

The National Agency for Science and Engineering Infrastructure Levy

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KPMG Nigeria

The National Agency for Science and Engineering Infrastructure (NASENI or “the Agency”) was established by the NASENI Act, Cap N3 LFN 2004 (“the Act”) in 1992. The Agency has a mandate to manage the research and development of capital goods, production and reverse engineering to enhance local mass production of standard parts, goods, and services required for the nation’s technological advancement.

Since its enactment in 1992, the funding provisions of the NASENI Act have not been fully implemented, especially with respect to the levy on commercial companies and firms that meet the ₦4 million turnover threshold. Consequently, His Excellency, President Muhammadu Buhari, GCFR during the NASENI Governing Board meeting on 26 January 2021 directed the Honourable Minister of Finance, Budget and National Planning, and Chairman of the Federal Inland Revenue Service (FIRS) to commence collection and remittance of the statutory levy due to the NASENI to enable it to achieve its mandate. Following the Presidential directive, the NASENI Governing Board (“the Board”) has increased the threshold to ₦100 million. While raising the prescribed threshold for compliance is desirable to reflect current realities, the action of the Board is tantamount to amending the law, which is the exclusive preserve of the National Assembly.

Below is a summary of the key provisions of the Act:

1. Administration of the Agency

The affairs of the Agency are to be conducted by a Board which consists of the President as chairman, an executive vice-chairman with good knowledge of science and technology appointed by the President, and fourteen (14) other members as specified in the Act.

The Board is responsible for formulating policies and advising the Federal Government (FG) on strategies for the nation’s economic development through science and engineering innovations. The Board also oversees the appointment of the members of the technical advisory committees, which comprises experts in relevant areas of science and engineering practice to assist the Agency in various aspects of its responsibilities. Other functions and powers of the Board are outlined in Sections 7 and 8 of the Act respectively.

2. Functions of the Agency

The primary functions of the Agency include:

- a) ensuring that the national research and development system is managed outside the civil service system, and
- b) enhancing the development and entrenchment of a new research and development tradition in Nigeria to:
 - (i) establish the practice of an open, consistent, equitable, accountable and corporate research management system in Nigeria;
 - (ii) engender high morale and discipline in staff;
 - (iii) ensure efficient and cost-effective employment of available resources;
 - (iv) achieve a high research and development output and revenue; and
 - (v) make the desired impact on national economic and social development.

3. Agency Fund

The operations of the Agency are to be funded by the NASENI Fund (“the Fund”). The Act provides for the following payments to be made into the Fund:

- a) An annual allocation of 3% from the Federation Account effective from year 2000. Prior to year 2000, only 1% allocation from the Federation Account was approved by the Act.
- b) A contribution of 0.25% of the turnover of ₦4million and above from commercial companies (“the Levy”), which shall be a tax-deductible expense. The Levy will be collected by the FIRS or by any other means as may be specified by the Agency.

- c) Contributions from the organized private sector.
- d) Foreign aid and assistance from bilateral and multilateral agencies.
- e) Fees charged for services rendered by the Agency.
- f) All sums accruing to the Agency by way of gifts, endowments, bequest or other voluntary contributions by persons and organisations.

The Act outlines the expenditures for which the Fund shall be utilised and provides other investment options for surplus funds, subject to the approval of the President.

Further, the Agency is required to submit a report of its activities and subsidiary institutions in any preceding year to the Board, including a copy of the audited accounts of the Agency for that year and the auditor's report thereon. The Agency is also required to submit its programme of work and estimates of its income and expenditure for the following year to the President.

Commentary

As businesses are yet to recover from the adverse effect of COVID-19 pandemic, the activation of the Levy is untimely and should be reconsidered. More fundamentally is the compounding of the multiple taxation burden on businesses by the Levy in addition to the extant tertiary education tax (2% of assessable tax), Nigerian Police Trust Fund levy (0.005% of net profit) and NITDA levy (1% of profit before tax payable by designated companies) in addition to 20% and 30% corporate income tax rates payable by medium and large companies, respectively.

If the Agency had been operating since its establishment in 1992 without the Levy from taxpayers, the question is why is the Levy being pursued at this time? With 3% allocation from the Federation Account, the Agency should not be looking up to taxpayers for additional funding. If 3% allocation is not forthcoming from the Federation Account, the Agency should operate as a business and fund its operation with the fees that Section 20(e) of the Act authorizes it to charge for its services.

While it is up to the Agency to seek the amendment of the Act by the National Assembly, as it lacks the power to vary the threshold for compliance, the National Assembly should give due consideration to the foregoing issues in the interest of all and sundry. In the meantime, it is hoped that the Board will suspend further action on the enforcement and collection of the Levy.

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