An Investor's Guide to Doing Business in Nigeria

The Nigerian Economy

With a population of about 140 million people, Nigeria is undoubtedly Africa's most populous country, making it the African destination of choice for serious investors looking to take advantage of a potentially large market. Nigeria is also the 7th largest oil producer in the world, and even at that, there are still vast amounts of proven oil & gas reserves that remain untapped. In addition to hydrocarbons, Nigeria is also rich in solid mineral deposits that include bitumen, tin, bauxite, iron and gold.

Democracy has been good for Nigeria's investment climate. In 9 years of democratic governance (1999 till present), the Nigerian economy has enjoyed unprecedented levels of Foreign Direct Investment and Foreign Portfolio Investment. These investments have mostly been in Nigeria's rapidly expanding natural gas industry and the telecoms sector. Banking reforms in 2006 also saw a significant injection of foreign capital into multinational banks operating in Nigeria.

Although Nigeria is still heavily reliant on revenue from oil exports (oil exports account for 95% of foreign exchange earnings and 80% of budgetary revenues[1]), the Federal Government and virtually all State Governments have initiated policies that are intended to diversify the Nigerian economy[2]. This makes Nigeria an investor's dream destination because hitherto untapped and unexplored sectors of the economy are waiting for those with the belief, vision and boldness, to invest in Nigeria.

Nigerian Corporate Structures

The Nigerian jurisdiction provides for the establishment of various kinds of corporate entities. These include – but are not limited to - limited liability companies and unincorporated joint ventures. The limited liability company is the most common form of foreign participation in the Nigerian economy (although a few foreign companies in the oil & gas sector operate as unlimited liability companies).

Foreign participation can also take the form of an unincorporated Joint Venture, which is created contractually, and should not be confused with a Joint Venture Company. An unincorporated Joint Venture does not have a legal personality of its own, and can be a Special Purpose Vehicle (SPV), created for specific projects or tasks. An SPV is particularly useful for executing oil & gas projects or construction projects.

Incorporation of a company in Nigeria by foreigners is a legal requirement (although exemption from local incorporation maybe granted, but only in extremely rare circumstances). This is because incorporation gives the Nigerian company its own distinct legal personality, separate from that of its overseas parent company.

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[1] See the American Central Intelligence Agency (CIA) World Factbook at https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html

[2] According to the Central Bank of Nigeria, between 2006 and 2007, the value of non oil exports rose from $751.5 million to $1.38 billion, representing a 45% increase in one year.

Unincorporated Branch Operations or Representative Offices are not allowed, but it is possible to incorporate a limited liability company which will carry out activities only as a Representative Office of an overseas parent company.
Foreign investors are allowed to have a 100% shareholding in any enterprise except in companies involved in: (1) production of arms and ammunition; (2) production of and dealing in narcotic drugs and psychotropic substances; (3) production of military and paramilitary wears and accoutrements) and such other items as the Federal Executive Council may from time to time determine.

Companies with foreign participation are required to register with the Nigerian Investment Promotion Commission (NIPC) on incorporation and obtain a 'Business Permit', prior to commencement of business. A minimum share capital of N10, 000,000.00 (the equivalent of about £42,600 Sterling) is required for companies applying for a Nigerian Business Permit. Employment of non-Nigerians is subject to an 'Expatriate Quota Approval', which can be issued by the NIPC.

Foreign companies intending to operate in the hydrocarbon sector will be required to obtain an additional permit from the Department of Petroleum Resources (DPR), the regulatory body responsible for oil & gas matters in Nigeria.

Monetary and non-monetary imports (e.g. plants and machinery) must be recorded by way of a certificate of capital importation through an authorized dealer, enabling a foreign investor to repatriate dividends or the proceeds of the sale of its investment in Nigeria, should the desire to do so arise.

Portfolio Investments: The Nigerian stock market is one of the most dynamic in the world. Foreign investors seeking to make Foreign Portfolio Investments will be glad to know that profitability is a major aspect of the dynamism inherent in the Nigerian stock market. Foreign or overseas investors desirous of trading in securities listed on the Nigerian Stock Exchange can do so without pre-investment approvals, but such transactions are subject to guidelines issued by the Nigerian Securities and Exchange Commission and the Nigerian Stock Exchange itself.

Corporate Taxation in Nigeria

Taxation of resident and non-resident companies operating in Nigeria is governed principally by the Companies Income Tax Act (CITA). The CITA provides for the taxation of a resident company on its global income and a non-resident company on income resulting from its operations in Nigeria.

The current income tax rate in Nigeria is 30% of taxable profit on a company's activities in a fiscal year. Non-resident companies are usually taxed on a 'deemed profit' basis. The current deemed profit rate is 20% of total revenue derived from Nigeria.

Other than being liable to pay income tax, companies operating in Nigeria are also subject to a number of other taxes such as the Value Added Tax (VAT) (charged at the rate of 5% of the value of taxable goods and services) and the Education Tax.

Fiscal and Tax Incentives: Tax incentives available to a companies operating in Nigeria include:

- Generous capital allowances at varying rates depending on the activity of the Company.
- 'Pioneer' status conferring a 3-5 year tax holiday for companies engaged in priority activities.
- Generous investment tax allowances.
- Exemption from tax on interest payable on any loan granted by a bank for the purposes of manufacturing of goods for export.

Other than the aforementioned incentives, there are also sector specific incentives that a potential investor may be entitled to.

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