



Goods and Services Exempted from Value Added Tax (VAT) in Nigeria

Value Added Tax, also known as VAT, is a consumption tax assessed on goods and services provided at each stage of the production process, from labor and raw materials to the sale of the final product or service. The VAT rate in Nigeria is currently pegged at 7.5%, a 50% increase from its previous rate of 5%.

The primary legislation governing VAT in Nigeria is the Value Added Tax Act Cap V8 LFN 2004 (VAT Act) which provides for the administration of VAT and lists the goods and services that are exempt from this tax. The Finance Act 2019 also seeks to provide guidance on the administration of VAT and adds to the list of goods and services exempt from VAT. The more recent Value Added Tax Act (Modification Order) 2020 seeks to provide further clarity on the definition of some exempted goods/terms and extends the list of exempted items in the First Schedule of the VAT Act.

The Value Added Tax Act (Modification Order) 2020 (Order) was published in the Official Gazette of the Federal Republic of Nigeria on 4th February, 2020. The Order which was signed by the Honourable Minister of Finance, Budget and National Planning, Mrs. Zainab Shamsuna Ahmed, came into effect on the 3rd February, 2020. One of the major highlights of the new Order is the extended list of items exempted from VAT which modifies the First Schedule of the VAT Act. The Order also provides the Common External Tariff (CET) Codes for the exempted items which should provide guidance to stakeholders on the appropriate VAT exemption status of affected items.

Goods and Services Exempted under the Value Added Tax Act (Modification) Order 2020

The Value Added Tax Act (Modification Order) 2020 provides that the following goods and services are exempted from VAT in Nigeria:

1. Medical and Pharmaceutical Products;
2. Basic Food Items – all agro and aqua based staple food;
However basic food items sold in restaurants, hotels, eateries, lounges and other similar premises as well as basic food items sold by contractors, caterers and other similar vendors are not exempted from VAT.
3. Books and Educational Materials;
This includes electronic books, music materials, maps, charts and topographical plans as well as educational books or materials used in educational institutions likes Pre-primary, Primary, Secondary, Tertiary education, Special education, Adult education, Vocational education, Technical or Science education and Religious education.
4. Baby Products;
Products made for the use of babies from birth to 36 months of age are exempted and this includes baby activity and entertainment products;
5. Plant, Machinery and Equipment Purchased for Downstream Gas Utilisation;
Downstream Gas Utilisation refers to the marketing and distribution of natural gas for commercial purposes and includes power plant, liquified natural gas, gas to liquid plant, fertilizer plant, gas

transmission and pipelines;

6. Petroleum Products;

This includes aviation and motor spirit, kerosine and kerosine type jet fuel, natural gas, other liquified petroleum gases and other gaseous hydrocarbons;

7. All Fertilizers, Locally Produced Agricultural and Veterinary Medicine, Farming and Machinery;

8. Essential Raw Materials for the Production of Pharmaceutical Products;

9. Renewable Energy Equipment;

This includes solar cells, wind and solar powered generators;

10. Raw Materials for the Production of Baby Diapers and Sanitary Towels;

11. Medical Services;

These are healthcare related services for both humans and animals rendered by a qualified health practitioner. This however does not include the services for cosmetology, spa, gymnasium and similar services;

12. Shared Passenger Road Transport Service (Public Road Transportation);

This however does not include hired or rented vehicles or transportation vehicle for private use; and

13. Lease and Rental of residential accommodation by persons other than corporate entities.

The extended list of exempted items provided in the Order clearly states the goods and services that fall within the exemption list. Thus, this Order is much welcomed as it provides guidance and clarity to the muddled waters of the extant tax laws.

Goods and Services Exempted under the Finance Act 2019

1. The Finance Act provides that the following goods and services are exempted from VAT:
2. Locally manufactured sanitary towels, pads or tampons;
3. Services rendered by microfinance banks, people' banks and mortgage institutions; and
4. Tuition for nursery, primary, secondary and tertiary education.

Public Notice by the Federal Inland Revenue Service (FIRS)

On 24th June 2020, the Federal Inland Revenue Service (FIRS) issued a Public Notice to the effect that the following items included in the extended list of items exempted from VAT under the Order will not be treated as exempt by the FIRS:

1. Natural gas;
2. Essential raw materials for the production of pharmaceutical products;
3. Renewable energy equipment; and
4. Raw materials for the production of baby diapers and sanitary towels.

The FIRS explained that the above-listed goods were not exempt from VAT because they were not listed in the First Schedule to the VAT Act or in any previous Ministerial Order.

This Public Notice by FIRS has generated some incertitude as to the exemption status of the affected items and the application of the Order in relation to these items. It is hoped that clarity on this is provided in the near future.

Conclusion

The combined reading of the VAT Act, Finance Act and the Order shows that Nigeria aims to provide a robust framework for the administration of VAT in Nigeria and a clear statement on the list of goods and services exempted from VAT. It is however hoped that the uncertainty created off the back of the Public Notice by FIRS is clarified soon and a harmonized legislation on the administration of VAT and the exemption list is provided. This would go a long way to assuage the legitimate concerns of stakeholders.