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SIGNIFICANT ECONOMIC PRESENCE FOR NON-RESIDENT COMPANIES

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The Finance Act 2020 amended the Companies Income Tax Act, Cap C21, Laws of the Federation of Nigeria 2004 (as amended by the Companies Income Tax Amendment Act No. 11 of 2007) by imposing tax on non-resident companies (“**NRCs**”) so long as such entities have “*significant economic presence*” (“**SEP**”) in Nigeria.

On May 29, 2020, the Finance Minister issued the Companies Income Tax (Significant Economic Presence) Order 2020 (the “**Order**”) with a view to clarifying the SEP provisions of the Finance Act.

NRCs Engaged in Digital Transactions

By the Order, an NRC involved in digital transactions will be deemed to have SEP in Nigeria and therefore, liable to pay income tax if it:

- (a) Derives income exceeding N25 million or equivalent in other currencies from Nigeria in an assessment year;
- (b) Uses a Nigerian domain name or registers a website address in Nigeria; or
- (c) Has a purposeful and sustained interaction with persons in Nigeria by customizing its digital platform to target persons in Nigeria, including reflecting the price of its products in Naira.

NRCs Providing Technical, Professional, Management or Consultancy Services

Subject to certain exceptions set out in Section 2 of the Order, an NRC engaged in the provision of technical, management, consultancy or professional services will be deemed to have SEP in Nigeria if in respect of those services in any accounting year, it earns any income or receives any payment from a person resident in Nigeria or a fixed base or agent of a foreign entity in Nigeria.