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Law and Practice

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1. Types of Business Entities, Their Residence and Basic Tax Treatment

1.1 Corporate Structures and Tax Treatment

Generally, a corporate form is adopted by businesses seeking long-term success, commonly the private limited liability company (ltd) corporate structure. An ltd cannot have more than 50 shareholders and must restrict the transfer of its shares. There is also the public limited liability company (plc), which can have any number of shareholders, from two upwards. A plc is the required form for companies listed on the stock market.

The ltd and the plc are the commonly adopted forms of corporate entities in regulated business sectors like banking and finance, insurance, oil and gas and capital markets. The unlimited liability company is also available, which features unlimited liability for shareholders, but it is rarely used. There is also the limited by guarantee corporate form, which is a non-profit sharing corporate structure used to promote charitable objects. In addition, the Companies and Allied Matters Act (CAMA) 2020 allows the registration of a limited liability partnership (LLP) (commonly adopted by private equity and hedge funds). An LLP must have at least two designated partners, one of whom must be resident in Nigeria.

Finally, there is the open-ended investment company, which is allowed to buy its own shares. Some activities can only be carried on through a corporate vehicle, including banking, insurance and crude oil exploration and production.

Many small-scale businesses and petty traders carry on business as partnerships or sole proprietorships.

A corporate entity is taxed as a separate legal entity.

1.2 Transparent Entities

The common transparent entities are general partnerships and sole proprietorships, which are often used because they are easier to set up and operate than corporate structures or are the required form for some professions, such as the legal profession. CAMA now allows limited partnerships.

1.3 Determining Residence of Incorporated Businesses

The tax residence of incorporated businesses is determined based on the place of incorporation. The income of transparent entities is taxed in the hands of their owners, and their tax liability is not affected by their place of residence.

Nigerian companies are subject to income tax on their worldwide profits. Therefore, the profits of a Nigerian company are deemed to accrue in Nigeria, regardless of where they actually arise.

A non-Nigerian incorporated business is deemed to be resident in Nigeria for tax purposes to the following extent:

- if the company or entity has a "fixed base" in Nigeria, to the extent attributable to such base;
- if the foreign company or entity habitually operates in Nigeria through a dependent agent who conducts business on its behalf, or who delivers goods or merchandise on its behalf from stock maintained in Nigeria, to the extent attributable to such activities;
- where the foreign company or entity executes a turnkey contract in Nigeria – ie, a single contract for surveys, deliveries, installation or construction;
- where the foreign company or entity does business with a connected Nigerian company, and the Federal Inland Revenue Service (FIRS) considers the business to be artificial or fictitious;
- where the foreign company directly or indirectly "transmits, emits or receives signals, sounds, messages, images or data of any kind by cable, radio, electromagnetic systems or any other electronic or wireless apparatus to Nigeria in respect of any activity, including electronic commerce, application store, high frequency trading, electronic data storage, online adverts, participative network platform, online payments", to the extent that the foreign company has a "significant economic presence" (SEP) – hereinafter referred to as Digital SEP — in Nigeria. In terms of the Companies Income Tax (Significant Economic Presence) Order issued by the Minister of Finance on 29 May 2020, a foreign company would be deemed to have Digital SEP in Nigeria where:
  - (a) its turnover from Nigeria in an accounting year is more than NGN25 million or its equivalent in any other currency;
  - (b) it uses a Nigerian domain name or registers a website in Nigeria; or
  - (c) it has a purposeful and sustained interaction with persons in Nigeria by customising its digital page or platform to target persons in Nigeria, including reflecting the prices of its products or services in Naira or providing options for billing or payment in Naira;
- a Nigerian resident paying a foreign company with Digital SEP must deduct and remit withholding tax (WHT) of 5%. The WHT is an advance payment of the ultimate companies income tax (CIT) liability of such a foreign company; and
- it provides technical, professional, management and consultancy services to a Nigerian resident.

1.4 Tax Rates

"Small" businesses (ie, those with a turnover of less than NGN25 million) are exempt from CIT, while "medium-sized" companies (turnover between NGN25 million and NGN100 million) pay CIT at the rate of 20%, and "large" companies (turnover above NGN100 million) pay CIT at 30%.

There is also a tertiary education tax of 2% on the same tax base under the Tertiary Education Trust Fund (Establishment, Etc.) Act 2011, payable by Nigerian companies.

Petroleum profits tax of between 50% and 85% (depending on the nature of operations) is payable by companies that are engaged in crude oil exploration and production.

The taxable income of non-corporate businesses and transparent entities is assessed in their owners' hands.

Individuals are allowed a consolidated relief allowance of either NGN200,000 or 1% of gross income, whichever is higher, plus 20% of gross income. The balance of the income after all deductions will be taxed in accordance with the graduated tax scale rates set out below:

- NGN300,000: 7%;
- NGN300,001-600,000: 11%;
- NGN600,001-1,100,000: 15%;
- NGN1,100,001-1,600,000: 19%;
- NGN1,600,001-3,200,000: 21%; and
- NGN3,200,001 and over: 24%.

2. Key General Features of the Tax Regime Applicable to Incorporated Businesses

2.1 Calculation for Taxable Profits

Taxable profits are not based on accounting profits but are arrived at by aggregating all trading income and then deducting exempt income, allowable expenses, capital allowance (at annually specified rates) and carried-forward losses. Allowable expenses are limited to expenses that are "wholly, exclusively, necessarily and reasonably" incurred in making profits. The test for deductibility does not include reasonableness for companies engaged in petroleum operations, which is defined as the exploration and production of petroleum.

Profits are taxed on an accrual basis, and tax is paid on a preceding-year basis, except for tax on profits from petroleum operations, which is paid in monthly instalments based on forecast profits, with reconciliation made at the end of the tax year to reflect actual profits.

2.2 Special Incentives for Technology Investments

There is a 20% tax credit for expenditure on research and development, in addition to capital allowance (up to 95% in the first year) instead of depreciation.

There are no special incentives for a patent box.

2.3 Other Special Incentives

Income from bonds issued by sovereign or sub-sovereign entities and corporate bodies is exempt from tax in the bondholder's hands. Proceeds from the disposal of government or corporate bonds are also exempt from VAT. These exemptions for corporate bonds will lapse in 2022.

Interest on long-term foreign loans with repayment periods above seven years (with a two-year grace period), between five and seven years (with a grace period of not less than 18 months), and between two and four years (with a grace period of not less than 12 months) enjoy 70%, 40% and 10% tax exemption, respectively.

Venture capital companies that invest in venture capital projects and provide at least 25% of the total project cost enjoy a 50% withholding tax reduction on dividends received from project companies, capital allowance on their equity investments in venture project companies, and tax exemption on gains arising from the disposal of such equity.

Companies engaged in petroleum operations enjoy an investment tax credit (ITC) or an investment tax allowance (ITA) of between 5% and 50% of their qualifying expenditure. The ITC operates as a full tax credit and does not result in a reduction of qualifying capital expenditure for the purposes of calculating capital allowances. The ITA is deductible from profits in arriving at taxable profits.

There are also special incentives available to oil companies to encourage gas utilisation or the development of gas delivery infrastructure. Under the Petroleum Profits Tax Act (PPTA), oil companies can offset their gas-related capital allowance against their oil production profits. Oil companies in downstream operations can enjoy an initial tax-free period of three years, renewable for another two years, and an additional 15% investment allowance under the Companies Income Tax Act (CITA). The shareholders also enjoy tax-free dividends during the tax-free period. Alternatively, an additional investment allowance of 35% is available to such companies. Oil companies can choose to enjoy the incentives under PPTA or CITA but not both.

These incentives have led to considerable investment in gas utilisation projects.

A company engaged in a "pioneer industry" or a "pioneer product" (as designated by the government of the day) may apply for "pioneer status" which, when granted, entitles it to:

- a three-year tax holiday, which may be extended for two further terms of one year each or one further term of two years;
- relief from WHT on dividends paid to its shareholders during the tax holiday; and
- the postponement of capital allowance until the end of the tax holiday.

Approved enterprises operating within a free trade zone are exempt from all federal, state and local government taxes, levies and rates.

2.4 Basic Rules on Loss Relief

Loss carry-back is not permitted, but all companies are entitled to carry tax losses forward indefinitely. Income losses cannot be used to offset capital gains and vice versa.

2.5 Imposed Limits on Deduction of Interest

Existing anti-avoidance provisions allow the tax authority to disallow/reduce interest charged between related parties where such interest is not reflective of the arm's-length principle.

In addition, there are thin capitalisation rules whereby the tax deductibility of interest expense on a foreign-party loan is limited to 30% of EBITDA in any given tax year. Deductible interest expense not fully utilised can be carried forward for a maximum of five years.

2.6 Basic Rules on Consolidated Tax Grouping

Nigerian law does not permit consolidated tax grouping; each company within a group is taxable in Nigeria on an individual basis. Consequently, losses suffered by one member of a group of companies cannot be utilised to reduce the tax liability of another company within the group but can be carried forward and set off against the future profits of the company that incurred them.

2.7 Capital Gains Taxation

A 10% capital gains tax is payable on chargeable gains arising from the disposal of chargeable assets. All forms of property are chargeable assets under Nigerian law, regardless of where they are located, including foreign currency, options, debts and incorporeal property generally, but excluding private motor vehicles. Losses incurred upon the disposal of a chargeable asset are not deductible from other chargeable gains for the purposes of computing capital gains tax.

Gains arising from the disposal of the following are exempt from capital gains tax:

- securities issued by the Nigerian government;
- stocks and shares;
- decorations awarded for valour or gallant conduct;
- life assurance policies;
- chattels sold for NGN1,000 or less;
- assets acquired by way of a gift which are subsequently disposed of by way of gift;
- investment in superannuation funds, statutory provident funds and retirement benefit schemes;
- assets devolving upon death;
- securities in a unit trust scheme, provided the proceeds are re-invested;
- gains arising from the acquisition of the shares of a company as the result of a merger, takeover or acquisition, provided that no cash payment is made in respect of the shares acquired;
- gains accruing to local government councils and statutory corporations; and
- gains accruing from the disposal of chargeable assets by ecclesiastical, charitable or educational institutions of a public character, statutory or registered friendly societies and registered co-operative societies, and trade unions, provided that such gains do not arise from the disposal of assets acquired in connection with any trade or business, nor from the disposal of an interest possessed by the corporation in a trade or business carried on by some other person, and are applied purely for the purposes of the organisation, institution or society.

Where the proceeds from the disposal of an asset are used to finance the acquisition of a similar asset, the person making such disposal may apply to be treated as if the transaction has resulted in neither a gain nor a loss. Where the consideration received upon disposal of such asset exceeds the consideration paid for the acquisition of the replacement asset, the amount of that excess will be subject to capital gains tax.

2.8 Other Taxes Payable by an Incorporated Business

VAT is levied on the supply of all goods and services, with a few exceptions, at the rate of 7.5% and is collected by the supplier and remitted to the tax authority. However, oil and gas companies, including oil service companies, ministries, departments and agencies of governments, and residents receiving taxable supplies from foreign companies, must deduct VAT on the invoices from their suppliers and remit it to the FIRS.

A taxpayer can recover VAT incurred in acquiring stock-in-trade or inventory, but not VAT incurred on overheads and administration, nor capital assets. Lagos State has also introduced a 5% consumption tax on hotels, restaurants and event centres.

Stamp duty is paid on applicable instruments. The rates differ for various instruments and can be as high as 6% of the value of the underlying transaction.

2.9 Incorporated Businesses and Notable Taxes

The following taxes or levies are notable:

- an Information Technology levy of 1% of profit before tax is payable by specified companies with a turnover of NGN100 million and above. The tax, when paid, is deductible for the company's income tax purposes;
- a levy of 0.005% of the net profit of a company is payable annually to the Nigeria Police Trust Fund;
- an employer is required to make a minimum monthly contribution of 1% of its monthly payroll under the Employees' Compensation Act;
- an employer is required to deduct 2.5% of employees' monthly basic salary for remittance to the Federal Mortgage Bank of Nigeria as National Housing Fund contribution within one month after the deduction;
- an employer is also required to contribute 1% of its annual payroll cost to the Industrial Training Fund in compliance with the Industrial Training Fund Act; and
- an oil and gas company is required to pay 3% of its annual budget to the Niger Delta Development Commission for tackling ecological problems in the Niger Delta, where most of Nigeria's oil is produced.

3. Division of Tax Base Between Corporations and Non-corporate Businesses

3.1 Closely Held Local Businesses

Closely held local businesses commonly operate in corporate form, using the structure of a private company limited by shares.

3.2 Individual Rates and Corporate Rates

The maximum corporate rate is 32% (ie, CIT of 30% plus tertiary education tax of 2%), while the maximum tax rate for individuals is 24%.

3.3 Accumulating Earnings for Investment Purposes

Where it appears to the FIRS that a Nigerian company controlled by not more than five persons has not distributed profits to its shareholders with a view to reducing the aggregate of the tax chargeable in Nigeria, the FIRS may direct the undistributed profits to be treated as distributed and taxable in the hands of the shareholders in proportion to their shares.

3.4 Sales of Shares by Individuals in Closely Held Corporations

There are no special rules on the taxation of dividends from or gain on the sale of shares in closely held corporations.

Dividends to individuals are subject to a withholding tax of 10%. The tax withheld on dividends is the final tax payable.

Gains on the sale of shares are exempt from capital gains tax.

3.5 Sales of Shares by Individuals in Publicly Traded Corporations

There are no special rules on the taxation of dividends from or gain on the sale of shares in publicly traded corporations.

4. Key Features of Taxation of Inbound Investments

4.1 Withholding Taxes

Withholding tax of 10% applies to interest, dividends, royalties and rents. This withholding tax is treated as the final tax when the payment is due to a non-Nigerian company. The rate is reduced to 7.5% if the recipient is a resident of a country with which Nigeria has signed a double tax treaty.

Where dividends are paid to a Nigerian company, the amount deducted as withholding tax is treated as franked investment income and is not subject to further tax.

Relief in the form of withholding tax exemptions is available on outward-bound payments where:

- the payment of dividends is satisfied by an issue of shares of the company paying the dividends;
- dividends are paid by a pioneer company exempted from tax under the Industrial Development (Income Tax Relief) Act; or
- dividends are paid by an enterprise operating within a free zone.

4.2 Primary Tax Treaty Countries

Investors have primarily used vehicles set up in the United Kingdom and the Netherlands to make investments in Nigeria (local corporate stock or debt). Vehicles set up in Mauritius are increasingly being used to make investments in the local stock or debt market, even though the double taxation agreement between Nigeria and Mauritius is yet to come into force in Nigeria.

4.3 Use of Treaty Country Entities by Non-treaty Country Residents

The FIRS does not challenge the use of treaty country entities by non-treaty country residents if the eligibility tests of the relevant double taxation agreements are fulfilled.

4.4 Transfer Pricing Issues

The availability of local comparables is one of the biggest transfer pricing issues for inbound investors operating through a local corporation; transfer pricing compliance requirements is another. This is because the FIRS has imposed a minimum of NGN10 million as a penalty for each failure to declare relevant group information, to disclose related party transaction(s) or to maintain contemporaneous transfer pricing documentation, where required.

4.5 Related-Party Limited Risk Distribution Arrangements

The local tax authorities challenge the use of related-party limited risk distribution arrangements for the sale of goods or the provision of services locally where they determine that the arrangement provides a tax advantage and has not been made on arm's-length terms.

4.6 Comparing Local Transfer Pricing Rules and/or Enforcement and OECD Standards

The transfer pricing standards of the OECD and those of the UN apply in Nigeria, unless they conflict with the local standards. The local transfer pricing standards conflict with the OECD standards in two major regards:

- in addition to requiring the arm's-length test in respect of royalty payments, the Income Tax (Transfer Pricing) Regulations 2018 (TP Regulations) provide that, for the transfer of rights in an intangible amongst connected parties, any amount that exceeds 5% of the EBITDA derived from the commercial activity conducted using the intangible is not tax-deductible; and
- the TP Regulations also provide that, for exports, the related-party price will be the sale price for tax purposes if it is higher than the quoted price, whilst for imports the quoted price will be the sale price for tax purposes if the related party price is higher than the quoted price.

4.7 International Transfer Pricing Disputes

In 2018, the FIRS issued the Guidelines on Mutual Administrative Procedures (MAP) in Nigeria to guide Nigerian residents seeking to initiate the MAP process in respect of tax disputes, including transfer pricing disputes, involving a treaty partner. By the combined provision of these guidelines and the TP Regulations, where a Nigerian resident initiates a MAP in respect of a transfer pricing adjustment made by the tax authorities of a treaty partner, the FIRS will allow a corresponding adjustment where it agrees that the adjustment done by the tax authorities of the treaty partner is consistent with the arm's-length principle. If the FIRS does not agree that the adjustment by the tax authorities of the treaty partner is consistent with the arm's-length principle, Nigeria's competent authorities will initiate the MAP process.

There is no published data regarding the use of the MAP process by Nigeria's competent authorities to resolve international transfer pricing disputes. However, it is unlikely that Nigeria's competent authorities will often resolve international transfer pricing disputes via MAPs initiated by Nigerian residents, given Nigeria's status as an import-dependent nation and her low tax treaty network.

5. Key Features of Taxation of Non-local Corporations

5.1 Compensating Adjustments When Transfer Pricing Claims Are Settled

The TP Regulations do not make provisions for compensating adjustments. Therefore, the OECD and UN standards would apply.

5.2 Taxation Differences between Local Branches and Local Subsidiaries of Non-local Corporations

Unless granted a special exemption, branch operations by non-local corporations are not permitted in Nigeria. As such, non-local corporations seeking to carry on business in Nigeria must set up a subsidiary for that purpose. There are separate rules for the taxation of local branches of non-local corporations that carry on the business of transport by sea or air and the business of transmission of messages by cable or any form of wireless apparatus.

5.3 Capital Gains of Non-residents

Gains arising on the disposal of stocks and shares by either residents or non-residents are exempt from capital gains tax.

5.4 Change of Control Provisions

There are no change of control provisions that would trigger tax or duty charges for either direct or indirect disposals of holdings.

5.5 Formulas Used to Determine Income of Foreign-Owned Local Affiliates

Formulas are used to determine the income of foreign-owned local affiliates that carry on the business of transport by sea or air and the business of transmission of messages by cable or any form of wireless apparatus.

Where actual profits cannot be determined, the FIRS typically applies a deemed profit rate on turnover derived from Nigeria. In practice, profit is deemed at 20%, which is then taxed at the income tax rate of 30%, resulting in an effective tax of 6% of turnover.

5.6 Deductions for Payments by Local Affiliates

Approval is required in order to deduct management fees or expenses relating thereto. Currently, this approval is granted by the National Office for Technology Acquisition and Promotion (NOTAP). Any payment that is made under an agreement that is registered with NOTAP would be tax-deductible. In registering a management services agreement, NOTAP considers the reasonableness of the fees payable. Fees between 2% and 5% of profit before tax or where no profit is anticipated during the early years are considered reasonable, or fees ranging from 1% to 2% of net sales during the first three to five years.

Administrative expenses incurred outside Nigeria involving related parties are deductible only to the extent that such expenses are consistent with the TP Regulations.

5.7 Constraints on Related-Party Borrowing

Related-party borrowing must be at arm's length, and the thin capitalisation rules discussed under **2.5 Imposed Limits on Deduction of Interest** would apply.

6. Key Features of Taxation of Foreign Income of Local Corporations

6.1 Foreign Income of Local Corporations

The foreign income of a local corporation is not exempt from corporate tax, as a Nigerian company is taxed on its worldwide income. However, because dividends, interest, rents and royalties earned abroad and brought into Nigeria through the commercial banks are exempt from tax, the foreign income of a local corporation is effectively exempt from corporate tax.

6.2 Non-deductible Local Expenses

Expenses that are attributable to exempt foreign income would be deductible to the extent that they were incurred wholly, exclusively, necessarily and reasonably for the purposes of making a company's profits.

6.3 Taxation on Dividends from Foreign Subsidiaries

Dividends earned from foreign subsidiaries of local corporations would be subject to income tax, unless they were brought into Nigeria through any of the commercial banks. Such dividends would enjoy any relief in an applicable double tax treaty where the dividends are not brought into Nigeria through any of the commercial banks.

6.4 Use of Intangibles by Non-local Subsidiaries

There are no rules imposing tax on the transfer of intangibles developed by local corporations to non-local subsidiaries for use in their business. However, the FIRS can rely on the general anti-avoidance provisions in the law to attribute a profit to the local corporation if it considers that the terms of the transfer of the intangibles do not reflect the arm's-length principle.

6.5 Taxation of Income of Non-local Subsidiaries Under CFC-Type Rules

Nigeria does not have CFC rules.

6.6 Rules Related to the Substance of Non-local Affiliates

Rules related to the substance of non-local affiliates do not apply in Nigeria.

6.7 Taxation on Gain on the Sale of Shares in Non-local Affiliates

Local corporations are not taxed on gains on the sale of shares in non-local affiliates because of the exemption on share sales.

7. Anti-avoidance

7.1 Overarching Anti-avoidance Provisions

There are anti-avoidance provisions in the various tax laws, which empower the tax authorities to make necessary adjustments to counteract any tax reduction that would result from transactions that are considered artificial. The tax authorities may deem any transaction artificial if they find that its terms have not been effected or, where it is a transaction between related parties, that its terms do not reflect the arm's-length principle.

8. Audit Cycles

8.1 Regular Routine Audit Cycle

There is no fixed audit cycle, but large corporates are typically audited annually.

9. BEPS

9.1 Recommended Changes

In response to BEPS, Nigeria has signed the following instruments:

- the Multilateral Convention to Implement Tax Treaty-related Measures to Prevent Base Erosion and Profit Shifting;
- the Multilateral Competent Authority Agreement for the Common Reporting Standard; and
- the Multilateral Competent Authority Agreement for the Automatic Exchange of Country-by-Country Reports.

Nigeria has also put the following guidelines in place to give effect to the above instruments:

- the Income Tax (Common Reporting Standard) Regulation, 2019;
- the Income Tax (Country-by-Country Reporting) Regulations, 2018;
- the Guidelines on Country-by-Country Reporting in Nigeria, 2018;
- the Guidelines on the Appropriate Use of Country-by-Country Reports, 2018; and
- the Guidelines on the Mutual Administrative Procedure (MAP) in Nigeria.

9.2 Government Attitudes

The Nigerian government is keen on eliminating BEPS, as shown by its signing, domestication and active enforcement of anti-BEPs instruments. By implementing anti-BEPS measures, Nigeria seeks to eliminate double non-taxation, expand its revenue base and grow its economy.

The tax-to-GDP ratio of Nigeria is amongst the lowest in the world, and the government expects that the BEPS plans will increase revenue from taxation.

9.3 Profile of International Tax

International tax does not have a high public profile in Nigeria.

9.4 Competitive Tax Policy Objective

Despite its low tax-to-GDP ratio, Nigeria has competitive tax policies aimed at increasing foreign and local participation in the economy, including the exemption from all taxes granted to entities operating in the tax-free zones, the five-year income tax holiday granted to entities in several industries, and the tax exemption of all foreign-earned passive income brought into Nigeria through any of the commercial banks.

9.5 Features of the Competitive Tax System

The lack of anti-fragmentation rules and the lack of CFC rules in the domestic tax legislation are competitive features of the Nigerian tax regime that are vulnerable to the BEPS action plans.

9.6 Proposals for Dealing with Hybrid Instruments

Nigeria does not have domestic rules to deal with hybrid instruments. However, once Nigeria ratifies the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS, Article 3 thereof will apply to deal with transparent entities resident in tax treaty countries.

9.7 Territorial Tax Regime

Nigerian companies are taxed on their worldwide income. However, the dividend, interest, rent and royalty income of a Nigerian company brought into Nigeria through commercial banks is exempt from tax. Other than the requirement to comply with the arm's-length principle, Nigeria does not have interest deductibility restrictions.

9.8 CFC Proposals

Nigeria does not have CFC rules, and there are no proposals to implement any.

9.9 Anti-avoidance Rules

Nigeria has anti-avoidance rules in some of its tax treaties and has indicated its intention to adopt the "principal purpose test" and the competent authority tiebreaker provisions of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS.

9.10 Transfer Pricing Changes

The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations and the United Nations Practical Manual on Transfer Pricing for Developing Countries, and all future updates, apply in Nigeria unless they conflict with the TP Regulations, in which case the latter will prevail.

9.11 Transparency and Country-by-country Reporting

Nigeria favours the OECD proposals for transparency and country-by-country reporting and, amongst others, has signed the Convention on Mutual Administrative Assistance in Tax Matters, the Country-by-Country Multilateral Competent Authority Agreement, and the Common Reporting Standards Multilateral Competent Authority Agreement.

9.12 Taxation of Digital Economy Businesses

Foreign companies with a digital presence in Nigeria are subject to CIT; see **1.3 Determining Residence of Incorporated Businesses**.

Payments to non-resident individuals who remotely provide technical, professional, consultancy and management services to Nigerian residents attract a final withholding tax of 10%.

9.13 Digital Taxation

See **9.12 Taxation of Digital Economy Businesses**.

9.14 Taxation of Offshore IP

Withholding tax of 10% (which is the final tax) applies to all royalty payments for offshore IP to companies. The withholding tax is reduced to 7.5% if the IP owner is a resident of a country that has signed a double tax agreement with Nigeria. There are no special rules for IP owners in a tax haven.

ǼLEX is a full-service commercial and litigation law firm with offices in Nigeria and Ghana. It provides tax advisory and litigation services for a wide range of multinational and local companies across the oil and gas, shipping, aviation, manufacturing, and financial services sectors. The firm has been involved in a number of ground-breaking tax cases in the tax tribunal and courts in Nigeria. ǼLEX has successfully handled tax disputes on behalf of major multinational companies on various upstream tax issues, such as the deductibility of expenses, tax incentives, capital and investment allowances, and transfer pricing. In collaboration with a major African law firm, ǼLEX notably provided tax structuring advice to Africa's largest privately owned investment management company in respect of its unit trust investment scheme in Nigeria.

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