

BENEFITS OF THE FINANCE ACT, 2019 TO NIGERIAN TAXPAYERS

*Today, it takes more
brains and effort to
make out the income-tax
form than it does to
make the income.*

-Alfred E. Neuman

The gazette copy of Nigeria's Finance Act, 2019 (“**the Act**”) contains 57 provisions that amend 7 existing tax laws. It became effective from 13 January 2020, as specified in the Act.

Here are 31 ways in which the Act benefits Nigerian taxpayers.



*“People who complain
about taxes can be
divided into two: men
and women”*

-Anonymous

Complementing Nigeria’s 2020 budget, the Finance Act holds a lot of potentials and offers many policy interventions, carrots and sticks for bringing practically every taxpayer, particularly Micro, Small and Medium Sized Entities (MSMEs) in Nigeria into the tax net.

We will evaluate the provisions of the Act from different perspectives and discuss them one by one in our Finance Act series.

About us:

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THE BENEFITS OF THE FINANCE ACT, 2019, TO NIGERIAN TAXPAYERS

S/N	Persons Benefitted	How?	Enabling Amended Legislation
1	All small businesses (defined as 'businesses making an annual gross turnover of N25 million or less')	1. The Finance Act provisions, and tax exemptions relating to small businesses, makes it almost compulsory for them to adopt a legal structure of doing business – to register or incorporate their businesses, get tax identification numbers and keep proper books of accounts. This is good for business growth.	Personal Income Tax Act, Companies Income Tax Act and Value Added Tax Act
2	(Incorporated businesses only)	2. Companies income tax (CIT) exemptions for incorporated small businesses. Small businesses (as defined by the Act) will not pay CIT, but they will be required to file their tax returns every year. Their customers should also not withhold taxes on their invoices.	Companies Income Tax Act
3		3. Value Added Tax (VAT) registration, payment and filing exemptions. All small businesses will no longer be penalized if they decide not to register for, charge, remit or file VAT. Nothing in the Act says they should not do so though, if and when they decide otherwise.	Value Added Tax Act
4	Start-up companies (incorporated businesses only)	No more cumbersome commencement tax rules or double taxation on the same profits which, before the amendment of the law,	Companies Income Tax Act

		usually happened within the first 2 years of starting business. Commencement tax rule has now been simplified to basically ‘preceding year basis’ of taxation. This means that startup companies will now be taxed for each tax year, right from the year of commencement, based on the profits of the previous accounting year.	
5	Companies ceasing business	The cumbersome tax rules around cessation has now been removed and simplified. Companies will now be taxed within 6 months after they cease business, on their company profits, from the beginning of the accounting period when they ceased business, to the date they ceased business.	Companies Income Tax Act
6	Agricultural production Companies	Companies (only incorporated companies though) that are into agricultural production (<i>*agricultural production is not defined by the Act, so it could mean anything ‘agricultural’</i>), will now begin to enjoy the following: <ol style="list-style-type: none"> 1. CIT exemption for up to 8 years, i.e. they will not pay CIT and no formal application is required for them to enjoy this. The only condition is that their performance would be evaluated after 5 years, to ensure that it is satisfactory, before the remaining 3 years exemption can be granted. 2. All agro and aqua (i.e. cultivated from land and from the water) based staple food – 	Companies Income Tax Act Value Added Tax Act

		raw, or semi-processed, sold by these companies are exempt from VAT too.	
7	Medium sized Companies (<i>defined as companies making an annual gross turnover of N25 million and above, but less than N100 million</i>).	Reduction of CIT rate from 30% to 20%	Companies Income Tax Act
8	Large and Medium Sized Companies	<p>Grant of early CIT filing bonus (these companies shall enjoy tax bonuses if they file their tax returns early, at least 90 days before the due dates for filing) as follows:</p> <ol style="list-style-type: none"> 1. Large Companies (<i>defined as companies making annual turnover of N100,000,000 and above</i>) - 1% bonus on the amount of tax paid. 2. Medium sized companies – 2% bonus on the amount of tax paid. <p>These bonuses shall be available as a credit against the future taxes of the companies.</p>	Companies Income Tax Act
9	All companies	The cumbersome and controversial requirement for all companies to pay 'provisional tax' before March ending of every year, based on the amount of tax they paid in the previous tax year, has now been removed.	Companies Income Tax Act
10	All businesses withholding tax from	As the small businesses are exempt from CIT, businesses contracting with	Companies Income Tax Act

	small business contractors.	them no longer have the burden of withholding tax from their payments.	
11	Real Estate Investment Companies	<ol style="list-style-type: none"> 1. CIT exemptions (i.e. no CIT is to be paid on this income) on dividends and rental income received on behalf of its shareholders, provided that 75% of the dividends and rental incomes are distributed within 12 months of the financial year they were earned. 2. Waiver of excess dividend tax on distributions of rental income and dividend income received on behalf of its shareholders. The exemption will apply, whether the excess dividends are paid in the year the earnings were made or out of retained earnings of prior accounting periods. <p>* This allows the companies to distribute rental income and dividend incomes to shareholders without restriction, within 12 months of earning such incomes as prescribed by the amended law.</p> <p>* Excess dividend tax is the tax that is applied on dividends distributed, in lieu of the calculated taxable profits of a company, when the dividend distributed is higher in value.</p>	Companies Income Tax Act
12			Companies Income Tax Act
13	Construction companies	Companies that are into construction of roads, bridges, building and power plant construction contract will now suffer withholding tax at half of the former rate, i.e. 2.5% (from 5%, previously), to reduce the incident of	Companies Income Tax Act

		perpetual unrecoverable withholding tax credits.	
14	Insurance companies	Insurance business losses can now be carried forward indefinitely, and no longer restricted to four years.	Companies Income Tax Act
15	Operators in the capital market	The tax laws are now more robust and clearer, to accommodate all the transaction and compensation structures in the capital market.	Companies Income Tax act
16	Related companies going into mergers and acquisitions.	VAT and Capital Gains Tax (CGT) will not apply on assets acquired or transferred in the transaction, as long as the acquired assets are not subsequently disposed within 365 days after the date of the acquisition.	Value Added Tax Act and Capital Gains Tax Act
17	Companies paying dividends out of retained earnings	As long as the retained earnings were taxed under the applicable tax provisions in the year the earnings were generated, for subsequent dividend payments out of these earnings, the companies will not be made to pay excess dividend tax (i.e. tax on dividend distributed, rather than taxable income where taxable income is lower).	Companies Income Tax
18	Companies paying dividends out of exempt incomes	The controversies around this topic have now been put to rest as excess dividend paid out of tax-exempt incomes will no longer apply.	Companies Income Tax Act (but also applicable to incomes exempt under the Petroleum Profits Tax Act and Capital Gains Tax Act).

19	Companies paying dividends out of franked investment income	<p>This Finance Act, by this provision, is ensuring that franked investment income stays true to its meaning – income to be taxed once and for all.</p> <p>No ‘excess dividend’ tax will also apply in the case of companies paying dividends out of franked investment income.</p>	Companies Income Tax Act
20	All businesses selling certain VAT exempt items	<p>Businesses dealing in the following items (whether in raw or semi-processed forms) have now been exempted from paying VAT on them:</p> <p>Honey; Cereals; Cooking Oils; Culinary herbs; Fish of all kinds including dry or smoked fish; Flour and starch; Fruits; Live or raw meat and poultry; Milk; Nuts; Pulses; Roots e.g. yam, cassava etc.; Salt; Vegetable; Water, including table water; Locally manufactured sanitary pads.</p>	Value Added Tax Act
21	Microfinance Banks	<p>Services rendered by Microfinance banks are now exempted from VAT. This is also a bonus or incentive to the Micro Small and Medium Enterprises (MSME) sector.</p>	Value Added Tax Act
22	Nursery, Primary, Secondary and Tertiary Educational Institutions	<p>No VAT will apply on the tuition fees paid for education in these schools.</p> <p>In essence, all tuition fees payable to educational institutions in Nigeria is now explicitly VAT free.</p>	Value Added Tax Act
23	Businesses offering exported services	<p>Exported services, i.e. services rendered by a ‘person’ resident in</p>	Value Added Tax Act

		<p>Nigeria to a 'person' resident outside Nigeria, will be exempt from VAT whether the service is rendered within or outside of Nigeria.</p> <p>* This service will not be VAT exempt if it is rendered to the 'fixed base' or 'permanent establishment' of the non-resident person.</p> <p>This exemption also implies that if a Nigerian resident provides digital solutions/ services, albeit useable in Nigeria by the person or company resident outside Nigeria, such service or goods will not be subjected to VAT.</p>	
24	Nigerian companies collecting loans from or entering into other financing arrangements with foreign related parties or connected persons.	<p>Interest payment on loans to the foreign connected persons in any year, is now restricted to 30% of earnings before interest, taxes, depreciation and amortization, positioning the Nigerian business for better health and survival.</p> <p>This inadvertently introduces thin capitalization rules to the Nigerian tax law.</p>	Companies Income Tax Act
25	POS merchants and e-commerce businesses selling items worth less than N10,000, each.	These businesses would not be exposed to the multiple N50 debits that would have accrued (according to the amended law) on every deposit or payment into their bank accounts (each time their products are purchased through POS or online platforms).	Stamp Duties Act
26	All persons stamping instruments	Stamp duty of N50 per third party bank deposit and any other stamp duty paid and receipted, will now be applied as credit against any duty	Stamp Duties Act

		applicable on their subsequent stamped instruments.	
27	Persons earning compensation for loss of office	Any payment for compensation for loss of office that is N10,000,000 and below, will now be exempt from Capital Gains Tax (CGT).	Capital Gains Tax Act
28	Persons making contributions to pension funds	Contributions to pension and retirement benefits funds are now outrightly exempted from personal income tax, without any further conditions as was the case before the amendment of the law.	Personal Income Tax Act
29	Employees earning gratuity	There will no longer be any tax on gratuities paid to employees in the private sector. The amended Personal Income Tax Act has now expressly exempted such gratuity payment from tax without any further conditions attached. This exemption was existing before now though, but only through an Executive Order.	Personal Income Tax Act
30	Persons or businesses objecting to tax assessments	Objections to tax assessments can now be made via email too, not only through submission of formal letters.	Personal Income Tax Act
31	Manufacturers of excisable goods	The Finance Act provides a landscape for better competitiveness by local manufacturers of excisable goods, by also subjecting importation of the same goods to excise duty.	Customs and Excise Tariff Etc. (Consolidation) Act.