Government says companies must obtain approval for their assets

In practice, FIRS may disallow tax deductions for assets without appropriate Certificates of Acceptance issued by the Industrial Inspectorate Department.

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The Industrial Inspectorate Department (IID) of the Federal Ministry of Trade and Investment has commenced issuing letters to companies to remind them of their compliance obligation to file annual returns of capital expenditure and obtain the necessary approvals.

The Industrial Inspectorate Act empowers the IID to carry out investigations into any proposed, new and existing undertaking involving capital expenditure, and in particular, for the purposes of determining the value of such investment.

This implies that companies proposing to start a new undertaking or incur additional capital expenditure in respect of an existing undertaking must notify the IID of its intention to incur capital expenditure. The IID will then verify and if satisfied, issues a Certificate of Acceptance of Fixed Assets (CAFA) certifying the value of the capital expenditure.

Section 5 of the Act allows the Federal Inland Revenue Service (FIRS) and other agencies to rely on this certification by the IID in any matter relating to the determination of cost incurred to acquire such assets.

The approval is applicable to any asset that individually costs NGN500,000 or more.

Failure to obtain CAFA could therefore result in the FIRS disallowing any capital allowance claimed by a company in respect of the assets.

In practice, the FIRS usually seeks to disallow capital allowance claims by a company if there is no evidence of CAFA to support the related Qualifying Capital Expenditure.

In addition, the Financial Reporting Council of Nigeria (FRCN) recently published rules which prohibit the recognition of transactions in the financial statements of a company if such transactions require regulatory approvals that have not been obtained. CAFA falls into this category of transactions and potentially means that a company may not be able to recognise its non-current assets in the financial statements unless CAFA has been granted for the relevant financial periods.

Takeaway

Although it is difficult to see any useful purpose being served by this regulatory approval, it is nonetheless important for companies to comply in order to avoid potential tax exposures and sanctions by the FRCN.

PwC can assist interested companies process and obtain CAFA for their capital expenditure.