FIRS releases public notice on proposed VAT and WHT compliance monitoring exercise

The Federal Inland Revenue Service (FIRS), on 1 June 2022, released a public notice to inform all taxable persons and tax agents¹ of the upcoming national value added tax (VAT) and withholding tax (WHT) compliance monitoring exercise slated to commence from 1 July 2022 (the Notice). This is in line with the provisions of sections 2, 8, 26, and 29 of the FIRS Establishment Act (FIRSEA).

**Highlights of the Notice**

- **a**
  FIRS’ officers will conduct reviews of VAT and WHT records at the offices of selected taxpayers and tax agents.

- **b**
  The exercise is to cover 2016 – 2020 accounting years for taxpayers that have been audited up to 2015 but will extend to years earlier than 2016 to the extent that those years have not been audited.

- **c**
  The Notice directs that taxable persons and tax agents remit unpaid VAT and WHT by 15 June 2022 (i.e., two (2) weeks from the issuance of the Notice).

- **d**
  The selected taxpayers and tax agents for this exercise will be notified via a letter. This letter will also contain the list of documents required for the exercise.

**Commentary**

This initiative by the FIRS raises the following issues:

**Review period**

FIRS has indicated that it will extend the review exercise to more than six years for some companies. This may create practical difficulty for incorporated taxpayers and tax agents, as section 375 of the Companies and Allied Matters Act (CAMA) requires companies to retain their accounting records for six years from when those records were made. It will therefore be challenging for such an exercise to be carried out on taxpayers who align their record keeping with the CAMA provision.

Besides, where the review exercise relates to the recovery of under-assessed taxes, section 34(2) of FIRSEA should guide the FIRS. The section provides that demands for underpaid or under-assessed taxes should not be made after five (5) years from the date of default, except where the demand is necessitated by untrue statements made or documents submitted by the taxpayer.

**No position on accrued interest and penalty**

FIRS’ request for remittance of previously unremitted VAT and WHT within two weeks from the date of the Notice makes no mention of interest and penalty that have accrued over time. There is, therefore, no apparent incentive for taxpayers to remit unpaid VAT and WHT by 15 June 2022.

Consequently, it is imperative for taxpayers/tax agents to review their records to identify any under/unpaid VAT and WHT deducted at source and estimate accrued interest and penalty before the commencement of the exercise in order to, if selected, properly engage the FIRS.

If you require further clarification or seek to understand how this would impact your business, please reach out to ngtaxpartners@deloitte.com.

¹Including non-governmental organisations (NGOs), Ministries, Departments, and Agencies (MDAs) of the Federal, State and Local governments.