



VAT DISPUTE:

Court of Appeal orders all parties to maintain pre-dispute position

The Court of Appeal sitting in Abuja, on 10 September 2021, ordered all parties to maintain status quo ante-bellum (pre-dispute status) and refrain from taking any steps to give effect to the judgment of the Federal High Court (FHC) in the case of Attorney General of Rivers State v. FIRS & Attorney General of the Federation pending the hearing and determination of the motion for stay of execution filed by the Federal Inland Revenue Service (FIRS).

The FHC had on 9 August 2021 invalidated the powers of the National Assembly to legislate on Value Added Taxes (VAT) and held that the Rivers State Government, not the FIRS, was empowered to collect Value Added Tax (VAT), Personal Income Tax (PIT), Tertiary Education Tax (TET), Withholding Tax (WHT) and other taxes not exclusively assigned (or expressly mentioned) to the Federal Government by the Nigerian Constitution within the State. Please click on this link to access our previous alert on the ruling.

Pursuant to this, Rivers State Government signed a VAT Bill into law for Rivers on 19 August 2021, with Lagos State following suit on 10 September 2021.

The FIRS had filed an application to halt the enforcement of the FHC's decision pending the hearing of the appeal filed by FIRS at the Court of Appeal. The FHC, heard and dismissed FIRS' application on 6 September 2021, stating that granting the application would negate the principle of equity and amount to the Court overruling itself.

Consequently, FIRS filed another application for stay of execution at the Court of Appeal. Rivers State Government, on the other hand, (relying on the FHC dismissal of FIRS' application and its new law) also released communications to taxpayers requesting remittance of VAT beginning from September 2021.

Providing a temporary relief, the Court of Appeal, by its latest order of 10 September 2021, mandated parties to refrain from taking any steps to give effect to the FHC judgment, and maintain the pre-dispute status. On the strength of the Appeal Court's judgement, taxpayers are expected to continue to comply with their VAT obligations to FIRS in line with the Federal VAT Act until the hearing and determination of the motion for stay of execution.

The Court of Appeal indicated that FIRS' motion for stay of execution will be heard on Thursday, 16 September 2021. It is expected that the Court will deal with the disputes expeditiously to provide clear directives to taxpayers.



If you require further clarification or seek to understand how this would impact your business, please reach out to

ngtaxpartners@deloitte.com

Suit No. FHC/PH/CS/149/2020

 DeloitteNigeria  www.deloitte.com.ng

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms. Deloitte provides audit, consulting, financial advisory, risk advisory, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries and territories bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 334,000 professionals make an impact that matters, please connect with us on Facebook, LinkedIn, or Twitter.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte network") is, by means of this communication, rendering professional advice or services.

Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2021. For more information, contact Deloitte Touche Tohmatsu Limited.