

# Finance Act 2019: FIRS circular on deletion of commencement rule

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Once upon a time, new companies in Nigeria paid taxes twice on the same profits. This unique tax provision, known as the commencement rule, applied to only new businesses in the first three years of operation. The three years of assessment will have two overlapping basis periods as below.

1st year – Date of commencement of business to 31 December of the same year

2nd year – First twelve months from the date of commencement of business

3rd year – Twelve-month accounting period ended in the preceding year of assessment

However, the rule missed the mark in simplifying the procedures for tax compliance. Taxpayers in Nigeria can now bid farewell to the era of commencement rule with the introduction of the Finance Act 2019.

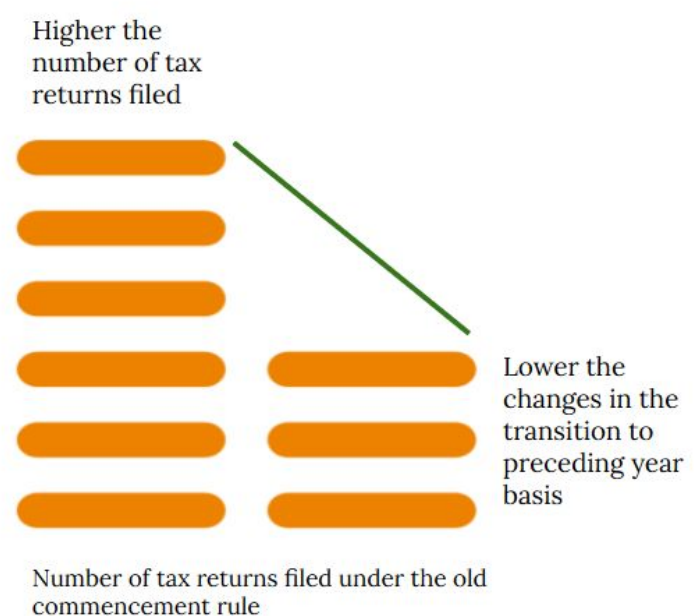
## Changes in the taxation of new companies

Going forward, existing and new businesses will have the same basis of taxation that is the preceding year basis (PYB). For the first year, the basis period starts from the date of commencement of business to the accounting year-end. The second year and other years will be a twelve-month accounting period ending in the preceding year of assessment. That is, the profits or income of an accounting year will be subject to tax in the next year of assessment. New companies will also pay taxes once on the taxable profits of a year. There is no more overlapping basis period when a taxpayer files the first set of returns.

## What the FIRS circular on commencement rule means for three categories of taxpayers

Companies that start operations after the effective date of 13 January 2020 will file their tax returns on a PYB. Pretty straightforward, but what happens to taxpayers who filed returns for the first or second

years under the commencement rule. The tax authority has a role to play in this regard. Federal Inland Revenue Service (FIRS) has released an information circular to guide taxpayers on the transition from the old commencement rule to the new PYB. An analysis of three categories of taxpayers will help show the impact of the amended provision.



Category 1: Commenced business between January 2019 and January 2020. Yet to file any tax return. The new basis periods for the first year of assessment (YOA) will be as follows.

- Company ML commenced in June 2019. Accounting year-end is November.  
2020 YOA: June – November 2019
- Manufacturer Limited commenced in October 2019. The accounting year-end is June  
2021 (YOA): October 2019 – June 2020
- Newbie Plc commenced in January 2020 while the financial statements cover the period ended July 2020.  
2021 (YOA): January – July 2020

Outcome 1: Companies in Category 1 will file their first, as well as subsequent, returns on a PYB. Under the old provision, the first year would have been 2020 YOA from;

1. 2019 YOA: June to December 2019 – Company ML
2. 2019 YOA October to December 2019 – Manufacturer Limited
3. 2020 YOA: January to December 2020 – Newbie Plc.

First YOA (2019): June – November 2019

Second YOA (2021): December 2019 – November 2020

Outcome 3: Taxpayers in this category will have a gap in one YOA, and there will be no CIT returns for 2020 YOA.

Overall, the guidelines will help taxpayers that commenced business between January 2018 and January 2020 understand how to apply the new tax provision.

*Category 2: Filed two returns under the commencement rule. The taxpayer is yet to file one return for 2020 YOA.*

- Good Plc started operations in March 2018. The accounting year-end is December. First YOA (2018): March 2018 – December 2018 Second YOA (2019): March 2018 – February 2019 Third YOA (2020 – PYB): January 2019 – December 2019 Overlapping basis period from March to December 2018 in the first and second YOA. The third YOA is already on a PYB.
- GPA Company Limited commenced in June 2018. Accounting year-end is November. First YOA (2018): June 2018 – December 2018 Second YOA (2019): June 2018 – May 2019 Third YOA (2020 – PYB): December 2018 – November 2019 Overlapping basis period from June to December 2018 in the first and second YOA. The third YOA is already on a PYB.

Outcome 2: There is no impact of the PYB for companies in Category 2 as returns were filed under the old provisions. PYB will apply in the third year that is similar to the new rule.

*Category 3: Where a company made its first sale in 2019, prepared the first set of financial statements for more than 12 months and has not filed any tax return.*

- Upcoming Plc started operations on 1 June 2019. The Company prepared its first set of financial statements for 18 months (1 June 2019 to 31 November 2020). Therefore, the accounting year-end will be November.