

The FHC had on 9 August 2021 invalidated the powers of the National Assembly to legislate on Value Added Taxes (VAT) and held that the Rivers State Government, not the FIRS, was empowered to collect Value Added Tax (VAT), Personal Income Tax (PIT), Tertiary Education Tax (TET), Withholding Tax (WHT) and other taxes not exclusively assigned (or expressly mentioned) to the Federal Government by the Nigerian Constitution within the State. Please click on this link to access our previous alert on the ruling.

Pursuant to this, Rivers State Government signed a VAT Bill into law for Rivers on 19 August 2021, with Lagos State following suit on 10 September 2021.

The FIRS had filed an application to halt the enforcement of the FHC's decision pending the hearing of the appeal filed by FIRS at the Court of Appeal. The FHC, heard and dismissed FIRS' application on 6 September 2021, stating that granting the application would negate the principle of equity and amount to the Court overruling itself.

Consequently, FIRS filed another application for stay of execution at the Court of Appeal. Rivers State Government, on the other hand, (relying on the FHC dismissal of FIRS' application and its new law) also released communications to taxpayers requesting remittance of VAT beginning from September 2021.

Providing a temporary relief, the Court of Appeal, by its latest order on 10 September 2021, mandated parties to refrain from taking any steps to give effect to the FHC judgment, and maintain the pre-dispute status. On the strength of the Appeal Court's judgement, taxpayers are expected to continue to comply with their VAT obligations to FIRS in line with the Federal VAT Act until the hearing and determination of the motion for stay of execution.

The Court of Appeal indicated that FIRS' motion for stay of execution will be heard on Wednesday, 16 September 2021. It is expected that the Court will deal with the disputes expeditiously to provide clear directives to taxpayers.



If you require further clarification or seek to understand how this would impact your business, please reach out to

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Suit No. FHC/PH/CS/149/2020

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