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LEGAL PRACTITIONERS

LEGAL ALERT

INCENTIVE OR CONDITIONAL RELIEF?

Legal and Commercial Scrutiny of the 2026 Deep Offshore Production Tax Incentives Order

Executive Summary

The Deep Offshore Oil and Gas Projects Incentives (Tax Remission) Order, 2026 (the "Order") establishes a production-linked tax remission framework for qualifying deep offshore oil and gas developments in Nigeria. It provides for a Standard Production Tax Credit (Standard PTC) and, for qualifying projects, a Supplementary Production Tax Credit (Supplementary PTC) and a Profit Oil Reset for qualifying Production Sharing Contract (PSC) developments. Access to these incentives is subject to the eligibility and other conditions prescribed by the Order.

The Order is intended to improve the commercial viability of deep offshore developments by reducing the effective fiscal burden on qualifying production and providing greater certainty for investors. The Federal Government has described the framework as a rules-based approach to attracting long-term capital into deep offshore projects, with the potential to unlock significant new investment.
However, the incentives are not automatic or unconditional. Eligibility depends on factors including the nature of the project, the applicable lease, Final

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1. Highlights of the Deep Offshore Production Tax Incentives

A. Standard Production Tax Credit

The Order establishes a Standard PTC for qualifying crude oil and non-associated gas project developments in deep offshore leases.

For qualifying oil developments, the Standard PTC is linked to production and reserve levels. Projects with producible reserves not exceeding 400 million barrels of crude oil equivalent may receive a credit of US$3.00 per barrel or 20% of the fiscal oil price, whichever is lower, up to 150 million barrels of cumulative production.

Where producible reserves exceed 400 million barrels of crude oil equivalent, the applicable rate increases to US$4.50 per barrel or 20% of the fiscal oil price, whichever is lower, up to 500 million barrels of cumulative production.

Qualifying future leases may receive an additional US$1.00 per barrel under the Order.

For non-associated gas developments, the Standard PTC is determined by reference to the volume of gas sold and the Hydrocarbon Liquids (HCL) content of the relevant field. The credit is US$1.00 per thousand standard cubic feet (mscf) or 30% of the fiscal gas price, whichever is lower, where HCL content does not exceed 30 barrels per million standard cubic feet (mmscf). It reduces to US$0.50 per thousand standard cubic feet (mscf) or 30% of the fiscal gas price, whichever is lower, where HCL content exceeds 30 but does not exceed 100 barrels per million standard cubic feet (mmscf). No Standard PTC applies where HCL content exceeds 100 barrels per million standard cubic feet (mmscf).

The Standard PTC is calculated separately for each approved project and applies only to production from that project.

B. Supplementary Production Tax Credit

The Supplementary PTC is an additional benefit available on top of the Standard PTC for qualifying developments.

It is particularly relevant to greenfield projects where FID had not been taken as at the commencement of the Order and FID is subsequently taken on or before 31 December 2029, subject to the applicable conditions.

Unlike the Standard PTC, the Supplementary PTC is not a fixed entitlement. The Service determines the applicable amount on a case-by-case basis, having regard to the eligibility requirements and the economic profile of the project.

The aggregate Standard PTC and Supplementary PTC are subject to prescribed ceilings, including a maximum of US$11.50 per barrel for qualifying oil developments and US$8.00 per barrel of oil equivalent for qualifying non-associated gas developments.

These figures should therefore be understood as ceilings on the combined benefit, rather than guaranteed amounts of Supplementary PTC.

C. Profit Oil Reset

The Order also introduces a Profit Oil Reset for qualifying deep offshore developments under Production Sharing Contracts (PSCs).

Where the prescribed conditions are satisfied, the profit oil sharing ratio for the approved project may be reset, with the Contractor and Government allocation commencing at 70:30.

This is particularly relevant to new qualifying developments in contract areas where existing production has already caused the applicable profit oil sharing ratio to move beyond 70:30.

An approved project receiving the Profit Oil Reset is treated separately for cost recovery and tax purposes, and the relevant PSC must be amended to give contractual effect to the reset.

D. Key conditions

Access to the incentives is subject to prescribed conditions, including:

• Qualifying project and lease requirements;
applicable FID requirements;

• Greenfield requirements for the Supplementary PTC and Profit Oil Reset;

• Nigerian execution and Nigerian Content requirements;

• Regulatory approval;
submission of the required economic model and supporting information; and

• Compliance with the conditions attached to any approval.

2. Legal Framework

The Order should be considered within the statutory framework governing investment in Nigeria's petroleum industry and the remission of taxes.

The Order was made pursuant to **section 3(1)(e) of the Petroleum Industry Act, 2021 (PIA) and section 77(1) of the Nigeria Tax Administration Act, 2025 (NTAA).**

Section 3(1)(e) of the PIA requires the Minister to promote an enabling environment for investment in the Nigerian petroleum industry. Section 77(1) of the NTAA empowers the President, on the recommendation of the Minister of Finance acting on the advice of the Nigeria Revenue Service, to remit wholly or partly the tax payable by any person where the President is satisfied that it is just and equitable to do so.

The Order therefore operates as a tax remission framework established pursuant to statutory powers, rather than as a general waiver of petroleum taxes.
This distinction is important. The Order does not remove the underlying tax regime or create an unrestricted entitlement to tax relief. Instead, it provides specified fiscal benefits where the requirements prescribed by the Order are satisfied.

3. What Has Changed and What Has Not Changed

What has changed?
The Order introduces a more structured framework for accessing fiscal relief in qualifying deep offshore developments.
In particular, investors now have access to:
• the Standard PTC for qualifying oil and gas developments;
• an additional Supplementary PTC for qualifying greenfield projects;
• a Profit Oil Reset for qualifying PSC developments; and defined procedures for applying for and administering the additional incentives.

The framework therefore provides investors with clearer criteria against which the potential fiscal benefit of a project can be assessed.

What has not changed?
The incentives do not eliminate the need for project-specific eligibility assessment or regulatory compliance.

A project does not become eligible simply because it is located within a deep offshore lease. The relevant project must satisfy the conditions prescribed by the Order, including applicable requirements relating to FID, project classification, production, regulatory approval and Nigerian Content.

Similarly, approval of an incentive does not remove the need for continued compliance. The Service may withdraw approval, recompute tax and recover improperly utilised tax credits where the circumstances specified in the Order arise.

The Order should therefore be viewed as creating a conditional fiscal framework, rather than an unconditional tax concession.

4. Potential Impact on Investors

The Order may improve the economics of qualifying deep offshore projects by reducing the tax burden on production. Projects that also qualify for the Supplementary PTC or Profit Oil Reset may receive additional fiscal benefits.

This may make some projects more commercially attractive and could support investment and FID decisions, particularly where development costs are significant.
However, the benefit is not the same for every project. The amount an investor ultimately receives will depend on factors such as the project's reserves, production levels, applicable oil or gas prices, FID timing, production thresholds, technical costs and Nigerian Content requirements.

The Order also provides for a 10% reduction in tax credits where the applicable unit technical cost exceeds the prescribed benchmark. The tax credits also cannot be combined with certain other specified incentives.
Where a project has unused tax credits, the surplus may be carried forward for the prescribed period. However, the surplus cannot be refunded, transferred, assigned, sold or converted to cash, and any unused amount remaining after the permitted period will lapse.

Accordingly, the commercial value of the incentive should be assessed on a project-specific basis and should not be determined solely by reference to the maximum available PTC rate.

5. What Investors Should Do Now

Investors considering new or existing deep offshore developments should:

Assess eligibility

Determine whether the relevant lease and project satisfy the applicable requirements under the Order, including the distinction between existing and future leases and the requirements applicable to greenfield developments.

Review FID timing

Confirm whether the project satisfies the applicable FID requirements and whether any force majeure circumstances may affect the prescribed timeline.

Model the actual benefit

Assess the expected Standard PTC and, where relevant, the potential Supplementary PTC or Profit Oil Reset against the project's production, reserve, pricing and cost assumptions.

Review Nigerian Content requirements

Identify the activities expected to be performed in Nigeria and assess whether any proposed offshore execution falls within the permitted exceptions. Where applicable, the project should ensure compliance with an approved Nigerian Content Plan.

Prepare for the approval process

Projects seeking the Supplementary PTC or Profit Oil Reset should prepare the required application and supporting information, including the prescribed open-book economic model.

Manage compliance risk

Investors should establish appropriate procedures for maintaining accurate project data, supporting eligibility representations and complying with approval conditions. This is particularly important given the Service's power to withdraw approval and recover improperly utilised benefits.

Monitor implementation guidance

The Order anticipates implementation guidelines dealing with matters including applications, documentation, economic valuation, computation, utilisation, reporting, ring-fencing and monitoring. Investors should therefore monitor the relevant guidance as it is issued and assess its effect on project implementation.

CMLP View

The Deep Offshore Oil and Gas Projects Incentives (Tax Remission) Order, 2026 represents a significant attempt to improve the fiscal attractiveness of deep offshore oil and gas developments through a structured and rules-based incentive framework.
Its principal strength is the move away from treating fiscal incentives solely as project-specific concessions towards a framework under which qualifying investors can assess available relief against defined eligibility and compliance requirements.

However, the Order should not be understood as providing an automatic or unconditional tax benefit. The Standard PTC, Supplementary PTC and Profit Oil Reset are all subject to conditions that may materially affect the availability and ultimate value of the relief.

In our view, the Order is therefore best characterised as **conditional and project-specific tax relief rather than an unconditional tax concession**. Its success in improving investment and FID decisions will ultimately depend on how the incentives operate in practice, the clarity of the implementation guidelines and the ability of qualifying projects to satisfy the applicable fiscal, technical, regulatory and Nigerian Content requirements.

For investors, the key consideration should consequently not be the headline value of the incentives alone, but whether the project's particular economic and operational profile allows the available relief to translate into a meaningful improvement in project returns and commercial viability.

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Writers

Emokiniovo Dafe-Akpedeye

Annabel Ovwigho