

**Presidency postpones commencement of Finance Act 2023, Customs Excise Tariffs (Variation) Order 2023, suspends green taxes and revised excise duties**



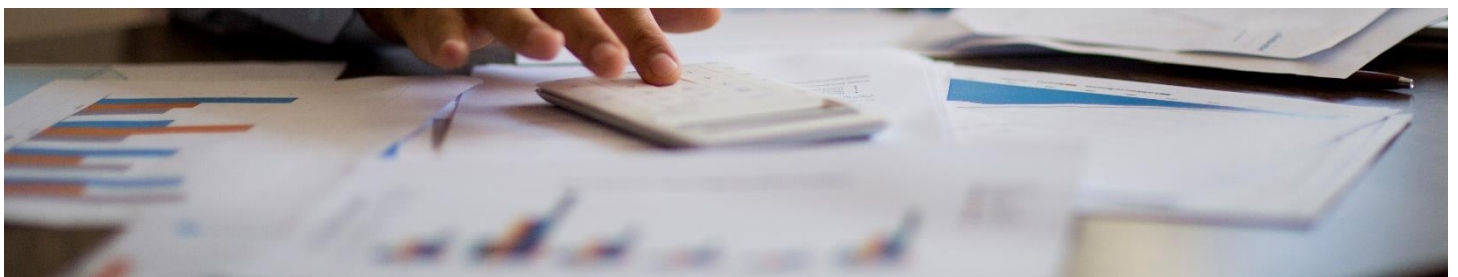
**Background**

The Finance Act 2023 (“Finance Act”) is the 4th in the series of Finance Acts in Nigeria. It was signed into law by the former President, Muhammadu Buhari on 28 May 2023. The former President Muhammadu Buhari also issued the Customs, Excise Tariff (Variation) Order No. 18 of 2023 (“Customs Order”) with a commencement date of 27 March 2023. The Order contained the provisions of the Fiscal Policy Measures 2023 earlier released by the immediate past Minister of Finance, Budget and National Planning, Mrs. Zainab Ahmed.

On 4 July 2023, President Bola Ahmed Tinubu released two executive orders which made some salient changes to the Finance Act and the Customs Order. The recently released Executive Orders are the Finance Act (Effective Date Variation) Order 2023 and the Customs, Excise Tariff (Variation) (Amendment) Order 2023.

**Overview of the Executive Orders**

S/N	Executive Orders	Provisions
1.	Finance Act (Effective Date Variation) Order 2023	Effective date for the Finance Act 2023 shall be 1 September 2023.
2.	Customs, Excise Tariff (Variation) (Amendment) Order, 2023	<p>Commencement date of the Customs, Excise Tariff (Variation) Order No. 18 of 2023 shall be 1 August 2023.</p> <p>Suspension of the application of the green tax surcharge – Import Adjustment Tax (IAT) levy on Motor Vehicles as contained in the First Schedule of the Customs Order.</p> <p>Suspension of the application of the revised excise tax rates on alcoholic beverages, tobacco, telecommunication services and Single Use Plastics tax as contained in the 5<sup>th</sup> Schedule of the Customs Order.</p>



## Overview of the Executive Orders

The process of the enactment of the Finance Act and Customs Order was widely unpopular because of the haste with which they were passed and the lack of requisite consultation and contributions from the relevant stakeholders. The Finance Act was signed into law on 28 May 2023, to take effect from 1 May 2023, while the Customs Order commenced 27 March but was only made available to the public through the Federal Gazette on 8 May. The variation of the 1st and 3rd Schedules of the Customs Order were to commence 1 May 2023, while the changes in the 5th Schedule were slated for commencement on 1 June 2023. These meant some taxpayers were in default because they could not comply without prior knowledge of the tax changes.

The postponement of the effective date of the Finance Act and the Customs Order to 1 September 2023 and 1 August 2023 respectively, aligns with the National Tax Policy 2017 which provides in section 3.1 that the government should ensure a reasonable transition period of between 3 to 6 months before implementation of a new tax.

The indefinite suspension of the green taxes and revised excise duties is also a welcome development for the following reasons:

- The suspension of the green tax surcharge - the Import Adjustment Tax ("IAT") levy on Motor Vehicles will afford the government more time for proper planning and consultation with the stakeholders in the sector. Stakeholders in that sector have complained bitterly about the unfavourable government policies that have negatively impacted the importation of cars. Data showed that vehicle imports into Nigeria crashed by 128% between the first quarter of 2023 and the corresponding period of 2021. Thus, the deferment is an avenue for further collaboration to grow the sector.
- The Manufacturers Association of Nigeria ("MAN") had identified that the inconsistency of the abrupt increase in excise which deviated from the earlier plan for a phased increase for the alcoholic and tobacco sectors would result in huge losses and double digit reduction in profits.

This would have been aggravated by the combined effects of the macroeconomic headwinds and Naira scarcity fueled by the redesign policy in Q1 of 2023. Likewise, the Association of Licensed Telecom Operators of Nigeria ("ALTON"), with the support of the immediate past Minister of Communications and Digital Economy identified that the new excise on telecoms services would worsen the multiple taxes already faced by the industry. The suspension gives the government time to assess the circumstances and further engage the stakeholders.

- The suspension of the single use plastic tax also creates an opportunity for the government to undertake a holistic review and evaluate the possibility of adopting a mix of various approaches to curb plastic packaging pollution, encourage positive producer and consumer behaviour and ultimately drive the country towards achieving a truly circular economy.

## Takeaway

The passage of the two executive orders is laudable. It aligns with the Presidency's commitment to remove/review anti-investment policies and the incidence of multiple taxation. It also brings respite to the industries, taxpayers and ultimately the consumers impacted by the suspended taxes, whilst affording time for extensive stakeholder consultation. Taxpayers who will be affected by the provisions of the Finance Act and Customs Order commencing 1 September and 1 August respectively are also afforded additional time to plan/budget and customise their ERP systems to accommodate the imminent changes.

In the same stride, the Government should reconsider the recently imposed VAT on importation of diesel. A better approach would be to engage stakeholders in the petroleum industry to develop a comprehensive and phased taxation plan that allows for sustainable taxation without adverse economic effects.

## For a deeper discussion, please contact:

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