



FIRS GRANTS 1-MONTH CONCESSION TO TAXPAYERS ALLOWING OUTSTANDING FOREIGN CURRENCY-DENOMINATED TAX LIABILITIES TO BE SETTLED IN NAIRA

Key Takeaways

- FIRS grants a one-off concession to taxpayers with foreign currency-denominated tax liabilities to pay such obligations in Naira, converted to Naira at the CBN *Investors and Exporters (I&E) FX Window* exchange rate.
- The concession period runs from March 1 to March 31, 2022.
- Certain categories of companies and transactions are excluded from the concession.

Recently, the Federal Inland Revenue Service (“FIRS”) issued a Public Notice titled “**Payment of Outstanding Foreign Currency Tax Liabilities in Naira**” (the “**Notice**”), which grants taxpayers concession, within a 1-month window to pay their foreign currency-denominated tax liabilities in Naira.

Generally, taxpayers are required, under Nigerian tax law, to assess and pay their tax liabilities in the currency that was used for the underlying transactions from which the tax obligations derive. Specifically, Section 54 of the *Companies Income Tax Act* (as amended) (“CITA”) provides that income tax assessment under the CITA shall be made in the currency in which the transaction giving rise to the assessment was effected.

Lately, there have been challenges with foreign exchange (“forex”) liquidity and stability at the Nigerian Interbank Foreign Exchange Market, which have affected supply and availability of foreign currency in the forex market. This concession granted and published in the Notice will make it easy for companies that have experienced difficulty in sourcing forex to offset their tax liabilities to the FIRS.

As stated in the Notice, the concession covers all

taxpayers and tax types, with the exception of:

- I. Companies operating in the Oil and Gas (Upstream) sector (presumably because they typically earn income in foreign currency); and
- II. Foreign currency-denominated tax obligations that fell due on or before 31 December 2021.

The concession granted will expire on March 31, 2022. Thus, taxpayers may have to source for forex to settle their foreign currency-denominated tax liabilities after the effluxion of the concession period.

Taxpayers who are interested in taking benefit of the concession to offset their foreign currency-denominated tax obligations in Naira, will be required to pay such obligations in Naira at the applicable exchange rate based on the Central Bank of Nigeria’s *Investors and Exporters (I&E) FX Window* on the date of the transaction and/or on the date when the tax obligation became due. Also, evidence of payments with accompanying relevant documents relating to the transaction are required to be forwarded to the Office of the Executive Chairman of the FIRS, with a copy submitted to the local tax office in which the taxpayer is domiciled.

The Grey Matter Concept is an initiative of the law firm, Banwo & Ighodalo.

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