



# Income Tax (Common Reporting Standard) Regulations, 2019

The Federal Inland Revenue Service (“FIRS” or “the Service”) recently issued the Income Tax (Common Reporting Standard) Regulations, 2019 (“The Regulations”) in accordance with the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (AEOI), signed by the Federal Republic of Nigeria in 2017; Common Reporting Standard (“CRS”) and its Commentaries (“CRS Commentaries”).

The Common Reporting Standard (CRS) which was developed by the OECD is a global reporting standard for the automatic exchange of information. The goal of CRS is to allow tax authorities obtain a clearer understanding of financial assets held abroad by their residents, for tax purposes. With CRS Regulations in place, Reporting Financial Institutions (RFIs) are required to provide the financial information of non-resident taxpayers in Nigeria to FIRS. CRS will also enable FIRS to request financial information about Nigerian taxpayers in all the countries that are signatories to the agreements.

## Highlights of the Regulations

1. The Regulations expect RFIs to report account information about non-resident Account Holders including; name, address, jurisdiction of residence, the account number (or functional equivalent), date of birth and, Tax Information Number (TIN) or its equivalent. Additionally, the information to be reported includes the account balance or value, the sum of dividends and income paid or credited to the account, the amount of interest paid or credited to the account, and payments made to the account holder. If an account is closed during the reporting period, the closure must equally be reported.
2. The Regulations have an effective date of 1st July 2019. In respect of 2019 calendar year and for subsequent calendar years, Information Returns are expected to be filed on or before 31st May of the year following the calendar year to which the return relates.
3. The Service may by notice in writing at all reasonable times request for any financial information from RFIs within such time, not less than fourteen (14) days, as the Service may reasonably require.
4. Penalty to be imposed on a person who fails to comply with a duty or obligation stated by these

Regulations is N10,000,000 for each such failure and N1,000,000 for every month in which the failure persists. A similar penalty applies to RFIs for failure to file an Information Return and for failure to keep proper records for the first month and for subsequent months.

5. Where a Financial Institution (FI) or person fails to comply with the requirement of the Service in the exercise or performance of its powers or duties under these Regulations, an administrative penalty of N1,000,000 in the first instance shall apply and N100,000.00 for each subsequent day the failure continues.
6. Penalty for giving false information or omitting to give relevant information in an Information Return by a person shall be N5,000,000. However, where the Service is satisfied that there is a reasonable excuse for an omission or failure, penalties shall not be imposed.

## Our Comments

These Regulations do not provide full and detailed information on a lot of issues regarding CRS and its Commentaries. Taxpayers are left to interpret the principal guidelines issued by OECD in the manner they best understand, and this is bound to create divergent and or conflicting interpretations of the Regulations. We therefore hope that FIRS will issue a more comprehensive guideline that will provide clarity on the expectations of the tax authority from taxpayers.

Though the jury is still out on whether or not the FIRS has the powers to impose penalties that are over and above the penalties specified in the Companies Income Tax Act (CITA) or even in the FIRS Establishment Act, we opine that the hefty nature of the penalties under these Regulations and indeed the earlier issued Transfer Pricing Regulations appear unrealistic, hence begging the question as to the objectives the penalties are aimed at achieving.

Nonetheless, we implore all affected RFIs to acquaint themselves with the provisions of the Standard for Automatic Exchange of Financial Account Information in Tax Matters issued by the OECD, to enable compliance with the Regulations and avoid the payment of the huge penalties imposed thereon.

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