

Taxation of Petroleum Profits in Nigeria

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This is a brief but concise overview of how petroleum profits are taxed in Nigeria as provided by the enabling law: the PETROLEUM PROFITS TAX ACT (PPTA) CAP P13 LFN 2004 and all references to the Act herein, shall be regarded accordingly.

PROFITS (S.9 [1])

Profits are calculated based on petroleum operations within each accounting period.

PROCEEDS OF SALE OF CHARGEABLE OIL **SOLD BY** THE COMPANY DURING THAT ACCOUNTING PERIOD

VALUE OF ALL CHARGEABLE OIL **DISPOSED OF** BY THE COMPANY DURING THAT ACCOUNTING PERIOD

VALUE OF ALL CHARGEABLE NATURAL GAS IN THAT ACCOUNTING PERIOD AS DETERMINED IN ACCORDANCE WITH THE 4TH SCHEDULE TO THIS ACT

ALL INCOME OF THE COMPANY FOR THAT PERIOD **INCIDENTAL TO & ARISING FROM** ONE OR MORE OF ITS PETROLEUM OPERATIONS

Adjusted Profits are calculated by the value of Profits less outgoings & expenses which were *wholly, exclusively & necessarily incurred* within or outside Nigeria listed in S.10 as well as the *cost of transportation of chargeable oil* by sea-going tankers as provided in S.14

NOTE:

Deductions are limited by S.13 &S.15 which list *expenses which are not allowed as deductible* & which empowers the board to disallow the deduction of *expenses of transactions it considers being artificial, fictitious or not sufficiently independent from the petroleum operations.*

ASSESSABLE PROFITS (S.9 [4])

This makes provision for operations which have incurred losses (where applicable)

Assessable profits are the adjusted profits less

■..... the loss incurred by a company during a previous accounting period in accordance with S.16 and;

■..... the loss incurred by in previous accounting periods by a foreign company now reconstituted as a Nigerian Company (provided such a claim is made within 2 years after the incorporation of the reconstituted company) as provided in S.18

CHARGEABLE PROFITS (S.20)

■.Chargeable Profits are the Assessable Profits less the sum total of Capital allowances (provided for in the 2nd schedule to the Act (inclusive of ITC's & PIA's)

■..The deductions allowed are the lesser of either

••the aggregate sum of allowances provided for in the 2nd schedule to the Act or;

.... a sum equal to 85% assessable profits less 170% of Petroleum Investment Allowance as provided for in the 2nd schedule

NOTE:

S.20(3) places a ceiling on these deductions to ensure that in spite of all the deductions made here, the amount of chargeable tax shall be at least 15% of the tax that would have been chargeable if no deductions were made from the assessable profits

ASSESSABLE TAX

Assessable Tax is calculated on the Chargeable Profits at the rate of

■..... 85% or;

■..... 67.75%, applicable to companies which have not commenced sales or bulk disposal of chargeable oil by continuous production or sales, in order to enable them amortise their pre-production expenditure (usually for a period of 5 years) after which the rate of 85% shall apply

CHARGEABLE TAX

Prior to the promulgation of the Finance (Miscellaneous Taxation Provisions) Decree No 30 1999, Chargeable Tax had been calculated as the amount of Assessable Tax less certain Tax offsets. Those tax offsets however ceased to be tax offsets from the 1999 decree and became available as deductions in computing the adjusted profits for the relevant accounting year.

S.22 of the PPTA 2004 is dedicated to Crude oil Producing companies which have executed a Production Sharing Contract (PSC) with NNPC and entitles them to ITC at the rate of 50% of Chargeable Profits for the duration of the (PSC), such that the Chargeable Tax =

Assessable Tax less ITC

(85% / 67.75% less 50%) of Chargeable Profits

The end result is the chargeable tax which is split between NNPC & the crude Oil Producing company for payment.

ADDITIONAL CHARGEABLE TAX

Where the amount of Chargeable Tax calculated is less than the amount it would come to if the proceeds of sale were a reference to the amount obtained by multiplying the number of barrels by the relevant sum per barrel, the company shall be liable to pay additional amount of chargeable tax for the relevant accounting period.