Tax Alert - Communication Service Tax Bill, 2015

News Flash | KPMG Nigeria

A Bill sponsored by a private member is currently being considered at the National Assembly. The Bill, called The Communication Service Tax Bill, 2015, seeks to impose Communication Service Tax (CST or "the tax") at the rate of 9% on users of electronic communication services (ECS)[1], other than private users.

For CST purpose, "User" is defined as "a customer or subscriber of any electronic communication network or broadcasting service and includes a customer that is an operator or provider of electronic communications network or service". In effect, customers who purchase ECS solely for resale (middlemen) are also required to pay CST on their purchases.

As contained in the Bill, providers of ECS are required to collect CST upon supply of services and remit the tax to the Federal Inland Revenue Service (FIRS) no later than the last working day of the month following the month of transaction. However, this timeline may be extended in certain circumstances.

Failure to submit CST returns by the due date would attract a penalty of ₦50,000 plus ₦10,000 for each day of default, and interest at the rate of 150% of the average prevailing commercial bank lending rate published by the Central Bank of Nigeria. Furthermore, failure to pay the interest due on default within one month, would attract additional interest on the unpaid interest.

The FIRS shall be responsible for collection and remittance of CST to the Federation Account.

The procedure for objections and appeals for CST will be similar to that contained in the Value Added Tax Act, Cap. V1, Laws of the Federation of Nigeria, 2004.

KPMG Comments

A key objective of the National Tax Policy, is the shift from direct to indirect tax. This shift is expected to be achieved by increasing the incidence of indirect taxes and reducing direct taxes. While the CST would clearly achieve the former, there is no corresponding attempt at reducing the direct tax rates. This one-sided approach would simply increase

[1] Electronic Communication Services include voice calls, short messaging, multimedia messaging, mobile broadband and internet, supply of recharge cards, pay per view television, etc.

the tax burden on businesses and individuals. It can therefore be concluded that the National Tax Policy is not the basis for the planned introduction of the CST.

Similar to the VAT system, the proposed CST Bill, does not contemplate a mechanism for recovery of input CST on ECS suffered along the value chain. Consequently, CST borne by a middleman will be passed on to the final consumer, by way of a higher fee for the service. The final consumer will in turn pay CST on this higher fee. This has the potential of putting the business of the middlemen at risk, as any consumer who can, would rather contract directly with the primary service provider, as a way of reducing cost. This is not a positive development for the overall growth of this sector of the economy.

On the whole, there does not appear to be a justifiable reason for the introduction of this tax, other than to raise additional revenue for government. Given that government has consistently maintained that it does not want to increase tax rates (including VAT rate), the expectation is that the Executive will take steps to ensure the non-passage of this Bill. The CST is clearly not a step in the right direction at this time, for the Nigerian economy.

We will keep you updated on further developments on the CST Bill as they occur.

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