



NIGERIA'S MINING FISCAL REGIME UNDER THE NEW TAX LAWS: ANALYSIS OF KEY CHANGES AND IMPLICATIONS

INTRODUCTION

The Federal Government has introduced significant fiscal reforms in the mining sector with the enactment of the Nigeria Tax Act, 2025 (**NTA**) and the Nigeria Tax Administration Act, 2025 (**NTAA**). These new laws represent a definitive departure from the previous fiscal regime, which was primarily governed by the Nigerian Minerals and Mining Act, 2007 (the "**Mining Act**") and the Companies Income Tax Act, 1977 (as amended) (**CITA**). This article examines the critical shifts introduced by the new regime and their legal and commercial implications for investors in the sector.

OVERVIEW OF THE KEY CHANGES AND THEIR IMPACTS

The NTA, which took effect on 1 January 2026, establishes a unified system for tax and royalty administration across all sectors of the economy and supersedes the previous laws relating to taxes, levies and royalties, including any conflicting provisions of the Mining Act and its regulations.¹ The key changes that specifically affect operators in the mining sector are examined below.

1. Tax Credit Framework Replaces Tax Holiday

The NTA has made a significant change to the incentives framework for mining projects by deleting section 28 of the Mining Act. This provision previously conferred a three-year corporate income tax holiday on qualifying mining companies from the date of commencement of operations, extendable for a further two years. This tax holiday was similar to the *pioneer status* incentive previously available to pioneer industries under the Industrial Development (Income Tax Relief) Act, 1970, which has also been repealed by the NTA.

¹ NTA, s. 201(1).

Under the NTA, the tax holiday regime has been replaced with the *Economic Development Tax Incentive* – a capital expenditure-linked incentive that functions as a tax credit rather than a tax exemption. Under the new incentives framework, eligible companies can claim an Economic Development Tax Credit (“**EDT Credit**”) at a rate of 5% per annum on qualifying capital expenditure over a 5-year period from the company's production day (“**Priority Period**”). The EDT Credit can be utilised to offset the income tax payable for any year of assessment during the Priority Period, subject to the minimum tax requirements under section 57 of the NTA. Section 176(3) provides that utilised tax credits after the end of the Priority Period may be carried forward for a further period of 5 years. However, the reference to “utilised tax credits,” rather than “unutilised tax credits,” appears inconsistent with the carry-forward mechanism and will require regulatory clarification.²

Implications for Project Economics

This shift from a tax holiday to a tax credit regime marks a fundamental change in policy in the design of fiscal incentives for capital-intensive sectors such as mining. It could have significant implications for existing and proposed mining investments, particularly where project economics and financing structures were modelled on the assumption of a defined tax relief period following the commencement of operations.³ Unlike tax holidays, which offer upfront fiscal certainty during the early years of operation, the EDT Credit provides benefits only if the company has taxable profits (above the minimum tax threshold) and sufficient tax liabilities to utilise the credit. While this approach preserves the possibility of tax revenue during the Priority Period and ties benefits to actual investment, it also shifts fiscal support away from the early, high-risk phases of mining project development, with potential implications for project bankability and financing structures.

Eligibility for EDT Credit

To qualify for the EDT Credit, companies must submit an application to the Nigerian Investment Promotion Commission for an Economic Development Incentive Certificate. The NIPC recommends eligible applications to the Minister for Industry, Trade, and Investment, who then recommends them to the President for approval. This application process marks a shift from what previously obtained under the Mining Act, where eligibility for the tax holiday did not require any regulatory approval.

The certificate is valid for five years from the production day and may be extended for an additional five years, provided that the company reinvests 100% of its profits during the incentive period in expansion. The certificate may be cancelled if the holder fails to commence production within a specified period or fails to meet any condition specified in the certificate. A key observation is that, unlike the Mining Act, the NTA does not expressly restrict eligibility for the EDT Credit to mineral title holders. This omission allows greater flexibility in structuring unincorporated joint ventures or collaborative arrangements in mining projects, where parties directly involved in mining operations but not holding mineral titles could potentially qualify for the EDT Credit, subject to regulatory interpretation.

² Section 176(3), NTA uses the word “utilised” rather than “unutilised,” which appears more logical given the context.

³ Chapter Two of the NTA covers Companies Income Tax.

Unlike the previous tax relief regime, which applied to all mineral title holders engaged in the production of any mineral, the NTA introduces a layered eligibility requirement. Eligibility for the EDT Credit is first limited to companies operating within designated priority sectors and, within those sectors, to companies engaged in the production of specifically identified priority products or services. The NTA also prescribes minimum qualifying capital expenditure thresholds and limits the availability of the incentive to a defined period, ending on a sunset date applicable to the relevant priority sector. The relevant parameters for the mining sector are outlined in Schedule 10 of the NTA and are reproduced below.

| Sub-Sector | Economic Development Incentive Status | Priority Product | Capex Threshold |
|----------------------------------------|--------------------------------------------------------------------|------------------------------------------|-----------------|
| Mining of Coal | Mining and processing of coal | Coal | ₦10 billion |
| Mining of Metal Ores | Mining and processing of lead, zinc, iron ore and gold | Lead, zinc, iron ore and gold | ₦10 billion |
| Quarrying and Mining of Other Minerals | Quarrying of limestone and mining of barite, bitumen and bentonite | Limestone, barite, bitumen and bentonite | ₦5 billion |
| Mining of Lithium and Rare Earths | Mining of lithium and rare earths | Lithium, rare earths | ₦10 billion |

Table 1: Mining Sub-Sectors Eligible for Economic Development Tax Credit

Commentary on the Priority Sub-Sectors and Priority Products

Notwithstanding the range of minerals designated as priority products, Schedule 10 does not fully capture several minerals that are widely regarded as strategic to Nigeria’s industrialisation and energy transition goals. In particular, the lack of priority status for bauxite, copper, cobalt, nickel and graphite is notable, given their vital roles in aluminium production, power infrastructure, battery technologies and renewable energy systems. These omissions are inconsistent with Nigeria’s stated ambition to develop domestic mineral supply chains and reduce import dependence in key industrial sectors. As such, there is scope for further review as the policy framework for strategic minerals evolves.

It is encouraging, however, that certain manufacturing subsectors within the mining value chain are listed as priority sectors in Schedule 10. These include the production of steel and other ferrous products; the manufacture of aluminium, tin, copper, nickel, zinc, manganese and chrome from ore, oxides or through electrolyte refining; the manufacture of batteries; and the operation of blast furnaces and rolling mills, amongst others. While the inclusion of these subsectors reflects the government’s policy objective of promoting in-country value addition in minerals and expanding processing capacity, the Act does not appear to adopt a consistent approach to value chain development. In particular, we note that the availability of EDT Credit for certain midstream and downstream activities is not consistently mirrored at the upstream extraction stage. For example, the manufacture of non-ferrous metals such as copper, nickel, manganese and aluminium from ores, oxides or through electrolyte refining qualifies for the

EDT Credit under the manufacturing priority sub-sectors,⁴ whereas the mining of the corresponding ores is not uniformly designated as a priority product under the mining priority sub-sectors. Curiously, while the manufacture of lithium batteries is recognised as a priority activity, the processing and beneficiation of lithium itself is not expressly included despite the Government's stated policy drive to promote domestic value addition for lithium.

Commentary on Capital Expenditure Thresholds

Prescribing a minimum qualifying capital expenditure threshold suggests that the incentive is targeted at large-scale projects capable of delivering significant economic impact. While this may support the government's revenue objectives, it also excludes smaller and emerging projects from accessing the incentive at a time when the mining sector continues to face capital constraints.

Duration of the Incentives

The NTA prescribes a defined sunset period for the availability of the EDT Credit across each priority sector and product. For the mining-related sectors, the incentive is subject to a 20-year sunset period from the commencement of the NTA (1 January 2026), while related midstream and downstream priority products have sunset periods ranging from 12 to 20 years. These prescribed timelines do not appear to fully take cognisance of the sector's current stage of development, particularly given that Nigeria remains largely in the exploration phase and several years may elapse before eligible projects reach production and begin to benefit from this incentive.

Overall, while the EDT Credit represents a deliberate shift towards a more fiscally disciplined incentive framework, its current design reveals gaps in alignment with the mining sector's policy and development realities. Addressing the identified misalignments through targeted clarification or adjustment would strengthen the EDT Credit's ability to support sustainable growth in the mining sector.

2. Improved Tax Treatment of Environmental and Rehabilitation Contributions

The Mining Act stipulates that companies engaged in mineral exploitation must establish a tax-deductible reserve for environmental protection, mine rehabilitation, reclamation, and mine closure costs.⁵ However, the tax deductibility was restricted to the actual amount incurred.⁶ As a result, the associated tax benefit could only be realised at the point of expenditure, often several years later.

The NTA introduces an important change to this framework by granting tax deductibility for contributions to the reserve, without requiring the underlying expenditure to have been incurred.⁷ By making such contributions immediately tax-deductible, the NTA provides a

⁴ NTA, sch.10, items 29 -30.

⁵ Mining Act, s. 30.

⁶ NTA, s. 30(b).

⁷ NTA, s. 64(2).

commercial incentive for operators to proactively set aside funds for future environmental obligations.

3. Accelerated Capital Allowance Regime Ceases

Section 24 of the Mining Act, which provides for accelerated capital allowances for qualifying mining expenditure, has not been expressly repealed. However, the NTA contains provisions requiring such capital allowances to be claimed on a straight-line basis over a five-year period at 20% per annum.⁸ Notwithstanding the absence of an express repeal of section 24 of the Mining Act, it is important to note that the provisions of the NTA prevail over the Mining Act in the event of a conflict on matters relating to taxable income, allowances, reliefs and deductible expenses.⁹

The shift from a 95% front-loaded capital allowance under the Mining Act to a 20% annual allowance over five years is a significant alteration to the fiscal incentives for mining operators. The accelerated capital allowance provided for in section 24 of the Mining Act substantially reduced taxable income, accelerating cost recovery and improving early-stage cash flows when mining projects are most capital-constrained. Whereas the new 20% capital allowance provides less cash-flow protection during the critical early production years. This shift raises questions about whether the revised capital allowance framework is appropriately calibrated to the risk profile and capital demands of mining projects in the early stages of development.

4. Increased Royalty Rates and Tighter Administration

The NTA repeals section 33 of the Mining Act, which previously governed mineral royalties. This provision is replaced by section 64(3) of the NTA, which imposes royalties on minerals obtained during exploration and mining operations at rates specified in the Eighth Schedule to the NTA. Changes to the royalty regime are discussed below.

Royalty Rates and Value Determination

The NTA has introduced significant increases in the ad valorem rates under the Mining Act, with rates for most minerals now ranging from 7.5% to 15%.¹⁰ The table below demonstrates the increase in the rates for some minerals, highlighting in particular, minerals designated as priority products:

| Mineral Type | Old Rates Ad Valorem % | New Rates Ad Valorem % |
|----------------------------|---------------------------|---------------------------|
| Gold Concentrate | 3% | 15% |
| Coal | 3% | 7.5% |
| Lithium Ore | 3% | 10% |
| Limestone (Crude) | 5% | 10% |
| Lead (Ore and Concentrate) | 3% | 7.5% |

⁸ NTA, sch 1, para.6.

⁹ NTA, s. 200(2)(a).

¹⁰ NTA, Sch. 8.

| | | |
|----------------------------|----|------|
| Zinc (Ore and Concentrate) | 3% | 7.5% |
| Iron Ore | 3% | 7.5% |
| Barite | 5% | 10% |
| Bitumen | 3% | 7.5% |
| Bentonite | 5% | 10% |

Table 2: Royalty Rates for Priority Products in the Mining Sector

Unlike the Mining Act and regulations issued thereunder, the NTA expressly prescribes the basis for determining the value of minerals for royalty purposes.¹¹ Under the Act, the value of minerals is to be determined using either the official selling prices specified by the Ministry of Solid Minerals Development (**MSMD**) or ruling prices on an international trading platform or market for solid minerals. Both approaches aim to enhance transparency and prevent under-declaration; however, each raises distinct considerations.

Reliance on the ruling prices on an *“international trading platform or market for solid minerals”* raises questions about which trading platforms or markets are relevant, how ruling prices are to be identified, and how adjustments are to be made for variations in mineral grade, transportation, and logistics. Without clear guidance on these issues, reference to international market prices may result in royalty valuations that do not accurately reflect local production realities. Also, while Government-prescribed selling prices may be easier to administer, their effectiveness depends on the integrity of the pricing methodology, the frequency of review, and the availability of adjustment mechanisms to reflect market conditions and variations in mineral grades.

Fundamentally, the NTA does not provide guidance on when to apply one valuation basis over the other. The absence of clarity on this issue introduces uncertainty into royalty valuation, creates scope for inconsistent application, and may complicate project economics and compliance planning, unless addressed through subsidiary regulations or administrative guidance.

Royalty Administration

The NTA designates the Nigeria Revenue Service (the **“Service”**) as the tax authority responsible for administering the royalty imposed on mining operations.¹² This marks a shift from the framework under the Mining Act, where the calculation and collection of mineral royalties were primarily within the jurisdiction of the MSMD, specifically the Mines Inspectorate Department.

Also, every person engaged in mining must file a monthly self-assessment return of mineral royalty with the Service. Returns for mineral royalty must be filed on or before the 21st day of the following month.¹³ This is a slight variation from the period specified in the Nigeria Mineral and Mining Regulations (the **“Mining Regulations”**), which provides for filing before the 20th day of the succeeding month.¹⁴

¹¹ NTA, Sch. 8.

¹² NTA, s. 64(4).

¹³ NTAA, s. 20(2).

¹⁴ Mining Regulations, reg. 123.

The NTA continues to recognise mineral royalties as a deductible expense for tax computation.¹⁵

Default for Payment of Royalties

The NTAA expands on sanctions applicable to defaults in the payment of royalties. Under the Mining Regulations, the primary sanction for a mineral title holder's failure to comply with royalty reporting and payment obligations was the risk of revocation of the mineral title, a process initiated by the Mining Cadastre Office upon receipt of a notice of default from the Mines Inspectorate Department.¹⁶

In addition to the risk of revocation, the NTAA introduces specific financial penalties administered by the Service. Section 123 of the NTAA provides that if any royalty remains unpaid for 30 days after the due date, it immediately constitutes a debt, and the defaulter becomes liable to a penalty of 10% of the royalty payable, together with interest on the royalty due levied at the prevailing Central Bank of Nigeria Monetary Policy Rate for Naira transactions, or the prevailing SOFR plus 10% for foreign currency transactions.¹⁷ Failure to pay mineral royalties after a demand notice may result in the Service notifying the Mining Cadastre Office to revoke the licence or lease.¹⁸

The introduction of penalty surcharges and high-interest rates transforms royalty default from a purely compliance risk into a significant financial liability and is likely to incentivise timely compliance with royalty reporting and payment obligations.

Royalty Waivers and Deferments

Under section 33(2) and 33(3) of the Mining Act, the Minister was empowered to waive or reduce royalty payable on minerals exported as samples or scientific specimens, and to defer payment of royalties on any mineral for a specific period, subject to the approval of the Federal Executive Council. As stated above, the NTA has deleted 33 of the Mining Act in its entirety, with the effect that these concessions can no longer be validly granted. This change removes a measure of regulatory latitude in royalty administration that was previously available to early-stage and exploration activities.

5. Increased Stamp Duty for Transfer of Mineral Assets

Under the Stamp Duties Act, 1939 (as amended), which has been repealed by the NTA, a transfer of interests in property or assets by way of deeds of assignment or deeds of conveyance or transfers on sale of property was subject to an ad valorem stamp duty rate of 1.5%.¹⁹ Notably, there was no distinction regarding the type of asset being transferred. The

¹⁵ NTA, s. 64(3).

¹⁶ Mining Regulations, reg. 99.

¹⁷ SOFR means the secured overnight financing rate published by the Federal Reserve Bank of New York on its website at <[newyorkfed.org/markets/reference-rates/sofr](https://www.newyorkfed.org/markets/reference-rates/sofr)> every business day (New York) at 8.00am Eastern Time.

¹⁸ NTAA, s. 63.

¹⁹ FIRS Public Notice, *Clarification of Stamp Duties in Nigeria (2020)*.

NTA departs from this uniform approach by specifically distinguishing transfer of interests in mineral assets. Under the NTA, any agreement that effects the transfer of mineral assets of any kind, or interests therein, is subject to stamp duty at an increased ad valorem rate of 2%.²⁰ Other conveyance and assignment transactions maintain the stamp duty rate of 1.5% or such lower rate as applicable.

By carving out transfers of mineral assets and subjecting them to a higher ad valorem stamp duty rate, the transaction costs associated with acquiring or restructuring interests in mineral assets have increased, potentially affecting deal pricing and valuation. Investors are advised to factor in the higher stamp duty in their acquisition models and may seek to mitigate its impact through efficient transaction structuring.

CONCLUSION

The new fiscal regime for the mining sector signals a clear shift from a fragmented, incentive-driven policy to a centralised, revenue-focused model. The removal of the automatic three-year corporate income tax holiday and accelerated capital allowance regime eliminates a crucial early-stage financial cushion, thereby increasing the initial tax burden for new entrants and existing operators, particularly those unable to meet the high qualifying capital expenditure thresholds required to access the tax credit incentive. Additionally, royalty administration has been tightened and centralised, with responsibility shifting from the Ministry to the Service, alongside the introduction of substantially higher royalty rates; several key minerals are now subject to ad valorem rates ranging from 7.5% to 15%.

These reforms reflect a deliberate policy emphasis on revenue maximisation, enhanced fiscal oversight and performance-based rewards. However, the analysis above highlights several structural and implementation challenges, particularly in incentive design, value chain alignment, royalty valuation, and administrative certainty. Addressing these issues through targeted amendments, regulations, or administrative guidelines, backed by a clear sector policy, would help align the fiscal framework more closely with the development realities of the mining sector and improve Nigeria's competitiveness vis-à-vis more developed African mining jurisdictions. In the interim, mining operators will need to reassess project economics and compliance strategies to navigate the evolving regulatory landscape and optimise the incentives available under the new regime.

Disclaimer: This publication does not purport to be comprehensive, nor to provide legal advice. Should you have any questions on the issues reported here or other issues in the Nigerian energy and natural resources sector, please reach out to one of the contacts provided below.

²⁰ NTA, s.132; Sch. 9, item 34.

Key Contacts



'Gbite Adeniji
Managing Partner
adeniji@enradvisory.com



Jumoke Fajemirokun
Partner
fajemirokun@enradvisory.com



Rasheed Belo-Osagie
Senior Associate
belo-osagie@enradvisory.com



Peter Okediya
Associate
okediya@enradvisory.com

ENR Advisory

South Atlantic Petroleum Towers, 3rd Floor
1 Adeola Odeku Street
Victoria Island
Lagos Nigeria

+234 (0) 2017004630 – 5
enr@enradvisory.com
www.enradvisory.com

© ENR Advisory 2026