




UUBO COVID-19 RESOURCE HUB:

INTERIM PALLIATIVES MEASURES - FIRS WAIVES INTEREST AND PENALTIES ON OUTSTANDING TAX LIABILITIES FOR CERTAIN TAXPAYERS

Introduction

The Federal Inland Revenue Service (“FIRS”) has introduced several measures to cushion the effect of the COVID-19 pandemic on corporate taxpayers (see our earlier update on the first sets of palliative measures at <https://covid-19.uubo.org/wp-content/uploads/2020/04/INTERIM-PALLIATIVE-MEASURES-INTRODUCED-BY-NIGERIAN-TAX-AUTHORITIES-TO->

[MINIMISE-THE-IMPACT-OF-THE-COVID-19-PANDEMIC-ON-TAXPAYERS.pdf](#)). On 30th April, 2020, the FIRS issued a public notice titled “Update on the Palliative Measures to Cushion the Effects of COVID-19 on Taxpayers No 3” (the “Notice”), to introduce an additional palliative measure.



Waiver of interests and penalties for outstanding tax debts

The Federal Inland Revenue Service (Establishment) Act 2007 imposes certain penalties for late payment of companies' income tax. These penalties include – (a) a sum equal to 10% of the amount of tax payable; (b) interest at the prevailing monetary policy rate of the Central Bank of Nigeria (“MPR”) plus a spread to be determined by the Minister of Finance from the date when the tax becomes payable until it is paid (“Spread”) for Naira remittances; and (c) interest at the prevailing London Interbank Offered Rate or the prevailing MPR, depending on which is higher plus a Spread for foreign currency remittances. The FIRS has, through the Notice, announced its intention to grant waivers on all interest accrued and applicable penalties payable on outstanding tax debts arising as a result of desk reviews, tax audits and investigations. An affected taxpayer will be entitled to this benefit if such tax debt is paid in full on or before 31st May, 2020.

The implication of the proposed waiver is that for the concession to apply to an affected taxpayer, the following conditions must be met:

- (a) the outstanding tax liability must have arisen as a result of a desk review, tax audit or tax investigation by the FIRS; and
- (b) the affected taxpayer must make full payment of the principal sum of the outstanding debt before the deadline. Consequently, outstanding tax liabilities that do not arise as a result of a desk review, tax audit or tax investigation may not be covered by waiver under the Notice and the applicable interest and penalties may apply to such tax liabilities.

It is important to note that the Notice does not indicate the period in respect of which the desk reviews, tax audits or tax investigation relates in order for the concession to apply. What this means, therefore, is that taxpayers that have outstanding tax liabilities from desk reviews, tax audits or investigations from previous years of assessment (irrespective of the period covered) should be able to take advantage of this concession.

Whilst the introduction of this concession is laudable, the timeline within which payment should be made to the FIRS



does not take into consideration the fact that most businesses are experiencing limited cash flow during these unprecedented times, and that companies are only just resuming limited operations. Given that the lock down in certain states in the country is currently being lifted on a gradual basis, it is expected that it could take some time for businesses to fully resume operations. An extended period of, for instance, three months would have been more appropriate at this time and would have demonstrated the FIRS' commitment to supporting businesses during this difficult period.

Conclusion Affected taxpayers should take advantage of the waivers that the FIRS has proposed and ensure that they make the requisite payments before the deadline. Any affected taxpayer that requires further advice in this regard is encouraged by the FIRS to contact the tax controller of the FIRS tax office where its business file is domiciled. It is hoped that the FIRS will continue to introduce measures that will adequately assist taxpayers in these difficult and unprecedented times.



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