

PETROLEUM INDUSTRY BILL - FISCAL PROVISIONS

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OUTLINE

- Comparison of Current and PIB Regimes
- Outline of provisions in the inter-agency version
- Effects of the PIB on oil and gas financing

GENERAL FEATURES

	Current Regime	PIB (Official)	PIB (Inter-agency)
Fiscal Regime	Hybrid of Tax & Royalty and PSC fiscal system	Hybrid of Tax & Royalty and PSC fiscal system	Hybrid of Tax & Royalty and PSC fiscal system
‘Petroleum Operations’	Defined to include obtaining crude oil and natural gas by extractive process	Restricted to crude oil. Distinct separation of crude oil from gas.	Includes upstream, midstream and downstream crude oil and gas operations
‘Upstream Petroleum Operations’	Not defined	Not defined	Defined to include upstream crude oil and upstream gas operations.

APPLICABLE TAXES

	Current Regime	PIB (Official)	PIB (Inter-agency)
Petroleum Profits Tax	Chargeable on profits from upstream crude oil	Chargeable (at different rates) on profits from upstream crude oil and gas operations	N/A
Companies Income Tax	Chargeable on profits from upstream gas operations	N/A	Chargeable on profits from upstream, midstream, and downstream petroleum operations
Nigerian Hydrocarbons Tax	N/A	N/A	Chargeable on profits from upstream crude oil and gas operations

TAX RATES (CRUDE OIL OPERATIONS)

	Current Regime	PIB (Official)	PIB (Inter-agency)
Deep Offshore & Inland Basin PSCs	50%	50%	Higher of (1) 50%(onshore)/30%(offshore) of chargeable profit and (2) 2% of gross income
JVs, Sole Risk Blocks, Marginal Fields	85% (65.75% for first 5 yrs)	85% (65.75% for first 5 yrs)	Higher of (1) 50%(onshore)/30%(offshore) of chargeable profit and (2) 2% of gross income
Indigenous Companies (with production below 50,000 barrels a day)	N/A	60%*	Higher of (1) 50%(onshore)/30%(offshore) of chargeable profit and (2) 2% of gross income

TAX RATES (GAS OPERATIONS)

	Current Regime	PIB (Official)	PIB (Inter-agency)
Deep Offshore & Inland Basin PSCs	30%	35%	- CIT @ 30%; plus - Higher of (1) 50%(onshore)/30%(offshore) of chargeable profit and (2) 2% of gross income
JVs, Sole Risk Blocks, Marginal Fields	30%	45%	- CIT @ 30%; plus - Higher of (1) 50%(onshore)/30%(offshore) of chargeable profit and (2) 2% of gross income
Indigenous Companies (with production below gas equivalent of 50,000 barrels per day)	N/A	60%*	- CIT @ 30%; plus - Higher of (1) 50%(onshore)/30%(offshore) of chargeable profit and (2) 2% of gross income

OTHER TAXES AND LEVIES

	Current Regime	PIB (Official)	PIB (Inter-agency)
Education Tax	2% of assessable profit	2% of assessable profit	2% of assessable profit
Withholding Tax on Dividends	Nil	10%	10%
Niger Delta Development Commission Levy	3% of total annual budget	3% of total annual budget	3% of total annual budget

CAPITAL ALLOWANCES

	Current Regime	PIB (Official)	PIB (Inter-agency)
Rate of Capital Allowance	<ul style="list-style-type: none"> - 20% of QCE in 1st 4 yrs - 19% of QCE in 5th yr 	?	<p>NHT</p> <p>Upstream crude oil operations</p> <ul style="list-style-type: none"> - 20% of QCE in 1st 4 yrs - 19% of QCE in 5th yr <p>Upstream gas operations</p> <ul style="list-style-type: none"> - Initial and allowances of 25% of QCE <p>CIT</p> <ul style="list-style-type: none"> - Upstream petroleum operations - Initial and allowances of 25% of QCE
Allowances utilised in single year	Section 20 PPTA contains restriction	Section 428 PIB contains restriction	Restricted to available assessable profits

DEDUCTIONS

	Current Regime	PIB (Official)	PIB (Inter-agency)
Ring-fencing	No ring-fencing. Capital investment in gas utilisation facilities recoverable against crude oil revenues	Crude oil operations ring-fenced from gas operations ring-fence.	No ring-fencing
Costs incurred abroad	No ceiling on foreign-incurred costs which may be deducted	Only 80% of benchmarked, verified, and approved costs may be deducted	80% cost ceiling
Interest on loans	Deductible	Deductible (subject to 80% BVA ceiling in the case of foreign loans)	Non-deductible

DEDUCTIONS

	Current Regime	PIB (Official)	PIB (Inter-agency)
Signature & Production Bonuses	No express provision	Non deductible	Non-deductible
Contributions to abandonment fund	No express provision	Deductible	No express provision
Losses	Carried forward indefinitely	Carried forward indefinitely	Carried forward indefinitely

PETROLEUM INVESTMENT ALLOWANCE

	Current Regime	PIB (Official)
Onshore	5% of QCE	Schedule not provided
Offshore up to 100 metres water depth	10% of QCE	
Offshore between 100 – 200 metres water depth	15% of QCE	
Offshore above 200 metres water depth	20% of QCE	

INVESTMENT TAX ALLOWANCE/CREDIT

	Current Regime	PIB (Official)	PIB (Inter-agency)
ITC (available to deep offshore and inland basin PSCs signed pre-1998)	50% of QCE	No provision	N/A
ITA (available to deep offshore and inland basin PSCs signed post-1998)	50% of QCE	No provision	N/A

ROYALTY (JVS AND SOLE RISK BLOCKS)

	Current Regime	PIB (Official)
Onshore	20% of chargeable value	No express provision. Current position presumably retained by virtue of Section 478(2) of the PIB
Offshore up to 100m water depth	18.5% of chargeable value	
Offshore 101m – 200m water depth	16.5% of chargeable value	
Offshore 201m – 500m water depth	12% of chargeable value	
Offshore 501m – 800m water depth	8% of chargeable value	
Offshore 801m – 1000m water depth	4% of chargeable value	
Above 1000m water depth	0%	

ROYALTY (MARGINAL FIELDS)

	Current Regime	PIB (Official)
Below 5,000 bpd	2.5% of chargeable value	No express provision. Current position presumably retained by virtue of Section 478(2) of the PIB
5,000 – 10,000 bpd	7.5% of chargeable value	
10, 000 – 15, 000 bpd	12.5% of chargeable value	
15, 000 – 25, 000 bpd	18.5% of chargeable value	

ROYALTY (ONSHORE PSCS)

	Current Regime	PIB (Official)
Below 2000 bpd	5% of chargeable value	No express provision. Current position presumably retained by virtue of Section 478(2) of the PIB
2000 – 5000 bpd	7.5% of chargeable value	
5000 – 10,000 bpd	15% of chargeable value	
Above 10, 000 bpd	20% of chargeable value	

ROYALTY (SHALLOW OFFSHORE PSCS UP TO 100M)

	Current Regime	PIB (Official)
Below 5000 bpd	2.5% of chargeable value	No express provision. Current position presumably retained by virtue of Section 478(2) of the PIB
5000 – 10,000 bpd	7.5% of chargeable value	
10,000 – 15, 000 bpd	12.5% of chargeable value	
Above 15, 000 bpd	18.5% of chargeable value	

ROYALTY (SHALLOW OFFSHORE PSCS 100M – 200M)

	Current Regime	PIB (Official)
Below 5,000 bpd	1.5% of chargeable value	No express provision. Current position presumably retained by virtue of Section 478(2) of the PIB
5000 – 10,000 bpd	3% of chargeable value	
10,000 – 15,000 bpd	5% of chargeable value	
15, 000 – 25, 000 bpd	10% of chargeable value	
Above 25, 000 bpd	16.67% of chargeable value	

ROYALTY (DEEP OFFSHORE AND INLAND BASIN PSCS)

	Current Regime	PIB (Official)
Up to 200 metres	16.67% of chargeable value	No express provision
201m – 500m	12% of chargeable value	
501m – 801m	8% of chargeable value	
801m – 1000m	4% of chargeable value	
Above 1000m	0% of chargeable value	

ROYALTY (NATURAL GAS)

	Current Regime	PIB Regime
Onshore	7% of gas price	No express provision. Current position presumably retained by virtue of Section 478(2) of the PIB
Offshore	5% of gas price	
Gas transferred from NGL facility to GTL facility	0%	N/A

- Royalties payable on price of gas sold (excluding flare and waste gas appropriated by FGN for its own use)

PIB: TAX (PROPOSED CHANGES)

- Further versions of the draft PIB (inter-agency) propose:
 - 30% Companies Income Tax payable by all companies
 - Nigeria Hydrocarbons Tax charged at the higher of:
 - 50% of chargeable profit (onshore and shallow water areas)/30% of chargeable profit (frontier and deepwater acreages); and
 - 2% of gross income from upstream operations

PIB: ROYALTY (PROPOSED CHANGES)

- Further versions of the draft PIB (inter-agency) propose:
 - Crude oil royalty rates indexed to field depth, volume of production and crude oil price

PIB: INVESTMENT ALLOWANCES (PROPOSED CHANGES)

- Further versions of draft PIB (inter-agency) propose:
 - Small field allowance to incentivise development of less prospective fields
 - Gas allowance to incentivise production from new natural gas fields

COMPARISON OF CURRENT AND PIB REGIMES

	Current	PIB (Official)	PIB (Inter-agency)
PPT	50%/65.75%/85%	Crude Oil - 50%/65.75%/85% Gas - 45%/35%	N/A
CIT	30% for upstream gas only	N/A	30% for all companies
NHT	N/A	N/A	Higher of 50%(onshore)/30%(offshore) of chargeable profit and 2% of gross income
WHT on dividends	N/A	10%	10%
Deductibility Ceiling	No ceiling	80% BVA ceiling for foreign costs	80% BVA ceiling for foreign costs

Comparison of Current and PIB Regimes

	Current	PIB (Official)	PIB (Inter-agency)
Capital Allowances	Recovered over 5 years	?	<p>NHT QCE in respect of Upstream Crude Operations Recovered over 5 years;</p> <p>QCE in respect of Upstream Gas Operations recovered over 4 years</p> <p>CIT QCE in respect of Upstream Petroleum Operations recovered over 4 years</p>
Investment Allowances	<ul style="list-style-type: none"> - ITC/ITA - PIA 	- PIA	<ul style="list-style-type: none"> - Small field allowance - Gas allowance

COMPARISON OF CURRENT AND PIB REGIMES

	Current	PIB (Official)	PIB (Inter-agency)
Royalty	Based on field depth or production	No express provision. Current position presumably retained by virtue of Section 478(2) of the PIB	Based on geography, volume of production and value of production
Allowances utilised in single year	Section 20 PPTA contains restriction	Section 428 PIB contains restriction	Restricted to available assessable profits
Ring-fencing	No ring-fence. Gas capex recoverable from crude oil revenues	Crude oil operations ring-fenced from gas operations	No ring-fence

COMPARISON OF CURRENT AND PIB REGIMES

	Current	PIB (Official)	PIB (Inter-agency)
Interest on loans	Deductible	Deductible	Non-deductible
Signature and Production Bonuses	No express provision	Non-deductible	Non-deductible
Contributions to abandonment fund	No express provision	Deductible	No express provision
Head office costs (general, admin. & overhead)	No express provision	No express provision	Non-deductible

PSC COST RECOVERY

- 80% Cost recovery ceiling
- Certain costs not recoverable –
 - Costs not incurred within work programme and budget
 - Costs of equipment, goods and services in excess of fair market value, to the extent of such excess
 - Charges for equipment, goods and services not in accordance with relevant agreement with sub-contractor or supplier
 - Charges for goods in excess of the amount set out in accounting procedure
 - Signature bonuses and production bonuses
 - Fines and penalties imposed by any authority
 - Donations or contributions

PIB FISCAL REGIME: IMPLICATIONS FOR FINANCING

- Main effects are on project economics and borrowing cost
- 80% deductibility ceiling would increase borrowing cost for foreign loans
- Non-deductibility of interest would increase borrowing cost
- Overseas head office costs non-deductible
- Test for deductibility of expenses: NHT vs. CIT
- Demand for royalty and tax in kind: may affect structuring of off-take/sales contracts



THANK YOU FOR LISTENING!