UDO UDOMA & BELO-OSAGIE

TAX UPDATE

A COMMENTARY ON THE FINANCE ACT 2019: WHAT HAS CHANGED?

Nigeria's tax statutes have, for the most part, become obsolete. The extant provisions have proved inadequate in addressing various novel tax issues that continue to arise in the 21st century. This was one of the reasons for the enactment of the Finance Act 2019 ("Finance Act" or "Act") which came into effect on 13th January 2020. The key objectives of the Finance Act include:

(a) promoting fiscal equity by mitigating instances of regressive taxation;

(b) reforming domestic tax laws to align with global best practices;

(c) introducing tax incentives for investment in infrastructure and capital markets;

(d) providing tax support to small businesses, etc.

To achieve these objectives, the Finance Act amends some provisions of the key tax laws. We have highlighted below the major amendments and their implications for businesses.

A. Amendments to the Companies Income Tax Act 2004 (as amended)

1. Classification of companies into three categories

The Act has now classified companies into three categories for the purpose of companies income tax. These are:

(a) small companies – those with an annual gross turnover of N25 million and below;

(b) medium-sized companies – those with an annual gross turnover of over N25 million but less than N100 million; and large companies – those with an annual turnover of over N100 million.

On what constitutes turnover, the Act provides that gross turnover means the gross inflow of economic benefits (cash, receivables, other assets) arising from the ordinary operating activities of a company, including sales of goods, supply of services, receipt of interest, rents, royalties or dividends. The capital assets of a company will not be taken into consideration in the determination of turnover.

Small companies are exempted from paying companies income tax. Such companies must still register with the Federal Inland Revenue Service ("FIRS") and file tax returns.

It is currently unclear whether small companies are also exempted from paying tertiary education tax as the Finance Act did not amend the relevant provisions of the Tertiary Education Trust Fund (Establishment, etc.) Act 2011 ("TETF Act"). TETF Act imposes tertiary education tax at the rate of 2% on the assessable profits of companies registered in Nigeria – and these companies include small companies. The assessable profits of a non-oil and gas company is required to be ascertained in accordance with the provisions of the Companies Income Tax Act 2004 (as amended) ("CITA"). The TETF Act provides that the FIRS shall, when assessing any company to companies income tax for an accounting period, to also assess that company to tertiary education tax. Given that small companies are exempted from paying companies income tax under the CITA, will the FIRS still assess them to tertiary education tax at the rate of 2% of their assessable profits? The FIRS will need to provide clarification on this.

Medium-sized companies are subject to companies income tax at a reduced rate of 20% of taxable profits. Large companies are liable to companies income tax at the rate of 30% of taxable profits. Both medium-sized and large companies are liable to also pay tertiary education tax at the rate of 2% of assessable profits.

Consequently, the effective rate for companies income tax payable by a company in Nigeria is now dependent on its annual turnover for the relevant year of assessment.

2. Bonus for early payment of tax

Taxpayers that discharge their respective tax obligations and file tax returns at least 90 days before the due date are entitled to a bonus of 2% and 1% of the tax paid for medium-sized companies and large companies respectively. Under the CITA, companies are required to file their tax returns within 6 months of their accounting year end. Newly incorporated companies are, however, required to file their tax returns within 18 months of incorporation or not less than 6 months after their accounting year end, whichever is earlier.

3. Taxation of non-resident companies

The Finance Act amends the provision of the CITA to, among other things, implement some part of the Base Erosion and Profit Shifting initiatives as proposed by the Organisation for Economic Corporation and Development ('OECD'). Consequently, the Finance Act expanded the basis for imposing companies income tax on non-resident companies to cover entities that have a significant economic presence ('SEP') in Nigeria through digital services and services rendered outside Nigeria to a Nigerian beneficiary.

Pursuant to the above amendment, non-resident companies that transmit, emit or receive signals, sounds, messages, images or data of any kind to Nigeria in respect of any activity, including electronic commerce, online adverts, online payments, etc., and have SEP in Nigeria are to be taxed on the profits attributable to such activity in Nigeria. Although SEP is not defined in the Act, the Minister of Finance (the "Minister") is empowered under the Act to, by an executive order, determine what would constitute SEP for a non-resident company. As at the date of this update, the Minister is yet to issue such order.

In addition, if the trade or business

© 2020 Udo Udoma & Belo-Osagie

of a non-resident company comprises the furnishing of technical, management, consultancy or professional services outside of Nigeria to a person resident in Nigeria and the non-resident company has a significant economic presence in Nigeria, the profit can be attributable to such activity. The tax withheld on the fees for such services shall be the final tax on the income in Nigeria.

4. Elimination of the risk of local double taxation - excess dividend tax

The Finance Act eliminates the risk of double taxation associated with the controversial 'excess dividend tax rule' under section 19 of the CITA. The Act expressly provides that the payment of dividends from income earned through any of the following sources will not trigger the excess dividend tax rule:

(a) dividends paid out of the retained earnings of a company. Provided that the dividends are paid out of profits that have been subjected to tax under the CITA, the Petroleum Profits Tax Act 2004 (as amended) ("PPTA"), or the Capital Gains Tax Act 2004 (as amended) ("CGTA");

(b) dividends paid out of profits that are exempted from income tax by any provision of the CITA, the Industrial Development (Income Tax Relief) Act 2004, the PPTA, the CGTA or any other legislation;

(c) profits or income of a company that are regarded as franked investment income under the CITA; and

(d) distributions made by a real estate investment company to its shareholders from rental income and dividend income received on behalf of those shareholders.

The above exemption applies whether or not such dividends are paid out of profits of the year in which the dividend is declared, or out of profits of previous reporting periods.

The above changes will enable companies to pay dividends from retained earnings, franked investment income, tax exempt profits /incomes etc. The provisions will also encourage the setting up of holding companies in Nigeria. Unlike in the past when such holding companies would have been worried about the application of the excess dividend tax rule to the redistribution of dividends to shareholders, they no longer have cause to worry as the risk has been removed.

5. Minimum Tax

Minimum tax is now imposed on companies at the rate of 0.5% of gross turnover, less franked investment income. Small companies are exempted from minimum tax. Other than those exempted, any Nigerian company with no taxable profits, or with taxable profits that are less than the minimum tax, will be liable to pay the minimum tax.

Prior to the enactment of the Finance Act, Nigerian companies with at least 25% foreign equity investment were exempted from paying minimum tax. This exemption has now been withdrawn.

In relation to insurance companies, the Act requires that the tax payable by an insurance company in any year of assessment shall not be less than: (a) 0.5% of the gross premium for non-life insurance businesses; and (b) 0.5% of gross income for life insurance businesses.

6. No full tax exemption on interest payments on foreign loans

Before the enactment of the Finance Act, if a loan was structured to have a term of seven years plus one day and a grace period of at least two years on the payment of both interest and principal, 100% of the interest payment by the Nigerian borrower to the foreign company (lender) was completely exempted from withholding tax ('WHT') in Nigeria, and the Nigerian borrower would have no obligation to withhold tax on such payments. This has now been reduced to a maximum of 70% by the Finance Act. The tax exemptions applicable to interest payments on foreign loans under the Act are now as follows:

Repayment Period	Grace Period including Moratorium	Tax Exemption Allowed
Above 7 years	Not less than 2 years	70%
5 - 7 years	Not less than 18 months	40%
2 - 4 years	Not less than 12 months	10%
Below 2 years	Nil	Nil

The Finance Act defines:

(a) "Repayment Period" to mean the agreed term of a loan facility; and

(b) "Moratorium" to mean a period at the beginning of a loan term during which the borrower is not expected to make any principal or interest repayments. Where

(I) the loan is repaid before the expiration of the term; or

(ii) any principal or interest repayments are made during the moratorium period, the tax exemptions provided by the Act will be adjusted by the FIRS in a proportionate manner.

What that means is that the tax exemption applicable to the foreign loan will be adjusted to the next lower rate of exemption or will be lost, whichever is applicable.

7. Real estate investment companies

Prior to the enactment of the Finance Act, the CITA did not have provisions dealing with the taxation of real estate investment companies. The uncertainty of the tax treatment of real estate investment companies as investment vehicles for real estate development stifled the needed growth in the Nigerian real estate market. The Finance Act has now amended the CITA to include a definition of a real estate investment company ("REIC") as a company duly approved by the Securities and Exchange

This update is for general information only and does not constitute legal advice. © 2020 Udo Udoma & Belo-Osagie

Commission ("SEC") to operate as a real estate investment scheme in Nigeria.

The Act exempts rental and dividend income received by REICs on behalf of their shareholders from companies income tax. This exemption only applies where a minimum of 75% of such income is distributed within 12 months of the end of the financial year in which the dividend or rental income was earned. A REIC will become liable to tax on dividend and rental income that is not distributed to its shareholders within 12 months. REICs are excluded from the application of the excess dividend tax rule. A REIC is liable to pay tax on management fees, profits or other income earned for and on its own account.

The provisions of the CITA relating to WHT on dividends do not apply to a company or person making any distribution or dividend payment to a real estate investment company. This exemption does not, however, exempt a real estate investment company from deducting tax at source from the dividend it distributes to its own shareholder.

8. Regulated Securities Lending Transaction

In order to address the tax issues that were affecting regulated securities lending transactions, the Finance Act introduced definitions for dividend to include compensating payments received by a lender from its approved agent or a borrower in a regulated securities lending transaction. The underlying transaction giving rise to the compensating payment must be a receipt of dividend by a borrower on any shares or securities received from its approved agent, or a lender in a regulated securities lending transaction.

Interest, on the other hand, is defined to include compensating payments received by a borrower from its approved agent or a lender in a regulated securities lending transaction. The underlying transaction giving rise to the compensating payment must be in relation to a receipt of interest by a lender on the collateral it received from its approved agent or a borrower in a regulated securities exchange transaction.

The provisions of the CITA relating to WHT on dividends do not apply to:

(a) a borrower making compensating payments to its approved agent or to a lender, provided that such payments qualify as dividends under the Act; and

(b) an approved agent making compensating payments received from a borrower, which qualify as dividends under the Act, to a lender.

In addition, the provisions of the CITA on WHT on interest payments will not apply to a lender when making compensating payments (which would ordinarily qualify as interest payments under the Act). This is where a lender pays compensating payments (which are due to a borrower in a regulated securities lending transaction) to an approved agent for ultimate payment to the borrower. This does not, however, exempt the approved agent from the WHT provisions that apply to interest payments when making the same payments to the borrower, nor does it exempt the lender from deducting tax when making the payments directly to the borrower.

9. Carry forward of losses

Unlike in the past when it was limited to four years, insurance companies are now permitted to carry forward their losses indefinitely. The Act also removes the previous restrictions on deductible claims and outgoings to percentage of total premium and deductible unexpired risk and introduction of time-apportionment basis for insurance companies.

10. Bank account must be linked to TIN

The Finance Act imposes an obligation on Nigerian banks to request for Tax Identification Numbers ("TIN") from their corporate customers prior to their opening or operating an existing account. In relation to an existing account, the TIN must be linked to the account within three months from the commencement of the Act.

11. Minister's approval for management agreements

The Finance Act removes the requirement for ministerial approval for expenses incurred in relation to management services agreements before such expenses become tax-deductible. The implication of this is that companies that are parties to management services agreements no longer require ministerial approval or the approval of the National Office for Technology Acquisition and Promotion before such management fees are tax deductible. Such expenses or fees must, however, meet the test of being "wholly, reasonably, exclusively and necessarily" incurred in the production of the company's profits.

In relation to related parties as defined under the Transfer Pricing Regulations, any expense incurred within or outside Nigeria will be tax deductible only if the transaction in respect of which the expenses were incurred is consistent with the requirements of the Transfer Pricing Regulations.

Regarding agreements (such as management, technical services, consultancy etc agreements) between related parties, if a company can demonstrate that the fees payable to a related party under such agreements are wholly, reasonably, exclusively and necessarily incurred in the production of its profit, such fees will be treated as tax-deductible expenses. This has, however, not dispensed with the requirement of NOTAP approval to access the official foreign exchange market in order to pay such fees to non-resident persons.

12. Simplification of the commencement and cessation rules

In determining the tax payable in the commencement and cessation of business, the Finance Act provides new rules for computing basis periods for new businesses and businesses ceasing operation. The Act requires that such determination be made on an "actual year basis" for computing basis period during commencement and cessation periods. This eliminates the incidence of double taxation that was occasioned under the previous rules.

13. Deduction of interest on related parties loans as a deductible expense

In line with the OECD's BEPS Action 4, the Finance Act also introduces restrictive interest deductibility rules on loans

granted to Nigerian companies by foreign connected persons. Under the Act, the deductibility of interest payments made by Nigerian companies to foreign connected parties on debts is restricted to 30% of Earnings before Interest Tax Depreciation and Amortisation ("EBITDA") in each accounting period. Interest payments in excess of 30% of EBITDA in each accounting period will be treated as a disallowable deduction for the purpose of computing the Nigerian company's income tax liability.

Furthermore, the deduction from profit of any interest not fully utilised in a year of assessment is now restricted to a maximum period of 5 years from the year in which the unutilised interest expenditure was first computed.

The Finance Act defines debts in wide terms to mean any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discount or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession. This definition covers different types of financing arrangements which foreign connected persons could enter into with Nigerian companies.

Connected person is defined widely to mean

(I) any person controlled by or under common control, ownership or management;

(ii) any person who is not connected but receives an implicit or explicit guarantee or deposit for the provision of corresponding or matching debt; or

(iii) any related party as described under Nigerian transfer pricing regulations.

These interest deductible rules do not apply to a Nigerian subsidiary of a foreign company that is engaged in banking or insurance business in Nigeria. In addition, the rules do not apply to interest payments made by Nigerian companies to Nigerian-connected parties.

The penalty for a violation of the above provisions is 10% plus interest at the Central Bank of Nigeria's monetary policy rate plus a spread. The spread will be determined by the Minister.

14. Reorganisation of related companies

The Finance Act now requires that for the sale or transfer of assets in a restructuring involving related companies (where one company has control over the other or both are controlled by some other person or are members of a recognised group of companies) in the context of section 29(9) and (12) of the CITA, the companies must have been in that relationship for a consecutive period of at least 365 days prior to the date of reorganisation to be entitled to the applicable tax benefits.

The tax benefits conferred on the companies engaged in the restructuring include

(a) having the assets deemed to have been disposed of at their tax written down value (i.e., at book value);

(b) the acquiring/ surviving company will be able to utilise the unutilised capital allowances and unabsorbed losses in respect of the assets;

(c) exemption of the assets transferred from VAT; (d) commencement rule will not apply to the surviving entity; and

(d) exemption of any gains which may have been deemed realised by the transferor (or entity to be dissolved in a merger) from capital gains tax.

The Finance Act now requires that the assets transferred under a transaction described above must not be disposed of within 365 days after the date of the transaction. If disposed of within that period, the applicable tax benefits will be withdrawn and the companies shall be treated as if they did not qualify for the tax benefits as at the date of the initial reorganisation.

15. Tax holiday for companies engaged in agricultural business

In line with the government's desire to encourage investment in the agricultural sector of the economy, the Act introduced a tax holiday of up to 8 years for companies engaged in agricultural production – an initial period of five years and, subject to satisfactory performance, renewable for another maximum three years – making a total of eight years. The Act does not define what constitutes agricultural production. The FIRS may issue guidelines that could provide clarity on the types of agricultural activity(ies) that should be classified as agricultural production.

16. Disallowed expenses for deduction from profits

The Act now expressly provides that the following are not deductible expenses:

(a) any expense incurred in deriving tax-exempt income, losses of a capital nature and any expense allowable as a deduction under the Capital Gains Tax Act for the purpose of determining chargeable gains;

(b) any compensating payment made by a borrower, which qualifies as dividends to its approved agent or to a lender in a regulated securities exchange transaction;

(c) any compensating payment made by an approved agent, which qualifies as interest or dividends under the Act, to a borrower or lender in a regulated securities exchange transaction;

(d) any penalty prescribed by any Act of the National Assembly for violation of any statute; and

(e) any taxes or penalties borne by a company on behalf of another person.

B. Amendments to the Value Added Tax Act, 2004 (as amended)

1. Increase in rate and description of the supply of goods and services

The Finance Act increased the rate for value added tax from 5% to 7.5% which is payable on the supply of all goods and services in Nigeria other than those specifically exempted in the Act. Goods and services are regarded to be supplied in Nigeria for the purpose of the tax if, in respect of:

(a) 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 the rights in or over the goods is a taxable person in Nigeria and the goods or right thereof is situated,

This update is for general information only and does not constitute legal advice. © 2020 Udo Udoma & Belo-Osagie

registered or exercisable in Nigeria.

(b) Services:

(I) the services are rendered in Nigeria by a person physically present in Nigeria at the time of service provision; or

(ii) the services are provided to a person in Nigeria, regardless of whether the services are rendered within or outside Nigeria.

The Finance Act has now introduced the destination principle as a rule to make services supplied by an offshore person to a person resident in Nigeria VATable in the country pursuant to the Value Added Tax Act, 2004 (as amended) (the "VAT Act"). The same rule applies to goods if the recipient of such goods is a taxable person in Nigeria and the good or right is situated, registered or exercisable in the country.

2. Transactions with non-resident persons and VAT

A non-resident company that carries on business in Nigeria is required to register for VAT with the FIRS, using the address of the person with whom it has a subsisting contract, as its address for the purposes of correspondence relating to VAT only. Such a non-resident company is required to include the tax on its invoice for the supply of taxable services and the person to whom the services are supplied in Nigeria shall withhold the tax and remit same directly to the FIRS in the currency of payment.

3. Small companies exemption

Small companies with 25 million revenue threshold are exempted from charging VAT and from filing VAT returns.

4. Related parties restructuring and VAT

The sale or transfer of assets in a restructuring involving companies (where one company has control over the other or both are controlled by some other person or are members of a recognised group of companies and have been so for a consecutive period of at least 365 days prior to the date of re-organisation) is now exempted from VAT under the VAT Act. The Finance Act, however, requires that the assets transferred under a transaction described above must not be disposed of within 365 days after the date of the transaction. If disposed of within that period, the VAT exemption will be withdrawn and the companies shall be treated as if they did not qualify for the tax benefit as at the date of the initial reorganisation. This means that VAT will not be imposed on the transfer of goods if the parties meet the prescribed conditions.

5. Expansion of the meaning of goods and services

The definition of goods and services that are subject to VAT under the VAT Act has been expanded by the Finance Act. 'Goods' are now defined to mean

(a) all form of tangible properties that are movable at the point of supply, excluding money or securities; and

(b) any intangible product, asset or property over which a person has ownership or rights, or from which he derives benefits, and which can be transferred from one person to another excluding interest in land.

Specifically, the definition of goods to include intangibles it then means that the assignment/ transfer of incorporeal properties such as intellectual property rights, contractual rights, debt instruments, shares and royalties will now be liable to VAT. In relation to shares and securities, although they qualify as goods under the definition of the word, it is currently unclear whether the government has actual intention to impose VAT on the sale of shares and securities. The definition of tangibles to exclude money or securities may be a drafting error as they are not tangibles and that exclusion would only have been appropriate in the definition of intangibles. There is a need for the Federal Government of Nigeria to clarify this point.

'Services' are now defined as anything other than goods, money or securities which are supplied excluding services provided under a contract of employment. This is a broad definition which extends to any form of services except those expressly exempted. The Finance Act has also made it clear that the supply of taxable goods or services is liable to VAT as it defines taxable supplies to mean any transaction for the sale of goods or performance of a service for consideration in money or money's worth.

6. Redefinition of exported services for VAT exemption

In addition, the Finance Act redefines “exported service” as “a service rendered within or outside Nigeria by a person resident in Nigeria, to a non-resident outside Nigeria, provided that a service provided to the fixed or permanent establishment of a non-resident person shall not qualify as exported services.” What this means is that for a service to qualify as an exported service the recipient of such service must not be resident in Nigeria. Consequently, a service rendered by a Nigerian resident to a third-party (resident in Nigeria) on behalf of, or for the benefit of, a non-resident company would not qualify as an exported service. Services provided to a fixed base or permanent establishment in Nigeria are not exported services.

7. Exempted goods and services

The Finance Act also expands the list of items exempted from VAT to include brown and white bread; cereals including maize, rice, wheat, millet, barley, and sorghum; fish of all kinds; flour and starch meals; fruits, nuts, pulses and vegetables of various kinds; roots such as yam, cocoyam, sweet and Irish potatoes; meat and poultry products including eggs; milk; salt and herbs of various kinds; natural water and table water; locally manufactured sanitary towels, and tuition.

Services rendered by microfinance banks and primary mortgage institutions, school fees, etc. are also exempted from VAT.

C. Changes to the Personal Income Tax Act 2004 (as amended)

1. By virtue of the amendment by the Finance Act, the list of deductible expenses under the Personal Income Tax Act 2004 (as amended) (the "PITA") has been expanded to include contributions made to a pension fund, provident or other retirement benefits fund, society or scheme. Consequently, such contributions should not be included in determining a person's taxable income.

2. Banks are now obliged to require customers who operate bank accounts for their business operations to provide a TIN as a requirement for opening and maintaining bank accounts. This requirement is, however, not applicable to

This update is for general information only and does not constitute legal advice. © 2020 Udo Udoma & Belo-Osagie

bank accounts used for personal and non-business related purposes.

3. A new amendment to the PITA pursuant to the Act allows taxpayers to object to an income tax assessment by a notice of objection in writing, delivered in person, by courier service or via electronic mail. This means that taxpayers can now validly dispute their income tax assessments issued by tax authorities via email or other electronic means to the relevant tax authority.

D. Amendments to the Capital Gains Tax Act 2004

1. The Finance Act amends the existing exemption on the payment of capital gains tax on gains realised from disposal of assets in a take-over or business reorganisation within a recognised group of companies or among companies that have the same persons controlling them. The relevant provision is to the effect that the capital gains tax exemption shall only apply where these companies have been 'related' for a period of at least 365 days before the transfer or sale of the assets. In addition, such assets must not be resold by the acquiring company within 365 days from the date of such restructuring, otherwise the tax benefit will be withdrawn. Capital gains tax will not be imposed on any gains that may be deemed to have been realised by the transferring entity if the parties meet the prescribed conditions.

2. The Finance Act, while retaining the provision exempting compensation for loss of employment from capital gains tax, limits this exemption to such compensation which is below N10 million. If the compensation for loss of office exceeds N10 million, capital gains tax will apply as appropriate. Compensation for loss of office, however, remains exempt from personal income tax under the PITA.

E. Amendment of the Petroleum Profit Tax Act 2004

1. The Finance Act deletes the provisions of the Petroleum Profit Tax Act 2004 ('PPTA') that exempted dividends paid out of profits derived from petroleum operations from WHT. Effectively, from the commencement date of the Act, companies engaged in petroleum operations under the PPTA are required to withhold tax when paying dividends to their shareholders.

2. Going forward, investors in companies engaged in petroleum exploration and production will now have tax withheld on their dividends. The applicable rate of withholding will be 10% but if the investor is resident in a country with which Nigeria has an effective double taxation agreement, the rate will be reduced to 7.5%. It is not clear yet whether the tax withheld on the dividends will be the final tax on the income in Nigeria. This is because, unlike the CITA which expressly provides that the tax withheld on dividends paid by non-petroleum exploration and production companies is the final tax on that income in Nigeria, there is no similar provision in the Petroleum Profit Tax Act 2004.

F. Changes to the Stamp Duties Act 2004

1. The Finance Act makes provisions for documents in relation to electronic transactions to be liable to stamp duties by defining instruments to include written documents and electronic documents.

2. The Act does not define what constitutes electronic documents. For instance, there is no indication on whether the term will apply to originals of physical documents which are converted into PDF format and sent to counterparties by electronic means. The absence of a definition of 'electronic documents' or the criteria that will determine when a document should be considered to be "electronic" creates an ambiguity that needs to be addressed.

   There is an ongoing debate on the extent of the application of the definition of instruments to include electronic documents and whether that now means that original documents executed offshore with PDF copies sent to someone in Nigeria will not become liable to stamp duty, even when the original has not been received in Nigeria. We are aware of instances where people have argued that the definition clearly covers online documents for electronic transactions (such as electronic bank receipts) of which physical originals do not exist anywhere else. The jury is still out on this.

3. Electronic receipts, point of sale transactions or electronic transfer of money deposited with any bank on any type of account of an amount above N10,000.00 is liable to a one-off stamp duty of N50.00. Money paid or transferred by a person into his own account in the same bank is not liable to any stamp duty payment.

4. In addition, the Finance Act exempts share, stock, or securities transfers by a lender to its approved agent or a borrower and documents issued thereto in furtherance of a regulated securities lending transaction from payment of stamp duty. This is with a view to encourage the growth and development of securities lending business in Nigeria.

G. Change to the Customs and Excise Tariffs (Consolidation) Act 2004

1. The Finance Act amended the 5th Schedule of the Customs and Excise Tariffs (Consolidation) Act 2004 to expand the goods liable to excise duties to include imported goods – in addition to those manufactured in Nigeria.

2. The section excludes goods that are not locally produced in Nigeria and raw materials that are not locally available in Nigeria. This exclusion applies to goods that have no locally manufactured alternatives and raw materials for production that cannot be sourced locally.

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 the changes would apply to you or your business or require tax advice on any aspect of the Nigerian tax laws, please contact taxteam@uubo.org.

Lolade Ososami
Partner, Tax
lolade.ososami@uubo.org

Joseph Eimunjeze
Partner, Tax
joseph.eimunjeze@uubo.org

Mojisola Jawando
Senior Associate
mojisola.jawando@uubo.org

This update is for general information only and does not constitute legal advice. © 2020 Udo Udoma & Belo-Osagie