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Tax Alert - Minimum Tax and Dormant Companies

General Introduction

The inability of global economies to come out of recession has resulted in redundancies and more closure of businesses without liquidation or winding up of many of these affected companies.

There are also companies that were registered and have remained dormant without the owners been aware that the dormancy of their companies attracts minimum tax and minimum corporate affairs commission compliance requirements.

This Tax Alert is an introduction to the Minimum Tax provisions for all registered companies in Nigeria.

Introduction to Minimum Tax

According to the Federal Inland Revenue Service, Minimum Tax is justifiable on the premise that every asset generates income. The Minimum Tax regulations is therefore a anti-tax avoidance measure which is charged whether or not the affected company declares a profit, or the company was dormant during the relevant year of tax assessment.

Where a company is dormant, Minimum Tax is usually charged on the company's net asset or on its share capital, whichever is higher of the two.

Minimum tax legislation

The Companies Income Tax Act (as amended) provides that where in a year of assessment, the ascertainable profits of a company, from all sources, results in a loss or where the company's ascertainable profits results in no tax been liable for payment, or where the tax payable is less than the statutory minimum tax allowable, such a company shall be liable to be charged and to pay a statutory minimum tax, which amount will be dependent on whether the company has a annual turnover of less than ₦500,000, or more than ₦500,000.

A company with an annual turnover of ₦500,000 or less, that has been carrying on business for at least four (4) years, is liable to charge to a Minimum Tax of any of the higher of the following sums:

(i) 0.5 per cent of the company's gross profit; or
(ii) 0.5 per cent of the company's net assets; or
(iii) 0.25 per cent of the company's paid up share capital; or
(iv) 0.25 per cent of the turnover of the company for the relevant year of tax assessment.

Where however, the turnover of the company is more than ₦500,000, the minimum corporation tax payable shall be the higher of the above rates that is charged for companies with an annual turnover of ₦500,000 or less, plus 0.125 (or fifty per cent) on the excess of the turnover that is above ₦500,000 will be charged as Minimum Tax.

Exemption from Minimum Tax Regulations

Companies that are involved in agricultural production or businesses, with companies that have not carried on business during the first four years of their incorporation, or companies that have at least twenty-five per cent imported equity capital fully paid for by a foreign company, are among the exempted corporations to whom the minimum tax provisions stated above do not apply.

Capital Allowances and Minimum Tax

For each year of tax assessment in which Minimum Tax is payable, the capital allowance for that year shall be computed together with any unabsorbed allowances brought forward from the previous years, and these shall be deducted as far as possible from the assessable profits for the relevant financial year, and carried forward to the next financial year.

Dormant Companies and Minimum Tax

The general perception that dormant companies are not liable to pay any tax at all as they are not engaged in any trade or business is not correct. As a tax-avoidance measure, Minimum Tax is charged on the higher amounts of such a dormant company's gross profit, or on its net assets, or on its paid-up share capital, or on its turnover, at the rates stated above. The only exemptions to this rule are as also stated above.

To avoid penalties for non-compliance, owners of companies that are dormant for any reason, or are not making any profits, will do well to contact their Tax Advisers for compliance in order to avoid tax penalties that could finally liquidate such companies.

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