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NEWSLETTER



NIGERIA – UNITED ARAB EMIRATES DOUBLE TAXATION AGREEMENT: HOW MUTUALLY BENEFICIAL?

Double taxation is a significant and oftentimes, overriding consideration in the execution of many cross-border transactions and investments. In order to eliminate or at least minimise the onerous burden placed upon international businesses on account of the incidence of double taxation, a vast majority of countries have, over the years, taken steps to enter into bilateral or multilateral agreements for the relief of double taxation.

Nigeria has so far entered into Double Taxation Agreements ('DTAs') with thirteen countries¹. In addition, Nigeria has signed but not yet ratified DTAs with eight other countries. While some experts say that the number of DTAs ratified are insufficient to foster the desired level of foreign direct investment required to grow Nigeria's economy, others argue that the practice of entering into these agreements encourages treaty shopping, round-tripping, capital flight and ultimately, marginal tax revenue.

On 19 January 2016, Nigeria entered into a suite of six bilateral agreements with the United Arab Emirates ('UAE'), amongst which was a DTA. Although the text of the DTA has not yet been published, it is most likely that, in common with other Nigerian DTAs, it would have been patterned after the model tax convention adopted by the Organisation for Economic Cooperation and Development. Save for taxes (imposed by the Emirates constituting the UAE) on foreign oil companies engaged in upstream petroleum activities and branches of foreign banks, the Federal Government of the UAE does not impose taxes on the income of companies and individuals in the UAE neither does it impose transactional taxes, such as Value Added Tax and excises within its territory.

The predominant non-applicability of taxes in the UAE raises the question of the extent to which the new DTA would be beneficial to both countries. For example, of what use is a Nigerian tax credit to a tax resident of the UAE if no home country tax liability has arisen

in the first place? Conversely, a Nigerian tax resident operating in the UAE will encounter no taxes in the UAE and will therefore be unlikely to require any double tax relief back in Nigeria under the DTA. Thus, it remains unclear what benefit either country or their respective taxpayers could in reality, derive from the new DTA.

That said, in the specific case of Nigerian oil companies and banks who may decide to set up shop in the UAE, the DTA is likely to prove beneficial since such companies come under the limited category of businesses that are liable to income tax in the UAE. It is also possible that the new DTA would prove useful to tax residents of the UAE in the event that the UAE were to introduce taxes at the Federal level in the future.

¹Under the Nigerian constitution, these DTAs which are yet to be ratified are not enforceable within Nigeria until enacted into law by an Act of the National Assembly.