

## HIGHLIGHTS OF THE FINANCE ACT 2020

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On 31 December 2020, President Muhammadu Buhari assented to the Finance Bill now Finance Act 2020 (Finance Act). The Finance Act which took effect from 1 January 2021 amends principal tax and financial legislations and introduces vital innovations in Nigeria's business environment. Major highlights of the Finance Act include:

1. Establishment of a Crisis Intervention Fund of the sum of ~~₦~~500,000,000,000.00 (five hundred billion Naira) or any other sum approved by the National Assembly, to be utilised for crises expenditure under the Annual Appropriation Act, or for emergencies under Section 12 of the Fiscal Responsibility Act and Section 306 of the Constitution. Sections 75 & 76
2. Creation of an Unclaimed Funds Trust Fund by which unclaimed dividends of a public limited liability company quoted on the Nigerian Stock Exchange and unutilised amounts in a dormant bank account maintained in or by a deposit money bank which has remained unclaimed or unutilised for at least 6 (six) years shall be transferred. Such unclaimed dividends and unutilised amounts in a dormant bank account transferred to the Unclaimed Funds Trust Fund shall be a special debt owed by the Federal Government to the shareholders and dormant bank account holders and shall be managed by the Debt Management Office.<sup>1</sup> Section 77
3. Increase of the threshold of compensation for loss of office exemptible from capital gains tax from ~~₦~~10, 000.00 (ten thousand Naira) to ~~₦~~10, 000,000.00 (ten million Naira) and introduction of a *proviso* for the taxation of any sums in excess of ~~₦~~10, 000,000.00 (ten million Naira). It also introduces a requirement for tax chargeable on such excess sums to be deducted by the payer and remitted within the time specified by the Pay As You Earn (PAYE) regulations. Section 4

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<sup>1</sup> It is noteworthy that this provision is not applicable to official bank accounts owned by the Federal Government, State Governments, Local Governments or any of their Ministries, Departments or Agencies. Section 77 (2)

4. Exemption from tax, interest on loans granted by banks to companies engaged in primary agricultural production;<sup>2</sup> fabrication of local plant and machinery; or provision of working capital for cottage industry. It also reduces the moratorium required for such exemption from a period of at least 18 (eighteen) months to at least 12 (twelve) months. Section 6
5. Exclusion of the profits of companies engaged in ecclesiastical, charitable or educational activities of a public character from the list of profits exempt from companies income tax. Section 10
6. Expansion of the deductible donations allowable under the Companies Income Tax Act<sup>3</sup> (CITA) to include donations made by companies to the Federal or State Governments and their agencies in respect of funds set up for any pandemic, natural disaster or any other exigency. Section 11
7. Reduction of the minimum tax payable by companies for tax returns prepared and filed in respect of any year of assessment falling due on any date between 1 January 2020 and 31 December 2021 from 0.5% - 0.25% of gross turnover. Section 13
8. Imposition of penalty on a company who by a deliberate and dishonest act fails to declare true and correct amount of profits or tax payable. Section 15
9. Expansion of the requirement for maintenance of books/records of account to include companies granted exemption from incorporation, whether or not such companies are liable to pay tax. Section 17
10. Introduction of the use of courier service, email, or other electronic means as mode of service of Notice of Assessment of tax under the CITA. Section 18
11. Expansion of the definition of a Nigerian company under the CITA to include companies formed or incorporated under any law in Nigeria as

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<sup>2</sup> An amendment to 'agricultural trade of business' in section 11 (2) A of CITA

<sup>3</sup> Cap. C21, LFN 2004

against just companies incorporated under the Companies and Allied Matters Act. Section 21

12. Provision of a tax holiday incentive for small and medium sized companies engaged in primary agricultural production. (an initial tax-free period of 4 (four) years, with which might be extendable by an additional maximum period of 2 (two) years).<sup>4</sup> Section 23
13. Introduction of the concept of Significant Economic Presence to personal income tax. The profit of businesses of individuals/executors/trustees outside Nigeria carrying on business comprising the furnishing of technical, management, consultancy or professional services to residents of Nigeria and who have significant economic presence are now subject to personal income tax. Section 25<sup>5</sup>
14. Exemption of persons earning national minimum wage or less from personal income tax. Section 30
15. Exemption of small companies<sup>6</sup> from payment of Tertiary Education Tax: Section 34
16. Introduction of excise duty on telecommunication services provided in Nigeria. Section 37
17. Reduction of excise duty rates on tractors and motor vehicles for transportation of persons and goods. Section 38
18. Introduction of duty free importation of aircrafts, engines, spare parts and components for commercial airlines registered in Nigeria. Section 39
19. Exemption of commercial aircrafts, engines and spare parts, commercial airline transportation tickets, hire/rental/lease of tractors, ploughs and other agricultural equipment for agricultural purposes from Value Added Tax (VAT). Section 45

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<sup>4</sup> Amends section 1 of the Industrial Development (Income Tax Relief) Act, Cap. 117, LFN 2004

<sup>5</sup> Amends section 6 of the Personal Income Tax Act, 2011

<sup>6</sup> Companies with a turnover of less than ₦25,000,000.00 (twenty five million Naira)

20. Introduction of a mandatory requirement for non-resident persons who make taxable supply of goods and services to Nigeria to register for tax and obtain a Tax Identification Number (TIN). Section 43
21. Exclusion of land, buildings, money, securities and contract of employment from the definition of goods and services for VAT purposes. Section 44
22. Introduction of electronic money transfer levy of ₦50.00.00 (fifty Naira) on electronic receipt/transfer of sums of ₦10, 000.00 (ten thousand Naira) and above deposited in deposit money banks/financial institutions, in place of stamp duties. Revenue accruing from such levy shall be shared between the Federal and State Government in ratio 15% - 85%. Section 48
23. Recognition of tax payers' right to data privacy and protection and introduction of criminal penalty of up to ₦1, 000,000.00 (one million Naira) or imprisonment for up to 3 (three) years for breach. Section 54
24. Introduction of remote hearing via virtual means for the proceedings of the Tax Appeal Tribunal. Section 57
25. Introduction of requirement for companies operating in the Free Trade Zones to render returns to the Federal Inland Revenue Service in accordance with section 55(1) of the CITA. Section 58<sup>7</sup>
26. Expansion of the grounds for which the Federal Government's aggregate expenditure in a particular year may exceed the ceiling imposed by the Fiscal Responsibility Act, to include situations where in the opinion of the president, published in a gazette; (i) the Federation or any part of it is at war; (ii) or there is breakdown of public order and safety; (iii) or there is a pandemic or a natural disaster. Section 61<sup>8</sup>
27. Introduction of a mandatory requirement for any person who disposes a chargeable asset to, not later than 30 June and 31 December of that

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<sup>7</sup> Amends section 18(1) of the Nigeria Export Processing Zones Act

<sup>8</sup> Amends section 12 of the Fiscal Responsibility Act 2007

year, compute the capital gains tax, file self-assessment return and pay the tax computed in respect of the chargeable asset disposed within the period.<sup>9</sup> Section 2

28. Redescription of a medium sized company to be a company earning an annual gross turnover greater than ₦25,000,000.00 (twenty-five million Naira) but less than ₦100,000,000.00 (one hundred million Naira), and a small sized company to be one earning an annual gross turnover of ₦25,000,000.00 (twenty-five million Naira) or less.<sup>10</sup> Section 24
29. Provision of clearer guidelines for open competitive bidding required for the procurement of goods and services under the Public Procurement Act.<sup>11</sup> Section 67
30. Introduction of a mandatory requirement of a contract performance guarantee or unconditional insurance bond of not less than 10% of the contract value, as a precondition for the award of any procurement contract.<sup>12</sup> Section 72

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<sup>9</sup> Amends section 2 of the Capital Gains Tax Act

<sup>10</sup> Amends section 25 of the Industrial Development (Income Tax Relief) Act

<sup>11</sup> Amends section 24 of the Public Procurement Act

<sup>12</sup> Amends section 36 of the Public Procurement Act