

Extraordinary



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FINANCE BILL, 2021
ARRANGEMENT OF CLAUSES

Clauses:

1. Amendment of Capital Gains Tax Act
2. Amendment of Companies Income Tax Act
3. Amendment of Federal Inland Revenue Service (Establishment) Act
4. Amendment of Personal Income Tax Act
5. Amendment of Stamp Duties Act
6. Amendment of Tertiary Education Trust Fund (Establishment, Etc.) Act
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9. Amendment of Nigerian Police Trust Fund (Establishment) Act
10. Amendment of National Agency for Science and Engineering Infrastructure Act
11. Amendment of Finance (Control and Management) Act
12. Amendment of Fiscal Responsibility Act
13. Citation

A BILL EXECUTIVE
FOR

AN ACT TO AMEND THE CAPITAL GAINS TAX ACT; COMPANIES INCOME TAX ACT; FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT; PERSONAL INCOME TAX ACT; STAMP DUTIES ACT; TERTIARY EDUCATION TRUST FUND (ESTABLISHMENT) ACT; VALUE ADDED TAX ACT; INSURANCE ACT; NIGERIAN POLICE TRUST FUND (ESTABLISHMENT) ACT; NATIONAL AGENCY FOR SCIENCE AND ENGINEERING INFRASTRUCTURE ACT; FINANCE CONTROL AND MANAGEMENT ACT; AND FISCAL RESPONSIBILITY ACT; AND FOR RELATED MATTERS, 2021

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria-

1 **1.** Section 30 of the Capital Gains Tax Act is amended by replacing
2 the Section 30 with a new Section as follows-

Amendment of
Capital Gains
Tax Act

3 -(1) Gains accruing to a person from a disposal by it of Nigerian
4 government securities shall not be chargeable gains under this Act.

5 (2) Without prejudice to any other applicable law, the gains
6 accruing to a person on disposal of its shares in any Nigerian company
7 registered under the Companies and Allied Matters Act shall be chargeable
8 gains under this Act except where-

9 (a) the proceeds from such disposal are reinvested within the same
10 year of assessment in the acquisition of shares in the same or other Nigerian
11 companies.

12 Provided that tax shall accrue proportionately on the portion of the
13 proceeds which are not reinvested in the manner stipulated in this
14 subsection;

15 (b) the disposal proceeds, in aggregate, is less than
16 N500,000,000.00 in any twelve consecutive months, provided that the

1 person making the disposals shall render appropriate returns to the Service on
2 an annual basis; or

3 (c) the shares are transferred between an approved Borrower and
4 Lender in a regulated Securities Lending Transaction as defined in the
5 Companies Income Tax Act.

6 (3) Without prejudice to the provisions of Section 2 of this Act, the
7 rate of capital gains on disposal of shares pursuant to this Section shall be five
8 per cent.

9 (4) The tax due in respect of a disposal under this section shall be paid:

10 (a) For individuals, to the relevant tax authority in line with the
11 provisions of the Personal Income Tax Act; and

12 (b) For companies, to the Federal Inland Revenue Service.

13 (5) In this section-

14 "Nigerian government securities" include Nigerian treasury bonds,
15 savings certificates, premium bonds issued under the Savings Bonds and
16 Certificates Act or any other long-term security issued by the Nigerian
17 government.

18 "Regulated Securities Lending Transaction" shall have the meaning
19 provided under the Companies Income Tax Act.

Amendment of
Companies Income
Tax Act

20 **2.** Section 9 of the Companies Income Tax Act (as amended by
21 Finance Act 2019) is further amended by substituting for Subsection
22 (9)(1)(d)(ii), a new Subsection (9)(1)(d)(ii)-

23 (ii) "Dividends includes compensating payments received by a lender
24 from its approved agent or borrower in a Regulated Securities Lending
25 Transaction."

Amendment of
Section 13 of the
Companies Income
Tax Act

26 Section 13 of the Companies Income Tax Act is amended by repealing
27 subsection (2) and re-enacting a new subsection (2) as follows -

28 "(2) The profits of a company other than a Nigerian company from
29 any trade or business shall be deemed to be derived from or taxable in Nigeria
30 where:

1 (a) that company has a fixed base of business in Nigeria to the
2 extent that the profit is attributable to the fixed base;

3 (b) it does not have such a fixed base in Nigeria but habitually
4 operates a trade or business through a person in Nigeria authorised to
5 conduct on its behalf or on behalf of some other companies controlled by it
6 or which have a controlling interest in it; or habitually maintains a stock of
7 goods or merchandise in Nigeria from which deliveries are regularly made
8 by a person on behalf of the company, to the extent that the profit is
9 attributable to the business or trade or activities carried on through that
10 person;

11 (c) it transmits, emits or receives signals, sounds, messages,
12 images or data of any kind by cable, radio, electromagnetic systems or any
13 other electronic or wireless apparatus to Nigeria in respect of any activity,
14 including electronic commerce, application store, high frequency trading,
15 electronic data storage, online adverts, participative network platform,
16 online payments and so on, to the extent that the company has significant
17 economic presence in Nigeria and profit can be attributable to such activity;

18 (d) that trade or business or activities involves a single contract for
19 surveys, deliveries, installations or construction, the profit from that
20 contract;

21 (e) the trade or business comprises the furnishing of technical,
22 management, consultancy or professional services outside of Nigeria to a
23 person resident in Nigeria to the extent that the company has significant
24 economic presence in Nigeria;

25 Provided that the withholding tax applicable to the income under
26 this paragraph shall be the final tax on the income of a non-resident recipient
27 who does not otherwise fall within the scope of subsection 2(a) - (d); and

28 (f) the trade or business or activities is between the company and
29 another person controlled by it or which has a controlling interest in it and
30 conditions are made or imposed between the company and such person in

Amendment of
Section 15 of the
Companies Income
Tax Act

1 their commercial or financial relations which in the opinion of the Board is
2 deemed to be artificial or fictitious, so much of the profit adjusted by the Board
3 to reflect arm's length transaction."

4 Section 15 of the Companies Income Tax Act is amended by-

5 (a) Replacing the title of this section with a new title;

6 "Cable undertakings and Lottery and gaming business"

7 (b) Numbering the current paragraph as subsection 1

8 (c) Inserting after subsection 1, a new subsection 2-

9 "(2) Notwithstanding anything to the contrary in any other law, the
10 taxation of Lottery and Gaming businesses shall, in addition to the general
11 provisions of this Act, be as follows:

12 (a) The gaming revenue of a company derived from a gaming or
13 lottery business shall be taxed in accordance with the provisions of this Act.

14 Provided that any non-gaming income earned by a company undertaking
15 Lottery and Gaming business shall remain taxable under the provisions of this
16 Act.

17 (b) In determining the assessable profits of Lottery and Gaming
18 businesses, the following deductions shall be allowed:

19 (i) Any amount paid as winnings, prizes or any similar payment from
20 the relevant Prize Fund or contributions to the Lottery Trust Fund, as may be
21 applicable;

22 (ii) Agent Commissions expense incurred;

23 (iii) Taxes and levies paid to relevant regulatory and government
24 authorities as contained in relevant federal and state laws;

25 (iv) Deductions in line with the Second Schedule of this Act;

26 (v) Other allowable deductions as contained under Section 24 of this
27 Act;

28 (c) For the purposes of this section-

29 Gaming includes gambling, wagering, video poker, roulette, craps, bingo, slot
30 machine, gaming machine and the likes.

1 "Lottery" or "lotteries" includes any betting, game, scheme, arrangement,
2 system, plan, promotional competition or device for the distribution of
3 prizes by lot or chance, or as a result of the exercise of skill and chance or
4 based on the outcome of real or virtual sporting events, or any other game,
5 scheme, arrangement, system, plan, competition or device, which the
6 President may by notice in the Gazette declare to be lottery and which shall
7 be operated accordingly.

8 Lottery Trust Fund refers to the Lottery Trust Fund created pursuant to the
9 National Lottery Act or any other enactment that replaced it"

10 Section 16 of the Companies Income Tax Act is amended by repealing
11 Section 16 and re-enacting a new Section (16) -

Amendment of
Section 16 of the
Companies Income
Tax Act

12 "(1) An insurance business shall be taxed as -

13 (a) A general insurance company, whether proprietary or mutual,
14 other than a life insurance company; or

15 (b) a life insurance company,

16 (c) Generally, the profits on which tax may be imposed for an
17 insurance business shall be in line with Section 13 of this Act.

18 (2) For a general insurance company, the profit on which tax may
19 be imposed, shall be ascertained by taking the gross premium and other
20 income receivable, less reinsurance, and deducting from the balance so
21 arrived at, a reserve for unexpired risks, determined in line with subsection
22 (10)(a), of this section.

23 (3) For a life insurance company, the profits on which tax may be
24 imposed shall be the investment income less the management expenses,
25 including commission.

26 (4) Any amount distributed in any form as dividend from an
27 actuarial revaluation of unexpired risks or from any other revaluation shall
28 be deemed to be part of the total profits of the company for tax purposes.

29 (5) Not more than three months after an actuarial revaluation of
30 unexpired risks or any other revaluation has taken place, the Company shall

1 provide the Service with full particulars of the revaluation carried out,
2 including a copy of the actuary's revaluation certificate.

3 (6) The profits on which tax may be imposed-

4 (a) in a general Nigerian insurance company, shall be ascertained in
5 accordance with the provisions of subsection (2) of this section as though the
6 whole premium and investment incomes of the company were derived from
7 Nigeria; and

8 (b) in a Nigerian life insurance company, shall be ascertained in
9 accordance with the provisions of subsections (3), (4) and (5) of this section as
10 though the whole investment and other incomes were received in Nigeria and
11 all the expenses and other outgoings of the company were incurred in Nigeria.

12 (7) Investment income for the purpose of taxation of a life insurance
13 company under this section means income derived from investment of
14 shareholders' funds.

15 (8) Where an insurance company carries on a life class and a general
16 or non-life class insurance business, the funds and books of accounts of one
17 class shall be kept separate from the other as though one class does not relate to
18 the other class, and the annual tax returns of the two classes of insurance
19 businesses shall be made separately.

20 (9) Each class of insurance shall be assessed separately as "life
21 insurance assessment" and "non-life (other) insurance assessment" and in
22 respect of each class of insurance business where there are more than one type
23 of insurance and in the same class, they form one type of business and shall not
24 be allowed against the income from another type of insurance business but the
25 loss shall be available to be carried forward against profits from the same class
26 of insurance business.

27 (10) An insurance company, other than a life insurance company,
28 shall be allowed as deductions from its premium the following reserves for tax
29 purposes-

30 (a) Reserve for unexpired risks, calculated on a time apportionment

1 basis of the risks accepted in the year;

2 (b) For outstanding claims and outgoings, an amount equal to the
3 total estimated amount of all outstanding claims and outgoings, provided
4 that any amount not utilised towards settlement of claims and outgoings
5 shall be added to the total profits of the following year.

6 (11) An insurance company, in respect of its life insurance business
7 shall be allowed the following deductions from its investment incomes and
8 other incomes-

9 (a) an amount which makes a general reserve and fund equal to the
10 net liabilities on policies in force at the time of an actuarial valuation;

11 (b) an amount which is equal to 1 percent of gross premium earned
12 or 10 percent of profits (whichever is greater) to a special reserve fund and
13 accommodation until it becomes the amount of the statutory minimum paid-
14 up capital;

15 (c) all normal allowable business outgoing.

16 (12) A reinsurance company shall be allowed the following
17 deductions from its gross profit to be credited to a general reserve fund-

18 (a) an amount not more than 50 percent of the gross profits of the
19 reinsurer for the year where the general reserve fund is less than the initial
20 statutory minimum authorised share capital; or

21 (b) an amount not more than 25 percent of the gross profits of the
22 reinsurer for the year, where the fund is equal to or exceeds the initial
23 statutory minimum authorised share capital.

24 (13) An insurance company that engages the services of an
25 insurance agent, a loss adjuster and an insurance broker shall include in its
26 annual tax returns, a schedule showing the name and address of that agent,
27 loss adjuster and insurance broker, the date their services were employed
28 and terminated, as applicable, and payments made to each such agent, loss
29 adjuster and insurance broker for the period covered by the tax returns.

30 (14) The provisions on minimum tax in Section 33 of this Act shall

1 apply to insurance business, provided that "gross turnover" shall mean "gross
2 premium and other income", in the case of non-life insurance business and
3 "gross income", in the case of life insurance business.

4 (15) For the purpose of subsection (14)-
5 "gross premium" means the total premiums written, received and receivable
6 excluding unearned premium and premiums returned to the insured;

7 "gross income" means total income earned by a life insurance business
8 including all investment income (excluding franked investment income), fees,
9 commission and income from other assets but excluding premiums received
10 and claims paid by re-insurers; and

11 "Other income", for the purposes of non-life insurance businesses shall be
12 taken to refer to all the income of the non- life insurance business other than
13 gross premium (excluding franked investment income).

Amendment of
Section 18 of the
Companies Income
Tax Act

14 Section 18 of the Companies Income Tax Act is amended by deleting
15 paragraph (c) (iii).

Amendment of
Section 23 of the
Companies Income
Tax Act

16 Section 23 of the Companies Income Tax Act is amended by-

17 (a) repealing and re-enacting subsection 1 as follows-

18 "(1) there shall be exempt from tax-

19 (a) the profits of any company being a statutory or registered friendly
20 society, in so far as such profits are not derived from a trade or business carried
21 on by such society;

22 (b) the profits of any company being a co-operative society registered
23 under any enactment or law relating to co-operative societies, not being profits
24 from any trade or business carried on by that company other than co-operative
25 activities solely carried out with its members or from any share or other interest
26 possessed by that company in a trade or business in Nigeria carried on by some
27 other persons or authority;

28 (c) the profits of any company engaged in ecclesiastical, charitable or
29 educational activities of a public character in so far as such profits are not
30 derived from a trade or business carried on by such company;

1 (d) the profits of any company formed for the purpose of promoting
2 sporting activities where such profits are wholly expendable for such
3 purpose, subject to such conditions as the Service may prescribe;

4 (e) the profits of any company being a trade union registered under
5 the Trade Unions Act in so far as such profits are not derived from a trade or
6 business carried on by such trade union;

7 (f) dividend distributed by Unit Trust;

8 (g) the profits of any company being a body corporate established
9 by or under any Local Government Law or Edict in force in any State in
10 Nigeria;

11 (h) the profits of any body corporate being a purchasing authority
12 established by an enactment and empowered to acquire any commodity for
13 export from Nigeria from the purchase and sale (whether for the purposes of
14 export or otherwise) of that commodity;

15 (i) the profits of any company or any corporation established by the
16 law of a State for the purpose of fostering the economic development of that
17 State, not being profits derived from any trade or business carried on by that
18 corporation or from any share or other interest possessed by that corporation
19 in a trade or business in Nigeria carried on by some other person or
20 authority;

21 (j) any profits of a company other than a Nigerian company which,
22 but for this paragraph, would be chargeable to tax by reason solely of their
23 being brought into or received in Nigeria;

24 (k) dividend, interest, rent, or royalty derived by a company from a
25 country outside Nigeria and brought into Nigeria through Government
26 approved channels. For the purpose of this subsection, "Government
27 approved channels", means the Central Bank of Nigeria, any bank or other
28 corporate body appointed by the Minister as authorised dealer under the
29 Foreign Exchange (Monitoring and Miscellaneous Provisions) Act or any
30 enactment replacing that Act;

1 (l) the interest on deposit accounts of a foreign non-resident company:
2 Provided that the deposits into the account are transfers wholly of foreign
3 currencies to Nigeria on or after 1 January 1990 through Government approved
4 channels;

5 (m) the interest on foreign currency domiciliary account in Nigeria
6 accruing on or after 1 January, 1990;

7 (n) The profits of a small company in a relevant year of assessment:

8 Provided that such company shall, without prejudice to this
9 exemption, comply with the tax registration and tax return filing stipulations of
10 this Act and be subject to the provisions as regards time of filing, penalties for
11 breach of statutory duties and all other provisions of this Act in all respects
12 during the period which its profits are below the tax paying threshold;

13 (o) Dividends received from small companies in the manufacturing
14 sector in the first five years of their operations;

15 (p) dividend received from investments in wholly export-oriented
16 businesses;

17 (q) The profits of any Nigerian company (other than companies
18 engaged in the Upstream, Midstream or Downstream Petroleum operations) in
19 respect of goods exported from Nigeria, if the proceeds of such exports are
20 used for the purchase of raw materials, plant, equipment and spare parts:

21 Provided that tax shall accrue proportionately on the portion of such proceeds
22 which are not utilised in the manner prescribed.

23 (r) the profits of a company whose supplies are exclusively inputs to
24 the manufacturing of products for export, provided that the exporter shall give
25 a certificate of purchase of the inputs of the exportable goods to the seller of the
26 supplies;

27 (s) the dividend and rental income received by a real estate investment
28 company on behalf of its shareholders provided that-

29 (i) a minimum 75% of dividend and rental income is distributed, and

30 (ii) such distribution is made within 12 months of the end of the

1 financial year in which the dividend or rental income was earned.

2 (t) the compensating payments, which qualify as dividends under
3 section 9(1)(c) of this Act, received by a lender from its approved agent or a
4 borrower in a Regulated Securities Lending Transaction, such payments are
5 deemed to be franked investment income and shall not be subjected to
6 further tax in the hands of the Lender;

7 (u) the compensating payments, which qualify as dividends or
8 interest under section 9(1)(c) of this Act, received by an approved agent
9 from a borrower or lender on behalf of a lender or borrower in a Regulated
10 Securities Lending Transaction;

11 (v) the profit of a company established within an export processing
12 zone or free trade zone:

13 Provided that 100 percent production of such company is for
14 export otherwise tax shall accrue proportionately on the profits of the
15 company.

16 (b) Substituting for Section 1(A), a new Section 1(A) -

17 "(1A) Nothing in this section shall be construed to exempt from
18 deduction at source, the tax which a company making payments is to deduct
19 under sections 78, 79 or 80 of this Act, such that the provisions of sections
20 78, 79 and 80 of this Act shall apply to a dividend, interest, rent or royalty
21 paid by a company exempted from tax under subsection (1) (a) to (e), (h) to
22 (l), (n), (p), (q) and (s)."

23 Section 30 of the Companies Income Tax Act is amended by-

24 (a) inserting after sub paragraph 30(b)(ii), a new subparagraph
25 30(b)(iii) -

26 "30(b)(iii) That company transmits, emits or receives signals,
27 sounds, messages, images or data of any kind by cable, radio,
28 electromagnetic systems or any other electronic or wireless apparatus to
29 Nigeria in respect of any activity, including electronic commerce,
30 application store, high frequency trading, electronic data storage, online

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Section 30 of the
Companies Income
Tax Act

1 adverts, participative network platform, online payments and so on, to the
2 extent that the company has significant economic presence in Nigeria, assess
3 and charge that company for that year of assessment on such fair and
4 reasonable percentage of that part of the turnover attributable to that presence;"

5 (b) Renumbering the paragraphs accordingly.

Amendment of
Section 31 of the
Companies Income
Tax Act

6 Section 31 of the Companies Income Tax Act is amended by-

7 (a) Inserting after subsection 1, new Subsections (2), (3), (4) and (5) -

8 "(2) The deduction to be allowed in accordance with the provisions of
9 the Second Schedule, referred to in subsection (1) of this Section, shall be the
10 amount relating to the qualifying capital expenditure incurred in generating the
11 assessable profits.

12 (3) Where the qualifying capital expenditure is in relation to an asset
13 that is only partially utilized in generating the taxable income such qualifying
14 capital expenditure shall be pro-rated and only the portion relating to the
15 taxable income shall be allowable as a deduction.

16 Provided that the provisions of this subsection shall apply only where
17 the proportion of non-taxable income constitutes greater than 20% of the total
18 income of the company.

19 (4) For the purposes of this Section and the Second Schedule to this
20 Act, the capital allowance for any assessment year in which a company is
21 considered as a small company or a medium company shall be computed in
22 accordance to the provisions of the Second Schedule, and the amount so
23 computed together with any unabsorbed allowances brought forward from
24 previous years shall be deemed to have been made and consumed by such
25 company in each such year of assessment and the residue carried forward into
26 subsequent years.

27 (5) The provisions of subsection (2), (3) and (4) of this section shall
28 not apply to a company that enjoys pioneer status under the Industrial
29 Development (Income Tax Relief) Act."

30 (b) Renumbering appropriately;

- 1 Section 33 of the Companies Income Tax Act (as amended by Finance Act
2 2020) is further amended by substituting for Subsection (2), a new
3 Subsection (2) -
- 4 "(2) For the purpose of subsection (1), the minimum tax to be
5 levied and paid shall be 0.5% of gross turnover of the company less franked
6 investment income -
- 7 Provided, that the applicable minimum tax is reduced to 0.25% for
8 tax returns prepared and filed for any two accounting periods ending on any
9 date between 1 January 2019 and 31 December 2021, both days inclusive.
10 For the purpose of this subsection, the application of the reduced rate shall
11 be available for only two accounting periods either from 1 January 2019 to
12 31 December 2020 or from 1 January 2020 to 31 December 2021, as may be
13 determined by the taxpayer."
- 14 Section 39 is amended by- Amendment of
Section 39
- 15 (a) Substituting for paragraph (a) of subsection (1) a new
16 paragraph (a) as follows -
- 17 "(1)(a) An initial tax-free period of three years which may, subject
18 to the satisfactory performance of the business, be renewed for an additional
19 period of two years;
- 20 Provided that:
- 21 (i) this incentive is claimable not more than once by the same
22 company;
- 23 (ii) any company formed from reorganisation, restructuring, buy-
24 back or other similar schemes out of a company which has already enjoyed
25 this incentive shall not be entitled to it;
- 26 (iii) this incentive shall not apply to any company that has claimed
27 an incentive for trade or business of gas utilization under any law in Nigeria,
28 including the Petroleum Profits Tax Act or the incentives under the
29 Industrial Development (Income Tax Relief) Act."
- 30 (b) Delete subsection (3) and renumber the sections accordingly.

Amendment of
Section 77 of the
Companies Income
Tax Act

1 Section 77 of Companies Income Tax Act is amended by repealing and re-
2 enacting the entire section as follows-

3 "(1) Tax charged by any assessment which is not or has not been the
4 subject of an objection or appeal by the company shall be payable (after the
5 deduction of any amount to be set-off for the purposes of collection under any
6 provision of this Act) at the place stated in the notice of assessment within 30
7 days after service of such notice upon the company:

8 Provided that the Service, in its discretion, may extend the time within
9 which payment is to be made.

10 (2) Subject to the provisions of subsection (3) of section 69 of this Act,
11 collection of tax in any case where notice of an objection or appeal has been
12 given by the company shall remain in abeyance until such objection or appeal
13 is determined, save that the company shall have paid the tax which is not or has
14 not been the subject of an objection or appeal as provided in sub-section (1) of
15 this section.

16 (3) Upon the determination of an objection or appeal, the Service
17 shall serve upon the company a notice of the tax payable as so determined, and
18 that tax shall be payable within one month of the date of service of such notice
19 upon the company.

20 (4) Every Company shall make payment of tax due on or before the
21 due date of filing, in one lump sum or in instalments:

22 Provided that the final instalments must be paid on or before the due
23 date of filing.

24 (5) Where a company pays its tax 90 days before the due date as
25 provided under Section 55 of this Act, such company shall be entitled to a
26 bonus of-

27 (a) 2% if such company is a medium-sized company; and

28 (b) 1% for any other company;

29 on the amount of tax paid, which shall be available as a credit against its future
30 taxes.

1 (6) Any balance of taxes unpaid as at the due date shall attract
2 interest and penalties as provided in this Act or any other relevant law for
3 failure to pay on the due date.

4 (7) Notwithstanding anything to the contrary in any law, income
5 tax payable under sections 52, 53 and 55 of this Act shall be paid to the
6 Service in the currency in which the income giving rise to the tax was
7 derived and paid to the company making the return."

8 Section 78 of the Companies Income Tax Act is amended by-

9 (a) Substituting for subsection 4, a new subsection 4-

10 "(4) The tax, when paid over to the Service, shall be the final tax
11 due from-

12 (a) a non-resident recipient of the payment; and

13 (b) a unit trust recipient of the payment"

14 Section 81 of the Companies Income Tax Act is amended by repealing and
15 re-enacting the entire section as follows -

16 "1. Income tax assessable on any company, whether or not an
17 assessment has been made, shall, if the Service so directs, be recoverable
18 from any payments made by any person to such company.

19 2. Any such direction may apply to any person or class of persons
20 specified in such direction, either with respect to all companies or a
21 company or class of companies, liable to payment of income tax:

22 Provided that in the case of road, bridges, building and power plant
23 construction contract, the rate shall not exceed two and a half percent.

24 3. Any direction under subsection (1) of this section shall be in
25 writing addressed to the person or be published in the Federal Gazette and
26 shall specify the nature of payments and the rate at which tax is to be
27 deducted.

28 4. In determining the rate of tax to be applied to any payments
29 made to a company, the Service may take into account-

30 (a) any assessable profits of that company for the year arising from

Amendment of
Section 78 of the
Companies Income
Tax Act

Amendment of
Section 81 of the
Companies Income
Tax Act

1 any other source chargeable to income tax under this Act; and

2 (b) any income tax or arrears of tax payable by that company for any
3 of the six preceding years of assessment.

4 5. Income tax recovered under the provisions of this section by
5 deduction from payments made to a company shall be set off for the purpose of
6 collection against tax charged on such company by an assessment.

7 6. Every person required under any provisions of this Act to make
8 any deduction from payments made to any company shall account to the
9 Service in such manner as the Service may prescribe for the deduction so made

10 7. Any excess payment arising from compliance with sections 78, 79,
11 80 and 81 of this Act over the assessment under section 65 of this Act shall be
12 refunded by the Service within ninety days of the assessment if duly filed with
13 the option to set off against future taxes.

14 8. The provisions of this section shall not apply to compensating
15 payments made under a Registered Securities Lending Transaction.

16 9. The Minister of Finance on the advice of the Service may make
17 regulations for the carrying out of the provisions of this section."

Amendment of
Section 105 of the
Companies Income
Tax Act

18 Section 105 of the Companies Income Tax Act is amended by substituting for
19 the definition of Real Estate Investment Company, a new definition-

20 "Real Estate Investment Company" means for the purpose of this Act,
21 a Company (including a Real Estate Unit Trust) duly approved by the
22 Securities and Exchange Commission as a Real Estate Investment Scheme in
23 Nigeria."

24 3. Section 25 of the Federal Inland Revenue Service (Establishment)
25 Act is amended by-

Amendment of
Federal Inland
Revenue Service
(Establishment)
Act

26 (a) Substituting for subsection (4), a new subsection "(4) The Service
27 may deploy proprietary or third party technology to automate the tax
28 administration process including tax assessment and information gathering
29 provided it gives 30 days' notice to the taxpayer"

1 (b) Inserting after subsection (4) a new subsection (5) and (6) -

2 "(5) The Service may, upon written request from a taxpayer who
3 has demonstrated good cause, withdraw or grant extension to the notice
4 referred to in subsection (4).

5 (6) Any person who fails to grant access to the Service after 30 days
6 of receipt of the notice specified in subsection (4) or the extension granted
7 under subsection (5), is liable to an administrative penalty of N50,000 and
8 N25,000 for each day that it fails to grant access."

9 (c) Renumbering the Sections appropriately.

10 Section 28 of the Federal Inland Revenue Service (Establishment) Act is
11 amended by-

Amendment of
Section 28 of the
Federal Inland
Revenue Service
(Establishment)
Act

12 (a) Substituting for subsection (3), a new subsection (3) -

13 "(3) Any bank that contravenes the provisions of this section is
14 liable to a penalty of N2,000,000 for each of the returns or information not
15 provided or incorrect returns or information provided."

16 (b) Inserting after subsection (3), a new subsection (4) -

17 "(4) For the purpose of subsection (3), the penalty shall be payable
18 in respect of each quarterly return not filed by the bank."

19 Section 35(4) of the Federal Inland Revenue Service (Establishment) Act is
20 amended by replacing the number "48" after the word "Section" with the
21 number "47" as follows:

Amendment of
Section 35(4) of
the Federal Inland
Revenue Service
(Establishment)
Act

22 "Where any investigation under this section reveals the
23 commission of any offence or an attempt to commit an offence, the service
24 shall, pursuant to Section 47 of this Act, undertake the prosecution of the
25 offences"

26 Section 50 of the Federal Inland Revenue Service (Establishment) Act is
27 amended by substituting for Subsection (1), a new Subsection (1) -

Amendment of
Section 50 of the
Federal Inland
Revenue Service
(Establishment)
Act

28 "(1) Every person in an official duty or being employed for the
29 administration of this Act or otherwise, that has access to taxpayer

Amendment of
Section 68 of the
Federal Inland
Revenue Service
(Establishment)
Act

1 information shall regard and deal with such information as secret and
2 confidential".

3 Section 68 of the Federal Inland Revenue Service (Establishment) Act is
4 amended by replacing the section with a new section 68 as follows-

5 "(1) This Act and the laws listed in the First Schedule to this Act shall
6 take precedence over any other laws with regards to the administration,
7 assessment, collection, accounting and enforcement of taxes and levies due to
8 the Federal Government or Federation in Nigeria and if the provisions of any
9 other law, including the enactments in the First Schedule are inconsistent with
10 the provisions of this Act, the provisions of this Act shall prevail and the
11 provisions of that other law shall, to the extent of the inconsistency, be void

12 (2) Notwithstanding any other law imposing taxes or levies in
13 Nigeria, the Service shall be the primary agency of the Federal Government of
14 Nigeria responsible for the administration, assessment, collection, accounting
15 and enforcement of taxes and levies due to the Federation and the Federal
16 Government or any of its agencies, except as may be authorised by the Minister
17 responsible for Finance by regulation.

18 (3) It shall be an offence for any person to carry out or authorise
19 another to carry out the function of administering, assessment, collection,
20 accounting or enforcement of taxes and levies due to the Federation and the
21 Federal Government of Nigeria, except as may be provided under this Act or
22 any of the laws listed in the First Schedule to this Act or as authorised by the
23 Minister responsible for Finance by regulation.

24 (4) For the purposes of enforcing compliance with the provisions of
25 the relevant tax laws and preventing tax revenue loss, the Service may
26 collaborate with relevant Ministries, Departments, Agencies or institutions of
27 the Federal Government.

28 (5) Any person or agency of the Federal Government that becomes
29 aware of any incidence requiring tax investigation, enforcement or
30 compliance, in the course of the performance of its functions, shall refer same

1 to the Service for necessary action and the Service may in accordance with
2 the provisions of this Act collaborate with such person or agency in carrying
3 out required investigation, enforcement or compliance measures.

4 (6) Any person who commits an offence under this section or
5 contravenes any of the provisions of the section is liable on conviction to
6 imprisonment for a term not exceeding 5 years or to a fine of [ten million
7 naira] [N10,000,000] or to both such imprisonment and fine"

8 4. Section 33 of the Personal Income Tax Act is amended by
9 substituting for subsection (3), a new subsection (3) as follows -

Amendment of
Personal Income
Tax Act

10 "(3) There shall be allowed a deduction of the annual amount of
11 any premium paid by the individual during the year preceding the year of
12 assessment to an insurance company in respect of insurance on his life or the
13 life of his spouse."

14 Section 47 of the Personal Income Tax Act is amended by-

Amendment of
Section 47 of the
Personal Income
Tax Act

15 (a) substituting for subsection (2), a new subsection (2)

16 "(2) For the purpose of paragraphs (a) to (d) of subsection (1) of
17 this section, the time limited by a notice shall not be less than seven days
18 from the date of service of the notice, so however that an officer of the
19 relevant tax authority not below the rank of a Senior Manager or Grade
20 Level 14 equivalent may act in any of the cases stipulated in subsection (1)
21 (c) or (d) of this section, without giving any of the required notices set out in
22 this section."

23 (b) substituting for subsection (3), a new subsection (3) -

24 "(3) Any bank that contravenes the provisions of this section
25 commits an offence and is liable to a penalty of N2,000,000 for each of the
26 returns or information not provided or incorrect returns or information
27 provided"

28 Section 49 of the Personal Income Tax Act is amended as follows-

Amendment of
Section 49 of the
Personal Income
Tax Act

29 (a) Substituting the words "a return at the end of each month" in
30 subsection (2), with the words "quarterly returns"

1 (b) Substituting for subsection (4), a new subsection (4).

2 "(4) Any bank that contravenes the provisions of this section is liable
3 to a penalty of N2,000,000 for each of the returns not provided or incorrect
4 returns provided."

5 (c) Inserting after subsection (4), a new subsection (5).

6 "(5) For the purpose of subsection (4), the penalty shall be payable in
7 respect of each quarterly return not filed by the bank."

8 (d) Renumbering appropriately

Amendment of
Section 94 of the
Personal Income
Tax Act

9 Section 94 of the Personal Income Tax Act is amended by substituting for
10 subsection (1), a new subsection (1) as follows-

11 "(1) A person guilty of an offence under this Act, or a person who
12 contravenes or fails to comply with any of the provisions of this Act or any rule
13 or regulation made thereunder for which no other penalty is specifically
14 provided, shall be liable on conviction to a fine of ₦20,000 and where the
15 offence is the failure to furnish a return, statement or information or to keep
16 records required, a further sum of two thousand naira for every day during
17 which the failure continues, and, in default of payment, to imprisonment for six
18 months, and the liability to such further sum shall commence from the day
19 following the conviction, or from such other day thereafter as the Court may
20 order"

Amendment of
Stamp Duties Act

21 **5.** Section 89 of the Stamp duties Act is amended by substituting for
22 subsection (3), a new subsection 3 -

23 "(3) The Minister of Finance shall, subject to the approval of the
24 National Assembly, make regulations for the imposition, administration,
25 collection and remittance of the Levy, including regulations relating to the
26 auditing, accounting, allocation and distribution of arrears of the relevant
27 stamp duties and Electronic Money Transfer Levies collected between 2015
28 and 2019 fiscal years."

Amendment of
Tertiary Education
Trust Fund
(Establishment, Etc.)
Act

29 **6.** Section 2(2) of the Tertiary Education Trust Fund (Establishment,
30 Etc.) Act is amended by replacing the words "60 days" with "30 days"

1 7. Section 10 of the Value Added Tax Act is amended by Amendment of
2 substituting for section 10, a new section 10 - Value Added Tax
Act

3 "(1) For the purposes of this Act, a non-resident person that makes
4 a taxable supply to Nigeria, shall register for tax with the Service and obtain
5 a Tax Identification Number.

6 (2) A non-resident person shall include the tax on its invoice for all
7 taxable supplies.

8 (3) The taxable person to whom a taxable supply is made in
9 Nigeria, or such other person as may be appointed by the Service shall
10 withhold or collect the tax, as the case may be, and remit same to the Service.

11 (4) Where a person appointed pursuant to subsection(3) of this
12 section has made a taxable supply to a taxable person in Nigeria, the taxable
13 person shall not have the obligation to withhold the tax, except where the
14 person so appointed has failed to collect the tax.

15 (5) A non-resident person that makes a taxable supply to Nigeria
16 may appoint a representative to help in compliance with its tax obligations.

17 (6) The Service may issue a guideline for the purpose of giving
18 effect to the provisions of this section, including the form, time and
19 procedure for filing returns and payment by non-resident suppliers
20 appointed by the Service pursuant to subsection (3) of this Section."

21 Section 14 of the Value Added Tax Act is amended by substituting for Amendment of
22 subsection (3), a new subsection (3) as follows: Section 14 of the
Value Added Tax
Act

23 "(3) The Service may appoint any person to withhold or collect the
24 tax, and the person so appointed shall, on or before the 21st day of the
25 following month, remit the tax so withheld or collected to the Service in the
26 currency of the transaction."

27 Section 15 of the Value Added Tax Act is amended by-

28 (a) Replacing the word "13" with "13A" in the proviso to section
29 15(2);

30 (b) Inserting after subsection (2), a new subsection (3)-

Amendment of
Section 15 of the
Value Added Tax
Act

	1	“(3) The exemption provided for in subsection (2) of this section,
	2	shall not apply to companies engaged in upstream petroleum operations as
	3	described in the Petroleum Industry Act and Petroleum Profits Tax Act”
Amendment of Insurance Act	4	8. Section 9 of the Insurance Act is hereby amended by substituting
	5	the term "paid-up share capital" with the term "Capital requirement" wherever
	6	it appears.
Amendment of Section 10(3) of the Insurance Act	7	Section 10 (3) of the Insurance Act is hereby amended by substituting the term
	8	"paid-up share capital" with the term "Capital Requirement," wherever it
	9	appears.
Amendment of Section 102 of the Insurance Act	10	Section 102 of the Insurance Act is amended by inserting after the definition of
	11	"Board" a definition for Capital Requirement-
	12	"Capital Requirement" as specified in this Act shall-
	13	(a) in case of existing company consist of-
	14	(i) the excess of admissible assets over liabilities, less the amount of
	15	own shares held by the company;
	16	(ii) subordinated liabilities subject to approval by the Commission;
	17	and
	18	(iii) any other financial instrument as prescribed by the Commission
	19	from time to time.
	20	For the purpose of this section, Admissible Assets are defined as Share Capital,
	21	Share Premium, Retained Earnings, Contingency Reserves, and any other
	22	admissible assets will be subject to the approval of the Commission.
	23	(b) in the case of a new company consist of-
	24	(i) Government Bonds and Treasury Bills;
	25	(ii) Cash and Bank balances; and
	26	(iii) Cash and cash equivalent.
Amendment of Nigerian Police Trust Fund (Establishment) Act	27	9. Section 4 of the Value Added Tax Act is amended by Inserting after
	28	subsection (2), a new subsection 3 as follows:
	29	“(3) The Federal Inland Revenue Service shall assess, collect,
	30	account and enforce the payment of the levy imposed by subsection (1)(b) and

1 the provisions of the Companies Income Tax Act Cap. C21 LFN 2004 (as
2 amended) and the Federal Inland Revenue Service (Establishment) Act
3 2007 shall apply to the administration, assessment, collection, accounting,
4 returns and enforcement of the levy".

5 **10.** Section 20(2) of the National Agency for Science and
6 Engineering Infrastructure Act is amended as follows:

Amendment of
National Agency
for Science and
Engineering
Infrastructure Act

7 (1) substituting for subsection 2(a), a new subsection 2(a):

8 "1 per cent of the Federation Account in the first instance."

9 (1) By deleting subparagraph "(b)"

10 **11.** Section 3 of the Finance (Control and Management) Act is
11 amended -

Amendment of
Finance (Control
and Management)
Act

12 (c) by numbering the existing paragraph as subsection (1);

13 (b) by including a new subsection (2) and (3) as follows-

14 "(2) In the discharge of their powers to collect taxes, levies, fees
15 and all other revenue accruable to the Federation, all Ministries,
16 Departments, Agencies and other institutions of the Federal Government
17 shall comply with Sections 59, 80 and 81 of the Constitution of the Federal
18 Republic of Nigeria to the effect that all revenues or other moneys raised or
19 received by the Federation (not being revenues or other moneys payable
20 under the Constitution of the Federal Republic of Nigeria as a Statutory
21 Transfer or other such payment that is not required by any law to be payable
22 into any fund before being first paid into the into the Consolidated Revenue
23 Fund, and then subsequently transferred into that other fund or account)
24 shall be paid into and form one Consolidated Revenue Fund of the
25 Federation.

26 (3) No moneys shall be withdrawn from the Consolidated Revenue
27 Fund of the Federation or any other public fund except to meet expenditure
28 that is charged upon the Consolidated Revenue Fund or other public fund by
29 the Constitution of the Federal Republic of Nigeria or where the issue of
30 those moneys has been authorized by an Appropriation Act, Supplementary

Amendment of
Section 4 of the
Finance (Control
and Management)
Act

1 Appropriation Act or an Act passed in pursuance of section 81 of the
2 Constitution of the Federal Republic of Nigeria or authorized by any other Act
3 of the National Assembly".

4 Section 4 of the Finance (Control and Management) Act is amended by-

5 (c) substituting for the existing subsection (1), a new subsection (1);

6 "(1) Every Ministry, Department, Agency, official or other persons
7 concerned in or responsible for the collection, receipt, custody, issue or
8 payment of public moneys, stores, stamps, investments, securities, or
9 negotiable instruments, whether the property of Government or on deposit
10 with or entrusted to Government or any public officer in his official capacity
11 either alone or jointly with any public officer or any other person, shall comply
12 with all rules, regulations, guidelines and other instructions that may, from
13 time to time, be issued by or under the direction of the Minister responsible for
14 Finance in respect to the custody and handling of the same and accounting
15 therefore".

16 (b) inserting new subsections (2) and (3) as follows-

17 "(2) All taxes, levies, revenues or other moneys raised or received by
18 the Federation, the Federal Government of Nigeria or any agency of the
19 Federal Government of Nigeria shall be paid in gross into the Federation
20 Account, the Consolidated Revenue Fund or relevant Special Purpose Account
21 as provided by the Constitution of the Federal Republic of Nigeria or the
22 enabling Act of the National Assembly as the case may be;

23 (3) Any person, who being an officer of any Federal Ministry,
24 Department or Agency or institution of Government to which this Section
25 refers to, who fails to pay or authorize the payment of any part of any taxes,
26 levies and other revenues collected on behalf of the Federation, Federal
27 Government of Nigeria or any Ministry, Department, Agency or institution of
28 the Federal Government of Nigeria to any person before the balance is paid into
29 the Federation Account or the Consolidated Revenue Fund, as the case may be,

1 except as authorized by the National Assembly or Minister responsible for
2 Finance, commits an offence and is liable on conviction to imprisonment for
3 a term not exceeding 5 years or to a fine of [five million naira] [N5,000,000]
4 or to both such imprisonment and fine".

5 (c) renumbering the sections accordingly;

6 **12.** Section 41 of the Fiscal Responsibility Act is amended by
7 substituting for subsection 1, a new subsection 1-

Fiscal
Responsibility
Act

8 "(1) The framework for debt management during the financial year
9 shall be based on the following rules:

10 (a) Government at all tiers shall only borrow for capital
11 expenditure, human development and to undertake critical reforms of
12 significant national impact, provided that, such borrowing shall be on
13 concessional terms or at relatively low interest rates and with a reasonably
14 long amortization period subject to the approval of the appropriate
15 legislative body where necessary; and

16 (b) Government shall ensure that the level of public debt as a
17 proportion of national income is held at a sustainable level as prescribed by
18 the National Assembly from time to time on the advice of the Minister"

19 **13.** This Bill may be cited as the Finance Bill, 2021.

Citation

EXPLANATORY MEMORANDUM

This Bill seeks 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.