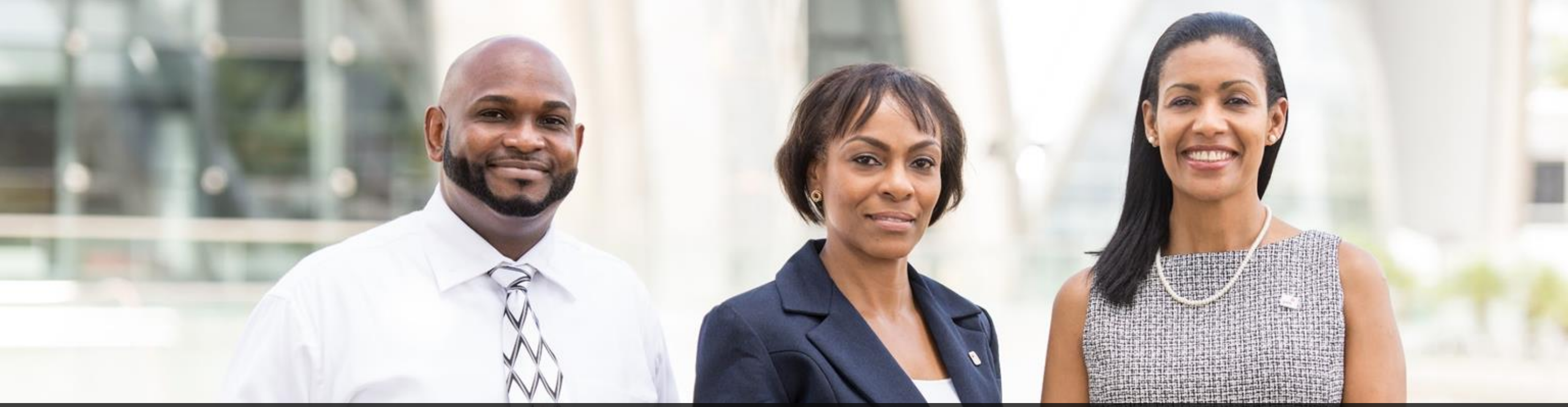

Highlights of Nigeria's 2023 Fiscal Policy Measures

May 2023 www.pwc.com.ng

Overview

The federal government has approved the Fiscal Policy Measures 2023 (FPM 2023). The FPM 2023, which is dated 20 April 2023 with an effective date of 1 May 2023, replaces the Fiscal Policy Measures 2022 (FPM 2022) and comprises:

1. Supplementary Protection Measures (SPM) for the implementation of the ECOWAS Common External Tariff (CET) 2022 to 2026;
2. Import Prohibition list (Trade), applicable only to certain goods originating from non-ECOWAS Member states;
3. Changes in excise duty rates on certain items such as tobacco and alcoholic beverages;
4. Introduction of Green Taxes on Single Use Plastics and certain categories of vehicles; and
5. Reduced import duty rates on certain manufacturing items available to verifiable manufacturers.

The FPM 2023 revised Import Adjustment Taxes (IATs) for a few items and added 17 new items to the existing 172 items in the IAT list. The FPM 2023 also added 1 new item to the original 25 under the Import Prohibition List (IPL), and introduced a "Green Tax Surcharge" on certain vehicles.

The CET rate was reduced in respect of 7 items including pure-bred cattle, corn starch, non-woven fabric, panels, boards, tiles, blocks and similar articles of vegetable fibre, flat-rolled products of iron or non-alloy steel, and aluminium cans.

Imports initiated prior to 1 May 2023 have a 90 day grace period starting from 1 May 2023, but transactions after this date will be subject to the new import duty regime. However, the new excise duty on alcoholic beverages, tobacco products and SUPs take effect from 1 June 2023, while the effective date for the excise duty on telecommunication services remains 11 May 2022 when the rate was originally approved by the President and gazette

Highlights

Green taxes

a) Green Tax Surcharge on vehicles

The FPM2023 introduced a Green Tax Surcharge for the years 2023 and 2024 in the form of additional IATs on motor vehicles as specified in the following table:

Engine size	Rate (%)
2000 cc – 3999 cc	2
4000 cc – above	4

Vehicles with engine capacities below 2000 cc, mass transit buses, electric vehicles, locally manufactured vehicles and other specified vehicles are excluded from this tax.

b) Excise Duties on Single Use Plastics (SUPs)

The FPM 2023 introduces 10% excise duties on SUPs, including plastic containers, films and bags.

On a related note, IATs on the importation of other plastic items including plates, sheets, films, foil and strip, polymers, styrene, and photocopying papers (printed and not printed), were also increased

Telecommunication services

The FPM 2023 confirms the excise duties on postpaid and prepaid telecommunication services introduced via the Finance Act 2020. This tax applies at 5% on services provided by mobile telephony service providers and operators (GSM), fixed telephony operators (fixed and wireless), internet services providers (ISPs) and other operators, effective 22 May 2022.

Non-alcoholic beverages

The FPM 2023 retained the N10 per litre excise duties previously introduced on non-alcoholic beverages such as fruit, juice, energy drink, sweetened sugar, aerated water, and others.

Alcoholic beverages and tobacco

The 3-year phased increase in duties introduced by the FPM 2022 on alcoholic beverages such as beer and stout, wines and spirit as well as tobacco have been modified. These modifications increased the excise duties for the years 2023 and 2024 including introduction of ad-valorem rates.

Item	FPM 2022		FPM 2023	
	2023	2024	2023	2024
Beer& stout	N45	N50	20% + N70	20% + N100
Wines	20% + N60	20% + N70	30% + N75	30% + N100
Spirit	20% + N65	20% + N75	30% + N150	30% + N200
Tobacco	30% + N4.7	30% + N5.2	30% + N8.20	30%+ N8.20

Key issues and matters arising

- **Base for computing relevant excise duties** – The FPM 2023 did not specify the basis for computing excise duties on single use plastics. For example, where finished plastic containers are used as packaging materials for other products both excisable and non excisable products, it is not clear whether the excise duties will be paid by the plastic manufacturer or as part of the final product. Another uncertainty is the basis for excise duties on telecommunication services. We expect that this should be the operator's direct production cost, the equivalent of ex-factory price in the case of goods.
- **Legality** –The Green Taxes are not supported by a specific enactment to provide the legal framework or delegated authority for the imposition of the tax as is the case for beverages and telecommunication services for instance.
- **Policy inconsistency** - The additional excise taxes represent further increases above the previously approved rates per the 2022-2024 Roadmap approved via the 2022 FPM. Changing the rules midway into implementation of the roadmap is not best practice and is expected to significantly impact projections made by businesses, especially considering prevailing economic realities such as currency (both Naira and foreign exchange) scarcity.
- **Impact assessment** – There is no information to suggest that a proper impact assessment was carried out to determine the impact of the new taxes on affected stakeholders across the value chain.
- **Stakeholder engagement** – There was no engagement with critical stakeholders especially the industries that are directly affected by the changes in coming up with the FPM 2023, contrary to the requirements of the Approved 2017 National Tax Policy.
- **Commencement and transition arrangements** – The 2023 FPM was yet to be published in the Official Gazette as at the time it was released. Section 13 of the Customs, Excise Tariff Act provides that an Order made under the Act shall have effect from the date of its publication in the Gazette. Besides, the National Tax Policy requires a minimum of 90 days before the implementation of tax changes.
- **Utilisation of funds** – There is no clarity on the design of the Green Taxes and how the revenue generated will be utilised to fund CO2 net-zero initiatives or possible credits for organisations involved in the Food and Beverage Recycling Alliance aimed at tackling the menace of plastic wastes.
- **Compliance requirements** – It is also unclear how some of the new taxes will be administered, such as the tax base for the Green Taxes, frequency of payment, compliance timelines, penalties, and detailed regulations to guide the administration of the tax.

Takeaway

Government needs to consider suspending the FPM 2023 and engage stakeholders to address the various concerns raised, clarify potential ambiguities and prepare detailed regulations to accompany the FPM before implementation.

It is not ideal to approve a Roadmap of excise tax increases for 2022 to 2024 as contained in the FPM 2022 and then change the approved rates by introducing significant increases just one year into the implementation of the 3-year Roadmap. This will signal policy inconsistency to investors, both local and foreign.

Further to the introduction and gazetting of the FPM 2022, the Minister of Communications and Digital Economy informed the public of the President's approval to suspend the excise tax on telecommunication services. However, the FPM 2023 has now reiterated that telecommunication services are liable to the excise tax. The conflicting information from the government does not bode well for investment and the much needed ease of doing business.

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