

# **THE FINANCE ACT, 2019: A VERITABLE TOOL USED FOR EFFECTIVE AMENDMENT OF EXISTING FISCAL LEGISLATION**

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## **INTRODUCTION**

The President of the Federal Republic of Nigeria, Muhammadu Buhari (GCFR) signed the Finance Act into law on January 13, 2020 with a view to consolidating the previous achievements of his administration on the ease of doing business and supporting small businesses with promoting fiscal equity, reforming domestic laws to align with global best practices and raising revenues for the Nigerian government to finance the 2020 budget.

One striking feature of the Finance Act, 2019 ('the Finance Act') is that it was used to amend existing fiscal legislation/Acts which demonstrated legislative efficiency and efficacy. Conventionally, when an Act is to be amended, the legislature proposes a Bill in order to amend the Act. This process is repeated with regards to each independent and separate Act.<sup>2</sup>

It is pertinent to note that the Finance Act which is an independent legislation was used to amend obsolete provisions and cure deficiencies in several existing fiscal Acts/legislation. Specifically, the Finance Act was used to amend the provisions of the Value Added Tax Act<sup>3</sup>, Companies Income Tax Act<sup>4</sup>, Capital Gains Tax Act<sup>5</sup>, Customs, Excise Tariff, etc. (Consolidation) Act<sup>6</sup>, Personal Income Tax Act<sup>7</sup>, Petroleum Profit Tax Act<sup>8</sup> and the Stamp Duties Act<sup>9</sup> without separate and independent Bills introduced and passed for the amendment of the afore-mentioned Acts/legislation.

A summary of the amendments and new provisions made by the Finance Act in existing fiscal legislation are enumerated below.

## **VALUE ADDED TAX ACT (VAT ACT)**

- (i) Section 35 of the Finance Act expanded the meaning of supply of goods and services under the VAT Act to include intangible goods.

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<sup>2</sup> See the Companies Income Tax Amendment No. 11, 2007, Value Added Tax Act No. 12, 2017 (Consolidation)(Amendment), Customs, Excise and Tariff (Consolidation) Decree No. 19 of 1996, Petroleum Tax (Amendment) Decree No. 23 of 1996, the Education Tax (Amendment) Decree No. 40 of 1998 amongst others.

<sup>3</sup> Cap. V1 Laws of Federation of Nigeria, 2004

<sup>4</sup> Cap. C21 Laws of Federation of Nigeria, 2004

<sup>5</sup> Cap. C1 Laws of Federation of Nigeria, 2004

<sup>6</sup> Cap. C49 Laws of Federation of Nigeria, 2004

<sup>7</sup> Cap. P8 Laws of Federation of Nigeria, 2004

<sup>8</sup> Cap. P13 Laws of Federation of Nigeria, 2004

<sup>9</sup> Cap. S8 Laws of Federation of Nigeria, 2004

- (ii) Section 36 of the Finance Act amended Section 4 of the VAT Act and by the amendment increased the VAT rate from 5 % to 7.5%.
- (iii) Section 39 of the Finance Act requires VAT registration for individuals with N25 million turnover or more in a calendar year.
- (iv) Section 43 of the Finance Act criminalises the failure of taxable persons to notify the Federal Inland Revenue Service (FIRS) of change of their address within 30 days of such change.

### **CAPITAL GAINS TAX ACT (CGT ACT)**

- (i) Section 51 of the Finance Act amended Section 36 (2) of CGT Act and by the amendment exempted compensation paid from loss of employment which is below N10,000,000 from Capital Gains Tax.

### **CUSTOMS, EXCISE TARIFF ETC. (CONSOLIDATION) ACT**

- (i) Section 49 of the Finance Act amended Section 21 of the Customs, Excise Tariff, Etc. (Consolidation) Act and by the amendment incentivized domestic production by expanding goods liable to excise duties to include imported goods.

### **STAMP DUTIES ACT (SDA)**

- (i) Section 52 of the Finance Act amended Section 2 of Stamp Duties Act and by the amendment now accommodates electronic stamps.
- (ii) Section 54 of the Finance Act repealed Section 89 of the Stamp Duties Act and provides for a new Section 89 of the Stamp Duties Act to exempt stamp duty for bank transfer below N10,000 and transfers that are done between two accounts belonging to the same owner.

### **COMPANIES INCOME TAX ACT (CITA)**

- (i) Section 7 of the Finance Act amended Section 23 of the CITA and by the amendment provides for Companies Income Tax exemption for companies with an annual turnover of less than N25,000,000.00 (Twenty Five Million Naira).
- (ii) Section 14 of the Finance Act amended Section 40 of the CITA and by the amendment introduced a lower Companies Income Tax of 20% to apply to medium sized companies with a turnover between N25 million and N100 million.
- (iii) Section 4 of the Finance Act amended Section 16 of the CITA and by the amendment introduced indefinite carrying forward of losses by Insurance companies.

- (iv) Section 19(5) of the Finance Act introduced a bonus tax credit of 2% of tax payable for small and medium-sized companies and 1% for large companies for payment of tax liability within 90 days before the due date.
- (v) Section 2 of the Finance Act amended Section 10 of the CITA and by the amendment introduced a mandatory requirement of the Tax Identification Number (TIN) before opening business accounts and continued operation of bank accounts.
- (vi) Section 7 of the Finance Act amended Section 23 of the CITA and by the amendment provides for exemption of dividends received by real estate investment companies.

### **PETROLEUM PROFIT TAX ACT (PPTA)**

- (i) Section 26 of the Finance Act amended Section 60 of the Petroleum Profit Tax Act and by the amendment removed the exemption of dividends paid out of petroleum profits by companies engaged in petroleum operations in Nigeria from withholding tax. Under the Finance Act, withholding tax of 10% will be deducted from dividends payable to shareholders.

### **PERSONAL INCOME TAX ACT (PITA)**

- (i) Section 30 of the Finance Act introduced a mandatory requirement for Tax Identification Number (TIN) before opening business accounts for individuals.
- (ii) Section 27 of the Finance Act substituted the Federal Board of Inland Revenue Service with the Federal Inland Revenue Service.
- (iii) Section 31 of the Finance Act amended Section 58 of PITA and by the amendment introduced email correspondences with tax authorities on tax assessment.

### **CONCLUSION**

It is no gainsaying that the Finance Act was used as an effective tool through which significant amendments were made to existing fiscal legislation. The procedure and method adopted by the Nigerian Legislature is in line with best legislative practices used in recent times by the legislature of advanced countries to promote the ease of doing business and smart legislation.<sup>10</sup>

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<sup>10</sup> Countries which have used the method adopted by Nigeria include: United States of America: Omnibus Consolidated Appropriations Act, 1997 and the Agricultural Competitiveness and Trade Act of 1988; Kenya: The Finance Bill (National Assembly Bill No. 51 of 2019) etc.