

Nigerian tax amnesty

1. What is the Nigerian tax amnesty?

Tax amnesty programs are often introduced by governments and tax authorities to encourage voluntary tax compliance and to curb tax evasion. With a tax amnesty scheme, taxpayers are given an opportunity to regularise their tax affairs with relevant tax authorities, by self-declaring previously unpaid/underpaid taxes. In exchange, taxpayers may be rewarded with a waiver of accumulated interest and penalties, as well as immunity from prosecution for tax offences.

Nigeria does not have a dedicated Amnesty programme. However, the Federal Government of Nigeria (FGN) recognises the impact of Amnesty. Thus, one of the key focus areas of Nigeria's National Tax Policy is expansion of the tax net through tax amnesty. In Nigeria, tax amnesty schemes are backed up by Executive Orders and official gazettes signed by the President.

Nigeria has witnessed a series of tax amnesty programs in recent times, such as:

a) FIRS' 45-day tax amnesty program

In 2016, Federal Inland Revenue Service (FIRS) through a public notice, introduced a 45-day tax amnesty window to taxpayers, covering 2013 to 2015 financial years. The 45-day window was open between 5 October 2016 and 24 November 2016 and participants enjoyed a waiver of accumulated interest and penalties on unpaid taxes.

b) Voluntary Assets and Income Declaration Scheme (VAIDS)

The FGN in 2017, introduced a tax amnesty program, the Voluntary Assets and Income Declaration Scheme (VAIDS) which covered the preceding six financial years (2011 to 2016) and ran between 1 July 2017 and 30 June 2018. VAIDS enjoyed large participation by taxpayers, which led to a significant increase in tax revenue, expansion of the tax net and increased voluntary compliance with tax obligations. Participants were also rewarded with waiver of accumulated interest and penalty on unpaid taxes, immunity from tax audit and immunity from prosecution for tax offences.

c) Voluntary Offshore Assets Regularisation Scheme (VOARS)

Subsequent to the successful completion of VAIDS and Nigeria's signing of the Common Reporting Standard Multilateral Competent Authority Agreement for automatic exchange of information (AEOI) with other countries, FGN introduced VOARS tax amnesty in 2018.

2. Key features of VOARS tax amnesty

VOARS is aimed at encouraging voluntary declaration of offshore assets and combating money laundering and tax evasion.

VOARS is backed by Executive Order 008 (the Order), signed by the President of the Federal Republic of Nigeria on 8 October 2018 (Effective Date). The Scheme, which is expected to last for a period of twelve months from the Effective Date, provides defaulting taxpayers with the opportunity to declare their indebtedness to the FGN, as regards underpaid taxes on assets held offshore. In exchange for voluntary declaration of assets and settlement of any indebtedness, taxpayers can enjoy waiver of interest and penalty charges as well as immunity from tax audits/investigations and waiver of criminal prosecution for tax offences.

The VOARS Order mandates the Attorney General of the Federation and Minister of Justice to set up the VOARS facility in Switzerland. To take advantage of the Scheme, taxpayers are required to access the facility by paying a 2% facility access fee and making all necessary disclosures.

The table below highlights key differences between VAIDS and VOARS.

Description	VAIDS	VOARS
Subject of voluntary declaration	Underpaid taxes due from previously undisclosed assets and incomes	Previously undisclosed assets and incomes held offshore
Scope	Six years, covering 2011 to 2016 financial years	Up to 30 years preceding the effective date of VOARS
Payment required	Principal tax liabilities (established in line with relevant tax laws) arising from previously undisclosed assets and incomes. Possible instalment payment arrangement extending up to three (3) years	One-time levy of 35% of the value of the offshore assets and a 2% service charge
Relevant authorities	Declarations submitted to relevant tax authorities in Nigeria	Declarations to be submitted to vested Swiss authorities
Implementation body/channel	Implemented through Federal Ministry of Finance and relevant tax authorities	Implemented by the Office of Attorney General/ Minister of Justice, through the VOARS Facility to be established in Switzerland

3. Eligibility for VOARS tax amnesty

VOARS encourages voluntary and truthful declaration from:

- a) All persons, entities and their intermediaries holding offshore assets (including those currently undergoing tax audits and investigation by the FIRS; **excluding** persons that are under investigation by law enforcement agencies in Nigeria or other countries, or have been charged with crimes including theft of public funds or obtaining offshore assets through corrupt practices; **and**
- b) Have not been tax compliant with respect to their offshore assets. Thus, if relevant persons have been compliant for tax purposes, there is no requirement to consider the window offered by VOARS.

4. How do taxpayers participate in the tax amnesty?

Taxpayers who are eligible for VOARS and wish to participate in the Scheme are required to comply with the following requirements. Compliance with the below requirements is a prerequisite for enjoying the benefits offered by VOARS:

- a) Voluntarily access VOARS by paying 2% VOARS Facility access fees within 12 months from the Effective Date;

- b) Voluntarily and truthfully declare their offshore assets and incomes **and payment of a one-time levy of 35% on the total value of the assets (pursuant to assessments issued by the relevant tax authority);**
- c) Submit to compliance procedures required by Swiss authorities in order to obtain VOARS eligibility certificate; and
- d) Avoid and stop further tax evasion and ensure full tax compliance on residual offshore assets.

5. What are the implications of the tax amnesty for taxpayers?

Taxpayers who participate in the Scheme (by complying with the rules set out in (4) above (including one-time payment of 35% of the value of the asset) stand to enjoy a number of benefits such as:

- a) The opportunity to regularise their tax status (with respect to offshore assets and income) for a period of up to 30 preceding years
- b) Permanent waiver of all interest and penalties on declared and regularised assets;
- c) Immunity from tax audit from the declared assets and grant of an Offshore Assets Regularisation Compliance Certificate from FGN on declared assets
- d) Ability to freely use/invest the assets, subject to continuous payment of taxes to FGN

6. Can assets remain booked offshore after the voluntary self-disclosure?

The Order does not mandate taxpayers to repatriate the offshore assets post-declaration. Upon declaration and payment of taxes due to the FGN, taxpayers are free to use/invest the assets as they desire.

7. What are the implications of non-compliance with the tax amnesty scheme?

Taxpayers who fail to comply with the requirements of the Scheme risk inviting the full wrath of the government and relevant tax authorities upon themselves. Also, defaulters would forfeit the opportunity for a plea bargain and would be required to pay accrued interest and penalty charges.

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Given the complexity of the VOARS tax amnesty as well as the various conditions and implementation steps, we highly recommend that taxpayers engage the assistance of a professional tax advisor.