Nigeria

Capital city :
Abuja

Language :
English

GDP/capita 2018 :
USD 2,028

Telephone code :
+234

Area :
923,768 km^2

Political system :
Federal republic

Currency :
Naira

National day :
1 October

Population :
203,452,505

ISO Code :
NGA

Nigeria

1. Companies Income Tax

1.1 Taxes on entities

In Nigeria, incorporated entities are companies are subject to Companies Income Tax on their profits from all sources. There is no group taxation but the profits of a company is subject to corporation tax. A company may also be liable to Value Added Tax on the supply of VATable goods and services. All companies, except for companies operating in the oil and gas sector, are within the scope of Nigeria's Corporation Tax.

1.2 Residence and non-residence

Resident company is any company incorporated under the Companies and Allied Matters Act in Nigeria. Resident companies are liable to Companies Income Tax on their worldwide income subject to relief for taxes suffered overseas under the provisions of a relevant Double Taxation Treaty where eligible. Non-resident company is a company that is not incorporated in Nigeria but which derives income or profits from Nigeria. Non-resident entities are liable to Companies Income Tax on Nigerian source income. Where actual profits cannot be determined, the Federal Inland Revenue.

Service (FIRS) may apply a deemed profit rate on turnover derived from Nigeria. In practice, profit is deemed at 20% which is then taxed at the income tax rate of 30%, resulting in an effective tax of 6% of turnover. The FIRS issued a notice for non-resident companies to commence filing their tax returns on actual basis effective 1 January 2015. Detailed guidelines have not been provided.

1.3 Tax year and filing

The fiscal year in Nigeria is from 1 January to 31 December but all companies will file a return based on their own financial year. No corporate tax return period can be below or exceed 12 months except when a company commences business, changes its accounting date or ceases operations. In each case, the tax authority will permit a reporting period that is higher or lower than 12 months.

Generally a corporate tax return must be filed no later than 6 months after the company's 12 months financial year except for a new corporation. For new companies, the due date is the earlier of eighteen (18) months from the date of incorporation or six (6) months after the end of its accounting period. Nigeria's Corporate Tax system operates a self-assessment regime whereby a taxpayer will correctly calculate the tax liability, pay the self-assessed amount and file returns on or before the due date without demand from the tax authority.

Under self-assessment, the tax authority can allow a company to pay tax in instalments, if the tax authority approves a taxpayer's application for payment in instalment.

1.4 Types of income

The taxable corporate profit is based on the entity's accounting profit subject to certain tax adjustments. Profits for Corporation Tax purposes include profits accruing in, derived from, brought into or received in Nigeria.

Expenses that are "wholly, reasonably, exclusively and necessarily" incurred for the company's operations may be deductible against turnover. In addition, there are limited deductions for certain charitable donations.

There are some expenses which are prohibited by statute: specifically, no deduction is permitted for any type of depreciation and amortisation. Capital allowances for specified classes of qualifying capital expenditure are provided as an alternative to accounting depreciation.

Nigeria has anti-avoidance provisions for "thin capitalisation of companies". That is, where there is deemed to be excessive borrowing to finance a company and there are also transfer pricing regulations for cross border transactions and related-parties transactions.

A provision can be made for bad and doubtful debts but only on a specific basis.

1.5 Group income and group taxation

Nigerian tax laws do not contain provisions for consolidating accounts for group taxation.

1.6 Losses

Trading losses may be used against total profits arising in the same tax year. Trading losses may also forward indefinitely against profits arising from the same trade.

The restriction on carried forward trade losses for insurance companies changed in January 2020 with increased tax equity to allow life and non-life companies carry forward losses indefinitely.

1.7 Exemptions

Capital gains arising on the disposal by a company of a “substantial” sharehol- ding in another trading company are generally exempt from corporation tax pro- vided certain conditions are met throughout a continuous 12-month period star-

ting not more than six years before the date of disposal The exemption applies provided the company in which the shares are held is a trading company and the investing company has at least 10% of the subsidiary company. The investing company must be a trading company as well or there must be a trading group in existence both before and immediately after the disposal, although this condi- tion may be relaxed if the disposing company is liquidated within a reasonable e time after the date of the disposal. Various other conditions can apply.

1.8 Rates

Companies Income Tax (CIT) rate is on a progressive scale and varies according to a company’s turnover. For small enterprises, the CIT rate is 0% while me- dium-sized companies will pay CIT at a rate of 20%. Large companies liable to CIT will continue to pay at 30%.

1.9 Double tax relief

A credit is given for withholding taxes on dividends, interest and royalties.

Foreign source income is not exempt from tax in Nigeria but relief will normally be available under the terms of a relevant Double Taxation Treaty of which the UK has a large number and even if there is no relevant treaty Unilate- ral Relief can usually be claimed for taxes suffered outside the UK.

Dividends received by a UK company from an overseas company are not gene- rally taxable on UK companies since 1 April 2009, unless the overseas company is located in a fiscal jurisdiction which the UK Tax Authorities regard as having a defined “unacceptably lower“ rate of corporation or equivalent local taxation.

2. Petroleum Profit tax

2.1 Introduction

Petroleum Profit tax (PPT) is levied on the income of companies engaged in upstream petroleum operations.

2.2 Rates

PPT rate varies from 50% to 85% depending on the nature of contract as follows.

For petroleum operations under Production Sharing Contracts (PSC), the rate is 50%

For non PSC operation in its first 5 years during which the company has not fully amortized all pre-production capitalized expenditure, the PPT rate is 65.75%.

For petroleum operations carried out under a Joint Venture (JV) arrangement with the Nigerian National Petroleum Corporation (NNPC) or any traditional oil concession after 5 years, the PPT rate is 85%.

Gas income is taxable at CIT rate of 30%

Deductible expenses and Incentives

Chargeable profit is profit of the company after deducting expenses and recognising certain incentives. They include

- Dividend distribution is not liable to withholding tax
- Graduated royalty rates and lower PSC tax rates to encourage offshore production investment allowances

Unlike CIT computation, a taxpayer can treat Tertiary Education Tax as a deductible expense in determining PPT computation Taxpayer can claim capital allowance on gas investment against crude oil income at the higher PPT rate.

Tax filing

Companies in the upstream petroleum sector are required to file their returns of estimated tax within two months into a new accounting year and commence payment of tax in a 12-month instalments pending determination of the actual profits at the year-end.

Both estimated and final taxes are computed in US dollars and payment made in US dollars in accordance with returns filed.

3. Tertiary Education Tax

Rates

Resident companies in Nigeria are required to pay tertiary education tax (TET) at the rate of 2% of the company's assessable profit. Non-resident companies and unincorporated businesses such as sole proprietorship, etc. are exempt from TET.

Tax filing

Tertiary education tax (TET) return is payable within 60 days of an assessment notice from the Federal Inland Revenue (FIRS). In practice, many companies pay TET on a self-assessment basis together with their companies income tax (CIT) or PPT. TET is an allowable deduction for companies that operate in the upstream petroleum sector. This category of businesses pays petroleum profit tax and TET is a deductible expense under the Petroleum Profit Tax Act.

4. Personal income taxation

4.1 Taxes on personal income

Personal Income Tax in Nigeria covers the taxation of employees, sole traders, individuals, partners, communities, families, trustees. Income Tax is chargeable on salary, wages, fees, allowance, gain or profit arising from employment.

Employment income is liable to tax when a person becomes resident. Taxation of employment income is generally paid under a "Pay as You Earn" system of Withholding Tax. The employer is the authorized agent for withholding and remitting the appropriate PAYE tax to the relevant tax authority.

The profit of a trade, profession or vocation is liable to tax in Nigeria regardless of the period such a trade, profession or vocation has been carried on.

There are also social security contributions such as pension contribution, contribution to the National Health Insurance Scheme, National Housing Fund which are mainly paid by employers and employees.

4.2 Residence and non-residence

Residence in Nigeria is determined according to a set of residency rules. The residency rule ascertains whether the income of taxpayer is liable to Nigerian tax. A resident person is liable to tax on his/her global income, that is, income accruing in, derived from, brought into or received in Nigeria. An individual is a resident person in Nigeria if the:

- employee works fully (or partially) in Nigeria or
- employer is in Nigeria or
- employer has a fixed base in Nigeria.

A non-resident individual is a person who is not domiciled in Nigeria or who stays in Nigeria for less than 183 days but derives income or profits from Nigeria. A non-resident person becomes liable to tax from the day (s)he commences to carry on a trade, business, vocation, or profession in Nigeria. However, (s)he is liable to PAYE tax when (s)he becomes resident.

4.3 Tax year and filing

The tax year is from 1 January to 31 December.

In general, every employer must file an annual employer tax return by 31 January of the year following.

The tax return system for PIT is one of "self-assessment". If it is not filed on time then penalty for late submission of NGN 500.000 will apply.

4.4 Chargeable income

Income is separated into the following categories:

- employment;
- self-employment;
- savings and investments, including dividends and property rental income;
- unearned income

Employment income includes all wages, salaries, benefits, and these sources are generally also subject to the Pay as You Earn regime for deducting income tax at source.

Benefits in kind are taxable on employees. There are deductions for pension contributions to an approved fund up to certain annual and lifetime allowance limits. Travel expenses for genuine business travel are tax free but otherwise the reimbursement of personal expenses and benefits is taxable in full.

Self-employment income is subject to Income Tax on the commercial profits of the business carried on by the individual. Partnership profits are subject to Income Tax on each partner on their share of profits.

Income from savings and investment covers interest on deposits, company dividends and rental income and is subjected to the same rates of Income Tax as employment and self-employment income.

4.5 Losses

Trading losses arising from the operation of a business can be relieved against other general income in the year of the loss and the preceding year and can also be carried forward against profits arising from the same trade indefinitely. In certain defined circumstances trading losses can also be claimed against capital gains arising in the same year of the trading loss.

4.6 Exemptions

There are no exemptions in respect of personal income taxation.

4.7 Allowances and rates

A basic income deduction is allowed as a personal allowance against an individual's income for each tax year. A part year resident is entitled to the full personal allowance. There are certain extra deductions for carrying on a business.

4.8 Social security

Social Security Contributions, (known as National Insurance in the UK), are payable at 12% on "earned income" by individuals between 16 and 65. There are different rates for employees and the self-employed. The contributions are payable once a certain income threshold is exceeded and at a reduced level of 2% above an upper threshold.

Additionally employers also have to make 13.8% contributions in relation to all their employees' income above a lower threshold.

4.9 Expatriates

Employers may be able to use certain PAYE relaxations for non-residents coming to work for them from overseas provided they are only "short term" residents and meet certain very specific conditions.

Individuals leaving the UK to work full time overseas may qualify for complete exemption from UK income tax provided they meet certain conditions.

4.10 Partnerships

Partnerships are taxed directly in the individual partners' hands and not on the partnership itself. Also, partnerships are required to file tax returns annually disclosing the income and tax paid for each individual partner.

4.11 Pensions

Pension contributions to an approved pension fund are exempt from Personal Income Tax. When the pension is paid it is taxed as earned income. Pension contributions are tax deductible against an individual's taxable. Excessive contributions annually and during an individual's lifetime can carry punitive income tax charges in defined circumstances.

5. Value Added Tax

5.1 Registration

Upon commencement of a business, a taxable person is required to register for Value Added Tax (VAT) with the Federal Inland Revenue Service. Businesses with an annual turnover of below NGN 25.000.000 are exempt from VAT but will register for VAT immediately the annual turnover exceeds the threshold of NGN 25.000.000.

5.2 Rates

The normal rate of Value Added Tax (VAT) is 7.5% on the supply of VATable goods and services except zero-rated or exempt items.

Exempt items

- Non-oil exports
- Goods and services purchased by diplomats
- Goods purchased for humanitarian donor-funded projects

Zero-rated items

- Oil exports

- Medical and pharmaceutical products
- Basic food items
- Books and educational materials
- Baby products
- Plants, machinery and good imported for use in the export processing zones or free trade zones
- Plant, machinery and equipment purchased for utilization of gas in downstream operations
- Tractors, plough and agricultural implements purchased for agricultural purposes
- All exported services
- Medical services
- Services rendered by community banks and mortgage institutions
- Plays and performances by educational institutions as part of learning
- Plant, machinery and equipment (including steel structures) for the manufacture of cement and allied products
- Vegetable oil
- Motorcycle/Bicycle and the spare parts
- Corporate bonds and government securities

Deduction of VAT at source

The following companies are required to deduct VAT at source on the amount payable and remit same to the FIRS:

- Oil and gas companies
- Governments, ministries, departments, and agencies
- Local businesses for amounts payable to non-resident entities
- Local businesses for payment to agents, dealers, distributors, and retailers

Tax Filing

A duly completed VAT return must be submitted on or before the 21st day of the month following the month of transaction.

Penalty

- Failure to register for VAT: NGN 10,000 for the first month and NGN 5,000 for every subsequent month
- Failure to remit VAT: 5% per annum of the amount of tax not remitted plus interest at bank lending rate.
- Failure to submit returns: Fine of NGN 5,000 for every month in which failure continues.

Deregistration

A taxable person that permanently ceases trade is required to notify FIRS of its intention to deregister for tax purposes within 90 days of cessation of business.

6. Other taxes

Other important taxes include:

- Stamp Duty ,

Capital gains tax (CGT)

CGT is payable on chargeable gains arising from the disposal of chargeable assets. The CGT law applies a rate of 10% applies to individuals and companies. All foreign currency and property are chargeable assets. Other types of char- geable assets are options, debts and incorporeal property excluding private mo- tor vehicles. Losses incurred upon the disposal of a chargeable asset are not deductible from other chargeable gains for the purposes of computing capital gains tax.

Gains arising from the disposal of the following are exempt from capital gains tax:

- securities issued by the Nigerian government;
- stocks and shares;
- decorations awarded for valour or gallant conduct;
- life assurance policies;
- chattels sold for NGN 1,000 or less;
- assets acquired by way of gift which are subsequently disposed of by way of gift;
- investment in superannuation funds, statutory provident funds and retirement benefit schemes;
- assets devolving upon death;
- securities in a unit trust scheme, provided the proceeds are re-invested;
- gains arising from the acquisition of the shares of a company as a result of a merger, takeover or acquisition, provided that no cash payment is made in respect of the shares acquired;
- gains accruing to local government councils and statutory corporations; and
- gains accruing from the disposal of chargeable assets by ecclesiastical, charitable or educational institutions of a public character, statutory or registered friendly societies and registered co-operative societies, and trade unions, provided that such gains do not arise from the disposal of assets acquired

in connection with any trade or business, nor from the disposal of an interest possessed by the corporation in a trade or business carried on by some other person, and are applied purely for the purposes of the organisation, institution or society.

Where the proceeds from the disposal of an asset are used for purposes of financing the acquisition of a similar asset, the person making such disposal may apply to be treated as if the transaction has resulted in neither a gain nor a loss, provided that where the consideration received upon disposal exceeds the consideration paid for the acquisition of a replacement asset, the amount of that excess will be subject to capital gains tax.

Information Technology (IT) Levy

IT levy of 1% of profit before tax is payable by certain companies with an annual turnover of NGN 100 million and above. Companies covered are GSM service providers, telecommunications companies, cyber companies, internet service providers, pension managers and related companies, insurance companies, banks and other financial institutions. The amount paid is a deductible expense in calculating the companies income tax. FIRS is the relevant tax authority for IT levy.

Nigeria Police Trust Fund Levy

An annual levy of 0.005% of a company’s net profit is payable to the Nigeria Police Trust Fund. The contribution will be used to improve security services in the country.

Niger Delta Development Commission Levy

Niger Delta is a major region for oil production in Nigeria which is fraught with ecological problems. Oil and gas companies are thus required to pay 3% of their annual budget to the Niger Delta Development Commission (NDDC). Contributions to NDDC will be used to solve ecological problems in the region.

CONSUMPTION TAX

The Hotel Occupancy and Restaurant Consumption Law imposes consumption tax at 5% on the value of goods and services consumed in hotels, restaurants and event centre. Consumption tax is payable to the relevant State Internal Revenue Service and the tax is prominent in Lagos State.

CUSTOM AND EXCISE DUTIES

Customs duties are payable on goods coming into Nigeria at varying rates from 5% to 35% of import value. Excise duty is a charge on the production, sale or use of certain locally produced goods.

STAMP DUTIES

Stamp duty is the tax payable on documents as a form of agreement or transaction between two or more persons. The rate could be fixed or variable depending on the type of transaction. Examples of transactions that require stamp duty in Nigeria are incorporation of companies, increase in the authorised share capital of a company, and conveyance of property. Payment is payable to FIRS upon stamping of instruments.

LOCAL TAXES

Each local government area in 36 states of the country is authorized to collect local taxes. Local taxes include motor vehicles' license; consent fees for transfer of property in real estate; property tax; gaming/casino tax; water rates etc. Local Councils impose tenement rates and several other fees. There are no provincial and local taxes on income.

There was a notional withholding tax of 10% on dividends up until 5 April 2016 bit thereafter this has ceased. Interest and royalties are not generally subject to withholding taxes unless paid to an individual by a company or to an overseas lender.

Maureen OMODIAGBE

Contact

Bomes Resources Consulting
James Odimgbe cresent, Isolo,
Lagos state, Nigeria
Tél. +234 803-423-6675
maureen@bomesresourcesconsulting.com
www.bomesresourcesconsulting.com
Maureen Omodiagbe