NIGERIA REVENUE SERVICE
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INFORMATION CIRCULAR

No: 2026/11 PUBLICATION DATE: 29TH JUNE, 2026

Subject: **INFORMATION CIRCULAR ON THE CLAIM OF TAX TREATIES BENEFITS AND UNILATERAL CREDIT RELIEF IN NIGERIA.**

This circular is issued for the information of all resident and non-resident taxpayers, tax practitioners, and the public in line with the provisions of the relevant tax laws and the provisions of the Double Taxation Agreements (DTAs) between Nigeria and other countries. This Circular withdraws and replaces the earlier NRS Information Circular No. 2022/15 of 11th May 2022.

1.0 Introduction

This Circular is issued in line with sections 120, 121 and 122 of the Nigeria Tax Act (NTA)~~,~~ to provide a general clarification on unilateral credit relief and the application of the DTAs between Nigeria and other countries, especially on the treaty benefits that can be accessed by residents of either contracting countries by way of relief from double taxation, treaty tax rates on income from source countries, dispute resolution mechanisms and others.

2.0 DTAs with other countries

A Tax Treaty, otherwise called an Avoidance of Double Taxation Agreement (ADTA) or Double Taxation Agreement (DTA), is a tax agreement between two or more Contracting Parties (State or non-state jurisdiction) that ensures that a resident of one or both contracting parties does not suffer tax more than once on the same income in both jurisdictions, or unduly benefit from not paying appropriate taxes in any of the jurisdictions through tax evasion or avoidance. The Agreement covers taxes on income and capital only and does not extend to consumption taxes such as Value Added Tax or sales taxes.

Nigeria currently has operational DTAs with sixteen (16) countries, as detailed below:

S/N	Country	Type	Date of Entry into Force	Effective Date
1	Italy	Air and Shipping Transport Agreement Only.	22nd February 1977	1st January 1968
2	United Kingdom	Full DTA	1st January 1988	1st January 1989
3	Belgium	Full DTA	1st January 1990	1st January 1991
4	Pakistan	Full DTA	7th March 1990	1st January 1991
5	Czech	Full DTA	2nd December 1990	1st January 1991
6	Slovakia	Full DTA	2nd December, 1990	1st January, 1991
7	France	Full DTA	2nd May, 1991	1st January, 1992
8	Netherlands	Full DTA	9th December, 1992	1st January, 1993
9	Romania	Full DTA	18th April, 1993	1st January, 1994
10	Canada	Full DTA	16th November 1999.	1st January, 2000
11	South Africa	Full DTA	5th July, 2008	1st January, 2009
12	China	Full DTA	21st March, 2009	1st January, 2010
13	Philippines	Full DTA	18th August 2013	1st January, 2014
14	Sweden	Full DTA	7th December 2014	1st January, 2015
15	Spain	Full DTA	5th June 2015	1st January, 2016
16	Singapore	Full DTA	1st November, 2018	1st January, 2019

The full texts of the Agreements may be obtained from the NRS website: https://www.NRS.gov.ng/TaxResources/TaxTreatiesNew. This Information Circular shall also be applicable to any Agreement that comes into effect after the date of its publication.

3.0 Entitlement to treaty benefits in Nigeria

There are conditions that must be fulfilled before a taxpayer can claim benefits under a tax treaty. The extent of tax relief or benefits that may be granted will depend on the specific provisions contained in that particular agreement.

3.1 Persons eligible for treaty benefits in Nigeria

To be eligible for treaty benefits under a tax treaty between Nigeria and a treaty partner, a taxpayer must be a resident of:

(a) Nigeria;
(b) that treaty partner; or
(c) both Nigeria and that treaty partner

It should be noted that a resident of a jurisdiction is not entitled to any benefit under a tax treaty of which its jurisdiction is not a party.

3.2 Conditions for deriving benefits under any of the DTAs

In addition to 3.1 above the following conditions must be present in order to take advantage of any benefit provided by a DTA:

(a) the taxpayer is subject to tax in the treaty jurisdiction of which the taxpayer is a resident;
(b) the income is not exempt from tax in Nigeria;
(c) the tax for which that individual is seeking benefit is covered by the treaty;
(d) the benefit sought is not specifically excluded under the treaty; and
(e) the benefit is claimed within the time stipulated by the treaty or domestic laws.

3.3 Denial of treaty benefits

A taxpayer, resident or non-resident, may not be granted treaty benefits where:

(a) based on facts and circumstances, it is discovered that its residency of one of the treaty jurisdictions was principally for the purpose of accessing the treaty benefit (i.e. treaty shopping); or
(b) it is discovered, after careful review of the case, that one of the main purposes of the arrangement of a transaction or business is to take advantage of the treaty or abuse its provisions.

4.0 Available treaty benefits

The following are the benefits and reliefs that may be available under the tax treaties of which Nigeria is a party:

(a) relief from double taxation;
(b) reduced tax rates for foreign airlines or shipping companies or exemption of their income from tax;
(c) reduced withholding tax (WHT) rates for passive income or fees for services derived from Nigeria by residents of a treaty partner;
(d) requirement for permanent establishment (PE) before taxation in the Source State;
(e) access to Mutual Agreement Procedure (MAP) for dispute resolution; or
(f) non-discrimination in taxation matters.

4.1 Relief from double taxation (tax credit):

Where a resident of Nigeria has paid foreign tax on an income derived from a treaty partner of Nigeria, the Article on Elimination of Double Taxation in the tax treaty and Section 121 of NTA, allows for a credit relief against similar tax payable in Nigeria by that resident. The amount of foreign tax paid is deductible from the tax payable in Nigeria.

However, the following conditions must be fulfilled in computing the amount of tax credit allowed for deduction from tax payable in Nigeria:

(1) The foreign income has been included in the global income of the company in line with section 6 of NTA, chargeable to tax in Nigeria and constitute part of the assessable profit of the company in Nigeria for the relevant year of assessment.

(2) The income is not exempt from tax in Nigeria. As such, the company cannot be granted relief on an income exempt from tax (e.g. passive income brought in through government approved channels), except where the income has been subject to tax under the additional tax rule. In that instance, the relief claimable will be proportionate to the additional tax paid on that income only.

(3) Where the foreign tax paid is on gross basis (e.g. WHT on gross income), the credit relief can only be granted in Nigeria on a net basis i.e. based on the total profits of the company.

(4) By reason of the limitation provided in section 121(4) of NTA, the tax credit allowable is the lower of the:

   (i) Nigerian tax attributable to the foreign income or profits, and
   (ii) the amount of tax paid to the treaty partner.

   The tax credit allowable is restricted to an amount not exceeding the total tax payable in Nigeria on that foreign income for that year of assessment for that entity. As such, the rate of tax credit claimable cannot exceed Nigerian tax rate applicable to the income.

(5) Section 121(5) of NTA provides that Nigerian tax attributable to the foreign income or profits shall be the proportion of the foreign income to total income, multiplied by the Nigerian tax.

(6) Consequently, a Nigerian taxpayer that is charged to tax in a country with a higher tax rate than that of Nigeria or charged to tax on gross basis will be entitled to only partial relief equivalent to the amount that is produced using the Nigerian tax rate on the income, while those from a lower tax rate may be able to claim full relief of the foreign tax paid.

(7) In line with subsections (4) and (5) of section 121 of the NTA, the procedure for determining the amount of credit relief claimable shall be as follows:
   (a) determination of Nigerian tax: determine the total profits of the company and apply the tax rate on that total profits;
   (b) determination of the proportion of the foreign income to total income: the foreign income divided by the total taxable income (revenue);
   (c) determination of the Nigerian tax attributable to the foreign income: the Nigerian tax computed is multiplied by the proportion (ratio) determined in (b); and
   (d) determination of the credit claimable: compare the Nigerian tax attributable to the foreign income computed in (c) and the amount of tax paid to the treaty partner. The lower is the maximum relief that may be claimed in respect of that income.

Illustration 1
KVK Nigeria Limited is a Nigerian Company, which commenced business in June 2012. The company paid income tax of $900 and $2,800 in Spain on its taxable profits of $3,600 and $8,000 for 2026 and 2027 years of assessment respectively, with respect to its branch, which qualifies as a permanent establishment in Spain.

The total profits of the company in Nigeria in those respective years of assessment, based on its worldwide income, are ₦7 million and ₦8 million. The tax rate in Nigeria is 30%, while Spain imposes tax at the rate of 25% for income below $4,500 and 35% for $4,500 income and above. Nigeria and Spain have a double taxation agreement, with Article 24 of the Agreement providing for credit method of elimination of double taxation. Compute the tax payable in Nigeria by the company for the relevant years of assessment in line with Section 122 of NTA. (Assume exchange rate of ₦900 to $1 in both years).

<u>The tax payable in Nigeria is computed thus:</u>

<u>For 2026 Year of Assessment:</u>
Tax rate on the income in Spain = 25%

Nigeria's rate of tax = 30%

Tax paid in Spain = $900 (i.e. $3,600 X 0.25)

Tax payable in Nigeria:	₦'000	₦'000
Total Profit (based on the worldwide income)		7,000
Nigerian Tax Computed (7,000,000 X 0.3) =		2,100
Less Double Taxation Relief: ($900 X ₦900) =	(810)	
Tax Payable =		1,290

The rate of tax on the income in Spain is on net basis and lower than the Nigerian rate of tax, hence, full credit relief will be granted, as no further information was provided on foreign income and total income.

For 2027 Year of Assessment:
Tax payable in Spain = $2,800 (i.e. $8,000 X 0.35)

Tax Payable in Nigeria:	₦'000		₦'000
Total Profit (based on the worldwide income)			8,000
Nigeria's rate of tax = 30%			
Nigerian Tax Computed (8,000 X 0.3) =			2,400
Less Double Taxation Relief:			
Tax Paid ($8,000 X 0.35 X ₦900) =	2,520		
Relief claimable *($8,000 X 0.3 X ₦900) =	(2,160)	(2,160)	
Relief not claimable ($8,000 X 0.05 X ₦900) =	360		
Tax Payable =			240

*Although the rate of tax on the income is on net basis, it is higher than the rate of tax in Nigeria. in the absence of other information on foreign income and total income, the maximum credit that may be given in Nigeria is restricted to the amount which is equivalent to that produced using the Nigerian rate of tax on the foreign income.

Illustration 2

The total income of TTA Nigeria Ltd taxable in Nigeria for 2023 year of assessment is ₦20 Billion, while the total profits is ₦7.0 billion. Included in this total income is a foreign interest income of £6 million earned on the fund it deposited in a UK Bank.

The gross interest income was subjected to withholding tax (WHT) of £700,000.00 at the rate of 11.67% in the UK. The interest income has been included in the income taxable in Nigeria because the incentive contained in S.163(1)(s) of NTA in respect of passive income brought in through government approved channels has not been claimed, considering that the income has not been brought into the country through government approved channels. Hence the company has submitted an application for the tax credit relief pursuant to Article 22 of the Double Taxation Agreement (DTA) between Nigeria and UK.

Compute the DTA relief that may be claimed in Nigeria by TTA Nigeria Ltd pursuant to section 122 of NTA and Article 22 of the Nigeria-UK DTA. (Assume exchange rate of ₦1,000 to £1).

<u>The DTA relief in Nigeria is computed thus:</u>

	₦'million	₦'million
Total (global or worldwide) Income =		20,000
Foreign Interest Income (£6 million X ₦1,000) =		6,000
Total Profits =		7,000
Nigerian Tax Computed @ 30% (₦7.0 billion X 0.3) =		2,100
Proportion of UK income = (6,000 /20,000) = 30%		
Nigerian Tax Computed on the Foreign Interest Income		
= (2.1 billion X 30%) =	630	
Tax Paid in UK (£700,000 X ₦1,000) =	700	
Maximum credit relief allowed by section 122(4) of NTA	(630)	(630)
Foreign tax not claimable in Nigeria	70	
Tax Payable in Nigeria		1,470

The maximum credit relief that can be claimed by TTA Nigeria Ltd under section 122(4) of NTA is N630 million, being the lower of Nigerian tax attributable to the foreign income and the N700 million (£700,000) tax paid to UK.

Illustration 3

The total income of XYZ Nigeria Ltd in 2026 year of assessment is ₦62 million with total profits of ₦22 million. Included in the income is $20,000 earned by XYZ Nigeria Ltd as interest income from its investment in Company Y, resident in Country Y. WHT of $4,000 at the rate of 20% was deducted from the interest paid to XYZ Nigeria Ltd by Company Y, and the tax was remitted to Country Y in 2024 financial year.

Nigeria and Country Y have a subsisting tax treaty with source state tax rate on interest capped at 15%.

Company X has requested to claim WHT credit relief for tax deducted and remitted in Country Y.

Compute the DTA relief that may be claimed in Nigeria by XYZ Nigeria Ltd pursuant to section 122 of NTA and Article 22 of the Nigeria-UK DTA. (Assume exchange rate of ₦1,000 to £1).

Treatment

The DTA relief in Nigeria for 2026 year of assessment will be computed as follows:

Foreign Interest Income (£20,000 X ₦1,000) = ₦20 million

Tax treaty maximum rate = 15%

Rate of tax applied in Country Y = 20%

Tax payable in Country Y in accordance with the treaty =

(£20,000 X ₦1,000 X 0.15) = ₦3 million

Tax paid in Country Y not in accordance with the treaty =

(£20,000 X ₦1,000 X 0.05) = ₦1 million

	₦'000	₦'000
Total income		62,000
Total profits		22,000
Nigerian Tax computed @ 30% (₦22 million X 0.3) =		6,600
Proportion of foreign income to total income =		
(₦20 million/₦62 million) = 32.26%		
Nigerian tax attributable to the foreign income =		
(₦6,600 X 0.3226)	2,129	
Tax payable in Country Y in accordance with the treaty	3,000	
Maximum credit relief allowed (being the lower)		(2,129)
Tax Payable in Nigeria =		4,471
Tax paid in accordance with the treaty but not claimable	871	
Tax paid not in accordance with the treaty	1,000	
Total foreign tax not claimable in Nigeria =	1,871	

Because the treaty between Nigeria and Country Y provides a maximum rate of 15% for interest income, XYZ Nigeria Ltd cannot claim a credit in Nigeria for the excess tax paid of N1 million (£1,000) in Country Y, being amount equivalent to the excess 5% rate charged. XYZ Nigeria Ltd may approach the tax authority of Country Y to claim refund and may submit a request to the authorised Competent Authority of Nigeria (Nigeria Revenue Service) for resolution under a Mutual Agreement Procedure.

Illustration 4

Assume same facts as in Illustration 3, except that:

(i) The total income is ₦62 billion with total profits of ₦22 billion and net income of ₦55 billion

(ii) The foreign interest income is $20 million and exempt from tax in Nigeria as it was brought into Nigeria through government approved channel.

Treatment:

The turnover (total income) of XYZ Nigeria Ltd is above the ₦50 billion threshold for the additional tax rule, the company will therefore be required to compute its Effective Tax Rate (ETR), and pay additional tax, where the ETR is below 15%.

		₦'million	₦'million
Total income			62,000
Net income			55,000
Total profits			22,000
Nigerian Tax computed @ 30% (₦22 billion X 0.3)	=		6,600
ETR = covered tax/net income = (₦6.6 billion/₦55 billion) = 12%			
Additional Tax percentage = (15% - 12%) = 3%			
Additional Tax payable = (₦55 billion X 0.03) =			1,650

DTA relief in Nigeria for 2026 year of assessment in respect of the additional tax payable will be computed as follows:

		₦'million	₦'million
Proportion of foreign income to total income =			
(₦20 million/₦62 million)	= 32.26%		
Additional tax attributable to the foreign income =			
(₦1,650 X 0.3226)		532	
Tax payable in Country Y in accordance with the treaty		3,000	
Maximum credit relief allowed (being the lower)			(532)
Tax Payable in Nigeria	=		7,718

4.1.2. Time allowed to claim tax treaty credit

In line with Section 121(7) of NTA, a claim for tax treaty credit can only be made not later than two years after the end of the year of assessment in which the foreign tax was paid. For example, a foreign tax paid in 2026 year of assessment cannot be claimed after 2028 year of assessment.

Where a tax treaty credit has been under-claimed or over-claimed, an adjustment may be made within two years of the determination, irrespective of the time limit under the relevant provisions of the law.

4.2 Withholding Tax

Nigeria applies a WHT mechanism on income, profits or gains of non-residents, as a final tax or an advance payment where a PE or fixed base is established.

4.2.1 Treaty withholding tax rate on passive income and fees for services or fees for technical service

Tax treaties do not impose tax on income from the source State including WHT; they however may provide a limitation or ceiling (maximum tax rate) above which the source State (jurisdiction where the payment arises) should not exceed. This limitation is usually negotiated and indicated in the relevant Articles of the treaty.

The Articles on Dividends, Interests, Royalties and Fees for Services or Fees for Technical Service (where applicable) in the DTA between Nigeria and other countries may sometimes provide for lower applicable rates for WHT on passive income and fees for services than those contained in the domestic laws.

The maximum WHT rate in a treaty is only applicable in Nigeria when payments are made to non-residents and the payments are not connected to a PE that the non-resident has in Nigeria. For Nigerian residents, the treaty WHT are to be granted to them by the other treaty parties when payments are made to them from a source in those other jurisdictions.

Where the payment received from Nigeria by the non-resident is connected to a PE or fixed base (where there is an article on independent personal services) which the non-resident has in Nigeria, the WHT rate limitation provided in the treaty will not apply, but the full WHT rate prescribed under the domestic law.

4.2.2 Applicable WHT rates

The WHT rate in the tax laws would apply to dividend, interest and royalties paid to residents of treaty jurisdiction, except where the rates in the tax laws exceed the maximum rate in the treaty, in that instance, the maximum rate specified in the treaty will apply. Accordingly, the following are the applicable rates with respect to the existing tax treaty in Nigeria:

S/N	Country	Dividend		Interest	Royalties	
		Company with voting powers of 10% and above	All others		Payment to Companies	Payment to Individuals
1	Belgium	10%	10%	10%	10%	5%
2	Canada	10%	10%	10%	10%	5%
3	China	7.5%	7.5%	7.5%	7.5%	5%
4	Czech Republic	10%	10%	10%	10%	5%
5	France	10%	10%	10%	10%	5%
6	Italy	10%	10%	10%	10%	5%
7	Netherlands	10%	10%	10%	10%	5%
8	Pakistan	10%	10%	10%	10%	5%
9	Philippines	10%	10%	10%	10%	5%
10	Singapore	7.5%	7.5%	7.5%	7.5%	5%
11	Slovak Republic	10%	10%	10%	10%	5%
12	South Africa	7.5%	10%	7.5%	7.5%	5%
13	Spain	7.5%	10%	7.5%	7.5%	3.75%
14	Sweden	7.5%	10%	7.5%	7.5%	5%
15	Romania	10%	10%	10%	10%	5%
16	United Kingdom	10%	10%	10%	10%	5%

NOTE:

(1) Domestic withholding tax rate applies to dividend, interest and royalty payments where the payment is connected to a PE or fixed base of the non-resident recipient in Nigeria, irrespective of the maximum rate cap specified in the treaty.

(2) In the case of payments for management, professional, technical or consultancy services, the domestic WHT rate applies to both individuals and

companies where the payment is taxable under the Article on Business Profits in the DTA or where the payment is connected to a PE or fixed base of the non-resident recipient in Nigeria, as the case may be.

(3) In the case of Italy, the agreement does not have articles on dividend, interest and royalties, as such the full domestic WHT rates applies.

4.2.3 Application of the reduced treaty WHT rate to a beneficial owner

In addition to fulfilling the conditions for the entitlement to treaty benefits as contained in paragraph 3 of this Circular, the beneficial owner of the income must be a resident of the other treaty partner, even if the income was not paid directly to him. This will apply whether or not the condition is expressly stated in the treaty. Thus, an agent, nominee, conduit company or a person acting as a fiduciary or administrator who is the direct recipient of the payment but not the beneficial owner is not entitled to the treaty WHT rate. For example, where a dividend is paid by a Nigerian company directly to a resident of Nigeria's treaty partner but for the benefit of a resident of Nigeria or another country, the treaty rate on dividend will not be applicable. On the other hand, the treaty rate will apply where the dividend is paid to a resident of another country but for the benefit of a resident of the treaty partner.

4.2.4 Application of treaty WHT rate to rental income

Taxation of rental income may fall under three separate Articles in the tax treaties as follows:

(1) The Article on Income from Immovable Property – this Article of the treaties covers rental income derived from the direct use, letting, or use in any other form of immovable property, such as land, building, plantation and forestry, including royalties for the exploitation of mineral deposits and other natural resources. A reduced WHT rate is not applicable under the existing tax treaties of Nigeria in respect of income derived from these sources. For example, where a non-resident derived rental income from a building situated in Nigeria, the full domestic WHT rate will apply on the income.

(2) The Article on Royalties – the definition of "Royalties" in some tax treaties includes income from lease of equipment (i.e. the use of, or right to use, industrial, commercial or scientific equipment). The treaty WHT rate applicable to "Royalties" in such tax treaties will apply to the rental income from lease of equipment. For example, where a non-resident derived from Nigeria, a rental income from the leasing of aircraft, ship, machinery, oil rig or any other industrial, commercial or scientific equipment, the treaty WHT rate on royalties will apply to such rental income, if the definition of royalties in the agreement covers such scope.

(3) In all other cases, the provisions of the Article on Business Profits will apply to the taxation of the rental income, which means there is requirement for a PE before the application of the provisions of the domestic law, including the applicable WHT rates.

4.2.5 Application of WHT to the Article on Business Profit or Independent Personal Services

Where tax treaty limits the rate of tax deduction on certain passive incomes and fees for services or fees for technical services (depending on the tax treaty), such limitation will not extend to the application of WHT under the Articles on business profits and that of Independent Personal Services. Consequently, where a PE or fixed base is constituted in Nigeria for the purpose of taxation under the Article on Business Profit or the Article on Independent Personal Services respectively, the WHT rate and mode of collection prescribed under the domestic law will apply.

In which case, the WHT collected serves as an advance payment of tax of the PE or fixed base. The taxpayer will therefore assess and file its tax returns, and the WHT paid will be deducted from the total assessable profit to be paid by the taxpayer. Where the total assessable profit is less than the WHT deducted, the WHT paid will constitute final tax, as the total assessable profit cannot be lower than the WHT deducted. However, where that income was not liable to an advance deduction, the minimum tax that will apply is 4% of the income generated from Nigeria.

4.3. Treaty Rates for Non-Residents operating in international transport

The Article on “International Traffic” or “International Transport” in the DTAs between Nigeria and other countries moderates the provision of Section 18 of NTA. The Article deals with the sharing of taxing right between Nigeria and the treaty partner on the income from shipping or air transport, including where such income is derived from a pool or joint operation in international traffic. The Article covers income from international shipping and air transport. For neighbouring countries, the Article may extend to income from boats, trains and road vehicles operated in international traffic. In any case, the scope of coverage may be identified from the definition of international traffic in the Article on General Definitions in the Agreement.

The Article moderates the provision of Section 18 of NTA as follows:

(1) Where there is reciprocity in international traffic between Nigeria and the home country of the foreign airline or shipping company i.e. where foreign airlines or shipping companies of the treaty partner carry out international traffic to Nigeria and a Nigerian airline or shipping company also operates to the treaty partner in the year of assessment, then the foreign airline or

shipping company will not pay tax on such income from international traffic in Nigeria in that year of assessment. In such a case, each jurisdiction will tax its own airline or shipping company.

(2) Where there is no reciprocity (i.e. where foreign airlines or shipping companies of the treaty partner carry out international traffic to Nigeria, but no Nigerian airline or shipping company operates to the other treaty country in a year of assessment), then the tax payable by the foreign airline or shipping company in Nigeria in that year of assessment shall be at the rate specified in the respective DTAs.

The rate of Nigerian tax on total revenues or gross amount of earnings of the foreign enterprise ("earnings" defined in the respective treaties) from carriage of passengers, mail, livestock or goods in international traffic, in situations of shared source state taxation or non-reciprocity, range from 1% to 1.5%, depending on the DTA. Only the DTA with the United Kingdom, Italy, Czech, Slovakia and China depart from this rule.

For United Kingdom, Italy and China, no tax is payable in the source country, even when there is no reciprocity (each country will tax its own airline or shipping company in all cases). However, for treaties with Czech and Slovak Republics, taxation is in accordance with domestic law (i.e. Section 18 of NTA).

Below is the applicable rate of tax in the source country when there is no reciprocity in each of the Nigerian DTAs:

S/N	**Country**	**Rate of Tax on Earnings in the Source State**
1	Canada	1%
2	Pakistan	1%
3	Belgium	1%
4	France	1%
5	Romania	1%
6	Netherlands	1%
7	United Kingdom	N/A
8	China	N/A
9	South Africa	1%
10	Italy	N/A
11	Philippines	1.5%
12	Czech	N/A (taxation in accordance with domestic law)
13	Slovakia	N/A (taxation in accordance with domestic law)
14	Singapore	1%
15	Sweden	1%
16	Spain	1%

NOTE:

The above rules are not applicable to any airline or shipping company (whether local or foreign), operating local routes within Nigeria, either on its own or in conjunction with another airline. The profits of each of the airlines or shipping companies from domestic operations are taxable in Nigeria like any other Nigerian company.

4.4 PE Requirement before the taxation of business profits

Where a non-resident company from a treaty partner derives business profits from Nigeria, the income is only taxable under the Article on Business Profits where the company has a PE in Nigeria. As such, the income will not be liable to tax in Nigeria under the Business Profits Article where there is no PE for the non-resident in Nigeria.

NOTE:

An income not taxable under the Article on Business Profits may be taxable under any other Income Articles of the Agreement.

4.5 Access to dispute resolution mechanism through Mutual Agreement Procedure

Whenever there is a dispute between a resident taxpayer and the tax authority of either Nigeria or her treaty partner regarding the interpretation or application of tax treaty provisions on the taxation of income of that taxpayer, the DTA provides the taxpayer with access to a dispute resolution mechanism through Mutual Agreement Procedure (MAP). The Competent Authority (CA) of Nigeria is required to interact with the CAs of the other treaty country with a view to resolving disputes arising from the interpretation or application of the tax treaty provisions. The Service has published a Guideline on the access to MAP which may be downloaded on NRS website:

https://www.NRS.gov.ng/TaxResources/TreatyRelatedGuidelinesandCirculars.

4.6 Non-discrimination of Nigerian citizens or companies on taxation Matters

By the operation of the Article on Non-Discrimination in the DTAs, citizens or nationals of Nigeria, as well as registered companies in Nigeria should not be subjected in the other treaty country to any taxation or any requirement connected therewith which is other, or more burdensome, than the taxation or requirements to which citizens, nationals or companies of that other treaty country are or may be subjected to in the same circumstances. Likewise, citizens, nationals or registered companies of Nigeria's treaty partners are entitled to tax treatments in Nigeria similar to that applicable to Nigerians.

A resident of either contracting party that alleges discrimination may approach the CA of his jurisdiction of residence to seek redress via the MAP.

NOTE:
The application of domestic thin capitalisation or interest deductibility rule on non-resident enterprises under the repealed Companies Income Tax Act, is not considered discriminatory.

5.0 Claim of unilateral relief as provided under section 120 of the Nigeria Tax Act

Where part of the income or profit of a Nigerian resident has been taxed in a foreign source country and the same income or part of income is taxable in Nigeria, under section 120 of the NTA, the tax paid abroad may be credited against the Nigerian tax payable on the same income.

However, the credit to be allowed in subsection (1) of this section is limited to the lower of the-

(a) Nigerian tax attributable to the foreign income or profit; and
(b) amount of tax paid in the source country.

The proportion of Nigerian tax attributable to the foreign income or profit is the proportion of the foreign income to total income, multiplied by the Nigerian tax. The procedure and computations described in paragraphs 4.1 and 6.3 of this Circular is applicable for computing the proportion of Nigerian tax attributable to the foreign income or profit, and the maximum amount of claim credit relief that may be granted.

Note:
Unilateral credit relief under this paragraph against double taxation is not applicable to tax paid under Chapter Three of NTA on income from petroleum operations.

5.1 Conditions for claim of the relief

For a company to claim the unilateral relief, the following Conditions must apply-

(i) The income or profit is derived from a country which does not have a DTA with Nigeria.
(ii) The person or company that seeks to benefit from the relief in Nigeria must furnish proof of the tax deduction in the other Jurisdiction.
(iii) The tax to be relieved shall be available for set-off against the tax which the person or company is liable to pay for that year of assessment.

6.0 Procedures for claiming treaty benefits in Nigeria

Where a taxpayer has met all the criteria for eligibility for tax treaty benefits as contained in paragraphs 3.1 and 3.2 of this Circular, that person may apply for such benefits in line with the following procedures:

6.1 Completion of Certificate of Residence

There are two types of certificates of residence available on the NRS website *https://www.NRS.gov.ng/TaxResources/TreatyRelatedForms*.

(1) Certificate of Residence for Nigerian residents – which is to be completed by a Nigerian resident seeking to make tax treaty claims in another country that has treaty with Nigeria. The certificate is to be endorsed by the NRS, on behalf of the Competent Authority of Nigeria, before it is submitted to the tax authority of the country where the claim is to be made.

(2) Certificate of Residence for non-residents – which is to be completed by a non-resident seeking to access tax treaty benefits from Nigeria. The certificate is to be duly endorsed by the tax authority of the country of residence of the non-resident taxpayer. In place of the Certificate of Residence form downloaded from NRS' website, the non-resident may submit a certificate of residence issued by its country of residence.

6.2 Submission of formal application to the relevant tax authority

To claim treaty benefits, a taxpayer must submit a formal application, addressed to the Executive Chairman NRS, for the attention of the Director, Competent Authority Department, with the following documents attached:

(1) Duly completed Certificate of Residence with official stamp/seal of relevant revenue authority;

(2) For Nigerian residents seeking credit relief for foreign tax paid, evidence of foreign tax paid issued to the taxpayer by the revenue authority of the treaty partner e.g. payment receipt, tax clearance certificate, WHT credit note etc.;

(3) For non-resident claiming treaty WHT rate cap, evidence to support the income on which the treaty rate is being sought e.g. copy of contract agreement with a Nigerian resident in the case of royalties or fees for services; evidence of shareholding such as CSCS statement, share certificate, Form CAC 10 or Form CAC 2 etc. and board resolution evidencing the dividend in question in the case of dividend or loan agreement in the case of interest.

6.3 Submission of claim for tax credit

After receiving an approval or ruling for claim of tax treaty benefits from the Nigeria Revenue Service, the taxpayer should:

(1) Where the application was in respect of foreign tax credit relief, reflect the applicable credit in their tax computations in the self-assessment returns, to be submitted with a copy of the approval or ruling, to the appropriate NRS field office or the Joint Revenue Board (JRB), as the case may be.

(2) In the case of foreign airlines or shipping companies that are subject to a tax rule in Nigeria that is different from Section 18 of the Nigeria Tax Act, reflect the applicable tax rule in the tax computations included in the self-assessment returns, to be submitted with a copy of the approval or ruling to the appropriate NRS field office.

(3) In the case of WHT treaty rate, submit a copy of the approval or ruling to the WHT collecting agent (e.g. Government ministries, departments, agencies and parastatals, companies, statutory bodies, institutions and other withholding tax (WHT) collecting agents of NRS etc.), to reflect the rate in the WHT deduction.

6.4 Checklist for Residency Certificate Application for Nigerian residents seeking Treaty Benefits.

(1) Individual
- Written application letter addressed to the Executive Chairman, NRS (attention of Director, Competent Authority Department)
- Duly completed Certificate of Residence Form (details typed-in and forwarded in word format)
- Means of identification of taxpayer (international passport, drivers' license, voters' card, national ID, residency card etc.)
- Recent Tax Clearance Certificate (TCC)

(2) Partnership
- Written application letter addressed to the Executive Chairman, NRS (attention of Director, Competent Authority Department)
- Duly completed Certificate of Residence Form (details typed-in and forwarded in word format)
- Certificate or Document evidencing Registration
- CAC Form 2 (document listing the names of partners in the partnership)
- Means of identification of each partner (international passport, drivers' license, voters' card, national ID, residency card etc.)
- Recent Tax Clearance Certificate (TCC) of the partnership (if available)
- Recent Tax Clearance Certificate (TCC) of each partner

(3) Companies

- Written application letter addressed to the Executive Chairman, NRS (attention of Director, Competent Authority Department)
- Duly completed Certificate of Residence Form (details typed-in and forwarded in word format)
- Certificate or Document evidencing Incorporation or Registration
- Recent Tax Clearance Certificate (TCC) of the company

6.5 Checklist for Non-Residents seeking Treaty Benefit

- Written application letter addressed to the Executive Chairman, NRS (attention of Director, Competent Authority Department)
- Certificate of residence issued by the residence country, (either on their Form or on the certificate of residence Form for non-resident downloaded from NRS website)
- Copy of contract agreement with a Nigerian resident (in the case of royalties or fees for technical service)
- In the case of divided, evidence of shareholding such as CSCS statement, share certificate, Form CAC 10, Form CAC 2, etc.
- Board resolution evidencing the dividend in question in the case of dividend;
- Copy of loan agreement and certificate of capital importation in the case of interest.

7.0 Further Enquiries

Any request for further information or clarifications should please be directed to the:

Executive Chairman,
Nigeria Revenue Service,
Revenue House,
Plot 1241, Kur Mohammed Avenue,
Central Area, Abuja.

Or

Director, Competent Authority Department
Nigeria Revenue Service
Revenue House,
Plot 1241, Kur Mohammed Avenue,
Central Area, Abuja.

Or

Email: cad@firs.gov.ng

NRS | NIGERIA REVENUE SERVICE

CERTIFICATE OF RESIDENCE

(FOR USE BY NIGERIA RESIDENTS: INDIVIDUALS & COMPANIES)

Application for implementation of the tax treaty between Nigeria and

(Please write the name of the country in this box)

1. Applicant’ s Name ______________________
2. Tax ID (TIN) ______________________
3. Address ______________________
4. Post/Zip Code ______________________
5. State of Residence in Nigeria (for individuals) ______________________
6. Incorporation (RC) No. (for companies) /Means of ID and Serial No. ______________________
7. Date of Incorporation (*for Companies*) /Date of birth (*for* ______________________

For use by the Tax Authority only

8. Declaration by Nigerian tax authority ______________________

The Nigeria Revenue Service hereby certifies that the applicant, for the purposes of the above-mentioned tax treaty-

- is a resident of Nigeria for tax purposes for the ……………………………………………………………..year of assessment;
- is subject to income tax by a tax authority in Nigeria under the above-mentioned tax identification number.

…………………………………………………………………………….

…………………………………………………………………………………………….

Name | Designation

…………………………………………………………………………….

……………………………………………………………………………………………..

Signature & Seal | Date & Place

…………………………………………………………………………….

Note: *Companies presenting this form for endorsement by the Nigerian revenue authority must attach* ***Certificate of Incorporation*** *(for Companies),* ***Form CAC 2, Form CAC 7, Memorandum and Article of Association*** *and the latest* ***Tax Clearance Certificate (TCC).*** *In case of natural persons, a copy of means of identification and TCC from the state of Residence must be attached.*

A checklist of required processes and documents is attached below

Checklist

1. Individual
   - Written application letter addressed to the Executive Chairman, NRS (attention of Director, Tax Policy and Advisory Department);
   - Duly completed Certificate of Residence Form (details typed-in and forwarded in word format);
   - Means of identification of taxpayer (international passport, drivers' license, voters' card, national ID, residency card etc.); and
   - Recent Tax Clearance Certificate (TCC).

2. Partnership
   - Written application letter addressed to the Executive Chairman, NRS (attention of Director, Tax Policy and Advisory Department);
   - Duly completed Certificate of Residence Form (details typed-in and forwarded in word format);
   - Certificate of Registration;
   - CAC Form 2 (document listing the names of partners in the partnership);
   - Means of identification of each partner (international passport, drivers' license, voters' card, national ID, residency card etc.);
   - Recent Tax Clearance Certificate (TCC) of the partnership (if available); and
   - Recent Tax Clearance Certificate (TCC) of each partner.

3. Companies
   - Written application letter addressed to the Executive Chairman, NRS (attention of Director, Tax Policy and Advisory Department);
   - Duly completed Certificate of Residence Form (details typed-in and forwarded in word format);
   - Certificate of Incorporation; and
   - Recent Tax Clearance Certificate (TCC) of the company.

NRS NIGERIA REVENUE SERVICE

CERTIFICATE OF RESIDENCE

(FOR USE BY FOREIGN RESIDENTS: INDIVIDUALS & COMPANIES)

Application for implementation of the tax treaty between Nigeria and

(Please write the name of the country in this box)

1. Applicant's Name (*Surname first*) or Name of Company ....

2. Applicant's Nigerian Tax ID (TIN)

3. Applicant's Tax ID in the country of residence. ....

4. Particulars of Individual (*for individual only*)

(for individual on

5. Particulars of Establishment of Company (*for companies only*)

Country of Residence..
....

Occupation..
....Means of Identification ☐ International Passport ☐ Driver's License

Name on Identification..
....

Registration / Incorporation Number……………………………………………………………………………………………………

Contact address *(in the country of residence)*……………………………………………………………………………………………………
………………………………………………………

Post/Zip Code………………………..

Address in Nigeria *(or name & address of Agent, if any)*……………………………………………………………………………………………………
……..........................

………
……..

Email Address ____ Telephone Number(s): __________________

Name, Address and Telephone Number(s) of Contact Person in Nigeria *(where no business address)* ………………………………………………..

………
…………………………………………………… Post Code……………………………

6. Claims

Year(s) of claim(s) ………
……………………………..

Type and brief description of trade, profession / employment or business carried on in Nigeria ……………………………………

………
………………………………………………………….

Name of Employer/Payer……………………………………………………………………………………………
……………………………………….

Nature of Employment/Business/Transaction………………………………………………………………………………………
……………………………

6. Beneficiary's Declaration

I hereby declare that:

- I am beneficially entitled to the income for which the treaty benefits are being claimed;
- For the purposes of the abovementioned tax treaty, I am a resident of (*Country*)……………………………………………………;
- I do not have a permanent establishment or fixed base that this income is attached to in Nigeria;
- This income has been or will be reported to the tax authorities in my country of residence.

…………………………………………………………………………………….

……………………………………………………………………………………………………….

Name (*of the person signing the form*) **Designation** (*where applicable*)

7. Declaration of the foreign tax authority

The tax authority of …………………………………………………………………………………………. hereby certifies that:

- The information provided by the applicant is correct;
- For the purposes of the abovementioned tax treaty, the beneficiary is a tax resident of ……………………………………………….. for ………………………………………………………… year of assessment;
- The beneficial owner of the income and the income which is the subject of this application are subject to taxation by the authority under the tax identification number ………………………………………………………………... (where applicable).
- The company is not just a pass-through entity but is into active business (YES/NO)……………………

………;

- The beneficiary of the income is subject to taxation by the authority under the tax identification number ………………………. (where applicable).

…………………………………………………………………………….