

The new excise duties on telecommunications services: *What you need to know*

September 2022

Overview

The Customs and Excise Tariff, Etc. (Consolidation) Act (the "Act") was amended via the Finance Act 2020 to include telecommunications services provided in Nigeria as "excisable".

Specifically, the amendment provides that "telecommunication services provided in Nigeria shall be charged with duties of excise at the rates specified under the duty column in the Schedule as the President may by Order prescribe...".

Following the above, the Federal Government of Nigeria recently announced excise duties at 5% on telecommunications services in Nigeria as part of the 2022 Fiscal Policy Measures and Tariffs Amendments Order ("the Order").

What you should know

- Excise duty is a tax on certain goods produced or sold within a country and other activities as may be specified in the enabling law including services.
- Based on the Order, the tax is chargeable on all services regulated by the Nigerian Communications Commission ("NCC") listed as postpaid and prepaid services at the rate of 5% for 2022, 2023 & 2024.
- It should be noted that prior to the suspension of excise duty on certain goods in 2009, excise duty was applicable on recharge cards/vouchers.
- Telecommunication companies are to pay the tax based on excisable value of postpaid and prepaid services.
- The Order took effect from 1 April 2022 but a grace period of 90 days was granted for the implementation of the new tax, that is, to take effect on 1 June 2022.
- There are indications that the tax may have been suspended according to the Minister of Communications and Digital Economy. However, the legal process required to suspend the tax is yet to be activated or published.
- Therefore, from a legal perspective, the tax is still applicable and affected taxpayers need to take steps to ensure compliance.
- Excise duties under the Act are administered by the Nigerian Customs Service (NCS) rather than the Revenue Authority which is the case in many countries.
- More analysis of the 2022 Order can be found [here](#).

Some Insights

1. Upon implementation, VAT is expected to apply on the price of telecommunication services inclusive of the excise duties levied, in line with section 5 of the VAT Act. This is also similar to the current practice on the importation of goods which attract excise and other relevant duties.

2. On the other hand, excise duty is not chargeable on the VAT component of telecommunication services. It is expected that other revenue based charges such as the 2.5% Annual Operating Levy (AOL) computed on Gross Revenue less Roaming, Interconnect and Bandwidth Costs to the NCC will exclude all taxes.
3. It is unclear how excisable value for telecommunication services will be calculated for excise duty purposes. We expect that this should be the operator's production cost, the equivalent of ex-factory price in the case of goods.
4. Clarity is also required regarding the treatment of interconnect services, free services, roaming and value added services.
5. The excise duty is not expected to apply on services provided by non-network operators such as infrastructure providers.
6. A detailed Regulation to address the key issues and address the grey areas should be published with sufficient input from key stakeholders including telecommunications operators.

How this affects your business

1. Likely increase in telecommunication costs for users, leading to overall increase in the cost of doing business.
2. For income tax purposes, the new tax will be an allowable expense offering a partial relief for taxable companies. Small companies that are exempted from companies income tax will bear a disproportionately higher incidence of the tax.
3. Affected companies may need to update their accounting, tax management systems or ERP packages to account for the new tax.
4. Companies operating in the telecommunications sector will be saddled with additional compliance burdens and dealing with tax audits regarding the excise duty.

Do not hesitate to reach out to us for further clarification.

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