



FEDERAL INLAND REVENUE SERVICE

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INFORMATION CIRCULAR

NO: 2020/13

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Subject: GUIDELINES ON THE TREATMENT OF TAXES ON INCOME OR PROFITS PAID IN FOREIGN JURISDICTIONS THAT HAVE NO DOUBLE TAXATION AGREEMENT WITH NIGERIA

This circular is issued for the information and guidance of the general public, taxpayers and tax practitioners on the processes and procedures for the implementation of Section 27(c) of the Companies Income Tax Act regarding the deduction of tax levied outside Nigeria on profits which are also chargeable to tax in Nigeria, where relief for the double taxation of those profits may not have been given under any other provision of the Act. This instant circular amends, updates or replaces contents of any circular, notice or other publication previously issued by the Service that is inconsistent with its contents to the extent of such inconsistency.

1.0 Introduction

Section 27(c) of the Companies Income Tax Act (CITA) Cap. 21 LFN 2004 (as amended) provides that:

"notwithstanding any other provision of this Act, no deduction shall be allowed for the purpose of ascertaining the profits of any company in respect of taxes on income or profits levied in Nigeria or elsewhere, other than tax levied outside Nigeria on profits which are also chargeable to tax in Nigeria where relief for the double taxation of those profits may not be given under any other provision of this Act."

As such, where a company had paid tax in a foreign jurisdiction with which Nigeria does not have a tax treaty and that income is chargeable to tax in Nigeria, the tax paid in that foreign jurisdiction may be allowed for deduction in ascertaining the company's assessable profits provided that relevant conditions are met.

2.0 Conditions for Allowing Foreign Tax Paid as Deduction

In order that taxes paid in another jurisdiction may be allowed for deduction in computing assessable profits of a company in Nigeria, all the following conditions shall be met:

- (i) There is no Double Taxation Agreement (DTA) between Nigeria and the country to which the tax was paid (for double taxation reliefs under DTA, see FIRS Circular on Claim of Tax Treaties Benefits in Nigeria on <https://www.firs.gov.ng/TaxResources/TaxTreaties>).
- (ii) The income from which the tax was paid in the foreign jurisdiction is included in the company's assessable profits for the relevant year of assessment,
- (iii) The tax charged in the foreign jurisdiction is similar to the tax imposed by the Companies Income Tax Act (CITA), excluding any fine, interest or penalty,
- (iv) The income or profits on which the tax was charged in the foreign jurisdiction is chargeable to tax in Nigeria i.e. it is not exempt under any provision of the law, and
- (v) The taxpayer presents evidence of the tax payment in the foreign jurisdiction in the form of a certificate (Tax Credit Certificate) or note (Tax Credit Note) issued by the tax authority of the jurisdiction to which the tax was paid.

3.0 Procedure

A taxpayer claiming deduction for foreign tax paid pursuant to Section 27(c) of CITA shall include a Tax Credit Certificate or Tax Credit Note in its tax returns as evidence of the tax paid in the foreign jurisdiction.

The Service shall adopt the following procedures in accepting the tax paid in a foreign jurisdiction as an allowable deduction:

1. The tax office, upon receipt of a Tax Credit Certificate or Tax Credit Note, will forward the certificate or note to the Tax Policy & Advisory Department for confirmation.
2. The Service will confirm that there is no DTA between Nigeria and the foreign jurisdiction.

3. The Service will confirm from the foreign jurisdiction that:
 - a) the Tax Credit Certificates or Tax Credit Note is authentic; and
 - b) tax charged in the foreign jurisdiction qualifies as tax on income or profits.
4. The Service will, through its desk review or tax audit establish that the relevant income is included in the assessable profits of the taxpayer for the relevant year of assessment and was in no way exempt from CIT and that the expense relates to the income that is chargeable to tax in Nigeria.

4.0 Amendment or Revision of the Circular

The Service may, at any time, withdraw or replace this Circular or publish an amended or updated version.

5.0 Enquiries

Any request for further information or clarifications on this Information Circular should be directed to the:

Executive Chairman,
Federal Inland Revenue Service
Revenue House, No 15 Sokode Crescent,
Wuse Zone 5, Abuja.

Or

Director, Tax Policy and Advisory Department
Federal Inland Revenue Service
Revenue House, No 15 Sokode Crescent,
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Or

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