

# Doing Business in Nigeria 2016



***Rayfield Associates***

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# Foreword

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## *Rayfield Associates*

Welcome to our guide on Doing Business in Nigeria. This publication is a compendium of essential and contemporary issues on the subject of Doing Business in Nigeria and gives a uniquely informative perspective of the key aspects of this subject matter.

Carrying out business internationally expands a company's horizon and offers unique opportunities for growth, development and profit building. This is more so the case in Nigeria because Nigeria poses an excellent operating base from both a business and social perspective; being labelled one of the biggest growing economies in Africa in 2014 and early 2015, being named the third fastest growing economy in the world. Nigeria is also endowed with the busiest ports and the most extensive tax and bilateral investment treaty networks in Africa.

This guide answers many frequently asked questions that foreign businesses and entrepreneurs have when making their first venture into the flourishing Nigerian market based on our experience with establishing businesses in Nigeria.

In addition, this publication goes beyond tax advice and tax compliance. The chapter 'Introduction to Nigeria' offers general information about Nigeria, for example about the location, industries and business segments, living in Nigeria and the workforce. The forms of business used in Nigeria are also clearly elucidated with separate sections for more specific issues like employment law and immigration requirements.

This guide only provides a general overview of the existing opportunities. If you need more information, our advisors will be very happy to assist you on an individual basis.

On behalf of Rayfield Associates, I hope that you will find this guide useful and I would like to wish you every success in Nigeria.



*CM Nwuche*

Hon. Chibudom Nwuche  
Principal Partner, Rayfield Associates

# *Glossary for frequently used terms*

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CAC	Corporate Affairs Commission
CAMA	Companies and Allied Matters Act, Cap. C20 Laws of Federation of Nigeria 2004
CGT	Capital Gains Tax
CITA	Companies Income Tax Act, Cap. C21 Laws of Federation of Nigeria 2004
FIRS	Federal Inland Revenue Service
ICT	Information, Communication and Technology
ISA	Investments and Securities Act
MOU	Memorandum of Understanding
NERC	Nigerian Electricity Regulatory Commission
NIPC	Nigerian Investment Promotion Commission
NCC	Nigerian Communications Commission
PPT	Petroleum Profit Tax
PSC	Production Sharing Contract
SEC	Securities and Exchange Commission

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*Official name:*

***Federal Republic of Nigeria***

*Form of government:*

***Democratic Republic***

*President:*

***Muhammadu Buhari***

*Capital:*

***Lagos***

*Seat of government:*

***Federal Territory Capital, Abuja***

*Surface area:*

***923,768 km<sup>2</sup>***

*Number of inhabitants:*

***182,202,000 (2015)***

*Monetary unit:*

***Naira***

*Languages:*

***English, Hausa, Igbo, Yoruba***



# *Introduction to Nigeria*

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## *Location*

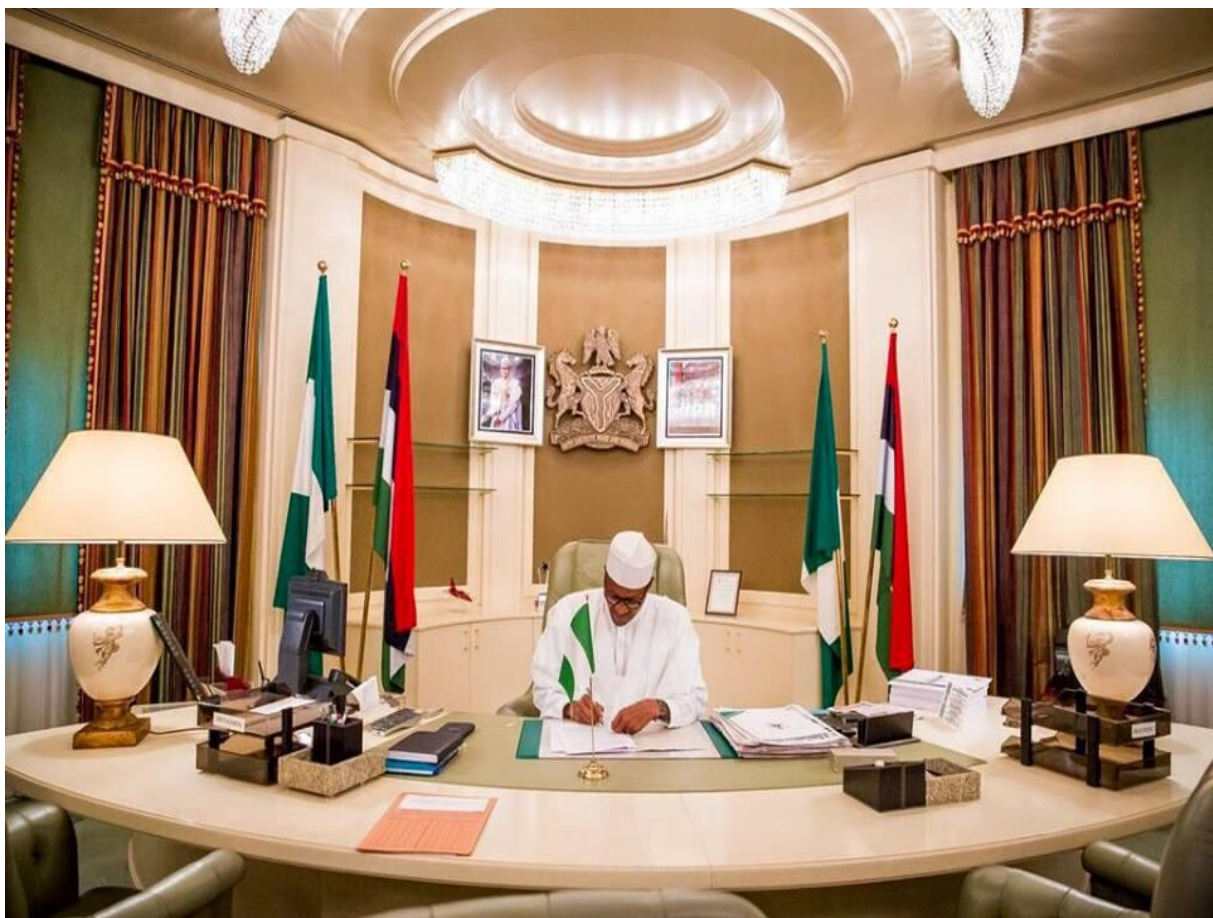
Nigeria is a federal constitutional republic situated in West Africa. The location of Nigeria is bordering Benin in the west, Chad and Cameroon in the east, and Niger in the north. Her coast in the south lies on the Gulf of Guinea in the Atlantic Ocean.

The city of Lagos is the largest in Nigeria, as well as on the African continent. It is one of the fastest growing cities in the world and also one of the most populous urban agglomerations in the world. Lagos is a major financial centre in Africa; the mega city has the highest GDP, and also houses one of the largest and busiest ports on the continent.

## *Government*

The Nigerian government is seated in Abuja and enjoys a good international reputation and functions effectively. Nigeria is a federal republic modelled after the United States, with executive powers exercised by the president.

Nigeria is one of the most stable nations in the world with a competitive fiscal climate.



It is influenced by the Westminster System model in the composition and management of the upper and lower houses of the bicameral legislature. The president presides as both Head of State and head of the national executive; the leader is elected by popular vote to a maximum of two 4-year terms. In the March 28, 2015 presidential election, General Muhammadu Buhari emerged victorious to become the Federal President of Nigeria, defeating then incumbent Goodluck Jonathan.

## *Living in Nigeria*

With approximately 182 million inhabitants, Nigeria is the most populous country in Africa and the seventh most populous country in the world. The country is viewed as a multinational state, as it is inhabited by over 500 ethnic groups, of which the three largest are the Hausa, Igbo and Yoruba; these ethnic groups speak over 500 different languages, and are identified with wide variety of cultures. The official language is English. Nigeria is divided roughly in half between Christians, who live mostly in the southern part of the country, and Muslims who live mostly in the northern part. A minority of the population practise religions indigenous to Nigeria, such as those native to Igbo and Yoruba peoples.





## Economy

As of 2015, Nigeria was the world's 20th largest economy worth more than \$500 billion and \$1 trillion in terms of nominal GDP and purchasing power parity respectively. It overtook South Africa to become Africa's largest economy in 2014. Also, the debt-to-GDP ratio is only 11%, which is 8% below the 2012 ratio. Nigeria is considered to be an emerging market by the World Bank; it has been identified as a regional power on the African continent, a middle power in international affairs, and has also been identified as an emerging global power. With Mexico, Indonesia and Turkey, Nigeria is a member of the MINT group of countries, which are widely seen as the globe's next BRIC-like economies. It is also listed among the Next Eleven economies set to become the biggest in the world.

## Top Sectors

In its economic policy, the Nigerian government focuses on developing the country's infrastructure (including transportation and communications systems, water and power lines), energy (oil, natural gas, power and hydropower), real estate, human capital (education and training), health and agriculture. These are the sectors that are leading the way in innovation and sustainability. Together, they are the drivers of the Nigerian economy.

Nigeria   Economic Forecasts   2016-2020 Outlook							
	Actual	Q1/16	Q2/16	Q3/16	Q4/16	2020	Unit
Currency	199.25	201	205	207	209	159	
GDP	568.51	541	545	556	593	792	USD Billion
GDP Growth Rate	3.1	-11.9	2.3	8.8	2.3	1.31	percent
GDP per capita	1 091.6	1 094.0	1 104.0	1 114.0	1 124.0	1 266.0	USD
GDP From Construction	579 297.9	736 229.0	766 101.0	683 740.0	786 107.0	1 005 379.0	NGN Million
GDP From Manufacturing	1 688 873.6	1 764 213.0	1 623 348.0	1 920 296.0	1 977 327.0	2 641 009.0	NGN Million
GDP From Mining	1 539 681.4	1 852 769.0	2 120 341.0	1 754 671.0	1 930 476.0	1 813 434.0	NGN Million
Unemployment Rate	9.9	10.5	10.8	11.3	10.7	12	percent
Population	178.52	179	180	182	183	205	Million
Inflation Rate	9.6	9.5	9.68	9.86	9.81	8.6	percent
Consumer Price Index CPI	181.71	184	187	190	194	245	Index Points
Interest Rate	11	11	11	11.5	11.5	8.5	percent
Foreign Direct Investment	1 214.0	590	642	927	955	997	USD Million
Gold Reserves	21.37	21.37	21.37	21.37	21.37	21.37	Tonnes
Crude Oil Production	2 320	2 420	2 390	2 250	2 350	2 332	BBL/D/1K
Terrorism Index	9.21	9.21	9.21	9.21	9.21	9.21	
Business Confidence	-10.3	-9.9	-9.5	-8.2	-6.7	-10.16	
Industrial Production	-6.6	-7.2	-7	-6.1	-5.5	3.5	percent
Manufacturing Production	-0.3	-0.1	0.3	1.2	2.3	6.96	percent
Corruption Index	26	27.37	27.74	28.11	28.48	30	Points
Corruption Rank	136	137	135	134	132	133	
Ease of Doing Business	169	162	162	162	162	156	
Gasoline Prices	0.43	0.42	0.42	0.42	0.42	0.41	USD/Liter
Corporate Tax Rate	30	30	30	30	30	30	percent
Personal Income Tax Rate	24	24	24	24	24	24	percent
Sales Tax Rate	5	5	5	5	5	5	percent



## *Energy Sector*

### *Oil*

The oil and gas sector continues to attract a lot of interest from investors in key areas such as offshore, onshore and inland basins, infield developments and development of critical downstream facilities such as pipelines, depots and refineries.

However, the sector has been besieged with security problems relating to oil theft, pipeline vandalism, and piracy in the Gulf of Guinea. Some International Oil Companies have divested from onshore oil blocks and reduced commitment to onshore activities to focus on more challenging and profitable frontiers in the deep offshore, where there is less unrest and crude theft.

### *Natural gas*

Before the Government gas-to-power agenda, natural gas associated with oil production was mostly flared. Since the gas-to-power agenda there have been a number of gas infrastructure projects, but the sector is yet to attract sufficient capital investment and infrastructure projects in gas facilities.

Natural gas and related hydrocarbon productions present a huge opportunity for investment in Nigeria.



### *Power*

In August 2013, the country embarked on an ambitious power sector reform by taking a more liberal approach in allowing the private sector to participate, with the goal of increasing power generation from fossil sources to 20,000MW by 2020.

Since the privatisation, the investors have been working on improving the quantity and quality of services within their networks resulting in several investment opportunities for the provision of ancillary services to these companies such as provision of meters, insulators and transformer.

### Other Sources of Renewable Energy in Nigeria

The NERC aims to generate uninterrupted electricity and stimulate investments in the renewable power segment, through other sources of renewable energy like hydro, solar, wind, biomass etc. The Government is partnering with private sector participants to drive power generation by renewable energy sources.



### Petroleum Industry Bill (PIB)

The PIB seeks to harmonise the 16 different Nigeria petroleum laws into a single document, thereby creating a transparency and productive industry that attracts investments and set out new legal framework for the organisation and operation of the entire oil industry. Unfortunately, the PIB has been undergoing legislative process for over a decade.

### Investment Opportunities in the Energy Sector

- ✚ *The divestment from onshore oil blocks presents an opportunity for investment by smaller indigenous oil companies as well as foreign participation and technical expertise.*
- ✚ *The Federal Government gas-to-power agenda is another major opportunity for developing and commercialising Nigeria's natural gas sector.*
- ✚ *Untapped opportunities exist across the power sector value chain. Some of these include: the development of renewable energy supply, rehabilitation of the national transmission grid operation and maintenance of power and infrastructure in the economy, development of support industries for the power distribution sub-sector.*



## *Maritime Sector*

Nigeria's strategic location on the coast of West Africa puts her at an advantage of becoming a global hub of shipping activities. With a land mass of 923,768km<sup>2</sup>, and a coastal line of 823 kilometres and navigable inland water of about 4,000 kilometres, the investment potentials of the maritime sector are enormous.



Also, being the 6th largest oil producing and exporting country, with proven crude oil reserves (million barrels) at 37,070; and proven natural gas reserves (billion cu. m.) at 5,111 the large consumer nation is known to be the largest market in Africa for foreign investment; And the investment opportunities are indeed enormous.

The investment opportunities in the maritime industry include mining, manufacturing and service industries. The structure of the industry is composed mainly of the port industry, shipping and ancillary services, offshore services, ship building and ship repair, marine services, bunkering services. Each of these components possesses great opportunities for growth and revenue generation for investors.



## ***Agriculture Sector***

According to Akinwumi Adesina, the former Nigeria's agriculture minister and the current President of the African Development, Agriculture is regarded as the new oil in Nigeria. With a wide expanse of land, cheap labour, water supply and rainfall, the sector is being transformed by commercialization at the small, medium and large-scale enterprise levels.

Major crops produced in Nigeria include beans, sesame, cashew nuts, cassava, cocoa beans, groundnuts, gum arabic, kolanut, maize (corn), melon, millet, palm kernels, palm oil, plantains, rice, rubber, sorghum, soybeans and yams.



### ***Investment opportunities***

- ✚ *Rice farming and processing – The ban of importation of rice in Nigeria, as created an opportunity in rice farming and processing, and Nigeria has a vast arable land available.*
- ✚ *There is also the opportunity for professional consultants creating research centres for the business practices.*
- ✚ *Agriculture mechanisation - The level of mechanisation is estimated at 0.03 horsepower per hectare as against 1.5 horsepower recommended by the Food and Agriculture Organisation. This presents an investment opportunity.*

## ***Real Estate Sector***

Real estate in Nigeria is a goldmine, investing in the sector is considered to be safest and the most lucrative, when compared with other forms of investment. With a rapid appreciation in value, this sector is ideal for prospective investors to generate profits through the various investment opportunities listed below:



- ✚ *The gap in residential home is estimated to be in a deficit of about 17 million housing units as at 2013. This presents a huge investment opportunity.*
- ✚ *Commercial properties – Demographics and urbanisation has launched investments in commercial offices, shopping malls and hotels in recent years. This presents investment opportunities for financial institutions.*
- ✚ *There is also the opportunity in investing in providing related construction services.*



### ***Information, Communication and Technology (ICT) Sector***

Nigeria is Africa's largest mobile market. As at April 2015, the country had a tele-density of 103.91 and over 196million telephone lines. The ICT industry comprises; Telecommunications, Broadcasting, Information Technology and Postal Services. The Ministry of Communications Technology (MCT) oversees the ICT sector and supervises the activities of the sector through five regulatory bodies.

The digital economy is becoming increasingly important on the platforms of e-business and commerce with great opportunities and viable market for foreign companies and local players.

#### **Investment opportunities**

- ✚ *IT infrastructure and proprietary software*
- ✚ *Hardware supplies*
- ✚ *Mobile payment systems*
- ✚ *E-business and online advertisements*
- ✚ *Support, maintenance and consultancy services*

# Legal system

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## Setting up a business

By way of common practice, requirement of law, and dependent on the form chosen, certain steps must be taken to set up your company in Nigeria. The CAMA which governs the incorporation, management and regulation of companies in Nigeria, requires foreign company desirous of “*carrying on business*” in Nigeria to take steps to incorporate that company as a “*separate entity*” in Nigeria and until so incorporated, such foreign company shall not “*carry on business*” in Nigeria or exercise any powers of a registered company and shall not have a place of business or an address for service of documents or processes in Nigeria, for any purpose other than the receipt of notices and other documents (i.e. a representative office for preliminary matters to incorporation).

The implication of this is that a company intending to carry on business in Nigeria, can only carry on business through a separate legal company from the foreign company and not a branch office of the foreign company.

The forms of business in Nigeria are described in the next paragraph.





## *Legal Structuring of Entities & Business Model*

There are several ways to operate a business in Nigeria, and for a corporate entity to have legal personality in Nigeria, the CAMA requires such corporate entity to be incorporated as a separate entity in Nigeria.

For a foreigner wishing to set up business operations in Nigeria, the CAMA permits foreigners to invest and participate in any business with the exemption of those businesses on the negative list.

A foreigner is also obliged to take all steps necessary to obtain local incorporation of a Nigerian company, or branch or subsidiary of an existing company, which would be separate and distinct entity from its parent company.

Although, there are instances where a foreign company may be exempted from the requirement to register locally, examples of such exemptions are:

- 🚧 companies engaged by the Federal Government to execute specific projects;
- 🚧 companies undertaking approved loan projects on behalf of donor countries or international organizations; and
- 🚧 foreign government owned companies engaged wholly in export promotion activities

Having established that only legal entities incorporated in Nigeria are permitted by law to carry on business in Nigeria, we will in the ensuing paragraphs, discuss the options available to foreign companies in structuring a legal entity in Nigeria.

### *Incorporation of a Local Entity*

Under Nigerian law, a company may be private or public, and a company whether private or public may be limited by shares, limited by guarantee, or unlimited.

Whether a company is a private or public company, it is required to be incorporated by the CAC. The CAC issues a certificate in respect of the incorporation, and the effect of such incorporation is that from the date of the incorporation the company becomes a legal personality having perpetual succession.

#### *Minimum Share Capital*

The minimum share authorised capital is ₦10, 000 in the case of private companies or ₦500, 000 in the case of public companies. However, minimum share capital of ₦10, 000, 000 is required for companies needing business permits/NIPC registration, expatriate quota or pioneer status.

#### *Prohibition of Trust*

CAMA prohibits the registration of any notice of trust on the register of members, whether express, implied or constructive.

#### *Voting*

All categories of shares in Nigeria carry one vote. Shares with “weighted” voting right are prohibited.

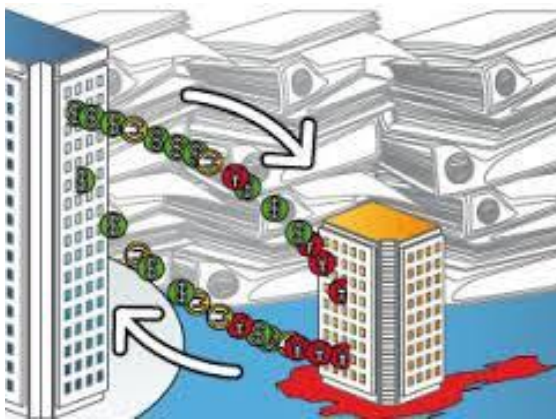
#### *NIPC Registration*

After its incorporation or registration, any entity with foreign participation carrying on business in Nigeria is required to register with NIPC,

## ***Representative Office***

Foreign companies may also set up Representative Offices in Nigeria. A Representative Office however, cannot engage in business, conclude contracts or open or negotiate any Letters of Credit. It can only serve as a promotional and/or liaison office. In this circumstance, its local operational expenses have to flow in from the foreign company. A Representative Office also must be registered with the CAC.

## ***Equity Participation in Nigeria***



Equity participation in a Nigerian company by a foreigner can be through any of the following means:

### ***Acquisition***

Nigerian law permits private arrangement for acquisition of shares in a company between a shareholder of the company and a third party (foreign or local investors). The process is preceded by the execution of a share purchase agreement under which the parties agree to the terms of the sale.

This is then followed by the execution of an instrument of transfer, which is delivered to

the transferee on the payment of the consideration. The instrument of transfer is delivered to the transferee alongside the share certificates. The transferee will then deliver the share certificate to the company.

However, the CAMA grants the directors of a private company the absolute discretion to refuse to register the transfer of any share of a company.

Where the company is a listed company, a stockbroker concludes the deal on behalf of the parties on the floor of the stock exchange.

### ***Asset Purchase***

Nigeria law also permits the acquisition of the assets and or business of any company. This will involve the execution of an Asset Sale or Business Sale Agreement as the case may be.

### ***Takeover***

Nigerian law also permits an acquiring company or individual (foreign or local) to make a bid for the target company, and if the takeover bid is successful, the acquiring company or individual becomes responsible for all of the target company's operations, holdings and debt. The SEC regulates this process in Nigeria.





# Taxation in Nigeria

## Taxes on income and gains

### Corporate income tax



#### Scope of corporate income tax

Nigeria asserts its jurisdiction to tax on the worldwide income of Nigerian companies while non-resident companies are liable to tax only on the profit or income deemed to be derived from Nigeria, unless specified exemption apply.

#### Residency

A company is regarded as a resident of Nigeria if the management and control of its business is exercised in Nigeria. It is generally accepted that the place of management and control is where the board of directors' meetings are held.

#### Tax rate

Companies other than companies engaged in oil exploration and production are taxed at a rate of 30% of taxable profits.

#### Tax incentives and exemption schemes

Tax concessions, such as tax holidays, enhanced deductions/allowances and reduced tax rates, play a pivotal role in shaping the development of Nigeria's economy.

They are used both for the promotion of new investments in preferred industries and for encouraging existing businesses to upgrade their operations, or to provide new products and services that will be beneficial to the Nigeria economy.

The tax incentives are administered by various government agencies, and there is a broad category of activities that could qualify for tax concessions, some of which are summarised below:

- ✚ *Reconstruction allowance:* 10% of the actual expenditure incurred by a company on installation of plants and equipment are allowed and exempted from tax.
- ✚ *Duty draw back/ suspension scheme:* Importers of raw materials and other materials used in the manufacture of goods for export are entitled to claim the import duties earlier paid and the import duties will be refunded provided the manufactured goods are solely for export.
- ✚ *Tax exemption for company's utilization of gas:* There is 3 years tax free period which is renewable for 2 more years.
- ✚ *Investment tax credit:* 15% of a company's income is allowed for a company that purchases/uses

locally manufactured plant, machinery etc. for its business.

- ✚ *Rural Investment Allowance:* This incentive is granted if a company establishes or provide electricity, water and road in rural areas of about 20 km away from such facilities. The allowances depend on the facility provided.
- ✚ *Export Free Zone Allowance:* The profits of export oriented businesses are given 100% tax exemption. No payments of import / export duties or permits are needed in export free zones, subject to certain conditions.
- ✚ *Petroleum Investment Allowances:* 50 % of the income and profits are non-taxable for companies doing petroleum exploration.
- ✚ *Pioneer Status:* tax holiday granted to qualified or eligible industries and products in Nigeria. Usually for 3 years, but renewable for another 1 or 2 years.

### Double Taxation Treaties

As of 2015, Nigeria entered into 12 comprehensive double tax arrangement/agreements with the following countries: Belgium, China, the Czech Republic, France, the Netherlands, Pakistan, Philippines, Romania, Slovakia, South Africa, Romania, and the United Kingdom. As of 2015, there was also an agreement with Italy for relief from double taxation with respect to Air & Shipping.



Nigeria also has double taxation treaties with Kenya, Mauritius, Poland, South Korea, Spain and Sweden. However, these treaties have not been ratified by the Nigerian National Assembly

### Transfer pricing



The FIRS expects all related party transactions to be carried out at arm's length. It has issued guidance on how the arm's length principle is to be applied in practice and the documentation taxpayers need to maintain to comply with this principle. The Nigeria transfer pricing rules apply where at least one related party is subject to tax in Nigeria and it applies to all transactions (both local and cross-border) between a Nigeria taxpayer and its related parties. Under the Transfer Pricing Regulation, the FIRS is empowered to make pricing adjustments to transactions that are not in compliance with the arm's length standard.

### Thin capitalisation

Nigeria does not have thin capitalisation rules.

### Controlled Foreign Companies (CFC)

Nigeria does not have CFC rules.

### Tax compliance and administration

The administration of the tax system and collection of taxes are the responsibility of the Federal Inland Revenue Service (FIRS).

*Filing requirements:* The tax year is known as the year of assessment (YA) and tax is charged on a preceding year basis (e.g. income earned in 2015 will only be

assessed to tax in YA 2016). All taxpayers must file an estimate of their chargeable income with the FIRS within six months from the end of their financial year.

However, companies operating in the capital market are charged on a preceding calendar month basis, and their chargeable must be filed with seven days after the end of each calendar month.

Failure to file the return on time will attract fines and/or imprisonment.



## Personal income tax (PIT)

### Scope of personal income tax

PIT is levied on the profits of individuals, employees, partnerships and incorporated trusts, and it is charged on the basis of residence. The Nigeria taxes its residents on their worldwide income; non-residents are subject to tax only on income derived from specific sources in the Nigeria (mainly income from employment, business income, dividends, gains from a right granted to any other person for the use of any property, etc.).

### Residency

An individual is regarded as resident in Nigeria throughout an assessment year if he:

-  is domiciled in Nigeria; or
-  sojourns in Nigeria for a period or periods in all amounting to an aggregate of 183 days or more in a 12 month period (inclusive of annual leave or temporary period of absence)

### Tax Rate

Resident individuals are taxed at progressive rates ranging from 7% to 24%. There is a non-taxable personal relief of 20% of income applicable to every individual in addition to some other non-

taxable allowances and the balance is taxed in accordance with the following tax table:

Income to be taxed	Rates
First ₦300,000	7%
Next ₦300,000	10%
Next ₦500,000	11%
Next ₦500,000	15%
Next ₦1,600,000	19%
Above ₦3,200,000	24%

Remittance is 10 days after the end of or after the payment.

## Petroleum Profits Tax (PPT)

PPT is levied on the income of companies engaged in upstream petroleum operations, and does not apply to risk service contractors and other oil and gas contractors. The rate for petroleum companies operating under joint ventures is 85% and 50% for oil companies operating under Production Sharing Contract (PSC).

## Capital Gains Tax (CGT)

CGT is a tax imposed on the capital gains accruing on the disposal of assets. The rate for capital gains is 10%. All capital gains accruing to an individual or corporate body is subject to CGT except otherwise stated in the CGT Act.

## Value added tax

VAT is charged at the rate of 5% on the supply of goods and services in Nigeria made by a taxable person in the course of furtherance of a business, unless the supplies are zero-rated or exempt. A VAT taxable person is anyone performing business activities in Nigeria.

A non-resident company carrying on business in Nigeria only need to register for VAT using the address of its local counter party and include the tax on its invoice.

Also, Oil and gas companies and government agencies are required to remit VAT on their purchases directly to the FIRS rather than pay it over to their vendors.

## Education Tax

Education Tax is levied on all Nigeria companies' assessable profits. The rate of tax is 2% of assessable profits. This has now been replaced by the Tertiary Education Tax.

## Customs and excise

Custom duties are levied on costs, insurance and freight with varying rates for different items. The following are examples goods liable to excise duty in the Federal Republic of Nigeria:

Tariff Description	Duty
Perfumes and other toilet water, cosmetics, toilet papers, cleansing or facial tissue, soap and detergent.	5%
Non-alcoholic beverages, fruit juice	5%
Spaghetti/Noodles	5%
Telephone recharge cards/vouchers	5%
Corrugated paper or paper board and cartons, boxes and cases made from corrugated paper and paper board.	5%
Beer and stout, wines, spirits and other alcoholic beverages	20%
Cigarettes and tobacco	20%

## Other taxes

### Stamp Duties

Stamp Duties are basically taxes paid to the Federal or State Government on documents (also known as instruments) such as Conveyances on Sale, Bills of Exchange, Promissory notes, Agreements, Contracts or even documents such as Letters and Certificates of admission, Instruments of Apprenticeship, Insurance Policies etc.

### Cabotage Levy

Vessel owners are required to pay a surcharge of 2% of the contract sum on any contract performed by vessels. Each vessel is required to register with the Nigerian Maritime Administration and Safety Agency (NIMASA).




### Nigerian Communications Commission (NCC) Levy

Network providers in the telecommunication industry are required to pay 2.5% of their annual income as operating levy and a 2% levy on electronic gadgets.

Telecommunication industry is regulated by the Nigerian Communications Commission, and the Annual Operating Levy (AOL) Regulations were issued in 2012.

### Nigerian Content Development (NCD) Levy

Operators in the upstream sector of the oil industry are required to pay a levy of 1% of the contract sum to be deducted at source from any contract in any project, operation, activity or transaction. Other levies include:

-  National Housing Fund Contribution
-  Pension Contribution
-  Employees Compensation Scheme



# *Employment law and Immigration*

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## *Employment law requirements*

Nigerian law grants employees a range of protections that create obligations and potential risks for employers. These include:



### **Health**

A general duty to provide a safe place of work, safe access and safe work systems, supported by related obligations such as consulting with employees or their representatives on health and safety issues and providing staff with certain health and safety information. There is also a mandatory employee compensation scheme whereby 1% of payroll cost is contributed as premium to the National Social Insurance Trust Fund (NSITF) to cover employees from work related accidents and death.

### **Equal opportunity**

An obligation not to discriminate against employees, including job applicants, on a range of grounds, including race, colour, nationality, ethnic origin, age, gender (this includes sexual harassment), marital status, religion or religious belief, sexual orientation, or disability.

### **Minimum Wage**

An obligation to pay employees at least the minimum wage, which is a fixed monthly rate of N18, 000 and no worker in Nigeria should be paid less than this mandatory minimum.

### Average hours

A workday is a standard eight-hour shift and forty-hour a week. Some banks open on Saturdays between 9:00am and 2:00pm. Business transactions are best concluded before 1.00pm on Fridays as a result of the Jumaat service observed by Muslims even though work resumes thereafter. Most supermarkets, restaurants and bars open on weekends depending on their location. Specific conditions related to young workers apply.

### Holidays and vacations

A duty to give each employee paid holiday leave at a minimum of 6 working days for a continuous period of 12 months. Other paid holidays and vacations include public holidays and maternity leave (which is normally fully-paid).

### Pension funds and group life insurance

Employers and employees are required to make a minimum contribution of 10% and 8% respectively of the employee's monthly emoluments. In addition, a Group Life Insurance Policy must be maintained in favour of the employee for a minimum of 3 times the employee's annual total emoluments.

### Dismissal

Employees are protected from wrongful termination of employment. There is a minimum notice entitlement depending on the class of employee. A dismissed employee has the right to claim compensation for unfair dismissal. Although, an employer may dismiss an employee without giving notice, when there is a fundamental breach of employment contract.

## Immigration

Immigration procedure(s) must be started for foreigners who want work and stay in Nigeria. In 2015, a new immigration law was enacted to bridge the gap and address issues on migration to meet globally acceptable standards such as composition and employment, administration, deportation and crew control.



There are three main entry permits available:

### Business visa

This is issued mainly to enable foreign nationals to attend business meetings in Nigeria.

### Temporary Work Permit (TWP)

This is issued to enable foreign nationals to gain entry into Nigeria for the purpose of executing short-term assignments. It is a single entry visa which is usually given for a period of 3 months. It can be extended once for another 3 months upon application.

### Expatriate Quota (EQ)

Companies seeking to employ expatriates must first apply for and be granted an (EQ). The EQ scheme is designed to prevent the indiscriminate employment of expatriates where there are qualified and suitable Nigerians to fill such positions.

The validity of the employer's EQ position determines the EQ awarded. Employees will be considered residents for tax purposes from the first day of the employment assignment.

A company that has been issued an EQ may apply for its renewal when it expires at the discretion of the Ministry.

### Combined Expatriate Residence Permit and Aliens Card (CERPAC)

Every non-Nigerian who enters Nigeria legally and who wishes to reside and/or work in Nigeria must make an application for a CERPAC which when issued is valid for 3 years and becomes renewable.



# *Contacts and links*

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For more information and to find out the opportunities for your company, please contact us:

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Links for more information:

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This document was concluded on 1 July 2016. Subsequent developments have not been included.

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## **About the Author**



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