

VAT (Amendment) Bill 2015: Taxpayers to pay much more for non-compliance



Primarily, the Amendment Bill seeks a significant upward review of all the fines and penalties contained in the Value Added Tax Act.

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Taxpayers may soon see the penalties for Value Added Tax (VAT) defaults increase significantly. This is based on the provisions of the Value Added Tax (Amendment) Bill 2015 which is currently being reviewed by the Senate, after it was passed by the House of Representatives. If passed into law, the Bill would replace certain sections of the current Value Added Tax Act 2004 (as amended).

In keeping with government's objective of increasing revenue through a renewed focus on tax compliance, the Bill proposes relatively stiff financial penalties for various acts of default and noncompliance with the Act.

Highlights of the Bill

The Bill which contains 14 sections essentially seeks to increase the fines and penalties for offences under the Act. With the exception of sections 8 (Register) and 37 (Offences by body corporate, etc.) there are 12 specific offences under the Act. The Bill increases the applicable penalties for 11 of these offences.

While penalties ranged between NGN2,000 and NGN30,000 under the current Act, in the Bill the range of penalties is between NGN25,000 and NGN200,000.

For tax evasion the Bill also proposes an increase in prison sentences from a term 'not exceeding' 3 years to a term 'not less than' 3 years.

Specific amendments

A full summary of the proposed amendments are presented in the table below. An apparent aberration from the general object of the Bill can be found in the proposed amendments to sections 25 and 26.

In section 25 the Bill reduces the penalty for furnishing false documents from 'twice' the amount under-declared to 'half' the amount under-declared. Similarly, while expanding the elements of tax evasion contained in section 26 of the Act the Bill reduces the unliquidated penalty from double the sum evaded to 'half' the evaded sum.

Takeaway

It appears, for now, that the government is not increasing the VAT rate, as speculated or even encouraged in some quarters. It is instead opting to increase compliance through imposing sterner penalties for defaults.

If the Bill is passed into law, defaulting taxpayers will be liable to steeper penalties. It is therefore imperative that taxes are paid as and when due. As a gesture of good faith, it would be useful if the tax authority implements a temporary tax amnesty to give taxpayers the opportunity to voluntarily disclose and remediate any tax defaults prior to these increased penalties taking effect.

Summary of the proposed amendments

	Sections	VAT ACT 2007	VAT Amendment 2015
1	Section 8 – <i>Failure to register</i>	N10,000 (first month) & N5,000 (subsequent months)	N100,000 (first month) & N50,000 (subsequent months)
2	Section 25 – <i>Furnishing of false documents</i>	Fine of “twice” the amount understated.	Fine of “half” the amount understated.
3	Section 26 – <i>Evasion of tax</i>	Offender liable to a fine of N30,000 or “two times” the amount evaded.	Offender liable to a fine of N100,000 or “half” the amount understated.
3(a)	Section 26 – <i>Evasion of tax</i>	Offender liable to prison sentence not exceeding 3 years.	Offender liable to prison sentence not less than 3 years.
4	Section 27 – <i>Failure to make attribution</i>	N5,000	N50,000
5	Section 28 – <i>Failure to notify change of address</i>	N5,000	N50,000
6	Section 30 – <i>Resisting etc. authorised officer</i>	N10,000	N50,000
7	Section 31 – <i>Issuing invoice by unauthorised person</i>	N10,000	N100,000
8	Section 32 – <i>Failure to register</i>	N5,000	N100,000
9	Section 33 – <i>Failure to keep proper records & accounts</i>	N2,000	N25,000
10	Section 34 – <i>Failure to collect tax</i>	“150%” and “5%”	“200%” and “10%”
11	Section 35 – <i>Failure to submit returns</i>	N5,000	N50,000
12	Section 36 (1)(a) – <i>Aiding and abetting</i>	N50,000	N200,000
12(a)	Section 36 (1)(b) – <i>Aiding and abetting</i>	N10,000	N100,000

