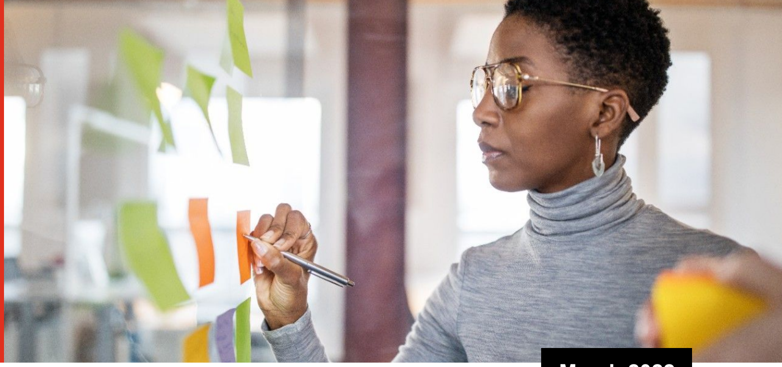
Tax Bites

It's Tax Filing Season: What you need to know



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The Personal Income Tax Act (PITA) is the law that primarily governs the personal income tax regime in Nigeria. On or before 31 March of every year, every individual taxpayer (business owners, high net worth individuals and employees under the Pay-As-You-Earn (PAYE) system) must file a tax return.

Tax matters are becoming more serious all over the world emphasising the need to avoid any value erosion through penalties. As taxes tend to follow income, every taxable individual should be apprised of the right information and rules that govern their taxable income. Here are 10 things to watch out for during the tax season:

1. **Not all the money made is taxable**: There are valid deductions that can be made from your income before arriving at the taxable pay. These will include but are not limited to expenses incurred wholly, reasonably, exclusively and necessarily in generating the income. Such expenses may include the interest on money borrowed in acquiring the income, interest on loans for developing an owner occupied residential house etc. It does not include specific non allowable deductions such as capital expenditure. The law also provides some reliefs; these include the Consolidated Relief Allowance (CRA), which is about 21% of the total gross income, contributions made to the National Pension Fund and the National Housing Fund. The income tax rate ranges from 7% to 24% depending on your income band. The effective tax rate after taking out deductions usually ranges between 5.5% and 19.2%.

   When you dispose of a chargeable asset in the year, you are required to file a Capital Gains Tax (CGT) return either in June or December of the tax year depending on when the disposal was made. This is different from the Personal Income Tax return earlier described. CGT is assessed at a current rate of 10% on the gains arising (the difference between the proceeds and the costs of acquisition including other costs incidental to the disposal). Effective 1 January 2022, shares are no longer exempt. The gains from the disposal of shares worth N100m or above in any 12 consecutive months are taxable, except to the extent that the proceeds are reinvested in the shares of any Nigerian company. Also, where a taxpayer is paid a compensation for loss of employment, any excess above the exempt threshold of N10m is subject to CGT.

   Be sure to report any deductions that have been deducted at source by your employer (PAYE) or customers (withholding tax credits) to avoid being assessed to tax twice on the same income or gain. Refunds are difficult to get.

2. **Foreign Income:** Your foreign income will only be considered for tax if brought into or received in Nigeria. Income brought in convertible currency and paid into a domiciliary account in a bank approved by the Government is exempt.

   Whilst your foreign income may be tax exempt in Nigeria, it is important for taxpayers (including those with multiple residencies) to check whether they are liable to and have been paying the necessary taxes due to the government of other countries where they have business dealings.

3. **Income to be reported in your tax return(s):** You will have to report income and capital gains from all sources including business, employment, investments, royalties from the use of intellectual properties, as well as other gains received. For some people, it would include income from album sales, business ventures, endorsement deals, and other investments. It may be sometimes daunting to keep track of all of these income streams and identify the relevant taxes but getting equipped with the right knowledge is a good place to start.

4. **Compliance obligations**: On an annual basis, every individual is required to file a self-assessment return by 31 March (in respect of income earned in the preceding year). The self-assessment form aims to capture the personal and family information of the taxpayer, their domestic properties and income from all sources. It is imperative for taxpayers to take their compliance obligations seriously as there is an aggressive drive for compliance and the tax authorities are imposing stiffer penalties which include jail terms. Filing of the CGT return is due in June and December .

5. **Failure to comply:** The penalty is a fine of N20,000 plus N2000 for each day until filing. In addition to this, failure to pay the fine(s) is punishable with 6 months imprisonment plus daily fines as the Court may order.

   Anyone who unlawfully refuses to pay tax is guilty of an offence which is punishable with either:
   (a) a flat fine of N50,000 for an individual; or
   (b) a prison sentence of not more than 6months.

6. **Relevant Tax Authority**: The residence status of an individual plays a prominent role in determining where income taxes should be paid. It is crucial for the individual to be well informed of the right state government his or her tax payments go to. The state tax authority where you are deemed resident in a year of assessment is usually the relevant tax authority.

   An individual other than an itinerant worker is deemed to be resident in the territory in which he had a place or principal place of residence on the 1st day of January in that year. The First schedule to the PITA also makes provisions for individuals that may have more than one place of residence. In such instances, the individual's principal place of residence may be determined by the place where he or she resides or any of the places of residence closest to his usual workplace.

   In the case of an itinerant worker, tax may be collected by any State in which the itinerant worker is found during the year. An itinerant worker is an individual who works at any time, in any State during a year for a minimum of twenty (20) days in at least three (3) months of every assessment year.

7. **Bonus for early filing:** The law provides that taxpayers who file their returns within time specified for filing shall, if there is no default in the payment arrangement be granted a bonus of 1 percent of the tax payable. You should consider taking advantage of this incentive to improve your cash flows.

8. **You can file on the go:** Some of the state tax authorities have made significant investment in technology to make tax administration and compliance easier. You can now file your returns on the go. Whilst some tax authorities already have functioning platforms for filing, others have designated email addresses that can be used. For example, if you are resident in Lagos, the LIRS website for filing is https://etax.lirs.net/login .It is recommended that you file much earlier on any published platforms to avoid traffic on the deadline day, especially if the servers fail.

9. **Why should this matter?** Similar to corporations, individuals can be audited too. In recent times, we have seen the tax authorities invest more in the adoption of technology for data mining. The plan is to use information from different sources; banks, land registry, car licensing agents etc to track down erring tax payers. Hence, it becomes imperative to stay on top of tax compliance matters.

   Where an audit is conducted and non-compliance is detected, the interest and penalties could be as high as 31% of the unpaid amount in addition to the principal. Other benefits include the seamless conclusion of property-related transactions and the confirmation of Government appointments in Nigeria, both of which require that they have an up to date tax clearance certificate.

10. **Tax Clearance certificate:** Once the filing process is complete, follow up with the relevant tax authority to ensure your tax record is accurately updated. Having a tax card is not enough, pay attention to your tax records.

Next steps

- Be intentional about seeking tax-related knowledge and how it affects you.
- Reassess your current position for possible exposures and take advantage of the information available to mitigate your financial and compliance risks.
- Conduct regular reviews of your residence status to monitor where and how tax liabilities may or may not have been triggered. Plan your trips bearing in mind the implications of the residence rules. Also, review your residence status in line with countries that have double taxation treaties to avoid double taxation.
- It is best to ensure tax returns are filed on time to allow for quick resolution of issues that may arise during filing. So, don't wait until the last minute to file your returns in order to avoid penalties.
- When in doubt, it's best to speak to an expert.

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