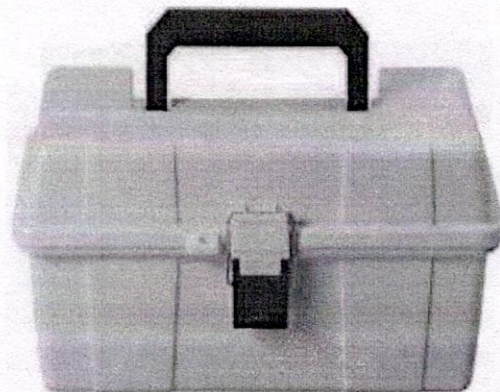


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Personal Income Tax (Amendment)
Act 2011 PITAM and the Basis of
Determination of liability in Nigeria
Changes and Challenges

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Tax Director



National Workshop - Practical Approach to the New Personal Income Tax Act
13th of March 2012. Shehu Musa Yar'Adua Centre, Abuja, Nigeria

Preface

The Bill for an Act to amend the Personal Income Tax Act, Laws of the Federation of Nigeria 2004 was passed by the House of Representatives on 25 May 2011 and passed by the Senate on 1 June 2011.

On 12 December 2011, the President announced that he has assented to the Bill, following which the signed Act was published in the federal government Official Gazette.

This document describes the changes introduced by the Personal Income Tax (Amendment) Act, 2011, as published in the gazette. It focuses on the changes as well as the prospects it holds for employers of labour in Nigeria.

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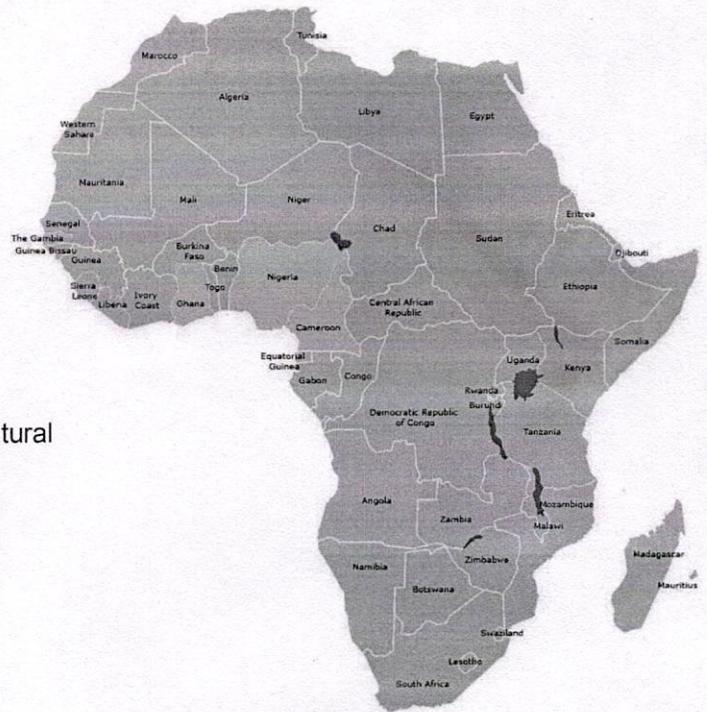
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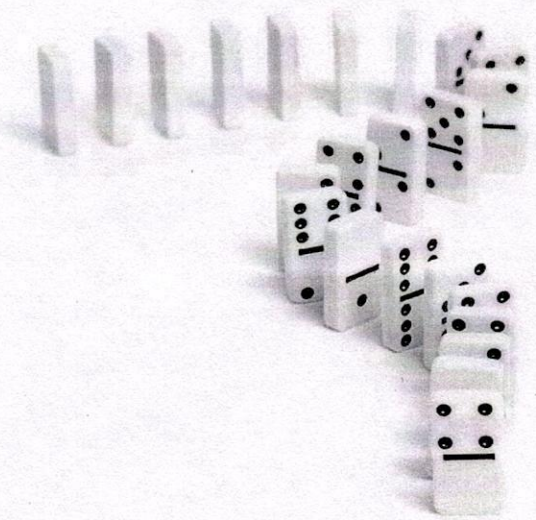
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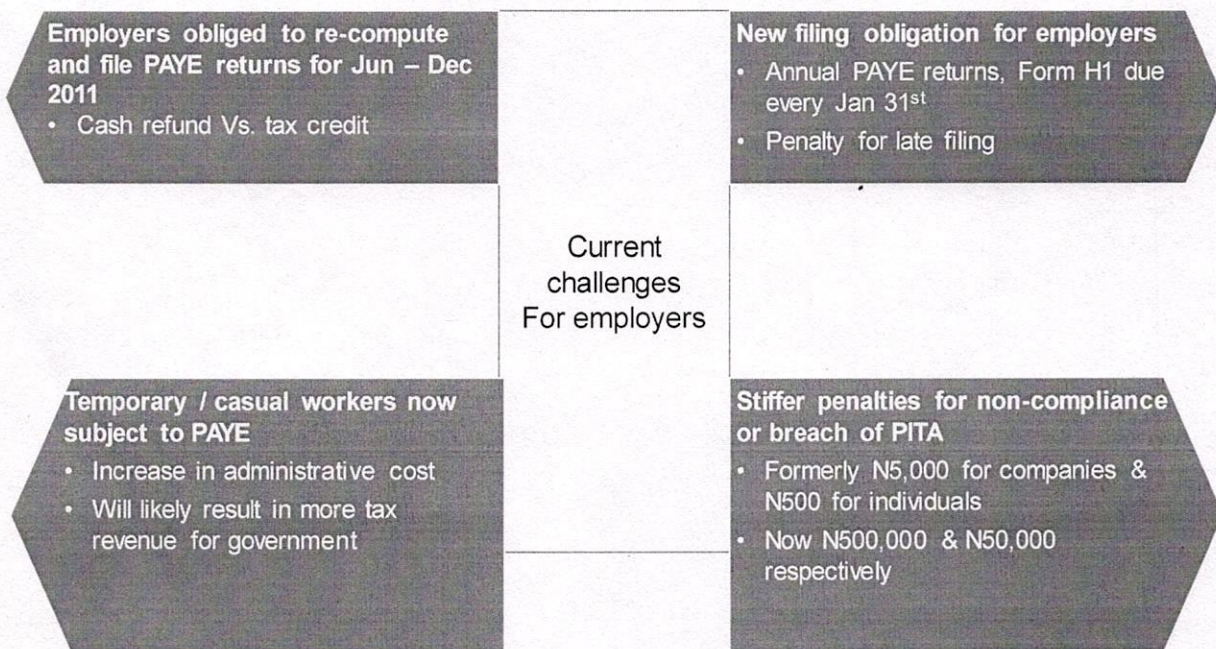
Key changes in the PIT Amendment Act



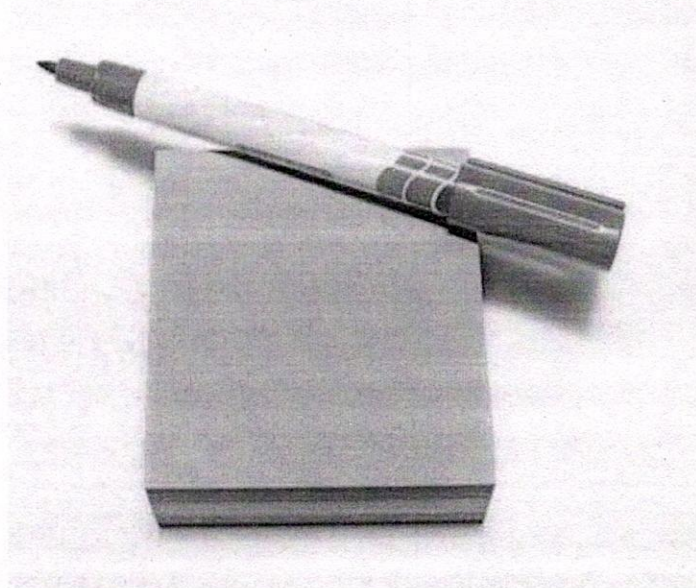
Key changes introduced by the PIT (Amendment) Act 2011

- Introduction of Consolidated relief and allowances
- New Personal Income Tax rates
- Changes in the rules for taxation of non-resident individuals
- Stricter rules to ensure that Employers withhold Pay-As-You-Earn (PAYE) on temporary and contract staff
- Increase in the minimum tax rate to 1% (from 0.5%)
- Stiffer penalties for non-compliance with provisions of PITA
- Abrogation of the Body of Appeal Commissioners – Introduction of appeals under Tax Appeal Tribunal
- Introduction of withholding tax (WHT) refund mechanism
- Introduction of the Central Bank of Nigeria Monetary Policy Rate as the interest rate for computing WHT penalty
- Requirement for a warrant by a High Court Judge for the power of distraint to be levied by either the Federal Inland Revenue Service and/or State Boards of Internal Revenue
- The President, Vice President, Governors and Deputy Governors are no longer tax exempt

Key challenges for employers of labour



Reliefs and Allowances



Non-taxable reliefs and allowances

Reliefs and allowances under the former PITA – former S. 3(1b)

5,000 + 20% earned income Personal Allowance

10% Leave Allowance (10% basic salary)

150,000 Rent allowance
 20,000 Transport allowance
 10,000 Utility allowance
 6,000 Entertainment allowance
5,000 Meal allowance
191,000 Total

3,000 Alimony

2,500 per child (4 max) Children

2,000 each (2 max) Dependents

Pension contribution – 7.5% of BHT

Life assurance premiums – actual payment

Reliefs and Allowances under the amended Personal Income Tax Act 2011

Consolidated Relief Allowance (CRA)
 20% of gross income

NO leave allowance

The higher of 200,000 or 1% of gross income

3,000 Alimony

2,500 per child (4 max) Children

2,000 each (2 max) Dependents

Pension contribution – 7.5% of BHT

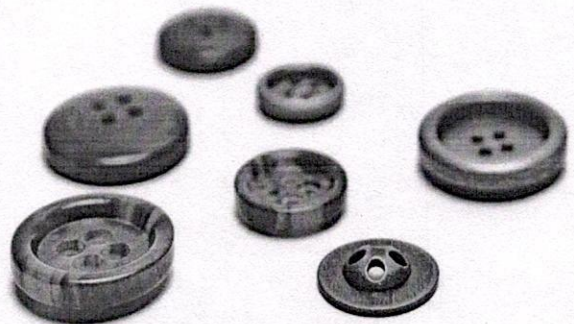
Life assurance premiums – actual payment

New Tax rates under PIT(Amendment) Act 2011

Old tax rates	New tax rates
First N30,000 @ 5%	First N300,000 @ 7%
Next N30,000 @ 10%	Next N300,000 @ 11 %
Next N50,000 @ 15%	Next N500,000 @ 15%
Next N50,000 @ 20%	Next N500,000 @ 19%
Over N160,000 @ 25%	Next N1,600,000 @ 21%
	Above N3,200,000 @ 24%

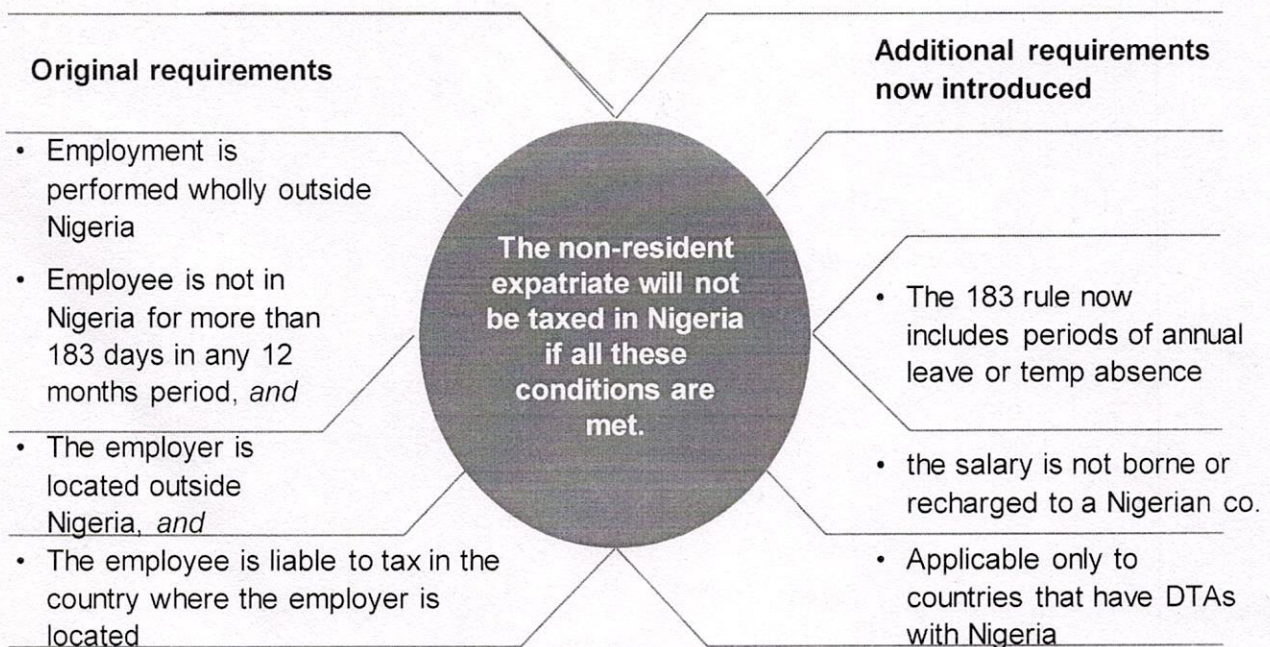
The PITAM clearly represents a tax savings for lower income earners.

Updated rules for taxation of Expatriates



Taxation of non-residents

The conditions under which a non-resident will not be taxable in Nigeria



Sample PAYE calculation

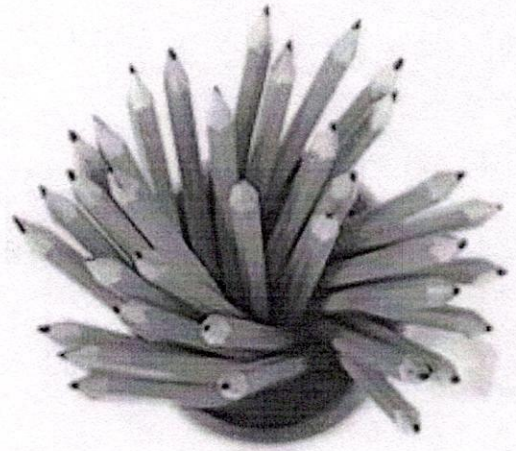


PAYE calculation based on the amended PITA

	Nigerian Full Time Staff	Nigerian Contract staff	Expatriate Full time staff	Expatriate contract staff
<i>Taxable earnings</i>				
Basic	xx	xx	xx	xx
Allowance 'A'	xx	xx	xx	xx
Allowance 'B', etc.	xx	xx	xx	xx
Gross income	xx	xx	xx	xx
<i>Deductible Tax-free allowances</i>				
CRA	(xx)	(xx)	(xx)	(xx)
Dependents allowance*	(xx)	(xx)	(xx)	-
Children Allowance*	(xx)	(xx)	(xx)	-
Pension contributions	(xx)	(xx)	N/A	N/A
Life Assurance premiums	(xx)	(xx)	(xx)	-
Net taxable income	xx	xx	xx	xx

* These allowances were not specifically deleted in Sec. 33, and there are divergent opinions on whether they still applicable. The use of the term 'consolidated' in the CRA pre-supposes that they are no longer applicable.

Challenges and Expectations of the Corporate Taxpayer



Challenges & expectations of the corporate taxpayer

- Clear tax legislation. Investors abhor unstable and ambiguous tax legislation.
- Where there is ambiguity the taxpayer will seek the most advantageous tax position. Courts all over the world remind us that taxpayers are within their rights to organize their financial affairs to minimize their total tax bill.
- However, if the ambiguities and confusion created by this law are not clarified, then the tax authorities may have undue discretionary powers to implement the law based on their own interpretation, and which will clearly be to their advantage especially in the application of penalties.
- Consistent application of the tax laws across the Nation. Tax Appeals Tribunal is a welcome development. In addition the creation of Financial Tax Ombudsman should be considered, especially for small taxpayers.
- Fair & consistent treatment at the hands of the tax inspector.
- Easy process for non-resident companies to register a payroll and remit PAYE – at least on a temporary basis.
- Stream line process for individuals, who maybe working as independent consultants to file personal income tax returns, Form A. Especially for consultants who “maybe deemed resident” under the new rules.
- The refund mechanism for Withholding Tax to be extended to VAT, corporate, and personal income tax.
- A process for “Corresponding Approval” for foreign pensions, especially for Nigerians working temporarily abroad contributing to a non-Nigerian pension.
- Need to watch the Ghanaian Tax Amnesty. (Ghana declared a tax amnesty for 9 months for the period Jan 2012 to Sept 2012).

Challenges & expectations of the corporate taxpayer

It is anticipated that the Joint Tax Board and/or the Ministry of Finance will issue a revised "Guidelines for the Operation of PAYE Scheme" to clarify the administration of the PITAM, particularly the treatment of:

- a. The effective date of the legislation
- b. The status of Section 3 (2) b (i – xiii), with respect to non-taxable allowances for housing, transport, utility, leave, etc.
- c. The status of other personal reliefs in Section 33 (3, 4, 5 & 6) with respect to Alimony, Children, Disabled person and Dependant relative allowances.

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