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Nigeria Tax Data Card 2014/2015

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PwC Tax Academy
Schedule of topics and venues for 2014

Date	*Topic*	*Venue*
21 January 2014	Practical Session on Computation of Companies Income Tax, Petroleum Profits Tax and Tertiary Education Tax	Sheraton Hotel, Ikeja
18 February 2014	Taxation of Residents and Non-Residents under PITA: Focus on Real Issues	Oriental Hotel, Lekki
18 March 2014	From first IFRS-based Tax Returns to Subsequent Filings: Getting Clarity on Key Practical Issues	Sheraton Hotel, Ikeja
15 April 2014	Practical Session on Deferred Taxation under IFRS	Oriental Hotel, Lekki
20 May 2014	Pricing Related Party Transactions: Strategy for Compliance with Transfer Pricing Regulations	Sheraton Hotel, Ikeja
17 June 2014	Contentious Issues in Companies Income Tax and Petroleum Profits Tax	Oriental Hotel, Lekki
15 July 2014	Utilising Tax Incentives for Competitive Advantage	Sheraton Hotel, Ikeja
19 August 2014	Withholding Tax and Value Added Tax: Incorporating Best Practices in Every Transaction	Oriental Hotel, Lekki
16 September 2014	Taxation of Cross-Border Transactions: Understanding and Managing the Apprehension of the FIRS	Sheraton Hotel, Ikeja
21 October 2014	Interpretation and Application of Tax Laws: Exploring Nigerian Tax Cases	Oriental Hotel, Lekki
18 November 2014	Approaching Transfer Pricing Audits: Practical Considerations	Sheraton Hotel, Ikeja
16 December 2014	Navigating the Difficult Business Terrain: Dealing with Bribes, Bureaucracy and Regulatory Hurdles	Oriental Hotel, Lekki

Introduction

This publication is a summary of the major tax laws in Nigeria, prepared for general purpose only. It is not a replacement for specific advice. We accept no liability for any action taken or not taken based on the contents of the publication.

Except otherwise indicated, references to tax laws in this publication are from the Laws of the Federation of Nigeria (LFN) 2004 as amended.

The average exchange rate used is US$1 = N160

NIGERIA
TAX DATA CARD – 2014/2015

1.COMPANIES INCOME TAX (CIT)

CIT is levied on profits accruing in, derived from, brought into or received in Nigeria. The principal law is the Companies Income Tax Act (CITA).

Company income tax rate [S 40(1)]	30%
Small company tax rate [S 40(6)]	20%. Applicable to manufacturing companies and companies engaged wholly in export, within the first five years of operation, and where the turnover does not exceed N1 million (circa US$ 6,450).
Company liable [S 9(1)]	Any company doing business in Nigeria, whether resident (registered in Nigeria) or non resident (foreign company registered outside Nigeria)
Nonresident companies and deemed profit tax [S 30]	Non-resident companies are liable to tax on the profit or income derived from Nigeria. Generally, the tax authority applies a deemed profit rate of 20% on turnover derived from Nigeria. This is then taxed at the corporation tax rate of 30%, resulting in an effective tax of 6% of turnover.
Taxable income [S 9,13]	A resident company is liable to tax on its worldwide income being its profits accruing in, derived from, brought into or received in Nigeria. A non resident company is liable to tax on its income derived from Nigeria, that is, income attributable to its Nigerian operation.

Basis of assessment [S 29]	The basis of assessment for both resident and non resident companies is preceding year basis. This means tax is charged on profits for the accounting year ending in the preceding year of assessment. For example, if a company makes up its accounts to 31 December each year, in 2012 tax year, it will be assessed to tax on the profits computed for the accounting year ended 31 December 2011. Different rules apply during commencement of business, change of accounting date and cessation.
Minimum tax [S 33(1),(2)]	**Minimum tax** is imposed where a company has no taxable profit or the tax payable is less than the minimum tax computed as follows: The highest of: • 0.5% of gross profit • 0.5% of net asset • 0.25% of paid up share capital • 0.25% of turnover up to N500,000 **Plus** • 0.125% of turnover in excess of N500,000.
Exemption from minimum tax [S 33(3)]	A company is exempted from minimum tax if it meets any of the following conditions:- • It is still within its first four calendar years of business • It has at least 25% of its paid up capital as imported equity • It carries on agricultural trade or business

Excess dividend tax [S 19]	Where a company pays dividend from profit on which tax is not payable because:- • It has no taxable profit; or • Its taxable profit is less than the dividend paid; The company would be charged to tax on the dividend declared or paid as if the dividend is the total taxable profit of the company for the relevant year of assessment.
Due date for filing income tax returns [S 55(2)]	Within 6 months of the company's accounting year end. A new company must file its returns within 18 months from the date of incorporation or 6 months after its first accounting period, whichever is earlier. In practice, tax returns may be delayed until the first working day of the following calendar year for companies with financial year end date between January and 30 June. This is to align the tax returns with the relevant fiscal year.
Due date for payment of CIT [S 77(5)]	2 months from the filing due date in case of a lump sum payment or in such instalments as may be approved by the FIRS, not exceeding three instalments. In the case of instalments, evidence of payment of the first instalment must be submitted along with the tax returns. Payment may be delayed until the first working day of the following calendar year for companies with financial year end date between January and 30 June.
Offences and Penalties [S 55(3)(5), 85(1)]	*Late filing of returns*: Failure to file tax returns attracts a penalty of N25,000 for the first month in which the failure occurs and N5,000 for each subsequent month in which the failure continues. Upon conviction, the responsible officer of the company may be liable to a

	fine of N100,000 or 2 years imprisonment or both. *Late payment or non-payment of tax*: Penalty is 10% of the amount of tax payable and interest at the monetary policy rate (MPR) currently at 12% plus a spread to be announced by the Finance Minister. No spread has been published.
Statute of limitation *[S 66]*	The tax authority may issue additional assessment within six years from the relevant tax year. However, the limitation does not apply in the event of a fraud, willful default or neglect by the company.
Transfer Pricing Regulations/ General Anti-Avoidance Rules *[TP Regulations/ S22 (CITA)]*	The tax authorities are empowered to adjust transactions considered to be artificial between related parties. Transfer Pricing (TP) regulations were released in August 2012 to complement the general anti-avoidance provisions in the various tax laws (CITA, PITA and PPTA). The regulations are applicable to accounting periods commencing after August 2012. The TP regulations require every affected company to complete and submit declaration and disclosure forms that describe its related party transactions during an assessment period. It also requires companies to prepare TP documentation which demonstrates the bases for the pricing of related party arrangements and how they comply with the arm's length rule. The Nigerian TP Rules are in line with the OECD and the UN models.

International Financial Reporting Standards (IFRS) Adoption

The FIRS issued a circular on IFRS adoption dated March 2013. Based on the circular, taxpayers are required to file the following schedules with their tax returns:

- A reconciliation of NGAAP to IFRS transition adjustments including analysis of tax impacts ***(first time adopters only)***
- Analysis of deductible and non-deductible impairment charges
- Breakdown and reconciliation of componentised assets to non-current assets under NGAAP
- Tax recomputation showing the impact of changes in estimates, accounting policies or errors
- Deferred tax computation and analysis
- Schedule of taxed provisions and unrealised exchange differences
- Schedule of items with different tax bases under IFRS.
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- Schedule of taxed provisions and unrealised exchange differences
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Capital Allowances [Schedule II (CITA)]

Capital allowances are granted on tangible non-current assets in lieu of accounting depreciation. Other than research and development, intangible non-current assets are generally not regarded as qualifying capital expenditures for capital allowance purpose. However, based on the recent circular by the FIRS on IFRS adoption, the amortisation of most intangible assets over their useful lives is tax deductible (with the exception of internally generated intangible assets, and intangible assets that have indefinite lives).

The applicable rates on qualifying assets are stated below:

Qualifying Expenditure	*Initial rate (%)*	*Annual rate (%)*
Buildings (Industrial & Non-Industrial)	15	10
Mining	95	Nil
Plant: Agricultural Production	95	Nil
Others	50	25
Furniture and Fittings	25	20
Motor Vehicles: Public	95	Nil
transportation	50	25
Others		
Plantation Equipment	95	Nil
Housing Estate	50	25
Ranching and Plantation	30	50
Research and Development	95	Nil

Investment Allowances

- This is granted at the rate of 10% to companies that incur expenditure on plant and equipment. Investment allowance is calculated on cost and is granted in the year of assessment in which the asset is first put into use. It is not taken into account in determining the tax written down value of the asset.

- Separate investment tax relief is available to businesses which are located not less than 20km away from the following facilities on infrastructure costs at the rates shown below:

No facilities at all	100%
No electricity	50%
No water	30%
No tarred (paved) road	15%

Tax reliefs and incentives

Tax Treaties *[S 45 (CITA)]*
Nigeria currently has in-force double tax treaty for taxes on income and capital gains with Belgium, Canada, China, Czech Republic, France, Netherlands, Pakistan, Philippines, Romania, Slovakia, South Africa, and the United Kingdom. There is a shipping and air transport double taxation agreement with Italy.

Nigeria has pending double tax treaties with Mauritius, Kenya, Poland, South Korea, Spain and Sweden which are yet to be concluded or ratified.

Unilateral tax relief is available by way of deduction for income tax suffered on foreign profits.

Nigeria is a party to the following multilateral treaties:

- 1975 ECOWAS Treaty
- 1931 League of Nations Motor Vehicle Convention and Final Protocol
- 1961 Vienna Convention on Diplomatic Relations
- 1969 Vienna Convention on the Law of Treaties
- 1997 Draft Protocol on the ECOWAS Value Added Tax (pending)
- 1997 Draft Protocol on the ECOWAS Community Levy (pending)

Common wealth tax relief *[S 44 (CITA)]*
Available in respect of profits earned from a commonwealth country which is also liable to tax in Nigeria provided that the Commonwealth country has a similar tax relief in place.

In respect of a Nigerian company, the relief to be granted is 50% of the *commonwealth tax rate subject to a limit of 50% of the Nigerian tax rate. In respect of a nonresident company, the relief is 50% of the common wealth tax rate provided it is not more than 50% of the Nigerian tax rate otherwise the relief is the rate by which the Nigerian tax rate exceeds 50% of the commonwealth tax rate.

**Commonwealth tax rate means the income tax rate applicable in the relevant commonwealth country to which the tax relief relates.*

Gas Utilisation Incentives *[S 39 (CITA)]*

Companies engaged in gas utilisation (downstream operations) are granted the following incentives:-

- Tax free period of 3 years which may be renewed for a further 2 years or 35% investment allowance.
- Additional investment allowance of 15% if the tax free period option is adopted
- Accelerated capital allowance after the tax free period.
- Tax free dividend during the tax free period under certain conditions.

Tax Waiver on Bonds
[Companies Income Tax (Exemption of Bonds and Short Term Government Securities) Order 2011]

The following are exempt from companies income tax for 10 years effective from 2 January 2012:

1. Short term Federal Government securities such as Treasury Bills andPromissory Notes:
2. Bonds issued by Federal, State and Local governments and their agencies;
3. Bonds issued by corporate and supra-nationals; and
4. Interest earned by holders of bonds and securities listed above.

Pioneer Status exemption
[Industrial Development (Income Tax Relief) Act (IDITRA)]

The objective of the pioneer status relief is to grant corporate income tax exemption to companies involved in certain industries:

1. That are not being carried on in Nigeria or are not being carried out on a suitable scale to the economic requirements of the country;
2. That have favourable prospects of further development in Nigeria of such industry; or
3. If the industry or product is deemed to be beneficial for public interest.

The incentives granted under the IDITRA include:

- Exemption of profits from Companies Income Tax during the tax holiday.
- The tax free period is for three years initially, and can be extended for another two years subject to satisfactory performance of the business.
- Exemption of dividend distributed from pioneer profits from withholding tax
- Capital allowances and tax losses are suspended during the pioneer period and available to be utilised against taxable profit after the pioneer period.

A service charge of 2% based on projected tax savings is payable to the Nigerian Investment Promotion Commission during application - [Pioneer Status Incentive Regulations 2014].

Public Infrastructure and Employment Relief
[Companies Income Tax (Exemption of Profit) Order, 2012]
The commencement date is 27 April 2012 and will last for 5 years subject to the specific conditions under each incentive.

1. Public infrastructure incentive: 30% of the cost of infrastructure of a public nature will be granted as a tax deductible expense. To qualify, the infrastructure should be completed and available for public use, except where impracticable or an exemption is obtained from the Ministry of Finance.

2. Employing generation incentive. Tax deduction of the lower of 5% of assessable profit or new employees' salaries can be claimed. To qualify, a company must have a minimum net employment of ten staff in an assessment period. At least 60% of the net employment should relate to new graduates.

3. Staff retention incentive: Tax deduction of 5% of assessable profits is available. To qualify, a company must have a minimum net employment of 5, and must have retained the employees for at least

2 years from the year of assessment when they were first employed.

Net Employment: means the difference between incoming and outgoing employees of the company in an assessment period.

Export Processing Zones (EPZ) Reliefs
[Nigerian EPZ Act (NEPZA) and ancillary regulations], S35(CITA)

These are zones designed to grant incentives to export oriented companies, mostly in the manufacturing sector. The following are some of the tax incentives granted to an approved enterprise operating within any of the zones:

- Tax holiday from all Federal, State and Local government taxes, rates, customs duties and levies, arising from operations within the zone.
- Duty and tax free import of raw materials and components for goods destined for re-export.
- Waiver of all import and export licenses.

2. PETROLEUM PROFITS TAX (PPT)

PPT is levied on the income of companies engaged in upstream petroleum operations. A new tax regime will take effect upon the passage of the Petroleum Industry Bill.

Rates [S21(1)(2), 22 (2)]	• 85% for petroleum operations carried out under a Joint Venture (JV) arrangement with the Nigerian National Petroleum Corporation (NNPC) or any non-Production Sharing Contract (PSC) over 5 years • 65.75% for non PSC operation in its first 5 years during which the company has not fully amortised all pre-production capitalised expenditure. • 50% for petroleum operations under Production Sharing Contracts (PSC) with the NNPC
Returns [S 30(2), 33]	• Tax is payable on actual year basis • Estimated tax returns must be filed within two months of the fiscal year (which runs from January 1st to December 31st) • Actual tax returns must be filed within five months after the end of the accounting period, that is, not later than 31 May
	The holder of an Oil Prospecting License (OPL) or an Oil Mining Lease (OML) is required to pay royalties to the Federal Government as soon as production begins. This is usually in form of monthly cash payments at the prescribed rate or by way of royalty oil.

Royalties [Petroleum Drilling & Production Regulations - S 61(1)(a)]

The rates are:
In respect of JV Operations

Area	Rate (%)
Onshore production	20
Offshore production up to 100 metres water depth	18.50
Offshore production beyond 100 metres water depth	16.66

[Deep Offshore & Inland Basin Production Sharing Contracts Act (1999)- S 5]

In respect of PSCs
The royalty rates applicable are graduated according to the depth of water from which the oil is mined. These are:

Area	Rate (%)
In areas from 201 to 500 metres water depth	12
In areas from 501 to 800 metres water depth	8
In areas from 801 to 1,000 metres water depth	4
In areas in excess of 1,000 metres water depth	0

Investment allowance

[Schedule II (Paragraph 5) of PPTA]

Petroleum Investment Allowance (PIA) is granted to a petroleum company in the first year a Qualifying Capital Expenditure (QCE) is incurred. The following PIA rates are applicable to companies in **JV operation**:

Investment allowance

[Schedule II (Paragraph 5) of PPTA]

QCE for	Rate (%)
Onshore operations	5
Offshore operations: Up to and including 100m of water depth	10
Between 100m and 200m water depth	15
Beyond 200m water depth	20

PSC operators are entitled to Investment Tax Credit (ITC) at 50% of QCE for PSC executed prior to July 1998 and PIA of 50% for PSC executed with effect from July 1998.

Annual allowance [Schedule II (paragraph 6) of PPTA]

Annual Allowance is granted in addition to PIA, in lieu of depreciation. The current rates are 20% for all categories of QCE in the first four years and 19% in the fifth year. The balance of 1% is retained in the books until the QCE is disposed.

Tax Incentives [S 55, 10(h) and 11(1) of PPTA, the Deep Offshore PSC Act]

In addition to investment allowances, the following incentives are available to upstream companies:

- Dividend distribution is not liable to withholding tax.
- Graduated royalty rates and lower PSC tax rates to encourage offshore production
- Tertiary Education Tax is treated as a tax deductible expense for petroleum companies
- Gas income is taxable at CITA rate of 30% while capital investment for gas are deductible as capital allowances against crude oil income at the higher PPT rate.

Due date forpayment of PPT [S 45]	Payable in 12 equal monthly instalments with a final 13th instalment (if there is an underpayment). The first instalment for the year is due by the end of March.
Penalties [S 46(1)a,51]	- *Late submission of returns:* Initial penalty of N10,000 and N2,000 for each day such failure continues - *Late payment of tax:* 5% of the tax payable
Statute of Limitation [S 36]	The tax authority may carry out tax audit and issue additional assessment within six years from the relevant tax year. However, the limitation does not apply in the event of a fraud, willful default or neglect by the company.
Petroleum Industry Legislation	Legislative process is ongoing to combine 16 different petroleum laws into a single document called the Petroleum Industry Bill. When passed, the law will replace the current PPT regime with Hydrocarbon Tax and Company Income Tax.
Local Content [S 104(2) of the NOGICDA 2010]	The Nigerian Oil and Gas Industry Content Development Act (NOGICDA) 2010 otherwise known as the Local Content Act, was enacted to provide for the development of Nigeria Content in the oil and gas industry. The Act imposes a levy of 1% on every contract awarded to any operator, contractor, subcontractor, alliance partner or any other entity involved in any project, operation, activity or transaction in the upstream sector of the Nigeria oil and gas industry.

NDDC Levy [S 14, NDDC Act, 2000]	The Niger-Delta Development Commission (Establishment etc) Act (NDDC Act), was enacted to formulate policies and guidelines for the development of the Niger-Delta area. The Act imposes a levy of 3% of the total annual budget of any onshore and offshore oil producing company operating in the Niger-Delta area, including gas processing companies.
Cabotage Surcharge [S 43, Cabotage Act, 2003]	The Coastal and Inland Shipping (Cabotage) Act levies a surcharge of 2% of the contract sums earned by vessels engaged in coastal trade in Nigeria. The Act also imposes a charge as determined and approved by the National Assembly.
Oil and Gas Free Zone Act [S 1, 2 & 18 of the OGFZA]	This Act governs the Oil and Gas Free Zone (OGFZ) located in the Onne/lkpokiri area of Rivers State, and is administered by the OGFZ Authority. It grants certain incentives to approved entities conducting approved activities within the zone. The exemptions granted are similar to those as provided for in NEPZA.

3. TERTIARY EDUCATION TAX

Tertiary Education Tax is payable by all Nigerian companies and is levied on assessable profit, that is, tax adjusted profit before capital allowances. The relevant law is the Tertiary Education Trust Fund (Establishment etc) Act 2011.

Rate *[S 1(2)]*	2%
Exemption *[S 1(2)]*	Non resident companies and all unincorporated entities are exempted from Tertiary Education Tax.
Due date for filing Returns	There is no specific filing requirement. However, in practice, the tax is self assessed and filed together with company income tax.
Due date for payment Tax *[S 2(2)]*	Based on the Tertiary Education Tax Act, the FIRS is required to issue assessments for the tax which must be paid within 60 days of the service of notice of assessment. In practice, the tax is self assessed and paid 6 months after the accounting year end date.
Penalty for non-compliance *[S 10(2)(3), 11(1)]*	5% of the tax, in addition to the principal tax, for failure to pay after 2 months of service of assessment notice. If after 2 months of service of assessment notice for the unpaid tax plus the 5% penalty on the company, the failure to pay still continues, the following additional penalties shall apply: • First offenders – N10,000 or imprisonment for a term of 3 years;

	- Second or subsequent offenders – N20,000 or Imprisonment for a term of 5 years or both.
Statute of Limitation [S 36 of CITA]	The FIRS may raise additional assessment within six years from the relevant year of assessment. However, in the event of a fraud, willful default or neglect by the company, the statute of limitation will not apply.

4. INFORMATION TECHNOLOGY (IT) TAX

IT Tax is payable by specified companies with turnover of N100 million and above. The tax when paid is tax deductible for company income tax purposes. The tax is governed by the National Information Technology Development Act (NITDA) 2007

Rate [S 12(2)(a)]	1% of Profit Before Tax
Entities liable [Schedule III]	• GSM service providers and all telecommunications companies; • Cyber companies and internet providers • Pension managers and pension related companies; • Banks and other financial institutions; and • Insurance companies.
Returns and Payment [S 16(3)]	IT Tax is assessed by the FIRS and is payable within 60 days of service of a notice of assessment.
Penalty for non compliance [S 16(4])	2% of the tax payable.

5. CAPITAL GAINS TAX (CGT)

CGT is applied on capital gains accruing to any person (company or individual) making a chargeable disposal of assets

Rate *[S 2(1)]*	10%
Chargeable assets *[S 3, 32]*	• Options, debts and incorporeal property generally • Any currency other than Nigeria currency • Any form of property created by the person disposing of it , or otherwise coming to be owned without being acquired • Goodwill • Copyrights • Buildings • Chattels etc
Exempt assets and gains *[S 27 – 31, 32A – 33, 35 - 39]*	These include gains from disposal of shares and stocks, Nigerian government securities, life assurance policies, main residence or dwelling-house of an individual, compensation for wrong or injuries suffered by an individual, mechanically propelled road vehicles for the carriage of passengers (except those not suitable for private use), and decorations awarded for valour or gallant conduct.
Allowable deductions *[S 14]*	• Initial cost of the asset; • Stamp duties; • Cost of enhancing the value of the asset; • Expenditure incurred in establishing, preserving or defending the title to, or right over the asset; • Incidental expenses for the purpose of acquiring or disposing of the assets, such as fees,

	commission or remuneration paid for professional services of any surveyor, or valuer, or auctioneer, or accountant, or agent, or legal adviser and cost of transfer or conveyance; and cost of advertisement to find a seller during acquisition and advertisement cost to find a buyer during disposal.
Non Allowable deductions *[S 15, 16]*	• Premiums paid under a policy of insurance taken against any risk, or damage to, or injury to, or depreciation of or loss of an asset. Expenses that are deductible under Companies Income Tax Act or Personal Income Tax Act.
Relief *[S 32]*	**Rollover relief** can be claimed where proceeds of disposal are used to purchase a new asset of the same class as the disposed asset. The new asset must be acquired (or an unconditional contract for its acquisition formed) within twelve months before or twelve months after the disposal of the old asset. The classes of the assets eligible for relief are as follows: Class 1: 1A - (i) Building (ii) Land 1B - Plant or Machinery which does not form part of the building Class 2 - Ships Class 3 - Aircraft Class 4 - Goodwill
Statute of Limitation *[S 42(3)]*	6 years after the end of the year of assessment in which that gain accrues.

6. WITHHOLDING TAX (WHT)

WHT is an advance payment of income tax deductible at source on specified transactions. It can be applied as tax credit against income tax liability. The relevant provisions are in the CITA, PITA, PPTA, and WHT Regulations.

Rates *[CITA S 78-81, PITA S 68–72, and WHT Regulations]*	*Transactions*	*Companies*	*Individuals*
	Dividend, interest & rent	10%	10%
	Royalties	10%	5%
	Hire of equipment, motor vehicles, plants, and machinery	10%	10%
	Commission, consultancy, technical and management fees, legal fees, audit fees, and other professional fees	10%	5%
	Construction	5%	5%

<table>
<tr>
<td rowspan="4">Rates [CITA S 78-81, PITA S 68–72, and WHT Regulations]</td>
<th>Transactions</th>
<th>Companies</th>
<th>Individuals</th>
</tr>
<tr>
<td>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>Directors' fees</td>
<td>N/A</td>
<td>10%</td>
</tr>
<tr>
<td colspan="3">The rate of WHT on dividend, interest and royalty is reduced to 7.5% when paid to a corporate recipient resident in a treaty country. In the case of individuals, 7.5% is applied on dividend and interest and5% on royalty.</td>
</tr>
<tr>
<td>Deduction Requirement [CITA S 78-81, PITA S 68–72, and WHT Regulations]</td>
<td colspan="3">Persons required to deduct WHT from payments are organisations and establishments approved for the operation of Pay-As-You-Earn (PAYE) scheme.</td>
</tr>
<tr>
<td>Due date for remitting WHT [CITA S.82 PITA S.74]</td>
<td colspan="3">In the case of WHT deducted from companies, remittance is due to the Federal Inland Revenue Service (FIRS) within 21 days after the duty to deduct WHT arose.

In the case of WHT deducted from individuals and unincorporated entities, remittance is due to the</td>
</tr>
</table>

	State Internal Revenue Service (SIRS), within 30 days after the duty to deduct WHT arose. *For FIRS WHT, the schedule of WHT deducted must be submitted in electronic form and must contain specific information such as the Tax Identification Number (TIN) of the various suppliers from whom the tax has been deducted.*
Penalties *[CITA S.85 PITA S.74 FIRS Act S.40]*	• Failure to remit WHT due to the FIRS: a penalty of 10% per annum and interest at Central Bank rate (currently 12%). • Failure to remit WHT due to SIRS: a fine of N5,000 or 10% of tax due, whichever is higher, in addition to the principal tax due and interest at the bank lending rate (currently up to 21%).

7. VALUE ADDED TAX (VAT)

VAT is chargeable on the supply of taxable goods and services except items specifically stated as exempt or zero-rated. The relevant law is the VAT Act.

Standard rate [S 4]	5%
VAT deduction at source [S.13(2)]	The following are required to deduct VAT on their incoming invoices and remit to the FIRS: • Oil and gas companies including oil service companies • Government, government agencies and departments • Resident entities in respect of transactions with non residents

Zero Rated Goods & Services [S 4, Schedule I]	• Non-oil exports • Goods and services purchased by diplomats • Goods purchased for humanitarian donor funded projects
Exempted Goods [S 3, Schedule I]	• Oil exports • Medical and pharmaceutical products • Basic food items • Books and educational materials • Baby products • Plant, machinery and goods imported for use in the export processing zone or free trade zones • Plant, machinery and equipment purchase for utilization of gas in downstream petroleum operations • Transactions, ploughs and agricultural implements purchased for agricultural purposes
Exempt Services [S 3, Schedule I]	• All export services • Medical services • Services rendered by community banks and mortgage institutions • Plays and performances by educational institutions as part of learning
Exemption by Policy [Fiscal Policy Measures (2007), VAT Exemption Order (2011)]	Additional exemption granted by the Minister of Finance through Fiscal Policy Measures in line with section 34 (b) of the VAT Act: • Locally manufactured biscuits • Plant, machinery and equipment (including steel structures) for the manufacture of cement and allied products • Vegetable oil • Motorcycle (CKD)/Bicycle (SKDs) and their spare parts • Corporate bonds and government securities (10 years from 2 January 2012)

Recoverable Input VAT *[S.17]*	Allowable input tax 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. *VAT on fixed assets/capital items, overhead, service and general administration expenses are not claimable as input VAT. Rather they should be capitalised or expensed as the case may be.*
VAT refund/carry forward *[S 16 VAT Act, S23 FIRSEA]*	Excess input VAT may be carried forward as credit against future VAT payable. Alternatively, the FIRS Establishment Act (FIRSEA) provides for a cash refund on application within 90 days of FIRS decision subject to appropriate tax audit.
Registration *[S 8, 10]*	*Residents* – Immediately on commencement of business
	Non Residents – A non-resident company that carries on business in Nigeria is required to register for VAT before issuing its first invoice, using the address of the Nigerian customer with whom it has a subsisting contract
Due date for filing VATReturns *[S 12]*	21st day of the month following the month of transaction
Penalties	• *Failure to register for VAT:* N10,000 for the first month and N5,000 for every subsequent month in which the default continues. *[S.32]* • *Failure to issue tax invoice:* Fine of 50% of the cost of the goods or services for which tax invoice was

not issued. *[S.29]*

- *Failure to collect VAT:* penalty of 150% of the amount not collected plus 5% interest above the Central Bank of Nigeria Monetary Policy Rate. *[S.34]*
- *Failure to submit returns:* Fine of N5,000 for every month in which the failure continues. *[S.35]*
- *Failure to remit VAT:* 5% per annum of the amount of tax not remitted plus interest bank lending rate. *[S.19]*
- *Failure to keep proper records:* N2,000 for every month in which the failure continues. *[S.33]*

8. PERSONAL INCOME TAX (PIT)

Individuals including employees, Partnerships and Unincorporated Trusts are liable to tax under this act.

Rate
[Schedule 6]

PIT rate is applied on a graduated scale on taxable annual income as set out below:

First N300,000	7%
Next N300,000	11%
Next N500,000	15%
Next N500,000	19%
Next N1,600,000	21%
Above N 3,200,000	24%

Note: *As a result of the consolidated relief allowance of at least 21% of gross income, the top marginal tax rate is 18.96% for income above N20 million as only 79% of income is taxed at 24% while for income below N20 million the top marginal rate is 19.2%. (See reliefs and allowances below).*

Basis of liability [S 6, 10]	***Business income*** PIT is applicable on the business income earned by individuals, partnerships, trusts and other unincorporated entities which have an identifiable place of operation in Nigeria. Other conditions that create an exposure to PIT include: • the individual, executor or trustee habitually operates a trade or business through a person in Nigeria authorised to conclude contracts on his behalf; • the trade or business in Nigeria involves a single contract for surveys, deliveries, installations or construction; • the trade or business is carried out in a manner which in the opinion of the relevant tax authority is deemed to be artificial. The PIT so determined will be payable to the relevant state tax authority where the individuals, partnerships, trusts or other unincorporated entities is resident.
Basis of liability [S 6, 10]	**Employment Income** In the case of employment income, a person is liable to tax on such income in Nigeria under two criteria: 1. If the duties of his employment are wholly or partly performed in Nigeria, unless: • the duties are performed on behalf of an employer who is in a country other than Nigeria, and the remuneration of the employee in not borne by a fixed base of the employer in Nigeria; and • the employee is not in Nigeria for a period or periods amounting to an aggregate of 183 days or more inclusive of annual leave or temporary period of absence in any twelve month period ; and

- the remuneration of the employee is liable to tax in that other country under the provisions of the avoidance of double taxation treaty with that other country.

2. If the employer is in Nigeria unless the employment duties are wholly performed and the remuneration paid outside Nigeria.

Employers' Obligations
[S 81, Operation of PAYE Regulations 2002]

- Employers are required to deduct and account for personal income tax on the employment income of their employees through the Pay-As-You-Earn (PAYE) system.
- PAYE tax must be remitted on or before the 10th day of the month following the payment of salary (e.g. PAYE tax deducted from January salary should be remitted by10th of February).

Reliefs & Deductions
[S 33, Schedule 6]

Consolidated relief allowance	Higher of N200,000 or 1% of gross income plus 20% of gross income*
Child allowance	N2,500 for each child up to a maximum of four children, provided that none is above 16 yrs or married. However, a relief can be granted for a child over 16 yrs if the child is in a recognised school, under artisanship or learning a trade.
Dependent relative	N2,000 for each dependent relative up to a maximum of two relatives who are widowed or infirm.

Deductions allowed	NHF contribution, National Health Insurance Scheme, Life Assurance Premium, National Pension Scheme and Gratuities.
ReImbursements	Expenses incurred in the performance of employment duties from which it is not intended that the employee should make any gain or profit.
Interest and dividend	Interest income earned from debt instruments including treasury bills and corporate bonds now fully exempt while withholding tax at 10% is the final tax on dividend.

** "gross emoluments" means wages salaries allowances (including benefits in kind), gratuities, superannuation, and any other income derived solely by reason of employment.*

Benefits in kind (BIK)
[S 33]

- BIK provided to an employee by the employer such as official cars, accommodation, etc are deemed to be part of the employee's gross emoluments. The taxable benefit is 5% per annum of the cost where the asset is owned by the employer or the actual rent paid where the asset is leased by the employer.

BIK on accommodation is taxable based on the annual value of the premises as determined for purposes of local rates or as determined by the relevant tax authority rather than the cost or actual rent paid.

Due date for filing Returns [S. 41(3), 81(2)]	Every employer is required to file a return of all emoluments paid to his employees not later than 31st January of every year in respect of all employees in his employment in the preceding year. In addition, a return in respect of the current year must be filed within 90 days of the fiscal year i.e. not later than 31 March
Penalty for non payment of tax [S 76, 77]	10% per annum of the amount plus interest on annual basis at bank lending rate (previously a one-off rate of 21% is applied).
Statute of Limitation [S55]	6 years except in the event of a fraud, willful default or neglect by the taxable person in which case there is no limitation.

9. PENSION CONTRIBUTION

Employers that have 5 or more employees are required, under the Pension Reform Act 2004, to participate in a contributory pension scheme in favour of their employees. Employers with less than 5 employees may voluntarily elect to participate.

Rate of contribution [S 9]	15% of monthly emolument* (with a minimum contribution of 7.5% by the employer and up to 7.5% by the employee). The employer and/or the employee may make additional voluntary contribution.

Employers' Obligation *[S 11(5)]*	The employer is obliged to make monthly deductions at source from the employee's emoluments and remit to the Pension Fund Custodian (PFC) specified by the employee's Pension Fund Administrator (PFA) not later than 7 working days after the payment of the employee's salary.
Expatriates ***[Guidelines on Cross Border Arrangements]***	Expatriate employees are not expressly exempted from pension contribution under the Act. However, the Guidelines on Cross Border Arrangements issued by the Pension Commission specifically states that it is not compulsory for expatriates to join the Nigerian pension scheme but such employees may join at their discretion and with the agreement of their employers.
Life Insurance *[S 9(3)]*	The Pension Reform Act requires every employer to take out life insurance cover for its employees. The sum assured should be three times each employee's annual remuneration. The insurance cost is to be borne solely by the employer.
Penalty *S 11(7)*	Failure by an employer to remit contributions within the stipulated time attracts a penalty of 2% of the total contribution outstanding.

**monthly emoluments is defined as the aggregate of basic salary, housing and transport.*

10. INDUSTRIAL TRAINING FUND (ITF) CONTRIBUTION

Applicable to employers with minimum of 5 *employees or annual turnover of N50 million.

Rate *[S 6(1)]*	1% of annual *payroll cost
Due date for Payment *[S 6(2)b]*	Not later than 1st April of the following year
Refund *[S 7(1)]*	An employer could get up to 50% refund of contributions made if adequate (documented) training courses were provided to the **employees
Penalty for non-compliance *[S 9(1)]*	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.
Statute of limitation *[S 11]*	The contribution is recoverable at any time within 6 years from the due date.

****Payroll** - is defined as the sum total of all basic pay allowances and other entitlements payable within and outside Nigeria to any employee in an establishment, public or private.*

*****Employees** - mean all persons whether or not they are Nigerians employed in any establishment in return for salary, wages or other consideration, and whether employed full-time or part-time and includes temporary employees who work for periods of not less than 30 days in a year.*

11. EMPLOYEE COMPENSATION SCHEME

Repeals the workmen's compensation Act and provides compensation for employees for any death, injury, disease or disability arising from or in the course of employment.

Rate *[S 33(1), 42(1)]*	1% of total monthly payroll or amount assessed by the NSITF. Where the claim cost in respect of an employer exceeds 105% of the ordinary assessment of that employer, the NSITF Board may within 4 years levy a super assessment on the employer not exceeding 133% of the ordinary assessment for the year.
Scope *[S 2]*	All employers, including individuals, are required to register with the Nigeria Social Insurance Trust Fund (NSITF) and contribute to the scheme.
Contributions *[S 33(1)]*	Employers are required to make monthly contributions to the NSITF not later than the last day of the month.
Returns *[S 40,50,51]*	Employers are required to file statements of actual earnings of their employees for the preceding year and budgeted earnings for the current year not later than the last day of February of every year. An employer who has just commenced a business, recommences or ceases to be an employer is required to provide the statements within 30 days of commencement, recommencement or cessation as the case may be.
Penalty Section 39 (2)	Penalty and interest for default are to be charged at a rate to be determined by the NSITF Board.

**Employee - means a person employed by an employer under oral or written contract of employment whether continuous, part-time, temporary, apprenticeship or casual basis and includes a domestic servant who is not a member of the family of the employer.*

12. NATIONAL HOUSING FUND CONTRIBUTION

Applicable to Nigerian employees earning a minimum of N3,000 per annum

Rate [S 4]	2.5% of basic salary
Employers' Obligations [S 9]	The employer is required to deduct the contribution from the salary of its employees and remit it to the Federal Mortgage Bank of Nigeria within one month of the deduction.
Penalty for non compliance [S 20]	Penalty ranges from N5,000 to N50,000 and 5 years imprisonment.

13. CUSTOMS AND EXCISE DUTIES

Custom duties are levied on Cost, Insurance and Freight (CIF).

Rates	Rates vary for different items, and are assessed with reference to the prevailing Harmonized Commodity and Coding System (HS code).

Other rates & charges	• 7% surcharge (Port development levy) calculated on the customs duty • 0.5% trade liberalization scheme levy, calculated on customs duty (where import is from countries outside the ECOWAS region); • 1% Comprehensive Import Suspension Scheme (CISS) administrative charge for destination inspection based on the FOB value of goods • Value Added Tax (VAT) calculated at the rate of 5% on the CIF value of the import, customs duty and the charges stated above.
Goods liable to Excise duty [S.118]	• Beer & Stout • Wines • Spirits • Cigarettes and Tobacco • Manufactured and sold in Nigeria
Some Goods exempted from Customs duty [S.43]*	• Aircrafts or airlines registered in Nigeria and providing commercial services in Nigeria; • Films, film-strips, microfilms, newsreel, slide and similar visual and auditor material of educational, scientific or cultural character imported by the United Nations, any of its specialized agencies or an approved education or science organisation • Fuel, lubricants and similar products, which the Minister is satisfied necessary for and will be used solely in the operation of an aircraft of the armed forces of a foreign power; or an aircraft registered in any recognized country; • Goods Imported for the head of state, Commander-in-Chief of the Armed Forces; • Goods Imported for the consular Officers; • Diplomatic privileged importations; • Goods obtained free as technical assistance from international donors; • Passengers baggage;

	• Life saving Appliances; • Military Hardware and Uniforms; and • Arms and Ammunition imported by the Nigeria Police Force.
Some goods prohibited from importation*	• Beef & beef products • Fresh or dried fruits, fruit juice in retail packs • Detergent • Toothpaste • Vegetable oil (excluding linseed and castor oils, hydrogenated vegetable fats used as industrial raw materials and olive oil in bottles) • All sort of foot wears, bags of leather and plastics and briefcase (excluding safety and sports wears) • Sugar confectionaries • Telephone recharge cards • Used motor vehicles above 15 years from the year of manufacture • Biscuits • Beer • Certain medicaments • Bagged cement • Live or dead birds including Frozen poultry • Bird eggs • Cocoa butter, powder and cake • Water, Mineral waters, Aerated waters • Mosquitoes repellent coils, • Sanitary ware of plastic • Ball point pen • Used compressors • Hollow glass bottles of capacity exceeding 150mls

Incentives to ECOWAS Countries *[ECOWAS Trade Liberalisation Scheme (ETLS)]*	Approved products manufactured by beneficiaries of the ETLS are allowed free access to markets within the ECOWAS region without any import duties in the destination countries. Products approved for the scheme must satisfy the rules of origin which require at least 60% local raw materials content (volume) or 40% local raw materials value (monetary) or a minimum of 35% local value added. The cost, insurance and freight (CIF) value of imported raw material must not exceed 60% of the total cost of raw materials used. ETLS is not fully operational going by the low level of implementation by member countries.
Fiscal Policies *[Nigerian Budget – 2012]*	• Review of the 2008 to 2012 Customs and Excise Tariffs to correct anomalies and introduce policies that will encourage industialisatio. • Effective 31 January 2012, duty on machinery and specific equipment for use in the agricultural sector to attract zer9 import duty. • All equipment for processing of high quality cassava flour and composite flour blending to be duty free. • From 1 July 2012, wheat flour to attract import duty of 100%, wheat grain 20%, brown rice 30% and polished rice 50%. • Rice millers are encouraged to move towards domestic production and milling of rice. Import duty will thus be increased from 50% to 100% effective 31 December 2012. • No waivers or concessions will be granted for rice and wheat production. • Introduction of import prohibition for cassava flour.

	• Equipment and machinery in the power sector will attract zero duty. • Review of the Export Expansion Grant (“EEG”) to streamline the scheme and make it more effective as an instrument for promotion o exports. • Review of Nigeria's position on the ECOWAS Trade Liberalisation Scheme (“ETLS”) to avoid dumping.

*Note - _The Ministry of Finance reviews Customs and Importation Guidelines & Policies from time to time. Sometimes, the practice is not consistent with the law and policies. It is therefore recommended that you keep abreast of developments in this area and seek professional advice where necessary._

14. STAMP DUTY

Stamp duty is tax on documents evidencing transactions between persons.

Rate _[S 8]_	Stamp duty is chargeable either at fixed rates or ad valorem (i.e., in proportion to the value of the consideration) depending on the class of instrument.
Instruments liable to Stamp Duty _[S 3(1)]_	All instruments relating to an act to be performed in Nigeria must be stamped, except such instrument is specifically exempted.
When to Stamp _[S 23(1)]_	Instruments which are required to be stamped under the Stamp Duties Act must be stamped within 40 days of first execution.

Penalty [S 25]	The penalty for late stamping of instruments is N20; but where the unpaid duty exceeds N20, there is a further penalty in the form of interest on the stamp duty payable at the rate of 10% per annum subject to a maximum of the unpaid duty . Also, unstamped documents are generally not admissible as evidence in civil proceedings.

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Caveat

We have issued this Tax Data Card to provide level insight into key areas of taxation in Nigeria. It covers various taxes including corporate and individual income tax, capital gains tax, withholding tax, social security contributions, VAT, Excise duty and Stamp duty. There are a number of other taxes and levies payable to federal, state or local governments, which have not been included. Although we have taken all reasonable care in compiling the data card, we do not accept responsibility for any errors or inaccuracies contained in the document. This data card is also available electronically.

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