EXAMINING TAX RELIEFS FOR THE INSURANCE SECTOR IN LINE WITH CURRENT REALITIES.

Nigeria is gradually convalescing from the tensions of the aftermath of civil onslaughts that took place in several parts of the country with Lagos, its commercial hub, being mostly hit by the activities of restive persons at the ebb of protests. These questions bring to mind, the concept of insurance, especially considering that many high net worth businesses were impacted by the spate of vandalisms.

Accordingly, business enterprises which have their assets and models generally covered under one insurance plan or the other may have a lot to be grateful for since they can recover their losses through insurance claims. On the flipside of this and depending on the number of entities enjoying insurance coverage, the gravity of damage caused nationwide may mean that insurance companies will suffer the biggest loss. This is attributable to the fact that with every claim for insurance coverage, the debt profile of the insurer rises.

In view of the above, this article focuses on considering the fate of insurance companies and how they can manage their financial books by leveraging on available tax reliefs provided by the Finance Act 2019 for the insurance sector to ensure stability, in the wake of raging spates of insurance claims.

DEFINTION OF INSURANCE

Insurance is simply an entity's leverage against risk of financial losses owing to some damage or misfortune usually represented by a policy document detailing the terms of the insurance. As an instance, an entity or property covered under an insurance policy is protected from any risk or loss which may occur. Note that the policy is what guides the extent of the protection. Essentially, users or subscribers of insurance plans pay a fraction of the value of the insured commodity as premium for any possible financial loss that may occur on the insured commodity.

THE BUSINESS OF INSURANCE

Firstly, anything is insurable. Once it can be valued, it can be insured. For clarity, let's assume Mr. Ojo buys a car valued at 10,000,000 million Naira and does a car insurance plan which requires him to pay 500,000 Naira per annum as premium in event of any damage or loss of the car. That is if he does this in 2020 and his car so happened to be damaged by hoodlums during the aftermath of the End SARS protest then the insurance company will bear the cost for his loss and possibly replace the car. This is because the concept of insurance means that insurance companies undertake to bear liabilities arising from any loss or damage on any of its insured entity or properties in exchange for an agreed "premium" payable at given intervals.

The above suggests that insurance may be a risky venture. For the unversed, the apparent risk of running an insurance company often leads to questions as to whether they are even profitable ventures since the business is hinged primarily on the acquisition of possible liabilities arising from any loss suffered by households, firms and corporate entities. Be that as it may, insurance companies are profit making ventures although with potentiality of running into huge financial losses. Using the scenario above, imagine an insurance company having 10 subscribers of similar car insurance plan, the implication would be that the insurance company has agreed to buy 100,000,000 Naira possible liability at 5,000,000 Naira premium fee. Note that the money paid for the insurance plan is per annum. So if in a year the 10 subscribers with similar plan do not have any need to invoke any claim from the insurance company then the insurance company has 5,000,000 Naira in its coffers since the risk on the 5,000,000 which is the 100,000,000 Naira liability has expired.

For this purpose, insurance companies undertake risk assessment to determine the premium to be paid, the maximum amount offered in event of loss and chance of running at a loss. This is to ensure that they don't actually buy liabilities that are likely to outrun the company.

From the foregoing, insurance is the relationship between an insurance company and a third party where the insurance company agrees to insure the property or entity of the third party who pays a fee in form of a premium for any financial loss which may occur on the insured property within a specific period of time.

NAVIGATING LOSSES VIA TAX RELIEFS

The law requires insurance companies to make returns and pay taxes on profit. However, given the peculiar nature of practice in the insurance sector, (where there's a possibility of incurring a liability far higher than their profit), the Companies Income Tax Act (CITA) which administers how companies are to be taxed, considers this peculiarity and so provides a different consideration for the insurance sector. The financial benefit of this consideration is more evident in a scenario where an insurance company declares profit in 2020 but because of an enormity of insurance claims weighing above its profits for the last financial year, the insurance company may become steered into steep financial loss.

Section 16 of the CITA, to the exclusion of life insurance companies, summarily provides that the profit of an insurance company shall be ascertained by taking gross premiums plus interest and all other income received (less any premium paid to the insured or for reinsurance) and deducting from the balance so arrived at, a reserve for the unexpired risk at the percentage adopted by the company considering its operation. Suffice this summary to capture in simple terms how profit of insurance companies are to be ascertained.

In addition, **Section 4 of the CITA Amendment Act of 2007** amends the provisions of the CITA to include the following tax concessions;

- That all losses of an insurance company shall be available to be carried forward for a period of four years; and
- Deductions from premium for tax purposes shall be as follows; for unexpired risk, 45% shall be deducted for general insurance other than marine cargo insurance business 25% shall be deducted from gross premium.

Furthermore, **Section 6 of the Finance Act** amended the above provision to include that losses available to insurance companies may now be carried forward indefinitely. Also, deductions on premium are now scheduled thus:

- Unexpired risks are to be calculated on a time apportionment basis of risk accepted in that year;
- For other reserves, outstanding, outgoings and claims, a total estimated amount for all outstanding, outgoings and claims. Provided that any amount not utilized for the foregoing shall be calculated as profit.

The extant provisions of the Finance Act gives insurance companies a cushioning effect on bearing their financial losses without being under immense pressure from tax authorities. This improved tax relief comes handy in a year as peculiar as 2020 and amidst the effect of the nationwide carnage. In effect, insurance companies will be able to manage their losses without pressure from the tax authorities where they already suffer huge financial losses. This is because the loss reliefs provided for in the Finance Act are favourable to the unique operation of the insurance sector. The effect of this relief as may be applicable to current realities of the insurance sector is that any insurance company which incurs a loss far higher than its gains will enjoy tax reliefs until the loss incurred is offset and the insurance company makes taxable profit(s).

Prior to the Finance Act 2019, the insurance sector may have had difficulty in continuing operations especially given the possibility of huge financial losses that may have been caused by the nationwide carnage. This is because, the CIT Amendment Act, 2007 only allows carrying forward of losses for a period of four years. The gravity of losses which most insurance companies may have suffered is likely to exceed four years.

The Finance Act 2020 offered another tax relief for Insurance Companies showing that the Government is aware of the difficulties inherent in the insurance business especially during trying times like the ENDSARS protest. According **to Section 9 of the Finance Act 2020** amending **Section 16 (12) of CITA** and providing interalia: that in a year of assessment the tax payable for any insurance company shall not be less than 0.5% of the gross premium for non-life insurance business and 0.5% of the gross income for life insurance business. Provided that the applicable minimum tax for tax returns prepared and filed for the years of assessment between 1st January 2020 – 31st December 2021 shall be 0.25%. This is a periodic tax relief that recognises the likely financial losses and seeks to mitigate its effect on Insurance companies suffering major losses or barely making any gains.

CONCLUSION

It has been hinted that the Federal government should provide a bail out option for the insurance sector to help them hedge against the incurred losses caused by the nationwide carnage. Sadly, there are admittedly not enough bail-out options under applicable regimes that tend to salvage the disproportionate hits to which insurance companies may be faced. For one, insurance companies play a significant role in ensuring the effectiveness of the government's fiscal and monetary policies. While there is only so much that can be done to steer a middle course for badly hit insurance companies, the latter companies may leverage on available hedges. Recognizing the direness of this situation, within the context of the recent national onslaughts, the tax reliefs provided for by the Finance Acts may well be the best thing since sliced bread for players in the insurance sector to leverage on in finding some respite where there is cold comfort.

For more information please contact:

Blackwood & Stone LP

info@blackwoodstone.com

+234 903 3501 613