

THE NIGERIAN TAX ADMINISTRATION IN PERSPECTIVE: THE WAY FORWARD

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ABSTRACT

The low revenue yield from taxation in Nigeria is attributed to the ineffectiveness of tax administration. The article emphasises the importance of effective tax administration to the tax system and avers that the best tax policy in the world is worth little if it cannot be well administered. A good tax administration is premised on well-designed tax policies that are administratively feasible. The paper identifies the bodies administering taxes in Nigeria, the functions of tax administrators and some of the challenges facing Nigeria tax administration. Suggestions are proffered on the way forward. It concludes that Nigeria needs a government with strong political will, coupled with well-disciplined administrators to implement its tax policies so as to improve her income generation through effective but equitable taxation. The drastic drop from oil revenue makes this need inevitable.

INTRODUCTION

The tax system of any modern state has been said to possess three main objectives: the maximization of the governmental revenue yields; the attainment of equity and; the promotion of economic development.¹ This can be gleaned from the definitions of taxation as proffered by notable authors in the field of taxation. For instance, Adesola² said that "Tax is a burden which every citizen must bear to sustain his or her government", while Egwaikhide³ defined taxation as a compulsory payment imposed by legislation, which is used to withdraw resources from the private sector of the economy for the government to cover the cost of providing public goods and services, law and order, healthcare and education amongst others. Raabe⁴ on his part described taxation as the process of collecting revenue from citizens to finance government activities. According to Abdulrazaq,⁵ taxation is a compulsory contribution to the support of government, levied on persons, properties, incomes, commodities, transactions at a fixed rate mostly proportionate to the amount on which the contribution is levied. Other authors⁶ have also shown that taxation is a very significant aspect of governance, through the different ways they defined taxation. One can deduce from all these definitions that the purpose of taxation is to finance government expenditure, and that it is literally impossible for the state to run its affairs without taxes.

Abdulrazaq further emphasised the important role taxation plays in the society by pointing out that the classical function of the tax system is the raising of revenue to meet government expenditure.⁷

However, a tax agency shapes the business climate, as the higher the cost of tax compliance, the harder it is for private firms across the sectors to invest, grow and provide more jobs.⁸

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1. Akanle O., 'A new Framework for Tax Administration in Nigeria' (1991) Tax Law and Tax Administration in Nigeria, Nigerian Institute of Advanced Legal Studies 104
2. Adesola S.M., 'Income Tax Law and Administration in Nigeria' (2nd Revised Edition 1995)
3. Egwaikhide Festus O., 'Taxation and State Building in a Democratic System' (2010) 11(1) Nigerian Taxation (The Official Journal of the Chartered Institute of Taxation of Nigeria (CITN))
4. Raabe A. William et. al., *Federal Tax Research* (7th edn, Thomson South Western, U.S.A 2006) 3
5. Abdulrazaq M.T., *Principles and Practice of Nigerian Tax Planning and Management* (2nd edn, Stirling-Horden Publishers Ltd, Ibadan Nigeria 2013)
6. Cooley Thomas M. defines taxation as the process of or means by which the sovereign through its law-making body raises income to defray the necessary expenses of government
7. Abdulrazaq M.T., *Revenue Law and Practice in Nigeria* (Malthouse Press Limited, Lagos 2010) 2
8. Tax Administration Reforms and the IMF <www.imf.org/external/country/ARM/tr/2011/011311.pdf> accessed 21 January 2011

Some scholars have therefore emphasised the importance of effective tax administration in the quest for sustainable economic development. In his contribution to this topical issue, Sanni⁹ averred that taxation stands on a tripod; the Policy; the Law and the Administration, and that to have an efficient tax system, the three aspects must be roundly developed and must be in tune with one another, otherwise the tax system will be dysfunctional.

Akanle¹⁰ on his own part recognizes two important components of the tax system, namely, the Law and its Administration, but opined that good administration is *sine qua non* to the attainment of the overall good of the tax system.

Also lending credence to the important role administration plays in the tax system was Bird,¹¹ who submitted that the "smartest" revenue policy needs to be over-pinned by "smart" tax policy, and that the best tax policy in the world is worth little if it cannot be administered effectively. Therefore, a good tax administration or system is premised on well-designed tax policies which are translated into clear legislations which are administratively feasible.¹²

The primary purpose of this paper is to appraise tax administration in Nigeria by identifying the bodies administering taxes in Nigeria, the functions of tax administrators, taxes collectible by each tier of government and problems facing tax administration in Nigeria. The paper also highlights the progress already recorded and offer suggestions and recommendations on the way forward for tax administration in Nigeria.

BODIES ADMINISTERING TAXES IN NIGERIA

There are currently five tax administrative set ups in Nigeria, they are: The Joint Tax Board (JTB), The Federal Inland Revenue Service (FIRS), The State Board of Internal Revenue (SBIR), Local Government Revenue Committee and the Joint State Revenue Committee. Each of these tax administrative set ups has laid down composition and functions.

The Join Tax Board

The Joint Tax Board (JTB), was established in 1961 by the provision of Section 27 of the Income Tax Management Act (ITMA) which is now contained in Section 86(1) of the Personal Income Tax Act, CAP P8 Laws of the Federation of Nigeria (LFN 2004). The JTB has contributed to the advancement of tax administration in Nigeria, especially in the area of harmonisation of personal income tax administration throughout Nigeria.

The Board meets on a quarterly basis to appraise the performance of the members and to deliberate on tax issues of national importance. This is in order to develop new strategies to carry out its functions which include: advising all tiers of government on tax matters, so as to evolve an efficient tax administration system in the country; resolving areas of conflict on tax jurisdiction among member States, the promotion of uniformity in the enforcement of the provisions of Personal Income Tax Act (PITA) by various States Board of Internal Revenue and the imposition of its decision on matters of procedure and interpretation, on income tax matters on member States.

One of the cardinal deliverables of the JTB's Taxpayer Identification Number (TIN) Programme is capacity building and manpower development for the tax authorities. To achieve this, the JTB has since

9. Sanni A 'Revenue Law' <<http://www.citnorg/others/RevenueLaw.pdf>. Google Search. Accessed 30th Sept, 2011

10. Akanle O. 'A new Framework for Tax Administration, in Nigeria' (n 1)

11. Bird Richard. 'Smart Tax Administration' The World Bank, Poverty Reduction and Economic Management Network (PREM) October 2010, <<https://openknowledge.worldbank.org/bitstream/handle/10986/10152/573980BR10EP360Box353747B01PUBLIC1.pdf?sequence=1>> accessed 4 October 2011

12. 'Developing the International Dialogue in Taxation' A joint proposal by the staffs of the International Monetary Fund, (IMF), Organization for Economic Community and Development (OECD) and World Bank, 13 March 2012 <<http://www.imf.org/external/np/fad/itd/2002/031302.htm>> accessed 5 October 2011

the inception of the TIN Programme, trained and retrained staff of the various tax authorities, with a view to sharpening their skills, in order to equip them to support the programme's implementation and subsequently, contribute to the development of Nigeria tax system.

Despite this, the TIN programme has not succeeded in registering or capturing all eligible tax payers as so many of them are still outside the tax net. This has not allowed the country to reap the benefits of the project, which include amongst others, enhancement of voluntary compliance and information sharing among relevant agencies in the country.

The Federal Inland Revenue Service

The Federal Inland Revenue Service started as part of a Colonial Tax Organisation under the name, Inland Revenue Department of Anglophone West Africa, and its jurisdiction covered Nigeria, Ghana, Sierra Leone and the Gambia.¹³

In 1943, the Nigerian Inland Revenue Department was carved out of the erstwhile Inland Revenue Department of Anglophone West Africa, thereby establishing an autonomous body under the supervision of the Commissioner of Income Tax. The Nigerian Inland Revenue Department consisted of the Resident,¹⁴ Chiefs and Elders in each district, any native authority, which by native law and custom was recognised as a tax collection authority and any native council or group of persons appointed by the Governor.¹⁵

In 1958, following the recommendations of the Raisman Commission, the Income Tax Administration Ordinance No. 39 of 1958 was passed. The Ordinance, among other things, provided for the establishment of the Federal Board of Inland Revenue (FBIR). However, full effect was only given to this provision under the Companies Income Tax Act (CITA), 1961. FBIR operated then as a Department in the Federal Ministry of Finance, and its Chairman was also the Chairman of the Federal Inland Department (FID),¹⁶ which was the executive arm of the FBIR.

In 1977, the re-organisation of the FBIR and its executive arm, Federal Inland Department were formally approved by the Federal Government. The highlights of the reorganization were as follows:

- a. the posts of Chairman and Deputy Chairman of the FID were redesigned Director and Deputy Director of the Department respectively
- b. there was an increase in the number of Deputy Directors from three to four with specific functions assigned to each Deputy Director
- c. the membership of the FBIR was increased from seven to ten
- d. Ministries and other organisations whose mandates had bearing on the functions performed by the Board were to be represented on the Board
- e. there was an increase in the number of posts of Chief Inspectors and other established senior posts.
- f. upgrading of the post of the Board Secretary, and
- g. creation of an intelligence section.

About fourteen years after the 1977 reform mentioned above, in 1991 to be precise, the Federal Government set up a Study Group whose terms of reference, included, a review of the country's tax administration. The report of the Study Group led to the promulgation of the Finance (Miscellaneous Taxation Provisions) (Amendment) Decree No. 3 of 1993. The decree was a landmark statute in the

13. History of FIRS (2009) <<http://www.firs.gov.ng/aboutus/Pages/History-of-FIRS.aspx>> accessed 08 December 2010

14. An official of the United Kingdom Inland Revenue Department, W.A.B Carter was appointed as the First Commissioner of Income Tax of the new Agency, a position he held until 1951 when he was succeeded by Fraser G.

15. History of FIRS, (n 13)

16. Ephraim Osindero was appointed as the first Chairman of the FBIR on 29 April, 1961

history of tax administration in Nigeria because of some of the salient provisions which it contained. Some of the provisions included:

- a. reconstitution of the FBIR by expanding the number on the Board to fifteen inclusive of the Board Secretary
- b. the establishment of Federal Inland Revenue Service (FIRS) as the operational arm of the FBIR
- c. the re-designation of the Board Chairman as Executive Chairman, and
- d. establishment of a Technical Committee of the Board

In spite of the reforms introduced by Decree No. 3 of 1993, tax administration still remained a function of the Civil Service and the Chairman of the FBIR was appointed from among the Directors of the Federal Ministry of Finance.¹⁷

In August 2002, the Federal government set up another study group to examine the Nigerian Tax System and make appropriate recommendations for a better tax policy that would improve tax administration in the country. Further to the study group's recommendation, a private sector-driven working group was constituted to review the earlier recommendation of the study group. The re-aligned recommendations of the two groups had far reaching impact on tax administration in Nigeria as the implementation of the recommendations commenced in late 2003.¹⁸

However, the most outstanding, current and far reaching outcome of the reforms from the view point of tax administration was the passage of the Federal Inland Revenue Service (Establishment) Act No. 13 of 2007, which abrogated the erstwhile Federal Board of Inland Revenue. This can actually be described as a major step taken by the Nigerian government in its efforts aimed at boosting income generation from taxation at the Federal level and has provided a solid basis for pursuing improved tax administration in Nigeria.

From the foregoing, it is established that even though the Nigerian tax administration system has been evolving or developing, it is doing so at a very slow pace. This is because despite the fact that there had been series of reforms introduced to improve the tax system, they take either too long to take off or to be implemented or they get introduced too far in-between. For instance, while the promulgation of the FIRSEA took place in the year 2007, the National Tax Policy to drive it was only introduced in 2010, i.e. three years later and eventually launched in April, 2012. Also one of the major reforms introduced by the FIRSEA, the Tax Identification Number (TIN), whose aim is to bring all working class citizens into the tax net, was launched in April 2012, five years after the legislation was signed into law.

Therefore, Nigeria does not lack good tax policies, but the political will to implement them. This is in contrast to what obtains in the United Kingdom, with which we share the same political antecedent. The British government's taxation law is frequently reviewed and almost instantly implemented.

The State Board of Internal Revenue

States Board of Internal Revenue (SBIR) were established for every state by virtue of Section 85(1) of Decree No. 104 of 1993 and retained in the Taxes and Levies (Approved List for Collection) Act Cap P8 LFN, 2004. SBIR is responsible for the assessment and collection of Pay as You Earn (PAYE) and other Personal Income Taxes. It has the function of ensuring the effectiveness and optimum collection of all taxes and penalties due to the government. It also has the power to do all such things as may be deemed necessary and expedient for the assessment and collection of and account for all monies so collected in a manner to be prescribed by the Commissioner for Finance.¹⁹

17. History of FIRS, (n 13)

18. History of FIRS, (n 13)

19. S 87(b) Taxes and Levies (Approved List for Collection) Act, Cap P8 LFN 2004



The SBIR also makes recommendation, where appropriate, to the JTB on tax policy, tax reforms, tax legislation, tax treaties and exemptions as may be required from time to time.²⁰

It also has the power of generally controlling the management of the State Service on matters of policy, subject to the provision of the law setting up the State Service and also the powers of appointing, promoting, transferring and imposing discipline on employees of the State Service.²¹ Other functions are to advise the Board on its powers and duties and to attend to other matters that may be referred to it from time to time.²²

The Local Government Revenue Committee

The Local Government Revenue Committee is established for local government areas of each state and is composed of the Supervisor for finance as Chairman, three Local Government Councilors as members and two other persons experienced in revenue matters who are nominated by the Chairman of the Local Government on their personal merit.

They are responsible for the assessment and collection of all taxes, fines and rates under the local government jurisdiction and are expected to account for all monies so collected in a manner to be prescribed by the Chairman of the Local Government. Aside from this, they are responsible for the day to day running of the Local Government Treasury which is its operational arm.²³

The Joint State Revenue Committee

The Joint State Revenue Committee was established for each state of the Federation by Decree 19 of 1998. The functions of the Joint State Revenue Committee are, to implement the decisions of the JTB, advise the JTB and the State and Local Governments on revenue matters, harmonise tax administration in the state, enlighten members of the public on State and Local Government revenue matters and carry out such other functions as may from time to time be assigned to it by the JTB.

TAXES COLLECTIBLE BY EACH TIER OF GOVERNMENT

In theory, Nigeria practices a federal system of government whereby each tier of government, that is, the Federal, State and Local governments operate independently and do not rely on each other for sustenance. Each arm of government is expected to generate revenue to run its day to day affairs without recourse to one another. In practice however, most States are often financially dependent on the Federal government while most Local governments are also dependent on the State governments. Thus, ours is therefore not a perfect federalism.

In order to give clear cut demarcation to the functions of the different tax authorities in charge of the different levels of government, taxes and levies to be collected by the three tiers of government are separately listed in the Taxes and Levies (Approved List for Collection) Act, Cap T2 LFN, 2004 as amended by the Taxes and Levies (Approved List for Collection) Act (Amendment) Order, 2015.

FUNCTIONS OF TAX ADMINISTRATORS

Different tax regimes require different types of administrative arrangement. That notwithstanding, the main functions of a tax administrator includes:

- a. Gathering and Processing of Information for Assessment
- b. Assessment of Taxation

20. *ibid* s 87(c)

21. *ibid* (n 19) s 87(e)

22. The Technical Committee of the State Board s 85(b) of Taxes and Levies (Approved List for Collection) Act, 2004

23. Decree No 104 of 1993 retained as Section 85(d) of Taxes and Levies (Approved List for Collection) Act, 2004

- c. Promotion of Compliance
- d. Actual Tax Collection
- e. Sanctioning non-compliance; and
- f. Accounting for the Revenue Collected

Gathering and Processing of Information for Assessment

Revenue authorities have powers to obtain all information relevant to the correct assessment of tax liabilities.²⁴ To achieve this objective, they rely on the information in the tax return submitted by a taxpayer and at times by a third party to determine the income tax liability of a taxpayer. Exchange of Information therefore plays a vital role in the administration of a good tax system.

The first information related function is identification of taxpayers, followed by their registration and the assigning of Taxpayer Identification Number (TIN).

One of the functions of the Federal Inland Revenue Service (FIRS) in relation to the identification of taxpayers in Nigeria, is as provided for in the Federal Inland Revenue Service (Establishment) Act, 2007 which in its section 8(1)(q) states that the FIRS is to:

issue taxpayer identification number to every taxable person in Nigeria in collaboration with States Boards of Internal Revenue and Local Government Councils.

The level of participation and compliance by the citizenry on the acquisition of the TIN is yet uncertain to measure its success or otherwise. Although the FIRSEA was promulgated in April 2007, the launching of the taxpayer identification number took place five years after.²⁵ At the moment, a lot of eligible taxpayers are still outside the tax net because they had not yet been captured. In relation to TIN compliance, it is the view of this writer that the problem in Nigeria is not lack of good policies but lack of the political will to implement those good policies.

The World Bank lend credence to the importance of political will in the process of effective tax administration when it identified three main ingredients essential to effective tax administration, and political will happens to be one of them. Others are a clear strategy and adequate resources.²⁶

The World Bank stressed further that to be able to estimate the worth or success of tax administration and to be able to suggest how to improve it, one must take into consideration certain factors, based on the three ingredients mentioned above. These factors are;

- a. the environment in which the tax has to function
- b. the law it is supposed to administer, and
- c. the institutional infrastructure with which it has been equipped²⁷

With regard to the environment and the institutional infrastructure, it is submitted that Nigeria is lagging behind in creating the right environment and putting in place the infrastructural institution for a healthy tax administration.

Assessment of Taxation

In the management of taxation in Nigeria, one of the key duties of the tax administrator is to raise notices

24. Tax Administration in OECD and selected Non-OECD Countries: Comparative Information Series (2006). (Prepared by the Forum on Tax Administration, February 2007) <<http://www.oecd.org/ctp/consumption/CIS-2006.pdf>> accessed 3 February 2013

25. The taxpayer identification number was launched in Nigeria by President Goodluck Jonathan on 5th April, 2012 at Abuja, the Federal Capital Territory

26. <www.worldbank.org/economicpremise> accessed 4 October 2011

27. *ibid*

of assessment, that is, the statement of the amount of tax payable by the taxpayer. It is of paramount importance for Revenue Authorities to follow the due processes of raising assessment because if they get the details wrong, the taxpayer will automatically have the legal basis to raise a notice of objection and to subsequently appeal against the assessment notice.

Nigeria now relies on self-assessment as the major means of tax collection.²⁸ Self-assessment is a modern system of tax administration and a measure of how up-to-date a tax authority is.²⁹ Under the self-assessment system, the tax authority accepts the tax returns as filed, subject to completeness, and carrying out of audit in due course. It is different from administrative assessment, where the tax authority raises an assessment, when a taxpayer has failed to file tax returns, or has not paid taxes due on or before the due date or where there is an understatement of tax in the returns filed by the taxpayer. On 19 December 2011, the Board of the FIRS in exercise of the powers conferred on it by section 61 of the Act³⁰ with the approval of the Minister of Finance, gazetted a Regulation titled: Tax Administration (Self-Assessment) Regulations 2011, modifying the processes and procedures of Self-Assessment returns.

Though this regulation did not specifically mention Capital Gains Tax Act, it is assumed that it is covered, since all taxes under the FIRSEA, 2007 are stated as falling under the scope of the Regulations. This new system is meant to shift the responsibility of arriving at correct assessment from the Revenue Authorities to the taxpayers themselves who are in a better position to have the accurate figure of profits on which the assessment is based. Taxpayers however have the obligation to be sincere and honest in their declarations and assessments. Self-assessment is a major departure from the previous practice of expecting the Revenue Authorities only, to have the correct figures of profits through intelligence and information service.

In Nigeria, the self-assessment programme is embraced only by a few. It has been opined that the few who embraced it are the big enterprises that stand to gain from the 1% filing bonus and the installmental payment concessions it confers.³¹

It is the view of this writer that the self-assessment system has failed in Nigeria because long after it was introduced into our tax system, there was no legal backing, thus it was only implemented on an administrative basis and when at last the law came, there was confusion and uncertainty. For instance under the Personal Income Tax Act (PITA), the programme was practically non-existent for individual taxpayers. These irregularities are what the Government wants to correct when it came up with the Tax Administration Self-Assessment Regulations, 2011. With its implementation, Nigeria can now be said to be ready for the self-assessment programme in taxation.

Promotion of Compliance

The major goal of any revenue authority is to collect as much tax as possible from eligible taxpayers. In other words, the promotion of compliance is one of its main concerns.³² Voluntary Compliance is promoted by clear, simple and "user-friendly" administrative systems and procedures. In other words, voluntary compliance is enhanced when it is easier for taxpayers to do so. That is why Bird³³ advocated

28. Self-Assessment was formally introduced into the Nigerian tax system on the 1st of January, 1991 and it has been operational since then

29. Ola C.S., *Income Tax Law and Practice in Nigeria* (Heinemann Educational Books Plc 2004) 95

30. The Board may with the approval of the Minister, make rules and regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration of its provisions, and may in particular make regulations prescribing the:

(a) forms for returns and other information required under this Act or any other enactment or law and

(b) procedure for obtaining any information required under this Act or any other enactment or law

31. Arogundade J.A., *Nigerian Income Tax and its International Dimension* (Spectrum Books Ltd 2005) 311

32. 'Principles of Good Tax Administration' Centre for Tax Policy and Administration, OECD, GAP001, amended 2nd May 2001. <<http://www.oecd.org/tax/administration/1907918.pdf>> accessed 2 October 2010

33. Bird Richard, 'Smart Tax Administration' (n 11)



that tax programmes or statutes be described in such a way that the average citizen can understand and that they must be publicized through all kinds of media.

Economists lend credence to this and suggest simple and transparent tax structures which do not allow for loopholes because, the more complicated a tax policy becomes, the more the opportunities it creates for legal tax avoidance and illegal tax evasion.³⁴

Crandall and Kidd³⁵ while trying to identify common features of modern revenue administration said the simplicity of the tax legislation will not only reduce the burden on taxpayers but will also enhance compliance. It is therefore believed that the complicated tax codes of some developed economies offer perverse economic incentives, because the more complex a tax system is, the higher the cost of compliance.³⁶ In this regard therefore, tax compliance in Nigeria is abysmally low, and Nigeria cannot be described as a tax compliant nation when compared with other nations of the world.³⁷

Actual Tax Collection

According to the World Bank's Doing Business 2011 Report,³⁸ Nigeria ranks 137 out of 183 countries surveyed on the ease of doing business and 134 on the ease of paying taxes. In the 2010 report, Nigeria ranked 134 and 131 on the ease of doing business and paying taxes respectively. Nigeria is said to have been slipping back consistently on the ease of paying taxes index, which is a function of three main indicators.

- a. The number of tax payments
- b. Time required to comply with tax obligations
- c. Total tax rate.

At 134th position, Nigeria is far behind some other African countries such as Mauritius (12), South Africa (24), Zambia (37) and Ghana (78) all competing for foreign direct investment.³⁹ Voluntary compliance is also maximised when revenue authorities are aware of major developments and trends in the business and legislative environment, and are responsive to their implication on tax administration and compliance.

Sanctioning non-compliance

As a measure to enforce and enhance compliance, each enabling law spells out certain offences and respective penalties. The following offences are enumerated in the FIRSEA, 2007:

- a. Failure to deduct or remit tax, s 40
- b. Obstruction, s 41 (a)(b)(c)
- c. Counterfeiting documents, s 43
- d. Offences by authorised and unauthorised persons, s 44 (a-f)
- e. Where offenders are armed, s 45(1)
- f. Unlawful assumption of character of an authorised officer
- g. Unauthorised disclosure, s 50(1)
- h. Failure to file adequate, accurate and reliable tax returns, s 27
- i. Failure of bankers to provide information about customers, s 26 FIRSEA and s 43 CITA

34. <eniwikipedia.org/wiki/tax-administration/history> accessed 4 October 2011

35. William Crandall and Maureen Kidd 'Revenue Administration: A Tool Kit for Implementation of a Revenue Authority' (Technical Notes and Manuals, Caribbean Regional Technical Assistant Centre & Fiscal Affairs Department). <http://www.imf.org/external/pubs/ft/tnm/2010/tnm1008.pdf> accessed 21 March 2010

36. Enwikipedia.org/wiki/tax-administration/history

37. Omorogiuwa P.A 'Tax Enforcement and Collection' in *Tax Structure and Administration in Nigeria*, Edited by Ndekwe Eddy -1988 p 115

38. 'Nigeria at 50: Top 50 Tax Issues' (October 2010) <www.pwc.com/ng/en/pdf/nigeria-top-50-tax-issues.pdf> accessed 02 march 2014

39. ibid



- j. Failure to file Tax Returns by Banks in Nigeria, s 41(3) and (5) of CITA 2004
- k. Late Payment of tax due, s 32(1)
- l. General Penalty, s 49 (1)
- m. Offences for which no specific penalty was provided, s 50

These offences attract monetary fines, and or prison terms. To the knowledge of this writer, no single tax offender has been successfully prosecuted in Nigeria. This is because of a general misconception that tax evasion is not a serious crime and perpetrators are often let off the hook, with lenient administrative penalties imposed by the tax authorities, as opposed to a criminal prosecution in a court of law that will lead to a conviction and prison sentence for the tax offender. This apathy towards prosecuting tax offenders is a major factor that has encouraged tax evasion to continue to thrive in Nigeria.

Accounting for Revenue Collected

Apart from the power of assessment, and collection of taxes, revenue authorities are charged with the responsibility of accounting for revenue collected. This is why it is mandatory for the Executive Chairman of the FIRS to keep proper accounting records; of all revenues and expenditure of the service; all its assets, liabilities and other financial transactions and all other revenues collected by the service, including income on investments.⁴⁰

The Executive Chairman is also expected to prepare an annual report, including financial statements, in accordance with generally accepted accounting principles and practices and ensure that the available accounting resource of the service are adequate and used economically in the most effective and efficient manner, and that records are properly safeguarded.⁴¹

However, one of the supposed reasons why many eligible taxpayers have developed apathy towards payment of taxes is the belief that government has failed to render proper account to the citizenry. This is because in Nigeria, the basic necessities of life such as water, electricity, good roads and provision of health facilities are inadequate, and people as a result of this have made up their minds that they are not going to pay tax, since it is not going to be adequately accounted for.

PROBLEMS FACING NIGERIAN TAX ADMINISTRATION

Corruption

A variety of factors contribute to corruption in tax administration. This includes the complexity of tax laws and procedures, and the power and degree of discretion of tax officials. For instance, the amendment of the Personal Income Tax Act through the introduction of the Presumptive Tax Regime in the Personal Income Tax (Amendment) Act 2011 bestows a lot of discretionary power on the FIRS. The introduction of the Presumptive Tax Regime amends section 36 of the Personal Income Tax Act, 2004 by inserting a new subsection 6 which allows the tax authority to determine the tax liability of a taxpayer whose income cannot be ascertained or who has failed to keep proper records. The tax assessed under this regime is based on the judgement or the discretion of the tax authority.⁴²

The absence of adequate measures to encourage the maintenance of the integrity of staff, such as the promotion and enforcement of ethical standards, merit-based recruitment and promotion procedures, and regular staff rotation schemes to prevent the creation of lucrative networks – increases the likelihood of staff indulging in corrupt practices.

Delay in Payment of Tax Refunds

Although there are specified provisions in the tax laws especially under section 23 of the Federal Inland

40. S 22 (1)(i)(ii)(iii) FIRSEA, 2007

41. S 22 (b) & (c). Ibid

42. See the Fifth Schedule to the FITSEA, 2007

Revenue Service (Establishment) Act 2007 for tax refunds, this is yet to be fully functional. Thus there is usually delay in paying refund to taxpayers who had been over-taxed, even though the FIRS Act requires the tax authorities to pay a taxpayer's refund claim within 90 days of the application, subject to appropriate tax audit. It is discouraging that in Nigeria at present, tax audits are usually slow, time consuming, and sometimes running into several years. If and when taxpayers are eventually refunded, they would not get the value for their money because of the effect of inflation.

Not Fully Embracing Technology

Nigeria's dream of becoming one of the largest economies in the world by the year 2020 cannot be achieved without fully embracing technology. Nigeria is still lagging behind other countries like, the United States, Britain, Japan and New Zealand who have adopted online technology in tax administration and in other spheres of their economy. Although Nigeria has introduced and launched the Taxpayer Identification Number (TIN) Programme, the reality on ground seem to suggest that a large number of eligible taxpayers, especially those in the private sector have not been registered. This is coupled with the fact that, it took the tax authorities in Nigeria about five years after the enactment of the law to officially launch the TIN.

Non Enforcement of Tax Compliance

In Nigeria, it is discovered that people evade tax with levity with no sanction meted out to them. This is possible because the various structures which are required to work together to make tax evasion difficult are not properly coordinated. For example in Nigeria, it is possible for a company to register with the Corporate Affairs Commission (CAC), without registering with the FIRS when it could have been one of the conditions in the company registration process.

Unrealistic Personal Reliefs and Allowances

The Personal Income Tax Act (PITA) provides for a number of tax reliefs and allowances but most of these are unrealistically low. For instance currently, we have: children allowance of N2,500 per child subject to a maximum of four children, utility N10,000, entertainment N6,000, transport allowance N20,000, rent allowance N150,000, meal subsidy N5,000 and dependent relative N2,000. All these are low and do not conform to current economic reality.

Delayed Tax Dispute Resolution and apathy to Due Process

The Tax Appeal Tribunal which was established by section 59 of the FIRSEA 2007 caters for grievances emanating from the assessment and collection of taxes by the FIRS at the federal level and the SBIRS at the state level, and thus responsible for adjudicating over disputes arising from the assessment and collection of taxes from all over Nigeria as a court of first instance. For administrative ease, the Tax Appeal Tribunal (TAT) has divisions in the geopolitical zones in Nigeria, but because all the divisions of the tribunal were not inaugurated at the same time, some cases had to be transferred to other divisions for hearing⁴³ and this wasted a lot of time.

The implication of this delay is that both the State and the taxpayers were denied access to quick justice, as justice delayed is justice denied. One of the long standing cases before the tribunal was that of *Global*

43. The case of *Hensny v FIRS* (2013) GTLRN 140 which was filed in April 2009, was first heard at Bauchi Zone in April 2011, while TAT delivered its decision in September 2011 at Lagos



Marine Baltic Incorporation v FIRS, filed on 27 January 2007 and whose judgement was eventually delivered on 31 July 2013.⁴⁴

The interregnum during which the minister of finance failed to announce the immediate reconstitution of the TAT when the three years terms of office of the TAT commissioners expired in February 2013 constituted a setback. This vacuum lasted five months⁴⁵ thus prolonging and delaying the determination of the cases before the Tax Appeal Tribunals.

Notwithstanding the due process clearly laid down in the tax legislation, many tax authorities especially at the State and Local government levels rarely follow due process in their activities. They often harass and intimidate taxpayers without regard to the provisions of the law.

THE WAY FORWARD FOR TAX ADMINISTRATION IN NIGERIA

RECOMMENDATIONS

The Integrated Tax Administration System (ITAS) in Nigeria

The Integrated Tax System treats the taxpayer as a single entity and enables the elimination of redundant processes. It underpins the ability of governments to administer the tax policies and laws of their jurisdictions in an efficient, fair and transparent manner.⁴⁶

A well-designed integrated tax system merges all information into, one efficient system, organised by function. Such a system is designed to work in tandem with technology to offer around-the-clock customer service and internet filing, providing one-stop shopping.⁴⁷

The reports of the International Monetary Fund (IMF) visits of 2002, 2005 and 2006 strongly recommended that FIRS implement the Integrated Tax Administration System (ITAS). Specifically the 2005 IMF report observed that, the acquisition of ITAS remains the best way forward for modernising tax administration in Nigeria.

Similarly, major stakeholders in tax administration in Nigeria are of the view that the deployment of the ITAS will revolutionise tax administration in Nigeria, and this therefore prompted the FIRS to obtain approval from the Federal Executive Council (FEC) to procure, install and implement ITAS. The process has since started and is expected to bring about a lot of improvement that will turn around tax administration at the federal level, when eventually the system is fully deployed.

The FIRS in accepting the recommendation of IMF, embarked on a two-phased approach, one phase was to re-engineer and automate its core tax processes, starting with the collection process or function. This was aimed at curbing leakages that characterized the manual system of collecting taxes through commercial banks. The other phase was to acquire and implement an integrated tax administration software solution and develop linkage with selected third party agencies whose operations are complementary to FIRS mandate, such as the Corporate Affairs Commission (CAC) and the Nigerian Customs Service (NCS).

44. Where the TAT South – South Zone, ordered the multinational oil company, Global Marine Baltic Incorporation to pay the sum of \$1.770.995 (279.8 million Naira) tax to the FIRS. The sum represented the firm's company income tax liability for 1997, 1998 and 2000 respectively

45. Thisday Newspaper advertorial on reconstitution of TAT members, on 4 July 2013

46. A checklist of Requirements for Integrated Tax Administration Applications.

<www.techrepublic.com/whitepapers/pdf> 2008, accessed 20 November 2012

47. Integrated Tax systems <<http://archive-org.com/page/352228/2012-10-02/http://www.taxadmin.org/fta/edi/itstxt.html>> accessed 2 December 2012



Prompt Payment of Tax Refunds

There should be appropriate funds allocated or retained out of tax collection to cater for tax refunds both at the federal and state levels, in line with the provision of the FIRSEA that tax refund should be paid within 90 days of the application, subject to appropriate audit. Fairness and equity requires that cash refunds be made promptly to deserving taxpayers. Failure to pay refund within the stipulated timeframe should attract commercial interest, to take care of inflationary effect on value of money.

Introduction of Technology in Tax Administration

Nigeria should embrace technology in tax administration. Online filing and tax payment should be introduced to reduce compliance time and associated cost. It could also help in checking sharp practices because human interaction will be greatly reduced.

Enforcement of Tax Compliance

Enforcement of tax compliance should be given adequate attention and various government agencies like, the Land Registry, Corporate Affairs Commission (CAC), vehicle registration departments and Immigrations should collaborate and share information with tax authorities to reduce tax evasion.

Personal Reliefs and Allowances

It is recommended that Reliefs and Allowances be reasonable and in tune with current reality. This can be achieved by making allowances to be a percentage of earnings rather than an absolute amount. Making it an absolute amount as we have it in the PITA now has the disadvantage of becoming unreasonably low with time due to inflation and slow reviews and amendments to tax laws in Nigeria.

Prompt Settlement of Tax Disputes

Appeal Tribunals should be constituted and functional at all times, because speedy settlement of tax disputes is one of the key factors if the tax administrative system is to be effective. The slow pace of tax adjudication in Nigeria makes tax compliance more difficult and exposes the taxpayer to a higher risk of penalty and interest. States arm of the TAT should also be established to cater specifically for disputes emanating from the collection of State taxes.

Educating the Judiciary

Tax administrators should form a stronger link with the criminal prosecution departments and the judiciary, by initiating programmes that will educate them to recognise the detrimental effects weak enforcement can have on revenue generation. They should also be made to understand that successfully prosecuting a tax offender will most likely serve as deterrent to others who have the intention to evade tax.

CONCLUSION

Over the years, Nigeria has constituted study and working groups to proffer solutions to our tax problems. However, the desired result from these reforms has not been fully actualised because some of the reforms introduced were not implemented and some of them took several years to be initiated after the laws had been enacted. An example is the Taxpayer's Identification Number (TIN) whose implementation took over five years after it was signed into law.

Also the Tax Appeal Tribunal (TAT) which was brought into existence in 2007, failed to operate immediately because it was inaugurated three years after, that is, in February 2010. This interregnum brought about a lot of hardship on taxpayers who wanted immediate justice.

It is a sad commentary that even though there is an array of laudable tax policies in Nigeria, the problem of implementation has posed a major challenge. This points to the fact that we need a government with a strong political will to implement our tax policies, so as to improve on our income generation through effective but equitable taxation.

