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**THE QUEST TO INCREASE NIGERIA'S TAX-TO-GDP RATIO:**
**INNOVATIONS OF THE FINANCE ACT, 2021**
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## Introduction

A significant way of establishing fiscal sustainability in Nigeria is improving the country's tax-to-Gross Domestic Product (GDP) ratio. In reinforcing this position, the World Bank recently posited in a report that a country can achieve economic growth and poverty reduction if it maintains a 15 percent baseline of tax-to-GDP ratio. The Revenue Statistics Report, 2021 revealed that the tax-to-GDP ratios in 30 selected Africa countries in 2019 ranged from 6 percent in Nigeria to 34.3 percent in the Seychelles and Tunisia. Nigeria was recorded as having the lowest tax-to-GDP ratio in 2019 despite having implemented a National Tax Policy (NTP) in 2017 in furtherance of the government's commitment towards diversifying the sources of its revenue by significantly increasing the country's tax-to-GDP ratio as highlighted in the NTP. Thus, the Federal Government has in the past 2 years consistently amended the country's tax law in a bid to ensure that the country achieves fiscal sustainability as part of its macroeconomics policy reforms.

Consequently, on 31st December 2021, President Muhammadu Buhari assented to the Finance Act, 2021 (FA) to amend relevant tax, excise and duty statutes in line with the macroeconomics policy reforms of the Federal Government and incorporating statutory provisions in specific laws in connection with public financial management of the Federation. We have undertaken an analysis of the FA and succinctly highlighted its innovations below:

## Amendment of the Capital Gains Tax Act/Taxation of Shares

While the disposal of shares was, prior to the enactment of the FA, not subject to Capital Gains Tax (CGT), CGT is now payable on the disposal of shares at the rate of 10% where the aggregate disposal proceeds of the shares are N100,000,000.00 (One Hundred Million Naira) and above in any twelve (12) consecutive months and where such disposal proceeds of up to N100,000,000.00 (One Hundred Million Naira) are not reinvested in the acquisition of shares in the same company or other Nigerian company within the same year of assessment.

The Federal Inland Revenue Service (FIRS) is yet to issue a clarification circular explaining the modalities for the taxation of shares (including the process of ascertaining gross proceeds for the sale of shares). However, in adopting the general principle of computing CGT in respect of a chargeable asset, gross proceeds, as opposed to chargeable gains, are the amount a seller receives from the sale of shares. That is, the consideration paid for the shares. Thus, the total consideration received by a shareholder from the sale of his shares within a consecutive period of twelve (12) months must meet the threshold of N100,000,000.00 (One Hundred Million Naira) to be considered assessable to CGT.

There is an obligation on the person making a disposal of shares to render appropriate returns to the FIRS on an annual basis.

**Exclusion of some Companies from Exemption granted in respect of Exported Goods**

The FA provides that where a Nigerian company except companies engaged in upstream, midstream and downstream petroleum operations exports goods from Nigeria and the proceeds of the export are used for the purchase of raw materials, plant, equipment and spare parts, the profits of such company in respect of the exported goods are exempted from tax. The introduction made by the FA is the exclusion of companies operating in the upstream, midstream and downstream sector from this exemption. This further widens the tax net.

**Taxation of Companies involved in Educational Activities**

The exemption hitherto granted to companies involved in educational activities has been removed by the FA. Such companies, whether operating in a public character, are now caught within the tax net.

**Assessment of Tax on Turnover of Foreign Digital Companies**

Foreign digital companies with significant economic control in Nigeria may now be assessed to tax by the FIRS on the basis of their turnover.

**Excise Duty on Non-Alcoholic, Carbonated and Sweetened Beverages**

The FA introduced excise duty on non-alcoholic, carbonated and sweetened beverages at the rate of NGN10.00 (Ten Naira) per litre which means there will likely be corresponding increments in the prices of the items to accommodate the tax. In addition to increasing the country's tax-to-GDP ratio, it may be argued that the essence of tax is to control the excessive consumption of sugary drinks which contributed to the prevalence of diabetes and obesity. One of the means suggested by the World Health Organisation to reduce the excessive consumption of sugary drinks is to tax such drinks.

**Increased Tertiary Education Tax**

The FA increased tertiary education tax rate from 2% to 2.5%.

**VAT Remittance Threshold: Exclusion of Companies in Upstream Operations**

While companies with less than NGN25,000,000.00 (Twenty-Five Million Naira) turnover are excluded from VAT compliance/registration, the FA broadened the tax net by mandating companies in the upstream sector to be VAT-compliant irrespective of their turnover.

**Enforcement of Payment of Police Trust Fund Levy**

The Nigeria Police Trust Fund (Establishment) Act, 2019 had introduced Police Trust Fund levy of 0.005% of the net profit of companies operating business in Nigeria. However, the enforcement of the levy had been poorly implemented. Thus, the FA has now bestowed on the FIRS the responsibility to assess, collect, account and enforce the payment of the levy.

**Imposition of Science and Engineering Levy**

The FA introduced the imposition of a science and engineering levy on the profit before tax of companies and firms with turnover of N100,000,000.00 (One Hundred Million Naira) and above at the rate of 0.25%. The levy, which is to be collected by the FIRS and credited into the account of the National Agency for Science and Engineering applies to companies operating in the banking, mobile telecommunication, ICT, aviation, maritime and oil & gas sectors.

**Conclusion**

Although arguments have been made in some quarters that Nigeria's relatively low tax-to-GDP is not a justification for an incessant increase in taxes, strict measures still need to be taken to, at least, meet the recommended 15% baseline of tax-to-GDP ratio. The innovations of the FA, if properly implemented, would contribute to increasing Nigeria's tax-to-GDP ratio.