Transfer Pricing Awareness Survey

April 2021

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Contents

Foreword

The year 2020 set in motion notable changes to the transfer pricing space that have had a profound impact on multinationals and local taxpayers alike. These changes include the implementation of the Finance Act, 2019; the release of the Significant Economic Presence Order, 2020; the Central Bank of Nigeria (CBN) directive on procurement companies; and the introduction of palliative measures to cushion the impact of COVID-19. With these changes comes a need for taxpayers to remain abreast of TP regulations to ensure full compliance and avoid administrative penalties for non-compliance.

This TP Survey was conducted in 2020 to determine the impact of COVID-19 on taxpayer's businesses, assess their awareness of TP compliance requirements and TP risk assessment, and to gauge their TP audit experience. We are pleased to present to you our findings from the fourth edition of the survey.

Based on the feedback received from 46 respondents representing the major industry sectors, we observed a consistent level of compliance with the relevant TP regulations by the respondents as in the previous years. Also, in respect of the Income Tax (Country-by-Country Reporting) Regulations, there is a high level of awareness and compliance as taxpayers in Nigeria are quickly embracing the changes in the ever-evolving TP landscape. This may be a result of the stringent administrative penalties imposed on defaulting taxpayers. We also note that most taxpayers have put measures in place to deal with the effects of COVID-19 with revenue and cashflows being the most affected aspects of their business operations. However, while a significant number of the respondents had neither ongoing nor completed TP audits, there has been an upsurge in the number of Information and Documents Requests (IDRs) (which generally precede a TP audit exercise) issued to taxpayers between the time when the survey was completed and published. This is due to recourse by the Federal Inland Revenue Service (FIRS) to TP audits as a mechanism to enforce compliance and increase revenue collection.

We hope that this edition of the survey will serve as a valuable reference material on TP from both Nigerian and international perspectives. We also trust that readers will find the results and insights provided useful as they seek to improve their organization's TP compliance and audit experience.

We acknowledge and thank all the respondents that took out time to be part of this year's survey. We look forward to your participation in subsequent editions. We encourage our readers to provide feedback to us on this publication and participate in the subsequent editions of the survey. You can send your comments or indicate your interest to participate in future surveys by email to KPMGTPSurvey@kpmg.com.

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Abbreviations

BEPS	Base Erosion and Profit Shifting
CbCR	Country-by-Country Reporting
DRP	Decision Review Panel
FIRS	Federal Inland Revenue Service
G20	International forum for the governments and central bank governors from 19 countries and the European Union
GTPS	Global Transfer Pricing Services
IDR	Information and Documents Request
MNE	Multinational Enterprise
OECD	Organisation for Economic Cooperation and Development
TP	Transfer Pricing
UN	United Nations

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Overview of TP Regime in Nigeria

Background

Since the introduction of the Income Tax (Transfer Pricing) Regulations, 2012, the Transfer Pricing regime in Nigeria has been steadily evolving. The FIRS has published revised regulations and issued guidelines to close the gaps in the tax laws and promote better understanding and compliance with the regulations.

The introduction of the Income Tax (Transfer Pricing) Regulations, 2018 (the revised regulations) aligned the TP compliance requirements in Nigeria with the three-tier documentation approach recommended by the Organization for Economic Cooperation and Development (OECD) and introduced stiff penalties for acts of non-compliance. Taxpayers are now required to maintain a master file and local file as well as the Country-by-Country (CbC) report should their annual group consolidated revenue be above the specified threshold.

Overview of TP compliance requirements

The revised TP Regulations and the Income Tax (Country-by-Country Reporting) Regulations, require taxpayers to prepare the following documents in order to achieve full compliance with the TP requirements in Nigeria.

i. The master file: The master file provides an overview of the global business operations of the Multinational Enterprise (MNE) Group to which a taxpayer belongs including the nature of its global business operations, its overall transfer pricing policies, and its global allocation of income and economic activities.

ii. The local file: The local file is expected to disclose detailed information on the enterprise's related party transactions such as overview of the Company, related party relationship – related parties information, overview of controlled transaction, contracts or agreements, controlled transactions flow, functional asset and risk analysis, intangibles involved, financial data, segmented data, details of tax information (tax rates, treatments and jurisdictions) and information on changes in related party relationships which occurred during the financial year.

iii. TP returns: The revised TP Regulations also require a connected person to file annual TP returns. The TP returns consist of the declaration and disclosure forms. The declaration form contains general information relating to a company such as the details of the company secretary and tax consultants, shareholding structure, details of company directors and information on all connected parties. The disclosure form, on the other hand, contains information on the nature and the value of controlled transactions for the period, the method used to analyze the controlled transactions, the name and tax jurisdiction of the connected parties involved in the controlled transactions and other general financial information on the Company and the Group.

iv. Country-by-Country Reporting (CbCR): The CbCR Regulations require Nigerian headquartered Multinational Enterprise (MNE) Groups with consolidated revenue of ₦160 billion or above to file the Country-by-Country (CbC) report with the FIRS. Nigerian resident members of MNE Groups, headquartered outside Nigeria, are required to notify the FIRS of the identity and tax jurisdiction of the entity that will be responsible for filing the CbC report where the Group has a consolidated revenue of €750 million or near equivalent in the domestic currency of the jurisdiction of the ultimate parent entity or surrogate parent entity.

Penalties for non-compliance

Type of default	Penalty
Failure to submit declaration form within statutory period	₦10 million plus ₦10,000 for every day in which the failure continues.
Failure to submit updated declaration form	₦25,000 for every day in which the failure continues
Failure to submit TP disclosure form	Higher of ₦10 million or 1% of value of undisclosed controlled transactions plus ₦10,000 for every day in which the failure continues
Failure to appropriately disclose related party transaction	Higher of ₦10 million or 1% of value of omitted controlled transactions plus ₦10,000 for every day in which the failure continues
Incorrect disclosure of controlled transactions	Higher of ₦10 million or 1% of the value of the incorrectly disclosed controlled transactions
Failure to provide TP documentation within the stipulated period	Higher of ₦10 million or 1% of the total value of all controlled transactions plus ₦10,000 for every day in which the failure continues
Failure to file CbC report within the statutory deadline	₦10million and ₦1million for every month in which the failure continues.
Filing incorrect or CbC report	₦10 million.
Failure to notify the FIRS of the entity that will file the CbC report within the statutory period	₦5 million and ₦10,000 for every day in which the failure continues.

TP audit process

TP audits usually commence with the FIRS sending an Information and Documents Request (IDR) to selected companies based on the outcome of the tax authorities' internal TP risk assessment. The FIRS may also request the taxpayer to make a presentation on the processes, procedures and operations of the company. The aim is to enable the FIRS understand the business. This presentation is usually done at the FIRS' office. The next phase, after the IDR and presentation, is the field visit and interview sessions with key personnel of the company being audited. The tax authorities seek to validate the facts and declarations presented in the TP compliance documentation during the interview sessions. After the field visit, the FIRS issues an audit report highlighting their key findings. Where tax authorities disagree with a taxpayer on their understanding of relevant facts, the tax authorities may make TP adjustments, resulting in additional tax liabilities. In a situation whereby the taxpayer disagrees with the adjustments by the FIRS, the TP dispute resolution process can be used to resolve the areas of differences.

Recent developments in the TP landscape

Nigeria's tax and regulatory landscape has experienced significant changes in recent times largely due to the implementation of the Finance Act, 2019 and the impact of COVID-19 pandemic. We provide below a summary of the significant changes that occurred in the TP space in 2020.

1. Implementation of the Finance Act, 2019:

   The Finance Bill, 2019 was signed into law in 2020 with the objective of creating an enabling environment for businesses in Nigeria as well as closing existing loopholes in the tax laws. Some of the notable changes relating to the TP space includes the limitation of interest deductions on related party financing arrangements (via the introduction of a Seventh Schedule to the Companies Income Tax Act) and the tax deductibility of related party transactions. (Please use this *link* to access our publication that sheds more light on this).

2. Maiden case on Transfer Pricing in Nigeria (Prime Plastichem Nigeria Limited vs FIRS)

   The Tax Appeal Tribunal (TAT or "the Tribunal"), delivered its first judgment in a TP case, ruling in favour of the FIRS and requiring Prime Plastichem Nigeria Limited to pay the taxes due of about NGN 1.7 billion. (Please use this *link* to access our publication that sheds more light on this). The landmark ruling demonstrates the growth in the Nigerian TP space since the inception of the TP Regulations in 2012.

3. CBN's directive on destination payment for all Forms M, letters of credit and other forms of payment

   The Central Bank of Nigeria (CBN) issued multiple directives on destination payment for all Forms M, letters of credit and other forms of payment. The CBN initially banned procurement companies from opening Form M's, but later eased its outright ban by introducing documentation requirements for procurement companies, to ensure transparency and address transfer pricing, over-invoicing, and other unethical practices. (Please use this *link* to access our publication that sheds more light on this).

4. Transfer pricing e-filing portal

   In March 2020, the FIRS launched an electronic transfer pricing (TP) filing portal named E-TP PLAT 2.0 to automate TP compliance. The E-TP PLAT 2.0 enables taxpayers to complete and file their TP compliance documentation, including TP Declaration and TP Disclosure forms, Country-by-Country Reporting notification forms and Country-by-Country report.

5. Increased TP audit drive by the FIRS

   The FIRS intensified its efforts towards driving TP compliance, through the conduct of TP audit exercises, by rolling out letters requesting for the submission of TP documentation and other supporting documents to several taxpayers.

The Transfer pricing space also saw the introduction of OECD guidance on TP implications of COVID-19 and the release of transfer pricing guidelines on financial transactions which formed chapter 10 of the OECD guidelines.

Finally, the Federal Government of Nigeria published the Companies Income Tax (Significant Economic Presence) Order, 2020 ("the Order") in its Official Gazette No. 21, Vol 107 of 10 February 2020. The Order was signed by the Honourable Minister of Finance, Budget and National Planning, pursuant to her powers under Section 13(4) of the Companies Income Tax Act, 2004 (as amended) (CITA), and commenced on 3 February 2020. The Order provides guidance on the definition of significant economic presence (SEP) in relation to income earned by non-resident companies doing business in Nigeria, in line with the Section 13(2)(c) and (e) of CITA, as amended by Finance Act, 2019). (Please use this *link* to access our publication that sheds more light on this

From a global front, the OECD inclusive framework In October 2020 approved the release of blueprints of BEPS pillar one and pillar two to the public. The Blueprint Report for Pillar Two provides a solid basis for a systemic solution that would address the remaining BEPS challenges and sets out rules that would provide jurisdictions with a right to "tax back" where other jurisdictions have not exercised their primary taxing rights, or the payment is otherwise subject to low levels of effective taxation. It is expected that a Consensus-based solution to the challenges of taxation of the Digital Economy under the OECD Inclusive Framework shall be concluded this year.

It is anticipated that both the SEP order and the release of BEPS pillar one and pillar two would increase the number of non-resident companies that would need to comply with the TP regulations.

Conclusion

In view of the significant changes witnessed on the Nigerian TP landscape in the last one year, it is obvious that driving taxpayers' compliance with the relevant regulations is at the core of the new approach adopted by the FIRS. Hence, taxpayers are advised to keep abreast of developments and enhance their internal capability with a view to complying fully with the TP compliance requirements and managing potential TP risks.

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Consciousness of TP Requirements

Increased level of awareness of TP compliance requirements

Based on the results of the survey, 96% of the respondents have a substantial level of awareness of the TP requirements in Nigeria. 40% of the respondents indicated a high level of awareness against 50% in prior year, while about 56% indicated an average level of awareness regarding TP compliance requirements against 46% in prior year.

The results of the survey also shows that more taxpayers are making efforts to ensure compliance with the TP Regulations. About 81% of the respondents have filed their TP returns from inception till date and 86% have their TP documentation in place for the relevant years. Only 5% and 14% have neither filed TP returns nor prepared TP documentation respectively.

Although the results showed an increased level of compliance with the relevant provisions of the TP Regulations, the rise in the level of compliance does not equate the taxpayers understanding of the changes incorporated in the TP Regulations and the potential impact of these changes on their activities. Consequently, taxpayers are advised to review their current TP arrangements to mitigate potential exposure due to revisions to the provisions of the TP Regulations.

Internal TP policies may be used as an effective tool to provide guidance in the setting of prices in controlled transactions and demonstrating compliance with the arm's length principle. 65% of respondents have fully implemented their internal TP policies. Please note that taxpayers with internal TP policies are more likely to attain a defensible position in a TP audit.

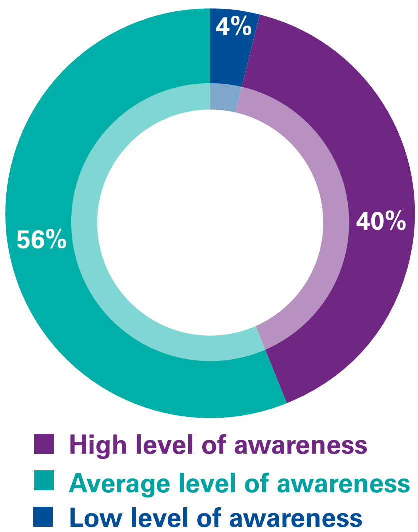

Figure 1: What is your level of awareness of the TP compliance requirements in Nigeria?

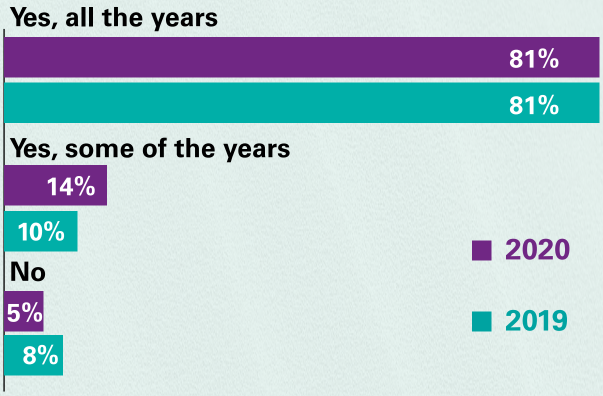

Figure 2: Has your company filed TP returns annually since the 2013 financial year?

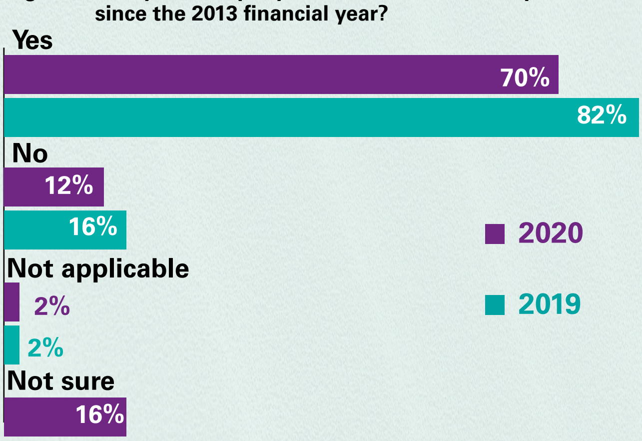

Figure 3: Does your company have an internal TP Policy that guides your transactions with your related parties?

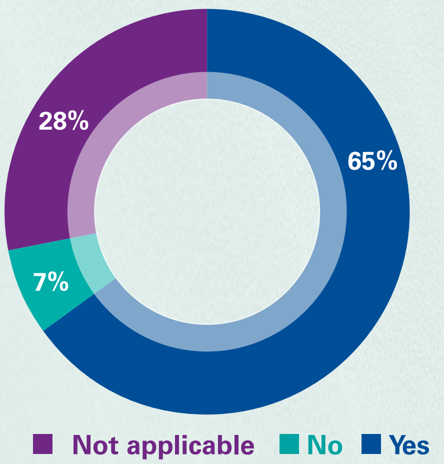

Figure 4: If yes, have you fully implemented your internal transfer pricing policy?

Country-by-Country Reporting (CbCR) – Ongoing Compliance

Majority of the respondents provided positive responses when asked about their compliance with the CbCR Regulations. 12% indicated that the CbCR Regulations did not apply to their organization while 2% of the respondent were neither sure of its applicability nor their compliance.

The survey result suggests that taxpayers are more aware of the CbCR obligations now than in prior years, however taxpayer education is still required in the area of compliance. Companies are also advised to proactively review their current structure in order to determine their obligations with a view to mitigating any penalty risk/exposure.

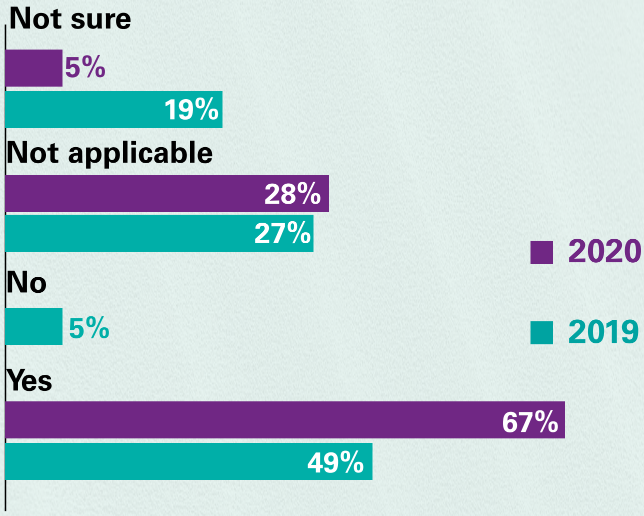

Figure 5: Has your Company complied with the Country-by-Country Reporting Regulations?

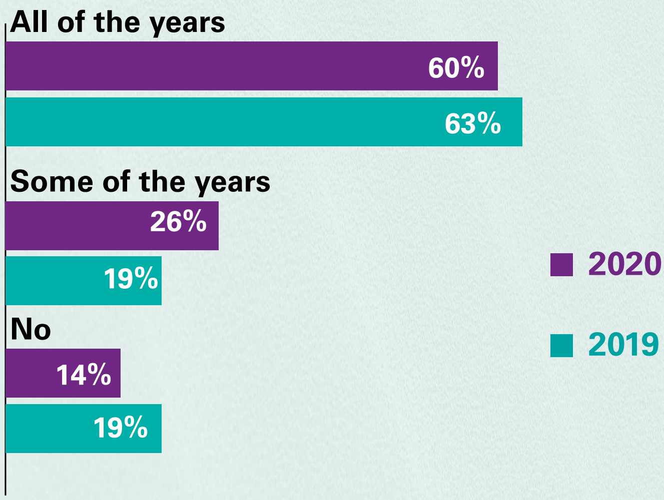

Figure 6: Has your company prepared contemporaneous TP documentation annually since the 2013 financial year?

4

TP Risk Assessment & Audit Experience

Aligning financial statements disclosures with source documents

From the survey result, 81% of the respondents have procedures to guarantee the accuracy of controlled transactions disclosed in the financial statements, while 19% were either not sure or did not have such procedures.

Given that the financial statement is the first reference point for the tax authorities in assessing the taxpayer's related party transactions, the related party disclosures must be accurate to reduce the risk of a TP audit.

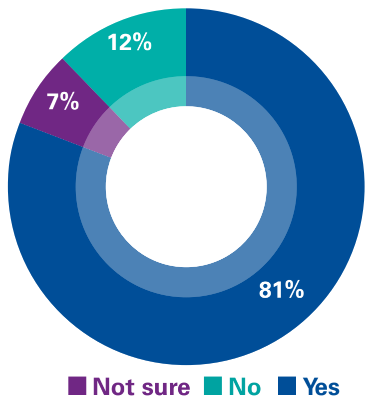

Figure 7: Do you have a procedure to ensure that related party disclosures in your company's financial statements are complete and accurate?

TP audit experience

A significant share of the respondents have neither ongoing nor completed TP audits, with only 7% having completed their TP audit exercise. Unsurprisingly, the 40% that have either ongoing or completed audits indicated that the audits covered more than 1 year of assessment with over half of these audits only in the IDR stage. Based on these responses, it can be deduced that the FIRS may be challenged by limited resources (in terms of personnel) to carry out these TP audits which may be very demanding on the taxpayers as well. Hence, the use of the favored multiple-year approach to conducting TP audits which serves to eliminate the administrative burden that single year audits may have on the tax authorities' resources.

Also, it can be noted from the survey results that the FIRS may be focusing on making progress on the existing TP audits as more than half of the respondents with on-going TP audits had received correspondence on the audit from the FIRS within the last 6 months, from the time of the survey.

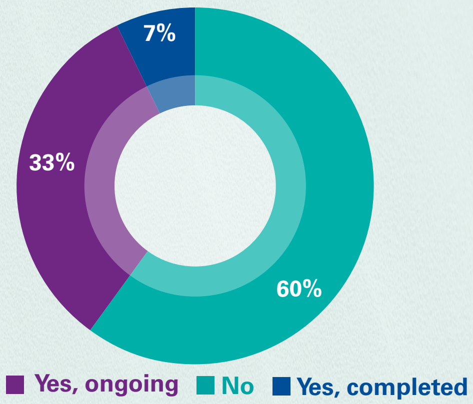

Figure 8: Is your Company undergoing TP audit?

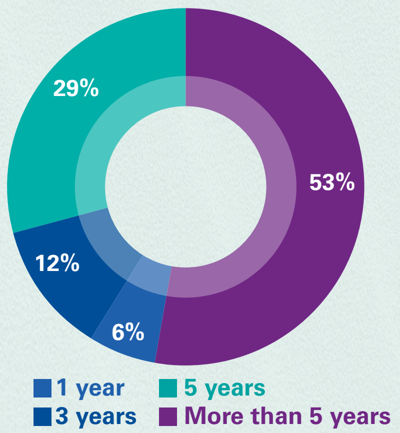

Figure 9: If yes, how many years does/did the TP audit cover?

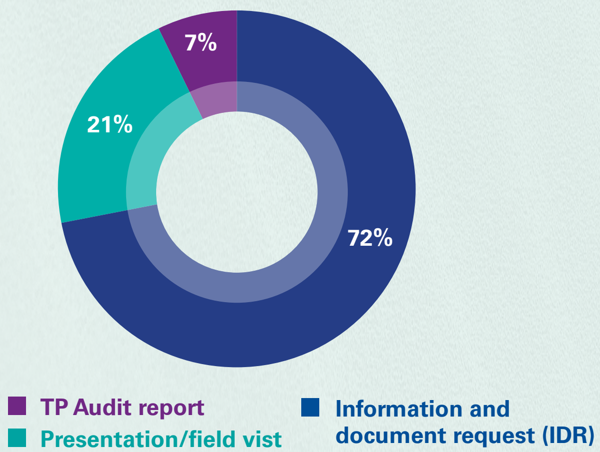

Figure 10: What stage is your Company in the TP audit process?

Furthermore, 23% of the respondents with ongoing or completed TP audit exercises consider the pace of the audit to be adequate, while 31% think the audit process is very slow.

When asked on ways to improve on the pace of the audit, the respondents generally suggested that the FIRS communicate the expected time frame for completion of audit to enable taxpayers adequately plan for the audit.

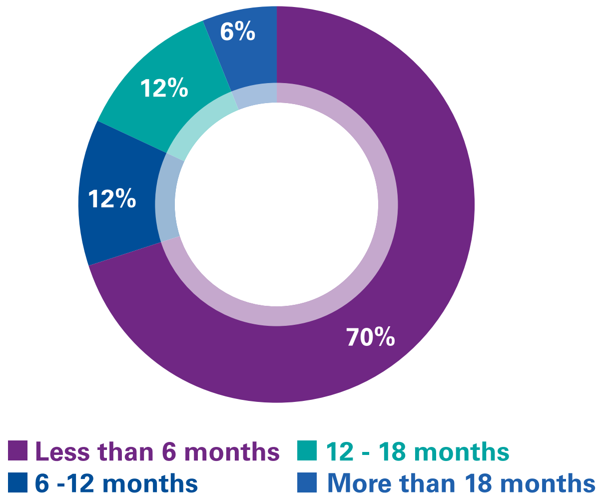

Figure 11: How long has it been since the last correspondence on the audit?

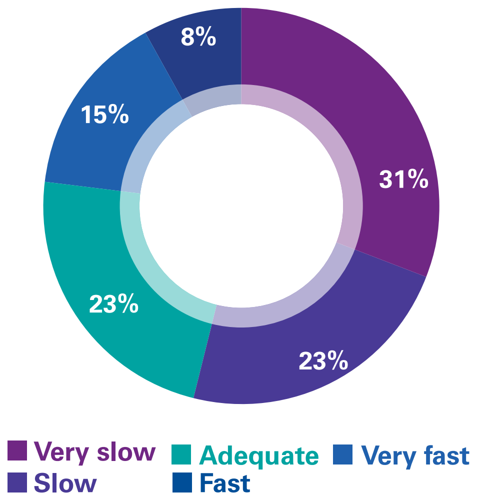

Figure 12: What is your view on the pace?

FIRS stance on audits may be changing…

The results obtained from the respondents with TP audit experience suggest that the FIRS may be shifting their stance on TP audits and becoming a bit more aggressive. When compared with prior year results, about 9% consider the FIRS' stance as very aggressive against 7% in prior year.

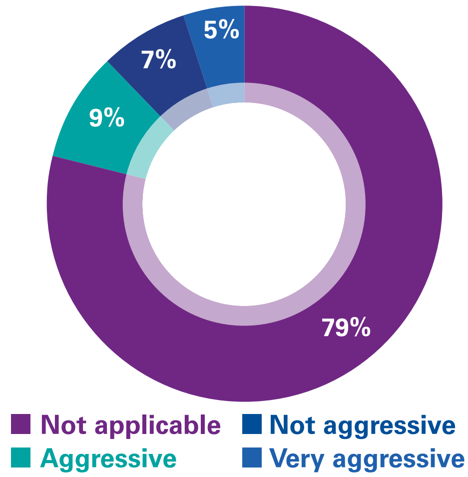

Figure 13: What was/is the FIRS' stance during the TP audit?

As in prior years, respondents indicated they would prefer to resolve TP disputes using less adversarial approach. 42% of the respondents would rather resolve their TP disputes through reconciliation and negotiation, and about 35% would prefer a combination of the options. Only 2% of the respondents indicated that they will consider the option of going to court. It can be observed that, although the FIRS is considered generally aggressive during TP audits, taxpayers still consider a peaceful and conciliatory approach as the best option to resolve differences.

5

Impact of COVID-19 on Related Party Transactions

COVID-19 Preparedness

From the survey results, majority of businesses are prepared to deal with the effect of the pandemic on their operations. 19% of the respondents indicated that they were unsure of their level of preparedness, and 2% of the respondents indicated that they were not prepared at all. Of the 46% that indicated that their companies were prepared, a further review of the level of preparedness of the respondents revealed that 49% believed their companies were very prepared to deal with the effect of the pandemic, while 5% indicated that their companies were not prepared to deal with the effect of the pandemic.

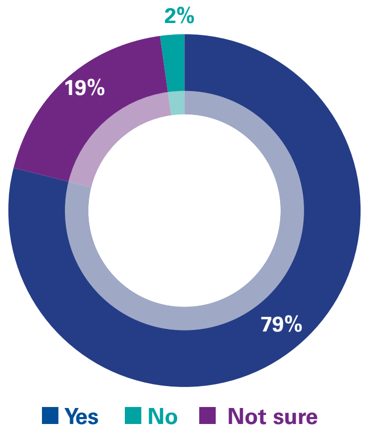

Figure 14: Is your company prepared to deal with the effect of COVID-19?

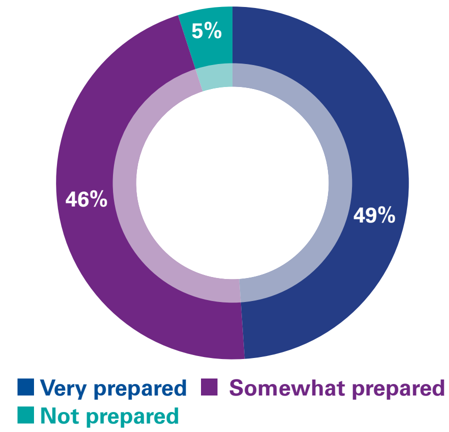

Figure 15: If yes, how prepared?

Impact of COVID-19 on business

When asked about the impact of COVID-19 on their business activities, 30% of respondents suffered a decline in their business' performance since the invasion of the pandemic with 35% recording a slight decrease in performance. However, 9% of the respondents indicated a slight increase in their business performance, with 7% indicating that the crisis opened doors for their businesses. 19% indicated that the COVID-19 pandemic had no impact on their businesses at all.

Also, the results show that only about 33% of the respondents experienced a business restructuring as a result of the pandemic. The remaining 67% did not have to undergo a business restructuring.

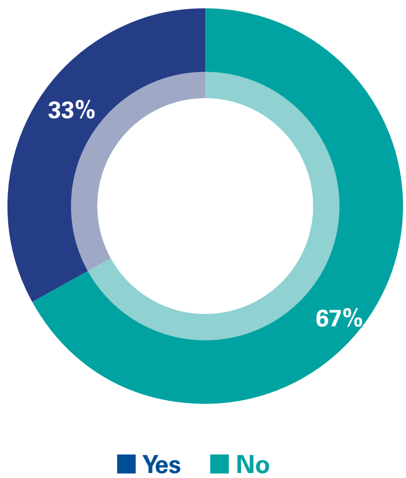

Figure 16: Has your business been forced to restructure as a result of COVID-19 pandemic?

Impact of COVID-19 on key business operations

According to the survey, majority of respondents indicated that the pandemic affected their business' revenue more that any other aspect of their business. 19% indicated that their company's profitability was most impacted while another 18% indicated that the impact of the pandemic was most felt in the movement of their goods. Only 5% felt the impact mostly on their cash flow.

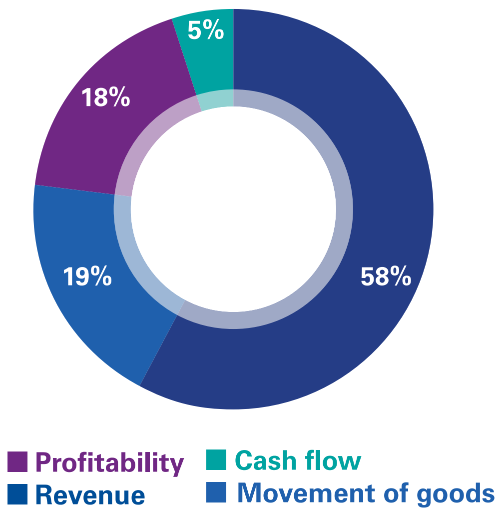

Figure 17: What aspects of your business operations has been impacted the most by COVID-19 pandemic?

Related Party Contracts

A significant share of the respondents have not made amendments to their related party contracts to better manage the impact of the pandemic on their operations. 23% of the respondents indicated that they were unsure about how to make the necessary amendments to their related party contracts. Only 14% of the respondents have managed to make the necessary amendments to their related party contracts.

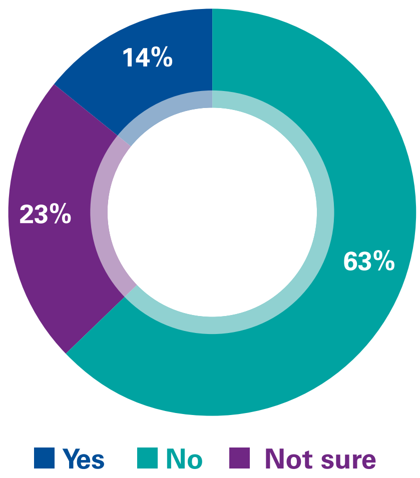

Figure 18: Has your company made any amendments to the related party contracts to better manage the impact of COVID-19 on your operations?

Intra-group Support Services

Majority of the respondents indicated that the pandemic did not lead to the receipt of additional support services from related parties. However, 21% of the respondents indicated that they had received additional support, leaving another 21% of the respondents unsure if any additional support services were received during the pandemic.

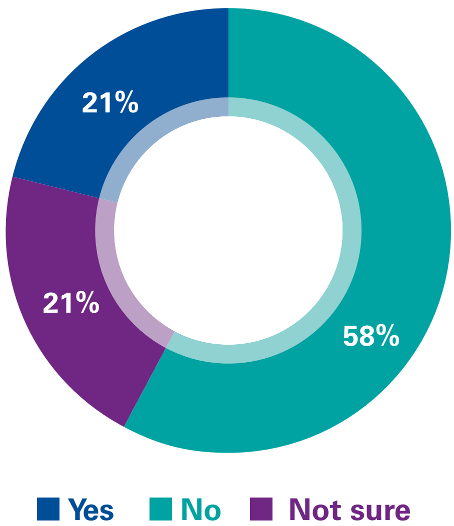

Figure 19: Did your company receive additional support services from related parties during the pandemic?

6

Regulatory Issues

Impact of Non-Tax Regulatory bodies policies/directives

From the survey results, majority of businesses regard the impact of policies/directives by non-tax regulatory bodies as either medium or low. The impact of such policies/directives are high for only 30% of the respondents.

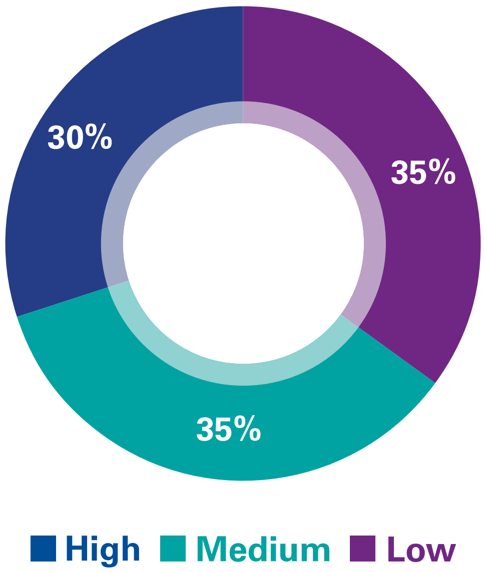

Figure 20: How do you rate the impact of the policies/directives of non-tax regulatory bodies (CBN, NCC, NOTAP etc.) on the TP compliance of your business ?

CBN's Procurement Directive

The survey results show a reasonable level of awareness among the respondents regarding the CBN's new requirement for procurement arrangements. 42% indicated that they were aware while another 42% indicated that they were unaware. The remaining 16% of the respondents were unsure if they had knowledge about the CBN's directive.

Of the 42% that were aware of the directive, 54% were unsure about the impact that the directive would have on their businesses. 21% were of the opinion that the implementation of the directive may be detrimental to the Nigerian economy. However, 26% welcomed the development and regarded it as a necessary step to manage the impact of price manipulation.

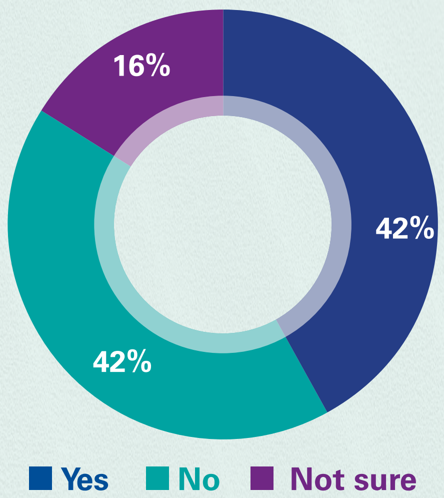

Figure 21: Are you aware of the Central Bank of Nigeria (CBN)'s new requirement for procurement arrangements?

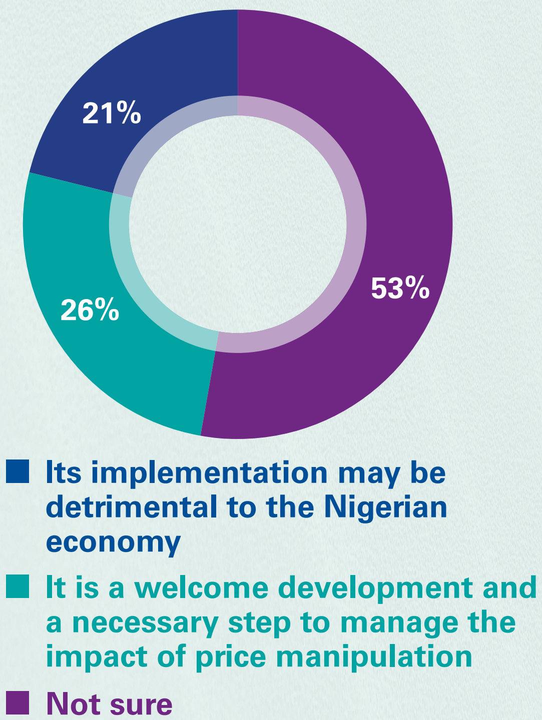

Figure 22: If yes, what do you think about its potential impact?

CBN's Directive on Related Party Procurement

According to the survey, 33% of the respondents indicated that the CBN's directive would affect their company's related party procurement transactions. Another 33% indicated that they were unsure about how the CBN's directive would impact their intra-group procurement transactions. However, 26% of the respondents indicated that the CBN's directive would have no effect at all on their intra-group procurement transactions.

Of the respondents that indicated that the directive would impact their procurement transactions, 23% are of the opinion that the directive would lead to a significant change in their procurement arrangements that would be difficult to manage. 12% of the respondents are of the opinion that the change, although significant, could be easily managed. However, 30% of the respondents indicated that there would be little or no change in their procurement arrangements as a result of the directive.

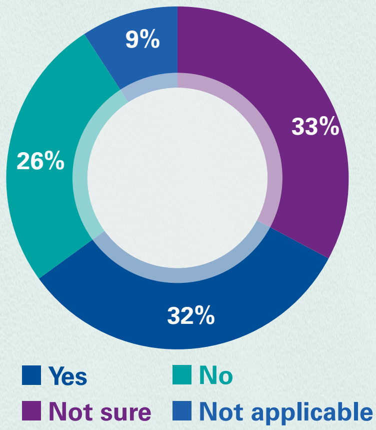

Figure 23: Does the CBN's directive on procurement have any effect on the company's related party procurement transactions?

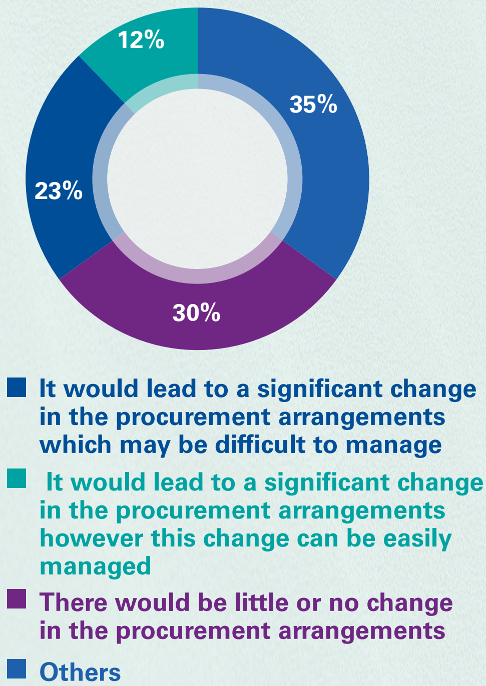

Figure 24: If yes, to what degree does the directive affect the company?

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KPMG Global TP Services

The TP environment is constantly changing, in terms of both risk and opportunities. In the wake of the OECD's BEPS action points, multinationals must be able to present cogent, globally consistent arguments supporting their TP decisions, substantiated by thorough, authoritative analyses that reflect local rules governing their transactions. Add to that the increasing call for greater transparency, multinationals are left facing more complexities than ever.

Multinationals need to ensure that they stay up-to-date with the latest TP developments and best practices. Businesses need to be flexible enough to respond to changing laws and regulations, as failure to do so may be costly. They can still optimize opportunities as well as their global effective tax rate while ensuring compliance with changing guidelines and regulations, to minimize the risks associated with TP audits. A well designed TP policy and properly coordinated defense strategy for such a policy are basic necessities in today's dynamic commercial environment.

Keeping track of the fast moving TP landscape is itself a challenge. From detailed TP Regulations to stricter documentation requirements, the call for greater transparency, robust audit practices to harsher penalties for non-compliance, global companies must deal with an even more complex environment. Above all, ensuring an effective TP strategy means being proactive in planning, implementation, risk management, documentation and dispute resolution. Taxpayers need to understand the global perspective, but also be able to combine it with local expertise and orientation in putting together a coherent and defensible TP policy which is responsive enough to adapt to the constant changes that businesses experience.

TP has also become a topic of public controversy on the matter of whether the current TP rules permit multinationals to pay less than their fair share of tax in some of the territories that they operate in. This means that multinationals now need to evaluate their TP practices from the perspective of subjective areas like corporate reputation and public perception.

Organisations recognize that TP strategies can add significant value to business projects and help fund future growth as they look to maximize efficiencies and optimize their global tax liabilities.

KPMG approach

In today's post BEPS world, TP has been transformed. Companies face new reporting and information sharing challenges and the need for a global narrative.

KPMG's Global Transfer Pricing Services (GTPS) practice includes a core TP group of more than 2,000 professionals representing 48 member firms around the world. The practice includes an extensive network of former government officials and is composed of economists, tax practitioners and financial analysts with years of experience.

KPMG firms can help companies develop and implement economically supportable transfer prices, document the policies and outcome, and respond to questions raised by the tax authorities. With KPMG's global network providing access to TP professionals around the world, the GTPS practice is well equipped to provide the local experience and global context that multinationals need to thrive in today's environment.

How clients can benefit

Professionals in the KPMG GTPS network help clients make difficult decisions about prioritizing limited resources every day. Navigating the proliferation of BEPS-driven requirements with a finite budget requires careful risk tiering and consideration. It also requires a focus on process and technology.

Member firm clients can benefit from a technology-enabled, risk based approach by:

- Reducing controversy
- Limiting double taxation
- Increasing the likelihood of favorable outcomes when controversies arise
- Aligning tax goals with business objectives
- Reducing the amount of time that corporate resources need to spend on TP

Global TP Services

Transfer Pricing life cycle and services

8

Global Principles for a Responsible Tax Practice

The key focus of the KPMG tax practices is supporting our clients. In all areas of our work we apply uncompromising professional standards. KPMG's Global Principles for a Responsible Tax Practice[1] are the foundation of expected standards and conduct.

1 **We act lawfully and with integrity and expect the same from our people, our firms' clients, tax authorities and other parties with whom we interact. Above all else, in every respect our work shall be fully compliant with relevant legal, regulatory and professional requirements.**

2 **We are committed to providing clients with high quality tax advice tailored to their particular circumstances.**

3 **We shall explain clearly and objectively to our clients the technical merits and the sustainability of any tax advice we give.**

4 **Whenever relevant and practical to assess, we may discuss with clients any likely impact of any tax advice we give on relevant communities and stakeholders and any potential reputational risk.**

5 **We shall make recommendations to clients only where:**

I. we consider, at least on the balance of probabilities, that the relevant interpretation of law is correct; or

ii. it otherwise clearly meets the applicable local professional

6 **We shall only advise clients to enter into, or assist them to implement, transactions or arrangements on the basis that they have any substance required by law, as well as any business, commercial or other non-tax purpose required by law.**

7 **We shall not advise clients to enter into transactions with the purpose of securing a tax advantage clearly and unambiguously contrary to the relevant legislation and shall not assist them to implement such transactions. If, in our view, the language of the legislation is uncertain, we shall consider the intention of the relevant legislators when advising clients.**

8 **We support a relationship with tax authorities aimed at building mutual trust and respect which will enable constructive dialogue and responsiveness by all parties, facilitate compliance and reduce or assist in early resolution of disputes.**

9 **We shall comply with all our disclosure requirements and advise our clients to do the same.**

10 **When advising clients on entering into transactions we shall do so on the understanding that all material facts will be known to the tax authorities.**

[1] These Principles set out the way KPMG approaches tax on a global basis. They are not intended to refer to terms of acts or legislations in any specific country.

9

Thought Leadership

Bloomberg Tax

INSIGHT: Taxation of the Digital Economy in Nigeria and the 2019 Finance Bill

1. Taxation of the digital economy in Nigeria and the 2019 Finance Bill

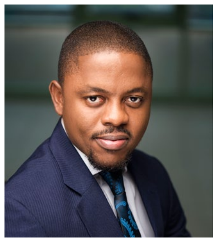
by Wole Obayomi, Victor Adegite and Ademola Idowu

The ubiquitous operating model of digital businesses has also raised questions about how taxing rights on income derived from cross-border trade should be allocated among participating jurisdictions to address under- or over-taxation. The ongoing Base Erosion and Profit Shifting (BEPS) project of the Organization for Economic Cooperation and Development (OECD) and the G-20 seeks to address the shortcomings of the current national and international tax framework with a view to establishing new rules that match the current realities of the global economy.

You can read the full article at www.bloombergbna.com.

Wole Obayomi

Adegite Victor



Ademola Idowu

Bloomberg Tax

INSIGHT: Nigeria's Finance Bill–Transfer Pricing Implications for MNEs

2. Nigeria's Finance Bill—Transfer Pricing Implications for MNEs

by Tayo Ogungbenro, Victor Adegite and Omojo Okwa.

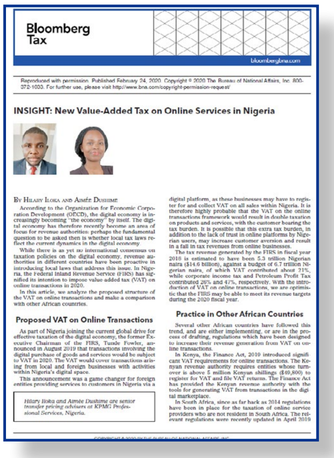
The Finance Bill (the Bill) seeks to amend some provisions of the Nigeria tax code with a view to enabling the government to generate the much-needed revenue required to execute the 2020 budget. This article discusses some of the proposed amendments that have transfer pricing implications for multinational enterprises (MNEs) with operations in Nigeria.

You can read the full article at https://news.bloomberglaw.com/daily-tax-report-international/insight-nigerias-finance-bill-transfer-pricing-implications-for-mnes

Tayo Ogungbenro

Adegite Victor

Omojo Okwa



Bloomberg Tax

INSIGHT: New Value-Added Tax on Online Services in Nigeria

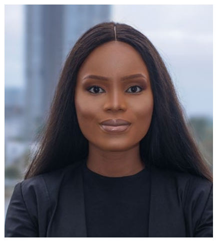
3. New Value-Added Tax on Online Services in Nigeria

by Hilary Iloka and Aimee Dushime

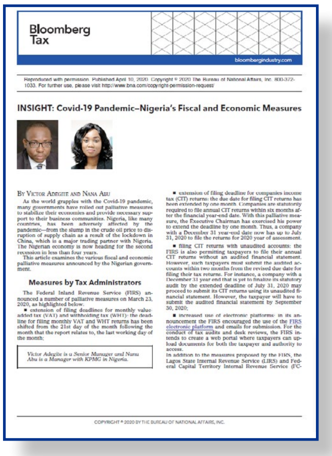
According to the Organization for Economic Corporation Development (OECD), the digital economy is increasingly becoming "the economy" by itself. While there is as yet no international consensus on taxation policies on the digital economy, revenue authorities in different countries have been proactive in introducing local laws that address this issue. In Nigeria, the Federal Inland Revenue Service (FIRS) has signified its intention to impose value-added tax (VAT) on online transactions in 2020.The article seeks to analyse the proposed structure of the VAT on online transactions and make a comparison with other African countries.

You can read the full article at https://news.bloombergtax.com/daily-tax-report-international/insight-new-value-added-tax-on-online-services-in-nigeria

Hilary Iloka



Aimee Dushime



Bloomberg Tax

INSIGHT: Covid-19 Pandemic–Nigeria's Fiscal and Economic Measures

4. Covid-19 Pandemic- Nigeria's Fiscal and Economic Measures

by Victor Adegite and Nana Abu

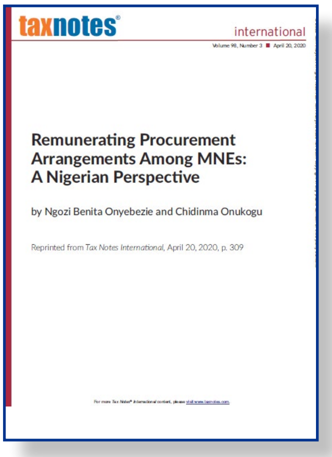
Nigeria, like many countries, has been adversely affected by the pandemic from the slump in the crude oil price to disruption of supply chain as a result of the lockdown in China, which is a major trading partner with Nigeria. The Nigerian economy is now heading for the second recession in less than four years.

This article examines the various fiscal and economic palliative measures announced by the Nigerian government.

You can also read the full article at:
https://news.bloombergtax.com/daily-tax-report-international/insight-covid-19-pandemic-nigerias-fiscal-and-economic-measures

Victor Adegite

Nana Abu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Volume 98, Number 3 ■ April 20, 2020

Remunerating Procurement Arrangements Among MNEs: A Nigerian Perspective

by Ngozi Benita Onyebezie and Chidinma Onukogu

Reprinted from Tax Notes International, April 20, 2020, p. 309

5. Remunerating procurement arrangements among MNEs - A Nigerian Perspective

by Ngozi Benita Onyebezie and Chidinma Onukogu


Ngozi Onyebezie


Chidinma Onukogu

Centralized procurement arrangements and buying houses are a common feature among multinational enterprises, especially those operating in the consumer market industry. Cutthroat competition within the global economy has increased the need for MNEs to maximize cost savings through economies of scale, specialization, increased efficiency, and reduced costs. Competition and expansion are key factors driving MNEs to include centralized procurement functions as part of their global group structure. To create cost savings and group synergies, MNEs have designed and implemented business operating models that incorporate centralized purchasing and sourcing outfits known as buying houses to improve the group's overall commercial.

You can read the full article at https://tinyurl.com/y5kyuqh5


24 BUSINESS DAY

TAX ISSUES

Implications of Automatic Exchange of Information Agreement for Nigeria

6. Implications of Automatic Exchange of Information Agreement for Nigeria

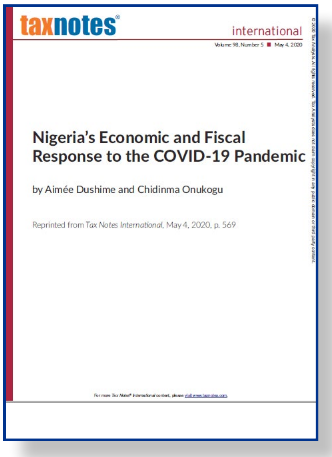
by Victor Adegite and Oluwatoyin Bello


Victor Adegite


Oluwatoyin Bello

On August 17, 2017, Nigeria joined 106 other countries to sign the Common Reporting Standard -Multilateral Competent Authority Agreement (CRS-MCAA), which will enable signatories to automatically exchange the financial information of residents in their respective jurisdictions. To domesticate the CRSMCAA, Nigeria published the Income Tax (Common Reporting Standard) Regulations, 2019 (the Regulations), with an effective date of 1 July, 2019. The Regulations will enable financial institutions in Nigeria (effective May 2020) to turn over certain financial information relating to some categories of companies and individuals to the Federal Inland Revenue Services (FIRS). This article discusses the provisions of the Regulations and examine its implications for stakeholders.

You can also read the full article at: https://www.pressreader.com/nigeria/business-day-nigeria/20200429/281801401117547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Nigeria's Economic and Fiscal Response to the COVID-19 Pandemic

by Aimée Dushime and Chidinma Onukogu

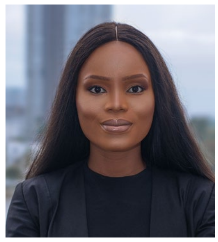
Reprinted from Tax Notes International, May 4, 2020, p. 569

7. Nigeria's Economic and Fiscal Response To the COVID-19 Pandemic

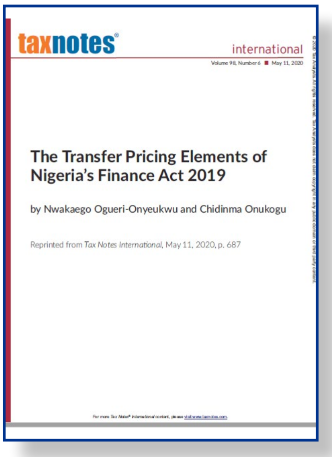
by Aimée Dushime and Chidinma Onukogu

On January 30 the World Health Organization formally declared the outbreak of the novel coronavirus a global public health emergency. More than 170 jurisdictions have recorded confirmed cases since the outbreak of the virus. On a broader level, the economic impact of the virus and the global response to it are taking their toll on governments, businesses, families, and individuals across the world. This has prompted many governments, including Nigeria's, to introduce special fiscal, monetary, and economic measures to ameliorate the impact of the pandemic on taxpayers and save their economies from collapse

You can also read the full article at:
https://tinyurl.com/y5mukjua


Aimess Dushime


Chidinma Onukogu


taxnotes international

The Transfer Pricing Elements of Nigeria's Finance Act 2019

by Nwakaego Ogueri-Onyeukwu and Chidinma Onukogu

Reprinted from Tax Notes International, May 11, 2020, p. 687

8. The Transfer Pricing Elements of Nigeria's Finance Act 2019

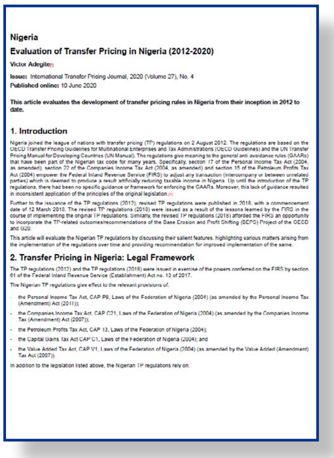
by Nwakaego Ogueri-Onyeukwu and Chidinma Onukogu

The Finance Act 2019 introduces changes to several tax laws and regulations in Nigeria: the Companies Income Tax Act (CITA); the VAT Act; the Petroleum Profits Tax Act; the Personal Income Tax Act; the Capital Gains Tax Act; the Customs, Excise Tariff, etc. (Consolidation) Act; and the Stamp Duties Act. Broadly, the act seeks to amend the fiscal rules around taxation to promote business development and alleviate the tax burden on small- and medium-size enterprises. This article discusses the implications of the Finance Act 2019 for transfer pricing in Nigeria.

You can read the full article at
https://tinyurl.com/y6ewb6el


Nwakaego Ogueri-Onyeukwu


Chidinma Onukogu



Nigeria

Evaluation of Transfer Pricing in Nigeria (2012-2020)

Victor Adegite

Issue: International Transfer Pricing Journal, 2020 (Volume 27), No. 4

Published online: 10 June 2020

This article evaluates the development of transfer pricing rules in Nigeria from their inception in 2012 to date.

1. Introduction

2. Transfer Pricing in Nigeria: Legal Framework

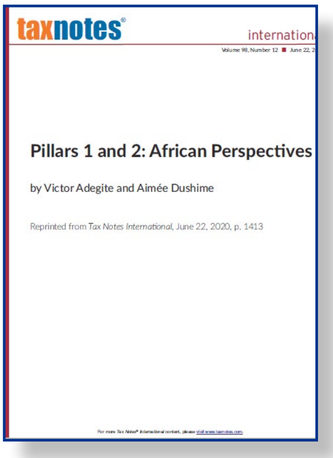
9. Evaluation of Transfer Pricing in Nigeria (2012-2020)

by Victor Adegite

Victor Adegite

Further to the issuance of the TP regulations (2012), revised TP regulations were published in 2018, with a commencement date of 12 March 2018. The revised TP regulations (2018) were issued as a result of the lessons learned by the FIRS in the course of implementing the original TP regulations. Similarly, the revised TP regulations (2018) afforded the FIRS an opportunity to incorporate the TP-related outcomes/ recommendations of the Base Erosion and Profit Shifting (BEPS) Project of the OECD and G20. This article will evaluate the Nigerian TP regulations by discussing their salient features, highlighting various matters arising from the implementation of the regulations over time and providing recommendation for improved implementation of the same.

You can read the full article at https://www.ibfd.org/IBFD-Products/Journal-Articles/International-Transfer-Pricing-Journal/collections/itpj/html/itpj_2020_04_ng_1.html



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Volume 98, Number 12 ■ June 22, 2

Pillars 1 and 2: African Perspectives

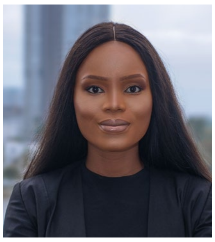
by Victor Adegite and Aimée Dushime

Reprinted from *Tax Notes International*, June 22, 2020, p. 1413

10. Pillars 1 and 2: African Perspectives

by Victor Adegite and Aimée Dushime

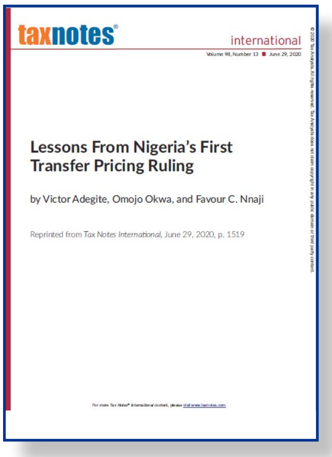
Adegite Victor



Aimee Dushime

Tax administrations across the world are concerned about the loss in tax revenue resulting from the mismatch between the existing tax framework and the modern business environment, which is far ahead of the tax code in many significant respects. This article discusses the state of play regarding pillars 1 and 2 and share African perspectives on the proposals.

You can read the full article at https://www.taxnotes.com/tax-notes-international/base-erosion-and-profit-shifting-beps/pillars-1-and-2-african-perspectives/2020/06/22/2ckqv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Volume 98, Number 13 ■ June 29, 2020

Lessons From Nigeria's First Transfer Pricing Ruling

by Victor Adegite, Omojo Okwa, and Favour C. Nnaji

Reprinted from Tax Notes International, June 29, 2020, p. 1519

11. Lessons From Nigeria's First Transfer Pricing Ruling

by Victor Adegite, Omojo Okwa, and Favour C. Nnaji

This article reviews the salient issues of the case and weighs the tribunal's decision against the 2012 Nigerian transfer pricing regulations and the international best practices documented in the 2010 OECD transfer pricing guidelines and the 2013 U.N. Practical Manual on Transfer Pricing for Developing Countries. While all three documents have since been updated, we use the versions in effect at the time of the relevant transactions and initial assessment.

You can read the full article at
https://tinyurl.com/yxa392a6


Victor Adegite


Omojo Okwa


Favour Nnaji


Bloomberg Tax

INSIGHT: Nigeria–Modification of Expense Deductibility Clause

Section 24 Amendment

Implications for Taxpayers

12. Nigeria: Modification of Expense Deductibility Clause

by Ngozi Benita Onyebezie and Olakunle Odesanya

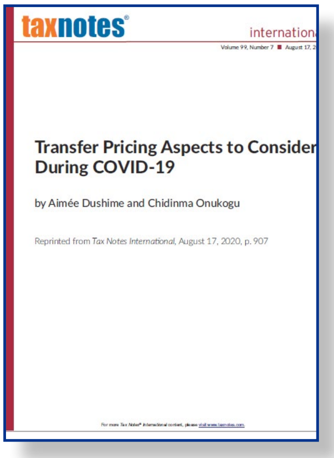
All over the world, it is standard practice in the field of taxation for qualifying expenses to be deductible for tax purposes. In Nigeria, those expenses are required by law to be wholly, reasonably, exclusively, and necessarily (WREN) incurred in the production of the taxable income under consideration. Taxpayers were therefore simply required to meet the criteria for claiming deductibility of expenses for such deductions to be approved by the tax authority.

In order to address this problem, the recently enacted Finance Act, 2019 (the Act) modified Section 24 of the Companies Income Tax Act (CITA) Cap. C21 LFN 2004 (as amended). This article discusses the modification as well as the implications for taxpayers in Nigeria.

You can read the full article at
https://tinyurl.com/y5jdq8mb


Ngozi Onyebezie


Olakunle Odesanya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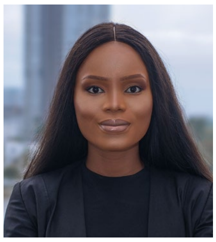
Transfer Pricing Aspects to Consider During COVID-19

by Aimée Dushime and Chidinma Onukogu

Reprinted from *Tax Notes International*, August 17, 2020, p. 907

13.Transfer Pricing aspects to consider during COVID-19

by Aimee Dushime and Chidinma Onukogu


Aimess Dushime


Chidinma Onukogu

The COVID-19 pandemic has disrupted business in various sectors, and many organizations have been forced to significantly modify their operations to address its short- and long-term effects. In the short term, some groups may resort to decentralizing intragroup activities if local companies can better handle those disruptions, while others will either centralize most operations for better control or introduce new cross-border services to cope with the pandemic. Those operational modifications have transfer pricing implications.

You can read the full article at https://tinyurl.com/y5o5ocr7


Bloomberg Tax

INSIGHT: Taxation of Digital Economy in Nigeria–Significant Economic Presence

Overview of the SEP Order

Issues Arising from the SEP Order

14.Taxation of Digital Economy in Nigeria — Significant Economic Presence

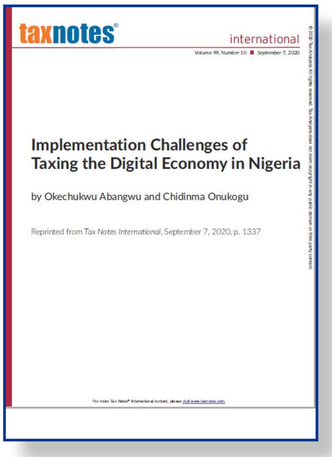
by Wole Abayomi and Victor Adegite


Wole Obayomi


Adegite Victor

The Federal Government of Nigeria (FGN) recently published the Companies Income Tax (Significant Economic Presence) Order, 2020 (the Order). The Finance Act, 2019 (the Finance Act) introduced the concept of significant economic presence (SEP) to expand the scope of Nigerian tax on foreign companies deriving income from their activities in the country, which were hitherto not captured in the tax net. The Order provides clarification on what would constitute an SEP for foreign companies doing business or providing services to customers in Nigeria, in line with Section 13(2)(c) and (e) of the Companies Income Tax Act (CITA).

You can read the full article at www.bloombergbna.com.


taxnotes® international
Volume 99, Number 10 ■ September 7, 2020

Implementation Challenges of Taxing the Digital Economy in Nigeria

by Okechukwu Abangwu and Chidinma Onukogu

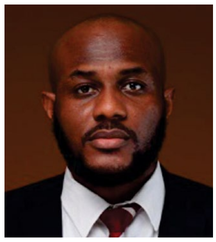
Reprinted from Tax Notes International, September 7, 2020, p. 1337

15. Implementation Challenges of Taxing the Digital Economy in Nigeria

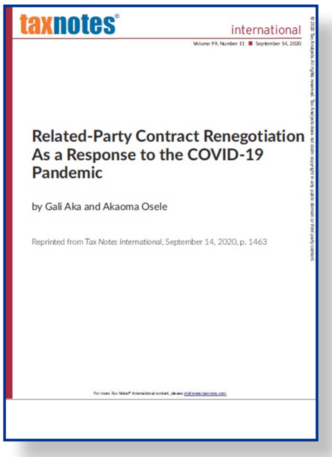
by Okechukwu Abangwu and Chidinma Onukogu

The OECD has put forward other proposals on allocating taxing rights and profits to jurisdictions from which digital companies generate profits. Most prominent are proposals on user participation, marketing intangibles, and significant economic presence (SEP). In this article we discuss approaches to taxing the digital economy, SEP in Nigeria, and possible Nigerian digital economy taxation challenges. We then propose recommendations

You can read the full article at https://tinyurl.com/y3e4do77


Okechukwu Akangwu


Chidinma Onukogu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Volume 99, Number 11 ■ September 14, 2020

Related-Party Contract Renegotiation As a Response to the COVID-19 Pandemic

by Gali Aka and Akaoma Osele

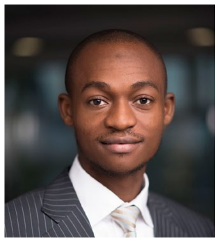
Reprinted from Tax Notes International, September 14, 2020, p. 1463

16. Related-Party Contract Renegotiation As a Response to the COVID-19 Pandemic

by Gali Aka and Akaoma Osele

It is uncertain how the FIRS will approach tax and transfer pricing audits for the COVID-19 tax year. MNEs are therefore advised to assess their intercompany agreements proactively and take steps to eliminate any gaps. Similarly, MNEs should evaluate the impact of the COVID-19 pandemic on their businesses and related-party arrangements. This article highlights the importance of related party contracts in response to COVID 19

You can read the full article at https://tinyurl.com/yy92z77s


Gali Aka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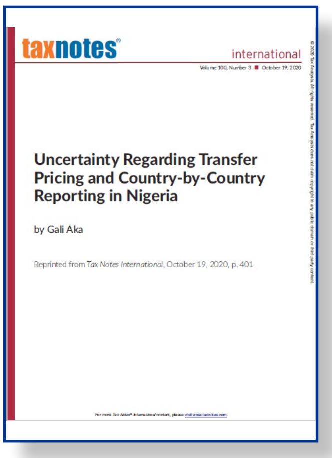

taxnotes® international
Volume 100, Number 3 ■ October 19, 2020

Uncertainty Regarding Transfer Pricing and Country-by-Country Reporting in Nigeria

by Gali Aka

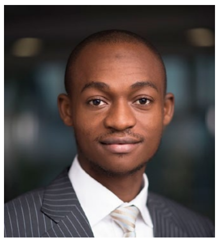
Reprinted from Tax Notes International, October 19, 2020, p. 401

17. Uncertainty Regarding Transfer Pricing and Country-by-Country Reporting in Nigeria

by Gali Aka

This article discusses the Nigeria's transfer pricing and country-by-country reporting regulations, focusing on the questionable legality of some of the provisions and discussing other concerns that may result in taxpayer uncertainty.

You can read the full article at https://tinyurl.com/ygduvnmd


Gali Aka

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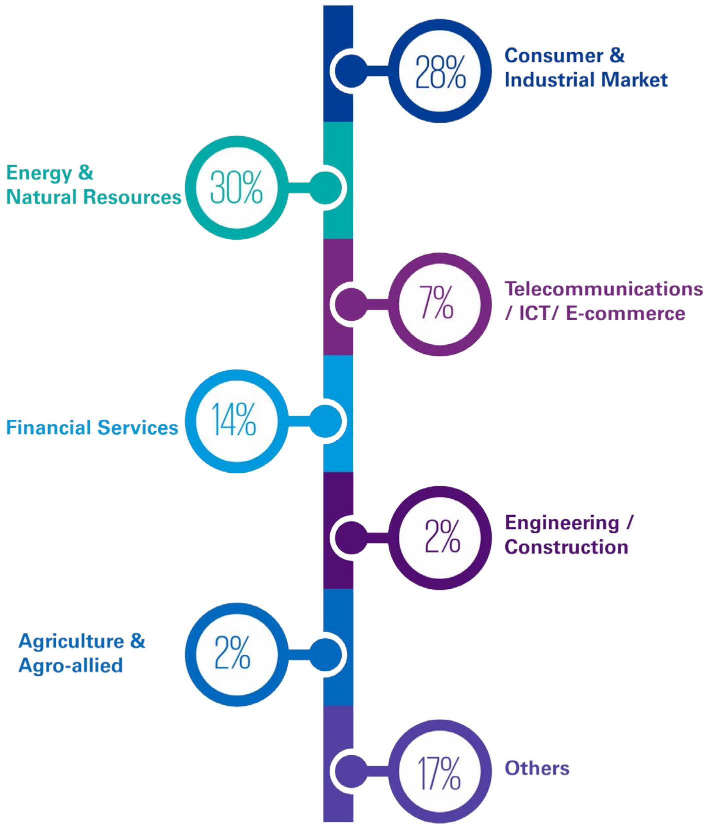
About the Survey

This report presents our findings from the 2020 TP Awareness Survey conducted by KPMG Nigeria. The survey was administered on 46 persons who are mainly Chief Finance Officers and Heads of Finance, Tax Managers/ Directors, Managing Directors/Chief Executive Officers, in leading organisations across major industry sectors in Nigeria.

The survey elicited responses in respect of TP compliance, TP risk assessment, TP audit, TP controversy and dispute resolution.

The distribution of our respondents across the sectors is illustrated below:



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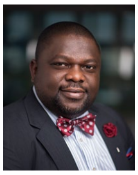

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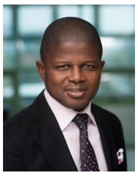

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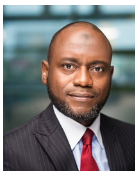

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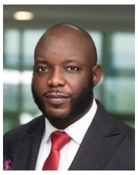

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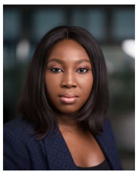

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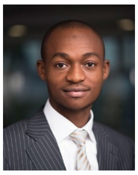

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