

VAT Compliance Under the Nigeria Tax Act: Implications for Oil and Gas Companies

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Introduction

The Nigeria Tax Act (NTA), now fully in effect, represents a major overhaul of the country's tax framework. One significant change is the repeal of the former Value Added Tax Act and the consolidation of VAT administration into the NTA.

This shift introduces new compliance obligations for Companies, particularly in the Oil and Gas sector, where VAT deduction at source (also known as "withholding VAT") has historically played a critical role in revenue assurance.

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This article examines the implications of the NTA on VAT compliance for Oil and Gas Companies, with particular focus on withholding VAT, input VAT recovery, and refund processes. It also highlights areas requiring clarification to ensure smooth transition and compliance.

Previous Framework: VAT Deduction at Source Under the former VAT Act

Under Section 13(2) of the now repealed Value Added Tax Act and the FIRS circular 02/2007, certain Companies, including those operating in the Oil and Gas sector, were specifically mandated to deduct VAT at source. This meant that whenever they paid suppliers or contractors, they withheld the output VAT and remitted it directly to the authorities. The policy intent included:



Improving VAT compliance in high-risk sectors



Reducing under-reporting of revenue



Enhancing overall VAT collection efficiency

However, this system created a major challenge for Companies in the Services sub-sector of the Oil and Gas industry, mainly due to their inability to recover input VAT suffered on taxable purchases.



Constraint on Input VAT Recovery

Due to the fact that their customers also withheld output VAT at source, Oil and Gas services Companies frequently had little or no output VAT against which to offset their input VAT. As a result:

- » Input VAT on taxable purchases (goods and services) accumulated over time
- » The only recovery mechanism available was the VAT refund process
- » Refunds were historically slow, audit heavy, and often subject to long administrative delays

In practice, many Companies expensed input VAT along with their respective costs because refunds were nearly impossible. This implied that the Company enjoyed income tax savings of 33% as against a 100% recovery of the input tax paid.



VAT Deduction at Source Under the Nigeria Tax Act (NTA)

Section 154 of the NTA lists specific categories of entities required to deduct VAT at source. Notably, the Oil and Gas sector is not explicitly included in this list. However, Section 154(b) provides that “the Service may appoint any other person to collect or withhold VAT as it considers necessary”.

This may mean that with the new regime that took effect from 1 January 2026, Oil and Gas Companies will only be required to deduct VAT at source when they have been formally appointed by the Nigeria Revenue Service (NRS).

In spite of this, Section 146 of the Nigerian Tax Administration Act (NTAA) stipulates that any notice, guideline, rule, order, regulation, circular, or other subsidiary legislation issued under a repealed or amended enactment shall continue to remain in force as though it were issued under the NTA, except where it is inconsistent with the

provisions of the new Act. Since the withholding VAT obligations for the Oil & Gas sector was enforced via a circular (FIRS circular 02/2007), it is safe to say that Oil & Gas Companies will continue to act as collecting agents until a new circular addressing this matter has been issued.

Input VAT Recovery and VAT Refunds Under the New Framework

Under the new VAT rules introduced by the Nigeria Tax Administration Act (NTAA), VAT paid on services and capital items used for taxable supplies now qualifies as input VAT. Companies may choose to record this VAT as a receivable or continue to expense or capitalise as was the previous practice. Though choosing to expense the VAT paid on supplies appears to be an easier option, Companies need to be aware that expensing only gives an income tax savings of 33% with the remaining 67% of the input VAT paid being lost. On the other hand, a claim for VAT refund allows the Company to recover 100% of all the VAT paid.

In the light of the changes in the refund process introduced in the NTAA, where a Company opts to recover its VAT receivable, it must apply to the Service for a VAT refund. The application must

be submitted in the prescribed form within 12 months of the transaction that generated the refund; otherwise, the right to claim it is lost. Once a valid application is received, the Service is required to process it within 30 days, either by issuing the refund or allowing the amount to be set off against any existing tax liability.

The NTAA, which complements the NTA, reinforces this 30-day processing requirement once all necessary documentation has been submitted. This introduces a more efficient refund mechanism compared to previous timelines, although real world implementation is yet to be fully tested, especially in sectors with complex VAT positions such as Oil and Gas.

Conclusion

The changes introduced by the new tax laws bring relief for Oil and Gas Companies who have always struggled with input VAT recoverability. Though implementation of the ease in the VAT refund process is yet to be tested, we believe that the Nigeria Revenue Service (NRS) will ensure that the entire process is as seamless as it was intended to be. For clarity purposes and in line with Section 154(b) of the NTA, we recommend that the NRS issue a comprehensive guideline detailing Companies with withholding obligations.

In addition, Companies may need to identify the appropriate party responsible for remittance and address potential inconsistencies between contractual provisions and statutory requirements. Where VAT refunds become necessary, particularly in cases where customers withhold VAT at source, Companies must be prepared with accurate and complete documentation. This includes properly validated tax invoices, proof of VAT withheld, evidence of payment, and all relevant supporting schedules to effectively utilise the 30-day VAT refund window.



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