

# *Federal Inland Revenue Service – update on VAT administration as applicable to branches*

## ***In brief***

The Federal Inland Revenue Service (“FIRS”) has issued letters to taxpayers to submit schedules along with their VAT returns showing the VAT attributable to their different branches.

We understand that the directive from the FIRS is meant to elicit relevant information regarding the derivation of VAT revenue from the different states and local government councils in Nigeria for revenue sharing purposes.

## ***In detail***

### ***Scope of the Act***

Some FIRS offices have begun to issue letters to taxpayers requesting that they show VAT attributable to the different branches where they operate.

The letters reference two documents as the legal basis for the requirement:

- S27 of the VAT Act 1993; and
- Para 2 of the FIRS information circular No. 2009 dated July 2009

The letters stated that the referenced circular defines attribution as ‘...*the process of allocating a centrally made payment to the individual sources that makes up the bulk amount*’. On this basis the FIRS is therefore requesting taxpayers to indicate VAT attributable to their branches in their VAT returns. The letters further state that any VAT returns not filed with the

schedule will be considered incomplete.

### ***Analysis of the FIRS request***

S27 of the VAT Act imposes a penalty of N5,000 (about USD30) on a taxpayer for failure to make attribution but fails to define what is meant by attribution. VAT attribution as a common concept in other jurisdictions refers to the requirement to limit input VAT claimable to the proportion of purchases that relates to VATable supplies. This is also applied to instances where a taxpayer makes mixed supplies (i.e. both VATable and VAT exempt supplies). It does not relate to apportioning of VAT to different locations such as a taxpayer’s branches. The FIRS information circular is only a guide and should not be the basis of defining the term attribution as it relates to the VAT Act.

However, the powers of the FIRS to prescribe the manner of VAT returns in S15 of the VAT

Act may be extended to include certain information required to enable the FIRS determine the accuracy and completeness of the taxpayer’s tax liability. This request does not seem to be aimed at this, and S43 of the VAT Act implies that the FIRS would have to provide forms to prescribe the manner in which such schedules should be filed.

Without a detailed guideline, there is no clarity on how the attribution should be done. This could leave taxpayers to deal with varying expectations of different tax officers leading to inconsistencies.

### ***The takeaway***

Taxpayers with branch operations should seek ways to provide the required information regarding their VAT on sales by branches especially where the information is readily available. Where necessary,

taxpayers should develop a template and agree this with their relevant tax office ahead of the due date for filing VAT returns (being the 21<sup>st</sup> of each month). Where the information is not readily available, taxpayers should notify the FIRS and state whether they can reasonably

generate the information stating the likely extension of time required. Similarly, taxpayers can also request for official forms in order to render the returns in line with Section 43 of the VAT Act.

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### ***Let's talk***

Taiwo Oyedele  
+234 1 271 1700 Ext 6103  
[taiwo.oyedele@ng.pwc.com](mailto:taiwo.oyedele@ng.pwc.com)

Kenneth Erikume  
+234 1 271 1700 Ext 6110  
[kenneth.y.erikume@ng.pwc.com](mailto:kenneth.y.erikume@ng.pwc.com)