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Background

The President of the Federal Republic of Nigeria, on the recommendation of the Tariff Technical Committee of the Ministry of Finance, recently approved an increase to the excise duties on tobacco and alcoholic beverages effective 4 June 2018. The increase would be introduced in phases over a three-year period (from 2018 to 2020) to moderate the impact of the increment on the price of the products.

Legal basis

Section 13(1) of the Customs, Excise Tariff etc (Consolidation) Act (Act) gives the President the authority upon recommendation of the Tariff Review Board to, by Order, amongst other things, 'impose, vary or remove any import or excise duty'.

However, section 13 (3) of the Act states that any Order made by the President shall have effect from when it is published in the Gazette. Therefore, where a question arises as to the date of

FG increases excise duties on tobacco and alcoholic beverages

commencement of the Order, whether 4 June 2018 or date of publication in the Gazette, the latter date would be the operative date.

The new rates

The new regime applies only to tobacco and its products (such as cigarettes) and alcoholic beverages (beers and stouts, spirits and wines).

Tobacco: For 2018, in addition to the 20 per-cent (20%) ad-valorem rate, a specific rate of NGN 1 will be paid on each cigarette stick (NGN20 per pack of 20 sticks).

In 2019, the specific rate will increase to NGN2 per stick (NGN40 per pack of 20 sticks) and NGN2.90k per stick (NGN58 per pack of 20 sticks) in 2020.

With respect to alcohol beverages, no ad-valorem rate is applicable.

Beer & Stout: In 2018, NGN0.30k per centiliter ("Cl") would be payable and NGN0.35k per Cl for both 2019 and 2020.

Wines: NGN1.25k per Cl is payable in 2018 and NGN1.50k per Cl for both 2019 and 2020.

Spirits: NGN1.50k per Cl was approved in 2018, NGN1.75k per Cl in 2019 and NGN2.00k per Cl in 2020.

Product	Rates(N)			
	2017	2018	2019	2020
Tobacco	0.2	20% + 1	20% + 2	20% + 2.9
Beer & Stout	0.2	0.3	0.35	0.35
Wines	0.2	1.25	1.5	1.5
Spirit	0.2	1.5	1.75	2

A grace period of 90 days was granted before the commencement of the new regime. It is unclear if the 90 days

would start counting from 4 June 2018 or after publication of the Gazette. The suspension of excise on other goods that the Nigerian Customs Service (NCS) targeted in the past has been sustained (i.e. soaps and detergents, recharge cards, perfumes, paper boxes, tissue paper and polythene bags)

The Minister of Finance commenting on the approval stated that the new regime was in line with a directive from the Economic Community of West African States (ECOWAS) harmonisation of member-states' legislation on excise duties.

The government has indicated that the reason for the increment was to:

- raise government revenue
- reduce health hazards
- align with the harmonization of the Economic Community of West African States (ECOWAS) member-states

Takeaway

It is clear that government is looking for various means to generate more tax revenue. The choice of products affected by the new review suggests that government wants to avoid imposition of duties on necessities and basic products which may affect the wider population. The new tax is regressive given that it imposes relatively lower burden on premium products. Ultimately manufacturers of the affected products will have to consider whether to pass on the full increase, share with consumers or bear the additional cost. The phased approach for implementation should aid planning hence a welcome development.