Nigeria's New Tax Laws: Inherent Errors, Inconsistencies, Gaps and Omissions

On 1 January 2026, the Nigeria Tax Act (NTA) and the Nigeria Tax Administration Act (NTAA) became effective. Though the other two Acts - the Nigeria Revenue Service Establishment Act (NRSEA) and the Joint Revenue Board Establishment Act (JRBEA) - had become effective since June 26, 2025, they were only activated on 1 January 2026. As a result of allegations of discrepancies between the harmonized bills transmitted to the Presidency by the National Assembly and the Gazetted Acts, the National Assembly has just released the 'certified' Acts. Hopefully, this intervention will put this matter to rest but only time will tell.

As with any tax reform, the new tax laws seek to achieve the following objectives:

- Equity and fairness
- Simplification and efficiency of tax administration
- Competitiveness
- Adapt to changing economic conditions
- Combat tax avoidance and tax evasion
- Revenue generation
- Economic growth

You can click on these links[1] to read our analyses of the four (4) tax Acts. However, there are certain errors, inconsistencies, gaps, omissions, and lacunae in the new tax laws that need to be urgently reconsidered to ensure the attainment of the stated objectives. In this Newsletter, we have focused on some of the key gaps and provided the bases for our suggested revisions to the tax laws.

1. Section 3(b)&(c) of the NTA - Imposition of tax

Error/Gap - The section specifies persons on whom taxes should be levied, including individuals, families, companies or enterprises, trustees, and an estate, but omits 'community.' However, community' is included in the definition of 'person' under Section 201.

Recommendation - If the intention is to impose tax on communities, this should be explicitly introduced in Section 3. Otherwise, the law should clearly state that communities are now exempt from tax.

2. Section 6(2) of the NTA - Controlled foreign companies (CFC)

Error/Gap - The Act states that undistributed foreign profits are to be "construed as distributed" but also mandates that they be "included in the profits of the Nigerian company" (implying income tax at 30%). Though dividend distributed by a Nigerian company is deemed to be franked investment income, this does not appear to be the case with dividends distributed by foreign companies. It thus appears that such dividends will be taxed at the income tax rate. Consequently, there will be differences in the treatment of dividends distributed by Nigerian companies and those distributed by foreign companies.

Recommendation – Modify the section by providing clarity on the treatment of foreign and local dividends.

[1] The Nigeria Tax Act (NTA), 2025 - KPMG Nigeria

The Nigeria Tax Administration Act (NTAA) 2025.pdf

The Joint Revenue Board Establishment Act (JREA) 2025 - KPMG Nigeria

The Nigeria Revenue Service (Establishment) Act, 2025 - KPMG Nigeria

3. Section 17(3)(b) of the NTA - Taxation of non-resident persons

Error/Gap - This section specifies the conditions under which profits derived by a non-resident are taxable in Nigeria. Although Section 17(4) of the NTA states that payment deducted at source in respect of payments by Nigerian residents to non-residents, irrespective of where the service is rendered, shall be final tax where the non-resident has no permanent establishment (PE) or Significant Economic Presence (SEP) in Nigeria to which the payment is attributable, it does not clearly absolve the non-resident from tax registration requirements under Section 6(1) of the NTAA. This in, our view, cannot be the intention of the law. The intention should be that non-residents that do not have PE or SEP in the country should not be required to file tax returns as provided for in Section 11(3) of the NTAA.

Recommendation - Section 6(1) of the NTAA should be updated to include not only non-residents that derive passive income from investments in Nigeria but also income in which the deduction at source is the final tax. This would clearly absolve non-residents from the tax registration requirement where they have no PE or SEP in Nigeria.

Section 11(3) of the NTAA clearly exempts non-resident companies whose only income has been subject to tax deducted at source from the requirement to file tax returns. Thus, as stated above, Section 6(1) should be modified to align with section 11(3) and exempt such non-resident companies from the tax registration obligations. This is even more critical if one were to apply the later-in time rule of interpretation. Based on this rule, the provisions of the NTA may be deemed to supersede those of the NTAA since the NTA is number 26 while the NTAA is number 24.

4. Section 17(3)(c) of the NTA - Taxation of non-resident persons

Error/Gap - Section 17(3)(c) of NTA requires a Nigerian resident to deduct WHT on insurance premiums paid to non-residents. This must have been based on the desire to generate more revenue and protect local insurance companies. We do concede that there are other countries that impose taxes on premiums payable to overseas insurance companies. However, Nigeria needs to promote economic growth and enhance its competitiveness. Exempting overseas insurance premiums from tax could help in delivering on these objectives. It could also help in increasing insurance penetration in the country.

Interestingly, the WHT Regulation 2024 exempts insurance premiums from WHT.

Recommendation - Section 17(3) should be amended to exclude WHT on insurance premiums paid to non-residents.

5. Section 20(4) of the NTA - Deductions allowed

Error/Gap - Section 20(4) states that expenses incurred in a currency other than the naira may only be deducted to the extent of its naira equivalent at the official exchange rate published by the Central Bank of Nigeria (CBN). This implies that where a business buys forex at a rate that is higher than the official rate, such company cannot claim tax deduction for the difference in value between the official and the other rates.

The intention is to discourage speculative foreign exchange transactions and encourage the appreciation of the naira. However, issues surrounding the accessibility of all forex needs due to supply problems have not been fully considered.

Recommendation - We do not think that this condition is necessary at this time. With the current state of the economy, focus should be on improving liquidity and introducing stricter reporting requirements to track and monitor foreign exchange transactions.

6. Section 21 of the NTA – Deductions not allowed

Error/Gap - Section 21(p) includes expenses on which VAT has not been charged. This means that such expenses will not be considered allowable tax deductions even when those expenses have been validly incurred for business purposes. This

implies that a company could be held accountable for any inaction or non-performance by its suppliers or service providers. While the defaulting service providers may eventually be required to pay the VAT during an audit or investigation, the company will have already been denied the ability to claim a deduction for the related expense.

Recommendation - Expunge Section 21(p). The only criteria should be that any expense that is wholly and exclusively incurred for business purposes should be allowable for tax purposes.

7. Section 27 of the NTA - Ascertainment of total profits of companies

Error/Gap - The NTA is not definite on whether capital loss, other than that arising from the disposal of digital or virtual assets, is deductible. However, we believe that the intention is for such losses to be deductible.

Recommendation - Modify to specify the deduction of capital losses.

8. Section 30 of the NTA – Ascertainment of chargeable income of an individual

Error/Gap - In determining the taxable income of an individual, the section limits the deductible items to contribution to the National Housing Fund (NHF), Contribution to National Health Insurance Scheme, Pension contribution, annuity and life insurance premium, interest on mortgage for developing owner-occupied residential house, rent relief of 20% of annual rent, subject to a maximum of N500,000. The expanded tax bands and rates will be applied to the taxable income to determine the tax payable.

It appears that the objective of these revisions is to ensure that low-income individuals are not taxed heavily. However, it is also not right that the tax payable by high-income earners should be oppressive. Finding the right balance is, therefore, critical. Over taxation can negatively affect economic growth while under taxation can increase inequality. Consequently, many countries embrace the concept of progressive taxation. Efforts are always being made to lessen the tax burden on all taxpayers to enhance sustainable growth. Where citizens deem the provisions of the tax law to be oppressive, it may lead to noncompliance and capital flight as wealthy individuals relocate to lower-tax jurisdictions. This may eventually stifle economic growth as high tax may discourage entrepreneurship, investment and job creation. Therefore, the rent relief of N500,000 is so insignificant given the personal allowances that other countries offer their citizens. In the erstwhile Personal Income Tax Act (PITA), every individual taxpayer was entitled to 20% of income plus the higher of N200,000 or 1% of income.

Recommendation - Since the tax bands and rates have been expanded, we suggest that the erstwhile consolidated personal allowance in the PITA be retained to promote voluntary compliance.

9. Sections 39 and 40 of the NTA - Computation of chargeable gains

Error/Gap - The sections provide that chargeable gains shall be based on the difference between the sales proceeds and the tax-written-down value of the assets without any consideration for inflation. Consequently, any sale of assets after the effective date of the NTA will trigger a substantial exposure to income tax. If this rule is not changed, it may trigger a sell off on the stock market given that those gains will now be taxed at 30%. We have already witnessed some of the disposals that took place in December. We believe that there must have been some other significant disposals that were not announced but which we will get to hear about later.

Recommendation - To ensure a quick win, Government may consider an amendment to the NTA by way of cost indexation allowance to provide tax relief that helps companies adjust for inflation when calculating gains on asset sales. The allowance will be calculated by multiplying the original asset cost by the percentage increase in the Consumer Price Index (CPI) from the month of acquisition to the month of disposal with 31 December 2025, cut off, if it does not create or increase a capital loss. The resulting allowance would be deducted from the gains. By freezing the indexation allowance to 31 December 2025, it will simplify tax calculations and allow government to generate additional tax revenue on subsequent disposal of assets. However, the freeze should be reviewed on a periodic basis.

We note the concern expressed by some quarters with respect to the taxation of chargeable gains at the same rate as companies' income tax. We agree to the harmonisation as it eliminates the controversy often triggered as to what constitutes ordinary income or capital. However, in supporting the harmonisation, we had also articulated for a reduction in the income tax rate to make Nigeria competitive while at the same time increasing the VAT rate. However, VAT rate has been retained at 7.5%. It may, therefore, make sense to review the harmonisation of the two rates or reduce the income tax rate.

10. Section 47 of the NTA - Indirect transfer of ownership of companies or assets

Error/Gap - Section 47 of the NTA states that gains accruing to any person in respect of a disposal of shares by a non-resident shall be a chargeable gain under this Act where the disposal results into a change -

(a) in the ownership structure or group membership of any Nigerian company; or
(b) of ownership of, title in, or interest in any asset located in Nigeria.

This provision may have been introduced to deter tax avoidance, ensure a fair playing ground in relation to domestic holdings, and generate more revenue. However, it may lead to loss of foreign investment as investors may be forced to shift assets to more tax-friendly countries. This may affect economic stability of the country.

Recommendation - We concede that Nigeria will not be the only country that imposes tax on indirect transfer of shares and assets. However, we must design our tax policy in a manner that reflects our unique and specific situation. This will enable the country to balance tax revenue goals with economic growth and competitiveness. Therefore, this provision is not needed at this stage of our development. We propose its deletion.

11. Section 63(4) / 162(b) of the NTA - Collective investment scheme

Error/Gap - Section 63(4) states that profits accruing to trustees of a collective investment paid to unit holders will be deemed as dividends paid and will be taxed in the hands of the unit holders. Meanwhile, Section 162(b) exempts dividends distributed by an authorised collective investment scheme from tax.

Recommendation - Clarity should be provided on Section 63(4) on the tax treatment of the profits shared from a collective investment scheme. Our position is that such distribution should not be subject to further tax.

12. Section 72 of the NTA - Chargeable hydrocarbon tax (HCT)

Error/Gap - The NTA does not exempt deep offshore operations from HCT. However, the HCT rate for deep offshore is omitted from the NTA.

Recommendation - The hydrocarbon tax rate for deep offshore should be included or deep offshore operations explicitly exempted from HCT as it is under the Petroleum Industry Act (PIA) 2021.

13. Section 162 of the NTA – Income tax exemption

Error/Gap – The Certified Act seems to have excluded profits from exports not relating to petroleum operations from the list of tax-exempt items. In the so-called Official Gazette, this item was listed as section 163 (v) in the NTA. It was also listed in the erstwhile Companies Income Tax Act. The key question, therefore, is whether profits from such exports, even if the related proceeds are repatriated through official channels, are now taxable. Or could this be the case of an inadvertent omission?

Recommendation – Clarity on Government's new position is urgently required.

14. Part IV of Chapter 8 of the NTA - Exemption from VAT

Error/Gap - VAT exemption list includes money and securities, essentially financial instruments relating to return on investment. FIRS' Circular on 'VAT on services of financial institutions' clarifies that return on investment is typically not liable to VAT. Insurance premium, which is money paid to cover risks that may crystallize, relate to financial services that are not liable to VAT.

Recommendation - Part IV of the NTA should be updated to include insurance premiums.

15. Section 196 of the NTA - Consequential amendments

Error/Gap - The NTA introduced a development levy of 4% of the assessable profit of a company to replace NASENI, NITDA, TET, and PTF. However, the Act has not repealed the taxing section of the Nigeria Police Force Establishment Act, Cap. P19, Laws of the Federation of Nigeria, 2019. This could pose a risk of dispute in the interpretation of the Acts.

Recommendation - The NTA should be amended to repeal the taxing section of the Nigeria Police Trust Fund (Establishment) Act, 2019.

16. Section 201 of the NTA - General interpretation

Error/Gap - Definition of "commencement date" in the NTA only refers to the date that an entity carries out its first transaction.

Recommendation - The commencement date for the provisions of the NTA should be properly defined in the interpretation section as follows: "the provisions of this Act will apply to accounting periods starting from 1 January 2026 or thereafter...". In fact, this should be the gold standard to be applied to all new laws to avoid controversy. In other words, the commencement date of any new law should specify the periods to which its provisions will apply.

17. Section 201 of the NTA - General interpretation

Error/Gap - Omission of 'repacking' in the definition of manufacturing under the NTA.

Recommendation - Update to include repacking in the definition under the NTA.

18. Paragraph 4 of Part III of the First Schedule and Table 1 of First Schedule of the NTA - Petroleum investment allowance

Error/Gap - Based on paragraph 4, the claim of petroleum investment allowance is limited to deep offshore and inland basin production sharing contract arrangements. The reference to onshore and the various depths of operations may have been included under this Part to include any offshore acreages that may be subsequently reclassified as onshore. However, there is no similar table being referenced under Part 2 of the first schedule. This seems to suggest that non-PSC upstream companies that are currently enjoying PIA under the PPTA will not be eligible for the PIA going forward.

Recommendation - We believe that this is an omission that should be corrected. A similar table should be referenced under Part 2 of the first schedule.

19. Second Schedule of the NTA - Export processing and free zone entities

Error/Gap - The law is silent on the tax exemption status of entities generating 100% of their revenues in the export free zone. The law only focuses on those exporting or those selling to the customs territory. The key question, therefore, is whether the services provided by such companies would be deemed as exports, and therefore, tax exempt?

The lack of clarity as to how service companies in the Free Trade Zone (FTZ) will be treated is also a concern. Will services provided by FZE to another FZ entity in the FZ qualify as export?

Recommendation - The Second Schedule should be amended to expressly include the exemption status of entities within the export free zone. Further, NTA should be amended to include the treatment of profit arising from the provision of services to another FZ entity in the FZ. Clearly, this class of sales does not arise in the customs territory. However, the law needs to be clear as to whether the sales would qualify as exports.

20. Paragraphs 3 and 4 - Second Schedule to the NTA - Export processing and free zone entities

Error/Gap - The Second Schedule applies to export processing zone entities (an approved and licensed enterprise under the Nigeria Export Processing Zones Act Cap. N107, LFN, 2004) and free trade zone entities (an approved and licensed enterprise under Oil and Gas Free Zones Authority Act Cap. 05, LFN, 2004). However, Paragraphs 3 and 4 of the Second Schedule to the NTA only refer to an export processing free zone entity.

Also, Paragraph 4 stipulates that, where in a year of assessment more than 25% of the sales of an export processing zone entity arise from the sale of goods or services in the customs territory, tax shall accrue in Nigeria on the profits of the entity in respect of its total sales to the customs territory.

Recommendation - Update Paragraphs 3 and 4 of the Second Schedule to the NTA to include free trade zone entities.

21. Paragraph 5 - Second Schedule to the NTA - Export processing and free zone entities

Error/Gap - Paragraph 5 of the second schedule provides that: Notwithstanding the provision of paragraph 3(ii) of this Schedule, the profits of an export processing zone entity shall be fully subject to tax effective from 1 January 2028, in respect of its sales to the customs territory in Nigeria, regardless of the percentage of the sales.

Recommendation - Update the erroneous reference to paragraph 3(ii) to paragraph 3(b).

22. Paragraph 9 - Second Schedule to the NTA - Export processing and free zone entities

Error/Gap - Paragraph 9 of the Second Schedule to the NTA is incomplete. However, we believe that the intention is to retain the provision in the so-called official gazette, which provides that "Services rendered to an export processing or export free zone entity by a person in the customs territory shall be chargeable to applicable taxes.

Section 185(1)(i) of the NTA states that supplies consumed by an approved entity in the export processing or free trade zones, provided that the supplies are consumed on its approved activity, shall be exempt from VAT. The interpretation of 185(1)(i) and Paragraph 9 of the Second Schedule to the NTA may be subject to varied and multiple interpretations, where vendors in the customs territory may seek to subject the Free Zone Entity to VAT, because of the general provision under paragraph 9 of Second Schedule to the NTA and inability to determine if the supplies rendered are consumed in the free zone on the free zone entity's approved activity. The key question is where services are deemed to be consumed – where the customer is located or where the supplier is established? In many jurisdictions, the place of consumption is determined based on the type of supply and the customer. Interestingly, section 81 of the NTAA on the allocation of revenue is silent on what constitutes place of consumption. The other issue is how will the service provider know whether the services are consumed in respect of approved activities.

Recommendation – Complete paragraph 9 and clearly define what constitutes place of consumption and the basis for determining supplies consumed on approved activity to avoid ambiguities.

23. Ninth Schedule to the NTA (Stamp Duties) - Dutiable instruments

Error/Gap - No. 29 instrument on the schedule, "Policy of insurance (of any other kind)" does not specify the basis on which the ad valorem duty will be applicable – premium or sum insured.

In the erstwhile Stamp Duties Act (SDA), the basis for the levy on this instrument was the same as the policy for life assurance, which is premium.

Recommendation - This schedule should be updated to indicate that the basis for the ad valorem duty is premium to avoid unnecessary controversy.

24. Paragraph 4 of the Twelfth Schedule to the NTA – Partnership

Error/Gap - Incomplete definition of "principal place of residence".

Recommendation - Update to include a definition similar to Paragraph 4 of the First Schedule to the NTAA.

25. Paragraphs 5(2)(a) and 5(3) of the Twelfth Schedule to the NTA - Pensions

Error/Gap - Incorrect reference to the NTAA. Also, Paragraph 5(2) is incomplete.

Recommendation – Complete Paragraph 5(2) and Update to reference Section 3(1)(a)(iv) and not 2(1)(a)(iv) of the NTAA.

26. Paragraph 8(2) of the Twelfth Schedule to the NTA – Application

Error/Gap - Section 8(2) of the Twelfth Schedule to the NTA provides that where, by reason of subparagraph (1) or otherwise, a determination of residence of an individual for a year of assessment falls to be revised, while Section 8(2) of the First Schedule to the NTAA uses the term fails.

Recommendation - Harmonise with the provisions in the NTA and NTAA to reflect the correct term.

27. Section 13 of the NTAA - Income tax returns for Individuals

Error/Gap - The section mandates that every individual must file annually with the respective State tax authority. However, it does not specify a submission deadline but Section 101 states that a taxable person who fails to file returns or files incomplete or inaccurate returns will be liable to an administrative penalty of ₦100,000 in the first month of default and ₦50,000 in the subsequent month in which the failure continues.

Recommendation - A timeline for individual filings should be clearly specified, similar to that for employer filings, to prevent potential compliance issues when the law takes effect in 2026.

28. Section 22(2) of the NTAA - Returns for value added tax

Error/Gap - Section 22(2) provides that where the tax authority grants an extension for filing VAT returns, such an extension does not also extend the time for payment of the tax due. Under the current Tax-Pro Max framework, taxpayers filing VAT returns must first complete the return to generate a Payment Reference Number (PRN) - a mandatory step before payment can be made.

Recommendation - This provision may benefit from clarification to ensure alignment with the actual procedural requirements imposed by the tax authority.

29. Section 22(9) of the NTAA - Returns for value added tax

Error/Gap - The section may have erroneously referenced subsection 5.

Recommendation - The intention may have been a reference to subsection 4.

30. Section 5 of the JRBEA - Functions of the Board

Error/Gap - Section 5 of the JRBEA specifies, among other things, the functions of the Joint Revenue Board to include the following:

5(h) provide periodic impact analysis with recommendations on tax framework and capacity building for all tiers of Government

5(l) collaborate with relevant agencies to carry out surveys, ascertain and publish relevant tax indices and statistics

Section (4)(1) defines the membership of the board comprising government employees.

It is good that the government has defined responsibility for a body to review the impact of new tax laws, incentives and fiscal policies. However, the body (as currently constituted) cannot act effectively in that capacity because it is not independent. It will not be able to provide unbiased analysis and forecasts of the government's public finances. What is required is an independent watchdog in the mould of the Office for Budget Responsibility (OBR) in the United Kingdom.

Recommendation - The composition of the Board needs to be reviewed. Alternatively, the responsibility for deciding compliance with the government's fiscal rules can be delegated to another body. The Honourable Minister of Finance can appoint its members. However, it must operate independently but be accountable to the National Assembly.

31. Verification for small companies

The NTA and NTAA define small companies and provide certain tax exemptions that may affect the obligations of large companies they transact with. As such, it may be difficult for large companies to verify whether a counterparty truly qualifies as a "small" company. The TCC may not suffice for this purpose, as the information covers the three preceding years before the penultimate year.

Recommendation - There should be a simple certification that can be easily generated by small companies or businesses from Tax-Pro Max to be presented to the parties they transact with to verify their status.

Conclusion

Undoubtedly, the new tax laws will transform tax administration in Nigeria. There are many provisions in these laws that will result in increased revenue for the government, if well implemented. However, there is always the need to strike a delicate balance between revenue generation and sustainable growth. It is, therefore, critical that government review the gaps, omissions, inconsistencies and lacunae highlighted in this Newsletter to ensure the attainment of the desired objectives. Government must also seek international cooperation and collaboration to facilitate the sharing of information, build capacity and capability of tax administration in the country.

Businesses should conduct a comprehensive analysis of the impact of the changes on their business operations. The analysis should include a detailed evaluation of tax footprints to manage undue exposures and ensure compliance. There must be assurance that adequate documentation is in place to support related-party and third-party transactions and manage exposures during a tax audit/review exercise by the tax authority.

Their finance and tax functions should have a basic knowledge of the changes through training programs and consultation with professionals and experts to ensure compliance and mitigate risks. They also will need to leverage experts for payroll configuration and support, e-invoicing support, and outsourcing tax-managed services, among others. There must be proper configuration of companies' ERPs and other systems to align with the provisions of the Acts, such as PIT tax rates/computation, Fiscalisation/E-invoicing, etc.

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