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Tax Disputes And Litigation

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In-Depth: Tax Disputes and Litigation (formerly The Tax Disputes and Litigation Review) is a practical overview of the common issues that give rise to tax disputes in key jurisdictions, the procedures for resolving those disputes, and the powers and approach of local tax authorities. With a focus on recent developments, it offers insights into the process, timescale and cost of resolving complex difficulties when they arise across multiple jurisdictions.

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Summary

Introduction

Tax disputes in Nigeria are primarily resolved by the courts and the Tax Appeal Tribunal. The Constitution of the Federal Republic of Nigeria, 1999 (as amended) provides for the assessment and collection of taxes by the federal, states and local governments. The jurisdiction of the courts over tax disputes derives from whether the taxes are federal, state or local government taxes. Jurisdiction over taxes administered at both the federal and state levels, such as stamp duties, is determined by the legal personality of the taxpayer, whereas for individuals (eg, for pay as you earn (PAYE)) it is by their place of residence.

The Federal High Court, State High Courts, the Revenue Courts of the various local government councils and Tax Appeal Tribunal are vested with jurisdiction to hear and determine tax disputes. Appeals from the Tax Appeal Tribunal lie to the Federal High Court, appeals from the Federal High Court and State High Courts lie to the Court of Appeal, and appeals from the Court of Appeal lie to the Supreme Court, which is the apex and final court in the country.

Nigerian laws also provide administrative channels for resolution of tax disputes before finally resorting to litigation. A taxpayer challenging an assessment may write an objection to the tax authority giving reasons for the challenge. The tax authority either upholds the objection and quashes the assessment or rejects the objection. Where the tax authority rejects the objection, it issues a notice of refusal to amend (NORA) to the taxpayer. The aggrieved taxpayer may within 30 days of receiving the NORA file an appeal at the Tax Appeal Tribunal or other relevant court having jurisdiction over the dispute. It is noteworthy that the available administrative channels for resolution of tax disputes do not bar an aggrieved taxpayer from proceeding directly to the Tax Appeal Tribunal or the courts, pending the exhaustion of the administrative process.[1]

Tax disputes have been held by the Nigerian courts to be outside the purview of private arbitration. The Court of Appeal in the case of *SNEPCO and 3 Others v Federal Inland Revenue Service*[2] upheld the decision of the Federal High Court that disputes over company taxation are exclusive to the Federal High Court and, thus, are not arbitrable as they pertain to the revenue accruing to the sovereign government.

In June 2025, Nigeria enacted four landmark tax laws: the Nigeria Tax Act, 2025 (NTA), the Nigeria Tax Administration Act, 2025 (NTAA), the Nigeria Revenue Service (Establishment) Act, 2025 (NRSA) and the Joint Revenue Board (Establishment) Act, 2025. Collectively known as the Tax Reform Acts, they represent the most comprehensive overhaul of Nigeria's fiscal framework in decades. Their objectives span legislative consolidation, streamlined administration, revenue optimisation and enhanced taxpayer protection.

The NTA consolidates existing tax laws into a single statute covering corporate, personal and indirect taxes. It introduces progressive personal income tax and a minimum effective tax rate for large companies and multinationals. A new development levy is imposed to fund national initiatives, while capital gains exemptions are expanded. Digital assets such as cryptocurrencies and NFTs are brought into the tax net. Other reforms include higher thresholds for compensation exemptions, broader value added tax (VAT) exemptions for essential goods and services, unilateral relief for foreign taxes and a new economic development tax incentive to replace the pioneer status incentive. Notably, VAT remains at 7.5%, as earlier proposals to raise the rate were dropped.

The NTAA establishes a uniform framework for tax administration nationwide. It revises VAT allocation among federal, state and local governments, raises exemption thresholds for small businesses and mandates registration of all taxable persons with tax identification numbers linked to bank accounts. Financial institutions must report high-value transactions, employees are required to file annual returns and non-resident airlines and shipping companies must remit withholding taxes monthly. The Act also introduces anti-avoidance rules, joint audits, electronic fiscal systems and strict penalties for non-compliance, including asset seizure and licence revocation.

The NRSA replaces the Federal Inland Revenue Service with the Nigeria Revenue Service (NRS), granting it broader authority to administer taxes under any applicable law. It empowers the NRS to assist subnational governments with collection and provides for its funding through a share of revenues collected.

The JRBA establishes the Joint Revenue Board, expands the jurisdiction of the Tax Appeal Tribunal to cover both federal and state tax disputes and creates the Office of the Tax Ombudsman (the Tax Ombud) to handle taxpayer complaints.

Commencing disputes

Tax disputes can be commenced either by the taxpayer or by the relevant tax authority.

A taxpayer who objects to a tax assessment may within 30 days of receiving notice of the assessment apply by notice of objection to the NRS or State Inland Revenue Service (depending on whether it is a federal or state tax) urging the relevant tax authority to review the tax assessment along the lines of the objection raised. Where the relevant tax authority agrees with the objection, the assessment will be amended accordingly. However, where the relevant tax authority disagrees with the objection, it shall issue a NORA.[3] Upon a NORA being issued against a taxpayer's objection, the aggrieved taxpayer shall within 30 days of receipt of the NORA, file an appeal at the Tax Appeal Tribunal.

To commence proceedings before the Tax Appeal Tribunal, the taxpayer shall file a notice of appeal in Form Tax Appeal Tribunal 1 in the zone of the Tax Appeal Tribunal where the facts of the case arose. The notice of appeal must contain:

- the grounds of appeal;
- whether the whole or part only of a decision is contested;
- the exact nature of the relief sought;
- the names and addresses of all parties directly affected by the appeal; and
- the address for service on the appellant and respondent.

The notice of appeal must be filed concurrently with the list of witnesses, witnesses' written statements on oath and copies of every document to be relied on at trial. Where the issue before the Tribunal is on interpretation of taxing provisions, other tax laws, rules or regulations without dispute of fact, the Tribunal shall hear and determine the appeal by affidavit evidence.

All processes filed are to be served personally on the respondent, unless an order for substituted service is granted by the Tax Appeal Tribunal. Upon receipt of the filed documents, the respondent has 30 days within which to file its opposition in Form Tax Appeal Tribunal. Proceedings at the Tax Appeal Tribunal are to be held in public, and the onus of proving its case rests on the appellant.[4]

The Tax Appeal Tribunal may, after hearing both parties, confirm, reduce, increase or annul the assessment or make any such order as it deems fit.[5]

Either party aggrieved by the final decision of the Tax Appeal Tribunal may appeal to the Federal High Court by giving notice in writing to the secretary of the Tribunal within 30 days of the service of the Tribunal's final decision on the party. Failure to appeal within this set time will mean that the assessment and demand notices become final and conclusive, or in the case of an action against a decision of the relevant tax authority, it means the decision is final and conclusive.

Possible triggers of tax disputes include:

- information garnered by the relevant tax authority during periodic audits;
- information delivered by banks to the Nigeria Revenue Service as provided by law;[6]
- periodic returns filed by a taxpayer; and
- assessment or additional assessment by relevant tax authority.

The courts and tribunals

In practice, administrative channels within the relevant tax authority are usually the first step for resolution of tax disputes. Unresolved disputes proceed to the Tax Appeal Tribunal.

Customary courts and magistrates' courts are the venues for disputes arising from levies and taxes imposed by local government authorities. Claims below 600,000 naira lie before the customary court in the state the transaction occurred.[7] Claims in excess of 600,000 naira but less than 10 million naira may be commenced before the magistrates' court.[8] Until the enactment of the JRBA, claims for taxes imposed by state laws, in excess of 10 million naira were commenced before the State High Courts, which are courts of unlimited jurisdiction.

The customary courts, magistrates' courts and State High Courts are composed of a single judge for the determination of disputes. Appeals from the decision of the customary or magistrates' courts lie to the State High Courts, while appeals from a decision of the State High Court lie to the Court of Appeal.

The JRBA has expended the scope of the jurisdiction of the Tax Appeal Tribunal. The Tribunal is vested with jurisdiction to hear disputes arising from:

- the Nigeria Tax Act;
- the Nigeria Tax Administration Act; and

- any other tax law made by the National Assembly or the house of assembly of a state.[9]

The Tax Appeal Tribunal is composed of tax commissioners appointed by the Minister of Finance.[10] Most tax disputes are resolved at the Tax Appeal Tribunal. Appeals from the decisions of the Tax Appeal Tribunal lie as of right to the Federal High Court on questions of law.

The Federal High Court has exclusive jurisdiction in any dispute pertaining to taxation of companies, bodies established or carrying on business in Nigeria and all other persons subject to federal taxation.[11] An action may be commenced before the Federal High Court at first instance once its jurisdiction is rightly invoked. It is equally possible to apply to the Federal High Court to quash the directive or decision of the Tax Appeal Tribunal through the prerogative writs of *certiorari* and prohibition. Appeals from the decisions of the Federal High Court lie to the Court of Appeal.

The Court of Appeal has appellate jurisdiction over tax disputes from the Federal High Court and State High Courts. Tax appeals lie as of right to the Court of Appeal where they are either final decisions or the ground of appeal involves questions of law alone and questions as to the interpretation of the Constitution.[12] In all other cases, leave of court must be obtained to appeal.[13] The Court of Appeal is composed of no fewer than three justices. Appeals from the Court of Appeal lie to the Supreme Court.

The Supreme Court is the apex and final court in Nigeria. Tax appeals from the decisions of the Court of Appeal lie to the Supreme Court as of right where they are on questions of law alone and on questions as to the interpretation of the Constitution. The Supreme Court is duly constituted if it consists of no fewer than five justices, provided that in cases involving the court's original jurisdiction[14] or actions relating to the interpretation of the Constitution, the court shall be constituted by seven justices.[15]

In the authors' experience, time spent on litigating tax disputes increases with each level of appeal. Tax disputes at the Tax Appeal Tribunal are resolved in a much shorter time (sometimes within the year of commencement) than the higher courts. The Supreme Court takes the longest, with appeals taking over five years to be resolved.

The various court hierarchies and the Tax Appeal Tribunal are independent of the tax authorities, and their decisions are equally binding on the tax authorities as on the taxpayers.

Penalties and remedies

Tax disputes are usually civil matters, but may also be quasi-criminal, or criminal matters.

The remedies and penalties available in tax disputes are as follows.

Criminal penalties: what they are and where they are available

Under the NTAA, any person who contravenes the provisions of the Act for which no specific penalty was provided is liable on conviction, to imprisonment for a term not exceeding three years or to a fine or both. Where the offence is the failure to furnish a statement or information, the person shall be liable to a fine of 20 million naira or other sum as may be prescribed by the Minister by an order and where the offence continues beyond the period stipulated by the Act, the person shall be liable to an additional fine of 2 million naira or other sum as may, by order, be prescribed by the Minister for each day the default continues, or imprisonment for a term of six months.[16]

Offences under the NTAA include:

- failure to comply with the requirements of a notice without sufficient cause;
- failing to answer to a notice or summons;
- knowingly making any false statement or false representation; and
- aiding, abetting, assisting or inducing another person to make false return or statement or to keep false accounts or unlawfully refuse or neglect to pay tax.[17]

Civil liability and administrative penalties: what they are and where they are available

Civil sanctions under Nigerian tax laws take the form of administrative penalties and civil liability[18] such as the following:

- the relevant tax authorities are empowered to raise assessments according to the best of their judgement where returns are not filed;[19]
- additional assessments may be raised by the relevant tax authority within the year of assessment or within six years of the expiry thereof if it opines that a taxpayer has not been assessed or has been assessed at a lesser amount than that which ought to have been charged;[20]
- if any income tax charged by any assessment is not paid within 30 days, an interest sum equal to 10% of such tax shall be added thereto;[21] and
- monetary fines as prescribed by law may be imposed on the taxpayer by the relevant tax authority.

Where an assessment has become final and conclusive and a demand note has been served upon the taxable person, if payment of the tax is not made within the time limited by the demand note, the relevant tax authority may, for the purpose of enforcing payment of the tax due:

- distrain the taxpayer's goods or other chattels, bonds or other securities;
- distrain any land, premises or place in respect of which the taxpayer is the owner; and
- recover the amount of tax due by sale of anything so distrained.[22]

Where income tax assessed has been sued for and recovered in a court of competent jurisdiction, the full cost of the action may be recovered from the person charged as a debt due to the relevant tax authority.[23]

Damages are remedies that are imposed at the discretion of the court. They may be awarded in favour of the taxpayer or the relevant tax authority depending on the nature of the claim.

Tax claims

Recovering overpaid tax

The Nigerian tax laws provide that taxpayers may at any time, not later than six years after the end of the year of the assessment complained of, make an application in writing to the relevant tax authority for relief of excess tax paid by reason of some error or mistake in the return, statement or account made.[24]

The relevant tax authority is empowered to make rules and conditions necessary to facilitate the refund. Any tax refund is required to be made within a period of 90 days of the decision of the relevant tax authority with the option of a set-off against any tax liability of the taxpayer.[25] Should the request be denied by the tax authority, the decision may be challenged by a taxpayer at the Tax Appeal Tribunal.

Challenging administrative decisions

Administrative decisions can be challenged by taxpayers where such decisions depart from the law. Taxpayers have brought claims against the relevant tax authorities and have been awarded judgments. Remedies could be varying the assessment, quashing the assessment or damages.

Where a taxpayer challenges an administrative decision on the basis that one or more taxpayers received a waiver, the peculiarities of each case would determine the outcome. The government sometimes offers tax amnesties to taxpayers owing interest and penalties. As such, taxpayers who use these windows may enjoy a flexible payment plan that would not have been available otherwise. No cause of action will be sustainable based on such differential treatment. The federal government's Voluntary Assets and Income Declaration Scheme (VAIDS) and Voluntary Offshore Assets Regularization Scheme (VOARS) are examples of these tax amnesty programmes.

In the case of *SEDCOForex International Incorporated v Federal Inland Revenue Service*,[26] the taxpayer challenged the decision of the relevant tax authority to disallow the deduction of recharges paid by a foreign company. The Tax Appeal Tribunal in refusing the taxpayer's contention and in pronouncing on the reliance on the doctrine of legitimate expectation held that to benefit from the doctrine, there must be fairness and openness of dealings; thus, a person must have made full disclosure or displayed utmost good faith in the transaction. The doctrine cannot stand where it conflicts with a clear statutory provision. The Tax Appeal Tribunal held that the taxpayer's action must fail as recharges are not allowable deductions when calculating a foreign company's income tax.

Claimants and related parties

Tax claims are brought by the taxpayer or the relevant tax authority. A tax claim can only be brought by the person who bears the economic burden of the charge. Thus, where a taxpayer is aggrieved by a tax assessment or demand notice, the *locus standi*[27] to enforce the relief sought rests on the taxpayer as he or she bears the economic burden.

Costs

Recovery of costs varies from court to court. The JRBA provides that parties to an appeal at the Tax Appeal Tribunal shall bear their own costs.[28]

At the High Courts, Court of Appeal and Supreme Court, costs follow events. It is not unlikely for the courts to award costs in favour of the successful party. However, the imposition of costs is at the discretion of the court and the court is required to exercise that discretion judicially and judiciously in the interest of justice between the parties.

Alternative dispute resolution

General

The decision of the Court of Appeal in the case of *SNEPCO and 3 Others v Federal Inland Revenue Service and Another*[29] is to the effect that tax disputes are not arbitrable as they relate to the revenue of the federation and thus, fall under the exclusive jurisdiction of the Federal High Court by the provision of the Constitution. The court held that where an arbitral tribunal sits on a tax dispute, the award of the tribunal will be unenforceable for conflicting with the express provisions of the Constitution.

Curiously, the same court in the case of *Statoil (Nig) Petroleum v NNPC*[30] earlier held that once parties have agreed to arbitrate their disputes, the courts are not to interfere in the dispute, even where the dispute relates to tax issues. However, it is instructive that tax disputes are usually between the relevant sovereign tax authority and the taxpayer and not between private individuals. We consider the *SNEPCO* decision a better judgment in this regard.

Settlement

The NTAA provides a statutory framework for the amicable resolution of tax disputes.[31] Either the tax authority or taxpayer may initiate settlement discussions at any stage of a dispute. In the course of an appeal at the Tax Appeal Tribunal, the Chairman of a Tax Appeal Tribunal has the discretion to allow the parties a period not exceeding 30 days to explore possibilities for settlement. However, if the parties fail to reach a settlement within that period, or any extended period granted by the tribunal, the matter must proceed to trial.

Settlement is permissible where it serves the interest of public revenue or public policy, where the cost of litigation outweighs the potential benefits, where participants in a tax arrangement have accepted the position of the tax authority and adjustments are required to reflect that acceptance, or where whistleblowing disclosures facilitate recovery of significant tax revenue. However, settlement is excluded where the taxpayer's conduct amounts to intentional tax evasion or fraud, or where it would be more efficient to have an issue judicially clarified so that the precedent gained can be applied to other cases.

Although the law does not expressly provide for this, it may be inferred that the relevant tax authority ultimately retains the discretion to determine whether a dispute falls within the categories eligible for settlement. In addition, the law does not prescribe any specific mechanism to be employed in the settlement process. From the structure of its provisions, settlement appears most likely to take the form of direct negotiation between the tax authority and the taxpayer, conducted on a party-to-party basis.

Parties must disclose all relevant facts during discussions, with such disclosures treated as confidential and used solely for settlement purposes. Any agreement reached must be reduced to writing in a prescribed format, signed by authorised officers of both parties, and must include details of how each issue is resolved, undertakings by the parties, treatment of the matter in future years, withdrawal of objections or appeals, and arrangements for payment. Once executed, the settlement agreement is final and binding, representing the full and final position of the parties. The tax authority is empowered to enforce collection of the agreed amount as a debt due under the relevant tax laws.

It is important to note that the settlement process does not necessarily result in a reduction of the taxpayer's principal liability. The tax authority is not empowered by law to forgo or waive any portion of the tax that the taxpayer is legally obligated to pay. What the authority may remit (whether wholly or in part), however, are ancillary charges such as penalties and interest.[32]

Tax Ombud

The Tax Ombud is empowered to receive and resolve complaints lodged by taxpayers against tax officials or authorities. Its functions include investigating procedural or administrative unfairness, encouraging parties to explore ADR mechanisms, and facilitating mediation or conciliation where appropriate.[33] The Tax Ombud is designed to operate in a non-adversarial manner, adopting informal, fair and cost-effective procedures that provide taxpayers with accessible remedies outside the traditional court system, and the Tax Ombud is mandated to perform its functions free of charge.[34]

Complaints may be lodged in writing or through other prescribed means, and the Ombud must first determine whether the matter falls within its jurisdiction.[35] The Ombud does not have the power to interpret substantive tax legislation or to determine tax liability; its role is limited to operational, procedural and administrative issues. It also cannot intervene in matters that are already pending before a court or tribunal.[36]

The representatives of the relevant tax authority, its officers or the complainant are required to appear before the Ombud when requested. They must not take any steps that would obstruct the Ombud's functions or prejudice the matter under review. Where a party fails to comply with these obligations, the complaint is deemed to be resolved against that party. The Ombud may recommend corrective measures, encourage settlement or highlight procedural irregularities, but its decisions are advisory rather than mandatory.

Advance ruling

One of the significant developments introduced into the Nigeria's tax framework is a formal statutory regime for advance tax rulings. An advance ruling is a formal interpretation issued by the tax authority to clarify how tax laws apply to a specific taxpayer or transaction. It serves as an administrative guide meant to provide clarity, consistency and certainty in the application of tax legislation.[37]

Applications may be submitted individually or jointly, but they must include full disclosure of taxpayer details, the transaction in question, its financial implications, relevant statutory provisions and any ongoing audits or court proceedings. The tax authority may request additional information, and incomplete or misleading applications can render a ruling void. Applicants may also withdraw their request before a ruling is issued.

Advance rulings must be delivered in a prescribed format, signed by an authorised officer and issued within 21 days of application. A ruling typically sets out whether it applies generally or only to the applicant, details of the taxpayer, the statutory provisions considered, any assumptions or conditions and its period of validity.

The NTAA restricts rulings to genuine tax matters. Applications may be rejected if they involve foreign laws, constitutional interpretation, issues already before a court and hypothetical or frivolous matters, or if they interfere with ongoing audits.[38]

The scope of a ruling is limited to the applicant and the specific transaction described. It becomes void if facts differ materially from those disclosed, if fraud or misrepresentation is discovered, or if imposed conditions are not met. Rulings also lose effect when tax laws are amended or courts overturn or modify interpretation of the provisions on which they are based.[39]

Anti-avoidance

The Nigerian tax laws have general anti-avoidance provisions with the intention of curbing the penchant for taxpayers to take advantage of loopholes in tax laws to minimise the tax payable or tax liability.

An anti-avoidance provision is contained in section 190 of the NTA.[40] This provision states that:

> Where a relevant tax authority is of the opinion that a disposition is not given effect to, or that a transaction which reduces or may reduce the amount of tax payable, is artificial or fictitious, it may disregard any such disposition or transaction, or direct that such adjustments be made with respect to liability to tax as it considers appropriate, to counteract the reduction of liability to tax and issue an assessment or additional assessment accordingly.[41]

In the case of *Addax Petroleum Services Limited v Federal Inland Revenue Service*[42] the court identified the provision in section 30 of the erstwhile Companies Income Tax Act as an anti-avoidance provision. section 30 provides that where in any assessment year, the trade or business of a company produces either no assessable profits or the assessable profits are less than might be expected to arise from that trade or business, or where the true amount of the assessable profits of the company cannot be ascertained, the relevant tax authority may, in the case of a Nigerian company, assess and charge it to tax on such fair and reasonable percentage of the turnover of the trade or business as the relevant tax authority may determine, and in the case of a foreign company that has a fixed base or executes a single contract involving surveys, deliveries, installations or construction in Nigeria, assess and charge the foreign company to tax on a percentage of the turnover as may be attributable to the permanent establishment, or single contract.

Transfer pricing is governed by the Income Tax (Transfer Pricing) Regulations 2018 (TPG), which replaced the 2012 Transfer Pricing Regulations. In the case of *Prime Plastichem Nig Ltd v Federal Inland Revenue Service*,[43] the taxpayer challenged the Federal Inland Revenue Service's imposition of additional income tax assessments on a transaction between the plaintiff and a related company pursuant to the 2012 Transfer Pricing Regulations. The additional assessments arose from the transfer pricing adjustments made by the Federal Inland Revenue Service. The Tribunal, upon hearing arguments of the parties, upheld the Federal Inland Revenue Service's assessment and dismissed the appeal in its entirety, holding that the plaintiff had failed to provide information that was considered reliable and sufficient to show that its transaction was at arm's length. The decision reinforced the established position of the Transfer Pricing Regulations: the burden of proof of the arm's-length nature of a controlled transaction falls on the taxpayer, who must not only be able to provide sufficient information to justify any position taken in its transfer pricing affairs but must also disprove any assertions made against it by the Federal Inland Revenue Service.[44] The Tax Appeal Tribunal's decision in the *Prime Plastichem* case represents the first major transfer pricing ruling in Nigeria since the introduction of the Transfer Pricing Rules in 2012.

Section 30 of the NTAA introduced a clear obligation for taxpayers and anyone involved in tax planning arrangements to disclose such transactions to the tax authority when their primary purpose is to secure a tax advantage (including avoidance of a possible assessment to tax or reduction of an assessment to tax). In practice, this means that individuals and companies must proactively report any tax planning structures, agreements and arrangements that are intended to reduce their tax liability. The Act empowers the tax authority to set out the specific details required in a disclosure, the format in which it should be submitted, and the time frame for doing so.

Double taxation treaties

Nigeria has concluded double taxation treaties (DTTs) with more than 22 countries. However, for a treaty between Nigeria and any country to have the force of law, it must be enacted into law by the National Assembly.[45] Consequently, only residents of countries whose DTTs with Nigeria have been enacted into law by the National Assembly can rely on the provisions of such treaties. In 2018, various DTTs were negotiated, concluded or ratified, including the Nigeria–Spain DTT and DTTs with Cameroon, Ghana, Singapore, South Korea and Sweden.

The application of DTTs in Nigeria follows the international principle of double tax agreements, which is to avoid both double taxation and double non-taxation. In the case of *Saipem Contracting Nig Ltd and 2 Others v Federal Inland Revenue Service and 2 Others*,-[46] the plaintiffs (consisting of a Nigerian, a Dutch and a French company) commenced an action via originating summons claiming among other things that by virtue of the provisions of the Nigerian tax laws and the DTTs between Nigeria and France and Nigeria and the Netherlands, the second and third defendants were not liable to pay VAT, WHT and companies income tax under their contract with the third defendant (Shell). The court held that the plaintiffs were liable to pay Nigerian tax because there was no evidence to show that the plaintiffs had paid tax in their countries of residence.

The Deduction of Tax at Source (Withholding) Regulations, 2024 introduce a significant shift by imposing varying tax rates on resident and non-resident entities. This divergence has raised concerns regarding potential conflicts with the non-discrimination provisions found in Nigeria’s DTTs and bilateral investment treaties (BITs) with its treaty partners.

Historically, before the 2024 Regulations, the applicable WHT rates were uniform for both resident and non-resident corporate and unincorporated entities. However, the new regulations now impose notably higher tax rates on non-resident entities in several cases. For example, whereas resident companies are taxed at 5% on commissions, non-resident entities are subject to a 10% rate. Similarly, directors' fees are taxed at 15% for residents, whereas non-residents face a 20% tax rate. Moreover, winnings from lotteries, gaming and reality shows are taxed at 5% for residents but at a considerably higher rate of 15% for non-residents.

For businesses and individuals from treaty countries, the 2024 Regulations defer to the rates prescribed in the applicable DTTs. However, this may not fully address the issue of tax rate disparities for non-residents from treaty countries. Many DTTs allocate taxing rights to the source country without explicitly prescribing specific rates for certain types of income, such as directors' fees, leaving domestic tax law to determine the applicable rate. In these instances, the source country, such as Nigeria, may impose tax rates on non-residents that are more burdensome than those applied to residents.

To mitigate such disparities, DTTs typically incorporate non-discrimination provisions aimed at ensuring that individuals and entities from one contracting state are not subjected to higher taxes or more onerous tax obligations than those imposed on residents of the source country. The introduction of differential tax rates under the 2024 Regulations may raise concerns about compliance with these non-discrimination provisions and their potential impact on Nigeria’s international obligations. The proposed tax rate disparities may undermine Nigeria's commitment to upholding the principle of equitable taxation, thereby potentially discouraging foreign investment and violating the non-discriminatory treatment outlined in Nigeria's international treaties.

The NTA now expressly requires that non-residents be the “beneficial owners” of relevant income in order to qualify for DTT benefits.[47] Although many of Nigeria’s existing DTTs already contain beneficial ownership provisions, the explicit incorporation of this requirement into the NTA indicates that the NRS may intensify its scrutiny of income streams to verify beneficial ownership before granting treaty benefits.

Year in review

In 2025, the Supreme Court delivered some consequential decisions. These are described below.

On whether a circular qualifies as a form of delegated or subsidiary legislation

The Supreme Court in *Halliburton West Africa Ltd v F B I R*[48] held that circulars issued by the tax authority are not law. They are merely explanatory notes intended to guide taxpayers and cannot override or substitute statutory provisions.

The case arose from additional tax assessments imposed on Halliburton West Africa Ltd, a foreign company operating in Nigeria through its subsidiary. The Federal Board of Inland Revenue had discovered, through a tax audit, that Halliburton's self-assessment returns excluded certain income and reimbursements – known as "recharges" – paid to its Nigerian subsidiary. On this basis, the Board issued additional assessments under section 26 of the Companies Income Tax Act.

Halliburton challenged the validity of these assessments, relying heavily on a public circular issued by the Board in 1993, which it argued supported the exclusion of recharges from turnover. The Supreme Court rejected this argument, stressing that the circular was not subsidiary legislation and had no binding legal effect. As the Court explained, only rules or regulations expressly authorises by statute qualify as delegated legislation. Circulars, by contrast, are informational and cannot create enforceable rights or obligations.

The TAT's jurisdiction as a condition precedent to commencing an action at the Federal High Court

The Supreme Court in *TSKJ Construcoes Internacional Sociadade Uniperssoal LDA v FIRS*[49] clarified the role of the Tax Appeal Tribunal in Nigeria's tax dispute resolution framework. The Court held that the Tax Appeal Tribunal is not a "court" within the meaning of section 6 of the Constitution, but rather an administrative or quasi-judicial body. Because of this, its jurisdiction does not erode the exclusive jurisdiction of the Federal High Court under section 251(1)(b) of the Constitution.

The Court explained that proceedings before the Tax Appeal Tribunal serve as a condition precedent to commencing tax-related actions at the Federal High Court. In other words, taxpayers must first ventilate their disputes at the Tax Appeal Tribunal before approaching the Federal High Court, which then exercises appellate jurisdiction over decisions of the Tribunal. The Court emphasised that this structure is consistent with practices in other common law jurisdictions, where specialised tax tribunals handle disputes in the first instance, subject to judicial review by superior courts.

In the authors' view, the powers vested on the Tax Appeal Tribunal are merely quasi-judicial or administrative and should remain so. We suggest that nothing in the law precludes a litigant from proceeding straight to the Federal High Court to resolve solely legal questions.

Matters related to government tax policy and regulatory oversight

The Federal Inland Revenue Service (now NRS) has commenced the implementation of a new electronic invoicing system. This initiative aims to replace paper-based invoicing with structured digital invoices for all business transactions, beginning with large taxpayers through a pilot programme.

This initiative forms part of Nigeria's broader digital tax transformation strategy. Its objectives are to enhance transparency, reduce revenue leakages and strengthen compliance by enabling the NRS to monitor transactions as they occur. The system applies to business-to-business (B2B), business-to-consumer (B2C) and business-to-government (B2G) transactions conducted in Nigeria.

Legal backing for the initiative is provided under section 23 of the NTAA which requires taxable persons to implement prescribed fiscalisation systems, including electronic devices, software solutions and secure communication platforms for invoicing and data transfer.

On 14 August 2025, FIRS unveiled 16 certified technology companies to support taxpayers with integration and real-time invoice transmission via the Monetary Transaction System (MTS). These service providers, certified by the National Information Technology Development Agency (NITDA), include Interswitch, Remita, Etranzact, Courteville and Hoptool, among others.

According to FIRS officials, over 1,000 companies have already onboarded since the platform went live on 1 August 2025, representing only 20% of the target population. To encourage wider adoption, the NRS has been conducting technical workshops and live demonstrations to simplify integration and promote voluntary compliance.

While this transition offers benefits such as cost reduction and streamlined processes, challenges remain, particularly around infrastructure, data privacy, and ease of compliance for small businesses.

Outlook and conclusions

In March 2026, Nigeria introduced the Presumptive Tax Regulations, signed by the Minister of Finance and Coordinating Minister of the Economy. This marks a significant milestone in Nigeria's tax reform journey, following the enactment of the Tax Reform Acts. The presumptive tax regime is designed to simplify taxation for the informal sector and small businesses, shifting from profit-based assessments to turnover-based estimates. Given that over 80% of Nigeria's workforce operates informally, the framework aims to expand the tax base, improve compliance, and raise Nigeria's tax-to-GDP ratio.

Presumptive taxation estimates tax liability using indicators such as turnover, business category, or fixed benchmarks rather than audited accounts. It is applied when taxpayers lack adequate records or when tax authorities cannot reliably determine taxable income.

The 2026 presumptive tax framework introduces a simplified system tailored to Nigeria's vast informal sector. At its core, taxation is now based on turnover rather than profits, replacing the complex profit-based assessments that were often impractical for small businesses without detailed records. Eligible informal businesses are subject to a flat rate of 1% on their turnover, a significant departure from the 30% corporate tax rate applicable to formal companies. To protect the smallest enterprises, the regime exempts nano and small businesses with annual turnover of 12 million naira or less.

A major innovation is the elimination of arbitrary "best of judgment" assessments, which previously allowed tax officials to impose subjective levies on informal businesses.

Instead, the new system relies on clear benchmarks and turnover bands, creating consistency and fairness. Administration has also been harmonised across federal, state and local levels through the Joint Revenue Board, reducing duplication and multiple taxation. The regime embraces digitalisation by mandating electronic payments and banning cash collections or roadblock enforcement, signalling a shift toward transparency, efficiency and modern governance.

The regime simplifies compliance, encourages voluntary participation and integrates informal businesses into GDP measurement. It also provides valuable taxpayer data for planning. However, risks include disproportionate burdens on low-margin businesses (since tax is based on turnover, not profit), uneven implementation across states, resistance from entrenched informal collectors and challenges for low-literacy business owners in adopting digital systems.

Nigeria's presumptive tax regime is a pragmatic response to the challenge of taxing its vast informal sector. It adopts a low-rate, broad-based model prioritising compliance and inclusion. Long-term success will depend on balancing equity, efficiency and sustainability, alongside strong taxpayer education and consistent nationwide implementation.

Endnotes

1 *Oando Supply and Trading Limited v Federal Inland Revenue Service* (2011) 4 TLRN 113. ^ Back to section

2 *SNEPCO and 3 Others v Federal Inland Revenue Service and Another* CA/A/208/2012. Judgment delivered on 31 August 2016. ^ Back to section

3 Section 41 of the Nigeria Tax Administration Act, 2025. ^ Back to section

4 Paragraph 7(4), Second Schedule of the Joint Revenue Board of Nigeria (Establishment) Act, 2025. ^ Back to section

5 Paragraph 7(8), ibid. ^ Back to section

6 Section 29 of the Nigeria Tax Administration Act, 2025 requires banks and other financial institutions to make annual returns to the Nigeria Revenue Service specifying details of cumulative monthly transactions of 50 million naira and above for individuals and 250 million naira and above for corporate bodies. ^ Back to section

7 See, for example, section 20(1) of, and First Schedule to, the Customary Courts Edict. ^ Back to section

8 Section 28(2) of the Magistrates' Court's Law of Lagos State (2011). ^ Back to section

9 Section 29 of the Joint Revenue Board of Nigeria (Establishment) Act, 2025. ^ Back to section

10 Section 24 of the Joint Revenue Board of Nigeria (Establishment) Act, 2025. ^ Back to section

11 Section 251(1)(b) of the 1999 Constitution (as amended). ^ Back to section

12 Section 241 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). ^ Back to section

13 Section 242 of the 1999 Constitution (as amended). ^ Back to section

14 Disputes between the federal government, states and National Assembly. Section 232 of the 1999 Constitution (as amended). ^ Back to section

15 Section 234 of the 1999 Constitution (as amended). ^ Back to section

16 Section 130 of the NTAA. ^ Back to section

17 Section 115 of the NTAA. ^ Back to section

18 MT Abdulrazaq (2016) Taxation System in Nigeria: *Gravitas Legal and Business Resources Ltd*, pages 225–226. ^ Back to section

19 Section 35 of the NTAA. ^ Back to section

20 Section 36 of the NTAA. ^ Back to section

21 Section 65 of the NTAA. ^ Back to section

22 Section 61 of the NTAA. ^ Back to section

23 Section 67 of the NTAA. ^ Back to section

24 Section 55 of the NTAA. ^ Back to section

25 Section 90 of the CITA; section 83 of the Personal Income Tax Act (PITA). ^ Back to section

26 (2015) 18 TLRN 42. ^ Back to section

27 Legal standing to institute an action. ^ Back to section

28 Paragraph 14, Second Schedule, JRBA. ^ Back to section

29 *SNEPCO and 3 Others v Federal Inland Revenue Service and Another* CA/A/208/2012. Judgment delivered on 31 August 2016. ^ Back to section

30 (2014) 15 TLRN 1. ^ Back to section

31 Section 141 of the NTAA. ^ Back to section

32 Section 66 of the NTAA. However, by virtue of section 77 of the NTAA, the President, on the recommendation of the Minister of Finance, and the governor of a state, on the recommendation of the Commissioner for Finance, may remit wholly or in part any tax payable, where they are satisfied that it is just and equitable to do so. ^ Back to section

33 Section 41 of the JRBA. ^ Back to section

34 ibid. ^ Back to section

35 Paragraphs 1 and 5 of the Third Schedule to the JRBA. ^ Back to section

36 Section 43 of the JRBA. ^ Back to section

37 Section 73 of the NTAA. ^ Back to section

38 Section 74 of the NTAA. ^ Back to section

39 Section 75 of the NTAA. ^ Back to section

40 With corresponding provisions in section 17 of the PITA and section 20 of the Capital Gains Tax Act. ^ Back to section

41 Similar provisions are contained in Section 46 of the NTAA. ^ Back to section

42 (2013) 9 TLRN 136–138. ^ Back to section

43 Appeal No. Tax Appeal Tribunal/LZ/CIT/015/2017. Available at https://pwcnigeria.typepad.com/files/tat-ruling_tp-case-prime-plastichem-nig-ltd-v.-firs.pdf. ^ Back to section

44 Paragraph 6(10) of the Transfer Pricing Regulations. ^ Back to section

45 Section 120 of the NTA; section 12(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). ^ Back to section

46 (2014) 15 TLRN 76. ^ Back to section

47 Section 120 of the NTA. ^ Back to section

48 (2025) 10 NWLR (Pt. 1997) 597. ^ Back to section

49 [2025] LPELR – 81423 [SC]. ^ Back to section

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