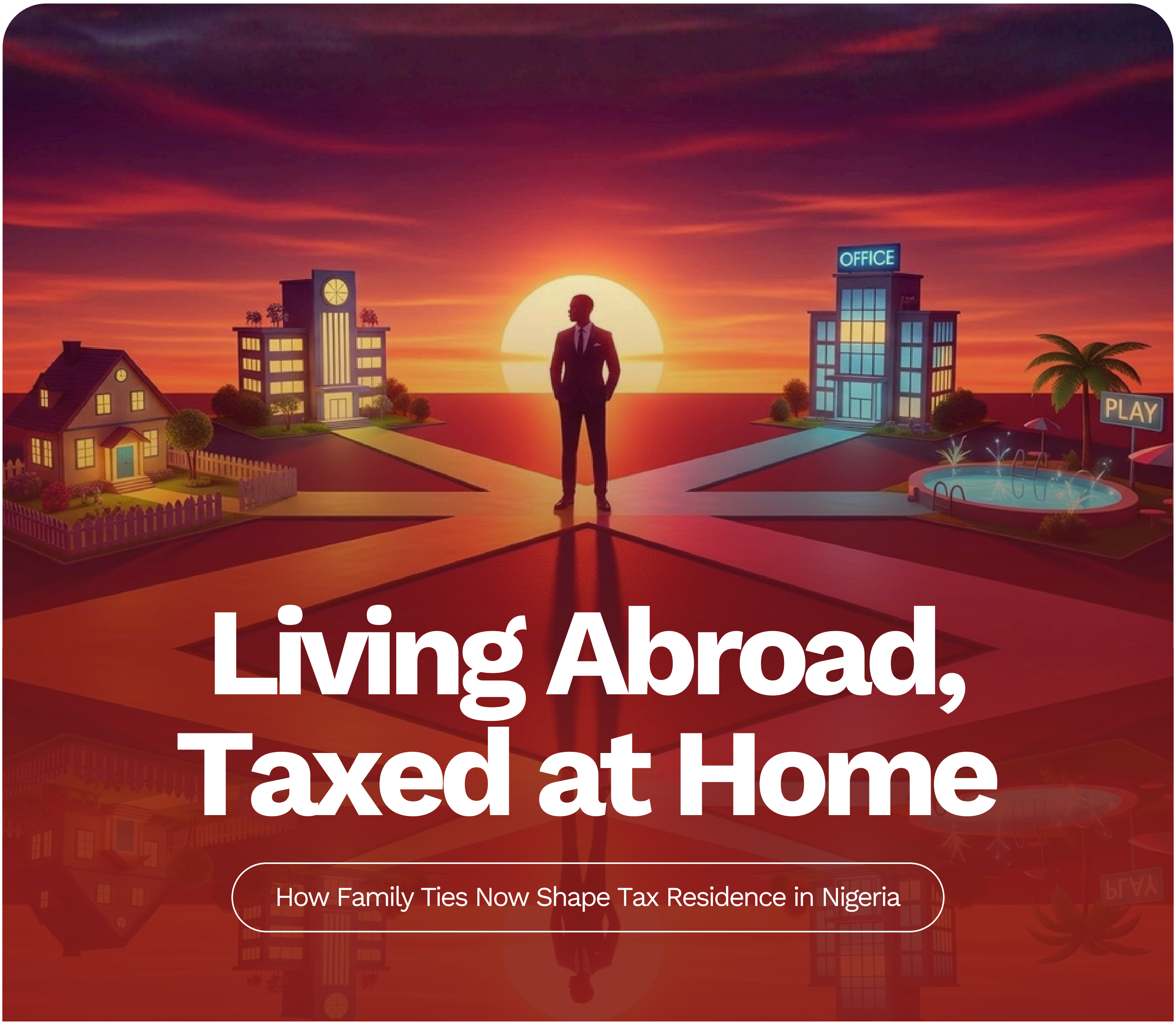


Living Abroad, Taxed at Home

How Family Ties Now Shape Tax Residence in Nigeria

ÆLEX
LEGAL PRACTITIONERS & ARBITRATORS

aelex.com @aelexpartners

Introduction

For many Nigerians, moving abroad meant a clean break from Nigerian tax obligations. Once overseas, tax responsibilities were generally understood to follow income and activity, not family or property left behind. That is no longer the case.

The Nigeria Tax Act, 2025 ("NTA") introduces significant changes to how tax residence is determined for individuals. Residence is no longer based solely on physical presence, as the NTA now considers economic and familial ties as key factors in determining individual tax residence. This shift introduces new layers of complexity for Nigerians who live or work abroad but maintain economic or family ties in Nigeria.

The discussion below examines the key features of the new residence rules for individuals under the NTA, how they differ from the previous regime, and the practical challenges these changes present for Nigerians operating across borders.

How the New Rules Differ from the Old Regime

Under the Personal Income Tax Act, an individual's residence in Nigeria was not the primary trigger for determining personal income tax liability. Rather, residence was used to identify the relevant state with the authority to assess and collect an individual's personal income tax.

The NTA, however, sets out specific criteria for determining when an individual is regarded as resident in Nigeria and, consequently, subject to tax in Nigeria. These criteria include where the individual:

a. *"is domiciled in Nigeria;*
b. *has a permanent place available for his domestic use in Nigeria;*
c. *has place of habitual abode in Nigeria;*
d. *has substantial economic and immediate family ties in Nigeria;*
e. *sojourns in Nigeria for a period or periods amounting to an aggregate of not less than 183 days in a 12-month period inclusive of annual leave or temporary period of absence; or*
f. *serves as a diplomat or diplomatic agent of Nigeria in another country."*

Why Family Ties Now Matter

In practical terms, Nigerians who live or work abroad but maintain close family connections in Nigeria may now fall within the Nigerian tax net. Individuals with family homes in Nigeria, or with spouses or children resident in the country, may be regarded as Nigerian tax residents.

Similarly, non-resident employees who spend fewer than 183 days in Nigeria may still be treated as tax resident if they maintain substantial economic ties to Nigeria or are provided with a permanent residence in Nigeria by their employer for domestic use.

Once classified as Nigerian tax residents, such individuals may be liable to Nigerian income tax on their global income, not just income derived from Nigeria. This marks a sharp departure from the expectations of many Nigerians in the diaspora.

Challenges and Considerations

The redefinition of residence for individuals poses the following challenges:

- **Dual-residence conflicts and double taxation**: Where an individual is considered resident in both Nigeria and another country with which Nigeria has a double tax agreement ("DTA"), the tie-breaker rules in that DTA will determine the final residence status. However, where no DTA exists, the income of such an individual may be subject to double taxation.

- **Ambiguity in determining "substantial economic ties":** The NTA expands residence tests for individuals to include factors such as economic ties. However, as this is not clearly defined, it remains unclear whether "substantial economic ties" refer to employment, investments, business ownership, or even property holdings, and how much weight will be given to each factor.

- **Increased risk of tax disputes and litigation:** With subjective tests like "substantial economic ties," disputes over tax residence are likely to increase. This is currently the norm in jurisdictions that apply similar tests for residence.

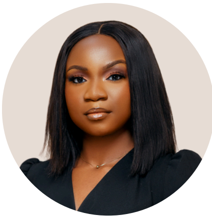
Conclusion

By expanding the criteria for tax residence for individuals, the NTA aims to expand Nigeria's tax base. However, these changes also introduce significant interpretive and administrative complexities for individuals whose lives and interests span multiple jurisdictions.

For many Nigerians living abroad, family homes, immediate family members, and economic connections to Nigeria may now carry tax consequences that did not previously exist. From 2026, such individuals could find themselves classified as Nigerian tax residents and exposed to Nigerian income tax on their global income.

While preliminary assumptions can be made regarding the scope of the redefinition of residence for individuals, greater clarity will be required. In this regard, we look forward to guidance from the tax authorities, and ultimately, judicial interpretation will play a decisive role as these provisions are tested before the courts.

Author



Perpetua Onyeukwu
ASSOCIATE

ÆLEX

LEGAL PRACTITIONERS & ARBITRATORS

LAGOS, NIGERIA

4th Floor, Marble House
1, Kingsway Road, Falomo
Ikoyi, Lagos

Telephone: +234(0)201 279336-9

Facsimile: (+ 234 1) 2692072; 4617092
E-mail: lagos@aelex.com

ABUJA, NIGERIA

4th Floor, Adamawa Plaza
1st Avenue, off Shehu Shagari Way,
Central Business Area,
FCT Abuia, Nigeria.

Telephone: (+234 9) 8704187, 6723568, 07098808416

Facsimile: (+234 9) 5230276
E-mail: abuja@aelex.com

PORT HARCOURT, NIGERIA

2nd Floor, Right Wing UPDC Building 26,
Aba Road P.O. Box 12636, Port Harcourt
Rivers State, Nigeria.

Telephone: (+234 84) 464514, 464515, 574628, 574636

Facsimile: (+234 84) 464516, 574628
E-mail: portharcourt@aelex.com

ACCRA, GHANA

Suite C, Casa Maria, 28 Angola Road,
Kuku Hill, Osu GP Address 080-3525
Accra, Ghana

Telephone: (+233-302) 224828, 224845

Facsimile: (+233-302) 224824
E-mail: accra@aelex.com