

**THE 2025 TAX APPEAL TRIBUNAL (TAT)
RULING IN OANDO OIL LIMITED V.
FEDERAL INLAND REVENUE SERVICE
(FIRS) ON THE DUTIABILITY OF SHARE
PURCHASE AGREEMENTS, AND THE
IMPLICATION FOR MERGERS AND
ACQUISITIONS.**

Authored by:



Rilwan I. Idris

Managing Partner
Transadvisory Legal



Maduka Oluwafemi

Senior Associate
Transadvisory Legal

TABLE OF CONTENTS

1. Introduction
2. The Ruling in OANDO Oil Limited v. FIRS
3. Key Holdings of the Tribunal
4. Implications for Taxpayers and Businesses
5. Conclusion

1.0 Introduction

The Tax Appeal Tribunal was established under Section 59 of the Federal Inland Revenue Service (Establishment) Act of 2007, which has now been repealed and replaced by the Nigeria Revenue Service (Establishment) Act 2025. Its proceedings were guided by the provisions in the 5th Schedule of the Act and by the Tax Appeal Tribunal Procedure Rules of 2021. Section 1 [1] of the 5th Schedule created the Tribunal and gave it power to adjudicate over all matters arising from and pertaining to the taxes contained in the 1st Schedule of the FIRS (Establishment) Act of 2007 as follows:[1]

1. Companies Income Tax Act
2. Petroleum Profit Tax Act
3. Personal Income Tax Act
4. Capital Gains Tax Act
5. Stamp Duties Act
6. Value Added Tax Act
7. Any other Law contained in or specified in the first Schedule to the FIRS (Establishment) Act or other laws made or to be made from time to time by the National and State Assemblies.

It is instructive to note that, in 2025, the Nigerian legislature passed the Nigeria Tax Act 2025, which consolidated and repealed the tax statutes listed above. The Nigeria Tax Act 2025 (NTA 2025), which came into effect on January 1, 2026, created a harmonized framework for the entire gamut of tax legislation in Nigeria.

The Tax Appeal Tribunal (TAT) in Nigeria is a tax dispute resolution centre originally established under Section 59(1) of the now-repealed Federal Inland Revenue Service (Establishment) Act 2007.

TAT formally commenced operations pursuant to the Tax Appeal Tribunals Establishment Order 2009, issued by the Minister of Finance, as published in the Federal Government Official Gazette No. 296, Vol. 96 of 2nd of December, 2009. By this enactment, TAT had replaced the Body of Appeal Commissioners (BAC) and Value Added Tax (VAT) Tribunals.

However, with the recent Nigerian tax reforms, the TAT has been re-established, and its jurisdiction expanded under Sections 23(1) and 36 of the Joint Revenue Board of Nigeria (Establishment) Act 2025 (JRBEA 2025), one of the four key tax reform acts signed into law in June 2025 and effective from the 1st of January, 2026. The TAT serves as a specialized, first-instance dispute resolution center for tax matters in Nigeria.

Stamp Duty

Stamp duty in Nigeria is a tax levied on a wide range of written and electronic transaction documents or "instruments". It is charged either at a fixed rate (a flat amount) or ad valorem (as a percentage of the value of the transaction), depending on the type of instrument.

Key Aspects of Nigerian Stamp Duty

Governing Law: The tax is primarily governed by the Nigeria Tax Act 2025, which repealed and replaced the Stamp Duties Act (SDA) of 2004.

Purpose: Stamping a document provides it with legal validity, making it admissible as evidence before Nigerian courts. It also serves as a crucial source of non-oil revenue for the government.

Collecting Authorities: The Nigeria Revenue Service (NRS), formerly the Federal Inland Revenue Service (FIRS), is the competent authority to collect duties on transactions involving a company. The relevant state tax authority collects duties on instruments executed between individuals.[2]

Payment Obligation: Generally, the beneficiary of the transaction or the person making the payment is responsible for the duty. For a lease, the tenant/lessee is liable, while for a conveyance on sale, the buyer/transferee is responsible.

Payment Method: Payment can be made through impressed stamps, adhesive stamps (NRS adhesive stamps, not postage stamps), or electronically via the NRS e-Stamp Duty portal.

The Ruling in OANDO Oil Limited v. FIRS

The Tax Appeal Tribunal (TAT) in the case of Oando Oil Limited v. FIRS delivered a significant ruling on the 28th of November, 2025, determining, among other things, that Share Purchase Agreements (SPAs) are subject to stamp duties in Nigeria. This decision increased stamp duty exposure for mergers and acquisitions (M&A) and investment transactions, and may prompt the tax authorities to review historic, unstamped deals.

Background of The Case

On the 20th of December, 2012, ConocoPhillips Company and Phillips Investment Company LCC, on the one hand, and Oando OML 60, 61, 62, and 63 Holding BV and Oando PLC, on the other hand, executed a Share Purchase and Sale Agreement. On the same day, another Share Purchase and Sale Agreement was executed between ConocoPhillips Company and Phillips Investment Company LCC, on the one hand, and Oando OML 131 and 63 Holding BV and Oando PLC, on the other hand.

On the 18th of July, 2014, a third Share Purchase and Sale Agreement was executed between Cono Holding Limited and Phillips Investment Company LCC, on the one hand, and Oando OML 214 Holding BV and Oando PLC, on the other hand.

A Summary of The Case of The Appellant

The Respondent (FIRS) had, on the 24th of July, 2024, delivered an assessment note to the Appellant (Oando) for unremitted stamp duty of \$USD88,258,099.32 (Eighty Eight Million, Two Hundred and Fifty Eight Thousand, and Ninety Nine Dollars, Thirty Two Cents) in respect of the transfer of shares in ConocoPhillips to the Appellant, which led to the Appellant's ownership of the interest in Oil Mining Lease (OML) 60, OML 62, OML 63, OML 131, and OML 214 in 2012 and 2014.

Upon the receipt of the Respondent's assessment note, the Appellant informed the Respondent that the Appellant is not liable to pay any stamp duty on its alleged acquisition and ownership of Oil Mining Lease (OML) 60, OML 62, OML 63, OML 131, and OML 214 in 2012 and 2014 under the Stamp Duties Act 2004.

On the refusal of the Respondent to accept the Appellant's position denying liability under the Stamp Duty Act in respect of the acquisition and ownership of the said OMLs, the Appellant filed a Notice of Appeal dated the 30th of July, 2024, which was later amended to an Amended Notice of Appeal dated the 29th of July, 2025, with a lone ground of appeal which is reproduced below:

“Contrary to the Respondent’s claim that the Appellant is liable to stamp duty on the purchase agreement alleged to have been executed by the Appellant with respect to the acquisition of Oil Mining Leases 60, 61, 62, 63, 131, and 214, the Appellant was not a party to any of such transactions or acquisition.”

The Appellant, in its Amended Notice of Appeal, indicated that the Appellant did not acquire any interest in the OMLs, as it was not a party to the transactions in which the OMLs were acquired. It also stated that the transaction pertained to a transfer of shares and not a purchase of shares, and, as such, all documents relating to the transfer of stocks and shares are exempted from stamp duties under Paragraph 13 of the General Exemption from all Stamp Duties provision of the Stamp Duties Act. It also indicated that the said acquisition of shares took place in 2012 and 2014 and, as such, was statute-barred pursuant to Section 114 of the Stamp Duties Act.

During the proceedings, the Appellant (Oando Oil Limited) called a lone witness, Mr. Olajide Olonku, a tax consultant to the Appellant since 2022, as Appellant Witness (AW). The AW adopted his witness statement on oath dated the 29th of July, 2025, without objection from the Respondent's counsel.

The Appellant tendered the following documents through the AW, and they were respectively marked as follows:

- i. Respondent's Letter dated the 24th of June, 2024, was marked as Exhibit A01.
- ii. Appellant's Letter dated the 1st of July, 2024, was marked as Exhibit A02.
- iii. Respondent's Letter dated 17th of July, 2024, was marked as Exhibit A03

The AW was cross-examined and re-examined accordingly. The Respondent relied on the filed processes and exhibits tendered and admitted by the Tribunal, and presented neither witnesses nor documents in support of its case but elected to rely on the evidence of the Appellant and address the Tribunal on the issues of law raised in the appeal.

The Respondent filed its Final Written Address before the Appellant on the 29th of August, 2025, and the Appellant filed its Final Written Address on the 8th of September, 2025, to which the Respondent responded with a Reply on Points of Law dated the 18th of September, 2025. Upon an oral application by the Appellant, the Tribunal regularized the processes due to the Appellant's failure to file within time.

In its Final Written Address, the Appellant raised a sole issue for determination, which will be produced hereunder:

“Whether, based on undisputed evidence before this Honourable Tribunal, the Appellant is under any obligation to account for stamp duties, if any, for the Share Transfer Agreements that were executed by other parties that led to the ownership of OMLs 61, 62, 63, 131, and 214 (the OMLs) in 2012 and 2014.”

The Appellant argued, in its Final Written Address, that it was not liable to stamp duty under “Share Transfer Agreements” which it was not a party to, thereby raising the question of distinct corporate personality. It also argued that, since the Respondent neither called a witness nor tendered any document to prove the alleged liability, the Appellant's case stood unchallenged.

A Summary of The Case of the Respondent

The Respondent formulated two grounds in their Reply, which have been reproduced below:

Ground one

“ The Respondent’s Demand Note issued in respect of the Appellant’s acquisition/bill of sale in a company that had interests in OMLs 60, 61, 62, 63, 131, and 214 is in accordance with the relevant laws and agreement.”

Ground two

“The Respondent’s action is in line with its powers as outlined in the Federal Inland Revenue (Establishment) Act 2007 (as amended).”

The Respondent indicated, under the particulars of the first ground in its Reply, that the Revenue Mobilization Allocation and Fiscal Commission (RMAFC), while exercising its constitutional powers to monitor revenue accruals to the Federation Account, investigated oil and gas companies in respect to their tax commitments. The Appellant was flagged in the said investigation and was referred to the Respondent for the recovery of the unremitted taxes, pursuant to Section 35 (2) of the FIRS(E)Act.

The Respondent further submitted that the act of acquisition or purchase of shares is distinct from the transfer of shares, and, as the Appellant has admitted in its Amended Notice of Appeal, the Appellant acquired shares in the company vested with the interest in the OMLs, thereby acquiring the interest in the OMLs by implication.

In the particulars of the second ground of the Reply, the Respondent submitted that the Appellant had, sometime in 2014, acquired ConocoPhillips, a direct party in the “Share Purchase and Sale Agreements” under which the interests in the OMLs were acquired, for a consideration of \$1.5 billion under the guise of a transfer of shares, in a bid to avoid the payment of stamp duties to the Federal Government of Nigeria.

It stated that the Appellant's disguise of the transaction as a mere transfer of shares, instead of a purchase of shares, constitutes a violation under Section 40 of the FIRS(E) Act.

The Respondent also cited Sections 34(2) and 35(2) of the FIRS(E) Act to support its point that the Respondent has the statutory enablement to investigate tax matters, notwithstanding anything to the contrary in any other enactment or law.

In its Final Written Address, the Respondent formulated two issues for determination, which have been reproduced below:

Issue one

“Whether the Appellant is liable to Stamp Duty under the Stamp Duties Act 2004 (as amended) in respect of the acquisition and purchase of shares and ownership interests in companies vested with OMLs 60, 61, 62, 63, 131, and 214.”

Issue two

“Whether the Appellant can rely on technicalities or statutory exemptions (Section 114 of the Stamp Duties Act) to evade payment of Stamp Duty in clear revenue-generating transactions with significant economic value.”

The Respondent argued in its Final Written Address that the Appellant admitted, in Exhibit A02, to acquiring shares in a company that has interests in the OMLs. The Respondent cited Sections 20 and 21(1) of the Evidence Act (amended) 2023 in stating that facts already admitted need no further proof.

Key Holdings of the Tribunal

- **Supremacy of The Federal Inland Revenue Service (Establishment) Act:** Section 22 of the Finance Act 2021 introduced a new enactment and substituted Section 68 of the FIRS(E) Act with Section 68(1), which declared that the FIRS(E) Act takes precedence over any other enactment in respect of the administration and enforcement of taxes and levies.

- **Share Purchase Agreements (SPAs) are Dutiable:** The Tribunal held that SPAs are contractual agreements for the sale of shares and do not qualify for the stamp duty exemption under the Stamp Duties Act (SDA) meant for instruments merely transferring stocks and shares.

The Tribunal distinguished between a transfer of shares simpliciter, which typically involves a change of ownership where shares are gifted, inherited, or swapped without monetary compensation, and a sale/purchase of shares where money is paid for existing shares, and a share purchase agreement is executed to document the transaction. Share purchase/sale transactions usually involve negotiation, warranties, and a price.

- **No Statute Bar on Assessments:** The TAT ruled that the Federal Inland Revenue Service (FIRS) can pursue unpaid stamp duties on past transactions, citing overriding powers granted by relevant finance legislation and revenue generation imperative.
- **Penalties Applied:** A 10% penalty and interest based on the Central Bank of Nigeria Monetary Policy Rate were imposed, applying the provision of Section 23(1) of the SDA, while referring to Section 110 of the then-incoming Nigeria Tax Administration Act (NTAA) 2025.

It is interesting to note that the manner in which the Tribunal cited a provision under the Nigeria Tax Administration Act 2025 in delivering its ruling, establishing the impression that its ruling on the punitive interest was buoyed by the provision of the NTAA, which had not come into force when the ruling was delivered, was faulty. Both the NTA and the NTAA came into force on the 1st of January, 2026, after the ruling was delivered, and, as such, cannot have a retrospective effect on the outcome of the matter.

However, the Tribunal would have arrived at the same conclusion in the Ruling if it relied on the provision relating to default and penalty in the FIRS(E) Act, which was the live enactment at the material time.

- **Burden of Proof:** Oando's argument regarding separate legal personality was not accepted due to a lack of evidence, as the Appellant failed to adduce sufficient proof through the production of incorporation documents of the Appellant and the parties to the transactions to enable the Tribunal reach an independent conclusion that the Appellant is indeed and in fact a separate and distinct personality from any of the parties. The Tribunal also considered the incontrovertible fact that the Appellant became vested with the interest in the OMLs on account of its acquisition of shares in ConocoPhillips, regardless of whether it was a party to the Share Purchase and Sale Agreements or not.

Furthermore, according to the Nigerian law on evidence, any fact pleaded but not supported by evidence is deemed abandoned and cannot be useful for the pleader of such a fact. The Appellant failed to adduce sufficient evidence to prove its claim of distinct corporate personality.

Implications for Taxpayers and Businesses

- **Increased Risk for M&A:** The ruling of the Tribunal in the instant case unequivocally exposes Share Purchase Agreements (SPAs) to liability for stamp duty. Future share acquisitions in Nigeria through mergers and acquisitions, restructuring, and private equity investment deals face uncertainty and a stamp duty exposure on SPAs unless the decision is appealed or clarified.

Stamp duty exposure on mergers and acquisitions (M&A) in Nigeria majorly occasions increased transaction costs, potential penalties and interest or non-compliance, and the inadmissibility of unstamped documents as evidence in legal proceedings in Nigerian courts.

The Nigerian Revenue Service, formerly the FIRS, sanctions ad valorem rates on share sale agreements, treating them as general sale agreements, rather than the lower nominal rates for share transfers, significantly increasing the cost for M&A deals. The Finance Act 2020 broadened the scope of the Stamp Duties Act (now repealed and replaced by the Nigeria Tax Act 2025) to include electronic documents, emails, and electronic receipts as dutiable instruments.

Mergers and Acquisitions are potent tools for growth, driven by recapitalization and market consolidation imperatives. They involve navigating a complex, high-stakes environment where regulatory, financial, and operational risks can significantly impact the success of mergers and acquisitions (M&A) deals. With the recent ruling of the Tribunal in the instant matter, entities intending to acquire shares in other entities must ensure that adequate due diligence is conducted to sufficiently understand the potential tax liabilities involved.

- **Review of Historic Transactions:** The FIRS (now NRS) may review legacy unstamped transactions, potentially resulting in back-duty assessments, penalties, and interest. The Tribunal found that, based on the supremacy clause introduced by Section 22 of the Finance Act 2021, which amended Section 68 of the FIRS(E) Act, the FIRS, now the NRS, possesses significant powers to recover outstanding stamp duty. Furthermore, the ruling of the Tribunal aligns with the view that a general statute of limitation, such as the one contained in Section 114 of the Stamp Duties Act, would not prevent the FIRS (now NRS) from recovering outstanding stamp duty. It further stated that the legislative intention behind Section 68(1) of the FIRS(E) Act is to grant the FIRS robust powers to ensure effective tax collection without undue intervention from other statutes, as the priority of the legislation is to ensure the enforcement and collection of federal taxes.

Conclusion

Businesses should review past transactions and seek expert advice to manage exposure, including potentially consulting with tax advisors and securing advance rulings. Businesses have to go beyond financial audits to include legal, tax, technical, and cultural assessments to address potential hidden liabilities, uncertainties regarding future tax projections, and corporate structuring.

Corporate entities require the competence of tax experts to navigate complex rules and challenge aggressive assessments. The decision on whether to invest in share deals, which involves buying company stocks and inheriting all its assets and liabilities, or asset deals, which involves buying specific assets and assuming select liabilities, and understanding applicable exemptions, is crucial.

Businesses must be extremely careful about stamp duty during mergers and acquisitions because it is a significant, often misunderstood tax that can drastically affect the net profitability and legal standing of a deal.

Overlooking stamp duty may lead to unexpected financial burdens, especially when the interest on the tax liability compounds over a long period. It is important to conduct thorough tax due diligence to identify hidden liabilities and valuable exemptions, and properly structure the acquisition to minimize tax exposure.