

TIT-BITS

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WHAT'S THE FUSS ABOUT THE EMERGENCY ECONOMIC STIMULUS BILL 2020?

Background

Businesses across the globe continue to feel the adverse impact of the Corona virus (Covid-19) pandemic (the "Pandemic"). Many Nigerians have suffered untold hardship on account of the partial or total shut down of business, particularly in the wake of the lockdown of businesses ordered by President Muhammadu Buhari (the "President") in Lagos and Ogun States as well as the Federal Capital Territory, Abuja.

The lockdown order which has recently been extended until May 4, 2020 applies to all businesses (except essential services providers). Specifically, businesses across the country have suffered huge financial losses while several workers have either lost their jobs or are being owed salaries due to the inability of employers to pay.

On March 24, 2020, the House of Representatives of the Federal Republic of Nigeria introduced and passed the Emergency Economic Stimulus Bill, 2020 (the "Bill").

Objectives of the Bill

The overall objective of the Bill is to stimulate the Nigerian economy and cushion the effect of travel and movement restrictions and business disruptions occasioned by the occurrence of the Pandemic. Section 1 of the Bill sets out the specific objectives of the Bill, which objectives are as follows:

1. To provide temporary relief to companies, businesses and individuals to alleviate the financial burden resulting from the slowdown in economic activities due to the Pandemic;
2. To protect the employment status of Nigerians at the risk of retrenchments given the prevailing economic realities;
3. To provide a moratorium on mortgage obligations for individuals considering the economic uncertainty;
4. To eliminate fiscal bottlenecks on the importation of medical necessities as well as personal protection equipment required to manage the Pandemic; and
5. To cater for the financial wellbeing of Nigerians pending the return of normalcy after the eradication of the Pandemic.

Fiscal Stimulus Afforded by the Bill

The Bill which is intended to apply throughout the Federal Republic of Nigeria seeks to achieve its objectives through (1) job protection through the grant of a tax rebate; (2) deferral of mortgage payment; and (3) import duty waiver. We explain each of these measures briefly below:

1. Job Protection

The Bill proposes a fifty per cent (50%) income tax rebate on the total actual amount due or paid as pay-as-you-earn (PAYE) tax under the Personal Income Tax Act Cap. P8 Laws of the Federation of Nigeria ("LFN") 2004 (as amended), to Nigerian employers, subject to the fulfillment of two conditions.

First, the employer must be registered either under Part A (Companies) or Part B (Business Names) of the Companies and Allied Matters Act Cap. C20 LFN 2004 ("CAMA"). Companies that are partly

or wholly under the Petroleum Profit Tax Act Cap. P13 LFN 2004 (as amended) are not eligible for this relief.

In addition to registration under CAMA, the employer must retain all its employees from March 1, 2020 to December 31, 2020 (or a later date as may be extended by the President). It is immaterial that the reduction in number of employees is due to death arising from natural causes, voluntary disengagement by the employee prior to the commencement date of the Bill, or disengagement by virtue of a breach of the Labour Act Cap. L5 LFN 2004.

2. Deferral of Mortgage Payments under the National Housing Fund Act 2018

Section 8 of the Bill proposes a moratorium on mortgage payments under the National Housing Fund for a period of one hundred and eighty (180) days effective from March 1, 2020. Section 9 of the Bill also seeks to empower the President to extend the deferral for a period not exceeding one hundred and eighty (180) day, subject to a majority vote by members of the National Assembly.

3. Import Duty Waiver on Medicines and Medical Goods

Section 10 of the Bill proposes a waiver of import duties on medical equipment, medicines, personal protection equipment and other such medical necessities as may be required for the treatment and management of the Pandemic in Nigeria for three (3) months, effective March 1, 2020. It is intended to empower the President to extend the import waiver period in exercise of his powers under the Customs, Excise Tariff, Etc. (Consolidation) Act, Cap C49 LFN 2004 (as amended).

Also, by Section 11 of the Bill, the Minister for Health will be empowered to specify any goods which may qualify for a waiver of import duties by regulations published in the Gazette. Furthermore, by Section 13, the President will be empowered to extend the import waiver period (where the Pandemic extends beyond December 3, 2020), subject to a majority vote by members of the National Assembly.

Conclusion

Although the passage of the Bill represents a timely legislative step towards alleviating the negative effects of the Pandemic on Nigerian businesses and the Nigerian economy in general, the Bill is not without its pitfalls, chief amongst which is the perceived insensitivity to the needs of businesses and individuals across-the-board.

For instance, one wonders the basis for the Bill not to extend the tax relief to oil producing companies considering that they experience constraints similar to those being faced by businesses in other sectors of the Nigerian economy. The exemption is even more curious considering that crude oil is currently selling below the production cost, resulting in the threatened security of employment of oil workers.

Again, the Bill does not specify the modalities for implementing the tax rebate. In this regard, it is suggested that the relief be implemented by way of a deduction against the income tax payable under the Companies Income Tax Act (as opposed to a cash refund to eligible businesses).

The Bill is awaiting the review of the Senate of the Federal Republic of Nigeria following which it will be presented (if passed by the Senate) to the President for his assent. It is hoped that the Senate will subject the Bill to proper scrutiny by addressing the practical considerations highlighted above.