

FIRS Finance Act Circular

Taxation of insurance companies

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Background

The Federal Inland Revenue Service (FIRS) has issued a Circular to clarify the changes in the Finance Act (FA) 2019 affecting the taxation of Insurance Companies.

We provide highlights of the Circular below.

Highlights

General

The four-year restriction for the carry forward of tax losses has been removed. Insurance Companies can now carry forward their tax losses indefinitely, similar to other companies.

Non-life Insurance

Reserves for unexpired risks will now be determined on a time-apportionment basis. This means that tax-deduction will only be available for reserves relating to the relevant year.

Estimated claims and outgoings can now be deducted in each year. This includes verified but unpaid claims and an estimate for unverified claims received in the period. Such estimated claims deducted will be treated as taxable in the following year. Effectively only the net movement in estimates is taxable or deductible.

Insurance companies are to keep supporting documentation like detail policies or risks accepted and the associated unexpired risks.

Minimum tax will apply at 0.5% of gross premium. Gross premium is defined as total premium received or receivable (excluding premium returned to the insured).

Life Insurance

Taxable "investment income" is restricted to income derived from investment of shareholder funds.

Minimum tax will apply at 0.5% of gross income. Gross income is defined as all investment income, fees, commissions and income from other sources or assets.

Our comments

General

Apart from the minimum tax provisions that are specific to insurance companies, the Companies Income Tax Act (CITA) contains a general minimum tax provision. The Circular clarifies that insurance companies are not subject to the general minimum tax.

Non-Life Insurance

The Circular requires Non-Life Insurance companies to deduct the full estimate for claims and outgoings and add any portion that does not translate into actual claims in the following year.

Whereas the FIRS has interpreted "gross premium" as stated in the law to mean "gross premium written", an insurance company may justify a different interpretation if it is more suitable to the ordinary meaning of "gross premium".

Life Insurance

The Circular defines gross income for the purpose of minimum tax to include "all investment income" and "income from other assets", **without qualification**. This is an unfair treatment compared to other companies where the FA defines gross turnover to exclude franked investment income.

"Investment income" for tax purposes is described as income derived from investment of shareholders' fund. This implies that income earned from investing policyholders' funds is exempted.

CITA allows Life Assurance Companies to deduct the higher of 1% of Gross Premium and 10% of Profits, as Special Reserve. In the circular, the FIRS takes the view that "profits" mean "total (or taxable) profits", as against accounting profits. The impact of this is that the tax deduction available to Life Insurance companies will potentially be lower. It is not clear if this is the intention of the law considering that CITA clearly uses the term "total profits" if it intends to apply a provision to taxable profits.

Takeaway

We welcome many of the changes introduced by the FA and clarified by the FIRS in its Circular which are long overdue and necessary to promote insurance business in Nigeria. However, some important issues remain unresolved, as noted earlier. Further engagements on an industry basis will be useful in ensuring better clarity and further desired changes soon.

For a deeper discussion, please contact any member of our Tax team below or your usual contact within PwC Nigeria:

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