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The Nigeria Tax Bill 2024; Taxation of Digital Assets in Nigeria

The global adoption of cryptocurrencies, Non-Fungible Tokens (NFTs) and other digital assets has transformed the way businesses operate, invest, and transact. As these digital assets gain prominence, understanding how they are taxed, and its implications becomes crucial for businesses navigating the evolving tax landscape in Nigeria.

In Nigeria, digital assets have seen remarkable growth over the past decade. As one of Africa's largest economies and a hub for blockchain innovation, the country has experienced a significant surge in its usage.

This article analyses the taxation of digital assets in Nigeria and the likely impact on businesses providing digital services.

Capturing the Digital Assets Ecosystem under Nigerian Tax Law

The Finance Act 2020 introduced the concept of "Significant Economic Presence" as the basis for taxing digital and online transactions by non-resident companies. This marked a significant step towards adapting the tax system to the evolving global digital economy while ensuring that digital transactions and services are captured within the tax bracket in Nigeria. Similarly, the Capital Gains Tax Act was amended by the Finance Act 2020 to include Digital Assets in the list of chargeable assets upon disposal.

The term "Digital Assets" means digital representation of value that can be digitally exchanged including, but not limited to, crypto assets, utility token, security tokens, non-fungible tokens (NFT), such other similar digital representation or derivatives of any of the listed or similar assets and any other asset as may be defined by the relevant regulatory authority¹.

Prior to 2023, the Central Bank of Nigeria (CBN) maintained a strict approach to the regulation of cryptocurrency and virtual assets in Nigeria, prohibiting Financial Institutions (FIs) and Other Financial Institutions (OFIs) from processing or maintaining accounts utilised for cryptocurrency related transactions. Specifically, the CBN directed, Deposit Money Banks, Non-Bank Financial Institutions and Other Financial Institutions to close accounts of persons or entities

involved in cryptocurrency transactions within their systems. However, in a Circular issued on 23 December 2023, the CBN issued Guidelines on Operations of Bank Accounts for Virtual Assets Service Providers ("the Guidelines"), and in a shift in policy, effectively relaxed its approach to the regulation of virtual assets. Under these Guidelines, FIs and OFIs are now permitted to facilitate the opening and operation of designated accounts for eligible stakeholders conducting virtual asset transactions, provided they comply with the Guidelines.

Additionally, the Securities and Exchange Commission (SEC) recently in a proactive approach to regulating digital assets in Nigeria, issued proposed amendments to the existing Digital Assets Rules scheduled to take effect from 30 June 2025. The SEC also introduced a Framework on Accelerated Regulatory Incubation Program for onboarding of Virtual Assets Service Providers and other Digital Investments Service Providers.

The Nigeria Tax Bill 2024 - Tax Framework for Digital Assets in Nigeria

The Nigeria Tax Bill ("the Bill") 2024 presented to the National Assembly by the President of the Federal Republic of Nigeria recently passed the second reading. The Bill seeks to provide a unified fiscal legislation governing taxation in Nigeria. The Bill in its definition of "digital assets" takes into cognisance crypto assets, utility tokens, security tokens, non-fungible tokens (NFT), as digital representation or derivatives of any of the listed or similar assets and any other asset that represents value. The Bill proposes that profits or gains of a person accruing in, or derived from Nigeria, now includes profits or gains from transactions in digital assets². Consequently, all profits or gains from any transactions in digital assets is subject to tax.

The Bill introduces provisions for the ascertainment of the total income of an individual and that of a Company such that any loss incurred in any period from sales, disposal or any other transaction in digital assets shall only be deductible against the profit or gain from digital assets³. For instance, a loss from digital asset transactions in a given period, can only be offset against profits or gains from other digital asset transactions — not any other taxable income from other business activities.

Notably, digital assets form part of the chargeable assets in the Bill except those gains accruing to a person on disposal of shares in any Nigerian company where the disposal proceed, in aggregate, is less than N150, 000, 000 and the chargeable gain does not exceed N10, 000, 000 in any 12 consecutive months, or the shares are transferred between an Approved Borrower

and a Lender in a regulated Securities Lending Transaction.

From the Value Added Tax (VAT) perspective, any goods and services that are not specified in the first schedule of the VAT Act as exempted are liable to be charged VAT. This therefore suggests that all goods transacted, and services rendered digitally by Virtual Assets Service Providers (VASP) that are not exempted from VAT will be liable to VAT.

Impact of the Taxation of Digital Assets on Businesses

The Bill and the SEC's continued approach to regulate digital assets, has the potential to significantly impact the digital asset landscape in Nigeria and in turn boost Nigeria's attractiveness as a worthy investment destination.

We highlight the potential impact the Bill is poised to make below:

- Bringing the activities of the VASP under the tax bracket along with other digital transactions will inevitably boost revenue for government at the National and Sub-national levels.

- The Bill, combined with the CBN and the SEC's progressive approach towards regulating digital assets, creates a comprehensive regulatory framework for digital assets. Thus, this can enhance compliance, minimise risks associated with unregulated digital assets transactions which will in turn create a clear tax regime for digital assets to attract foreign investors and businesses in the digital asset space.

- The Bill provides clarity on how these Digital assets will be treated for tax purposes, providing a degree of certainty for prospective investors and taxpayers, which is in accordance with already existing case law.⁴

- Businesses and individuals who engage in digital asset transactions will be subject to Income Tax on all profits or gains derived from such transactions. In the same manner, losses incurred from digital asset transactions will only be offset against profits from digital assets.

Overall, the success of the Bill in attracting investment will depend on how well the government balances regulation with the need to foster growth in the digital asset sector. By adopting a progressive approach to digital asset taxation, Nigeria can position itself as a leader in the digital economy in Africa.

Conclusion

The Nigeria Tax Bill 2024 has the potential to significantly impact businesses involved in providing digital services and thus make Nigeria's digital ecosystem a viable investment destination. The adoption of digital assets in Nigeria's financial markets is poised for continued growth. Whether this translates to financial inclusion and economic stability depends on the effectiveness of the regulatory framework. By recognising digital assets as a unique asset class with diverse utilities, Nigeria can create a forward-thinking framework that balances innovation, market stability, and investor protection.

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¹ The Nigeria Tax Bill, 2024.
² Chapter 2 Part 1, Section 4 of the Tax Bill 2024
³ Part VI and VII of the Tax Bill 2024
⁴ In *Ahmedu v Governor of Kogi State* (2009) 1 TLRN 319 and *S. E. Oke v Federal Board of Inland Revenue* [2011] 5 TLRN page 136.

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