



Tax Alert

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FIRS issues guidelines on the taxation of NGOs

The Federal Inland Revenue Service (FIRS) recently issued *Information Circular No.: 2021/01* ("the Circular") providing guidelines on the taxation of incomes of Non-Governmental Organisations (NGOs) and other statutory obligations on their operations and activities. This is pursuant to the relevant provisions of the Companies Income Tax (CIT) Act Cap. C21 LFN 2004 (as amended) [CITA], Personal Income Tax (PIT) Act Cap.P8 LFN 2004 (as amended) [PITA], Capital Gains Tax (CGT) Act Cap. C1 LFN 2004 (as amended) [CGTA] and the Value Added Tax (VAT) Act Cap.V1 LFN 2004 (as amended) [VATA].

We have provided below, a summary of the key aspects of the Circular:

1. Definition of an NGO

The Circular defines an NGO as a *"not-for-profit association of persons incorporated as a company limited by guarantee under PART A of the Companies and Allied Matters Act (CAMA) 2004 or registered under PART C of the Act, or under any other law in force in Nigeria, or registered under the laws of a foreign jurisdiction and approved as such in Nigeria"*. These include organisations, institutions and companies that are engaged in ecclesiastical, charitable, benevolent, literary, scientific, social, cultural, sporting or educational activities of a public character as defined under Section 105 of CITA. Further, the FIRS noted that such organisations, institutions and companies shall not distribute or share its profit, whether in cash or kind, to members or promoters; and their incomes shall be wholly used for the objects of the institution or organisation in the interest of the public.

2. Registration and income tax filing requirements

The NGOs are required to register with the FIRS for tax purposes and obtain Taxpayer Identification Numbers at the following designated Medium Tax Offices (MTOs) in their respective geopolitical regions:

S/No	Geo-political location of the NGO	Designated FIRS MTO
1	South-South	MTO Port Harcourt
2	South-East	MTO Enugu
3	South-West	MTO Ibadan
4	North-East & North West	MTO Kano
5	North-Central & FCT	MTO Abuja
6	Lagos State	MTO Lagos Island

3. Tax obligations

i) CIT – The Circular notes that NGOs are required to file CIT returns with the FIRS in line with Section 55(1) of the CITA. The returns shall include audited financial statements, tax and capital allowances computations and a formal statement containing the amounts of surplus from every source for the relevant tax years.

Further, NGOs are also required to deduct withholding tax (WHT) on payments for contracts awarded to suppliers and contractors and remit the tax to the relevant tax authorities (RTAs) in the currency of the transactions.

PIT – The Circular notes that profits of an NGO from approved activities, except profits derived from a trade or business carried on by the NGO, are exempt from PIT in line with Section 19(1) and Paragraph 13 of the Third Schedule to the PITA. However, the income earned by individual promoters and employees of the NGOs including salaries, emoluments, fees, remunerations, or benefits-in-kind paid to trustees, guarantors and directors are liable to PIT. Therefore, NGOs are required to deduct the applicable taxes on such incomes and remit same to the RTAs in the currency of the transactions.

ii) CGT – Section 26 of the CGTA exempts the gains accruing to NGOs from the disposal of chargeable assets from CGT, provided that such gains are not derived from the disposal of any assets acquired in connection with non-approved activities carried on by the organisation and such gains are applied purely for the activities of the organisation.

iii) VAT – The Circular provides the following clarification on the application of VAT on the activities of NGOs and their obligations thereon:

- Goods purchased by NGOs for use in humanitarian donor-funded projects are zero-rated in line with the First Schedule to the VATA. However, where an NGO purchases goods that are not directly used in humanitarian donor-funded projects, VAT will apply on such purchases accordingly.

- NGOs are required to pay VAT on services procured or consumed by them, except where such services are exempt under the VATA.
- NGOs are required to self-account for the VAT on taxable goods and services supplied by non-resident vendors or persons not liable to charge VAT under the VATA.
- NGOs are required to charge VAT on all supply of taxable goods and services and remit the tax to the FIRS, in line with the provisions of the VATA.
- NGOs are required to file their VAT returns on or before the 21st day of every month, in line with the provisions of Section 15 of the VATA.

In addition, NGOs must maintain accurate records of their employees and books of accounts stipulated under the extant tax laws and Companies Allied Matters Act, 2020. Failure to comply with any of the prescribed book-keeping requirements will attract appropriate sanctions as provided in the relevant Acts.

Comments

We commend the FIRS for the clarifications on the tax compliance obligations of NGOs in Nigeria. It is hoped that the information collected from the tax returns filed by the NGOs will improve the oversight of the tax authorities on their activities, ensure transparency and minimise the incidence of tax leakages around the NGOs.

Please click [here](#) to read the FIRS' Circular.

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