



A LEGAL APPRAISAL OF GOODS AND SERVICES EXEMPT FROM VALUE ADDED TAX IN NIGERIA ***

Abstract

Tax exemptions disallow certain income, revenue and some taxpayers from tax. The fulfillment of certain requirements as stipulated under applicable tax laws excludes them from the otherwise obligation to pay income tax. In Nigeria, eligible taxpayers are obliged to pay tax as mandated by the Constitution of the Federal Republic of Nigeria. However, there are certain taxes that are otherwise exempted from Value Added Tax. In other words, where the requirements are fulfilled, an otherwise supposedly goods and services are excluded from tax. The paper, therefore, is an analysis of all the goods and services exempted from VAT tax in Nigeria. The method of data collection adopted is the doctrinal method using analytical approach to review the various statutes, decided cases, journals and internet materials on the subject. There is no doubt that the ever changing tax laws, in line with economic realities have made it difficult to ascertain which goods and services are actually exempted from tax. This paper therefore, elucidates and expounds these goods and services especially based on the newly amended Value Added Tax Act and the Finance Acts. Recommendations to help achieve effective VAT policy that promotes economic growth in Nigeria are also proffered.

Keywords: Tax, exemptions, FIRS, Tax administration, Value added Tax

1. Introduction

Tax has been defined as a charge assessed on an individual or on property for the purpose of supporting the functioning of the government. Such charges may be imposed on sale of property or goods, imports, exports, wages and income privileges, and just about anything else that one can think of.¹ Tax has also been defined in the Black's Laws Dictionary as a charge, usually monetary, imposed by the government on persons, entities, transactions, or property to yield public revenue.² Most broadly, the term embraces all governmental impositions on the person, property, privileges, occupations, and enjoyment of the people and includes duties, imposts and excises.³

Tax exemptions, however, means not subject to tax. It also means not subject to taxation and bearing interest that is free from income tax. A tax exemption excludes certain income, revenue, or even tax payers from tax altogether.⁴ It also means a situation in which a person or organization does not have to pay tax.⁵ Being tax-exempt means that some or all of a transaction, entity or person's income or business is free from federal, state or local tax.⁶ Tax exemptions come in many forms, but one thing they all have in common is they either reduce or entirely eliminate your obligation to pay

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¹Susan Ellis Wild, Webster's New World Dictionary (Wiley Publishing, Inc, 2006) 250.

²Garner A Bryan, Black's Law Dictionary (9thedn, West Publishing 2009), 1594.

³Ibid.

⁴Tax Foundation, Tax exemption < tax.foundation.org/tax-basics/tax-exemption/> accessed 3 march 2023

⁵Cambridge Dictionary, Tax exemption<dictionary.cambridge.org/dictionary/english/tax-exemption>accessed 3 March 2023.

⁶Tina Orem, What does it mean to be Tax exempt> Definition & how tax exemption work, [13 February 2023]

<nerdwallet.com/article/taxes/what-are-tax-exemption-and-how-do-they-work> accessed 3 March 2023.



tax.⁷ From the foregoing, it is clear that tax exemptions are deliberate reduction in or total exemption of tax liability granted under the tax laws in Nigeria. This article, therefore, attempts a comprehensive, critical appraisal of all the goods and services exempted from value added tax in Nigeria.

2. The Administration of Value Added Tax (VAT) in Nigeria

Value added tax is a consumption tax paid when goods are purchased and services rendered.⁸ All goods and services (produced within or imported into the country) are taxable except those specifically exempted by the VAT Act.⁹ Value added tax (VAT) is a type of indirect tax levied on goods and services for value added at every point of production or distribution cycle, starting from raw materials and going all the way to the final retail purchase.¹⁰

In 1993, following the enactment of Decree No. 102 of 1993,¹¹ value added tax commenced in Nigeria. Before the enactment of VAT, various expenditure taxes, for example, the general sale tax and excise duty were payable on some goods. All of these expenditure taxes were subsumed under the Value Added Tax (VAT) Cap No. 102 of 1993 now Value Added Tax Act, Cap VI, Laws of the Federation of Nigeria, 2004 (as amended). An additional amendment was effected on 2nd May, 2007 as VAT (Amendment) Act No. 12 of 2007.¹² The present regulatory apparatus on Value Added tax in Nigeria, besides the VAT Act 2004 (as amended) includes the Finance Act, 2019 and 2020, the VAT Modification Order of 2020 (“MO 20”)¹³ and the VAT Modification Order of 2021 (“MO 21”) which amends the list of goods and services exempted from VAT and eligible as zero-rated goods and services.¹⁴

The current VAT rate charged in Nigeria is 7.5 percent on the value of all taxable goods and services supplied.¹⁵ (The VAT rate was increased from 5% on 1st February 2020) except all the tax exempted or zero rated goods and services under Part III of the First Schedule to the Act.¹⁶

No doubt, VAT is a source of huge revenue in Nigeria and as provided under the VAT Act 2004 (as amended), all goods and services (produced within or imported into the country) are taxable¹⁷ except those specifically excluded by the VAT Act.¹⁸

3. What Constitutes Taxable Supply of Goods and Services

The Value Added Tax Act 2004 (as amended) defines taxable goods and services as those not listed in the First Schedule to the VAT Act.¹⁹ However, the Finance Act 2019 and 2020²⁰ has substituted or amended the above definition of taxable goods and services.

⁷Turbo Tax Experi, what are ten exemptions, [February 2023] <turbor.intuit.com/tax-tips/irs-tax-return/what-are-tax-exemptions./LSXCSv2ko>accessed 3 March 2023.

⁸FIRS, Value Added Tax (VAT)<firs.gov.ng/value-added-tax-vat/>accessed 4 March 2023.

⁹ibid

¹⁰Business Standard, What is Value Added Tax (VAT)<business-standard.com/about/what-is-value-added-tax-VAT> accessed 4 March 2023.

¹¹CS Ola, Tax Planning and Auditing in Nigeria (Ibadan University Press Ltd, 1985) P. 583.

¹²LA Nwanyanwu, “Value Added Tax, Administration in Nigeria: An inquiry into irrevocable invoices” (2015) Applied Economics and Finance Journal, 43.

¹³Value Added Tax (Modification Order), 2020.

¹⁴Value Added Tax (Modification Order), 2021 which was issued by the Minister of Finance, Budget and National Planning, on 21 September 2021.

¹⁵Finance Act 2020, Part VII, S.42 which amended VAT Act, Cap VI, Laws of the Federation of Nigeria, 2004 (as amended) S.4.

¹⁶ibid.

¹⁷VAT Act 2004 (As amended), S 2.

¹⁸VAT Act 2004, Part III, 1st Sch.

¹⁹VAT Act 2004, S.2

²⁰Finance Act 2019, S.33, Finance Act 2020, S. 40 and 41.



The Finance Act 2020²¹ has also gone ahead to define “goods” for the purposes of this Act to mean:

All forms of tangible properties moveable or immovable, but does not include land and buildings, money or securities; and defined “services” as anything, other than goods or services provided under a contract of employment and includes any tangible or incorporeal (product, asset or property) over which a person has ownership or rights or from which he derives benefits, and which can be transferred from one person to another, excluding interest in land and building, money or security.²²

From the above definition of goods and services taxable under the value added tax, it can be seen that land and buildings, money and securities are not ‘vatable’. This provision has lain to rest the earlier controversies and squabbles surrounding the operation of sale, rental or lease of land and buildings for VAT. Earlier on, the charge of VAT on the sale and lease of land and buildings created numerous disputes in court between the tax payers and the Federal Inland Revenue Services (FIRS).

In retrospect is the case of *Chief J.W Ellah & Sons Company Ltd v FIRS*²³ delivered on 9th September 2020 where the Tax Appeal Tribunal sitting in Lagos held that commercial leases were subject to VAT, and the case of *ESS-AY Holding Limited v Federal Inland Revenue Services (FIRS)*²⁴ where the Tax Appeal Tribunal sitting in Benin, on 10th September 2020, held that rental income derived from the lease of real estate properties, whether residential or commercial purpose does not amount to supply of goods and services. This, it held, relates to incorporated property rights, which are outside the scope of the VAT Act. The argument in the above cases and the likes of it has however been laid to rest by the Finance Act²⁵ That is, that land and buildings, money and securities are not liable to VAT.

However, although the definition of goods and services²⁶ exclude land and building, this does not in any way preclude the charge of VAT on the supply of chargeable goods and services relating to such land and building.²⁷

The Finance Act²⁸ further provides that goods shall be deemed to be supplied in Nigeria, for VAT purposes, if (i) the goods are physically present in Nigeria at the time of supply, imported into Nigeria for use by a person, assembled in Nigeria or installed in Nigeria, or (ii) the beneficial owner of the rights in or over the goods is a taxable person in Nigeria and the goods or rights is situated, registered or exercisable in Nigeria.

Similarly, “services” are deemed to be supplied in Nigeria for VAT Purposes if: (i) the service is rendered in Nigeria by a person physically present in Nigeria at the time of providing the service, (ii) the service is provided to and consumed by a person in Nigeria, regardless of whether the service is rendered within or outside Nigeria or whether or not the legal or contractual obligation to render such service rests on person within or outside Nigeria, or (iii) the service is connected with existing immovable property (including the services of agents, experts, engineers, architects, valuers, etc.) where the property is located in Nigeria.²⁹

²¹Finance Act 2020, S. 44.

²²Finance Act 2020, S. 44, VAT Act, S. 46.

²³ Appeal No: TAT/SS2/001/2019.

²⁴Appeal No: TAT/LZ/VAT/029/2019.

²⁵n.

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²⁶ibid.

²⁷ Federal Inland Revenue Service <<https://firs.gov.ng/wp.content/uploads/2021/06/CLARIFICATION-ON-THE-IMPLEMENTATION-OF-THE-VALUE-ADDED-TAX-VAT-ACT.pdf>> accessed 9 March 2023.

²⁸Finance Act 2020, S.40, VAT Act 2004, S.2 (3)(a)(i)(ii).

²⁹Finance Act 2020, S.40, VAT Act 2004 S.2 (3) (b) (i) (ii) (iii).



In respect of an “incorporeal,”³⁰ it is deemed to be supplied in Nigeria for VAT Purposes if (i) the exploitation of the right is made by a person in Nigeria (ii) the right is registered in Nigeria, assigned to or acquired by a person in Nigeria, regardless of whether the payment for its exploitation is made within or outside Nigeria, or (iii) the incorporeal is connected with a tangible or immovable asset located in Nigeria.

4. Goods and Services Exempted from VAT in Nigeria: Regulatory Update

As noted earlier, the laws guiding the Value Added Tax in Nigeria is made up of a collection of laws and regulations, the most evident being the VAT Act of 1993 (as amended in 1996, 1999, 2004 and 2007), the Finance Act, 2019, 2020, 2021 and finally the VAT Modification Order of 2020 (“MO 20”) and VAT Modification Order of 2021 (“MO 21”) which specifically amended the list of goods and services exempted from VAT. No doubt, Amendments to the Value Added Tax (VAT) law in Nigeria expanded the list of exempt goods and services and updated the definitions of certain terms to provide for consistency.³¹ The first of this modification was made by the Honorable Minister of Finance Budget and National Planning pursuant to her powers under S.38 on February 3, 2020 which modified the provisions of the First Schedule to the VAT Act by expanding and adding to the list of goods and services designated as being exempted from VAT. This brought about the Value Added (Modification Order, 2020 (“MO 20”).

Subsequently, in 2021, the Minister of Finance, Budget and National Planning on September 21, 2021, issued the VAT Modification Order of 2021 (“MO 21”) which amends the list of goods and services exempted from VAT and eligible as zero rated goods and services. The 2021 Order which replaces the erstwhile VAT (Modification) Order 2020 modifies the First Schedule to the VAT Act by expanding the list of exempt goods and services and updating the definition of some terms to ensure consistency with the amendments introduced to the VAT Act by the Finance Act, 2020.

The 2021 Order is largely similar to the 2020 Order with a few changes. The VAT Modification Order 2021 (“MO 21”) is a much needed amendment as it clearly brought about the definitions of certain conflicting and contentious exempted goods and services. For example, under the VAT Act 2004, the scope of what is meant by “Basic Food” was not clear. The same applied to “Books and Educational Materials”, “Baby products” etc. With the recent amendments, the extent of these categories of exempt goods where not only specifically defined and rephrased but also sets out their common external tariff (CET) codes.³² The 2021 Modification Order also inserted new goods and services into the First Schedule to the VAT Act as exempt items. From a joint reading of the Value Added Tax Act 2004 (as amended), the Finance Act 2019 and 2020 and the recent Value Added Tax Act (modification) Order 2021, we shall now expound the goods and services exempted from VAT. Goods exempted, are more specifically provided for under the First Schedule to the VAT Act,³³ while Services exempted are provided for under Part II.³⁴

5. Goods Exempt from Value Added Tax in Nigeria

At the moment, there are 19 categories of goods and 8 categories of services that are exempt from VAT in Nigeria. The list of exempted goods as contained in the First Schedule to the VAT Act 2004 (as amended) and updated by the VAT Act (modification) order 2021 are as follows:

³⁰Ibid. VAT Act 2004 S.2 (3) (c) (i) (ii) (iii).

³¹Nigeria: Extension of VAT Exemption for certain Goods and services (KPMG) 19 October 2021 <<http://kpmg.com/us/en/home/insights/2021/10/tnt-nigeria-extension-of-VAT-exemption-for-certain-goods-and-services.html>> accessed 14 March 2023.

³² VAT Act 2004, First Schedule.

³³Ibid., 1st Sch, Pt 1; VAT Act (modification) Order, 2021, S.2 (1).

³⁴Ibid., Pt II; VAT Act (modification) Order, 2021, S.2(2).



i) All medical and Pharmaceutical Products³⁵

“Medical product” means articles, instruments, apparatus, machine or software used in the prevention, diagnosis of treatment of illness or disease, or for detecting, measuring, restoring, correcting or modifying the structure or function of the body for some health purpose. It includes implantable, disposable or single-use medical device but excludes cosmetology or fitness and other similar devices.³⁶ On the other hand, “pharmaceutical products” mean components and finished products of both modern and traditional medicine intended for human use in the diagnosis, cure, mitigation, treatment or prevention of disease or injury, provided that such products are approved by the local regulatory authority.³⁷ The definition which was not previously provided by the VAT Act 2004 was all provided for under the VAT Act (modification) order 2021, and this is commendable.

ii) Basic Food Item³⁸

Basic food items is not new to the VAT exempt goods under the VAT Act, however its definition and category is a recent addition to the Act. Under the Value Added Tax (modification) Order 2020 and 2021. “Basic Food Items” are defined as agro and aqua based staple food.³⁹ They include additives, bread, cereals, cooking oils, culinary herbs, fish, flour and starch, fruits, live or raw meat and poultry, milk, nuts, pulses, roots, salt (excluding industrial salt), vegetables and water (excluding states sparkling or flavored water) The order further states water sold in restaurants, hotels, eateries, lounges and other similar premises, or by contractors caterers and other similar vendors, are not VAT exempt.⁴⁰

iii) Educational Books and Materials⁴¹

This was previously provided for under the VAT Act in the broad category of “Books and Educational Materials”⁴² However, under the “MO 21”, it was modified and restricted to “educational books and materials” In essence; books which are not meant for educational purposes shall no longer be exempt from VAT.⁴³ “Educational books” mean physical and electronic books used to implement instruction and facilitate hearing in educational institutions such as pre-primary, primary, secondary, tertiary education, special education, adult education, vocational education, technical and science education etc.⁴⁴

“Educational materials” on the other hand mean materials used for instructional purposes, active learning, assessment and administration. These include physical and electronic materials used to implement instruction and facilitate learning in educational Institutions such as, pre-primary, primary, secondary, tertiary education, special education, adult education, vocational education, technical or science education and religious education.⁴⁵

iv) Baby Products⁴⁶

This refers to products made for the use of babies from birth to 3 years, and include baby activities and entertainment products, along with parts and accessories, baby bathtub, sponges, towel, baby grooming kit, baby creams, powders, lotions etc., baby carriage and parts, along with parts and

³⁵Ibid., 1st Schedule, Pt. 1, Para I.

³⁶VAT (MO 21), S.5.

³⁷Ibid.

³⁸VAT 2004 1st Sch, Pt 1 Para 2.

³⁹VAT Act (MO 21), Ord.5.

⁴⁰VAT Act 2004 1st Sch, Pt 1, Para 3; VAT Act (MO 21), S.5.

⁴¹Ibid.

⁴²Ibid.

⁴³Parestones, “Regulatory update: Goods and Services exempt from VAT in Nigeria/Parastones legal’ (parastones legal 5 November 2021)[https://parestones-exempt-from-vat-in-nigeria/?utm_source=mondaqxutm_content=article original &utm_campaign=article](https://parestones-exempt-from-vat-in-nigeria/?utm_source=mondaqxutm_content=article%20original&utm_campaign=article) accessed 16 March 2023.

⁴⁴(n.55).

⁴⁵Ibid.

⁴⁶ VAT Act 2004 First Sch, Pt 4, Para 4.



accessories, baby garments, feeding products, plates, spoons, cups, supply cups, breast pumps and accessories, nursing and feeding pillows etc., sanitary wares e.g. diapers, wipes and related products raw materials for the production of baby diapers and sanitary towels.⁴⁷

v) Fertilizers, and Locally Produced Agricultural Chemicals, and Locally Produced Veterinary Medicine.⁴⁸

This provision of goods exempt from VAT is a replacement by the VAT (modification) Order 2021, of the earlier provision which is “Fertilizer, locally produced agricultural and veterinary medicine, farming machinery and farming transportation equipment.” “Fertilizers” mean all fertilizers for agricultural purposes.⁴⁹ And, “locally produced agricultural chemicals and locally produced veterinary medicines” means drugs and vaccines produced in Nigeria for the treatment of animals, fish and plants including veterinary pharmaceuticals, dietary supplements, and pesticides and agro chemicals.⁵⁰

vi) All Exports

There is no doubt that exports minerals are excluded from tax because they are considered to be capital assets. They are viewed as investments that create jobs. Therefore, in Nigeria, all exports are exempt from tax as provided in Paragraph 6 of the First Schedule to the VAT Act. This means all goods produced in Nigeria and exported abroad are not subject to VAT.

vii) Plant and Machinery Imported for use in the Export Processing Zone or Free Trade Zone⁵¹

Plant and machinery brought into Nigeria for use in the export processing zone are exempt from tax. “Plant” means an assemblage of fixtures, tools, machinery and apparatus which are necessary to carry on a trade or industrial business. It may include land, buildings, specialized structures and equipment purchased off a shelf as a whole or an accumulation of parts which form a plant following a process of construction, installation, assemblage and transformed into a state for usage at the site of business.⁵² While “machinery”⁵³ means a mechanical device or the parts of a mechanical device that operate together to perform a single task. It includes the accessories necessary to the workings of a machine. In Nigeria, Nigeria Export Processing Zones Authority (NEPZA), establishes licenses, regulates and operates highly effective free zones by providing a highly competitive incentive scheme, excellent support facilities and service for the purpose of creating an enabling environment for export manufacturing and other commercial activities.⁵⁴ It is the federal agency responsible for promoting and facilitating local and international investments into the 34 Licensed Free Export Processing Zones (EPZ) in Nigeria.⁵⁵ Therefore, any plants and machinery imported for use in the EPZ are tax exempt.

viii) Plant, Machinery and Equipment Purchased for Utilization of Gas in Down-Stream Petroleum Operations.

In addition to the definition of plant machinery in the preceding exempted tax, equipment is referred to tools, which may be devices, machines or specialized industrial vehicles that assist a person in

⁴⁷VAT Act (MO 21), Ord. 5.

⁴⁸VAT Act 2004 1st Sch, Pt 1, Para 5.

⁴⁹VAT (MO 21) Ord.5.

⁵⁰See VAT (MO 21) Ord. 5 for the full definition.

⁵¹VAT Act 2004 Pt 1, 1st Sch, Para 7.

⁵²VAT (MO 21) Ord. 5.

⁵³Ibid.

⁵⁴NEPZA – Choice Destination for Global Business & Investment’

(NEPZA.gov.ng2023)<<https://nepza.gov.ng/#.~:text=Nigeria%20Export%20processing%2000> and % 20 other %20 commercial> accessed 23 March 2023.

⁵⁵Me, ‘Nigeria Trade Information Portal’

(fmiti.gov.ng2018)<[http://nigeriatradingportal.fmiti.gov.ng/menu/87#:~:Text=the%20Nigeria%20Export%20Processing%20Zones,Zones%20\(EPZ\)%20in%20Nigeria](http://nigeriatradingportal.fmiti.gov.ng/menu/87#:~:Text=the%20Nigeria%20Export%20Processing%20Zones,Zones%20(EPZ)%20in%20Nigeria) accessed 23 March 2023.



achieving an action beyond the normal capabilities of a human.⁵⁶ Therefore, when such plants, machines and equipments are bought for the utilization of gas in the down-stream petroleum operations, it is exempt to VAT.

ix) Tractors, Ploughs and Agricultural Equipment and Implements Purchased for Agricultural Purposes.⁵⁷

This means that agricultural equipment and implements such as tractors, ploughs and other agricultural machinery that are purchased for agricultural purposes are exempt from Value Added Tax (VAT). This exemption applies to any item purchased for use in agricultural, horticultural or forestry activities, as well as any related machinery, tools and implements.

x) Locally Manufactured Sanitary Towels, Pads or Tampons.⁵⁸

Locally manufactured sanitary towels, pads and tampons are exempt from Value Added Tax. This is probably beneficial since these are considered essential items and it would be too burdensome on the consumer to pay the additional tax.

xi) Commercial Aircrafts, Commercial Aircraft Engines, Commercial Aircraft Spare Parts.⁵⁹

The aviation industry is a crucial aspect of transportation and commerce around the world. To support its growth and development, various tax policies have been implemented to provide incentives for investors and operators. One of the exemptions granted by many countries including Nigeria is the exclusion of taxes on commercial aircraft, engines and spare parts.⁶⁰ No doubt, the tax exemptions for commercial aircraft, engines and spare parts present an opportunity for the aviation industry to grow and develop sustainably, as it not only reduces the cost of acquiring and operating aircraft, but also support the introduction of eco-friendly and more efficient aircraft designs.

xii) Petroleum Products⁶¹

Petroleum products mean aviation turbine kerosene, premium motor spirit, house hold kerosene and locally produced liquefied petroleum gas and crude petroleum oils.⁶² This new paragraph was inserted into the First Schedule of the Value Added Tax Act by the VAT (modification) Order, 2021.

xiii) Renewable Energy Equipment⁶³

Renewable energy equipment is equipment that uses renewable energy sources such as solar, wind, geothermal, hydro, biomass and tidal energy to generate electricity or power. It is exempt from Value Added Tax (VAT) in many countries, as it is seen as a product that helps reduce our dependence on non-renewable energy sources and increases the use of renewable energy sources, which can help reduce pollution and create a more sustainable energy future.⁶⁴

xiv) Raw Material for The Production of Baby Diapers and Sanitary Towels⁶⁵

The raw materials for the production of baby diapers and sanitary towels typically includes polyethylene film, elastics, adhesives, paper, woven fabrics etc.⁶⁶ These raw materials are exempt from value added tax due to their direct link to the production of essential items for human health and well-being.

⁵⁶VAT Act 2004, Part 1, 1st Sch, Para 8; VAT Amendment Act 2007 S.13(a).

⁵⁷VAT Act 2004 Part 1, 1st Sch, Para 9

⁵⁸Ibid, Para 10

⁵⁹Ibid., Para 11.

⁶⁰Ibid., S 46; Finance Act 2020, S.44 for the new definition.

⁶¹ Ibid, Para 12.

⁶²VAT (MO 21) Order 5.

⁶³VAT Act 2004, Part 1, 1st Sch, Para 13.

⁶⁴Union of Concerned Scientists (n.d.). Benefits of Renewable Energy < <https://www.ucsusa.org/resources/benefits-renewable-energy-use> > accessed March 16 2023.

⁶⁵ VAT Act 2004, Part 1, 1st Sch, Para14.

⁶⁶Ibid., s.46(f).



xv) Raw Material for the Production of Pharmaceutical Products.⁶⁷

Raw materials for the production of pharmaceutical products are generally exempt from value added tax in Nigeria. These include wheat starch, maize (corn) starch, pharmaceutical grade, Inulin, manioc (cassava) starch, crude groundnut oil etc.⁶⁸ The exemption is probably due to the fact that pharmaceuticals are regarded as a necessity and government typically wants to keep the prices of these goods low. The exemption means that the manufacturer or supplier of such raw materials will not be required to pay the tax on them.

xvi) Locally Produced Animal Feeds⁶⁹

Locally produced animal feeds means feeds for poultry, cattle, fish etc.⁷⁰ These are exempt from value added tax (VAT) in Nigeria. This means that companies are not required to charge VAT on locally produced animal feed products, although they may still have to pay VAT on their other inputs.⁷¹

xvii) Military Hardware, Arms, Ammunitions and Locally Manufactured Uniforms used by the Armed Forces, Para Military and Other Security Agencies of Government in Nigeria.⁷²

In Nigeria, military hardware, arms, ammunitions and locally manufactured military uniforms used by the armed forces, paramilitary and other security agencies are exempt from the value added tax (VAT). This means that no VAT is imposed on the sale of such items.

xviii) Gas Supplied by Gas Producing Companies to Electricity Generating Companies. (GENCOS), Electricity Generated by GENCOS and Supplied to National Grid and Nigeria Bulk Electricity Trading Company (NBET) and Electricity Transmitted by Transmission Company of Nigeria (TCN) to Electricity Distribution Companies (DISCOS).⁷³

This means that these transactions are not subject to VAT. The exemption is intended to reduce the cost of electricity generation and distribution, which is an essential service for the economic growth and development of the country. The exemption applies only to the specific transactions described above and does not apply to other transactions that may be associated with the production, transmission and distribution of electricity, such as the sale of equipment or services related to the electricity sector.

xix) Agricultural Seeds and Seedlings.⁷⁴

Agricultural seeds and seedlings are not subject to Value Added Tax (VAT) in Nigeria. By this provision, it seems this exemption applies to both locally produced and imported seeds and seedlings as there is no differentiation from the seeds and seedling locally produced and the imported ones. Obviously, the goal of the exemption is to support and promote agriculture in Nigeria by making it more affordable for farmers to purchase the necessary inputs for their crops. This exemption significantly is to the benefit of agricultural companies incorporated in Nigeria that engage in primary agricultural production by making animal feeds and seedlings readily available to local farmers at a lower cost.⁷⁵

⁶⁷Ibid., 1st Sch, Para 15.

⁶⁸ Ibid., S.46

⁶⁹VAT Act Ibid Para 16.

⁷⁰VAT (Mo21) ord 5.

⁷¹VAT S.46 for the new definition of Animal feeds; Finance Act 2020, S.44.

⁷² Ibid, Part 1, 1st Sch, Para17.

⁷³Ibid., Part 1, 1st Sch, Para18.

⁷⁴VAT Act Ibid, Para 19.

⁷⁵Commentaries-on-the-vat-modification-order-2021-final (1). Pdf-Adobe cloud storage". (Adobe. Com)<https://aerobat.adobe.com/link/file/?urri%3Aaaid%3Aasc%3Aus%3A3focbiad-86fa-47da-83a2-4eco33Ibid%20exfiletype=application%20pdf&size=839377> accessed 24 March, 2023.



6. Services Exempt from Value Added Tax in Nigeria

There are 8 categories of services that are exempt from VAT in Nigeria. The list of exempted services as contained in the second schedule to the VAT Act 2004 (as amended) and updated by the VAT ACT (modification) Order 2021, are as follows:

i) Medical Services⁷⁶

“Medical services” means health care related services for both humans and animals rendered by a qualified health practitioner, excluding cosmetology, spa, gymnasium and similar services.⁷⁷ In Nigeria, medical services are exempt from Value Added Tax (VAT). This means that any fees charged for the provision of medical services are not subject to taxation. This exemption by this provision supposedly applies to both private and public medical services including doctors, dentists, opticians, hospitals and pharmacies. The exemption also covers any supplies of medical equipment, medicines, and other medical supplies that are supplied by a medical practitioner or service provider, as has been discussed above.⁷⁸

ii) Services Rendered by Unit Microfinance Banks and Mortgage Institutions.⁷⁹

“Unit micro-finance Bank” is a micro-finance bank categorized by the central Bank of Nigeria as Tier 1 or Tier 2 unit Micro-finance Bank. In practical terms, this means that if you borrow money from a unit micro-finance bank or a mortgage institution, you will not be charged VAT on the interest or other fees associated with the loan. Similarly, if you open a saving account or use other financial services provided by these institutions, you will not be charged VAT on any fees or commission paid. However, it is noteworthy that financial institutions pay VAT on the goods and services they use in their operations, so exempting them from VAT helps to avoid double taxation.

iii) Plays and Performances Conducted by Educational Institutions as Part of Learning.⁸⁰

In Nigeria, plays and performances conducted by educational institutions as part of learning are exempt from VAT. This means that educational institutions that organize and host such events are not required to charge VAT on the tickets or admission fees collected by them. The purpose of this exemption is probably aimed to encourage educational institutions to continue offering such activities as it plays a crucial role in promoting cultural and artistic development. It is noteworthy that this exemption applies to play and performances conducted by educational institutions as part of their learning activities. Therefore, plays and performances organized by other entities, such as commercial theaters or entertainment companies, may still be subject to VAT.

iv) All Exported Services.⁸¹

“Exported services” means a service rendered within or outside Nigeria by a person resident in Nigeria, to a non resident outside Nigeria, provided that a service provided to the fixed base or permanent establishment of a non-resident person, shall not qualify as exported services.⁸² This means that if a Nigeria service provider or company provides a service to a person or organization outside Nigeria, such as software development or consulting services, there will be no VAT incurred on the transaction. It is noteworthy that to qualify for the VAT exemption, the service must be supplied and consumed outside the country, and the supply must be made to someone who is not resident in Nigeria at the time of the transaction.

⁷⁶VAT Act 2004 1st Sch, Pt II, Para 1.

⁷⁷VAT (Mo 21) Ord 5.

⁷⁸ (n.34).

⁷⁹VAT Act 2004 1st Sch, Pt II, Para 2 VAT (Mo 21) Ord 2 (2)(a)(2).

⁸⁰ Ibid, Para 3.

⁸¹Ibid, Para 4.

⁸² Ibid., S.46.



v) **Tuition Relating to Nursery, Primary, Secondary and Tertiary Education.**⁸³

This means that educational institutions such as schools, colleges and universities are not required to charge VAT on the tuition fees they charge to their students for the provision of education services. However, it is important to note that other fees and charges such as accommodation, transportation, application, fees, registration fees and other services provided by educational institutions may still attract VAT. These exemptions may be aimed at making education more affordable and accessible to Nigerians, especially those from the low-income families in order to improve the literacy rate and overall education level in the country.

vi) **Airline Transportation Tickets Issued and Sold by Commercial Airlines Registered in Nigeria**⁸⁴

Airline transportation ticket means an airline transportation ticket issued and sold by commercial airlines registered in Nigeria but does not include hired or rented aircraft or private jets.⁸⁵ This means that airline transportation tickets issued and sold by commercial airlines registered in Nigeria are not subject to the Value Added Tax (VAT) imposed by the government. This exemption applies only to airfare and does not extend to any other services or products provided by the airline. This exemption also applies to both domestic and international flights.

vii) **Hire Rental or Lease of Tractors Ploughs and other Agricultural Equipment for Agricultural Purposes.**⁸⁶

Farmers or agricultural businesses that rent or lease such equipment will not have to pay VAT on the rental or leasing fees they pay to the equipment providers. This exemption is obviously purposed at promoting and supporting the development of agriculture in Nigeria by reducing the cost of accessing necessary equipment for agricultural activities. It therefore goes without saying that other related services, such as repair and maintenance of such equipment, may still be subject to VAT.

viii) **Shared Passenger Road-Transport Service**⁸⁷

“Shared passenger road-transport service” means passenger road-transport service, which is available for use by the general public, excluding leased, hired or rented motor vehicles or transportation apparatus for business or private use, or a car or ride hailing. This simply means that any person or business providing shared road passenger transport services, including taxi, buses and motorbike services, can make use of this exemption and do not charge their customers VAT on their transport services. In other words, the exempt service provider will not collect VAT from customers and will not have to pay it to the government.

7. Conclusion

There is no doubt that the Value Added Tax (VAT) is an important tax system that helps Nigerian governments generate revenue. As has been discussed extensively in this paper, there are certain goods and services that are exempted from VAT which include basic necessities such as basic food items, health services and education purposely to ensure that they are accessible to low-income or disadvantaged groups. There are others the Nigerian government must have recently added for example, the renewable energy products to encourage the use of sustainable energy sources. Others exempted like exports, is obviously exempted from VAT to make the Nigerian products more competitive on the global market. Overall VAT exemptions play an important role in ensuring that the tax system is fair and equitable for all and also aimed at promoting economic growth and development.

⁸³ Ibid, S.46, Para 5.

⁸⁴ Ibid., 1st Sch, Pt II, Para 6 and Finance Act 2020, S.45(b)(6).

⁸⁵ VAT (MO 21), Ord 5.

⁸⁶ Ibid, Para 7, FA 2020, S. 45(b)(7).

⁸⁷ VAT (“MO 21”) Ord 2(2) (b); VAT Act 2004 (as amended) 1st Sch, Pt II, Para 8.



Obviously, it is evident that the Nigerian government has taken significant steps to exempt certain goods and services from Value Added Tax. The recent VAT (modification) Order 2021 is a huge step in the right direction. However, it is important to note that the exemptions have their limitations and may not be sufficient to address all the challenges facing the Nigerian economy. There is need for the government to continually review and update the list of exempted goods and services to ensure that they remain relevant and effective in achieving the desired objectives. The government must also provide adequate education and awareness to tax payers and businesses, to reduce tax evasion and increase compliance. Finally, other tax policies should be explored to complement the VAT-exempt policy to achieve a sustainable fiscal policy and economic growth in Nigeria.

8. Recommendations

In the light of the foregoing, the following recommendations are offered in this paper:

- a) The list of exempted goods and services exempted from VAT should be reviewed regularly to ensure that it aligns with current realities and government development objectives.
- b) Creating awareness and education by the government to taxpayers and businesses to increase their understanding of the VAT-exempt policy and reduce tax evasion. The laws guiding goods and services excluded from VAT should be simplified and summarized for quicker assimilation of the population.
- c) The Nigerian government should explore other tax policies that can complement the VAT exempt policy to sustain the fiscal policy and promote economic growth.
- d) The government should solicit public opinions and engagement in the policy making process to ensure that the VAT exempt policy meets the needs and aspirations of the citizens.
- e) Businesses should be rewarded for adhering to the VAT requirements, and those who do not should be penalized.
- f) To monitor and enforce adherence to the VAT requirements, the Nigerian government should create a special body to do so.
- g) To promote adherence to the VAT legislation, the Nigerian government should offer tax reliefs to individuals and small enterprises.
- h) The government should lastly simplify the VAT registration process, increasing transparency, and provide better support and guidance to businesses.

By implementing these recommendations, Nigeria can achieve effective VAT policy that promotes economic growth, reduces tax evasion, increases compliance, and generates adequate revenue that can be used to finance development projects and public services.