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INFORMATION CIRCULAR

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**SUBJECT: GUIDELINES ON THE TAX TREATMENT OF NON
GOVERNMENTAL ORGANISATIONS (NGOs)**

This circular is issued for the information and guidance of the general public, taxpayers and tax practitioners in line with the provisions of the relevant tax laws. This circular amends, updates or replaces contents of any circular, notice or other publication previously issued by the Service that is inconsistent with its contents to the extent of such inconsistency.

1.0 Introduction

The objective of this Information Circular is to clarify the tax treatment of Non-Governmental Organisation (NGOs). Specifically, this Information Circular will provide clarifications on the application of the provisions of the Companies Income Tax Act (CITA) Cap. C21 LFN 2004 (as amended), Personal Income Tax Act (PITA) Cap.P8 LFN 2004 (as amended), Capital Gains Tax Act (CGTA) Cap. C1 LFN 2004 (as amended) and the Value Added Tax (VAT) Act Cap.V1 LFN 2004 (as amended) on the income, operations and activities of NGOs.

2.0 What is an NGO?

An NGO is a not-for-profit association of persons incorporated as a company limited by guarantee under PART A of the Companies and Allied Matters Act (CAMA) 2004 or registered under PART C of the Act, or under any other law in force in Nigeria, or registered under the laws of a foreign jurisdiction and approved as such in Nigeria.

Such entities are incorporated or registered with the object of advancing a given public good and not to carry on business for the purpose of making profits for distribution to their members.

For the purposes of tax and this Information Circular, NGOs include organisations, institutions and companies engaged in ecclesiastical, charitable, benevolent, literary, scientific, social, cultural, sporting or educational activities of a public character. In addition, any organisation registered under any law within the Federation as a co-operative society is accorded similar treatment as an NGO.

3.0 Public Character

Section 105 of CITA (as amended) defines '**public character**' with respect to any organisation or institution to mean an organisation or institution:

- a. that is registered in accordance with the relevant law in Nigeria; and
- b. that does not distribute or share its profit in any manner to its members or promoters;

From the above, it is clarified that for an organisation to be of public character, it must have been registered in Nigeria as required by the relevant laws. After such registration, the company shall **not distribute or share** its profit **in any manner**. Its income shall be wholly used for the objects of the organisation or institution in the interest of the public.

Note that distribution of assets, whether in cash or in kind e.g. gifting a vehicle or any asset for the personal use of the promoter or members shall be construed as distribution of profit.

4.0 Tax Obligations of NGOs

The legal basis for the taxation of NGOs in Nigeria, as well as other obligations and exemptions are specified under the relevant tax legislation. These obligations and exemptions are stated below:

4.1 Registration with FIRS for Tax Purposes

All NGOs are expected to register for tax purposes and obtain Taxpayer Identification Number (TIN). The following documents are required for tax registration:

- i) A copy of registration certificate issued by Corporate Affairs Commission (CAC) in Nigeria or other instruments of incorporation issued to the foreign NGO (or copy of approval exempting it from incorporation in Nigeria);
- ii) Certified True Copy (CTC) of Memorandum and Articles of Association, Constitution or Rules and Regulations governing the NGO;
- iii) List and Profiles of the Trustees/Board Members nominated; and
- iv) Other relevant documents (to be specified at registration point, if any).

4.1.1 Where to Register for Tax

NGOs are required to register for tax at the designated FIRS' Medium Tax Offices (MTOs) in their respective geo-political regions. The offices are:

- a. Lagos State, MTO Lagos Island; and
- b. North-Central geo-political region of Nigeria and FCT, MTO Abuja.
- c. North-East and North-West geo-political region of Nigeria, MTO Kano;
- d. South-East geo-political region of Nigeria, MTO Enugu;
- e. South-South geo-political region of Nigeria, MTO Port Harcourt;
- f. South-West geo-political region of Nigeria, MTO Ibadan;

4.2 Reliefs and Obligations under Companies Income Tax Act

The followings are the obligations of NGOs under the Companies Income Tax Act (CITA), Cap. C21, LFN 2004 (as amended):

4.2.1 Filing of Returns

In line with Section 55(1) of CITA, it is mandatory for every NGO to file tax returns every year and such return shall contain:

- i) The audited accounts, tax and capital allowances computations and a true and correct statement in writing containing the amounts of its surplus from each and every source computed in accordance with the provisions of CITA;
- ii) Such particulars as may be required in such form for the purpose of the Act with respect to such profits, allowances, reliefs, deductions required;

- iii) A declaration to be signed by a trustee, director, secretary or any authorised person of the organisation that the information contained in the return is "true and correct", and
- iv) The period for filing returns shall be as stipulated in the relevant tax laws.

NGOs are required to file their annual tax returns at FIRS' designated Medium Tax Offices (MTOs) covering their locations (see paragraph 4.1.1 above).

4.2.2 Liability to Companies Income Tax

Section 23(1)(c) of CITA, exempts the profits of any statutory, charitable, ecclesiastical, educational or other similar associations from Companies Income Tax, **provided that such profits are not derived from any trade or business carried on by such organisation or association.**

Examples of income covered under the exemption includes subscription fees by members, donations, grants, zakkat, offerings, tithes, funds realised from launchings, etc. However, where an NGO engages in any trade or business, or invests its assets in any institution, the profit or income derived (active or passive) is liable to tax appropriately. As such, income or profits liable to Companies Income Tax include the following:

- i. Profits derived from trade or business carried on by the organisation/institution such as proceeds from sale of goods or merchandise, provision of consultancy, professional or other services for a fee;
- ii. Investment Income such as interest, rent, royalty, dividend or similar income.

Accordingly, the payer of these income to the NGOs has the obligation to deduct withholding tax (WHT) from the payments as stipulated in the WHT Regulations.

Meanwhile, the NGOs have the obligation to deduct WHT on contracts awarded to suppliers and contractors, as well as other qualifying payments, and remit same to the relevant tax authorities in the currency of transaction.

4.2.3 Income Tax Relief Under CITA for Donations to NGOs

In addition to the income tax exemption granted to NGOs under CITA, Section 25 of CITA provides tax relief to any company making donations to an organisation listed under the Fifth Schedule to CITA provided that:

- (1) The donation is made out of its profits for that year of assessment;
- (2) The total donation shall not exceed 10% of the total profits of that company for the said year of assessment; and
- (3) Such donation is not of capital nature, except where the donations are made to universities or other tertiary or research institutions or any developmental purpose, which should not exceed 15% of total profits or 25% of tax payable in line with the provision of Section 25A of CITA.

An NGO requiring to be listed under the Fifth Schedule to CITA may apply to the Minister of Finance for enlistment, through the Federal Inland Revenue Service. The procedure and requirements for enlistment, are contained in the *"Requirements for Funds, Bodies or Institutions (Under the 5th Schedule to the Companies Income Tax Act) Regulations 2011"*.

4.3 Personal Income Tax Obligations

Section 19(1) and Paragraph 13 of the Third Schedule of Personal Income Tax Act (PITA), Cap. P8, LFN 2004 (as amended), exempts profits of any organisation engaged in ecclesiastical, charitable, benevolent or educational activities of a public character from income tax, **provided that such profits are not derived from a trade or business carried on by the organisation.**

However, the income of individual promoters and employees NGOs are not exempt from tax. As such, the following incomes are liable to Personal Income Tax:

- i. Emoluments of promoters (from all sources – including the NGO);
- ii. Fees, other remuneration or benefits-in-kinds paid to trustees and guarantors; and
- iii. Salaries or other remuneration of employees.

NGOs are required, under the PAYE obligation, to deduct tax at source from salaries and other emoluments of employees, directors, officers, etc. and

remit same to the relevant tax authorities in the currency of payment of the emoluments.

4.4 Capital Gains Tax (CGT)

In line with Section 26 of the Capital Gains Tax Act (CGTA), Cap. C1 LFN 2004 (as amended), gains from the disposal of chargeable assets of NGOs is exempted from tax, where the two conditions below are jointly fulfilled:

- (1) the gains are not derived from the disposal of any assets acquired in connection with any trade or business carried on by the organisation; and
- (2) the gains are applied purely for the purpose of the activities of the organisation.

However, gains from disposal of chargeable assets of NGOs are liable to CGT where the gains are derived from disposal of assets acquired in connection with any trade or business carried on by the institution or where the gains are not applied purely for the purpose of the organisation.

4.5 Value Added Tax (VAT)

VAT on goods purchased by NGOs for use in humanitarian donor-funded projects is at zero rate under the Value Added Tax Act, Cap. V1, LFN 2004 (as amended).

However, it should be noted that the NGO itself is not exempt from VAT. As such, where the organisation procures contracts or purchases goods that are not directly used in humanitarian donor-funded projects, VAT shall apply at the prevailing rate.

Likewise, any service procured or consumed by NGO is liable to VAT at the prevailing rate, except where such service is exempt under the Act.

NGOs shall charge VAT on all taxable goods and services supplied and remit same to the FIRS as and when due.

Where an NGO procured goods or services from persons not liable to charge VAT or from non-resident suppliers, it shall self-account for the VAT and remit same to the FIRS.

Pursuant to Section 15 of the VAT Act, VAT returns shall be filed with FIRS, on or before the 21st day of the month following that in which the purchase or supply was made

5.0 Other Statutory Obligations of NGOs

In addition to its obligation to file tax returns to the appropriate tax office and pay taxes on non-exempt income, NGOs are statutorily required to:

- (1) Maintain accurate record of employees; and
- (2) Maintain proper books of accounts;

Failure to comply with the above requirements will attract appropriate penalties under the extant tax laws.

6.0 Amendment or Revision of the Circular

The Service may, at any time, withdraw or replace this Circular or publish an amended or updated version.

7.0 Enquiries

All Enquiries on any aspect of this publication should be directed to:

Executive Chairman
Federal Inland Revenue Service
Revenue House,
15 Sokode Crescent, Wuse Zone 5, Abuja.

Or

Director,
Tax Policy and Advisory Department
Federal Inland Revenue Service Revenue House,
No 12 Sokode Crescent, Wuse Zone 5, Abuja.

Or

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