RECOVERY OF OUTSTANDING TAXES FROM TAXPAYERS.

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Introduction

The Federal Inland Revenue Service ("FIRS") on December 1, 2020, issued a public notice titled “Public Notice on the Recovery of Outstanding Taxes from Taxpayers” (the “Notice”). In the Notice, the FIRS disclosed that all waivers of penalties and interest on outstanding taxes from desk examinations, audit exercises, investigations or all other forms of tax assessment will be concluded on December 31, 2020.

Waiver of Interests and Penalties for Outstanding Tax Debts

The series of waivers of penalties and interest due on outstanding taxes constituted part of the palliative measures introduced by the FIRS to cushion the economic and financial losses suffered by corporate taxpayers as a result of the Covid-19 pandemic and the #EndSARS protest, and to support such taxpayers in the satisfaction of their tax obligations (Please see our earlier updates on the palliative measures introduced by the FIRS at https://covid-19.uubo.org/wp-content/uploads/2020/04/INTERIM-PALLIATIVE-MEASURES-INTRODUCED-BY-NIGERIAN-TAX-AUTHORITIES-TO-MINIMISE-THE-IMPACT-OF-THE-COVID-19-PANDEMIC-ON-TAXPAYERS.pdf; and https://covid-19.uubo.org/wp-content/uploads/2020/05/Interim-Palliative-Measures-FIRS-waives-interest-and-penalties-on-outstanding-tax-liabilities-for-certain-taxpayers.pdf). The first waiver was introduced on April 30, 2020 and was in respect of all interest and penalties payable on outstanding tax debts arising from desk reviews, tax audits, or tax investigations by the FIRS, where such tax debt was paid in full on or before May 31, 2020. On November 4, 2020, the FIRS provided a second window of penalty and interest waiver on tax debts. The conditions for the additional waiver were (i) the outstanding tax debts must have resulted from self-assessments or government assessments arising from desk audit, field audit or investigation; and (ii) the principal portion of the outstanding liabilities must have been paid up in full latest by December 31, 2020.

While the waivers of penalties and interests are commendable, the FIRS observed that some taxpayers have yet to take advantage of the palliatives. Consequently, the FIRS has stated that at the expiration of the waiver period on December 31, 2020, every outstanding tax debt shall be subject to the applicable penalties and interest.

The applicable penalties and interest as contained in the Federal Inland Revenue Service (Establishment) Act 2007 (the “Act”) include –

(a) a sum equal to 10% of the amount of tax payable;
(b) interest at the prevailing minimum rediscount rate of the Central Bank of Nigeria ("MPR") plus a spread to be determined by the Minister of Finance from the date when the tax becomes payable until it is paid ("Spread") for Naira remittances; and

(c) interest at the prevailing London Interbank Offered Rate or the prevailing MPR, depending on which is higher, plus a Spread for foreign currency remittances.

The FIRS further stated that it is prepared to use all methods at its disposal in accordance with the provisions of the extant laws to recover all outstanding debts with penalties and interest. This includes “the power of substitution” contained in Section 31 of the Act, by which the FIRS may appoint any person to be the agent of a taxable person, and which agent will be required to offset the tax obligations of that taxable person from money held by such agent.

**Conclusion**

Affected taxpayers are encouraged to take advantage of the palliative measures introduced by the FIRS before the deadline of December 31, 2020. The palliative measures are for the benefit of the taxpayer and will reduce the burden of satisfying tax obligations in these challenging economic times.

This update is for general information purposes only and does not constitute legal advice. If you have any questions or require any assistance or clarification on how this update could apply to you or your business, or require tax advice on any aspect of the Nigerian tax laws, please contact taxteam@uubo.org.