable on disposal of Shares, except Bond
- LIRS launches Service Charter
- Nigeria Tax to GDP Ratio is 6%, average in Africa is 16%.
- Estimated monthly revenue is N513b about 63% contribution to FAAC in March 2022





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# Tax Audit Process

- Starts with a desk examination of submitted returns
- Followed by a tax monitoring exercise – visits, interviews.
- Random selection or fishy returns for tax audit , usually within 6 years of filing.
- Extend beyond 6 years if tax fraud - back-duty tax investigation.
- Typically lasts 2- 3 years, tax authorities improving on turn around time.
- Collaborative framework between IFRS and States now in place (from 2018).....to drive faster process.



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## Part 2: Specific Taxes Relevant to QS Professionals

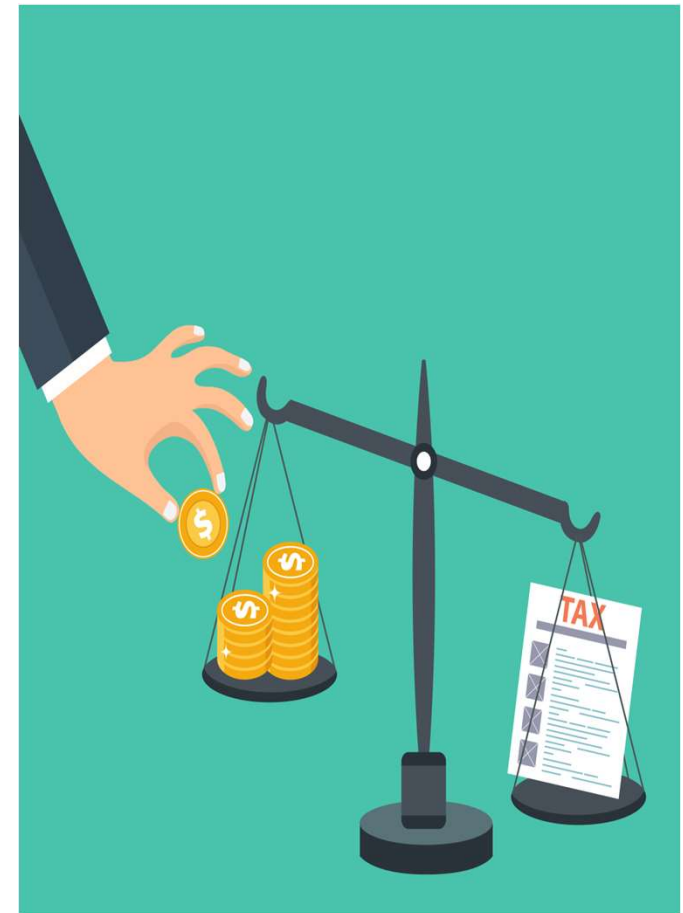
List not exhaustive



# Income Taxes

## CAPITAL GAINS TAX (CGT)

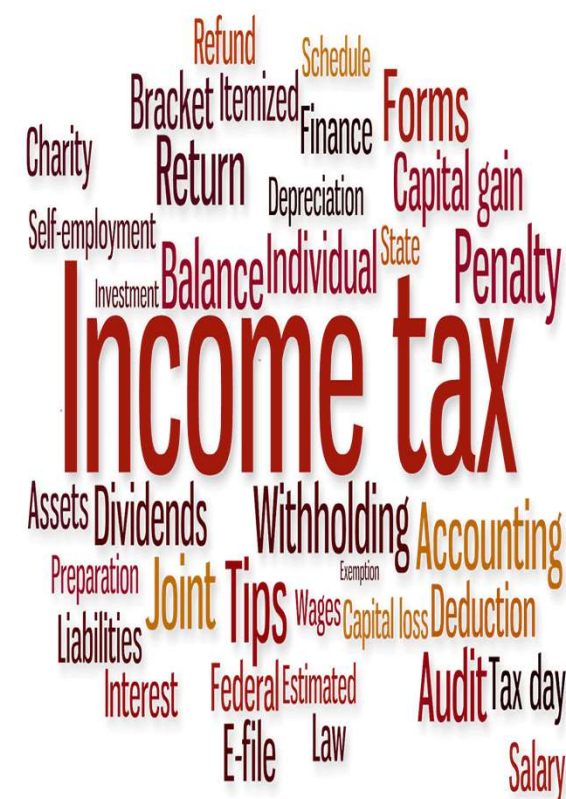
| Features             | Explanations  |
|----------------------|---|
| Relevant Tax Payer   | Every person that has disposed of a chargeable asset.<br>Excludes replacement of business assets.   |
| Time to File Returns | Not later than 30 June or 31 December of the year of disposal   |
| Rate                 | 10%   |
| Chargeable Assets    | Options, debts and incorporeal property generally<br>Any currency other than Nigeria currency<br>Any form of property created or inherited by the person disposing of it.<br>Shares (exempt Nigerian coys shares < 10m)<br>Compensation for loss of office (exempt <10m)<br>Goodwill<br>Copyrights<br>Buildings |



# Income Taxes

## COMPANIES INCOME TAX (CIT) - FIRS

| Features             | Explanations   |
|----------------------|--|
| Relevant Tax Payer   | <ul style="list-style-type: none"> <li>Profits accruing in, derived from, brought into or received in Nigeria.</li> <li>Companies that are registered in Nigeria</li> <li>Non- resident entities carrying on business or that have a Significant Economic Presence (SEP) in Nigeria.</li> </ul>  |
| Time to File Returns | <ul style="list-style-type: none"> <li>Not later than 6 months after the year end.</li> <li>18 months after incorporation for newly incorporated</li> </ul>  |
| Rate                 | <ul style="list-style-type: none"> <li>0% small companies – gross annual turnover &lt; N25m</li> <li>20% - Medium-sized companies (companies with gross annual turnovers &gt; N25m &lt; N100 million).</li> <li>30% - Large companies (Companies with annual gross turnovers higher than N100m).</li> <li>6% of Turnover if NRC profit isn't ascertainable (20% profit at 30% Tax Rate)</li> </ul> |
| Chargeable Profits   | Preceding year profit.   |









# Income Taxes

## PERSONAL INCOME TAX (PIT) – State Internal Revenue Services

| Features                               | Explanations   |
|--|--|
| Relevant Tax Payer & Income Assessable | <ol style="list-style-type: none"><li>Business Income Earner:<ul style="list-style-type: none"><li>Business income earned by individuals, partnerships, trusts and other unincorporated entities with an identifiable place of operation in Nigeria.</li><li>Income earned by non-resident individuals, executors and trustees from technical, professional, management, or consultancy (TPMC) services remotely provided to a person resident in Nigeria shall be subject to a final 10% WHT in Nigeria, if the non-resident individual has a significant economic presence (SEP) in Nigeria. The Act does not specify what constitutes a SEP but empowers the Minister of Finance to do so through an Order.</li></ul></li><li>Employment Income Earner:<ul style="list-style-type: none"><li>the duties of employment are wholly or partly performed in Nigeria.</li><li>the employer is in Nigeria, the employment duties are wholly performed, and the remuneration paid outside Nigeria.</li></ul></li></ol> |

# Income Tax

**A tax levied on the incomes of people or entities (taxpayers).**



**Before paying income tax**      **After paying income tax**

**Income tax is a major source of revenue for the government**


# Income Taxes

## PERSONAL INCOME TAX (PIT) – State Internal Revenue Services

| Features        | Explanations  |
|-----------------|---|
| Benefit-in-Kind | <ul style="list-style-type: none"> <li>• Benefits in Kind (BIK) provided to an employee by the employer such as official cars accommodation, etc</li> <li>• deemed annual benefit is 5% of the cost or actual cost</li> </ul>   |
| Rate            | <p>PIT rate is applied on a graduated scale and taxable income bands as set out below:</p> <p>First 300,000 – 7%</p> <p>Next 300,000 - 11%</p> <p>Next 500,000 - 15%</p> <p>Next 500,000 - 19%</p> <p>Next 1,600,000 – 21%</p> <p>Excess of 3,200,000 – 24%</p> <ul style="list-style-type: none"> <li>• Exempts minimum wage earner.</li> <li>• Minimum Tax of 1% on Gross Income is applicable if tax payable after reliefs and allowances is less than 1%.</li> <li>• Effective tax rate declines if income is above N20m i.e. 18.96% for above N20m and 19.2% for below N20m. (Consolidated relief at 21% of Gross Income)</li> </ul> |

# Income Tax

**A tax levied on the incomes of people or entities (taxpayers).**



**Before paying income tax**      **After paying income tax**

**Income tax is a major source of revenue for the government**



# Income Taxes

## PERSONAL INCOME TAX (PIT) – State Internal Revenue Services

| Features             | Explanations   |
|----------------------|--|
| Filing and Due Dates | <ul style="list-style-type: none"> <li>Individuals not later than 31 March annually in respect of the preceding year.</li> <li>Employers are required to file the following documents:               <ol style="list-style-type: none"> <li>Employers' Declaration Form (Form H1): showing the income of the employees, taxes deducted and remitted in the preceding year... due by 31 Jan</li> <li>Employers' Remittance Card (Form G): showing the monthly remittances and reference number on the receipt. Copies of the receipt are to accompany the form G.</li> <li>Declaration of estimated income and application for tax reliefs (Form A).</li> </ol> </li> </ul> |
| Payment Due Date     | <ol style="list-style-type: none"> <li>PAYE remittance: on or before the 10th day of the month following the payment of salary</li> <li>Individuals under direct assessment, payment with returns not later than 31 March.</li> </ol>  |

# Income Tax

**A tax levied on the incomes of people or entities (taxpayers).**

**Before paying income tax**      **After paying income tax**

**Income tax is a major source of revenue for the government**

# Income Taxes

## PERSONAL INCOME TAX (PIT) – State Internal Revenue Services

| Features | Explanations   |
|----------|--|
| Penalty  | <ul style="list-style-type: none"><li>• 10% per annum of the amount plus interest of 15% to 21% per annum</li><li>• Late filing, Corporate bodies a fine of ₦500,000 and individuals - ₦50,000</li></ul> |



# Income Taxes

## WITHHOLDING (WHT) Tax- State & FIRS

| Features            | Explanations   |
|---------------------|--|
| Relevant Tax Payer  | <ul style="list-style-type: none"> <li>Persons required to deduct WHT are all companies, and organisations or establishments that operate PAYE.</li> <li>An advance payment of income tax deductible at source on specified transactions.</li> <li>Typically applied as a tax credit against income tax liability</li> </ul> |
| Filing Requirements | <p>Returns is prepared in a form of schedule showing:</p> <ul style="list-style-type: none"> <li>Vendor Tax Identification Number, name and address type of contract, rate applied, amounts, and evidence of payment.</li> <li>For FIRS WHT, the schedule of WHT deducted must be submitted in electronic form</li> </ul>    |
| Due Date            | <ul style="list-style-type: none"> <li>WHT deducted from individuals and unincorporated entities, remittance is due within 30 days after the duty to deduct WHT arose.</li> <li>In the case of WHT deducted from companies, remittance is due to the FIRS within 21 days</li> </ul>  |



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## PUBLIC NOTICE

### FILING OF TAX RETURNS BY TAXPAYERS TO TAX OFFICES NEAREST TO THEIR COMPANY'S DOMICILE ADDRESS

The Management of Federal Inland Revenue Service (FIRS) wishes to inform our esteemed taxpayers that they can now file their Companies Income Tax (CIT), Value Added Tax (VAT), and Withholding Tax (WHT) returns at the FIRS tax office nearest to their place of business, or choice of location.

Taxpayers will be required to apply in writing to the Tax Controller of their current tax office indicating their tax office of choice and request the transfer of their file and Taxpayer Identification Number (TIN) accordingly.

FIRS believes that this measure will ease the process, cost and enhance convenience of voluntary compliance to taxpayers.

Signed:  
**Tunde Fowler**  
 Executive Chairman  
 Federal Inland Revenue Service

# Income Taxes

## WITHHOLDING (WHT) Tax- SIRS & FIRS

| Features  | Explanations  |              |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |
|---|---|--------------|-----------|------------|-------------------------------|-----|-----|--------------|-----|----|-------------------------------|-----|-----|---|-----|----|---|------|----|---------------------------------|----|----|---|----|----|--------------------|-----|-----|
| Offences and Penalties  | Failure to remit WHT due to SIRS and FIRS: 10% of tax due, in addition to the principal tax and interest at the CBN MPR (14%).  |              |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |
| Rate  | <table border="1"> <thead> <tr> <th>Transactions</th> <th>Companies</th> <th>Individual</th> </tr> </thead> <tbody> <tr> <td>1. Dividends, Interest, Rent,</td> <td>10%</td> <td>10%</td> </tr> <tr> <td>2. Royalties</td> <td>10%</td> <td>5%</td> </tr> <tr> <td>3. Hire of Equipment, MV, P&amp;M</td> <td>10%</td> <td>10%</td> </tr> <tr> <td>4. Commission, Consultancy, Technical and management fees, legal fees, audit fees . and other professional fees</td> <td>10%</td> <td>5%</td> </tr> <tr> <td>5. Construction of road bridges, building and power plant</td> <td>2.5%</td> <td>5%</td> </tr> <tr> <td>6. Other types of construction.</td> <td>5%</td> <td>5%</td> </tr> <tr> <td>7. All types of contracts and agency arrangements, other than sales in the ordinary course of business.</td> <td>5%</td> <td>5%</td> </tr> <tr> <td>8. Directors' fees</td> <td>N/A</td> <td>10%</td> </tr> </tbody> </table> | Transactions | Companies | Individual | 1. Dividends, Interest, Rent, | 10% | 10% | 2. Royalties | 10% | 5% | 3. Hire of Equipment, MV, P&M | 10% | 10% | 4. Commission, Consultancy, Technical and management fees, legal fees, audit fees . and other professional fees | 10% | 5% | 5. Construction of road bridges, building and power plant | 2.5% | 5% | 6. Other types of construction. | 5% | 5% | 7. All types of contracts and agency arrangements, other than sales in the ordinary course of business. | 5% | 5% | 8. Directors' fees | N/A | 10% |
| Transactions  | Companies   | Individual   |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |
| 1. Dividends, Interest, Rent,   | 10%   | 10%          |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |
| 2. Royalties  | 10%   | 5%           |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |
| 3. Hire of Equipment, MV, P&M   | 10%   | 10%          |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |
| 4. Commission, Consultancy, Technical and management fees, legal fees, audit fees . and other professional fees | 10%   | 5%           |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |
| 5. Construction of road bridges, building and power plant   | 2.5%  | 5%           |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |
| 6. Other types of construction.   | 5%  | 5%           |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |
| 7. All types of contracts and agency arrangements, other than sales in the ordinary course of business.         | 5%  | 5%           |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |
| 8. Directors' fees  | N/A   | 10%          |           |            |                               |     |     |              |     |    |                               |     |     |   |     |    |   |      |    |                                 |    |    |   |    |    |                    |     |     |



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Signed:  
Tunde Fowler  
Executive Chairman  
Federal Inland Revenue Service

# Consumption Taxes

## VAT - FIRS

| Features                       | Explanations   |
|--------------------------------|--|
| Relevant Tax Payer             | <ul style="list-style-type: none"> <li>VAT is chargeable on the supply of all goods and services in Nigeria other than those listed in the First Schedule of the Act.</li> <li>The definition of goods has been updated to include all forms of tangible properties excluding - land, building, money or securities.</li> <li>Services means anything other than goods, or services provided under a contract of employment, but includes any intangible or incorporeal property over which a person has rights which can be transferred. This excludes - interest in land and building, money or securities.</li> </ul> |
| Zero rated goods and services. | <ul style="list-style-type: none"> <li>Non-oil exports</li> <li>Goods and services purchased by diplomats</li> <li>Goods purchased for humanitarian donor-funded projects</li> </ul>   |

**WHEN YOU PAY VAT  
YOU ARE MAKING A  
CONTRIBUTION TO YOUR PROGRESS!**



VAT is a tax on consumption of specified Goods and Services  
It is your duty as a provider of goods and services to collect VAT on behalf of the government  
You are **BREAKING** the law:  
If you are not registered with the Federal Inland Revenue Service (FIRS), the general agency in charge of VAT  
If you are not charging VAT on all taxable transactions at the rate of 5%.  
If you are not keeping transaction records.  
If you are not filling VAT returns with the FIRS.

# Consumption Taxes

## VAT - FIRS

| Features   | Explanations  |
|------------|---|
| Exemptions | <ul style="list-style-type: none"><li>• Oil exports (wrongly written as “All exports”)</li><li>• Medical and pharmaceutical products</li><li>• Agro and aqua based staple food</li><li>• Books and educational materials</li><li>• Baby products</li><li>• Plants, machinery and good imported for use in the export processing zones or free trade zones</li><li>• Plant, machinery and equipment purchased for utilisation of gas in downstream operations</li><li>• Tractors, plough and agricultural implements purchased for agricultural purposes</li><li>• Locally manufactured sanitary towels, pads or tampons</li><li>• All exported services</li><li>• Medical products and services</li><li>• Services rendered by microfinance banks, people’s banks and mortgage institutions.</li><li>• Plays and performances by educational institutions as part of learning</li></ul> |





# Consumption Taxes

## VAT - FIRS

| Features               | Explanations   |
|------------------------|--|
| Offences and Penalties | <ul style="list-style-type: none"><li>• Failure to register for VAT: ₦50,000 for the first month and ₦25,000 for every subsequent month</li><li>• Failure to remit VAT: 10% per annum of the amount of tax not remitted plus interest at CBN minimum rediscount rate.</li><li>• Failure to issue tax invoice: Fine of 50% of the cost of the goods or services for which tax invoice was not issued.</li><li>• Failure to keep proper records: Fine of ₦2,000 for every month in which failure continues.</li><li>• Failure to collect VAT: penalty of 150% of the amount not collected plus 5% interest above the CBN Monetary Policy Rate.</li><li>• Failure to submit returns: Fine of ₦50,000 for the first month and ₦25,000 in which the failure continues.</li><li>• Failure to notify change of address: Fine of ₦50,000 for the first month in which the failure occurs; and ₦25,000 for each subsequent month in which the failure continues</li></ul> |



# Consumption Taxes

## VAT - FIRS

| Features                    | Explanations  |
|-----------------------------|---|
| Vat Input (Recoverable)     | <ul style="list-style-type: none"> <li>Recoverable input VAT is restricted to goods purchased or imported directly for resale and goods which form the stock-in-trade used for the direct production of any new product on which the output VAT is charged.</li> </ul> <p>Non Allowed as Vat Input</p> <ul style="list-style-type: none"> <li>VAT on overhead, service and general administration expenses</li> <li>VAT on fixed assets (capital items) which is to be capitalised along with the cost of the capital item</li> </ul> |
| VAT Refunds / Carry Forward | <ul style="list-style-type: none"> <li>Excess input VAT may be carried forward as credit against future VAT payable in subsequent months.</li> <li>A taxable person may elect to request for refund if the excess tax has not been or will not be utilised as a credit, provided the documents requested by the FIRS is tendered.</li> <li>Alternatively, the FIRS Establishment Act (FIRSEA) provides for a cash refund on application within 90 days of FIRS decision subject to a tax audit.</li> </ul>                            |

| S/N | Category of Taxpayers                    | E-mail for Filing                  |
|-----|--|------------------------------------|
| 1   | Large taxpayers- Oil & Gas (Upstream)    | ltoupstream@firs.gov.ng            |
| 2   | Large taxpayers- Oil & Gas (Downstream)  | ltodownstream@firs.gov.ng          |
| 3   | Large taxpayers- Oil & Gas (Servicing)   | ltodownstream@firs.gov.ng          |
| 4   | Large taxpayers- Non Oil (Financial)     | ltononoifinancial@firs.gov.ng      |
| 5   | Large taxpayers- Non Oil (Manufacturing) | ltononoilmanufacturing@firs.gov.ng |
| 6   | Large taxpayers- Abuja                   | ltoabuja@firs.gov.ng               |
| 7   | Large taxpayers Kano                     | ltokano@firs.gov.ng                |
| 8   | Large taxpayers- Ibadan                  | ltoibadan@firs.gov.ng              |
| 9   | Large taxpayers- Port Harcourt           | ltoportharcourt@firs.gov.ng        |
| 10  | All Medium taxpayers                     | mto@firs.gov.ng                    |
| 11  | All Small and Micro taxpayers            | msto@firs.gov.ng                   |
| 12  | All Government Business taxpayers        | mto@firs.gov.ng                    |
| 13  | All Stamp Duty taxpayers                 | stampduty@firs.gov.ng              |



# Part 3: Ethical Issues in Tax

Tax Evasion, Avoidance, CSR and Ethics



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# Ethical Issues in Tax

- Tax avoidance is considered to be lawful
- Tax evasion contravene the law and its criminal (concealing information of not filing.
- In practice the distinction is no so clear-cut.
  - The promoters of some strategies have described their schemes are avoidance', but when subsequently scrutinised and challenged in the courts they have been found to be evasion'.
  - Companies have structured transactions which have little or no economic substance, but enable them to reduce their tax liabilities.
  - On moral and ethical grounds, such schemes have been considered to be unacceptable especially as the loss of tax revenues has negative effect on the provision of public goods, security, alleviation of poverty and social stability.
- Major corporations increasingly produce brochures and reports containing promises of socially responsible conduct, but this has also been accompanied by large scale tax avoidance and evasion.



**tax avoidance**  
*noun*

1. tax avoidance is the use of quasi-legal methods to modify a corporations financial situation to lower the amount of income tax liability.

**tax evasion**  
*noun*

1. tax evasion is the use of illegal methods to modify an individuals or corporations financial situation to lower the amount of income tax liability.

Dealmoon

# Ethical Issues in Tax



## Tax Avoidance and Evasion a global phenomenon

- A UK government report showed in the year 2005-2006,
  - 220 of the 700 biggest companies paid no corporation tax
  - a further 210 companies paid less than £10 million each
  - 12 of the UK's largest companies extinguished all liabilities and claimed tax losses.

(The Guardian, 31 January 2009).

- US Treasury estimated (2019)
  - loss of over \$345 billion each year due to a variety of tax avoidance/evasion schemes.
  - 66% of the domestic and 68% of foreign corporations did not pay any federal corporate taxes during the period 1998 to 2005
- In 2005, study showed
  - 28% of large foreign companies, with sales assets over \$250 million, gross revenues of \$372 billion, paid no federal corporate taxes.
  - 25% of the largest US companies had gross sales of over \$1.1 trillion but paid no corporate taxes.



AG Karl A. Racine ✓

@AGKarlRacine

NEW: Today, we're suing Michael Saylor - a billionaire tech executive who has lived in the District for more than a decade but has never paid any DC income taxes - for tax fraud.

1:38 PM · Aug 31, 2022

# Ethical Issues in Tax



## Tax Avoidance and Evasion – a global phenomenon

- Developing countries, often some of the poorest, receive around \$120 billion in foreign-aid from G20 countries, but are estimated to be losing between \$858 billion and \$1 trillion through illicit financial outflows each year, mainly to western countries.

(The Guardian 30 March 2009) (Kar and Cartwright Smith, 2008)

- Around \$500 billion is estimated to be lost through a variety of tax avoidance schemes of which some \$365 billion is attributed to transfer pricing practices that shift profits from developing to developed countries. (Christian-Aid, 2009).
- An OECD official<sup>4</sup> has estimated that Africa alone may be losing amounts equivalent to between 7% and 8% of its GDP, around \$250 billion each year, through tax avoidance schemes. Such resources could be used to improve social infrastructure and quality of life for millions of people.

## Tax Evasion Activities:

### Some of the Tax evasion activities include:

- ☞ Underreporting income
- ▶ Inflating deductions or expenses
- ▶ Hiding interest in offshore accounts
- ▶ Hiding money
- ▶ Shell companies
- ▶ Tax havens
- ▶ Equity swaps
- ▶ Avoid capital gain tax
- ▶ Avoid real estate tax



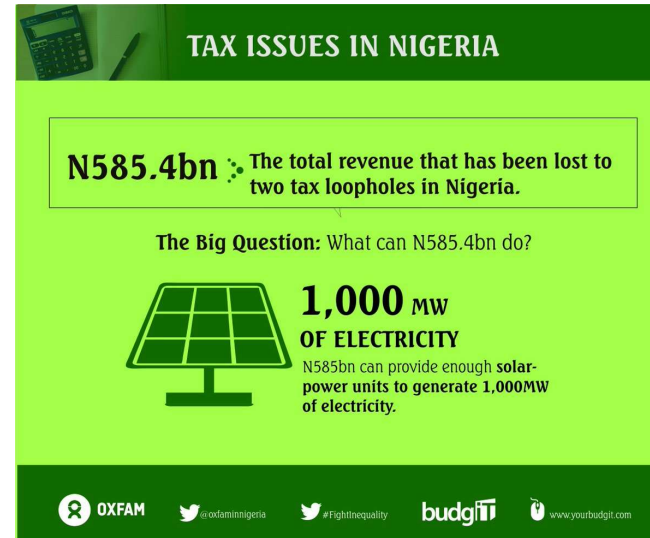
# Ethical Issues in Tax

## Nigeria Evasion / Avoidance Outlook

- Nigeria reportedly lost \$178 billion to tax evasion by multi-nationals in ten years. (2007 – 2017)....
- Report issued in 2014 shows “Nigeria accounted for 30.5% of the money lost by the continent through illicit financial flows.
- Transfer Pricing identified as common avenue exploited.”

.....FIRS Executive Chairman, Mr Muhammad Nami

- More tax audit clinics set up to curb leakages.



# Ethical Issues in Tax



## Culprits also include the tax advisors

- Also capitalist in approach, in business to maximise profits, constantly develop new tax avoidance schemes and find new clients.
- Accounting firms also commercial focus while public spirited more on performing a service for the customer rather than for the public or the state.
- Through appeals to professional codes of ethics accountants may disarm critics, but the talk is not easily translated into action.

For example, following its investigation into the marketing of tax avoidance schemes the US Senate Committee on Permanent Investigations concluded that

“respected professional firms are spending substantial resources, forming alliances, and developing the internal and external infrastructure necessary to design, market, and implement hundreds of complex tax shelters, some of which are illegal ..... They are now big business, assigned to talented professionals at the top of their fields and able to draw upon the vast resources and reputations of the country’s largest accounting firms, law firms, investment advisory firms, and banks.

(US Senate Permanent Subcommittee on Investigations, 2003, pp. 1-2 and 5).



# Ethical Issues in Tax



## Useful advice and guides;

- Payment of democratically agreed taxes is a **litmus test** for claims of social responsibility.
- The possibilities of **social responsibility** rest on the alignment of corporate culture with the social expectations that companies will honour their publicly espoused goals.
- The State's attempts to **curb leakages** through requiring greater disclosures about corporate strategies for avoiding taxes may achieve limited results (e.g not being able to shed light on the systemic origins of the tendency to avoid taxes, nor make the tax avoidance industry go away, plus
  - the states compete to **attract capital** and in that process offer tax holidays, inducements and concession to encourage mobility of capital, which in turn fuels schemes for avoiding taxes.
- The key issue is **reconciliation and readjustment of social conflict** inherent in the very nature of corporations, which requires reflections on the social steering mechanisms that prioritise preoccupation with private accumulation of wealth and render human concerns relatively invisible.



## Quick guide to tax

| Evasion  | Avoidance  | Mitigation  |
|--|--|---|
| <input checked="" type="checkbox"/> Will not result in legal penalties | <input checked="" type="checkbox"/> Will not result in legal penalties | <input type="checkbox"/> Will not result in legal penalties |
| <input checked="" type="checkbox"/> Follows the law as intended        | <input checked="" type="checkbox"/> Follows the law as intended        | <input type="checkbox"/> Follows the law as intended        |
| <input checked="" type="checkbox"/> Uses methods that are legal        | <input type="checkbox"/> Uses methods that are legal                   | <input type="checkbox"/> Uses methods that are legal        |
| <input checked="" type="checkbox"/> Lowers the tax risk                | <input checked="" type="checkbox"/> Lowers the tax risk                | <input type="checkbox"/> Lowers the tax risk                |



## Part 4: Other Important Taxes

# Income Taxes

## TERTIARY EDUCATION TAX (TET) - FIRS

| Features             | Explanations  |
|----------------------|---|
| Relevant Tax Payer   | <ul style="list-style-type: none"><li>• All companies registered in Nigeria</li><li>• Payable on assessable profits</li><li>• Assessable Profits = tax-adjusted profits before deducting capital allowances and prior year tax losses.</li><li>• Exemptions include: Non-Resident Companies (NRC), all unincorporated entities and Small Companies (&lt;25m Turnover)</li></ul> |
| Time to File Returns | Typically with CIT, through self- assessed by filling form 4D-EDT.  |
| Rate                 | <ul style="list-style-type: none"><li>• 2.5%</li></ul>  |
| Due Date             | <ul style="list-style-type: none"><li>• Within 30 days of the service of notice of assessment by FIRS, mostly through self assessment; paid 6 months after the accounting year end date.</li></ul>  |



# Income Taxes

## NIGERIA POLICE TRUST FUND (NPTF)

| Features           | Explanations   |
|--------------------|--|
| Relevant Tax Payer | <ul style="list-style-type: none"><li>• The Nigerian Police Trust Fund Act (NPTF Act) was passed by the National Assembly and signed into law on 24 June 2019. It establishes a fund; proceeds from which will be used to train police personnel and procure security machinery and equipment. The Act was amended by the Finance Act (FA) 2021.</li><li>• The NPTF levy is charged at 0.005% on the net profit of companies operating in Nigeria.</li></ul> |



# Duties Taxes

## STAMP DUTIES - FIRS

| Features           | Explanations  |
|--------------------|---|
| Relevant Tax Payer | <ul style="list-style-type: none"><li>• Stamp duties are a tax on physical and electronic instruments/documents evidencing transactions between persons or paid on any transactions exchange of documents or execution of instruments.</li><li>• A document is the record of the conditions agreed upon by the parties in a transaction in a proper format. A stamped document is considered authentic and legal document.</li><li>• Instrument is a document by which a right or liability is created, transferred, extended, limited, extinguished or recorded.</li><li>• the party paying the consideration usually pays the duty or borne by whomever seeks to rely on the instrument/agreement in judicial proceedings.</li><li>• All instruments (written and electronic documents) relating to an act to be performed in Nigeria must be stamped, exempts Regulated Securities transactions under SEC regulations.</li></ul> |



# Duties Taxes

## STAMP DUTIES - FIRS

| Features          | Explanations  |
|-------------------|---|
| Rate              | <ul style="list-style-type: none"><li>Stamp duty is chargeable either at fixed rates or ad valorem depending on the class of instrument.</li><li>An “Electronic Money Transfer” levy is applicable on electronic receipts or transfer for money deposited in a financial institution, The applicable levy is ₦50 on any transfer of ₦10,000 or more. The levy is to be accounted for by the recipients.</li></ul>   |
| Due date to stamp | <ul style="list-style-type: none"><li>Instrument first executed in Nigeria which, by law should be stamped by adhesive stamps, are to be stamped on or before first execution.</li><li>Unstamped or insufficiently stamped instruments may be stamped with impressed stamps, except reduced or extended, within 40 days from date of execution.</li><li>Where such instruments are subject to ad valorem duty, they are required to be stamped within 30 days from first execution or first receipt in Nigeria (if executed outside Nigeria).</li></ul> |



# Property Tax, Luxury and Excise Duties

## PROPERTY TAX

| Features   | Explanations  |
|--|---|
| Property Tax                                     | <ul style="list-style-type: none"><li>• Levied annually by the state government</li><li>• Rates vary according to state and locations</li><li>• Mostly Governor's consent and Land registration fee</li><li>• Also includes Right of Occupancy Fee and Tenement rate</li><li>• 1% Mansion Tax on residential properties within the Federal Capital Territory, Abuja. (Above N300m)</li></ul>  |
| Excise Duties and Special Levies on Luxury Items | <ul style="list-style-type: none"><li>• Special levies have been introduced on luxury items in the 2015 Budget effective from 2015.</li><li>• New private jets will be subject to a 10% import surcharge.</li><li>• Yachts at 39% import surcharge.</li><li>• Luxury cars will be subject to a 5% import surcharge.</li><li>• Champagnes, wines, and spirits at 3% luxury surcharge.</li><li>• Business and first class tickets on airlines. The rate yet to be determined.</li></ul> |



# Social Securities Contribution

## EMPLOYEE COMPENSATION SCHEME (ECS)

| Features   | Explanations   |
|------------|--|
| Tax Payers | <ul style="list-style-type: none"><li>• The ECS is a social insurance scheme that provides guaranteed compensation to employees for any death, injury, disease or disability arising out of or in the course of employment.</li><li>• All employers of labour are obligated to contribute at least 1% of their monthly payroll to the Fund managed by the Nigeria Social Insurance Trust Fund (NSITF).</li><li>• Exemptions include members of the armed forces of the Federal Republic of Nigeria other than a person employed in civilian capacity.</li><li>• Employers are prohibited from deducting ECS contributions from employees' remuneration.</li><li>• Employees must not be allowed to contribute towards indemnifying the employer against a liability which may be incurred under the Employee Compensation Act (ECA).</li></ul> |
| Rate       | <ul style="list-style-type: none"><li>• A minimum monthly contribution of 1% of total monthly payroll into the Fund.</li></ul>   |



# Social Securities Contribution

## EMPLOYEE COMPENSATION SCHEME (ECS)

| Features               | Explanations   |
|------------------------|--|
| Offences and Penalties | <p>Penalty for deducting from employee remuneration:</p> <ul style="list-style-type: none"><li>• On conviction, imprisonment for a term not exceeding one year or to a fine of not less than ₦100,000, or to both; as well as repay the deduction.</li><li>• For a body corporate, a fine of not less than ₦1,000,000 upon conviction, and repayment of the deduction.</li></ul> <p>Penalty for unpaid Assessment: 10% of the unpaid sum.</p> <p>Penalty for false or misleading information:</p> <ul style="list-style-type: none"><li>• first conviction - imprisonment for a term not exceeding six months or a fine not exceeding ₦200,000, or to both; or</li><li>• each subsequent conviction - imprisonment for a term not exceeding one year or to a fine not exceeding ₦500,000 or to both.</li></ul> <p>Penalty for unspecified offences:</p> <ul style="list-style-type: none"><li>• a fine of ₦20,000 for the first case of non-compliance or imprisonment for a term not exceeding one year or ₦100,000 for every subsequent case of non-compliance, or to both</li></ul> |



# Social Securities Contribution

## PENSION

| Features               | Explanations  |
|------------------------|---|
| Tax Payers             | <ul style="list-style-type: none"> <li>All employers with at least 15 employees must participate in a contributory pension scheme in favour of their employees.</li> <li>Mandatory under the Pension Reform Act (PRA) 2014</li> <li>Frequency of withdrawals limits to once every 2 years</li> <li>Amount withdrawn within 5 years is taxed.</li> </ul> |
| Rate                   | <ul style="list-style-type: none"> <li>At least 18% of monthly emoluments (minimum contribution, 10% employer, 8% by the employee).</li> <li>Any additional voluntary contributions by both.</li> <li>At least 20% if an employer decides solely contribute.</li> </ul>   |
| Filling Requirements   | <ul style="list-style-type: none"> <li>A monthly schedule showing details of employees' Retired Saving Account (RSA) PIN and their monthly contributions.</li> <li>Payment not later than 7 working days after the payment of employees' salary.</li> </ul>   |
| Offences and Penalties | <ul style="list-style-type: none"> <li>For employers, failure to deduct or remit contributions to the PFC shall, in addition to the remittance already due, be liable to a penalty of not less than 2% of the total contribution</li> </ul>   |



# Social Securities Contribution

## INDUSTRIAL TRAINING FUND (ITF) CONTRIBUTIONS

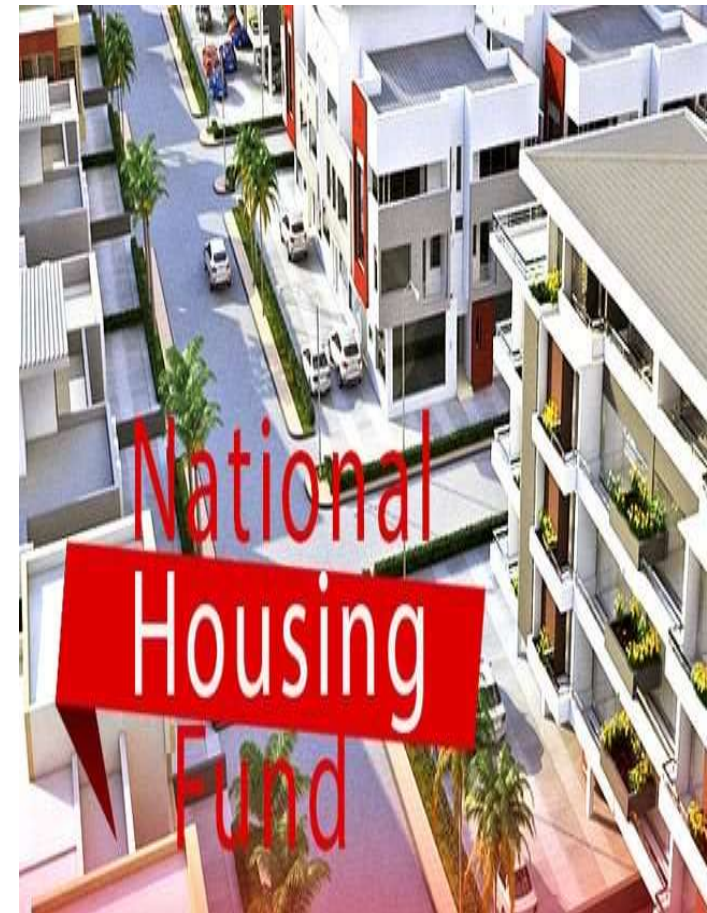
| Features               | Explanations   |
|------------------------|--|
| Tax Payers             | <ul style="list-style-type: none"><li>• The ITF was established by Decree 47 of 1971 and amended in 2011. The main objective of the Fund is to generate a pool of indigenous trained manpower to meet the needs of the Nigeria economy.</li><li>• All employers with a minimum of 5 employees or annual turnover of ₦50 million.</li><li>• An employer is entitled to a refund of 50% of contributions made if adequate (documented) training courses are provided as prescribed by the ITF.</li></ul> |
| Rate                   | <ul style="list-style-type: none"><li>• 1% of annual payroll cost.</li></ul>   |
| Filing Due Date        | <ul style="list-style-type: none"><li>• ITF Form 5 with evidence of payment annually not later than 1 April of the following year.</li></ul>   |
| Offenses and Penalties | <ul style="list-style-type: none"><li>• 5% of the unpaid amount to be added for each month or part of a month after the date on which payment should have been made.</li></ul>   |



# Social Securities Contribution

## NATIONAL HOUSING FUND (NHF)

| Features               | Explanations   |
|------------------------|--|
| Tax Payers             | <ul style="list-style-type: none"><li>• The aims and objectives of the NHF is to provide loans to Nigerians for developing, purchasing or renovating houses and encourage housing finance among low- and medium-income earners. The Fund provides long term loans to Mortgage Institutions for lending to contributors of the Fund.</li><li>• Exempts Nigerians earning less than ₦3,000 per annum and all expatriates regardless of income level.</li></ul> |
| Rate                   | <ul style="list-style-type: none"><li>• 2.5% of monthly basic salary.</li></ul>  |
| Filling Requirements   | <ul style="list-style-type: none"><li>• A schedule of payment indicating the amount deducted from each employee and the period covered to be submitted to the Federal Mortgage Bank of Nigeria.</li></ul>  |
| Offenses and Penalties | <ul style="list-style-type: none"><li>• Failure to deduct or remit - Employers ₦50,000, self-employed person: ₦5,000- or one-year imprisonment on conviction or both.</li><li>• Preventing or obstructing deduction or remittance: ₦5,000- or one-year imprisonment or to both (on conviction).</li></ul>  |



# Major Tax Incentives

## ROAD INFRASTRUCTURE TAX CREDIT SCHEME

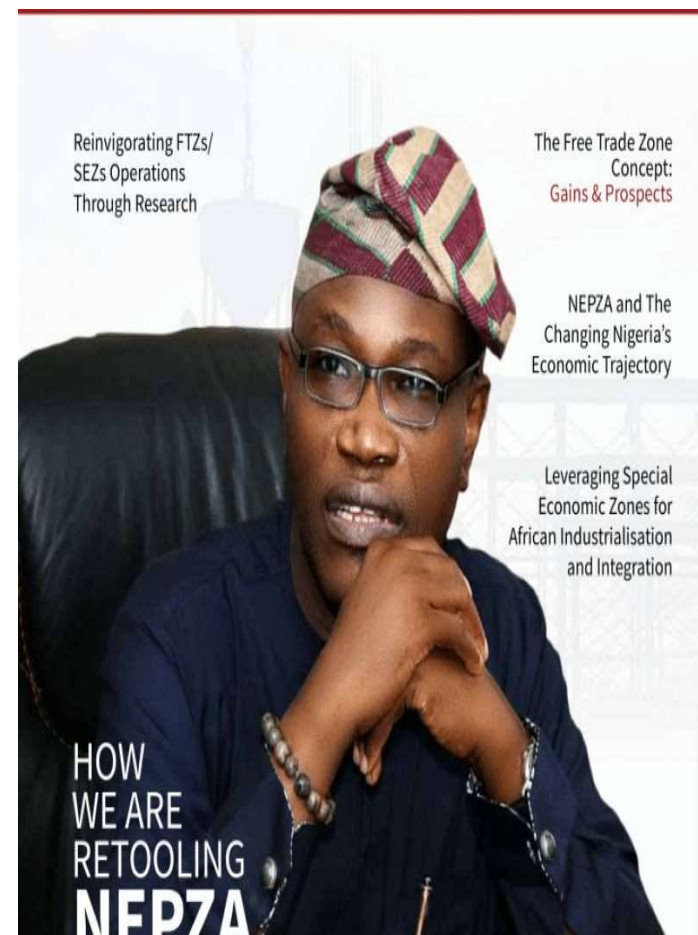
| Features                   | Explanations  |
|----------------------------|---|
| Benefits and Beneficiaries | <ul style="list-style-type: none"><li>• The Scheme was enforced by the Executive Order No. 007 on Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme.</li><li>• Seeks to encourage private funding of the construction and refurbishment of major road projects.</li><li>• Opens to Nigeria registered companies, a pool of companies or institutional investors.</li><li>• Validates until January 2029; 10 years from the commencement date of the Order (January 2019)</li></ul> |
| Incentives                 | <ul style="list-style-type: none"><li>• Recoverability of the cost incurred by participants in the construction or refurbishment of eligible roads as credit against Companies Income Tax (“CIT”) payable.</li><li>• Non-taxable single uplift, CBN Rate + 2% of the project cost.</li><li>• Carry forward Tax credit to subsequent years until it is fully utilised.</li><li>• Sell or transfer its tax credit to other companies, as a form of security or otherwise.</li></ul>                               |



# Major Tax Incentives

## NIGERIA EXPORT PROCESSING ZONE

| Features                                  | Explanations   |
|---|--|
| Benefits and Beneficiaries                | <ul style="list-style-type: none"> <li>The Nigeria Export Processing Zone Act (“NEPZA”) and subsidiary legislation under it regulate matters relating to free trade zones in Nigeria.</li> <li>An “approved enterprise” means any enterprise established within a Zone approved by NEPZA</li> </ul>  |
| Filing requirements and other obligations | <ul style="list-style-type: none"> <li>Approved enterprises are required to file income tax returns to the FIRS annually in line with CITA.</li> <li>Deduct and remit taxes from non-exempt counter party – PAYE, WHT, VAT. Only the approved enterprises enjoy tax exemptions and not their employees or suppliers.</li> <li>Submit to the Zone Authority statistical data and such information and returns as regards the sales and purchases and other operations of the enterprise.</li> </ul> |
| Offences and Penalties                    | <ul style="list-style-type: none"> <li>Non-compliance under the Act (including connivance by officers) is punishable on conviction by a fine of ₦100,000 or imprisonment for a term of three months, or both fine and imprisonment.</li> </ul>   |



# Major Tax Incentives

## NIGERIA EXPORT PROCESSING ZONE

| Features   | Explanations   |
|------------|--|
| Incentives | <ul style="list-style-type: none"><li>• Approved enterprises operating within the Zone are exempt from all federal, state and local government taxes, levies, duties and rates.</li><li>• Exempts from foreign exchange regulations, subject to the provisions of the Bank and Other Financial Institutions Act, 2020</li><li>• Repatriation of capital investment including any capital appreciation.</li><li>• Remittance of profits and dividends earned by foreign investors.</li><li>• Exemption from import duties or export licence requirements.</li><li>• Sale of up to 25% of production in the Customs Territory against a valid permit, and on payment of appropriate duties.</li><li>• Rent free land at construction stage and thereafter, rent as determined by the Zone Authority.</li><li>• Up to 100% foreign ownership of business.</li><li>• Employment of foreign managers and qualified personnel.</li></ul> |



# Major Tax Incentives

## PIONEER STATUS EXEMPTIONS

| Features                   | Explanations   |
|----------------------------|--|
| Benefits and Beneficiaries | <ul style="list-style-type: none"><li>• The primary objective of the pioneer legislation is to grant income tax exemption to companies operating in approved industries on their approved products. This is governed by the Industrial Development (Income Tax Relief) Act (IDITRA)</li><li>• Applicable to businesses that;<ol style="list-style-type: none"><li>1. Are not being carried on in Nigeria at all or not at a scale suitable to the economic requirements of the country.</li><li>2. Have favourable prospects of further development in Nigeria.</li><li>3. Are deemed to be beneficial for public interest.</li></ol></li><li>• The list of pioneer industries has increased to 99 pioneer products and industries. Newly added industries include electricity and gas supply, e-commerce, waste management/recycling; creative industries, oil refining and petrochemical; regional shared service centres, preservation of food crops, photography, and real estate investment trusts (REITs).</li></ul> |



# Major Tax Incentives

## PIONEER STATUS EXEMPTIONS

| Features   | Explanations   |
|--|--|
| Qualifying Requirements & Application Procedures | <ul style="list-style-type: none"> <li>• Company must be engaged in an activity listed as a pioneer industry or product.</li> <li>• Fixed asset of the company must be over N100 million;</li> <li>• Application for pioneer status is addressed to the Minister of Industry through the Nigeria Investment Promotion Commission (NIPC), requires approval of the President FRN</li> <li>• An application fee of N200,000 for new applicants, due diligence fee of N500,000, Service charge deposit of N2,500,000</li> <li>• Application for an extension must be within the first year of production/service</li> <li>• Make full payment of fees when due e.g. and an annual service charge of 1% of actual tax savings payable to the NIPC no later than 30 June (for all applications received from 7 August 2017).</li> <li>• During the pioneer period, a performance report must be submitted to the NIPC annually for monitoring and evaluation purposes.</li> </ul> |

**TAX ISSUES IN NIGERIA**

**N520bn**

is the total Number of Money lost to the 71 sectors that benefitted from the pioneer status [including 22 oil companies].

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# Major Tax Incentives

## PIONEER STATUS EXEMPTIONS

| Features       | Explanations   |
|----------------|--|
| Incentives     | <p>The incentives granted under IDITRA are:</p> <ul style="list-style-type: none"> <li>• Exemption from CIT during pioneer period, initially 3 years extendable 2 years maximum. (4 and 2 years for small and medium size companies engaged in primary agricultural production)</li> <li>• Exemption of dividend distributed from pioneer profits from withholding tax;</li> <li>• Capital allowances and tax losses are suspended during the pioneer period and can be utilised after the expiration of the tax holiday.</li> <li>• Benefiting companies cannot be granted similar tax holiday incentives under any other Act in force in Nigeria.</li> <li>• Incentive restricted to the operations of the company and not the whole company.</li> </ul> |
| Filing Returns | <ul style="list-style-type: none"> <li>• Must file self-assessment returns that include audited financial statements, tax exempt profits, schedule of fixed assets and self-assessment forms.</li> </ul>   |

**TAX ISSUES IN NIGERIA**

**N65.4bn**  
 is the amount of waivers that has been granted to individuals, companies and government departments on imported items that should otherwise be taxed.

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*The professional construction cost managers*

# Conclusion

- The tax system in Nigeria, and globally is an ever evolving one.
- As a professional, doing things right and doing right things become inevitable.
  - keeping abreast with tax developments,
  - Life long learning and continuous personal development should be our watchword.
  - ethically performing the required obligations
  - And societal concern forms utmost priority in our thoughts and actions.



**integrity**

THANK YOU

QUESTION AND ANSWER