

# THE NEW FACE OF VAT IN NIGERIA - AN UPDATE ON THE FINANCE ACT 2020



## Introduction

The Finance Act 2020 (the “FA 2020”/ “the Act”) was signed into law on 31st December, 2020 and took effect from 1st January 2021. The Act introduced changes to 14 (fourteen) different laws, including the major tax laws which had initially been amended by the Finance Act 2019. Notable among these changes are the amendments made to the Value Added Tax Act<sup>1</sup> (the “VAT Act”), which have effectively broadened the tax base whilst retaining the same tax rate of 7.5%.

## Highlights of Changes to the VAT Act

In our previous publication titled [“The New Face of VAT in Nigeria: What Nigerian Businesses and Consumers Should Know”](#), we reviewed the changes introduced by the Finance Act of 2019 to the VAT Act. These changes, which were far reaching, included an increase in the VAT rate from 5% to 7.5%; the introduction of eligibility thresholds for exemption from VAT; the introduction of a self-charge mechanism and a reverse-charge regime; application of VAT to asset transfers between related parties; establishment of the destination principle; and the expansion of the scope of taxable services and supplies. In this article we focus on two further amendments that were made to these changes, considering their implications on cross border transactions and their effect on the tax base for VAT in Nigeria.

## “Supply” to Include Consumption and Utilisation

Under the VAT Act, tax is charged and payable

on the supply of all goods and services in Nigeria other than those listed in the first Schedule to the VAT Act. The Finance Act 2020 has modified this provision, first by stating that tax shall be charged and payable on all supplies of goods and services in Nigeria, and also by expanding the scope of what constitutes “supplies” to include goods and services consumed or otherwise utilised in Nigeria. Furthermore, the FA 2020 amends the VAT Act by broadening the circumstances under which a taxable supply would be deemed to have taken place in Nigeria.

Prior to the enactment of the FA 2020, a taxable supply was deemed to be made in Nigeria if:

- a in respect of goods:
  - i. the goods are physically present in Nigeria at the time of supply, imported into Nigeria for use by a person, assembled in Nigeria, or installed in Nigeria, or
  - ii. the beneficial owner of rights over the goods is a taxable person in Nigeria, and the goods or right is situated, registered, or exercisable in Nigeria; and
- b in respect of services, where services are rendered by a person in Nigeria or by a person who is physically present in Nigeria or if the services are provided to a person in Nigeria, regardless of whether the services are rendered within or outside Nigeria.

The FA 2020 now states in respect of services,

<sup>1</sup>(Chapter V1) Laws of the Federation of Nigeria 2004 (as amended)

<sup>2</sup> Section 2