TOPE ADEBAYO LP

TAX IN PRACTICE
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Advance Tax Rulings in Nigeria:

When Is Certainty Worth the Disclosure?



1. INTRODUCTION

Before committing to a major transaction, a business wants to know what it will pay in tax. An advance tax ruling ("ATR") gives it that answer, in writing, from the tax authority before the transaction is carried out. Before the Nigeria Tax Administration Act 2025 ("NTAA"), Nigerian taxpayers could obtain tax positions or rulings administratively, but there was no generally applicable statutory framework conferring legal effect on those rulings. Their force against the tax authority was therefore uncertain, and disputes over prior representations were addressed through doctrines such as legitimate expectation and estoppel, subject always to the governing tax statute.[1]

The NTAA changes that position by creating a statutory process for advance rulings. It prescribes who may apply, what an application must contain, the period within which the relevant tax authority should respond, and the circumstances in which a ruling becomes void or ceases to be effective.

The new regime nevertheless creates an important asymmetry. To obtain certainty, a taxpayer must disclose the commercial rationale, structure and financial implications of a proposed transaction, while the Act does not expressly state that the resulting ruling binds the issuing authority and does not expressly restrict the authority's subsequent use of information supplied in the application.

Although the NTAA permits the withdrawal or modification of a ruling where it was fraudulently obtained, the more significant concern for a compliant applicant is whether the statutory protection afforded by a valid ruling is sufficiently clear and enforceable to justify the breadth of disclosure required to obtain it. This article examines when that statutory bargain is worth making and argues that the regime would be materially strengthened by clearer provisions on the binding effect of rulings, reliance protection and the permissible use of information disclosed in the ruling process.

2. THE CONCEPT OF ADVANCE RULINGS

An ATR is a written statement by the relevant tax authority on how a tax law applies to a specific set of facts or to an actual or proposed transaction. Companies planning significant transactions have long approached the Federal Inland Revenue Service (now the Nigeria Revenue Service, "NRS") for such statements, to avoid unexpected assessments, plan their tax position and price transactions accurately. The NTAA now regulates the practice and makes one limit clear: a ruling may interpret and apply the law, but it cannot amend or replace it.

3. SCOPE OF APPLICATION

Any taxable person who is a party to a tax-related issue or transaction may apply to the relevant tax authority for an advance ruling[2] to gain clarity, consistency and certainty on the interpretation and application of a tax law, administration, precedence, or policy.[3] Two or more parties to the same tax-related issue or transaction may also apply jointly. This is useful in an acquisition, where the buyer and the seller each need certainty on the same tax treatment, and only a party to the application can rely on the ruling.

The Advance Ruling Guidelines issued by the NRS also permits two (2) categories of applicants:[4] a taxpayer acting through an authorised representative or accredited tax agent; and a person proposing to undertake a transaction with tax implications in Nigeria.

In practice, a foreign-owned entity with limited local presence can appoint an attorney or legal adviser to apply on its behalf. This aids tax planning and makes the advance rulings system more accessible to existing and prospective taxpayers.

1 FBIR v Halliburton (WA) Ltd [2015] LPELR-24230(CA); Saipem Contracting Nigeria Ltd & Ors v. Federal Inland Revenue Service & Ors, (2018) LPELR-45118 (CA).
2 Section 73(4), Nigeria Tax Administration Act ("NTAA") 2025
3 Section 73(2)(a), NTAA 2025
4 Paragraph 5(c) and (d), Advance Ruling Guidelines 2026 ("The Guidelines")

4. MATTERS ELIGIBLE FOR AN ADVANCE RULING

The Guidelines[5] set out a broad range of issues on which a taxpayer may seek certainty from the tax authority, whether the transaction is proposed, ongoing or already completed. These include:

a. The interpretation or application of any provision of a tax law
b. The tax consequences of a proposed, commenced or completed transaction
c. The tax treatment of a complex commercial arrangement, restructuring, merger or acquisition
d. The availability or applicability of an exemption, incentive, relief or allowance
e. A transfer pricing or cross-border arrangement tax issue
f. Permanent establishment or significant economic presence issues
g. Withholding tax, value added tax or other tax collection obligations
h. Any other tax-related issue that the Service considers appropriate.

5. WHAT AN APPLICATION MUST DISCLOSE

Every application[6] for an advance ruling must be made in the prescribed form[7] and manner, and must contain:[8]

a. The taxpayer's name, Tax ID and contact details
b. Details of the authorised representative (where applicable)
c. Details of the co-applicants, and any other material parties and connected persons
d. A complete description of the tax issue/transaction & its financial implications
e. A complete description of the impact of the issue or transaction on the tax liability of the taxpayer, co-applicants, material parties, and connected persons
f. Details of any ongoing audit, previous correspondence & decisions of the relevant tax authority on the issue
g. Precise tax ruling requested and relevant statutory provisions or legal basis relied on by the applicant(s)
h. Reasons why the taxpayer believes that the proposed ruling should be granted
i. Written statement on whether the matter is before any tribunal or court of competent jurisdiction
j. Other supporting documents[9] and any other additional information requested.

The authority may ask for more information and, where necessary, must give the applicant a reasonable opportunity to make representations or provide clarifications. An applicant may also withdraw its application at any time before a ruling is issued. The Act does not say what becomes of the information already submitted. Sections 142 and 143 of the NTAA impose confidentiality obligations on tax officials and regulate the disclosure of taxpayer information, subject to statutory exceptions.

Those provisions answer a different question from the one that may matter most to an applicant: they restrict disclosure, but do not expressly create a "use immunity" preventing the relevant tax authority from relying on information lawfully obtained through an ATR application in a later audit, investigation or assessment. The

5 Paragraph 6, The Guidelines
6 Paragraph 9, The Guidelines
7 Appendix I, The Guidelines
8 Section 73(5), NTAA 2025
9 Paragraph 10, The Guidelines

distinction between confidentiality and use, therefore, leaves a residual disclosure risk even where an application is withdrawn.[10]

Within 21 days of receiving the application, the tax authority must issue the ruling or give written reasons for not doing so. A ruling may state whether it applies generally or only to the applicant; relevant statutory provisions or legal issues addressed in the ruling; assumptions made or conditions imposed by the relevant tax authority in connection with the validity of the ruling; and the period for which the ruling is valid. Three practical points follow.

First, the Act does not say what happens if the authority misses the 21-day deadline (there is no deemed approval) or whether a request for further information restarts the clock. Transaction timetables should therefore allow for some margin. Secondly, the Act sets no default validity period, so the applicant should seek a period that covers the full implementation of the transaction. Thirdly, the NTAA prescribes no application fee; the real costs are adviser fees, management time and transaction timing.



6. RELEVANT TAX AUTHORITY

Under the NTAA, advance tax rulings are formally issued by an authorized officer of the Relevant Tax Authority (RTA) that holds statutory jurisdiction over the taxpayer and the specific tax matter. Depending on the nature of the transaction and the taxpayer, the relevant tax authority here would be the Nigeria Revenue Service (NRS), or the Internal Revenue Service of a State or the Federal Capital Territory in Nigeria.[11] Where a transaction involves taxes administered by different tax authorities (for example, companies income tax and VAT administered by the NRS, and capital gains tax or stamp duties payable by an individual seller administered by a State), separate applications may be needed. As a matter of statutory jurisdiction, a ruling by one authority should not be assumed to bind another authority that was not the issuer.[12]

a. The Nigeria Revenue Service (NRS) has exclusive jurisdiction over corporate entities, non-resident persons, specialized sectors (e.g. petroleum operations), and federal military/diplomatic personnel. Taxpayers may apply to the NRS concerning the interpretation and application of Corporate Income Tax, Hydrocarbon Tax, Petroleum Profits Tax, Surcharge and Royalties, Value Added Tax (VAT), Stamp Duties, Development Levy, and Economic Development Tax Incentives.

b. The State Internal Revenue Service (or the FCT Internal Revenue Service) exercises jurisdiction over resident individuals, unincorporated businesses, estates, trusts, communities, and families. Taxpayers may apply to the SIRS concerning the interpretation and application of Personal Income Tax, Capital Gains Tax, Stamp Duties, Taxes on Settlements, Trusts and Estates, State Levies, Rates and Charges.

10 Sections 142 and 143, NTAA 2025.
11 Section 147, NTAA 2025
12 Paragraph 1, The Guidelines

7. EFFECT OF A RULING: WHO CAN RELY ON IT, AND FOR HOW LONG

An advance ruling is limited to the applicant and the transaction in relation to which the ruling is given, the rationale being that the ruling was rendered on a set of facts placed before the relevant tax authority and cannot, therefore, be of general application to every other taxpayer. The authority can also issue general rulings of its own accord, much like published guidance, but it cannot extend one business's ruling to others. In practice, only the applicant (or joint applicants) can rely on a ruling; a competitor, a group company or a buyer that was not a party to the application cannot rely on it.

Does a Ruling Bind the Tax Authority? Although the Act does not say in so many words that a ruling is "binding" on the relevant tax authority, the Guidelines issued by the NRS however provides that the advance ruling shall be binding on the Service ("NRS") with respect to the specific facts and issues presented by the applicant(s) alone, and shall remain effective only for the period specified in the ruling subject to the provisions of sections 75 and 76 of the NTAA.[13]

The Act gives a ruling effect for the applicant and lists the only circumstances in which a ruling becomes void or stops applying (see Section 8 below). It also requires the authority to state when any withdrawal or change to a ruling takes effect, and it allows the authority to backdate a withdrawal only where the ruling was obtained by fraud.

The better view, then, is that a valid ruling governs how the authority treats the transaction for the applicant, for the period stated in the ruling. Two limits remain. A ruling cannot change the law, so one that misstates the law is open to challenge. And the Act gives the applicant no express remedy if the authority later issues a tax bill that contradicts the ruling.

Can an Adverse Outcome be Challenged? Not directly. The Act gives no express right of appeal against a refusal to issue an advance ruling, or against an unfavourable one. The usual way to dispute tax, a formal objection to the tax authority, applies only to a tax assessment (the authority's formal demand for tax), and a ruling is not an assessment. The legal protection comes later. If the authority issues an assessment that contradicts a favourable ruling, the business can object to it and, if the objection fails, appeal to the Tax Appeal Tribunal, relying on the ruling. Because the tax laws were only recently enacted, no case has set a precedent on whether the Tribunal will hear a challenge to a refusal itself.

But, an inference can be drawn from the general powers of the Tribunal to adjudicate on any controversy arising from the NTA and the NTAA 2025. The Tribunal's jurisdiction could also be safely presumed since an aggrieved taxpayer has the right to appeal to the Tribunal against any assessment, demand notice, action, or decision of a tax authority. A business can, however, ask the court to review a refusal that is irrational or was reached unfairly.



13 Paragraph 16(b) and (e), The Guidelines

8. WHEN AN APPLICATION MAY BE REJECTED, AND WHEN A RULING LOSES ITS EFFECT

The relevant tax authority has a discretion to reject an application for an advance ruling where it requires the rendering of an opinion, conclusion or determination regarding: [14]

a. The application or interpretation of the laws of a foreign country
b. An issue already before a court or tribunal of competent jurisdiction
c. The interpretation of the Constitution of the Federal Republic of Nigeria
d. An issue that is academic, hypothetical, frivolous or vexatious
e. A ruling that will interfere substantially with an ongoing audit, investigation or other proceeding involving the applicant or persons connected to the applicant.

Once issued, a ruling is void where any of paragraphs (a) to (c) below applies, and ceases to be effective where (d) or (e) applies: [15]

a. The issue or transaction as described in the ruling is materially different from the issue or transaction actually carried out
b. There is fraud, misrepresentation or non-disclosure of a material fact
c. An assumption made or condition imposed by the relevant tax authority is not satisfied or carried out by the taxpayer
d. A provision of the tax law that was the subject of the advance ruling is repealed or amended in a manner that materially affects the advance ruling
e. A court overturns or modifies an interpretation of the tax law on which the advance ruling is based.

The difference matters. Where a ruling is void, a taxpayer cannot safely rely on it, which makes a complete and accurate description of the transaction essential. Where a ruling ceases to be effective because the law changes or a court takes a different view, the Act fixes the cut-off. Section 75 of the NTAA fixes the relevant cut-off date at the effective date of the legislative change or the date of the judgment. On the stronger view that a valid ruling binds the issuing authority, the ruling should retain its effect for the period before that statutory cut-off.

Section 76 creates a separate and more significant qualification. It provides that the authority may withdraw or modify a ruling "at any time and retrospectively if the ruling was fraudulently obtained".

The more natural reading is that prospective withdrawal or modification is permitted at any time, while fraud is required for the retrospective effect. The provision does not state a substantive threshold, such as error, change of policy or public interest, for prospective withdrawal. That power materially reduces the durability of the certainty for which the applicant has made extensive disclosure.

9. PRACTICAL GUIDE FOR BUSINESSES

Not every transaction justifies an application. The question is whether the certainty a ruling gives outweighs its cost, measured in the disclosure required and, in the time and adviser fees involved.

14 Section 74, NTAA 2025
15 Section 75(3) and (4), NTAA 2025

9.1 INSTANCES WHERE TAX CERTAINTY JUSTIFIES A DISCLOSURE

a. High-Value or Structurally Complex Transactions

For transactions having significant financial implications, such as major merger & acquisition deals, corporate/debt restructurings, or the launch of a new product into the market, the consequences of an incorrect tax assumption may severely undermine the commercial viability of such transaction. Here, a ruling turns a tax assumption into a documented position, and it can be built into the deal: for example, by making completion conditional on a favorable ruling, or by applying jointly with the counterparty so that both sides can rely on it. In a group reorganization that depends on a tax-neutral transfer of assets between related companies, a ruling confirming that the relief applies can be the difference between a cost-free restructuring and an unexpected tax charge.

b. Long-Term Capital Investments

The same rationale extends to large-scale enterprises and foreign investors seeking to undertake long-term capital commitments. Fiscal predictability is a material factor for businesses when making informed investment decisions. A ruling can settle the tax authority's position on the specific question for the period stated in it. It will not remove every ambiguity: it covers only the issues and facts presented, and it ceases to be effective if the law changes. Investors should, therefore, ask for a validity period that matches the investment horizon and keep change-in-tax-law protections in their contracts and allocation-of-risk provisions where appropriate.

c. Clear Compliance Records

For a business with a clear compliance history and transparent connected-party arrangements, the incremental disclosure risk may be lower to the extent that relevant information has already been supplied in tax returns, transfer-pricing documentation or an existing audit. That is a transaction-specific assessment, however, because an ATR application may still require commercially sensitive explanations, assumptions and financial implications that have not previously been disclosed.

9.2 INSTANCES WHERE A DISCLOSURE OUTWEIGHS TAX CERTAINTY

a. Routine or Low-Value Transactions

For regular commercial activities that do not bear substantial financial implications, the time and cost of a ruling will rarely be justified. Well-documented tax advice is usually enough.

b. Unsettled Transaction Terms

Where commercial terms, valuations, or structuring are subject to considerable variations prior to execution, there is a material risk that the transaction upon being ultimately concluded will differ from what was initially disclosed in the application, which could render the ruling void. If a ruling is still needed, apply once the structure is settled, or describe the realistic alternatives and ask the authority to rule on each.

c. Ongoing Audits or Investigations

Here, the authority may reject the application if the ruling would interfere substantially with an ongoing audit or investigation, and the application must itself disclose any ongoing audit and previous correspondence on the issue. The NTAA does not direct the authority to use application material for audit purposes, but it does not expressly prevent it either. A business in this position should usually resolve the audit first, or confine the application to a forward-looking question that does not touch the matters under review.



9 CONCLUSION

The NTAA has turned advance rulings from an administrative practice into a statutory process. A ruling is most valuable where the tax liability at stake is large, the law is unclear and the transaction is settled enough to describe accurately. It is least valuable for routine transactions, or where an audit is ongoing, or the terms are still subject to considerable variations. A business that applies should do so with a settled structure, a complete and accurate description, a validity period that matches the transaction, and contractual protection for the risks a ruling cannot remove.

Four reforms would make the regime materially more dependable: first, an express statement in the NTAA stating that a valid ruling binds the issuing authority for its stated period; secondly, reliance protection where a ruling is prospectively withdrawn or modified after the taxpayer has entered binding commitments; thirdly, a statutory limitation on the use, not merely disclosure, of information supplied solely for an ATR application; and fourthly, an express route for review or appeal of refusals, adverse rulings, withdrawals and modifications. The value of the new regime will ultimately depend not only on whether the authority can give an answer in advance, but on how securely a taxpayer can rely on that answer after making the disclosures required to obtain it.

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