



THE SENATE
FEDERAL REPUBLIC OF NIGERIA

2023 FINANCE BILL

A BILL
FOR
AN ACT TO AMEND RELEVANT TAX, EXCISES AND DUTY
STATUTES IN LINE WITH THE MACROECONOMIC POLICY
REFORMS OF THE FEDERAL GOVERNMENT; TO AMEND AND TO
MAKE FURTHER PROVISIONS IN SPECIFIC LAWS IN
CONNECTION WITH THE PUBLIC FINANCIAL MANAGEMENT OF
THE FEDERATION

FIRST READING

TUESDAY 20TH DECEMBER, 2022

SECOND READING

TUESDAY 20TH DECEMBER, 2022

THIRD READING

TUESDAY 28TH DECEMBER, 2022

FINANCE BILL 2023



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Citation and Commencement Date

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AN ACT TO AMEND RELEVANT TAX, EXCISES AND DUTY STATUTES IN LINE WITH THE MACROECONOMIC POLICY REFORMS OF THE FEDERAL GOVERNMENT; TO AMEND AND TO MAKE FURTHER PROVISIONS IN SPECIFIC LAWS IN CONNECTION WITH THE PUBLIC FINANCIAL MANAGEMENT OF THE FEDERATION.

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows :

{ } Commencement.

1. Amendment to Section 3

Chargeable Assets

Section 3(a) of the Capital Gains Tax Act is amended by inserting the phrase "digital assets" after the word "debt", as follows –

"Subject to any exceptions provided by this Act, all forms of property shall be assets for the purposes of this Act, whether situated in Nigeria or not, including-

1. options, debts, digital assets and incorporeal property generally;"

PART I - Capital Gains Tax Act (CGTA)

2. Amendment to Section 5

Exclusion of Losses

Section 5 of the Capital Gains Tax Act is amended by substituting the existing section 5 with a new section 5 as follows –

"5 (1) In computation of chargeable gains under this Act, the amount of any loss which accrues to a person on the disposal of any asset shall be deductible from gains accruing to the person disposing that asset, provided that such loss shall only be deductible against the same type of asset; and

(2) Where the aggregate capital losses by any taxable person in a tax year exceeds the aggregate chargeable gains, such loss may be carried forward for deduction from chargeable gains arising from the disposal of the same type of asset in the following year and so on, provided that such losses shall only be carried forward for a maximum of five years immediately succeeding the year in which the loss was incurred."

3. Amendment to Section 31

Replacement of business assets

Section 31 of the Capital Gains Tax Act is amended in subsection (6) by inserting after "Class 4 – Goodwill" a new "Class 5", as follows –

(6) The class of asset for the purpose of this section are as follows-

Class 1 – Assets within the head A and B below

A. Except where the trade is a trade of dealing in or developing land, or of providing services for the occupier of land in which the person carrying on the trade has an estate or interest -

(a) any building or part of a building and any permanent or semi-permanent structure in the nature

of a building, occupied (as well as used) only for the purposes of the trade; and

(b) any land occupied (as well as used) only for the purposes of the trade.

B. Fixed Plant or machinery which does not form part of the building or of a permanent or semi-permanent structure in the nature of a building.

Class 2 – Ship

Class 3 – Aircraft

Class 4 – Goodwill

“Class 5 – Shares and Stocks (provided, however, that for the purposes of the application of roll-over relief for shares pursuant to Sections 30 and 31 of this Act), the proceeds from qualifying disposals must be reinvested within the same year of assessment in the acquisition of eligible shares in the same or other Nigerian companies).”

Companies Income Tax Act (CITA)

4. 4. Amendment to Section 14

*Companies engaged
in shipping or air
transport*

Section 14 of the Companies Income Tax Act is amended by –

(a) Inserting a new subsection (4) as follows:

“(4) Notwithstanding the provisions of any other section of this Act, where any company files tax returns under the provisions of subsection (3) of this section and does not provide a separate financial statement of the Nigerian operations, for the purpose of filing its tax returns, such company shall submit detailed gross revenue statements of its Nigerian operations, showing the amount of full sums receivable during the period, certified by one of the company’s directors as well as their company’s external auditor and supported with all invoices issued to the relevant customers.”

(b) Renumbering the existing subsections accordingly.

(c) Inserting a new subsection (7) as follows:

Regulatory agencies in the shipping and air transport and other relevant sectors shall mandate all companies taxable under the provisions of subsection (1) of this section to present the following:

(a) Evidence of income tax filing for the preceding tax year; and

(b) Tax Clearance Certificates, showing income taxes paid for the three preceding tax years, in order to continue to carry on business in Nigeria or obtain any relevant approvals and permits.

5. Amendment to Section 32

*Reconstruction
Investment
Allowance*

Section 32 of the Companies Income Tax Act is hereby deleted, provided that a company that has incurred capital expenditure on plant and equipment on or before the effective date of this repeal shall continue to enjoy the allowance under this section until it is fully utilised.

6. Amendment to Section 34

*Rural Investment
Allowance*

Section 34 of the Companies Income Tax Act is hereby deleted provided that a company that has incurred qualifying capital expenditure on or before the effective date of this repeal shall continue to enjoy the allowance under this section until it is fully utilised.

7. Amendment to Section 37

*Incomes in
Convertible
Currencies to be
Exempt*

Section 37 of the Companies Income Tax Act is hereby deleted provided that a company that has set aside reserved funds shall continue to enjoy the exemption until the funds are fully utilised or the five years limit has elapsed whichever occurs first.

8. Insertion of Section 39A

*Gas Production and
Utilisation*

The Companies Income Tax Act is amended by inserting a new section 39A as follows –

Medium and large companies engaged in the commercial winning, capture, production and utilisation of associated and non-associated gas shall be allowed an investment allowance at the rate of: –

(a) 10% of the qualifying capital expenditure in the assessment year in which the company attains a cumulative production of 300 billion cubic feet and every year thereafter, for Non-Associated Gas fields

(b) 5% of the qualifying capital expenditure in the assessment year in which the company attains a cumulative production of 300 billion cubic feet and every year thereafter, for Associated Gas fields.

9. Amendment to Section 40

Rates of Tax

Section 40 of the Companies Income Tax Act is amended by replacing the existing section 40 with a new section 40), as follows –

(1) There shall be levied and paid for each year of assessment in respect of total profits of every Company, tax as follows, in the case of a-

(a) Small company, tax as provided under section 23 (1) (o) of this Act;

(b) Medium-sized company, tax at the rate of 20 kobo for every Naira;

(c) Large company, tax at the rate of 30 kobo for every Naira; and

(d) Gas-flaring company, tax at the rate of 50 kobo for every naira.

(2) Notwithstanding anything to the contrary, where an upstream petroleum operations company that is either yet to complete the conversion process as provided under section 92 of the

Petroleum Industry Act or for any other reason is not liable to Companies Income Tax in a year of assessment flares gas, such company shall be liable to pay the tax pursuant to subsection 1(d) above;

- (3) The amount to be subjected to tax at the rate specified in subsection (1)(d) for such Gas-flaring Company that is not otherwise liable to Companies Income Tax shall be the market value of the gas flared or vented by such company, determined by reference to the pricing principles established by sections 167 and 168 of the Petroleum Industry Act; and
- (4) Nothing in this section shall be deemed to subject a Gas-flaring Company that flares gas due to an emergency in accordance with section 104 of the Petroleum Industry Act, 2021 or any law replacing that statute to subsection 1(d) of this section."

10. Amendment to Section 105

Interpretation

Section 105 of the Companies Income Tax Act is amended by inserting a new definition for "Gas-flaring Company" as follows –

"Gas-flaring Company" means any medium-sized or large company that vents or flares any associated or non-associated natural gas in any year of assessment, unless such flaring is proven by that company to be in the case of an emergency in accordance with Section 104 of the Petroleum Industry Act, 2021 or any law replacing that statute"

11. Amendment to Second Schedule to CITA

*Second Schedule to
CITA, Paragraph
18(3)
Investment allowance*

Paragraph 18(3) of the Second Schedule of the Companies Income Tax Act is hereby deleted provided that a company that has incurred capital expenditure on plant and machinery on or before the effective date of this repeal shall continue to enjoy the allowance until it is fully utilised.

12. Amendment to Second Schedule to CITA

*Second Schedule to
CITA, Paragraph
18(7)
Investment allowance*

Paragraph 18(7) of the Second Schedule of the Companies Income Tax Act is hereby deleted provided that a company that has incurred capital expenditure for the purposes of agricultural plant and equipment on or before the effective date of this repeal shall continue to enjoy the allowance under this section until it is fully utilised.

13. Amendment to Second Schedule to CITA

*Second Schedule to
CITA, Paragraph 24(7)*

The second schedule to the CITA is amended by replacing section 24(7) with a new section 24(7) as follows:

*Manner of making
allowances and
charges*

24(7) In giving effect to the provisions of sub paragraph (2) of this paragraph, the amount of capital allowances to be deducted from assessable profits in any year of assessment shall not exceed sixty six and two thirds of a percent of such assessable profit of a company, but any company engaged in upstream and midstream gas operations as described in the Petroleum Industry Act or the Petroleum Profit Tax Act or the Agro Allied Industry or which is engaged in the trade or business of

manufacturing shall not be affected by the restriction under this sub paragraph;
Provided that the value of any asset on which capital allowance is to be claimed under this Second Schedule shall be reduced by the amount of any investment tax credits claimable by such company.

Customs, Excise, Tariff etc (Consolidation) Act (CETA)

14. Amendment to Section 13 of CETA

Section 13 CETA is hereby amended by introducing a new subsection (4) as follows –

“(4) In addition to extant customs duties and other approved charges, a levy of 0.5% is hereby imposed on all eligible goods imported into Nigeria from outside Africa to finance capital contributions, subscriptions and other financial obligations to the

African Union, African Development Bank, African Export-Import Bank, ECOWAS Bank for Investment and Development, Islamic Development Bank, United Nations and other multilateral institutions as may be designated by regulation issued by the Minister responsible for Finance.”

*Section 13
Power to impose, vary
or remove any import
duty and to amend the
Schedules*

15. Amendment to Section 21 of CETA

Section 21(2) of the CETA is hereby amended as follows –

“(2) All services, including but not limited to telecommunication services, provided in Nigeria shall be charged with duties of excise at the rates specified under the duty column in the Schedule as the President may by Order prescribe pursuant to section 13 of this Act”.

*Goods liable to
Excise Duty*

16. Amendment to Section 22 of CETA

Section 22 of the CETA is hereby amended as follows –

“(1) This Act may be cited as the Customs, Excise Tariff, etc. (Consolidation) Act.

(2) The Customs, Excise Tariff, etc. (Consolidation) Act is hereby repealed.

(3) "Minister" means the Minister charged with responsibility for matters relating to finance, including the responsibility for the supervision of the Tariff Review Board.

(4) "Tariff Review Board" means the Board charged by the Minister with the responsibility for the review of customs and excise tariff, etc. in this Act.”

*Citation, repeals and
interpretation*

Federal Inland Revenue Service Establishment Act (FIRSEA)

17. Amendment to Sections 1, 3, 63, 69 and 70.

The Act Federal Inland Revenue Service (Establishment) Act (FIRSEA) is amended by substituting for the term “Federal Inland Revenue Service”, the term “Federation Revenue Service” wherever it occurs, particularly in -

(a) Long and short title;

(b) Sections 1, 3, 63, 69, 70;

(c) The schedules to the Act; and

(d) Any Order, Regulation, Circular or Notice issued pursuant to the Act.

18. Amendment to Sections 3

The Federal Inland Revenue Service (Establishment) Act is amended by substituting for Section 3, a new section 3 as follows:

*Establishment &
Composition of the
Board of Nigeria
Revenue Service*

3 – Establishment and Composition of the Governing Board

- (1) There is established for the Service a board to be known as the Nigeria Revenue Service Board (in this Act referred to as “the Board”) which shall have overall supervision of the Service as specified in this Act.
- (2) The Board shall consist of –
 - a) the Chairman of the Board, who shall have a wealth of experience in Taxation, Accountancy and Fiscal Policy, to be appointed by the President;
 - b) six members who shall be appointed by the President to represent each geopolitical zone; provided that, at least, one member possesses relevant qualifications and wealth of experience in Taxation or Fiscal Policy, Human Resource Management, Information Technology or Data Analytics, Law and Accountancy;
 - c) the Commissioner-General of the Service;
 - d) a Commissioner of the Service who is responsible for revenue operations or compliance function;
 - e) the Commissioner of the Service who is responsible for general or support services;
 - f) The following other Ex-Officio members:
 - i. a representative of the Minister of Finance not below the rank of a Director;
 - ii. a representative of the Attorney-General of the Federation not below the rank of a Director;
 - iii. the Governor of the Central Bank of Nigeria or his representative not below the rank of a Deputy Governor;
 - iv. the Chairman of the Revenue Mobilisation, Allocation and Fiscal Commission or his representative who shall be a Commissioner representing one of the States of the Federation;
 - v. the Comptroller-General of the Nigeria Custom Service or his representative not below the rank of Deputy Comptroller-General;
 - vi. the Chief Executive of the Nigerian Upstream Petroleum Regulatory Commission or his representative not below the rank of an Executive Commissioner; and
 - vii. the Registrar-General of the Corporate Affairs Commission or his representative not below the rank of a Director;
- (3) The Chairman and members of the Board, except the Commissioner-General and the Commissioners, shall serve on part-time basis.
- (4) The supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters mentioned therein.

19. Amendment to Sections 9

Establishment of the
Technical Committee
of the Board

Section 9 of the Act is amended by substituting its provisions with the following new section 9:

9 – Establishment of Technical Committee of the Board

(1) There shall be a technical committee of the Board (in this Act referred to as “the Technical Committee”) which shall consist of—

- (a) the Commissioner-General as Chairman;
- (b) all the Commissioners of the Service;
- (c) two members of the Board of the Service;
- (d) the Legal Adviser of the Service;
- (e) the Director in charge of Tax Policy matters;

(2) The Secretary to the Board shall be the secretary to the Technical Committee.

(3) The Technical Committee may co-opt from the Service such director or officer as it may deem necessary for the effective performance of its functions under this Act.

20. Amendment to Sections 11

The Commissioner-
General of the
Service

The Act is amended by replacing the existing Section 11 with a new section 11, as follows:
provisions:

11 – Commissioner-General of the Service

The Commissioner-General shall —

- (a) be appointed by the President subject to the confirmation of the Senate;
- (b) be the chief executive and accounting officer of the Service;
- (c) shall hold office for a term of 5years renewable for another term of 5years and no more;
- (d) be responsible for the execution of the policies and the day-to-day administration of the Service;
- (e) have relevant qualification, knowledge, skills and experience in accountancy, economics, taxation or law and related fields

have his remuneration and allowances, from time to time, determined by the Board in consultation with the National Salaries, Incomes and Wages Commission.

21. Insertion of Sections 11A

Commissioners of the
Service

FIRSEA is amended by inserting a new Section 11A immediately after Section 11, as follows:

11A – Commissioners of the Service

The Board shall, on the recommendation of the Management, appoint no more than 8 Commissioners for the Service.

The Commissioners shall each be experienced in tax administration and must have attained the rank of director in the Service.

At least, one Commissioner shall be appointed from each Geo-Political Zone of Nigeria.

A Commissioner shall-

be the head, and be responsible for the day-to-day administration of a functional group in the Service; and perform all such duties or functions as may, from time to time, be required of him by the Board or Management of the Service.

Notwithstanding the provisions of subsection 4, a director of the Service shall act on behalf of a Commissioner in his absence or a vacancy.

Provided that the Management and Board of the Service shall ensure that a vacancy occurring in the post of a Commissioner is filled not later than 6 months from the date it first occurred.

A Commissioner's appointment is for a term of 3 years which may be renewed for another term of 3 years and no more.

A Commissioner's remuneration shall be determined by the Board.

A Commissioner shall, save as provided in this Act, be subject to the terms and conditions of appointment.

Notwithstanding the provisions of subsection 6, a Commissioner shall cease to hold office as a Commissioner of the Service if –

he resigns his appointment as Commissioner by a notice, under his hand, addressed to the Chairman;

he becomes of unsound mind;

he is convicted of a felony or any offence involving dishonesty or corruption;

he becomes incapable of carrying on the functions of his office either arising from an infirmity of mind or body;

the Board is satisfied that it is not in the interest of the Service or in the interest of the public for the person to continue in office, and the Board removes him from office; or

in the case of a person possessing a professional qualification, he is disqualified by a competent authority.

"Functional group", for the purposes of this section, means a group of departments, divisions or units functionally related and aligned with the aim of performing a given function or set of functions relevant to the delivery of the organisational goals.

22. Insertion of Sections 16, 22, 28, 30, 36, 51, 53, 54, 55, 56, 58, 60, 65, 67, and 69

The Act is amended by substituting the term "Executive Chairman" with the term "Commissioner-General" wherever it occurs, particularly in–

(a) Sections 16, 22, 28, 30, 36, 51, 53, 54, 55, 56, 58, 60, 65, 67, 69;

(b) The schedules to the Act; and

Any Order, Regulations or Circulars issued pursuant to the Act

Sections 16, 22, 28, 30, 36, 51, 53, 54, 55, 56, 58, 60, 65, 67, 69
Replacement of "Executive Chairman" with "Commissioner-General"

23. Amendment to Sections 32

Section 32 of the FIRSEA is amended in subsection 3 by substituting the word "Board" with the word "Service" to read:

(3) The Service may, for any good cause shown, remit the whole or any part of the addition due under subsection (1) of this section

Section 32(3)
Remission of Penalty or Interest

24. Amendment to Sections 64

Other savings and transitional provisions.

Section 64 of FIRSEA is amended by inserting new subsections (7) and (8) as follows:

- (7) Notwithstanding anything in this Act—
- (a) The "Nigeria Revenue Service" shall be vested with all powers, rights, functions, obligations, and other acts in the stead of the Federal Inland Revenue Service;
 - (b) anything done or purported to have been done by the former Service, Board, Technical Committee or Executive Chairman shall continue to subsist as though this Act has not been enacted, and such action or purported action shall be deemed to have been taken by the current Service, Board, Technical Committee, Chairman or Commissioner-General as the context admits;
 - (c) the person holding the post of the Executive Chairman of the Service until the enactment of this Act shall continue as Commissioner-General on the basis of this Act, provided that the number of years, he has served as the Executive Chairman shall be taken into cognizance for the purposes of establishing his tenure as Commissioner-General;
 - (d) A member of the Board who was appointed before coming into effect of this Act shall serve out his tenure subject to the terms and conditions of the original appointment and such tenure will be counted for the purposes of establishing the number of tenures the Board member has served.
 - (e) All the rights and obligations previously vested on the Executive Chairman of the Service, except as it relates to his role as the Chairman of the Board, are hereby transferred to the Commissioner-General;
- (8) For the purposes of this section —
- a. "former Service, Board, Technical Committee" refers to the Service, Board and Technical Committee before the coming into effect of this Act;
 - b. "Former Chairman" refers to the Executive Chairman before the coming into effect of this Act.
 - c. "Current Service" means the Nigeria Revenue Service,
 - d. "Current Board, Technical Committee" refers to the Board and Technical Committee constituted under this Act;

Personal Income Tax Act (PITA)

25. Amendment to Sections 33

Personal relief and relief for children, dependants, etc.

Section 33 of the Act is hereby amended by substituting for subsection (3), a new subsection (3), as follows —

"(3) Subject to section 17(1) of this Act, there shall be allowed a deduction of the annual amount of any premium paid by the individual during the year preceding the year of assessment to an insurance company in respect of:

- (i) insurance on his life or the life of his spouse, or

(ii) contract for a deferred annuity on his own life or the life of his spouse;

Provided that any portion of the deferred annuity that is withdrawn before the end of 5 years from the date the premium was paid, shall be subject to tax at point of withdrawal."

Petroleum Profit Tax Act (PPTA)

26. Amendment to Section 2

Interpretation

"Section 2 of the PPTA is amended by inserting, after the definition of "chargeable tax" the definition of "Commission" as follows –

"Commission" means the Nigerian Upstream Petroleum Regulatory Commission, established under the Petroleum Industry Act, 2021.

27. Amendment to Sections 10

Deductions

Section 10 PPTA is amended by –

(a) Inserting a new paragraph (n) as follows –

"(n) any amount contributed to a fund, scheme or arrangement approved by the Commission for the purpose of decommissioning and abandonment, subject to the production of the Statement of Account of the decommissioning and abandonment fund:

Provided that the surplus or residue of the fund after decommissioning and abandonment of the field shall be subject to tax under this Act;"

and

(b) Renumbering the section accordingly.

28. Amendment to Sections 23

*Additional Chargeable
Tax payable in certain
circumstances*

Substitute for section 23, a new section "23" as follows –

"(1) Where, for any accounting period of a company, the amount of the chargeable tax for that period, calculated in accordance with the provisions of this Act other than this section, is less than the amount mentioned in subsection (2) of this section, the company shall be liable to pay an additional amount of chargeable tax for that period, equal to the difference between those two amounts.

(2) The amount referred to in subsection (1) of this section is, for any accounting period of a company, the amount which the chargeable tax for that period, calculated in accordance with the provisions of this Act, would come to, if the reference in section 9(1)(a) and (b) of this Act to the proceeds of sale were a reference to the amount obtained by multiplying the number of barrels of that crude oil determined at the measurement point by the fiscal oil price per barrel.

(3) For the purpose of subsection (2), the total value of the chargeable oil for a company shall be the sum of the multiplications of volume and fiscal oil price as established by the Commission at the measurement point.

- (4) The whole of any additional chargeable tax for crude oil payable by a company by virtue of this section for any accounting period shall be payable concurrently with the final instalment of the chargeable tax payable for that period.
- (5) Where there is no fiscal oil price established for a crude oil stream, the Commission shall establish fiscal oil price for such stream and every fiscal oil price per barrel established shall bear a fair and reasonable relationship –
- (a) to the established fiscal oil price of Nigerian crude oil streams of comparable quality and specific gravity; or
- (b) where there are no such Nigerian crude oil streams of comparable quality and specific gravity, it shall bear a fair and reasonable relationship to the official selling prices at main international trading centres for crude oil of comparable quality and gravity, due regard being had in either case to freight differentials and other relevant factors.
- (6) Where a particular company's chargeable oil is exported from Nigeria or sold locally by another company, that chargeable oil for the purpose of this section shall be deemed to be exported from Nigeria or sold by that particular company."

29. Amendment to Sections 30

Section 30 of the PPTA is amended by Substituting for section 30 of PPTA a new section 30, as follows –

*Preparation and
Delivery of Accounts
and Particulars*

- "(1) Every company engaged in petroleum operations shall for each accounting period of the company make up accounts of its profits or losses and prepare the following particulars for the purpose of determining Petroleum Profits Tax –
- a. a statement of accounts of its profits or losses;
 - b. computation of its actual adjusted profit or loss and actual assessable profits of that period;
 - c. in connection with the Second Schedule to this Act, a schedule showing –
 - (i) the residues at the end of that period in respect of its assets,
 - (ii) all qualifying petroleum expenditure incurred by it in that period,
 - (iii) the values of any of its assets disposed of in that period, and
 - (iv) the allowances due to it under that schedule for that period;
 - d. a computation of its actual chargeable profits of that period;
 - e. a statement of amounts repaid, refunded, waived or released to it, referred to in section 10(2) of this Act, during that period;
 - f. duly completed self- assessment form attested to by the principal officer of the company; and
 - g. evidence of payment of the final instalment.
- (2) Every company engaged in petroleum operations shall with respect to any accounting period of the company and within 5 months after the expiration of that period, deliver to the Service a copy of its accounts, bearing an auditor's certificate, of that period, in accordance with the provisions of subsection (1) of this section and copies of the particulars referred to in subsection (1) of this section relating to that period with the copy of the delivered company accounts and each copy of those particulars, shall contain

a declaration signed by authorised officer of the company or by its liquidator, receiver or the agent of the liquidator or receiver, that the same is true and complete.

- (3) Notwithstanding the provisions of this section, every company which is yet to commence bulk sales or disposal of chargeable oil, shall file with the Service its audited accounts and returns –
- a) within 18 months from the date of its incorporation, in the case of a newly incorporated company; and
 - b) within 5 months after any period ending on 31st December of the following year, in the case of any other company, provided that where there is an interval between 31st December of the preceding year and the date on which the company commences the bulk sale or disposal of chargeable oil or condensate, the interval shall be deemed to form part of the preceding period.

(4) A company which fails to comply with the provisions of subsection (2) or (3) of this section is liable to pay as penalty for late filing –

- a) N10,000,000 on the first day the failure occurs;
- b) N2,000,000 for each and every subsequent day in which the failure continues; or
- c) other sum as may be prescribed by the Minister of Finance by Order published in the Gazette.”

30. Amendment to Sections 51

Penalties for Offences

Substitute for section 51, a new Section “51,” as follows –

(1) A person who fails to comply with the provisions of this Act or any Regulations made under this Act for which no other penalty is specifically provided, shall be liable to an administrative penalty of N10,000,000, and where the default continues beyond a period stipulated by this Act or Regulations, the person shall be liable to a further administrative penalty of ~~N~~2,000,000 for each day the default continues or such other sum as may, by Order, be prescribed by the Minister of Finance.

(2) Notwithstanding the provisions of subsection (1) of this section, a person who is found guilty of an offence under this Act or Regulations made under this Act for which no other penalty is specifically provided, shall, upon conviction, be liable to a fine of N20,000,000 or such other sum as may, by Order, be prescribed by the Minister of Finance, or to imprisonment for 6 months or to both fine and imprisonment.

(3) A person who –

- (a) fails to comply with the requirements of a notice served on him under this Act;
- (b) fails to comply with the provisions of section 30 of this Act;
- (c) without sufficient cause fails to attend and answer to a notice or summons served on him under this Act or having attended fails to answer any question lawfully put to him; or
- (d) fails to submit any return required to be submitted under sections 30 or 33 of this Act, shall

be liable to administrative penalty prescribed under subsection (1) of this section or upon conviction, be liable to penalty prescribed under subsection (2) of this section.

(4) Any violation in respect of which a penalty is provided for in subsection (1) and (3) of this section shall be deemed to occur in Nigeria.

31. Amendment to Sections 52

*Penalty for making
Incorrect accounts*

Substitute for section 52, a new Section "52," as follows –

"(1) A person who without reasonable excuse –

(a) makes up or causes to be made up any incorrect accounts by omitting or understating any profits or overstating any Losses of which he is required under this Act to make up accounts;

(b) prepares or causes to be prepared any incorrect schedule or statement required to be prepared under section 30 of this Act by overstating any expenditure or overstating any royalties or other sums or by omitting or understating any amounts repaid, refunded, waived or released; or

(c) gives or causes to be given any false or misleading information in relation to any matter or thing affecting his liability to tax, is liable to an administrative penalty of the higher of the sum of N15,000,000 and 1% of the amount of tax which has been undercharged in consequence of such incorrect account, schedule, statement or information or would have been so undercharged if the account, schedule, statement or information had been accepted as correct, and shall still be liable for the appropriate tax which would have been charged.

- Notwithstanding the provisions of subsection (1) (c) of this section, a person who gives or causes to be given any false or misleading information in relation to any matter or thing affecting his liability to tax commits an offence and upon conviction is liable to a fine of the higher of the sum of N15,000,000 and 1% of the amount of tax which has been undercharged in consequence of such incorrect account, schedule, statement or information, or would have been so undercharged if the account, schedule, statement or information had been accepted as correct and shall still be liable for the appropriate tax which would have been charged.

(2) The Service may compound any offence under this Act by accepting a sum of money not exceeding the maximum fine specified for the offence and shall issue an official receipt for any money so received."

32. Amendment to Sections 53

*False statements and
returns*

Section 53 is amended, as follows –

(i). In subsection (1)(a), by inserting after the word "forges or" the words "fraudulently alters or uses"; and

(ii). In subsection (1)(b) (iii) by replacing, after the word "tax", the phrase:

"shall be guilty of an offence and shall be liable to a fine of ₦1,000 and treble the amount of tax for which the person assessable is liable under this Act for the accounting period in respect of or during which the offence was committed, or to imprisonment for six months or to both such fine and

imprisonment”

With a new phrase:

“shall be liable to an administrative penalty of the higher of the sum of N15,000,000 and 1% of the amount of tax for which the person assessable is liable to under this Act for the accounting period in respect of or during which the act or omission occurred and shall still be liable for appropriate tax which would have been assessed and charged”

(iii). Inserting a new subsection (2) as follows –

“(2) Notwithstanding the provisions of subsection (1) of this section, any person who does any of the acts or makes the omissions contained in subsection (1) of this section, commits an offence, and on conviction, shall, in addition to the appropriate hydrocarbon tax which would have been assessed and charged, be liable to a fine of the higher of the sum of N15,000,000 and 1% of the amount of tax for which the person assessable is liable to under this Act for the accounting period in respect of or during which the offence was committed, or to imprisonment for 6 months or to both the fine and imprisonment”.

33. Amendment to Sections 55

*Penalties for offences
by authorised and
unauthorised persons*

Section 55 is amended in subsection (1) (a), by:

- i) replacing the word “Board” with the word “Service”; and
- ii) replacing, after sub-paragraph (v), the phrase:

“shall be guilty of an offence and be liable to a fine of N600 or to imprisonment for three years or both”

with a new phrase

“commits an offence”

- iii) inserting a new subsection (2) as follows

“(2) A person who commits an offence under subsection (1) of this section shall, on conviction, be liable to a fine equivalent to 200% of the amount of tax unpaid, lost or recoverable or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment”.

Stamp Duties Act (SDA)

34. Amendment to Sections 89

*Electronic Money
Transfer Levy*

Section 89A of the Stamp Duties Act is amended by –substituting for subsection (4), a new subsection (4) as follows –

“(4) Notwithstanding any formula that may be prescribed by any other law, the revenue

accruing by virtue of the operation of this section, shall, on the basis of derivation, be distributed as follows-

- (a) 15% to the Federal Government and the Federal Capital Territory, Abuja;
- (b) 50% to the State Governments; and
- (c) 35% to the Local Governments."

Value Added Tax Act (VATA)

35. Amendment to Sections 7

Administration of the Tax

Section 7 of the VAT Act is amended by inserting new subsections (3), (4) and (5) as follows –

"(3) Where the Service is of the opinion that any disposition is not in fact given effect to or that any transaction which reduces or would reduce the amount of any tax payable is artificial or fictitious, it may disregard any such disposition or direct that such adjustments shall be made as respects liability to tax as it considers appropriate so as to counteract the reduction of liability to tax affected, or reduction which would otherwise be affected, by the transaction and any company concerned shall be assessable accordingly.

(1) For the purpose of this section—

- (a) "disposition" includes any trust, grant, covenant, scheme, agreement or arrangement;
- (b) transactions between persons one of whom either has control over the other or, in the case of individuals, who are related to each other or between persons both of whom are controlled by some other person, shall be deemed to be artificial or fictitious if in the opinion of the Service or other relevant tax authority those transactions have not been made on terms which might fairly have been expected to have been made by persons engaged in the same or similar activities dealing with one another at arm's length.

(2) A taxpayer in respect of which any direction is made under this section, shall have a right of appeal in like manner as though such direction were an assessment.

36. Amendment to Sections 14(3)

Collection of Tax by Taxable Person

Section 14(3) of the VAT Act is amended by replacing it with a new subsection 3, as follows –

"The Service may appoint any person to withhold or collect the tax, and the person so appointed shall, on or before the 14th day of the following month, remit the tax so withheld or collected to the Service in the currency of the transaction"

37. Amendment to Sections 16

Collection of Tax

Section 16 of the VAT Act is amended by inserting a new subsection 3, as follows –

"(3) Where taxable goods imported into Nigeria were purchased through an online electronic or digital platform, operated by a non-resident supplier that has been appointed as agent of the Service for the collection of the tax, the importer shall at the point of clearing such goods, provide proof of such registration or appointment, and such other document as may be required by the Service, and such goods shall not be further subjected to the tax before clearing by the Nigerian Customs Service, pursuant to the necessary coordination on modalities between the Service and the Nigerian Customs Service."

38. Amendment to Sections 46

Interpretation

Section 46 of the VAT Act is amended by replacing the definition of "Building" with a new definition, as follows –

"Building" means any structure permanently affixed to land for all or most of the useful life of that structure and shall include, without limiting the generality of the foregoing, a house, garage, dwelling apartment, hospital and institutional building, factory, warehouse, theatre, cinema, store, mill building and similarly fixed structure affording protection and shelter, but excludes any fixtures or structures that can easily be removed from such land, such as radio and television masts, transmission lines, cell towers, vehicles, mobile homes, caravans and trailers.

Tertiary Education Tax Trust Fund (Establishment etc) Act

39. Amendment to Section 1

Imposition of Tertiary Education Tax

Section 1(2) of the Tertiary Education Tax Trust Fund (Establishment etc.) Act is amended by replacing "2.5%" with "3%".

PART II-- Corrupt Practices and other Related Offences Act (CPORO Act)

40. Amendment to Sections 22

Bribery for Giving Assistance Etc. in Regard to Contracts

Section 22 of the ICPC Act is amended by substituting for subsection (4), a new subsection (4) –

"(4) Any public officer who, in the discharge of his official duties awards or signs any contract without budget provision, administrative approvals and procurement plan, shall be guilty of an offence under this Act and on conviction be liable to three (3) years imprisonment or a fine of ten million Naira."

Public Procurement Act (PP Act)

41. Amendment to Sections 16

Fundamental Principles for Procurement

Section 16 of the Public Procurement Act is amended by substituting for subsection 16(1)(b), a new subsection 16(1)(b) as follows –

"16.— (1) Subject to any exemption allowed by this Act, all public procurement shall be conducted:

...

(b) based only on procurement plans supported by prior budgetary appropriations and no procurement proceedings shall be formalized until the procuring entity has ensured that there is approved procurement plan, subject to the threshold in the regulations made by the Bureau as well as guidelines issued by the Minister of Finance, has obtained a "Certificate of 'No Objection' to Contract Award" from the Bureau.

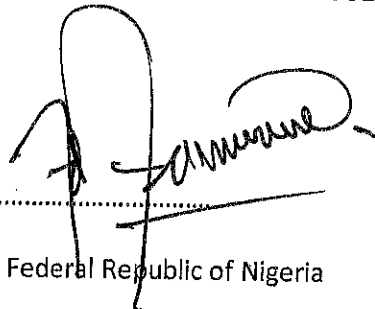
PART III—General

42. (1) This Bill may be cited as the 2023 Finance Bill, 2023.

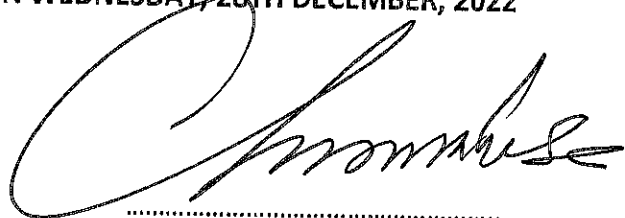
*Citation and
Commencement Date*

(2) The provisions of this 2023 Finance Bill, 2022 shall take effect from 1st January, 2023 or such other date that shall be indicated by the National Assembly by law (or by the President of the Federal Republic of Nigeria by assent or order).

THIS BILL WAS PASSED BY THE SENATE ON WEDNESDAY, 28TH DECEMBER, 2022



.....
President,
Senate of the Federal Republic of Nigeria



.....
Clerk,
Senate of the Federal Republic of Nigeria