Seminar on the reform of fiscal policies based on innovation and modernization of institutions in charge of collection and management of public resources

(How to improve African States’ revenue through a more suitable tax collection system and a sound management of public finances)

**TAX REFORM -----EFFORTS OF NIGERIA**

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It is indeed a pleasure for me to have this opportunity of presenting a paper to this august gathering. This occasion also affords me the excellent opportunity to share the Nigerian experience on tax reforms with you.

NIGERIAN TAX SYSTEM
The present structure of taxation as stipulated by the Constitution of the Federal Republic of Nigeria reflects the three-tier system of Government at the Federal, State and Local Government levels. Under the Constitution, each tier of Government has been granted powers and responsibility in respect of the imposition and collection of taxes. A tax system of a country comprises the tax policy, the tax laws and the tax administration. There are 40 taxes, levies and fees collectible in Nigeria. 9 by the Federal (Federal Inland Revenue Service ) 11 by the States Internal Revenue Service and 20 by the Local Governments.

MAJOR TAX LAWS
The major tax laws in existence in Nigeria:
FEDERAL INLAND REVENUE SERVICE (Establishment Act 2007) CAP F. 36
CGT Capital Gains Tax ( CAP. C 1 LFN 2004)
CTT Capital Transfer Tax (abrogated 1st Jan. 1996 because the Nigerian social environment could not sustain its workability)
CITA Companies Income Tax Act (CAP C21 LFN 2004 updated up to 2007)
ETA Education Tax Act, No. 7 1993 CAP. E 4
IDA Industrial Development (Income Tax relief) Act (CAP LFN 2004)
PITA Personal Income Tax Act CAP. 8 LFN 2004
PPTA Petroleum Profits Tax Act (CAP P. 13 LFN 2004_)
SDA Stamp Duties Act CAP S.8 , LFN 2004)
VATA Value Added Tax Act CAP V1 LFN 2004

TAX REFORM
Tax reforms are embarked upon to correct the weaknesses in the existing tax system to enhance its efficiency. The reasons for tax reforms may range from the need for additional revenue to economic growth. Tax reforms can lead to a new tax, a new rate, a new legal clause, a new assessment system such as the self assessment system introduced in 1991 or a new collection system of 2004. The basic objectives of tax reform are enhancement of revenue generation to cover fiscal imbalances and weaknesses in the tax system. Even though this may not be the immediate target of some specific reform measures, the ultimate target of every tax reform would be to increase revenue accruable to the government on the long run. Some specific objectives of Nigerian tax reform include:

- expanding the tax base and discourage capital flight;
- remove coercion in tax collection;
- promote voluntary compliance;
- embed tax payment in national psyche;
- eliminate multiple and nuisance taxes;
- ensure zero-tolerance for corruption in revenue authorities;
- balance taxing powers and fiscal burdens;
- reduce the cost of doing business;
- attract foreign investment.
- curb tax evasion/avoidance;
- ensure convenience of taxation; and
- aid voluntary compliance.

Quite a number of countries have had tax reforms: Tanzania (1995), the base of her sales tax was widened to include services. New Zealand, also 1995, there was a reform in the country’s Foreign Investment Tax Credit (FITC). Bolivia 1990, reforms focused on indirect tax system.

All in all, a good tax reform programme should be sustainable. The following tax reforms have taken place in the Nigerian Tax System:

(a) **1978 Tax Reform – Task Force on Tax Administration.**
A ten member panel was inaugurated on the 20th of April, 1978 by the Federal Military Government of Nigeria. The Task Force was requested amongst others to:
> examine the sources of tax revenue and the structure of tax administration in Nigeria;
OUTCOMES
The thrust of the reform included:

- Introduction of the withholding tax regime.
- Imposition of 10 percent special levy on bank's excess profits.
- Imposition of 2.5 percent turnover tax on building and construction companies.
- Promulgation of Decree No.28 of 1979, popularly referred to as CITA 79. It is in operation till date together with later amendments, now known as CITA 2007 LFN 2004. The CITA 1979 increased the members of the Board to ten and made several amendments to the Companies Income Tax Act (1961).

- Introduction of Tax Clearance Certificate as a collection tool.

(b) 1991 STUDY GROUP ON NIGERIAN TAX SYSTEM AND ADMINISTRATION

In 1991, about twelve years after the 1978 reform, the Federal Government set up another Study Group to review the entire tax system and administration. The report of the Study Group made a lot of pragmatic recommendations, which later, led to the promulgation of the Finance (Miscellaneous Taxation Provisions) (Amendment) Decree No 3 of 1993. This Decree was a landmark in the history of Inland Revenue. It reconstituted the Board by expanding the number of members of the Board to fifteen inclusive of the Board Secretary. The Decree established the operational arm of the Board known as the Federal Inland Revenue Service (FIRS). By this Decree, the Board had an Executive Chairman. The Decree also established a Technical Committee of the Board.

On the recommendation that tax authorities should be completely removed from the Civil Service structure to give it greater autonomy and to enable it operate with the efficiency typical of a commercial outfit. (Paragraph 142(i)) Main Report. (Paragraph 28 of the White Paper on the Group’s Report)
Government agreed to the recommendation with some modifications and directed that tax officials needed to be better treated hence an autonomy similar to the Ghana Revenue Service which is already partially in place in Nigeria be accorded to the Nigeria Revenue Service to enable them carve out at least a separate fringe benefit package to be worked out administratively with the approval of the Honourable Minister of Finance, to enable them operate more efficiently and to be able to attract more qualified persons into the Board.

**Outcomes of the 1991 Tax Reform:**

- Establishment of Federal Inland Revenue Service at Federal Level, State Internal Revenue Service at the State Level and Local Government Revenue Committee at Local level.
- Paragraph 32 (a) and (b) – Reconstitution of the Board and Establishment of the Technical Committee of the Board.
- Paragraph 34 – approved that the Chief Executive of the Service both at the Federal and State levels should be the Executive Chairman of the Board. All the amendments were contained in the Finance Miscellaneous Taxations Provisions Decree No. 3 of 1993.

Other changes brought about by the reform were:

- **Personal allowances** increased from ₦2,000 to ₦3,000 plus 15% of earned income.
- **Children Allowance** Increased to ₦500 from ₦400 per child maximum of 4 children.
- **Wife Allowance** abolished and enhanced personal allowance was approved to take care of the loss. Abolished because it generated complaints. People said it was discriminatory and should be changed to “spouse allowance.”
- **Tax Rates** Reduced from 55% to 45%.
- **Tax Clearance Certificates** to be issued within 2 weeks of application or reasons to be given for denial.

With respect to the definition of profits chargeable to tax, the word “Royalty” shall be included in Section 8(1) of CITA to show clearly that “Royalty” is taxable.
**Capital Allowance**  clarification on claim of Capital Allowance with respect to
equipment leasing; provided that for “finance leases”, the lessee should claim
the Capital Allowance and for “operating lease” the lessor is to claim the capital
allowance.

**Self Assessment**
Another landmark reform that took place in our tax laws was the introduction of
the self-assessment scheme; a system, widely acclaimed as an effective system
of assessment in countries like USA, Canada, Japan and New Zealand.

**Introduction of Value Added Tax.**
As a follow up to the 1991 reform, a Value Added Tax was introduced. The VAT
Decree was signed into law on the 24th of August, 1993. Thus, the main thrust of
the 1991 reform was a policy shift from direct to indirect/consumption tax.

©2002 STUDY GROUP ON REVIEW ON NIGERIAN TAX SYSTEM
The Nigerian government confronted the problems of inefficient tax
administration by setting up in 2002 yet another Study Group to review the tax
system. Notable among the Terms of Reference were:
> review all aspects of the Nigerian Tax System and recommend improvements
  therein;
> review all tax legislations in Nigeria and recommend amendments where
  necessary;
> review all assessments and collection procedures, including payment
  procedures, objection and appeal procedures and court proceedings and
  recommend appropriate improvements;
> consider and recommend the possibility of the grant of operational and
  financial autonomy to the Revenue Authorities,
> review and recommend the jurisdiction and scope of tax Authorities at the
  Federal, State and Local Governments levels;
> consider international developments in taxation and recommend suitable
  adaptation to Nigerian circumstances;
> evaluate and confirm the desirability or otherwise of the retention of the
  portfolio of fiscal incentives enshrined in the tax laws; and
> consider and recommend new taxes where necessary ,with a view to
  significantly improving the overall tax system.

The Report contained 275 recommendations, 127 amendments to existing laws
and constitutional amendments. It recommended a complete reform of the tax
system through the review of the tax laws and the granting of autonomous
status to FIRS. Government accepted the recommendations and approved
increased autonomy for FIRS outside the Civil Service in human resources development and funding with increased enforcement powers to be codified in an FIRS charter. Government also approved the harmonization and realignment of sanctions in the various tax laws and to eliminate, as much as possible, the multiplicity of taxes.

**National Tax Policy**

After the submission of the Report, a private sector Working Group (WG) reviewed the recommendations of the SG, addressed macro and micro issues in tax policy and the outcome of the meetings and consultations was “a general agreement that Nigeria is in need of a National Tax Policy which will prescribe a set of guiding principles and also provide a stable point of reference which all stakeholders in the tax system can refer to and on which they shall be held accountable.”

It is expected that the National Tax Policy and other tax legislation, would resolve the issue, of who collects what, how it is collected, who controls what is collected, how is what is collected shared, who is responsible for spending what is collected and who is ultimately responsible and accountable to the tax payers for the revenue collected and its expenditure.

The Tax Policy would provide a workable and acceptable platform which should be adopted by all tiers of Government for the proper application of the doctrine of separation of powers in relation to taxation. It is believed that adherence to these principles would bring an end to disputes on the limits and powers of the tiers of Government in our Federation on fiscal matters. It will also bring clarity and certainty to tax administration and the entire Nigerian tax system.

In putting together a National Tax Policy, it was paramount to uphold the concept of Federalism, as practiced under the Nigerian Constitution. The National Tax Policy has been approved by the Federal Executive Council and it is being considered by the National Assembly.

**Tax Bills**

Another outcome of the 2002 Review was the set up of Presidential Committee on October 18, 2004 to review the tax laws. This step crystallized into the following bills presented to the National Assembly:

a Bill for an Act to establish the FIRS as an autonomous Service;
a Bill for an Act to amend the Companies Income Tax Act;
a Bill for an Act to amend the Petroleum Profit Tax Act;
a Bill for an Act to amend the Personal Income Tax Act;
a Bill for an Act to amend the Value Added Tax Act;
a Bill for an Act to amend the Customs, Excise Tariffs etc (Consolidated) Act;
a Bill for an Act to amend the National Sugar Development Council Act;
a Bill for an Act to amend the National Automotive Council Act; and
a Bill for an Act to amend the Education Tax Act.

Education Tax bill was later withdrawn.

On April 16th, 2007, four of the Bills were passed and signed into laws namely:
- The Federal Inland Revenue Service (Establishment) Act, 2007, covered by Gazette No. 64, Vol. 94 of 18th June 2007;
- Value Added Tax (Amendments) Act, 2007, covered by Gazette No. 63, Vol. 94 of 15th June 2007; and

The outstanding bills to be passed are:
- A Bill for an Act to amend the Personal Income Tax Act.
- A Bill for an Act to amend the Petroleum Profit Tax Act (this is being replaced with Petroleum Industry Bill).
- A Bill for an Act to amend the Customs and Excise Tariffs etc.
- A Bill for an Act to amend the National Sugar Development Council Act.

Tax Laws Re-write

As a follow up to the tax law review, the Nigerian tax laws are being re-written to simplify them. A new VAT Law has also been drafted.

FIRS ESTABLISHMENT ACT (2007)
- Sect 1 (2) establishes the FIRS as a juristic person who may sue or be sued in its corporate name, unlike under the former provision which regarded the Board and not the Service as juristic person.
➢ Sect 15 - funding to be obtained from a percentage to be
determined by the National Assembly from all non-oil revenue
sources.
➢ FIRS is mandated to establish tax Refund Account from which
there shall be refunds to tax payers on any over payments of taxes
due to remittance, after proper auditing has been carried out.
Approved refund to be made within 90 days from the date of
decision.
➢ Wide powers to enforce the payment of tax liabilities. See S.
27 (2) FIRSEA.
➢ Power to call for returns, books, documents and information,
further returns and payment of tax due from tax payers,
➢ Power to impose various penalties and proceed to enforce
payment of such debts.
➢ Of importance also is the fact that the FIRS can also carry out
search and seizure procedure on erring tax payers. This
procedure carried out on some taxpayers within the Federal Capital
Territory, Abuja yielded a lot of success.

**Power to Distraint**
The power of Distraint can be utilized in the enforcement of tax
payment of tax due from a taxpayer where an assessment has become final and conclusive and
a demand notice in accordance with the tax laws been served on the tax payer.
This is provided for in S. 33 and 36 of the FIRSEA. Under these Sections, special
purpose tax officers can provide assistance to any relevant Law Enforcement
Agencies. The FIRS has been utilizing this power in levying an Order of Distraint
on some companies; and the exercise has generated substantial revenue.

**Establishment of Tax Appeal Tribunal (TAT)**
Section 59 of the FIRS Act establishes a Tax Appeal Tribunal (TAT) vested with
the power to settle disputes arising from the operations of the Act. Hitherto, tax
disputes were referred to the VAT Tribunal, the Body of Appeal Commissioners
and the Federal High Court, however with the FIRSEA, the TAT is the first line of
adjudication from where appeal will lie to the Federal High Court. The Tribunal
shall consist of five members referred to as Tax Appeal Commissioners to be
appointed by the Federal Minister of Finance.

**COMPANIES INCOME TAX (AMENDMENT) ACT CITA 2007**
The amendments include:

- The old Federal Board of Inland Revenue (FBIR) has been replaced with Federal Inland Revenue Service Board (FIRSB),
- the provisions of Part X of CITA relating to the Body of Appeal Commissioners have been deleted in view of the establishment of the Tax Appeal Tribunal under the new FIRS Act.
- the amendments in the new section 14 provided a new basis for ascertaining the profit of insurance companies.

> removal of 4 years restriction for carrying loss forward (deleting S.27 (iii);

VALUE ADDED TAX (AMENDMENT) ACT 2007

Some of the considerations driving amendment to the VAT Act include the need to simplify administration of the Act, introduce more accountability and use the Act to introduce some relief in order to stimulate growth and ensure that more income is generated from this source and to bring the Act into conformity with the FIRSEA 2007.

- creation under Section 4 of a zero-rate for VATable goods and services which are now listed under Schedule 3 of the Act.
- qualifying the relief on importation of plant, machinery and goods for use in the export processing zone or free trade zone from VAT etc.
- The FIRS now has powers to by Notice determine and direct companies operating in the oil and gas sector to deduct VAT at source and remit same to the Service.
- The new Section 11A now requires a taxable person who makes a supply to furnish the purchaser with a tax invoice containing the following:
  - Tax Payer Identification Number (TIN)
  - name and address of taxpayer
  - VAT Registration number
  - date of supply
  - name of client or purchaser
  - gross amount of transaction
  - tax charged and rate applied

MODERNIZATION OF THE MANAGEMENT OF TAX AUTHORITIES IN NIGERIA
The tax authorities as represented by the FIRS and the States Board of Internal Revenue are responsible for the administration of tax laws and are also entrusted with the responsibility for advising government on all tax related matters. Tax authorities have a responsibility for ensuring that tax administration at all levels of Government is carried out in transparent manner and in accordance with statutory provisions, so as to safeguard the integrity of the tax system.

Changes brought about by the modernization of Federal Inland Revenue Service.

- Put in place an administrative structure that is tax-payer focused.
- As part of the reform processes, the tax-type offices were changed to the Integrated Tax Offices i.e one-stop shop. Consequently 5 offices were created for large tax payers.
- Improved Bank Collection Remittance system;
- Improved funding for FIRS;
- Branding of FIRS
- New vision and Mission
- Administrative and funding autonomy;
- Modern offices;
- Focus on taxpayer Education.
- Adequate and proper staffing;
- Database development and proper linkage to other stakeholders;
- Integrated tax administration system linked to the data base being created;
- Automation, e-payments of taxes.
- State of the art offices, dress code, FIRS colour,
- Staff nearly all computer-literate and training at all levels, local and international etc

CONCLUSION
Reform of tax is an on-going process in order to meet with economic challenges as they arise.

The overriding objective of the Nigerian tax system should be to achieve economic growth and development. As such, the system should allow for stimulation of the economy and not stifle growth, as it is only through sustained economic growth that the potential ability to offer improvements in the well-being of Nigerians will arise. The tax system should therefore not discourage investment and the propensity to save. Taxes should not be a burden, but should be applied proactively with other policy measures to stimulate economic growth and development.

Thank you for your attention.
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