SUBJECT: DETAILED LIST OF ITEMS EXEMPTED FROM VALUE ADDED TAX

This Circular is issued for the information of the general public and in particular all VAT payers, officials of Banks and other Financial Institutions, as well as the staff of the FIRS

1. Introduction
The VAT Decree No. 102 of 1993 imposed a tax known as Value Added Tax (VAT) on taxable goods and services. Accordingly, schedule 2 of the Decree stipulated that “All services rendered by Financial Institutions to their customers (excluding Peoples Bank, Community Bank and Mortgage Institutions) are VATable.” All Banks and Financial Institutions are therefore required to charge VAT on services rendered by them to their customers and account for same to the Integrated Tax Offices nearest to their operational offices.

2. Definition of Bank and other Financial Institutions
These are legal entities incorporated under the Companies and Allied Matters Decree (CAMD) of 1990 and engage in banking and financial activities as defined by the Banks and other Financial Institutions Decree 1991 (BOFD, 1991). They are companied within the financial sector of the Nigerian economy and are either publicly or privately quoted. Banks will ordinarily include commercial banks, merchant banks and development banks while Financial Institutions will include finance houses, insurance companies, re-insurance companies, stock-brokerage firms, investment companies and financial consultants.

3. VAT Liability
Banks in particular charge commission, fees, or bank charges for services rendered to their customers. VAT calculations are expected to be based only on the debit charges made for services rendered. It should however, be noted that the focus of VAT is on the charges levied on customers for the consumption of services rendered by Banks.

The provision of loans and advances does not in itself constitute a VATable service but there are other ancillary services to the provision of bank loan/advances of bankdrafts which are VATable. The documentation and perfection of loan/overdraft agreements are examples of such ancillary services and fees charged in this connection would attract VAT. The resultant interest chargeable on the loans and overdraft is however not available.

Insurance companies’ brokers/agents earn commission, loss adjusters, fees, surveyors’ fees, brokers’ commission and agency commission for various services rendered to the Insurance Companies. The services which generated these income are VATable services and even though the premium received on policies is not VATable as it represents cost of risk to the insured, the commission paid to brokers/agent from premium will attract VAT; with the burden of VAT being borne by the insurance company itself.
4. **VATable Services Rendered by Financial Institutions**

In arriving at what constitutes VATable financial services, a distinction should be made between activities that constitute return on investment and consumption of services rendered by financial institutions. All charges arising from the services of banks and financial institutions will ordinarily attract VAT and they include among others, the following:

- Commissions/fees charged on forex trading or remittance;
- Bank charges, commission on turnover (COT), ledger fees etc;
- Arrangements, legal and other fees chargeable on lease activities;
- Fees charged for advisory services e.g. mergers and acquisition, financial strategy counseling etc;
- Fees chargeable on public/private issues;
- Debt conversion fees;
- Fees/commission on asset trading;
- Fees earned on fund management;
- Fees and commissions earned on letters of credit/documentary collection to finance import/export;
- Commissions on sale of Bankdrafts/certified cheques;
- Fees chargeable on stock-broker and trustees’ services;
- Commissions paid to brokers, reinsurers, underwriters and other insurance agents by an insurer.

5. **Services of Banks and Other Financial Institutions not Liable to VAT**

A simple criteria for determining whether a service is VATable or not is the identification of those activities that constitute return on investment as distinct from those that represent consumption of services. The services of Banks and Other Financial Institutions that will not attract VAT include:

- Premium on insurance policies;
- Interest on loans/advances and overdraft facilities;
- Interest on savings accounts;
- Interest on bank deposits;
- Dividends;
- Interbank placements; and
- Profit/gain on disposal of Government securities.

6. **VAT Registration and Rendition of Returns**

Banks and other Financial Institutions are taxable persons within the provisions of the VAT Decree and all services rendered by them are taxable with the exception of the services of Peoples Bank, Community Banks and Mortgage Institutions which are exempted by the VAT Decree. These Banks and Other Financial Institutions are known to have branches spread throughout the country. It is therefore important to stress that registration by the Head office of a bank does not include the branches. Each of these branches is required to register separately with the Integrated Tax Office nearest to it. This is done by the completion of VAT Form 001. Immediately this is received, a Taxpayer identification Number is assigned to the taxable agent. Registration Certificates are to be displayed publicly and returns to the FIRS must carry the registration number of the Bank or branch making a return. From thereon, VAT returns are to be made regularly to the Integrated Tax Office within twenty one (21) days after the month of transaction. For the simple reason that central rendition of returns may likely hinder verification and audit procedures, it is being discouraged by FIRS. Separate renditions of VAT returns is strongly preferred to central accounting methods.
7. **Accounting Procedure and Records to be kept by Banks**

The mode of operation in the Banks does not permit the issuance of tax invoices to customers but debit notes could equally serve useful purpose. The VAT charges therefore have to be reflected in the customers’ statements of accounts. In order to enhance disclosure and easy Verification by VAT Inspectors. Banks and Other Financial institutions are required to adopt the following simple methods of recording their transactions for VAT purposes:

(i) When any service is identified as VATable, an invoice or debit note is to be Raised accordingly. This invoice will state the services to the Bank in total, then 5% VAT is calculated on such total cost to arrive at what is payable by the customer.

(ii) The Bank is expected to debit the account of the customer accordingly with the cost as above plus the 5% VAT charged.

(iii) Credit the Income account of the Bank or Institution with the income element of the charge excluding the VAT.

(iv) Credit the FIRS VAT Account in the particular Bank or Institution the 5% VAT deducted from (ii) to arrive at (iii).

Section 13 subsection (a) and (b) provides that where input tax exceeds output tax, the taxpayer will be entitled to refund of the excess tax from the FIRS on production of such documents as the FIRS may, from time to time require. With regards to banks and Financial Institutions, this is hardly applicable because only manufacturing establishments according to FIRS interpretation qualify for setting off input VAT against output VAT because they are the ones that “add value to products or materials purchased” to improve or transform that particular product into finished or semi-finished goods on which output VAT is chargeable.

It is a common knowledge that the Bank and Financial Institutions render services; they do not produce goods and therefore regarded as final consumer of those goods purchases or services rendered to them. In this connection, all input VAT payable in respect of assets purchases for use in the Banks and other financial institutions should be added to cost of the assets on which capital allowances may be claimed. Similarly, all VAT payable in respect of services consumed by the Bank should be regarded as part of normal operational expenses chargeable to Profit and Loss Account. Under no circumstance should input tax on such items be claimed or deducted from output tax collected. It will therefore appear that banks and other financial institutions cannot claim or deduct any input tax collected. The entire amount collected on behalf of the FIRS should be promptly remitted in whole as prescribed by the law. Any institutions offsetting **Input Tax** against **Output Tax** where it is not expected to do so, would be regarded as unduly holding on **Tax** against **Output Tax** where is not expected to do so, would be regarded as unduly holding onto VAT proceeds that ought to have been remitted to the FIRS and the appropriate penalty shall be imposed. Where the Banks are in doubt, the best option is to seek clarification from FIRS.

9. **The Central Bank**

The position of the Central bank with regards to VAT payment is not different from that of other banks in the system. The Central Bank performs nearly all the services listed in paragraph 4 above and also acts as banker to other banks. It is therefore expected that VAT would be charged on payments made to it by the banks for vatatable services rendered to them.
This makes it necessary for the Central Bank and all its branches in the country to register for VAT.

10. **Offences and Penalties**

Banks and other financial institutions have obligations to fulfill under the VAT Decree like other taxable or registered persons. Part V of the Decree contains the list of likely offences and penalties to be imposed. These include among others:

- failure to register within six (6) months of the existence of a bank or branch in a Local VAT area;
- failure to issue tax invoice (Debit note showing amount of VAT collected in the case of Banks);
- failure to charge and remit VAT collection;
- failure to keep proper records and accounts;
- rendition of incorrect or false returns.

For these offences, stringent penalties are imposed to check possible defaults.

11. **Conclusion**

Banks and other financial institutions are taxable persons within the provisions of the VAT Decree and all their services are vatable. Bank officials are strongly advised to familiarize themselves with the provisions of the VAT Decree. It should not be assumed that once the Head Office of a financial organization is registered, it will suffice for the other branches. Each branch in addition to the head office is expected to register separately with the Integrated Tax Office nearest to it and render its monthly returns promptly and accurately as required by the law. Whatever is applicable to the Head Office as enumerated above is applicable to Branches. Where however, due to internal procedural limitations, a branch is unable to issue Bank Draft for VAT collected and due to FIRS, the Head Office should not allow such internal arrangements to delay payments due to FIRS in order to avoid penalties. It is expected that arrangements would be put in place to pay on behalf of the branch where necessary whatever is due by them to FIRS.

Whatever is peculiar to any Bank or Financial Institution in terms of procedures which has not been dealt with in this circular should be referred to the FIRS without delay for further clarification if necessary.

Finally, where computerization has been established and it is likely to skip these procedures, the FIRS should be notified of the system in operation and how it would take care of all procedures without leaving out anything uncaptured.

12. **Enquiries**

All Enquiries on any aspect of this publication should be directed to:

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