Introduction - What is a Dividend? What is an Interim Dividend?

Dividend is customarily a portion of the after-tax profits of a company, which is distributed among the Shareholders of a company, in the proportion of the Shares that the Shareholders hold in such a company, as a return on their investment in that company.

In practice, Dividend is usually declared and paid at the end of a company's financial year. The Companies & Allied Matters Act ("CAMA") however allows the Directors of a company to recommend to its Shareholders the payment of an Interim Dividend, out of the distributable profits of the company, for the financial year in which such distributable profits were made by the company.

Taxation of Interim Dividend

All the profits of a company, accruing in, derived from, brought into or received in Nigeria are liable to bear a Companies Income Tax, at a tax rate of thirty per cent (30%) of the distributable profits of the company.

As already mentioned above, the taxes on the profits of a company are paid to the tax authority in the following financial year, for the previous financial year in which the said profits were made. The Companies Income Tax Act (as amended) ("CITA") however recognises that a company can declare an Interim Dividend before the end of the financial year in which the distributable profits were made by such a company.

The Nigerian Federal Tax Authority, which is the Federal Inland Revenue Service ("FIRS"), have not before now been insistent on the advance tax arising from an Interim Dividend being paid before the Interim Dividend can be distributed to the Shareholders of a company. This old regulatory attitude has now changed.

In compliance with the provisions of CITA, companies that declare an Interim Dividend must before paying such Interim Dividend to their Shareholders, do the following; firstly, furnish to FIRS the details of the profits from which the Interim Dividend is been declared; with the particulars of the Shareholders and the proportion of their Shareholding in the company declaring the Interim Dividend.

Following from the last paragraph above, the second obligation on the company declaring an Interim Dividend is that such a company must remit to FIRS the advance tax on the Interim Dividend - which is at the corporate tax rate of 30% of the declared profits - before the Interim Dividend can be paid to the company's Shareholders.

Interim Dividend Tax - An Advance Tax

The advance tax paid on an Interim Dividend however only constitutes a deposit against the final Corporate Tax for the company declaring the Interim Dividend, at the end of the financial year that the distributable profits were declared and paid.

When Not to Pay an Interim Dividend?

A company cannot declare and pay an Interim Dividend from or out of its working capital.

A company cannot also declare and pay an Interim Dividend if there are reasonable grounds for believing that the company is or would after the Interim Dividend is paid, become unable to pay its debts, or fail to remain a going business concern.

Conclusion

Arising from the enforcement of the collection of advance tax on Interim Dividend income is the new reality that tax payers must proactively continue to increase their tax compliance levels, as a sensible way to minimise their tax risks. This is especially as governments' would continue to aggressively expand the tax base and tax collection, in order to mitigate governments' losses arising from the continuing dwindling in crude oil prices.

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