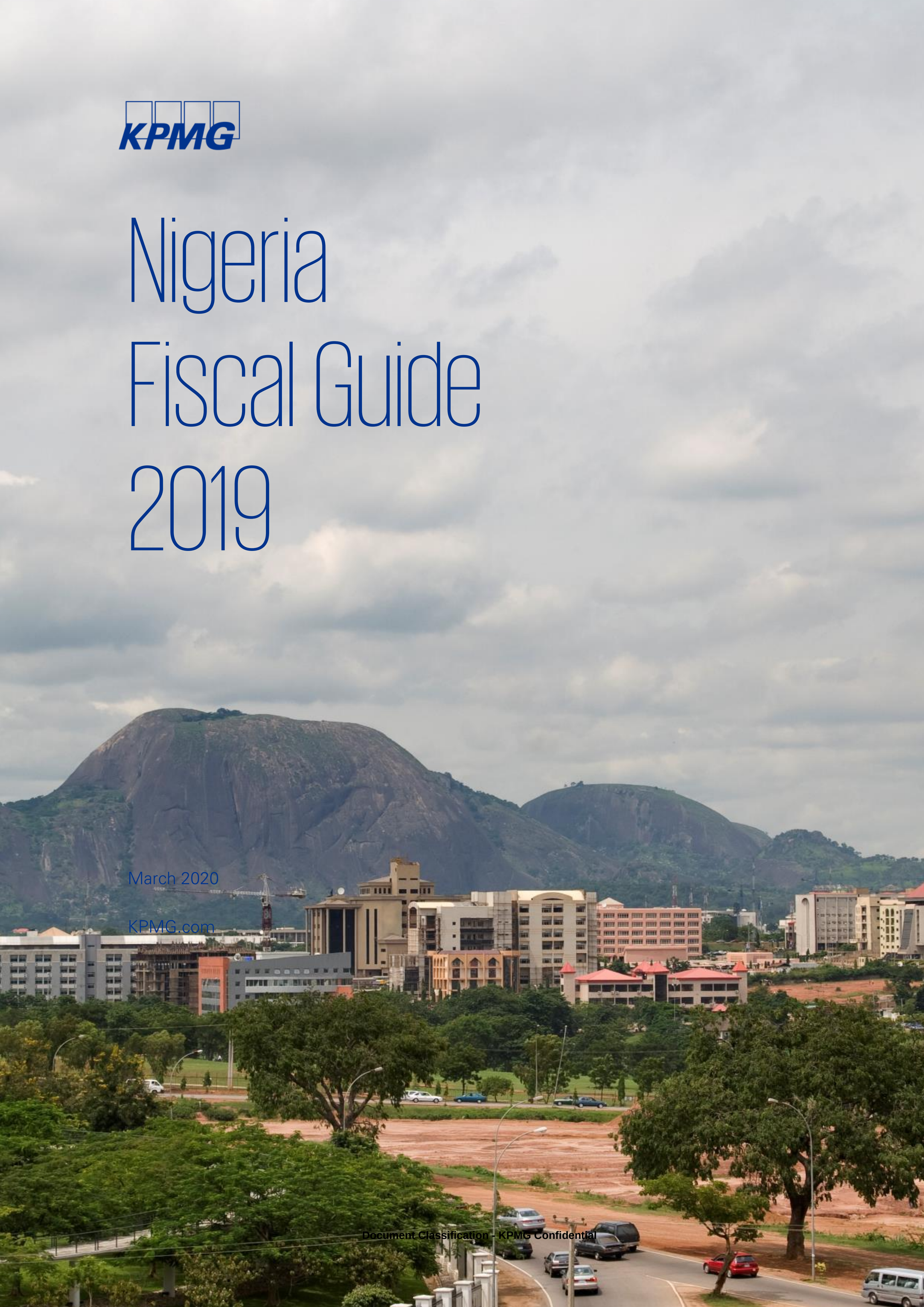

Nigeria Fiscal Guide 2019

March 2020

KPMG.com

Introduction: Nigeria Fiscal Guide 2019

Income Tax

Generally, all companies (other than those engaged in petroleum operations) are subject to companies income tax on their taxable profits. Companies resident in Nigeria are assessable to tax on their worldwide income, whilst non-resident companies are subject to tax on profits accrued in or derived from Nigeria, to the extent that the profits are not attributable to operations outside Nigeria.

Individuals are subject to tax under the Personal Income Tax Act (as amended). Resident individuals are subject to tax on all personal income, including income derived from outside Nigeria (except those specifically exempted from tax). Generally, the tax is collected by the government of the State in which the individual resides, except for certain categories of individuals whose taxes are payable to the Federal Government.

Non-residents are liable to tax on Nigerian-sourced income. The income of a non-resident from an employment, profession, vocation or business in Nigeria is generally taxed in the same manner as that of a resident. However, foreign income derived by a non-resident by reason of employment exercised in Nigeria is taxable in Nigeria. Investment income derived from Nigeria by a person resident outside the country is typically only liable to withholding tax.

Rates

Resident companies	
Companies income tax (CIT)	30%
Tertiary education tax (TET)	2%
Petroleum profits tax (for petroleum companies)	85%[1] (standard rate)
Capital gains tax	10%
Dividend, Interest and Rent	10%[2]
Royalties	10%[2]
Consultancy fees, management fees and fees for technical services	10%[2]

Resident individuals	
Personal income tax (PIT)	7-24%[4]
Capital gains tax (CGT)	10%
Dividend, Interest and Rent	10%[2]
Royalties	5%[2]
Consultancy fees, management fees and fees for technical services	5%[2]
Directors' fees	10%[2]

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Non-resident companies and individuals	
CIT	Non-resident companies are taxed at the same tax rate as resident companies. However, they are only taxed on Nigerian-sourced income[5]. TET does not apply.
PIT	Non-resident individuals are taxed at the same tax rate as resident individuals.
CGT	Taxed at the same rate as residents
Dividend, Interest and Rent	Taxed at the same rate as residents[3]
Royalties	Taxed at the same rate as residents[3]
Fees	Taxed at the same rate as residents

1. For a company in its first five years of petroleum operations, the applicable rate is 65.75%. The petroleum profits tax rate for companies operating in the deep offshore and inland basin areas under Production Sharing Contracts with the Nigerian National Petroleum Corporation, is 50% flat for the contract area. There are plans to vary the tax rates through the Petroleum Industry Fiscal Bill (which is a component of the larger Petroleum Industry Bill) that is still pending consideration by the National Assembly. However, for the Bill to become law, it still has to be assented to by the President.
2. This relates to withholding tax deducted at source. Dividend received after deduction of withholding tax is regarded as franked investment income and is not liable to further income tax.
3. The withholding tax deducted at source is the final income tax due on the income.
4. The current PIT table for individuals and unincorporated entities is shown below:

Taxable income (NGN)	Rate of tax (%)
First 300 000	7
Next 300 000	11
Next 500 000	15
Next 500 000	19
Next 1 600 000	21
Above 3 200 000	24

5. The Federal Inland Revenue Service (FIRS) has the discretion to assess non-resident companies (NRCs) to CIT at the higher of actual profit basis (determined based on audited accounts) and deemed profit basis (currently 20% of revenue). Until 2015, it has been the practice of the FIRS to assess non-resident companies to CIT on deemed profit basis only. However, the FIRS has issued a public notice on the filing of Tax Returns by NRCs under the CIT Act, Cap C21 LFN 2004 (as amended) requiring NRCs to file their tax returns on actual profit basis, in compliance with Section 55 of the CIT Act. These returns would comprise audited financial statements and income tax computations, showing the taxable income, tax-deductible expenses and capital allowances of the NRC.

The notice issued by the FIRS specifies the commencement date as 2015 year of assessment, covering the basis period of an accounting period ending in 2014.

Transfer pricing (TP) and thin capitalisation rules

The FIRS recently issued its revised Income Tax (Transfer Pricing) Regulations, 2018 (the new Regulations). The new Regulations repealed the Income Tax (Transfer Pricing) Regulations, 2012 which took effect on 2 August 2012.

The commencement date of the new Regulations was 12 March 2018 and is applicable to basis periods of taxpayers beginning after that date. The Regulations require that transactions between related parties be conducted at arm's length.

To satisfy this requirement, taxpayers are required to provide documentation sufficient to verify that the pricing of controlled transactions is consistent with the arm's length principle. In addition, taxpayers are obligated to complete and file TP declaration and disclosure forms with the FIRS in respect of their related-party transactions, at the time of filing their tax returns. TP policies and contemporaneous documentation are to be submitted to the FIRS when requested.

Though the new Regulations retained the scope of the 2012 Regulations, it introduced some major changes such as significant administrative penalties for non-compliance, procurement arrangements, safe harbor, connected persons, capital-rich-low-function companies, intragroup services and intangibles, transfer pricing documentation,

Nigeria has no specific thin capitalisation rules. Thus, generally speaking, there are no ratios which may limit the amount of debt that may be applied to fund a company.

However, companies that intend to engage in the banking or insurance industry are required to have specified minimum paid-up capital, capital adequacy ratios and/or solvency margins. Resident companies that intend to employ expatriates are also required by the Federal Ministry of Interior (FMI) to have a minimum authorised share capital of N10 million (about US$32,630, at US$1: N306.5) which must be issued and fully paid up.

Country-by-Country Reporting Regulations

The FIRS published the Income Tax (Country-by-Country Reporting) Regulations, 2018 (CbCR Regulations) on 19 June 2018, with commencement date of 1 January 2018. The CbCR Regulations require Multinational Enterprises (MNE) Groups headquartered in Nigeria with a consolidated revenue of ₦160 billion or above to file CbCR with the FIRS annually.

Nigerian resident members of MNE Groups, headquartered outside Nigeria, are required to notify the FIRS of the identity and tax jurisdiction of the entity that will be responsible for filing the CbC report, where the Group has a consolidated revenue of EUR750 million or near equivalent in the domestic currency of the jurisdiction of the UPE or surrogate parent entity. However, where the CbCR Regulations have not been implemented in the jurisdiction where the UPE is tax resident, the Nigerian entity is required to file the CbCR.

The due date for filing the CbCR report is not later than one year after the end of the accounting period to which the report relates. The Regulations also impose stiff penalties for non-compliance.

Transaction taxes

These include value added tax, capital gains tax, withholding tax and stamp duties.

Value added tax (VAT)

VAT is a consumption tax levied on the supply of all goods and services supplied in or imported into Nigeria, except those specifically exempted from the tax by the VAT Act, Executive Orders and FIRS Information Circulars. The current rate of VAT is 5%. However, there are indications that the VAT rate may be increased either for all taxable goods and services or limited to specific items such as luxury goods.

VAT on goods and services payable to the following persons is required to be deducted at source by the recipient and remitted to the FIRS:

i. Non-resident companies

ii. Persons supplying goods and services to companies operating in the oil and gas industry

iii. Persons supplying goods and services to government ministries and parastatals.

Capital Gains Tax (CGT)

CGT is imposed at a rate of 10% on capital gains accruing from the disposal of any asset, corporeal or not, irrespective of where it is situated, and whether it is owned by an individual or corporate entity.

Transactions that are subject to income tax are usually excluded from the scope of CGT, as are gains of exempt organisations and institutions.

Where assets located outside Nigeria (as defined in the CGT Act) are disposed of by a non-Nigerian company, CGT is only charged in respect of that part of the gain which is brought into or received in Nigeria.

Generally, gains on transfer of stocks, shares and Nigerian Government securities are exempt from CGT.

Withholding tax (WHT)

Generally, WHT is an advance payment of income tax, deducted at source on qualifying transactions. It may also represent the final tax liability on certain passive incomes.

Where WHT is deemed to be an advance payment of income tax, it can be utilised as a credit against the beneficiary's income tax liability for the relevant year(s).

Below is a table of the WHT rates applicable to various transactions:

Payment	Individual Beneficiary (%)	Corporate Beneficiary (%)
Rent	10	10
Dividend	10	10
Interest	10	10
Royalty	5	10
Commissions, Consultancy, Technical and Management fees	5	10
Construction	5	5
Contracts and Agency Arrangements*	5	5
Directors Fees	10	N/A

*Covers all forms of supplies, deliverables or the like through competitive bidding, tenders, local purchase orders, agency or other similar arrangements, whether oral or written. It does not, however, extend to contract for the outright sale and purchase of goods and property in the ordinary course of business.

Stamp and transfer duty

Stamp duty is levied on most legal instruments including agreements, awards, bonds, and leases. Stamp duty is payable at the rate of 0.75% on a company's authorised share capital and any increase thereon. Instruments on which duty would be payable by the government are exempt from duty.

Documents relating to the transfer of stocks and shares are also exempt from stamp duties. However, for transactions executed through brokers or agents, an ad valorem stamp duty applies on the contract note.

Please note that major changes to Stamp Duty Act ("SDA"), Cap S8, Laws of the Federation of Nigeria 2004, that governs the

Stamp duty is currently underway through the Stamp Duty Act (Amendment) Bill, 2018. The Bill seeks to expand the scope of "stamp" to include electronic, internet, Point of Sale (POS) transactions, and bank deposits. The Bill also seeks to address current ambiguities in the law. However, for the Bill to become law, it still must be assented to by the President.

Double Tax Treaties and reduced rates

Country[3]	Dividends [4](%)	Interest[7] (%)	Royalties[7](%)
Belgium	7.5	7.5	7.5
Canada	7.5	7.5	7.5
China	7.5	7.5	7.5
France	7.5	7.5	7.5
Pakistan	7.5	7.5	7.5
Romania	7.5	7.5	7.5
South Africa	7.5	7.5	7.5
The Netherlands	7.5	7.5	7.5
United Kingdom	7.5	7.5	7.5
Italy	7.5	7.5	7.5
Philippines	7.5	7.5	7.5
Czech	7.5	7.5	7.5
Slovakia	7.5	7.5	7.5
Spain	7.5	7.5	7.5

[3] https://www.firs.gov.ng/TaxResources/TaxTreaties

[4] Although the Tax Treaties (with the exception of the Tax Treaties with South Africa, Spain and China) have not been formally amended to reflect the reduced rate of 7.5% specified in the 1999 Federal Government Budget pronouncement, the tax authorities have been implementing it in Nigeria.

Investment Information

Investment rules

Investment in Nigeria is regulated by the Nigeria Investment Promotion Commission Act 1995. Few restrictions are placed on investors.

Foreigners can invest and participate in any enterprise in Nigeria, except for those on the following 'negative list' (local investors are also precluded):

i. production of arms and ammunition

iv. production and dealing in narcotic drugs and psychotropic substances

v. production of military and parliamentary wear and accoutrement.

A foreign investor is required to apply to the FMI for approval to establish a business and to employ expatriates. The investor should also apply for a Certificate of Capital Importation (CCI) in respect of equity investment in a Nigerian company to ensure remittance of dividends and repatriation of capital.

Generally, there are no restrictions on foreign repatriation of profits as long as the documentation requirements are met, and appropriate taxes are paid.

Investment incentives-General

i. Nigerian companies with a minimum of 25% foreign equity are exempt from payment of minimum tax (tax paid by a company that has no taxable profit or whose tax payable is lower than the minimum tax).

ii. Income/interest earned from Federal Government short-term securities is exempted from CIT and PIT. Income/interest earned from bonds issued by the Federal, State and Local governments, and corporate bodies (including supra-nationals) is also exempted from the taxes.

iii. Proceeds from the disposal of the bonds and securities listed in (ii) above are exempted from VAT.

iv. Investment allowance of 10% on qualifying expenditure on plant, machinery and equipment.

v. Rural investment allowance of between 15% and 100% of the cost incurred in providing facilities/infrastructure in rural areas.

vi. Capital allowance of 95% in the first year in respect of plants and machineries purchased to replace old ones.

vii. Tax exemption of between 40% and 100% of the interest earned on foreign loans advanced to companies in any industry, where the terms and tenor of the loan satisfy the conditions specified in the law.

Incentives for 'pioneer companies'

Under certain circumstances, pioneer status may be granted to companies (including foreign-owned companies registered in Nigeria) involved in designated industries. The fiscal incentives available to pioneer companies include:

i. Exemption from income tax for three years with a possible extension of two years.

ii. Capital expenditure on qualifying assets incurred during the tax relief period is treated as having been incurred on the first day following the tax relief period. Pioneer companies are therefore able to fully claim capital allowances on such assets.

iii. Tax-free dividends during the holiday period.

iv. Losses in the relief period may be set off against profits after the end of the period.

Incentives for the agricultural sector

i. Companies engaged in agricultural trade or business are not liable to minimum tax.

ii. Non-restriction of the capital allowance claimable by the companies to 662/3% of assessable profit.

iii. Tax exemption of the interest earned from agricultural loans, provided the moratorium is not less than 18 months and the rate of interest is not more than the base lending rate at the time of the loan.

Export and mining enterprises incentives

i. A wholly-export-oriented company established outside an export processing zone (EPZ) is exempt from CIT for its first three tax years, provided the export proceeds constitute at least 75% of its turnover and it repatriates at least 75% of the export earnings to Nigeria.

ii. Plant, machinery, equipment and accessories imported exclusively for mining operations in Nigeria are exempted from customs and import duties.

iii. A new company engaged in the mining of solid minerals will enjoy a tax holiday of three years while wholly-export companies with turnover of less than N1million are subjected to CIT at 20% in the first five years.

iv. Free trade zones (FTZs) and EPZs are designated from time to time and enterprises operating in such designated zones enjoy tax exemption and considerably relaxed exchange control measures.

Incentives for the power sector

i. A three (3) year income tax holiday, with possible renewal for additional two (2) years.

ii. Accelerated capital allowances after the tax- free period in the form of a 90% annual allowance with 10% retention for investment in plant and machinery.

iii. An additional investment allowance (uplift on the cost of the asset) of 15 per cent which does not reduce the value of the asset.

iv. Tax-free dividends during the tax-free period where the investment for the business was made in foreign currency.

v. Plant, machinery and equipment purchased for utilisation of gas in downstream petroleum operations are VAT-exempt.

vi. The Customs, Excise Tariff, etc. (Consolidated) Act exempts from custom duties, "any machinery, equipment or spare part imported into Nigeria by an industrial establishment engaged in the exploration, processing or power generation through the utilization of Nigerian gas, for its operation.

vii. Zero duty on the importation of equipment and machinery

viii. The List of Pioneer Industries and Products includes electricity power generation, transmission and distribution as a pioneer industry.

Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme

The Federal Government, on 25 January 2019, established a ten-year Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme ("the Scheme"). The Scheme was a set-up as a public-private intervention that enables the Federal Government to leverage private sector capital and efficiency for the construction, refurbishment and maintenance of critical road infrastructure in key economic areas in Nigeria.

Participants under the Scheme will be entitled to utilize the project cost incurred in the construction or refurbishment of an eligible road as a tax credit against their income tax liability, until full cost recovery is achieved.

The Scheme grants additional incentive of a single non-taxable uplift on project cost, to participants. The uplift, which is a percentage (MPR+2%) of the project cost, will be included in the total tax credit available to each participant.

Exchange controls

Exchange controls are regulated by the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act 1995. The Act creates an autonomous market in which transactions may be conducted in any convertible currency through authorised dealers. Investments may be made in foreign currency or imported capital and the investor will be issued a CCI by the authorized dealer within 24 hours of receipt of the capital. The information on such transactions must be filed by the dealer with the Central Bank of Nigeria (CBN).

In 2014 and 2015, the CBN, in an attempt to ensure efficient utilization of foreign exchange in the light of dwindling foreign reserves, had issued a number of circulars, to the effect that certain services, which hitherto qualified for foreign exchange, are no longer eligible transactions. However, on 15 June 2016, the CBN released revised guidelines on the operations of the Nigerian Interbank Foreign Exchange Market (IFEM) and this is expected to supersede its circular of October 28, 2014 and all other prior circulars and guidelines on the subject matter. The summary of the guidelines for the operation of the new foreign exchange regime are detailed below:

- The foreign exchange market will now operate as a single market through the IFEM. Participants in the IFEM will include authorised dealers, authorised buyers, oil companies, oil service companies, exporters, end-users and any other entity the CBN may designate from time to time
- Authorised dealers are now permitted to buy and sell foreign exchange among themselves on a two-way quote basis via the FMDQ, Thomson Reuters foreign exchange trading systems (TRFXT- Conversional Dealing), or any system approved by the CBN
- Exchange rates will now be determined by market forces
- There will no longer be spread restrictions
- The applicable exchange rate for import duty payments shall be the daily IFEM foreign exchange closing rate as published by the CBN
- Proceeds of foreign investment inflows and international monetary transfers shall be purchased by authorised dealers at the IFEM
- The CBN will participate in the IFEM through periodic direct interventions or dynamic "Secondary Market Intervention Mechanisms"
- Primary dealers who meet stated requirements are to be registered to deal directly with the CBN for large deal sizes on a two-way quote basis. These dealers will operate with other authorised dealers.
- The 41 items listed as "Not Valid for Foreign Exchange" in the CBN Circular of 23 June 2015, will remain ineligible for foreign exchange on the IFEM. (The list was updated to include fertilizer, by the CBN Circular of 10 December 2018).
- The CBN may now offer long-tenor foreign exchange forwards to authorised dealers
- Sale of foreign exchange forwards must now be trade-backed, and with no pre-determined spread
- Over-the-counter foreign exchange futures will be introduced. Such futures may be bespoke and of non-standard volume

Non-oil exporters are now allowed unfettered access to their foreign exchange proceeds, which shall be sold on the IFEM.

Any person may open, maintain and operate a foreign currency account with an authorised dealer (bank).

Residence and work permits

All foreign citizens are required to obtain work permits, which are generally granted if it can be demonstrated that a Nigerian citizen does not have the required expertise to perform the job. A foreign citizen that intends to work in Nigeria on a short- term basis needs to obtain a Temporary Work Permit (TWP) Visa. The maximum duration for any TWP is less than three (3) months. However, where there are compelling reasons for the continued stay of a foreign national on TWP, perhaps due to the extended nature of the project being executed, the foreign national should obtain an extension of the TWP Visa.

Annual budget announcement

The President presents the annual budget for the fiscal year commencing on 1 January to the joint session of the National Assembly. Thereafter, the Minister of Budget and National Planning provides the detailed breakdown of the budget.

Trade and bilateral agreements

Membership: Africa, Caribbean and Pacific (ACP), European Union (EU) Partnership Agreement, Organisation of Petroleum Exporting Companies (OPEC), World Trade Organisation (WTO), African Union (AU) and Economic Community of West African States (ECOWAS).

Investment treaties are in force with France, Netherlands, Germany, Switzerland, Romania, Spain and the UK. Nigeria has signed the 1965 Convention on the Settlement of Investment Disputes.

Economic statistics

Economic statistics (2018 - 2019)

Prime interest rate	18.23%
CBN monetary policy rate	13.50%
US$ exchange rate (new midpoint of official window)	306.5
Inflation rate	11.25%
GDP 2018	US$594.26 billion

*The table above is as at April 2019

The Nigerian economy grew by 2.01% and about thirty-five (35) economic activities recorded positive growth in Q1 2019. The key growth activities were led by coal mining (31.1%), quarrying and other minerals (29.31%), road transport (21.48%), motor vehicles and assembly (13.32%), telecommunication and information services (12.18%), air transport (9.09%), electricity, gas, steam and air conditioning supply (8.47%), fishing (7.09%), accommodation and food services (4.15%) amongst others.

Nigeria's economy remained the largest in Africa, with its 2018 GDP of US$ 594.26 billion.

Travel Information

Visa requirements	Other than nationals of ECOWAS member states, visas are required by all foreign passport holders. Business travelers to Nigeria can now process their visa-on-arrival electronically by completing relevant application forms on the Nigeria Immigration Service website (www.immigration.gov.ng) using Mozilla Firefox and Google Chrome browsers, making payment (using MasterCard and Visa payment cards) and obtaining online visa approval
Flights	A number of international carriers fly into Nigeria. There are regular flights between major international hubs, daily regional flights with neighbouring countries and other hubs such as Nairobi and Johannesburg
Inoculations	Standard requirements

Currency

The Nigerian currency is the Naira (NGN). It is divided into 100 kobo.

Languages

English is the official language. Hausa, Igbo and Yoruba are the main languages of the North, South-East and South-West, respectively.

Official holidays

- New Year's Day (1 January)
- Good Friday (19 April)
- Easter Monday (21 April)
- Worker's Day (1 May)
- Democracy Day** (12 June)
- Id-el-Fitri (4 and 5 June)
- Id-el-Kabir* (12 August)
- National Day (1 October)
- Id-el-Malud* (10 November)
- Christmas Day (25 December)
- Boxing Day (26 December)

*Movable holidays, subject to ratification by the Federal Government
**The National Assembly, on 16 May 2019, passed the Public Holiday Act (Amendment) Bill. The Act replaces 29 May with 12 June as the new official Democracy Day. However, May 29 will remain a public holiday to celebrate transition to a new national government following a general election every four years.

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