



# National Tax Policy

FEDERAL MINISTRY OF FINANCE

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compensate for some of the challenges that companies operating in Nigeria currently experience.

The strategy is focused at pushing Nigeria forward as a competitive economy in Africa and will help ensure that the country does not lose out on FDI.

Finally, it is a sustainable strategy that would make use of an unsustainable resource (i.e. oil reserves) in order to grow the non-oil sector of the economy. Government should commence the process for implementing these strategies, by passing the required amendments to relevant legislation.

Through the implementation of these strategies, it is believed that the country will attract more investments, which will provide more jobs, higher wages and competitive prices and in turn improve the living standards of Nigerians. All this should hopefully provide for a more promising and prosperous future for all Nigerians.

### Appendix 3: STATE POLICY ON TAXATION

1. The State shall direct its taxation policy towards ensuring that the tax system promotes fiscal responsibility and accountability to Nigerians. Accordingly, the tax system shall reflect the principle of Fiscal Federalism by ensuring that:
  - (a) each tier of government benefits in the sharing of revenue realised from its jurisdiction; and
  - (b) that there is an equitable sharing formula for taxes collected by the Government of the Federation, as provided in this Constitution.
2. The Government of the Federation shall ensure a periodic review of the tax laws and administration in Nigeria.
3. It shall be the duty of Government at all levels to ensure that:
  - (a) revenue agencies are granted autonomy and adequate funding to meet their day to day activities;
  - (b) the rights of all tax payers are recognised, whether they are Nigerian citizens or not;

- (c) tax evasion is eradicated, while tax avoidance is minimised at all levels of Government; and
  - (d) multiple taxation in all forms is eliminated at all levels of Government.
4. It shall be the duty of:
    - (a) every Nigerian citizen;
    - (b) every company registered under the laws of the Federal Republic of Nigeria; and
    - (c) any other person or business entity whether resident in Nigeria or not, carrying out any economic activity in Nigeria;
    - (d) to register for taxes in Nigeria, declare its income and pay its taxes promptly and fully to the appropriate tax authorities.
  5. For the purposes of subsection (3) and (4) of this section-
    - (a) **“tax evasion”** includes the deliberate refusal to pay taxes or make tax returns with the intention of fraudulently retaining tax revenue or concealing the actual tax status of a taxpayer;
    - (b) **“tax avoidance”** includes any means by which tax liability is minimised or avoided by exploiting the loopholes in the law.
    - (c) **“tax evasion”** shall be recognised as a crime and appropriate sanctions given to offenders, while tax avoidance shall be discouraged.
    - (d) **“multiple taxation”** includes the imposition of the same or similar taxes on the same income base, transaction or person by one or more levels of Government, in one or more jurisdictions.
    - (e) **“person and business entity”** includes sole proprietorship, partnerships, trusts and any other form of business composition or organisation required to register for, declare and pay taxes in Nigeria.

## FOREWORD

The National Tax Policy is another giant stride towards the achievement of our Nation's Vision of becoming one of the twenty largest economies in the world. The National Tax Policy provides the guidelines, rules and modus operandi that would regulate Nigeria's tax system, as well as form the basis for tax legislation and tax administration in Nigeria. It is indeed, a vital platform for optimizing revenue generation by the three tiers of government, facilitating socio-economic development, engendering fiscal responsibility and enhancing income re-distribution. It is a crucial instrument for delivering government's Transformation Agenda, in an efficient and equitable manner.

The National Tax Policy has been developed through a wide stakeholders' consultative process that began with the report from a study group established in 2002, to examine the tax system and make appropriate recommendations towards entrenching a better tax policy and an improved tax administration in the country.

Over the years, our efforts to diversify the Nigerian economy and reduce our dependency on oil resources that are subject to price fluctuations in the world market have not been successful due to lack of specific policy direction for tax matters in Nigeria and the absence of laid down procedural guidelines for the operation of the various tax authorities. There have been several other challenges that needed to be addressed in order to create the fiscal space necessary for sustainable economic growth and development. These include issues of multiple taxation by Governments at all levels, which has continued to impact negatively on the investment climate in Nigeria and lack of both accountability for tax revenue and clarity on taxation powers of each level of Government.

The National Tax Policy provides the platform for tackling these issues decisively. Let me stress that this National Tax Policy has taken due cognizance of Nigeria's federalism, particularly the constitutional provision on jurisdiction of States to legislate on revenue matters. Therefore, the concern that the powers of the States will be usurped is not tenable, since the National Tax Policy has clearly delineated the functions of each level of government on tax matters.

The National Tax Policy is only a document. We will only realise the benefit if we implement it effectively. What is therefore essential, is our collective will, to implement this policy as planned, in order to effectively harness and deploy our resources to grow the economy and provide a better quality of life for all Nigerians, on a sustainable basis.

Finally, I acknowledge and thank all those who contributed to the development of this document, particularly the Executive Chairman of the Federal Inland Revenue Service, Mrs. Ifueko Omoigui Okauru MFR, and her team that spearheaded and financed the development of the National Tax Policy, as well as the officers of the Federal Ministry of Finance that worked assiduously to enrich the document. I assure you that your immense contributions towards effective tax administration will remain indelible in the annals of the history of tax system development in Nigeria.

**Dr. Ngozi Okonjo-Iweala, CFR**  
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## CHAPTER ONE

### Introduction

The National Tax Policy is a document, which sets broad parameters for taxation and other ancillary matters connected with taxation. It is a clear statement on the principles governing tax administration and revenue collection. It therefore, provides a set of guidelines, rules and modus operandi that would regulate taxation in Nigeria.

#### 1.1 Definition of Taxation

Taxation is basically the process of collecting taxes within a particular location. In this regard, tax has been defined as “a monetary charge imposed by the Government on persons, entities, transactions or properties to yield revenue”. It has also been defined as “the enforced proportional contributions from persons and property, levied by the State by virtue of its sovereignty for the support of Government and for all public needs”.

Taxes may also be defined as a “pecuniary burden laid upon individuals or property to support government expenditure. A tax “is not a voluntary payment or donation, but an enforced and compulsory contribution, exacted pursuant to legislative authority” and is “any contribution imposed by government”, whether under the name of duty, custom excise, levy or other name.

Taxes may be direct or indirect and may be imposed on individual basis, entities, assets and transactional basis. In Nigeria, taxes are imposed on the following bases:

- (i) On Individuals  
Personal Income Tax – imposed on the income of all Nigeria citizens or residents who derive income in Nigeria and outside Nigeria  
Development Levy – a flat charge imposed on every taxable person typically within a State
- (ii) On Companies (Corporate Entities)  
Companies Income Tax – imposed on the profits of all corporate entities who are registered in Nigeria or derive income from Nigeria, other than those engaged in petroleum operations;  
Petroleum Profits Tax – imposed on the profits of all corporate entities registered

in Nigeria or who derive income from oil and gas operations in Nigeria;

Education Tax – imposed on all corporate entities registered in Nigeria;

Technology Levy – imposed on selected corporate entities (telecommunication companies, internet service providers, pension managers, banks, insurance companies and other financial institutions within a specified turnover range) in Nigeria to support nationwide development of technology infrastructure and capacity.

- (iii) On Transactions  
Value Added Tax – imposed on the net sales value of non-exempt, qualifying goods and services in Nigeria;  
Capital Gains Tax – imposed on capital gains derived from sale or disposal of chargeable assets; and  
Stamp Duty – imposed on instruments executed by individual and corporate entities in Nigeria.  
Excise Duty – imposed on the manufacture of goods within the Government territory collected by the Nigeria Customs Service  
Import Duty - imposed on the import of goods into the Government territory collected by the Nigeria Customs Service  
Export Duty – imposed on the export of goods outside the Government territory collected by the Nigeria Customs Service
- (iv) On Assets  
This includes taxes, such as property tax and other such taxes imposed on land or landed property.

#### 1.2 Distinction Between Taxation and Revenue

Having provided a working definition of taxation, there is a need to differentiate taxation from revenue for a proper understanding of the role of taxation in the development of the Nigerian economy. This is particularly necessary, as there is usually the misconception that every form of revenue obtained from the public is tax.

Revenue is defined as income received from all activities engaged in by the receiving entity. In Governmental terms, revenue is the entire amount received by the Government from sources within and outside the Government entity.

threshold would be required to fully comply with the provisions of the VAT Act, and this will be strongly enforced.

The enabling legislation would set out the modalities for companies within the turnover threshold, while the FIRS will clarify the operation of the threshold as it affects such companies.

#### 5.0 Large Taxpayers

There has been significant progress in ensuring compliance from Large Taxpayers with the establishment of the FIRS Large Tax Offices (LTOs). The LTOs have enabled specialization in dealing with the biggest contributors to income tax revenues. The FIRS will ensure that closer relationships are established with the largest taxpayers in order to ensure full compliance. Simplifying tax laws and provision of better taxpayer services as expressed in the National Tax Policy, together with a strong and effective tax enforcement programme will ensure that the biggest taxpayers fully play their role in Nigeria's development.

#### 6.0 Elimination of Multiple Taxation

Multiple taxation in Nigeria first needs to be defined before it is tackled. The word multiple connotes “numerous”, “several”, “various” etc. A certain level of multiplicity is unavoidable in a Federal structure as each tier of government may want to charge certain taxes, fees, charges as may be applicable. The only aspect of multiplicity that is avoidable and for which the Constitution itself abhors is that where the tax, fee or rate is levied on the same person in respect of the same liability by more than one State or Local Government Council. In such instances, intensive taxpayer enlightenment and education is required to empower the tax payer and ensure that he/she understands his rights and responsibilities.

In addition, with each taxpayer having a unique taxpayer identification number and all taxing authorities automating their systems, sharing one database and effectively collaborating with each other, this form of multiplicity will be addressed in the long term.

#### 7.0 Conclusion

Through the strategies developed in this document, Nigeria will make the most effective use of its tax system given the peculiar situation of the economy. Through strategies such as reducing income taxes, the tax system in Nigeria will be more conducive, for domestic and foreign investment, and this will in some measure

Resources (DPR) should share information on regular basis in order to optimize oil and gas revenues and tax compliance in the industry. In addition, steps should be taken towards the codification of all regulations and orders applicable in the oil and gas sector. This will minimise reliance on unilateral orders or circulars which may override the statutes. For ease of oil and gas administration, all matters affecting taxation, deductible costs and revenues should be agreed amongst all the agencies charged with the administration of the oil and gas sector.

#### 4.0 Taxation of Small and Medium Enterprises

Compliance has been a great problem in the Nigerian Tax System as a result of the large scale of Nigeria's informal sector. The administrative burden of applying the provisions of tax laws may be cumbersome for some of these entities, and therefore efforts should be made to deal effectively and efficiently with them. This involves strategies to increase both compliance and revenues whilst keeping the cost of administration as low as possible.

##### 4.1 Presumptive Income Tax Assessment

For taxable persons that have historically failed to comply with the tax laws, possibly due to their size and lack of a fixed business address, a simplified tax assessment procedure to be known as Presumptive Income Tax Assessment shall be applicable. This procedure will require less documentation from the taxpayer and will result in a quick and effective method of providing an assessment. The procedure shall be subject to tight controls and clear guidelines shall be issued so that there is limited room for discretion on the part of the tax authority.

Where required necessary amendments should be made to tax laws to empower the tax authorities to enforce the process.

##### 4.2 Value-Added Tax (VAT) Threshold

In order to establish effective administration of VAT, the Federal Inland Revenue Service (FIRS) shall determine a threshold of turnover for companies and other business entities, below which there will be no obligation to charge or remit VAT. The appropriate turnover threshold level will be decided by the FIRS and will be introduced, subject to legislation by the National Assembly. Entities with a turnover level above the decided

where they would be of benefit to the entire economy.

The following key sectors should be accorded priority in the grant of tax incentives:

- Energy Sector (Power, Oil and Gas)
- Mining
- Railways/Roads
- Education
- Health
- Aviation
- Exports
- Agriculture

There must, however be strict compliance with legislative provision for granting tax holidays and it should be restricted to instances, where there are overwhelming reasons for the grant.

### 3.6 Export Processing Zones (EPZs)

In order to sustain the Government's policy directed at encouraging an export-oriented industry, and to address some of the major administrative concerns that are associated with the Export Processing Zones (EPZs), the following recommendations are made:

- 1) Companies operating in these Zones should continue to be exempt from income taxes provided that 100% of the goods produced in the Zones are for exports. However, exports from these zones into Nigeria (i.e. Customs Territory) shall attract appropriate duty on the imported raw materials. The necessary legislative amendments to the relevant laws should reflect this position.
- 2) Value-Added Tax on goods produced in these zones for export should be zero rated.
- 3) All companies located within the EPZ should continue to file returns to the EPZ authorities even though no tax is payable.
- 4) Exemptions from import and export levies and taxes should continue to apply within these zones, except where the entities transact business outside the EPZ.
- 5) The various provisions of relevant legislation pertaining to percentages of EPZ production allowed into the country should be retained. However, any entity

located in EPZ which sells to the domestic market should be made to pay tax on the profit realized from sales outside the EPZ.

The above recommendation is predicated on the difficulties in recovering taxes from sale of items produced in the EPZ, but which are exported to Nigeria's customs territory. It also seeks to ensure that only companies that actually intend to produce for export are located in the Zones and discourage those whose only objective of locating within the Zones is to benefit from the favourable tax regime. In this regard, such entities should pay tax on sales made to the Nigerian market, while retaining their EPZ status. This should make the administration of the EPZs more effective.

### 3.7 Import and Excise Duties

In order to reduce costs of Nigerian manufacturers, and make their products more competitive and cheaper for Nigerian consumers, Government should reduce import duties on raw materials to zero percent (where this would not conflict with international / regional obligations, such as ECOWAS commitments). This will encourage the production of both intermediate and finished goods and develop the Nigerian economy further.

In addition, in order to encourage the aviation industry, import duties on aircraft should be made competitively low.

### 3.8 Strengthening Oil and Gas Tax Regime

The fiscal regime for oil and gas companies in Nigeria (Petroleum Profit Tax (PPT), which applies to Joint Venture (JV) contracts and Production Sharing Contracts (PSC)) requires strengthening in view of its growing importance.

In this regard, all stakeholders should support the recent initiatives to reform the Oil and Gas sector by the passage of the Petroleum Industry Bill, which is intended to address all areas of concern in the sector.

To ensure transparency and accountability, all agencies of Government charged with administration of the oil and gas sector and collection of oil and gas revenues e.g. Nigerian National Petroleum Corporation (NNPC), Federal Inland Revenue Service (FIRS), National Petroleum Investment Management Services (NAPIMS) and Directorate of Petroleum

In Nigeria, Government revenue includes proceeds from sale of crude oil, taxes (including import and excise duties), penalties, interests, fines, charges and other earnings received from Government investments (bonds, dividends etc.), and the like. Revenue therefore encompasses the entire gamut of Government income, which is realised and available for expenditure by Government within a particular fiscal year or period.

- (i) Revenue – it is generally believed, that the main purpose of taxes is to raise revenue for use by Government;
- (ii) Redistribution – taxes may be used to transfer wealth from one section of the society to another;
- (iii) Repricing – taxes may be used to address externalities i.e. fiscal policies may be used to affect some area of the economy, which cannot otherwise be done; and
- (v) Representation – this is historical and implies that taxes are imposed to assure citizens of representation in the Governance of the society. In this regard, rulers impose taxes and citizens demand accountability in return.

Of the above, revenue generation is viewed as the primary and most important role of taxation. Taxation is however not only a means of revenue generation for Government, it can also be used to stimulate other sources of Government revenue and develop other areas of the economy from which Government can realise revenue.

### 1.3 Distinction between Taxation and other components of Revenue

A further but brief discussion may be necessary on the distinction between taxes and other internally generated revenue items such as charges, levies and penalties. Such other revenue items are not usually income or transaction based, but may be imposed for the use of utilities or infrastructure, or the right of way or simply imposed on certain category of persons, activities or persons within a particular area. As a definition of taxation has been provided above, a working definition of similar items is provided below;

- (a) Charge – a charge is an amount paid for the use of goods, services or infrastructure provided by the Government;
- (ii) Fee – a fee is a payment for the labour or services provided by a public body,

such as a Government entity or agency. Examples of fees include payments for use of utilities and for obtaining Government documents such as passports and visas.

- (iii) Fines – these are sums of money imposed by the Government as penalties for an offence or indiscretion by a person within the jurisdiction of the Government. Examples of fines include Court fines, fines imposed for traffic violations, unauthorised usage of Government property e.t.c.
- (iv) Penalty – this is similar to a fine and is usually an amount paid or forfeited for not meeting a particular condition or fulfilling an undertaking. Examples of penalties include payments for late filing of returns, or the late or non-provision of information at the time required to Government agencies.
- (v) Rates – these are usually imposed on property or other assets and are usually determined with reference to the value of the property or in relation to some other thing. Example of rates include tenement rates and rates on shops and kiosks.

In practice, there may be little distinction between what constitutes a tax or charge or fine, as these concepts can sometimes be interchangeable, however, it is still necessary to keep in mind the distinction as set out above.

It has also been noted, that under the current structure of Government in Nigeria, taxes at the Federal and State level are usually more efficiently collected and utilised than most of the other revenue sources highlighted above. However, unlike other revenue items, tax officials do not exercise custody or control over taxes, which they collect and are not involved in the allocation or expenditure of the taxes.

This distinction between those who collect and those who utilise is important for control purposes and also because the manner of utilisation of revenues collected impacts directly on the ease with which such revenues are collected.

### 1.4 Rationale for and Purpose of the Policy

Taxation remains a veritable instrument for national development. Apart from being a major source of revenue for governments to provide goods and services needed by their people, taxation policies can stimulate economic growth

and job creation through its impact on investment and capital formation in the economy. In this respect, reforms in the tax system that ensure effectiveness equity and efficiency are necessary conditions for a healthy public finance.

The decision to reform the tax system and develop a National Tax Policy that would serve as a guide to tax administration in Nigeria was necessitated by Government's desire to address structural, institutional and other inherent problems in the existing tax system, in order to enhance effectiveness, efficiency and transparency. These challenges include:

- the increased demand to grow internally generated revenue, which has led to the exercise of the powers of taxation to the detriment of the taxpayer who suffers multiple taxation and bears a higher tax burden than anticipated;
- insufficient information available to taxpayers on tax compliance requirements, which created uncertainty and room for leakages in the tax system;
- multiple taxation by Government at all levels, which impacted negatively on the investment climate in Nigeria. Elimination of multiple taxation is therefore of major concern at all levels of Government;
- lack of accountability for tax revenue and its expenditure;
- lack of clarity on taxation powers of each level of Government / encroachment on the powers of one level / State by another;
- lack of skilled manpower and inadequate funding, which led to the delegation of powers of revenue officials to third parties, thereby creating uncertainty in the tax system and increasing the cost of tax compliance;
- use of aggressive and unorthodox methods for tax collection;
- the non refund of excess taxes to tax payers, due to the lack of an efficient system and funds;
- the non-review of tax legislation, which had led to obsolete laws, that do not reflect Nigeria's current realities; and
- the lack of a specific policy direction for tax matters in Nigeria and the absence of laid down procedural guidelines for the operation of the various tax authorities.

These and other problems plaguing Nigeria's tax system have not been adequately addressed. One of the reasons for this was Government's heavy reliance on revenues derived from oil, as a result of which little or no attention had been given

to revenue from other sources, such as taxation. However, there is now a renewed commitment by the Federal Government to diversify the economy by growing the non-oil tax revenue in order to develop a stable and sustainable revenue source to finance developmental projects.

Although there had been several reforms in the past, these reforms were not pursued under any policy direction and, in some cases, were carried out in an uncoordinated manner. This informed the decision of the Government to pursue a comprehensive reform of the tax system under the umbrella of National Tax Policy that would provide a direction for Nigeria's tax system and establish a framework that all stakeholders would subscribe to and to which they would be held accountable.

### 1.5 Sustainable Development and Healthy Competition

Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. In this context sustainable development refers to the pattern of revenue generation, which is able to meet the needs of the present generation of Nigerians, without negatively impacting the ability of future generations to meet their own needs. Generally, taxation is looked upon as a sustainable source of Government revenue due to the stability and certainty of the tax system. Unlike other sources of revenue, taxes are constantly available in so far as economic activity is carried on in the society. Recent developments in the global and local economy which have significantly impacted Government revenue have directed focus on taxation as a sustainable source of income.

It is in line with this that the National Tax Policy intends to create awareness on the importance of the role, which taxation can play in securing a stable flow of revenue for the Government. Nigeria is currently viewed as a mono-product economy with significant reliance on oil revenue due to historical developments in the Nigerian economy. However, taxation has been identified as an alternative to oil revenue and a more reliable source of revenue. The tax policy shall therefore promote and encourage a shift in focus from non-tax revenue to tax revenue by Governments at all levels of the Nigerian economy.

Following from the above, the tax policy shall also promote and encourage healthy competition amongst tax and revenue authorities in Nigeria at the Federal and State level to facilitate rapid development of the tax sector in Nigeria. The

countries which depend mostly on tax revenue to finance expenditure. Nigeria can therefore afford to lower its tax rates to achieve a competitive advantage.

### 3.2 Decrease in Income Tax Rates

Based on the reasons stated above, the strategy of Government is to reduce the rate of Companies Income Tax to about 20% and to decrease the top rate of Personal Income Tax to about 17.5% of taxable income. Decreasing income tax rates, will encourage investments, create greater employment opportunities and increase tax compliance. Furthermore, it is important that there are no significant differences in the rates of Companies Income Tax and Personal Income Tax in order to limit opportunities for tax avoidance.

### 3.3 Deliberate Policy shift towards Indirect Taxation

Value Added Tax is easier to administer and more difficult to evade than Income taxes. Government's commitment to the harmonisation of VAT within the ECOWAS sub-region in addition to its goal to reduce the dependence on oil as a source of revenue to finance expenditure informs the decision to focus on VAT as a sustainable source of revenue.

**Table 1:** Compares the VAT rates in some ECOWAS countries and shows that Nigeria's current VAT rate of 5% is comparatively low.

**Table 1: Rate of VAT in some ECOWAS countries\***

Country	Benin	Cote D'Ivoire	Ghana	Mali	Niger	Nigeria	Senegal	Togo
VAT Rate (%)	18	18	15	18	19	5	18	18

\*Taken from 'Study on harmonization of the Value Added Tax and Excise Duty Legislation of ECOWAS member States' Volume 1: Provisional Report Bureau National d'Etudes Techniques et de Development, June 2006

Government's plan therefore is to gradually increase the VAT rate in such a way that it will not affect aggregate consumption. At the same time, there will be a reduction in the companies and personal income tax rates and this will reduce the tax burden on companies and individuals. With the expected increase in VAT, it is important to adhere to the principle of vertical equity (as articulated in the National Tax Policy), so that essential goods and services are VAT exempt or zero rated. In

order to achieve this, it is necessary to expand the list of VAT exempt or zero-rated goods and services.

### 3.4 Simplifying Tax Laws to Encourage Investment

In order to encourage investment, it is necessary but not sufficient to lower the overall rates of income taxes. Part of the burden that falls on taxpayers is the administrative cost necessary to comply with the tax laws, especially, as complicated tax laws increase compliance cost.

The tax laws shall be amended for clarity. Furthermore, all tax/revenue authorities in Nigeria should adopt wide-spread taxpayer education strategies to enable taxpayers to understand tax compliance procedure required to meet their tax obligations.

### 3.5 Pioneer Status / Tax Holidays

Horizontal equity is a key condition for fairness in a tax system. Under this concept, similar companies are treated similarly under the provisions of the tax laws. A Tax Holiday (or Pioneer Status) may violate horizontal equity as it involves giving a company or sector preferential treatment over other companies or sectors. It is also difficult to administer and therefore complicates the tax system.

However, whilst some tax incentives should generally be avoided, there are some specific sectors which the Government may wish to accord priority. The justification for this is that those sectors have potentially large benefits to the entire economy. Where the Government has identified such priority sectors, it would be beneficial to provide tax holidays to facilitate the growth and development of these sectors. This fulfils the requirements stated in the National Tax Policy that tax holidays must only be granted

principles that should be applied in the context of each country even though the circumstances may vary. The Tax Strategy for Nigeria applies the good principles of taxation that are suited to the Country's peculiar circumstance.

## 2.0 Objectives

As part of the strategy to grow the Nigerian economy by an average of 10% per annum, the objective of the Tax Strategy for Nigeria is to use the tax system to help grow investment and create employment. This should be achieved whilst maintaining stable revenue flow to enable sustainable Government expenditure.

### 2.1 Domestic Investment

Investment decisions are made when business entities are able to make profit projections in respect of their investments. There are however, various costs involved in any investment project which may make the project less profitable and will impact on the decision of the entity to proceed with the investment.

In this regard, there are peculiar challenges in the Nigerian investment environment, such as infrastructure which may negatively impact investment decisions as the cost of doing business in Nigeria may be significantly higher than it would have been in countries with better infrastructure.

A high level of taxation on any income will make investment less likely as overall profits will be lower and business entities will be reluctant to take the investment risk. In the short to medium term, in order to compensate for challenges in the investment environment, the tax system should allow business entities higher after tax profits to compensate for the investment risks. This will lead to higher domestic investment and result in higher economic growth.

### 2.1 Foreign Investment

With the elimination of all trade barriers amongst ECOWAS countries, business entities will, in the future have access to Nigeria's market without having to set up local entities in Nigeria.

With the establishment of Free-Trade Zones and adoption of the Common External Tariff Regime, business entities may choose to locate in any country within the ECOWAS sub-region, but will

most likely favour the country that has a more conducive investment climate. Foreign Direct Investment (FDI) has many benefits when compared to benefits derived from international trade alone. Greater FDI will generate higher employment, transfer of knowledge and skills (which will further enhance economic growth), as well as various other positive multiplier effects. Nigeria must strive to be competitive and therefore attractive for foreign entities to invest.

For foreign companies investing in natural resource extraction, the location of the resources will be the deciding factor on where to establish a local entity irrespective of the absence of adequate infrastructure. However for foreign companies in the other sectors, the provision of suitable infrastructure would influence an investor's choice of Nigeria as a host country for investments compared with other ECOWAS countries. To enable Nigeria to compete alongside other ECOWAS countries, Government must try and counter this disadvantage and use its tax system to make it more attractive for inward investments.

### 2.3 Employment

Through policies that encourage domestic and foreign investment, there will be greater employment opportunities in Nigeria which will help distribute the benefits of economic growth. The Tax Strategy should therefore encourage investment that creates greater employment opportunities.

## 3.0 Creating a Competitive Advantage in Nigeria's Tax System

In order to achieve the objectives stated under Section 2, Nigeria must have a long-term objective of providing a good level of infrastructure in order to create an enabling business environment. However with the current challenges in the country's investment environment regarding her infrastructure, Government should ensure that the tax system is favourable enough to attract investment.

### 3.1 Adjusting Tax Rates to Encourage Investment

Nigeria has immense Oil and Gas resources which enable the country to finance Government expenditure without significant recourse to revenue from other sectors. Comparatively, this can be used as leverage over other African

focus of the competition shall be to maximise tax revenue within the jurisdiction of each Government in line with Constitutional and statutory provisions. It is expected that there would be increased collaboration as a result of the need to grow tax revenues by each level of Government and that improved collaboration would enhance tax yield – between and amongst Federal, State and Local Government authorities.

The concept of sustainable development and healthy competition shall be upheld as underlying philosophies in the development of Nigeria's tax system. It is however important to note that even as healthy competition is encouraged, this should be balanced with the need to have an effective and efficient tax system. Several jurisdictions have different ways of striking that balance. In Nigeria, that balance will be achieved by ensuring that those ratios that drive allocation of revenue collected from any source has built in mechanisms for rewarding and recognising arms of government that demonstrate effective utilisation of revenues, investment promotion, infrastructural development and economic activity amongst others.

### 1.6 The Role of Fiscal Federalism

Fiscal Federalism is expected to play a major role in Nigerian tax policy and administration. In this regard, it is intended that the concept of Fiscal Federalism would be the common thread holding the National Tax Policy together. Nigerian tax policy would therefore uphold the application of fiscal federalism in the generation and expenditure of revenue by Government at all levels in accordance with the tenets of the Nigerian Constitution. There should be strict adherence to the tenets of fiscal federalism, which will include the basic understanding of which revenue functions and agencies are best centralised, which should run concurrently and which are better placed under the sphere of decentralised levels of Government.

In this regard, it is expected that the 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 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.

The 1999 Constitution of the Federal Republic of Nigeria places the responsibility for legislating on taxation on Income, Capital Gains and Stamp duty on the Federal Government. It also places collection of taxes on the concurrent legislative list, enabling the Federal Government to delegate administration or collection of taxes as it pertains to taxation or duty on a) capital gains, incomes or profits of persons other than companies; and b) documents or transactions by way of stamp duties, to the State Government.

At the same time, the Constitution places the responsibility for legislating on the collection of taxes, fees and charges that can be collected by the Local Government on the State Governments. Other than that specifically stated in the exclusive legislative list, activities that would ordinarily attract taxes, fees and charges (forms of levies) are placed squarely as part of the responsibilities of the Local Government Council – in the 4th schedule. To check the possibility of multiple taxation, the Constitution is clear on giving responsibility to the Federal Government in the case of State Governments, and to the State Government in the case of Local Governments.

Taxation in its strictest sense is much broader than tax on income, capital gains and stamp duties. It also covers tax on property, consumption and products, hence the source of confusion and legal action which has not helped in the development of the tax regime in Nigeria. Pending cases in the Courts may help decide conclusively on related matters. Suffice it to say that the prevailing position is that the Federal Government ultimately has overriding authority on taxation matters with some latitude to State Governments to introduce taxes, fees and charges (collectible by the Local Governments) in those areas that do not conflict with the position of the Federal Government.

Governments at both Federal and State Government levels have used the omnibus clause in section 4 of the Constitution to address gaps identified in the taxation system. Section 4 clearly gives the State Government the ability to enact laws in the interest of peace and good governance, but also the Federal Government the same powers to enact laws in the interest of peace and good governance, with the proviso that where there is a conflict, the laws enacted by the Federal Government prevail.

The Nigerian Constitution generally allows the State and Local Governments broad discretion in establishing fees, charges, or fines as previously defined. These revenues (fees, charges, or fines) should be seen as collected:

- For the privilege of engaging in certain activities; or
- In order to regulate a particular activity; or
- For the purpose of imposing penalties.

In some cases (such as many user charges, admission fees, and some regulatory fees) the payment is closely linked to the cost of providing a particular service to an individual beneficiary or regulated party. In other cases (for example, certain environmental or regulatory fees) the payment may not be directly related to the costs associated with particular participants, but more loosely related to a discreet group of participants or an industry. In some situations, the payment may not relate to direct regulation per se, but rather to broad social costs associated with particular activities—for example, environmental mitigation fees. Ideally, some link must exist between these payments and the related cost to government in order to avoid it progressing to a "tax." Fees or charges must be based on some established relationship between the amount of the payment, on the one hand, and the costs associated with the regulation of an activity or the provision of a good or service, on the other. Similarly, penalties must be considered reasonable given the specific incident of non-compliance. If a sufficient relationship, or "nexus," is not established between the fee and costs of provision or regulation, the charge is considered a tax. This is an area for which legislation is required to conclusively make this distinction.

In conclusion, the National Tax Policy recognises that the Federal Government through the National Assembly is empowered exclusively to impose taxes on incomes, profits and capital gains and on documents of corporate organizations and governments (stamp duties), while each State Government is empowered to collect those taxes

from individuals resident in their respective States as may be determined by the National Assembly. The taxes imposed by the Federal government include Companies Income Tax, Personal Income Tax, Education Tax, Petroleum Profits Tax, Capital Gains Tax, Value Added Tax and Stamp Duties. Apart from income taxes, State Governments, through their Houses of Assembly are also empowered to impose, fees, levies and rates collectible by them and Local Government Authorities in their respective states.

## 1.7 Objectives of the Nigerian Tax System

The Nigerian tax system is expected to contribute to the well-being of all Nigerians and taxes, which are collected by Government, should directly impact on the lives of the citizens. This can be accomplished through proper and judicious utilisation of the revenues collected by government.

In line with the above, there are certain objectives, which the Tax System is expected to achieve. These objectives include:

### 1.7.1 To promote fiscal responsibility and accountability

One of the primary objectives of the National Tax Policy is to create a tax system, which ensures that Government transparently and judiciously accounts for the revenue it generates through taxation by investing in the provision of public goods and services, demanded by her people. Where this is in place, Nigerians would have a tax system that they can fully relate to and a vital tool for National Development.

### 1.7.2 To facilitate economic growth and development

A major objective of the Nigerian tax system is to achieve economic growth and development. The system should be a catalyst for investment, that grows the economy and not stifle entrepreneurship and productivity, 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.

## APPENDICES

### Appendix 1: EXISTING TAX LEGISLATION

1. Capital Gains Tax Act
2. Casino Taxation Act
3. Chartered Institute of Taxation of Nigeria Act
4. Companies Income Tax
5. Deep Offshore and Inland Basin Production Sharing Contracts Act
6. Education Tax Act
7. Federal Inland Revenue Service (Establishment) Act
8. Income Tax (Authorised Communication) Act
9. Industrial Development Act
10. National Information Technology Development Act
11. Nigerian Export Processing Zones Act
12. Oil and Gas Export Free Zones Act
13. Personal Income Tax Act
14. Petroleum Profits Tax Act
15. Value Added Tax Act
16. Stamp Duty Act
17. Taxes and Levies (Approved List for Collection) Act
18. Others ....

### Appendix 2: STRATEGY FOR IMPLEMENTATION OF THE PROPOSED TAX POLICY

#### Executive Summary

The Tax Strategy for Nigeria maps out the means by which the Government intends to achieve a tax system that will significantly encourage investment within the Nigerian economy, leading to more jobs and higher economic growth. This may be achieved through the following measures;

Use of revenues from Nigeria's Oil wealth to provide basic amenities, while reducing tax burden on other sectors, thereby developing those sectors to diversify the economy.

Gradual decrease in Companies Income Tax to an acceptable rate

Decrease in the top-rate of Personal Income Tax to an acceptable rate.

Shift towards greater reliance on indirect taxation by gradually increasing the Value-Added rate that will not affect aggregate consumption, in order to achieve stable non-oil revenue flow, achieve high compliance in the tax system and fulfill commitments to the ECOWAS.

Restriction of Tax Holidays to sectors key to the development of Nigeria's economy and ensuring that there is full transparency and accountability in the process of granting these holidays.

Decrease in the cost of tax compliance by simplifying tax laws through regular review, improving taxpayer services and developing specific tax regimes for effectively dealing with Small and Medium Enterprises for e.g. Presumptive Income Tax and prescription of a turnover threshold for imposition of Value-Added Tax.

Elimination of multiple taxation through improved collaboration between the FIRS and the States Board of Internal Revenue. This should be implemented through the Joint Tax Board (JTB), which should be empowered with regulatory powers over the tax authorities

All these strategies should be administered by the relevant tiers of Government and where necessary, appropriate amendments to the tax laws should be made.

#### 1.0 Introduction

The Tax Strategy for Nigeria is an accompanying document to the National Tax Policy. Whilst the National Tax Policy highlights general rules and principles and sets out a direction for the tax system, the Tax Strategy maps out the way in which the policies would be implemented.

The tax system in any country is the key link between the private and the public sector in growing and shaping the economy. There is no single tax system that is of universal 'best practice', so the structure of any country's tax system will depend on the differing circumstances of that country. However, there are general

Finally, this document has highlighted various tax related issues in creating a favourable business environment within the country. In particular, with tax incentives it has shown the need for a restrained approach to allowing well-intended incentives into the tax system.

A number of appendices are included and should be read together with the entire document. These include:

- (a) Existing Tax Legislation;
- (b) Strategy for implementation of the proposed Tax Policy and

- (c) State Policy on Taxation (recommended for inclusion in the Nigerian Constitution)

Overall, it is expected, that this document has provided a set of guiding principles for taxation in Nigeria. It shall provide a stable point of reference for all stakeholders in the tax system to subscribe to and a standard to which they shall be held accountable. It is therefore expected, that this National Tax Policy shall provide a platform for realising Nigeria's overall developmental goals utilising the tax system as the much need catalyst.

### 1.7.3 To provide the government with stable resources for the provision of public goods and services

For Nigeria to pursue an active development agenda and carry out the basic functions of government, its tax system should generate sufficient revenue for government to provide basic public goods and services (e.g. education, healthcare, infrastructure, security etc.). It is therefore a primary objective of taxation to provide the government with revenue that it shall invest in judicious expenditure that will ultimately improve the well-being of all Nigerians.

### 1.7.4 To address inequalities in income distribution

Nigeria's tax system should take cognisance of our peculiar economic circumstances and seek to narrow the gap between the highest and lowest income groups. Those with the highest incomes should pay the highest percentage of tax and tax revenue should be utilised to provide Nigerians with affordable social amenities, basic infrastructure and other utilities.

### 1.7.5 To provide economic stabilisation

Nigeria should use its tax system to minimise the negative impacts of volatile booms and recessions in the economy and also to help complement the efforts of monetary policy in order to achieve economic stability.

### 1.7.6 To pursue fairness and equity

Nigeria's Tax system must be fair and shall institutionalise horizontal and vertical equity.

Horizontal equity ensures equal treatment of equal individuals. The Nigerian Tax system should therefore seek to avoid discrimination against economically similar entities. Vertical equity on the other hand addresses the issue of fairness among different income categories. In this regard, the Nigerian Tax System shall recognise the ability-to-pay principle, in that individuals should be taxed according to their ability to bear the tax burden.

Individuals and entities that earn high incomes should pay a corresponding high percentage of tax. The overall tax system shall therefore be fair, so that similar cases are treated similarly.

In addition, any ambiguity or conflicting provisions in the law shall be resolved in a manner as to ensure fairness to the taxpayers and the tax authorities.

### 1.7.7 To correct Market Failures or Imperfections

One of the objectives of the Nigerian tax system is the ability to correct market failures in cases where it is the most efficient device to employ. In this regard taxes may be reviewed upwards or downwards as may be necessary to achieve Government's intentions.

Market failures which the Nigerian tax system may address are those that are as a result of externalities and those arising from natural monopolies.

## 1.8 Guiding Principles of Nigerian Tax System

This section provides the fundamental features that taxes in the Nigerian tax system must exhibit. Accordingly any tax that substantially violates these fundamental features should not be part of the tax system of Nigeria.

### 1.8.1 Simplicity, Certainty and Clarity

Taxpayers should understand and trust the tax system, and this can only be achieved if Nigerian tax policy keeps all taxes **simple**, creates **certainty** through considerable restrictions on the need for discretionary judgements, and produces **clarity** by educating the public on the application of relevant tax laws.

It is therefore imperative that the Nigerian Tax system should be simple (easy to understand by all), certain (its laws and administration must be consistent) and clear (stakeholders must understand the basis of its imposition).

### 1.8.2 Low Compliance Cost

To enable a high level of compliance, the economic costs of time required, and the expense which a taxpayer may incur during the procedure for compliance, shall be kept to the absolute minimum at all times. Furthermore, taxpayers should be regarded as clients with the right to be treated respectfully.

The convenience of the taxpayer and minimal compliance cost should guide the design and implementation of every tax in Nigeria.

### 1.8.3 Low Cost of Administration

A key feature of a good tax system is that the cost of administration must be relatively low when compared to the benefits derived from its imposition. There must therefore be a proper cost-benefit analysis before the imposition of any taxes and the entire machinery of Tax Administration in Nigeria should be efficient and cost-effective.

### 1.8.4 Equity and Fairness

Nigeria's tax system should be fair and as such observe the objective of horizontal and vertical equity as mentioned above. Based on the foregoing, there must be overwhelming reasons for granting tax incentives and concessions to some preferred sectors over others within the economy. Otherwise incentives and concessions shall as much as possible be general and apply to all tax-payers.

### 1.8.5 Flexibility

Taxes in Nigeria should be flexible enough to respond to changing circumstances. Prevailing circumstances should also be considered before the introduction of new taxes or the review of existing ones.

### 1.8.6 Economic Growth and Efficiency

The Nigerian tax system should not be an impediment on the productive capacity of the economy, at any given time. In order to minimize the negative impact of taxes on economic efficiency, the tax system must be aligned to the National Socio-economic developmental goals, through ensuring that the marginal tax rates do not distort the marginal propensity to save and investment, and not pose competitive disadvantage to local firms.

### 1.8.7 Transparency and Accountability

Tax administration in Nigeria should be seen to be transparent and accountable to all the tax payers. Tax payers should be aware of existing taxes or new taxes imposed on them, and the proper utilization of the tax revenue.

## CHAPTER SEVEN

### IMPLEMENTATION OF THE POLICY

#### 7.1 Strategy

The implementation of the National Tax Policy will be based on an approach that recognizes fiscal federalism in the promotion of a tax culture in Nigeria. This approach will also ensure that taxation becomes a sustainable instrument for national development. In this respect, a fundamental tenet of the strategy would be encouraging investments and job creation within the Nigerian economy in an environmentally friendly manner. The strategy therefore, recognizes the imperative of using the tax system to grow investments and create employment, while maintaining stable and predictable revenue flow that enables sustainable government expenditure at all tiers of Government. The policy will be deliberate in that the tax system is favourable enough to attract investments and improve significantly Nigerian's competitive advantage. There will also be deliberate effort to shift towards indirect taxation, which is easier to administer and more difficult to evade than income tax.

#### 7.2 Priority Areas for Action:

In implementing the Policy, attention will be focused on ten critical areas of action, which will guide the design of strategic interventions for tax Policy implementation in Nigeria. The critical areas for which action is required include:

- Development of strategies to ensure fiscal optimization
- Improve equity and fairness
- Promotion of fiscal responsibility and accountability
- Reflect fiscal Federation
- Creation of Employment
- Creation of a competitive advantage in Nigeria's tax System

- Reduction in Income tax rates
- Policy shift towards Indirect taxation
- Simplification of tax laws
- Reduction in cost of administration
- Transparency and accountability

### CONCLUSION

The National Tax Policy document has set out the basic and underlying philosophy of the fundamental objectives of the Nigerian tax system and has prescribed the qualities it should possess. It also emphasises that the tax system must focus on the objective of enabling economic growth and development as well as improving the per capita income of Nigerians.

This document clearly states the roles of stakeholders in the tax system and the interrelationships between them. The issue of high compliance by taxpayers in respect of all taxes is of vital importance and has been highlighted. Tax authorities can encourage higher compliance if the taxpayers are treated as clients and if the whole system of taxation is made simpler and clearer. The need for mutual respect between all stakeholders in the tax system is also a crucial element in developing the tax system.

A major impact of this document should be the further empowerment of the Ministry of Finance to co-ordinate tax policy. The linkages between Tax Administration and Tax Policy are so interwoven that considering either one of these in isolation of the other will risk great policy errors.

Another policy thrust of this document is the need for greater administrative coordination of the collection of Personal Income Tax by the JTB. The benefits of improved coordination are in terms of both higher compliance and increased efficiency.

A major policy is the commitment of Government to increase the contribution of indirect tax to overall tax revenues. This policy shift, in addition to simplifying the tax system, will also encourage the establishment of a good investment environment in Nigeria.

## 6.7 Utilisation of tax revenues collected and manner of communication to the tax payer

In addition to ensuring proper accountability for tax revenue collected, there is need to ensure proper utilisation of tax revenues, given that the revenue is generated and utilised by the Government in trust on behalf of its citizens. Tax revenue would be utilised in a manner that ensures the achievement of the objectives of the Nigerian tax system.

Government and revenue authorities would be responsible for communicating the uses to which revenue is put and this would be done in the same or similar manner as set out above in **paragraph 6.6**. It is expected, that the more effectively and efficiently revenue is utilised by Government to create growth, employment opportunities and wealth in the economy, the more willing taxpayers would be to meet their obligations to the Government and discharge their duties in the overriding goal of achieving National Development.

## CHAPTER TWO

### THE ROLE OF STAKEHOLDERS IN THE NIGERIA TAX SYSTEM

#### STAKEHOLDERS – ROLES, RESPONSIBILITIES AND RELATIONSHIP BETWEEN THE STAKEHOLDERS

Stakeholders are those persons or entities that contribute to and derive benefits from the country's tax system. This broad definition therefore includes every Nigerian citizen and resident, corporate entities, Governments at all levels and government agencies as stakeholders in the country's tax administration. However, for the purpose of the National Tax Policy, certain groups of persons have been identified as relevant stakeholders.

The relevant stakeholders in the Nigerian tax system can be broadly categorized into the following:

#### 2.1 Three Arms of Government

##### 2.1.1 The Executive Arm

- (a) Presidency
- (b) Federal Executive Council
- (c) The Ministries of Finance, Information and Education in particular
- (d) National Economic Council
- (e) National Council of States
- (f) State Governors
- (g) States Executive Councils, Commissioners of Finance, Information and Education
- (h) Local Government Chairmen
- (l) Local Government Councils

##### 2.1.2 Legislative Arm

- (a) National Assembly
- (b) State Houses of Assembly

##### 2.1.3 Judiciary

- a. Appeal Court
- b. High Court
- c. Industrial Arbitration Court

#### 2.2 Tax Authorities

- 2.2.1 Joint Tax Board

#### 2.3 (a) Tax Payers

- (b) Private and Public Sectors

#### 2.4 Professional Bodies, Tax Practitioners and Consultants

#### 2.5 The Roles and Responsibilities of Stakeholders

Every stakeholder has a crucial role to play in the Nigeria Tax System. The roles and responsibilities as stipulated in this National Tax Policy document shall be governed by the provisions of Nigeria's Constitution in respect of all fiscal issues. Accordingly, the conduct of all Stakeholders in the Nigerian tax system, shall be governed by the following principles:

- (i) adherence to Constitutional Federalism and the Rule of Law at all times;
- (ii) strict adherence to Constitutional provisions relating to fiscal matters;
- (iii) adherence to the concept of Fiscal Federalism and separation of powers in relation to fiscal matters;
- (iv) recognition and respect for the rights and powers of each level of Government in relation to collection and control of revenue within its jurisdiction;
- (v) strict adherence to the provisions of tax legislation in the administration of taxes;
- (vi) commitment to the enforcement of tax laws in a legal and Constitutional manner;
- (vii) commitment to the peaceful resolution of all disputes and respect for Judicial pronouncements on disputes submitted for adjudication;
- (viii) commitment to the creation and sustainable development of a stable, secure and workable tax system for Nigeria; and
- (ix) commitment to the Unity, Development and Progress of One Nigeria, in the acknowledgment that the Tax System can be used a major pivot for achieving National Developmental Goals.

Besides, Government would ensure cordial interaction between stakeholders in the administration of taxes in Nigeria through the adoption and deepening of the following globally accepted principles:

affirmation and acknowledgement of the importance and contribution of all stakeholders in the administration of taxes in Nigeria;

provision of specific and general feedback by all stakeholders, in a proactive manner on issues and developments that are relevant to tax administration in Nigeria;

ensuring that the principle of good faith is observed by all stakeholders, especially between the taxpayer and tax authorities on one hand and the government and the authorities on the other;

fairness in the treatment of all stakeholders by each other. This is particularly relevant in the allocation of resources and consideration of each party's viewpoints.

The specific roles and responsibilities of each of the stakeholders are hereunder stated:

## 2.6 The Role of the Executive Arm of Government

The Executive Arm of Government encompasses the organs of Government at all levels, which are involved in the implementation and enforcement of tax laws. This arm of government plays a critical role in the development of a good tax culture in Nigeria. The specific roles include:

### 2.6.1 Presidency

The Presidency is the organ of Government that is responsible for initiating policy, as well as, implementation and enforcement of laws at the Federal level. The Presidency also oversees the activities of Government agencies at the Federal level. In this regard, the Presidency would be required to provide leadership and direction on all tax matters to the Ministry of Finance, the Federal Inland Revenue Service, the Nigeria Customs Service and other relevant revenue generating agencies involved in tax administration in Nigeria.

The Presidency shall provide necessary approvals (or assist in obtaining such approvals from the relevant bodies), funding and be responsible for the appointment of competent personnel to head the relevant agencies and also initiate the process of drafting tax legislation for enactment by the Legislature.

The Presidency would also be responsible for signing and implementing all International and Regional treaties entered in to by Nigeria.

In addition to the above, the Presidency shall be responsible for moderating the relationship between the different organs of Government and provide all the necessary tools for effective and efficient tax administration in Nigeria.

### 2.6.2 National Council of States

The National Council of States (NCS) is created by the Nigerian Constitution and assigned the responsibility of advising the President on the exercise of his powers with respect to certain matters specified in the Constitution. While taxation or fiscal issues are not specifically listed in the Constitution as matters upon which the NCS can advise the President, the Constitution however provides that the NCS may advise the President on such matters as the President may direct. Accordingly, when required, the NCS shall provide relevant advice to the President on matters pertaining to tax and fiscal issues.

### 2.6.3 National Economic Council

The National Economic Council (NEC) was created by the Nigerian Constitution and assigned the responsibility for advising the President on economic matters. Given that taxation plays a major role in the economy of the country, the NEC would be required to deliberate on and identify policies, which can be implemented and assist the President draw up roadmaps for the development of the Nigerian economy with particular emphasis on taxation and other fiscal related issues. The NEC would also be required to co-operate with similar advisory bodies to ensure the consistency of advice provided to the President on fiscal issues.

### 2.6.4 State Governors

State Governors are expected to play a similar role to that of the Presidency at State level. They would be responsible for the development of State Tax Policy which shall be complementary to the National Tax Policy. In addition, they are responsible for the enforcement of Federal and State tax laws in the States and carry out general oversight functions on tax and revenue authorities at the State and Local Government level. State Governors would be required to provide guidance and direction to the State Ministries of Finance, the State Boards of Internal Revenue Service and other relevant revenue generating agencies involved in tax administration in the States. They should also ensure adequate funding and autonomy is provided to these agencies in the discharge of their functions.

always remain the focus of revenue expenditure and revenue should be utilised to achieve the greatest benefit for the greatest number of Nigerians.

## 6.5 Identification of Government Revenue which is presently not being collected

Taxes provide required revenue for developmental projects and growth in the economy. To achieve this goal, there is the need to increase the level of revenue currently obtained from taxes. However, taxes alone cannot provide the entire revenue which will be required by Government. In this regards, Government will focus attention on other internal sources of revenue, which are not currently being exploited to their full potential. The quest for increased revenue would be expanded to cover these other revenue sources which can be exploited alongside tax revenue to ensure a wider revenue base for developmental purposes.

To buttress the above position, data obtained from at least two-thirds of the States indicates that taxes collected by the States are only a fraction of their total revenue. An analysis of revenue collected by the States over a five year period (2003 -2007/08) shows that on the average, internally generated revenue (IGR) accounted for only about 10% to 11% of the total revenue obtained by the States for this period, while the bulk of the revenue was allocation from the Federation Account and Value Added Tax.

This indicates that internally generated revenue is only a minor source of revenue for the States and Local Government and that majority of the taxes which are under State and Local Government jurisdiction (as provided under the Constitution) are not been maximised.

Further analysis of the available data shows that on a National average, Personal Income Taxes alone accounted for about 50% of the total internally generated revenue of the states from all sources. There are however, several existing revenue sources which are not being exploited to their maximum potential. This may be due to a lack of knowledge about these areas, lack of structures to enforce the collection of revenue from these areas, or a lack of manpower. In order to grow Government revenues, without overburdening tax payers, it is necessary to properly identify these areas and give them priority in the short and long term.

In this respect, Government will pursue the following strategies and initiatives:

- (i) reviewing of charges, fees and penalties to bring them in line with current economic realities;
- (ii) full compliance with all revenue laws, without restricting focus to tax laws;
- (iii) charging of appropriate fees by Government and its agencies for provision of value added / luxury services; and
- (iv) creation of new investments which lead to new services from which Government can earn revenue.

Government recognizes that improvement in revenue generation is not about increasing taxation, but can also be achieved through expansion of the overall tax/revenue base and the creation of an improved structure for tax and revenue generation at all levels of Government.

## 6.6 Accountability for Tax and Other Revenue collected

In order to create a transparent and efficient tax system, there is need to ensure full and timely accountability for all revenue generated by Government. This can be achieved by regular dissemination of information to tax payers on how tax monies collected are applied. Where tax payers are carried along in the disbursement and utilisation of tax revenue, it will create increased public confidence in the tax system. Accountability for tax revenue will be achieved in the following ways:

- (i) regular and timely publication of revenue collected in widely available mass media, such as newspapers, magazines, National Television and Radio stations and the internet;
- (ii) storage of revenue information in electronic format, which is accessible to the general public; and
- (iii) holding of regular forums, where there is interface between revenue authorities/Government and the taxpayers/general public and where the disbursement and utilisation of tax and other revenue generated is discussed and clarification provided to taxpayers.

**(e) National/State Assembly**

The National and State Houses of Assembly play a critical role in the development of the tax system, as the Nigerian constitution confers on them a major role of oversight of tax and revenue authorities. Accordingly, these institutions will be encouraged and developed to play this very critical role effectively.

**(f) Office of the Auditor General of the Federation**

This is an independent arm of Government, which is empowered to audit the public accounts of the Federation and all offices and courts of the Federation. This institution is one that holds the public's trust to ensure that all revenue appropriated or disbursed is accounted for and verified for public scrutiny. The stronger this institution is made in the discharge of its role, the greater a role it would be able to play in strengthening and institutionalising a tax culture. In this respect, Government will continue to strengthen the Office of Auditor General of the Federation.

**6.4 Elimination of Bottlenecks and Leakages in the System**

Leakages in the tax system constitute a significant drain on Government revenue and are a challenge to efficient collection and utilisation of revenue. Leakages may occur at the following stages of revenue generation:

- (i) at the stage of assessment, where taxpayers are either not assessed at all or where assessed, it is not done properly;
- (ii) at the stage of collection, where revenue is not fully collected or where collected is not fully accounted for; and
- (iii) at the stage of utilisation, where revenue collected is not properly allocated or utilised or where allocated and disbursed, is not properly accounted for.

Bottlenecks on the other hand refer to challenges which are faced by either taxpayers or tax authorities in the course of tax administration and which also lead to leakage or delay in the process of tax compliance.

In order to maximise tax revenue, Government is aware of the urgent need to minimise/eliminate all leakages and bottlenecks in the tax system. Tax

authorities who are responsible for assessment and collection of taxes would be empowered and held accountable for addressing the leakages and bottlenecks, which occur at that stage. They would however, be assisted by all relevant parties especially tax payers, who have a responsibility to promptly and correctly declare their taxes and to report any abuse in the system. Tax authorities would utilise the entire machinery of Government, including the Judiciary and law enforcement agencies to address these leakages and bottlenecks.

The Executive, which is responsible for the disbursement of revenue, will be responsible for addressing bottlenecks and leakages which occur at that stage. The Legislature also has a role to play in this regard, as it is responsible for appropriating revenue for expenditure. It is expected that there would be judicious allocation and expenditure of revenue generated and that relevant legislation would be complied with in the disbursement and expenditure of such revenue.

In addition, Government at all levels, i.e. Federal, State and Local Government will put in place sustainable structures for the purpose of identifying and plugging bottlenecks and leakages in the revenue cycle. Examples of such structures include:

- (i) use of electronic payment systems in all transactions, which directly drives automatic and improved remittances and collections;
- (ii) use of technology and related systems in tax administration, such as cash registers, automated land registries etc.; and
- (iii) instituting proper financial regulation and reporting framework at all levels of Government

Other measures to be pursued will include:

- (i) effective monitoring of revenue from assessment, to collection, to allocation and expenditure.
- (ii) Isolation and addressing of other sources of leakage and bottlenecks which have not been noted here are identified.
- (iii) It shall be the duty of all stakeholders in the tax system to identify such leakages and bottlenecks and bring them to the notice of the relevant authority. Taxpayers and the general public would

State Governors would be expected to ensure co-operation among State Boards of Internal Revenue, the Federal Inland Revenue Service, the Nigeria Customs Service and other revenue agencies for the development of the Nigerian tax system in areas such as information sharing, improved structure and efficiency in tax administration, elimination of multiple taxation and adoption of a nationwide Unique Taxpayer Identification Numbering (U-TIN) system.

**2.6.5 Federal Executive Council in General and the Federal Ministries of Finance, Education and Information in Particular**

The Federal Executive Council (FEC) is the highest Federal level decision making body in Nigeria and is responsible for decisions, which impact all levels of Government in Nigeria. In addition, the Minister of Finance who exercises oversight functions on tax and fiscal issues is a member of the FEC.

In this regard, the FEC shall be responsible for approving all matters, which will ensure effective oversight of taxation policy and administration. The FEC would be expected to give necessary direction to other levels and tiers of Government in this respect as may be relevant.

The executive arm of Government is responsible for encouraging voluntary compliance by the taxpayers. An effective mechanism for achieving high compliance is by leading by example as well as by making the most efficient use of the tax revenue collected by the Government. Accordingly, all members of the FEC shall on an annual basis ensure that they fully disclose all sources of their income and ensure the right taxes are paid when due and obtain tax clearance certificates annually.

The FEC shall also:

- i. co-operate with the Legislature in initiating legislation on tax matters and shall provide the necessary approvals required to speedily implement legislation, which is passed by the Legislature and
- ii. ensure a cordial relationship with the Judiciary and that the independence and integrity of the Judiciary is maintained at all times.

All Federal Ministries, Departments and Agencies are required to provide and share all information that would assist in the accurate assessment and collection of the relevant taxes by, amongst others:

- a. Ensuring proper assessment, collection and prompt remittance of taxes to designated government accounts.
- b. Ensuring fiscal compliance of every person that they deal with,
- c. Ensuring that every database maintained in government has a compulsory field for the inclusion of the unique taxpayer identification number for every company, enterprise, individual and other registered organisation and
- d. Ensuring that all Tax Clearance Certificates and other tax documents used in government transactions are referred back to the relevant revenue authority for authentication

Some specific roles and responsibilities of respective Ministries are as follows:

***The Federal Ministry of Finance (FMF) shall:***

Have primary responsibility for tax policy matters, including initiating proposals for amendments to tax laws by the National Assembly,

Coordinate all requests from other Federal Ministries and Agencies relating to fiscal issues,

Seek recommendations from the relevant stakeholders to ensure that enactments on taxation are regularly reviewed and substantially meet the principles of good taxation and the objectives of Nigeria's tax system as stated in this document,

Provide guidance to all Federal Ministries, Extra-Ministerial Departments and Agencies in matters relating to the amendments to laws and legislation on taxation,

In close collaboration with the Federal Inland Revenue Service, partner with the State Ministries of Finance and other State and Local Government agencies to ensure the development of Nigeria's tax system and a tax culture amongst Nigerian citizens,

Support the Federal Inland Revenue Service and the Nigeria Customs Service (in the case of duties) on all tax administration matters as would complement the efforts of those agencies. Such support shall cover amongst others:

Ensuring that taxpayers monies collected are effectively accounted for and judiciously utilised

Communicating to the tax payer the use to which tax payer monies are being put

Demonstrating in action and words that the taxpayer is a priority of government and is well appreciated

#### *The Federal Ministry of Education (FME)*

Shall provide support to the Federal Ministry of Finance and the relevant tax and revenue authorities in developing a tax culture amongst Nigerians. The Ministry through its relevant organs shall be responsible for ensuring the inclusion of taxation in the curricula of Nigerian educational institution from primary to tertiary institutions based on a cradle to grave concept.

#### *The Federal Ministry of Information (FMI)*

Shall provide support to the Federal Ministry of Finance and the relevant tax and revenue authorities in carrying out public enlightenment campaigns on tax and revenue matters affecting the country.

### **2.6.6 State Executive Council in general and the Ministries of Finance, Education and Information in particular**

The State Executive Council (SEC) shall play a role similar to that of the Federal Executive Council as the highest decision making body at State level. In this regard, it shall be responsible for approving all matters pertaining to policy development as well as the implementation and enforcement of taxes at State and Local Government level. It is also expected to give the necessary leadership and direction to Local Governments in respect of revenue generation matters. Tax and revenue matters shall be treated with priority, given the important role they play in the economic development of the States.

The SEC shall co-operate with the State Houses of Assembly in initiating legislation on tax and revenue matters, which are within the jurisdiction of the State Houses of Assembly also provide the necessary approvals required to implement legislation, which is passed by the House of Assembly.

The SEC shall ensure a cordial relationship with the Judiciary and that the independence and integrity of the Judiciary is maintained at all times. There shall be co-operation amongst all the members of the SEC in relation to revenue matters.

All State Government (SG) Ministries, Departments and Agencies are required to provide and share all information that would assist in the accurate assessment and collection of the relevant taxes in the same manner required of Federal Ministries, Departments and Agencies.

For State Ministries of Finance, Education and Information, they shall be responsible for playing the roles assigned to their respective Federal counterparts within their territorial jurisdiction.

### **2.6.7 Local Government Chairmen**

Local Government Chairmen are Chief Executives at the Local Government level and they would be responsible along with the Local Government Councils for the implementation and enforcement of tax laws at the Local Government level. They would be responsible for oversight functions on the local government revenue authorities and provide leadership and direction to these authorities. Local Government Chairmen shall also be responsible for liaison with the State Ministries of Finance and the State Houses of Assembly with respect to revenue matters, which are within the jurisdiction of the State or Local Governments. They should also ensure adequate funding and staffing of revenue authorities at the Local Government level.

Local Government Chairmen in the State shall ensure there is close co-operation between the local governments on all revenue matters and ensure eliminate of multiple taxation.

### **2.6.8 Local Government Councils**

Local Government Councils shall be responsible for the collection of revenue at the local government level as provided in the Fourth Schedule to the Nigerian Constitution and the control and regulation of such other matters as they are empowered to. They may also carry out

### **Staffing and Capacity Building**

Tax authorities would require adequate and proper staffing in order to effectively carry out their mandate. In this regard, revenue authorities must have the proper quantity and quality of personnel. Proper recruitment and selection processes with emphasis on both skills and ethics, are critical. Skills and manpower gaps should be identified at all levels of revenue authorities and promptly addressed. Tax authorities shall also endeavour to attract and retain experienced and well trained personnel with the right code of conduct, within the tax system.

In addition to proper staffing, there is need for continuous capacity building by tax authorities at all levels of Government. In this regard, Government is committed to the pursuit of a high level technical and managerial training for revenue officials. This would enable them remain highly informed and up to date with the developments in the tax system. To this effect, government will adopt the following strategy:

- (a) Establishing and funding of tax academies for training of tax authorities and continuous capacity building;
- (ii) adequate exposure of tax authorities to international training (including secondment, attachment and mentoring) programmes on all aspects of taxation, revenue administration and practice is closely linked to the autonomy and funding of tax authorities; and
- (ii) providing of a framework to fully acquaint tax officials with global best practices in tax and revenue generation and administration.

### **(c) Consultants**

Consultants are recognised as useful allies in the development of the Nigerian tax system. Their duties may include advising Governments, tax authorities, taxpayers and other third parties on the practice and administration of taxes in Nigeria. They are also important in the dispute resolution process as they may be engaged by taxpayers to interface with the tax authorities on their behalf. It is however important to note that the use of such Consultants should be to enhance the system and not to act as a parallel authority in their own right. Accordingly, tax consultants, may be engaged in various capacities by the tax authorities, including training of tax/revenue

officials, capacity building, data gathering, strengthening tax processes and other ancillary functions. Consultants shall however not be involved in the assessment and collection of taxes or other functions, which only public servants engaged in tax administration, are empowered to carry out; challenges in the tax system should be addressed and fixed head on and shortcuts to revenue generation should be avoided. This way, the tax institution is developed as a critical institution of government.

### **(d) Academia / Educational Institutions**

Another group, which has a major role to play in the creation of a tax culture, is the academia and educational institutions at levels of Nigeria's educational system. Nigerian's current educational system from primary to tertiary institutions gives little or no attention to taxation. Taxation as a topic or a course is hardly taught in Nigerian institutions and where it is taught, it is usually offered as an elective rather than a core course.

Given this attitude to taxation in our educational system, it is not difficult to understand why there is no strong tax culture among Nigerians. Accordingly government will make concerted efforts to channel resources towards the education system, so as to ensure that taxation is taught at all levels of our education and Nigerian citizens obtain formal instruction on taxation. In this regard, the following strategies will be pursued:

- (i) Including Taxation as a course in curricula at all levels of the Nigerian educational system;
- (ii) Encouraging the study of taxation as a professional course;
- (iii) Providing incentives, such as scholarships and employment to graduates who undertake the study of taxation and to members of the academia who wish to specialise in the area of taxation;
- (iv) Creating professional taxation bodies and institutions, and strengthening existing ones, so that the practice of taxation in Nigeria is well organised and enhanced with the attendant benefits to the Nigerian tax system.

### 6.3 Institutions to Drive Tax Policy and Tax Administration

There are certain institutions which have a special role to play in driving tax administration and policy in Nigeria, within the context of creating a tax culture. These institutions include:

#### (a) Ministries of Finance

The role of the Ministry of Finance in the tax system has been discussed in detail previously in this document. As noted above, the Ministries of Finance at State and Federal level shall be responsible for all policy matters on tax and fiscal issues.

#### (b) Revenue Authorities

The role of revenue authorities in the tax administration process has also been discussed in detail above. In a nutshell, tax authorities are responsible for interface with taxpayers and act as a bridge between the Government and the taxpayers. They are also responsible for taxpayer education and enlightenment in order to create a tax friendly and conscious public. In order to effectively discharge this duty, revenue authorities would require appropriate structures and tools to

develop workable partnership with taxpayers. Some of the structures and tools required by revenue authorities in this regard include:

#### Autonomy

One of the most important areas, which **would require attention by the Government** towards creating a sustainable tax culture, is the issue of autonomy for tax authorities. This is attributable to the fact that tax authorities have a major role to play in the creation of a tax culture and must be given necessary tools to assist Government achieve this goal. In this regard, they should be free from any undue influence or control in the discharge of their duties. This can be achieved, where **they have autonomy and independence in their operations**. While this does not suggest that tax authorities would not be subject to direction or oversight, they would however require independence in their operations should they be required to fulfil their obligation to the Government and citizens of the country. Some of the areas in which tax authorities should be granted autonomy include, but are not limited to the following:

- (i) appointment, promotion, discipline, training, welfare and remuneration of their staff;
- (ii) technical and administrative operations; and
- (iii) other duties as the tax authorities are empowered to carry out under their enabling laws.

It is expected that such autonomy will strengthen the overall tax administration apparatus, give tax authorities greater visibility and a higher profile in the Government hierarchy and create a more central role and platform for tax authorities to contribute to the governance of the country.

#### Funding

Adequate and timely funding is a key requirement for the efficient discharge of the duties of tax authorities. **When tax authorities are well funded, they are able to act in an independent and unencumbered manner.** Funds are also required to carry out day to day operations, public enlightenment and other activities, which would create a tax conscious citizenry. In addition, given the pivotal role that tax administrators are **expected to play they must be well catered for to deal with any challenges** and obstacles which they may encounter in the course of their duties.

In this regard, Governments (Federal and States) will provide adequate funding arrangement for tax/revenue authorities in Nigeria. Accordingly, Governments would ensure that a specified percentage of revenue collected by any tax authority is provided to the authority for its operations; with the proviso that unspent funds provided to the tax authorities are returned to the relevant tier of Government at the end of the financial year, in line with financial regulations.

It is expected that receipt of adequate funding by tax authorities will greatly enhance tax administration at all levels of Government.

#### Structure and Processes

This is closely linked to the autonomy and funding of tax authorities. The internal structures of tax authorities would be developed in a manner in which it can support effective and efficient tax administration at all levels of Government.

such other functions as may be conferred on them by the State House of Assembly.

With respect to revenue generation, it is expected that the local government councils shall carry out this function in strict adherence and compliance with the relevant legislation as may be enacted by the State House of Assembly. When required the local government councils shall through the local government chairman approach the State Houses of Assembly to enact such laws as may be required for the efficient and effective discharge of their functions.

Local government councils shall co-operate amongst themselves to ensure the elimination of multiple taxation at the local government level.

In addition, all Local Government (LG) Departments and Agencies are required to provide and share all information that would assist in the accurate assessment and collection of the relevant taxes in the same manner as these responsibilities are vested in Federal and State Ministries, Departments and Agencies.

### 2.7 Role of the Legislature

The legislative arm of Government encompasses the organs of Government at the Federal and State levels which are empowered to make laws. The specific roles are stated hereunder.

#### 2.7.1 National Assembly

The Constitution of the Federal Republic of Nigeria vests the powers to make or amend laws on the taxation of income or profits in the National Assembly. Some State Governments and indeed the Federal Government have used the omnibus clause in section 4 of the Constitution to address gaps identified in the taxation system. Section 4 clearly gives the State Government the ability to enact laws in the interest of peace and good governance, but also the Federal Government through the national assembly the same powers to enact laws in the interest of peace and good governance, with the proviso that where there is a conflict, the laws enacted by the Federal Government prevail.

It is therefore the constitutional responsibility of the National Assembly to make tax laws or amend existing laws as provided in the Second Schedule to the Constitution, and as may be required under section 4 of the Constitution, after obtaining recommendations from the Federal Ministry of

Finance and other relevant Government agencies or from the citizenry.

The National Assembly shall work closely with the Federal Executive Council on tax and revenue matters, as any legislation passed in this respect would be enforced by the FEC or its organs. The National Assembly would be required to translate policy recommendations into laws, where required and also identify lacunae in our laws, which should be addressed for effective administration of taxes and revenue generation in the country. It shall also be responsible for obtaining input from the general public and providing feedback to the Nigerian people on relevant legislation in their roles as the elected representatives of the Nigerian people.

In the exercise of its powers, the National Assembly shall ensure compliance with the provisions of the Nigerian Constitution, which provides the powers of the National Assembly in relation to tax legislation.

#### 2.7.2 Role of State House of Assembly

The Nigerian Constitution also provides the powers of the State Houses of Assembly in relation to imposition of Federal, State and Local Government taxes. With regard to Federal Taxes specifically covered in Section D, Part II of the Nigerian Constitution, the powers of the State Houses of Assembly are restricted to collection and administration of certain taxes subject to authorisation by the National Assembly. In the exercise of any such powers granted by the National Assembly, the State Houses of Assembly shall work closely with the State Executive Council and its organs that would be responsible for the collection and administration of the taxes. The State Houses of Assembly shall also liaise with the National Assembly, where required to facilitate changes in relevant legislation that will assist the State House of Assembly effectively discharge its duties.

The various State Houses of Assembly shall also be responsible for legislation that will enable the local governments in the State effectively discharge their duties with respect to the collection of rates, fees and levies which are within their jurisdiction. In this regard, and in order to harmonise rates, fees levies, fines, tolls and charges collectible by the Local Government Authorities, the Joint Tax Board shall advise on the proposed changes for enactment by the State Houses of Assembly.

## 2.8 Role of Judiciary

The Judiciary is the body empowered to interpret tax laws and adjudicate on tax matters. It is therefore expected that all tax disputes which cannot be resolved in any other legal manner, shall be referred to the judiciary for adjudication. In this regard, it is expected that the Judiciary would play a central role in the resolution of fiscal disputes between the different arms and tiers of Government. The Judiciary would be expected to maintain an independent and neutral role in the discharge of its functions. However, when necessary, it shall seek the co-operation and assistance of the other arms of Government or their organs for the purpose of the effective discharge of its duties. In this regard, the Judiciary may partner with the tax authorities in the training of its personnel on tax issues and other such technical matters. In addition it shall be the responsibility of the Judiciary to ensure that its personnel are up to date with developments in the Nigerian tax system so they can adjudicate on technical matters submitted for their consideration.

All other arms and levels of Government, Tax/Revenue authorities, the tax-paying public and other stakeholders shall ensure strict compliance with the decisions of the judiciary in order to guarantee the integrity of the judicial system and aid the development of tax jurisprudence in Nigeria, thereby creating a stable tax system in which all stakeholders have confidence.

## 2.9 Role of Tax Authorities

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 a transparent manner and in accordance with statutory provisions, so as to safeguard the integrity of the tax system. In the discharge of their functions, tax authorities should obtain necessary approvals from the Ministry of Finance in respect of policy and relevant operational matters. However this should be done in a manner, which would not prejudice the independence and autonomy of the tax authorities.

With respect to the Legislature, tax authorities are required to provide assistance and necessary insight in respect of new tax legislation or the review of existing legislation being considered by

the Legislature. They should provide technical input and know-how to aid the Legislature in the discharge of its functions. Tax authorities should also ensure a cordial relationship and provide necessary information to the Legislature in the discharge of its oversight functions on tax authorities. Tax authorities should also partner with the Judiciary in relation to training and provision of technical assistance to the Judiciary on tax matters.

Tax authorities are expected to maintain a cordial relationship with all other stakeholders in the tax system and be responsible for the provision of timely and up to date information on developments in the tax system. They shall also, along with the Ministry of Finance and other relevant Government organs, provide information to tax payers on the allocation, disbursement, expenditure and utilisation of tax revenue. It shall be the responsibility of tax authorities to carry out proper tax payer education and public enlightenment along with other Government agencies such as the Ministry of Education and Information. Tax authorities shall publicise proposed changes to tax laws and new legislation to taxpayers. They shall also provide guidance to the public on all aspects of tax compliance and other issues relating to the tax system in the form of information circulars, bulletins, handbills, media adverts or newsletters.

In creating a sustainable tax culture in Nigeria, tax authorities shall partner with educational institutions and the Ministry of Education to create a workable framework for the introduction of taxation in the curricula of all levels of educational institutions in Nigeria.

Generally, tax authorities shall ensure that their functions are discharged in an efficient and effective manner. Ancillary to this, tax authorities shall ensure that core tax functions (such as assessment and collection of taxes) are only carried out by career tax administrators, who are Public Servants, and not by ad-hoc consultants or agents. In this regard, only self assessments or assessments duly issued by tax officials shall be recognised by tax authorities in Nigeria. In addition, the tax authorities should create a conducive tax atmosphere and environment which will engender tax payer confidence at all levels of tax administration. In this regard, tax payers, shall be provided adequate time and space to review, challenge and appeal every tax assessment or demand made by the tax authorities and every claim, objection, appeal, representation or the like made by any taxpayer must be sufficiently considered.

## CHAPTER SIX

### INSTITUTIONALISING TAX CULTURE IN NIGERIA

The Tax Policy as a concept is essentially aimed at creating awareness about the central role, which taxation can play in National Development and setting out general guidelines by which this can be achieved. The Tax Policy and our tax laws therefore provide the platform for creating a tax conscious citizenry. There is however need to go beyond educating the citizenry on the tax system, its role in National Development and the expected contribution from various groups of Nigerians, to actually creating and inculcating a tax culture amongst Nigerians. This is very necessary if Government is to attain its goals of diversifying the Nigerian economy and obtaining sustainable and stable revenue from taxation.

In order to create a sustainable tax culture among Nigerians, there are certain areas which require attention as follows:

#### 6.1 Overview and Philosophy

As a first step there must be a clear understanding of the overview and underlying philosophy for creating a tax culture among Nigerians. In its basic form, taxation is simply a means of generating revenue for Government. However, in developed Nations and economies, taxation is no longer viewed as merely an avenue for revenue generation by Government. Rather it is a means by which citizens contribute to a common purse for the provision of infrastructure, utilities, security and other needs by the Government. It is viewed as an important component of the social contract between the Government and the governed. Citizens therefore partner with their Governments to raise revenue by means of taxation in order to provide funds, which will be utilised for the benefit of the entire citizenry.

In Nigeria, there is an absence of such a clear understanding of the philosophy behind taxation. It is therefore necessary that Government at all levels, clearly articulate and propagate this philosophy to their citizens. The tax policy can only set out general guidelines on the role of taxation in national development; however it is the duty of Government to take the message to the generality of the people, so that a tax culture can be imbibed in Nigeria. In addition to carrying out enlightenment on the role and benefits of taxation

in National Development, Government should ensure there is proper accountability for and judicious use of tax revenue, so that tax payers can derive benefits from their contributions to the common purse. In this way, citizens would be made aware that they are stakeholders and partners in the tax system and that so far as they contribute taxes; they can hold their leaders accountable and be entitled to the provision of social services.

#### 6.2 Concept of the unique Taxpayer Identification Number

As earlier noted, registration of taxpayers is a fundamental step in the tax administration process and in this respect, the unique Taxpayer Identification Number (TIN) has been identified as a major tool towards the registration and proper identification of all taxpayers. However, in order to ensure the successful implementation of this system of registration, there must be a clear understanding of the concept and philosophy behind its introduction.

The background to the introduction of TIN was the need to move the registration of taxpayers in Nigeria from a manual uncoordinated process to an electronic, harmonised and structured system. The old system was cumbersome, unreliable and posed a major challenge to taxpayers and tax authorities. Accordingly, there was the need to replace that system with a more taxpayer friendly and effective system.

The basic concept of TIN, is a harmonised taxpayer identification system, which is electronically based and accessible to all relevant stakeholders. It is a common and unified system for identification of taxpayers nationally and would encompass a database of all registered taxpayers at State and Federal level. This will create proper linkages between tax authorities and aid co-operation and information sharing thereby leading to greater compliance by taxpayers. Other advantages of the TIN system include reduction in the cost and time required for tax compliance by taxpayers and tax authorities, expansion of the tax system and its use for national planning and social security purposes.

It is expected that tax authorities and Governments at all levels would collaborate to ensure the successful implementation of the TIN system in Nigeria, in terms of funding, personnel and platforms for the deployment of the system, nationwide.

## 5.6 With Taxpayers

It is expected that there would be disputes between taxpayers and organs of Government. This is normal in any society and our laws therefore provide detailed processes for resolving such disputes. In this regard, the Nigerian Constitution recognises the right of every Nigerian to submit disputes to the Courts for adjudication, whether he is a taxpayer or not. Other than such general disputes, there are specialised processes relating to the resolution of tax or fiscal disputes between taxpayers and tax or revenue authorities.

In this regard, the Tax Appeal process, which is an integral and important part of the tax administration process, is provided for under relevant tax legislation. The appeal process is available to every taxpayer, who is aggrieved or dissatisfied with a decision or ruling made by the tax authority, relating to the tax status of such taxpayer, the interpretation /application of tax laws, and such other matters affecting the rights and status of the taxpayer.

It shall therefore be the responsibility of tax authorities to ensure that the tax appeal process is easily accessible to taxpayers and

all its processes and procedures simplified, so that tax-payers are encouraged to take benefit of the process to resolve tax disputes, rather than resort to self help. Tax authorities shall carry out enlightenment campaigns on the availability of the appeal process, so that all taxpayers, large or small, corporate entities and individuals are aware that they have a right to submit their disputes for adjudication. Alongside this, however, alternative dispute resolution procedures should also be encouraged between the tax authorities and the taxpayers, so that only matters which cannot be resolved otherwise are submitted for adjudication.

Where matters are submitted for adjudication, the integrity, independence and impartiality of the tax appeal process should be guaranteed to ensure that an aggrieved taxpayer can seek redress with the confidence that his dispute would be considered in a free, fair and objective manner. In this regard, tax appeal bodies and all their organs should be provided relevant autonomy and funding to enable them discharge their duties and guarantee their independence.

Where the tax authorities diligently carry out their functions as set out above, it will ensure taxpayer confidence in the tax administration and create a workable and sustainable tax system to the benefit of all stakeholders.

## 2.10 Role of Joint Tax Board

The Joint Tax Board (JTB) is the body created by the Personal Income Tax Act to regulate the relationship between tax authorities at the State and Federal level and is expected to act as an effective supervisory and advisory body on shared activities of State and Federal tax authorities. In this regard, it shall work towards the harmonisation of tax processes and administration in Nigeria and in the discharge of its functions, provide technical assistance and support to tax authorities on all relevant matters and work towards the creation of standard processes and procedures for the activities of tax authorities. This will make compliance easier for tax payers and also lead to higher compliance rates for the tax authorities.

In particular, the JTB shall co-ordinate the country-wide introduction of the unique Taxpayer Identification Number nationwide (which is a more effective and technologically enabled system of tax-payer registration that would lead to a nationwide database to which all Federal, State and Local Government authorities shall subscribe) and other initiatives which may be introduced from time to time.

## 2.11 Role of Tax Payers

Taxpayers are the single most important group of stakeholders in the tax system. They are the bedrock of the tax system and the source of all revenue generated by tax authorities. Taxpayers are the primary focus of all tax authorities, due to the significant role, which they play in the tax system.

Following from the above, taxpayers shall be required to discharge their roles, by ensuring strict compliance with tax laws at all times. They are required to ensure voluntary registration with tax authorities and make timely, correct and complete tax returns and payments as required under the law. Taxpayers shall co-operate with tax authorities and all other stakeholders in the tax system to ensure effective and efficient tax administration in Nigeria. Other than their formal compliance roles, they shall act in an informal supervisory role, as they have the right to demand for transparency and accountability in the collection, allocation, disbursement and expenditure of tax revenue.

Taxpayers shall assist tax authorities in the discharge of their functions by providing necessary information and such other assistance as may be required by the tax authorities. There shall be effective linkages and co-operation between taxpayers and other stakeholders in the tax system to enhance the overall quality of the Nigerian tax system. Tax payers are entitled to submit disputes with tax authorities to the Judiciary for adjudication when necessary in order to aid the development of Nigerian tax jurisprudence. They are also entitled to make necessary input to proposed tax legislation and suggest changes to existing tax legislation. In this regard, there should be frequent interaction between tax payers, tax authorities and other stakeholders in the tax system, in a forum where ideas may be freely exchanged and suggestions made for the improvement of tax practice and administration in Nigeria.

Overall, taxpayers shall see themselves as part and parcel of the Nigerian tax system and not outsiders and shall therefore carry out their Constitutional and civic roles as their contribution to National development and growth.

## 2.12 Role of Professional Bodies, Tax Consultants and Practitioners

Nigerian Law provides a statutory role for professional bodies in the tax system. In this regard, the Chartered Institute of Taxation Act provides powers to the Chartered Institute of Taxation (CITN) to amongst other things determine standards of knowledge and skill to be attained by tax practitioners, the establishment and maintenance of a register of its members and the regulation and control of tax practice. It is therefore expected that the CITN shall exercise its powers to enhance tax practice in Nigeria and for the overall benefit of the tax system. The CITN shall partner with other relevant bodies and associations to ensure that all stakeholders in the tax systems are carried along in the discharge of its functions. It shall also strive to act as bridge between the tax authorities, taxpayers and tax practitioners at all times. The role of the CITN is however, without prejudice to the roles of other stakeholders and professional bodies existing within the tax system.

Tax consultants and practitioners are also key stakeholders in the tax system, who are expected to use their skill and expertise to simplify the tax compliance process, properly advice taxpayers on compliance requirements and also provide necessary insight and assistance to tax authorities. It is expected that tax practitioners and consultants shall discharge their duties with

integrity and patriotism at all times and shall not be party to wilful or negligent non-compliance with tax laws. They are also expected to partner with tax authorities and other stakeholders to enhance the effectiveness and efficiency of the tax system and ensure that they open and maintain effective communication lines with tax authorities at all times.

### 2.13 Relationship between Stakeholders

The Tax Policy does not intend to set out a rigid set of guidelines regulating the relationship between Stakeholders. However, it is recognised that in order to have a workable and sustainable Tax System, there should be frequent interaction and engagement between the various Stakeholders along the following lines:

The Executive and Legislature shall co-operate on fiscal issues and all fiscal

matters shall be accorded priority and given the necessary attention by each arm of Government.

There should be regular fora for discussing tax policy and legislation and disputes which arise between the two arms of Government shall be resolved amicably. Where necessary, disputes shall be referred to the judiciary for adjudication. In this regard, the Judiciary shall be the final arbiter of all disputes and its decisions shall be binding on all parties.

In addition, all tiers of Government as well as the tax authorities are expected to provide guidance and information to the taxpaying public, which should elicit higher compliance and co-operation from the taxpayers. A more structured information-sharing arrangement should also be established between the tax authorities and relevant Government agencies in order to properly identify and engage taxpayers to ensure full compliance with tax laws.

The Federal and State Ministries of Finance shall be responsible for all tax policy matters, including initiating proposals for amendments to tax laws by the National Assembly and providing direction and approval for policy issues when necessary.

Federal and State tax authorities shall have a harmonious and co-operative relationship amongst

themselves and with the relevant Federal and State Ministries or agencies of government as may be determined.

The Tax System should provide a foundation for healthy competition amongst States towards the improvement of investment activities in the States and enhancing the internally generated revenue in the States. The relationship between the Tax authorities should be coordinated by the Joint Tax Board (JTB). In this regard, the JTB should effectively discharge its advisory role to the Government and the tax authorities and ensure harmonisation of tax administration and the standardisation of tax processes and administration in Nigeria.

Overtime, tax authorities should be expected to also function as tax law enforcement agencies. However, they are expected to establish formal cooperation with relevant law enforcement agencies to assist them acquire skills and competencies in investigation and enforcement matters.

The tax-paying public, corporate organisations, organised private sector and trade unions shall work closely with and co-operate with tax authorities and other stakeholders to ensure seamless administration of taxes. These groups of stakeholders shall be treated as customers by the tax authorities and be

accorded the necessary attention and assistance. There should be proper tax payer education and regular forums for engagement of the tax-paying public by tax authorities and relevant government agencies involved in tax administration.

Oversight over the tax system shall be multi-pronged and be driven ultimately by the National and State assemblies.

Alternative dispute resolution mechanisms such as the use of appeal tribunals and other formal and structured mechanisms shall be encouraged.

Once disputes are referred to the Supreme Court and a decision is reached, it is expected that all parties shall comply strictly with the decision of the Court and such a dispute would be deemed as fully resolved. In no instance should any party to a dispute resort to extra-legal methods to resolve such disputes.

### 5.3 Between State and Local Governments

Disputes between State and Local Governments shall as much as possible be resolved informally without resort to litigation. This is particularly important given the close relationship and interdependence between States and Local Government and the potential dislocation and distraction to Governance which such disputes may trigger.

It is expected that all available avenues, such as deliberations between relevant officials, mediation by traditional rulers and other State and Local Government organs and other relevant stakeholders at State and Local Government levels would be considered.

Where all alternative dispute resolution mechanisms fail, disputes may be submitted for judicial adjudication as a last resort. Once disputes are referred to the Judiciary and a decision is reached, it is expected that all parties shall comply strictly with the decision of the Court and such a dispute would be deemed as fully resolved. In no instance should any party to a

dispute resort to extra-legal methods to resolve such disputes.

### 5.4 Between the Executive and Legislature

Disputes between the Executive and the Legislature shall as much as possible be resolved informally without resort to litigation. This is particularly important given the close relationship and interdependence between the Executive and Legislative arms of Government and the potential dislocation and distraction to Governance which such disputes may trigger. In this regard, it is expected that all available

avenues, such as deliberations between relevant officials, mediation by traditional rulers and other relevant stakeholders and institutions of State (such as Federal and State Executive Councils, Council of State, National Economic Council) at Federal or State level would be first considered.

The Executive and Legislature should also establish informal and formal processes for resolution of disputes, such as the use of liaison officers and the organs of the Judiciary (such as the National Judicial Council). In certain instances, it may however, be necessary to refer certain critical issues to the Judiciary for clarification and resolution in order to aid the development of the Nigerian economy and bring certainty into Government Policy and administration. Where such matters are referred to the Judiciary and a decision is reached, it is expected that all parties shall comply strictly with the decision of the Court and such a dispute would be deemed fully resolved.

In no instance should any party to a dispute resort to extra-legal methods to resolve such disputes.

### 5.5 Amongst and between the Executive, Legislature and Judiciary

Following from the above, it is also expected that disputes between any of the three arms of Government shall be resolved amicably. The processes identified above shall also be considered here, so that as much as is possible,

such disputes are resolved in an informal setting given the important role each arm of Government plays in the administration of the country and the potential dislocation and distraction which a prolonged dispute may bring to Governance. In particular, disputes between any of the other arms and the Judiciary shall be resolved amicably and in a discreet manner. This is particularly necessary to safeguard and maintain the integrity, independence and impartiality of the Judiciary, as it may be called upon to resolve disputes between the other arms.

## CHAPTER FIVE

### FISCAL DISPUTE RESOLUTION (APPEAL) MECHANISMS

In the course of frequent interaction and engagement between the various levels and tiers of Government, and between Government and the taxpayer, or between taxpayers, it is expected that disputes would arise from time to time. Such disputes may extend to general fiscal issues, of which taxation is a key component.

In the past, little or no efforts were made to promptly address and resolve such issues. In addition, there are usually weak formal and informal structures and in some cases, complete absence of a workable and acceptable structure or framework for the resolution of such disputes. The Tax Policy therefore seeks to address this challenge and provide a general framework for the resolution of such disputes as follows:

#### 5.1 Between Federal and State Governments

The Nigerian Constitution provides that disputes between Federal and State Governments in Nigeria on certain matters shall be referred to the Supreme Court as a court of first and final instance. It is therefore not the intention of the Tax Policy to detract from this constitutional provision. However, it is expected that resort to the Supreme Court shall be the final option and that all necessary avenues shall be explored for the resolution of such disputes before there is a resort to litigation.

Such avenues which may be explored include:

- i. the Governor's Forum, where the Federal Government may be invited to deliberate on such disputes with the affected State or State Governments;
- ii. deliberations at the National Economic Council, where the affected Federal, State or Local Governments may be invited to resolve the issues in dispute;
- iii. deliberations at the Federal/State Executive Council, where the affected Federal/State/Local Government Ministry, Department or Agency may be invited to resolve the issues in dispute;

- iv. deliberations at the Council of State level, which is a more formal process than (i) to (iii) above; and
- v. mediation by other State Governments or Federal Government agencies / other organs of Government, such as the Judiciary. However, where the Judiciary is involved, mediation shall be carried out in a manner as not to affect the independence or impartiality of the Judiciary, given that the dispute may subsequently be referred to the judiciary for adjudication.

Once disputes are referred to the Supreme Court and a decision is reached, it is expected that all parties shall comply strictly with the decision of the Court and such a dispute would be deemed as fully resolved. In no instance should any party to a dispute resort to extra-legal methods to resolve such disputes.

#### 5.2 Between State Governments

The Nigerian Constitution also provides that disputes between State Governments shall be referred to the Supreme Court for adjudication. However, as stated above such option shall be deemed as the final option when all other dispute resolution mechanisms may have been exhausted. In this regard, avenues, which may be explored include:

- i. deliberations between the State Governments, by their Attorney Generals, Commissioners of Finance or any other relevant State officials or agency;
- ii. deliberation at the level of the Governor's forum;
- iii. deliberation at the level of the National Economic Council;
- iv. deliberations at the level of Council of States, which would be a more formal process than (i) to (iii) above; and
- v. mediation by other State Governments, Federal Government agencies / other organs of Government, such as the Judiciary. However, where the Judiciary is involved, mediation shall be carried out in a manner as not to affect the independence or impartiality of the Judiciary, given that the dispute may subsequently be referred to the judiciary for adjudication.

The tax-paying public shall have the right and duty to make necessary contributions for the development of our tax system.

Professional bodies, tax consultants and practitioners shall also contribute to the overall development of the tax systems and work to establish necessary linkages with other stakeholders.

## CHAPTER THREE

### TAXATION AS A TOOL FOR WEALTH CREATION AND EMPLOYMENT

Taxation is recognised as a very important tool for National Development and growth in most societies. One of the major indices by which development and growth can be measured in any society is the amount of wealth, which is created by economic activities undertaken in that society. Further, one of the means of creation of wealth for citizens is through meaningful employment, so that citizens are able to earn income to cater for their needs and also contribute taxes to the Government as part of their contribution to National Development.

In this regard, taxes do not only provide sustainable revenue for Government to carry out its activities and provide development to its citizens, it also puts citizens in the role of stakeholders, who are directly contributing to National Development. In reciprocation therefore, the Nigerian Tax System should be utilised by Government as a sustainable platform for ensuring growth in the Nigerian economy. In this way, wealth and employment opportunities can be created for those who are currently outside the tax net, due to low or no income, so that they in turn also earn income on which taxes are paid and the circle of growth and development in the economy is sustained in this manner.

#### 3.1 The Role of Taxation in Wealth Creation and Employment

Taxation can play a vital and pivotal role in the creation of wealth and employment in the Nigerian economy, in the following ways:

- (i) Stimulating growth in the economy, by increased trade and economic activities. In this regard, tax revenues should be used to provide basic infrastructure such as power, roads, transportation and other infrastructure which would facilitate trade and other economic activities.
- (ii) Stimulating domestic and foreign investment - where the tax system creates a competitive edge for investments in the economy, local investments would be retained in the country, while also attracting foreign investments. Increased investment would generate employment and provide wealth in the hands of individuals.

- (iii) Revenue generated from taxes can also be applied directly to identified sectors of the Nigerian economy to stimulate such sectors. In this regard, the sectors must be those which have potential for creating employment, developing the economy and creating wealth for the greater benefit of citizens and government of this country.
- (iv) Revenue earned from taxes can be used to develop effective regulatory systems, strengthen financial and economic structures and address market imperfections and other distortions in the economic sector. Taxes realised from specific sectors of the economy can be channelled back to those sectors to encourage their continued growth and development.
- (v) Redistribution of income, whereby tax revenue realised from high income earners is used to provide public infrastructure and utilities to the lowest income earners. Taxes may also be used to create a social security net for short and long terms relief to indigent members of society and other classes of persons who may require such intervention by the Government.

#### 3.2 Variation of Tax Rates in Response to Economic Developments

The tax system shall remain responsive to internal and external developments in the Nigerian economy and shall not be allowed to become static or obsolete. In this regard, it shall be the responsibility of the Executive arm of Government, (which is empowered to manage the fiscal affairs of the Nation), to ensure that tax rates are responsive to fiscal and economic developments within and outside the Nigerian economy. This will compliment the periodic and regular review of our tax laws and ensure that our tax rates, reliefs and other allowances in the laws are reviewed when the need arises to bring them in line with prevailing economic conditions.

In this regard, the Federal or State Ministry of Finance or indeed any citizen or resident of Nigeria may propose changes to tax rates for enactment into law by the National Assembly (given that the National Assembly is the body vested by the Constitution with the power to vary tax rates). However, it is proposed, that the power to vary tax reliefs and allowances relating to income taxes should be delegated to the Minister of Finance for ease of administration.

check on the collection and accounting systems of tax authorities. In this way, leakages can be promptly identified and necessary action taken to safeguard tax revenue. In addition, this would enable tax authorities properly monitor tax collection, so that tax revenue which is not being collected can be easily and promptly identified and collected.

In addition, accounting for tax revenue assists tax authorities and the Government in fiscal planning, since collection trends can be

used to project revenue which would be available to the Government. Like all other aspects of the tax administration process, tax authorities shall also utilise electronic and technology based systems for the purpose of accounting for tax revenue. Adequate training and resources shall be provided to tax officials to ensure that tax revenue is properly accounted for. Where certain persons/institutions are identified as being responsible for leakage of tax revenue, such person/institutions shall be treated in line with existing provisions of the law.

authorities shall ensure that there is a structured system in place to ensure timely verification and payment of claims to tax payers.

#### 4.8.2 Source of Funding for Tax Refund

It is expected that all tax/revenue authorities that have refund obligations will meet them diligently and efficiently. To facilitate these refunds, a specified percentage of total revenue collected by these authorities in any financial year, shall be set aside to meet these obligations in the following year.

The amount set aside for refunds should be duly appropriated by the National Assembly or State House of Assembly (as the case may be) in their budgetary allocation to enable tax authorities meet these obligations. Any unspent portion of the appropriated fund at the end of the financial year should be returned to the relevant tier of government in line with existing financial regulations.

#### 4.9 Automation of Processes

A recurring theme throughout the discussion of various components of the tax administration process has been the use and deployment of technology related systems in various aspects of tax administration. In this regard, it is recognised that certain areas of the tax administration are more amenable to the use of electronic and technology systems than others. Notwithstanding, it shall be the duty of tax authorities to work towards the automation of all processes involved in tax administration to avoid uneven development of certain aspects of tax administration to the detriment of others.

Tax authorities shall therefore ensure uniform deployment of technology in the aid of all aspects of tax administration. It shall be the responsibility of Government to provide the required funding and platform for the automation of tax administration processes, as this would aid effective and efficient administration of taxes in Nigeria. Automated processes would minimise or eliminate leakages in the system, which may be due to error or misconduct on the part of tax officials or taxpayers, safeguard the integrity of the system and lead to greater professionalism on the part of tax officials and greater confidence on the part of taxpayers. In addition automated systems would lead to greater specialisation and reduce the costs and time required in the tax administration process thereby leading to higher

compliance by taxpayers due to the ease with which processes can be commenced and completed.

It is expected that all processes starting from registration of taxpayers, filing of returns, audits and investigations, payment of taxes and including correspondence with taxpayers would be automated. Where there are gaps in current tax laws or where the laws do not support the use of such systems, necessary amendments shall be made to ensure that the use of the systems are in line with the law. Where electronic systems are already in use, they shall be standardised to ensure that there can be seamless interaction between all tax administrative processes.

Tax officials shall be trained in the use and maintenance of automated systems and the general public and taxpayers encouraged to embrace the use of these systems so that Nigeria can have a tax system that is in line with global best practices.

#### 4.10 Accounting for Tax Revenue Collected

At the completion of the tax administration process, it is expected that tax revenue would have been paid by the taxpayers and collected by the tax authority. This is usually viewed as the end of the compliance process in relation to interaction between taxpayers and the tax authorities. The end of this process is the commencement of another process, whereby tax authorities are required to account for tax revenue collected. This process is not usually open to the taxpayer or the general public and may therefore not be treated with deserving attention.

It shall therefore be the responsibility of all tax authorities to ensure that proper, timely and complete account is given of all tax revenue collected within specified periods. This is necessary to assure taxpayers that revenue being collected is accounted for and to ensure that there are no leakages on the part of tax authorities or their collecting agents (such as banks, Government Ministries, Departments and Agencies). Tax authorities shall ensure that records of revenue collected are published in a manner in which it would be available to the general public and other stakeholders in the tax system. Tax authorities shall also provide these records formally to the Ministry of Finance and the Accountant General's Office at various levels of Government. This process would act as a

The Joint Tax Board shall advise on proposed changes for enactment by the National and State Houses of Assembly.

#### 3.3 Shift from Direct to Indirect Taxation for Economic Growth

The current structure of Nigerian's tax system places heavy reliance on direct taxes from the oil sector, which overtime has created a lopsided over-dependence on oil taxes. In other sectors, indirect and direct taxes play an equally prominent role, however when viewed from the overall perspective, indirect taxes are more efficiently realised and therefore provide a higher rate of returns. In order to correct this imbalance (while not intending to relegate direct taxes in the non-oil sectors), it is proposed to have a shift from direct to indirect taxation within the non-oil sector in order to stimulate economic growth in the sectors, whilst still meeting revenue requirements. This is particularly necessary, given that oil revenues are no longer viewed as a sustainable source of revenue and there is the urgent necessity to diversify tax revenue.

In this regard, it is proposed that there should be lower rates of direct taxes such as Companies' Income and Personal Income tax to reduce the cost of doing business in Nigeria by increasing cash flow and disposable income for corporate entities and individuals alike. This would ensure the tax system strikes a balance between savings, investment and consumption, until such a time that equilibrium can be achieved for direct and indirect taxes in the non-oil sectors. For the oil sector equal reliance would continue to be placed on direct and in-direct taxes given that the sector is properly structured to support efficient collection of both types of taxes.

A reduction in the rates of direct taxes, will lead to lower tax revenue from such sectors. Conversely, greater reliance on indirect taxes may occasion an upward review of such taxes. This may be necessary to sustain Governments' revenue base and make up for any potential shortfall from any reduction in direct taxes, especially as indirect taxes, such as Value Added Tax (VAT) have over time, offered a more regular revenue inflow, lower compliance cost, with a huge prospect for improved tax compliance.

To cushion the effect of any proposed increase in VAT rates on the cost of essential goods and services, Government should first improve efficiency in VAT administration, correct anomalies in the Value Added Tax to make it more at par with other such legislation in line with global practice for administration of value added tax and

introduce the concept of threshold to protect low income earners.

It should also be noted that any increase in VAT rates in Nigeria would be in line with the country's regional and economic commitments and should be done in line with statutory and Constitutional provisions, in an open manner and must not over burden taxpayers in the country.

#### 3.4 Special Arrangements to Attract Investments

In furtherance of the role of taxation in the creation of wealth and employment, it is recognised that there is room for certain special arrangements within the system for the purposes of attracting and retaining investment with the economy. These special arrangements may deviate from the usual structures in the tax system on the understanding that they are necessary for the purposes for which they are put in place and are for the benefit of the entire Nigerian economy.

##### (a) Tax Free Zones

As a general rule, every taxable person, entity or activity should be subject to tax in Nigeria, subject to specific exceptions. There are however instances, where a special dispensation may be created for a particular economic activity, in order to attract, retain or increase investment in that particular economic activity. In this regard, Government may in line with existing or new legislation, create tax free zones for the purpose of stimulating growth or investment in a particular sector or for a particular economic activity. In creating such zones, the paramount consideration must be the expected benefit to the entire economy and not just a particular sector or class of persons. In addition the purpose for which they are set up must be clear, specific and directed at identifiable sectors, entities or persons.

Where tax free zones are created, they must be administered in line with the enabling legislation and all persons, entities and activities carried out in such zones must be in compliance with the law. The Executive and Legislature should work closely to identify new areas, where such special arrangements are required and pass necessary legislation to create them. The status of such tax free zones and the benefits accruing there from must be subject to periodic review and a system put in place for measuring and quantifying the direct benefits being derived from the zone in contrast to the tax revenue not being collected. Government must however, retain the right at all times to terminate any such special arrangement,

or the right of any person, entity or activity to take benefit of such arrangement., should it determine that such arrangement is no longer beneficial to the Nigerian economy.

### (b) Tax Incentives

In addition to the above, Government may provide tax incentives to specific sectors or for such specific activities in order to stimulate or retain investment in the sector. Tax incentives should however, be carefully considered before they are granted in view of the argument that they may be viewed as violating some principles of good taxation. For example, it is generally perceived that incentives:

- (i) discriminate in favour of a particular sector;
- (ii) require imposition of a heavier tax burden on other sectors to cover the tax shortfall arising from the grant of incentives to the favoured sector;
- (iii) complicate the tax system due to the additional cost and time required to monitor the beneficiaries of such incentives in order to avoid possible abuse; and
- (iv) may not be beneficial to the economy especially where the tax forgone exceeds the anticipated benefits from granting the incentives.

In view of the above, Government may streamline the number of tax incentives in order to restrict them to those that will benefit the entire economy. The process of granting and renewing incentives, waivers and concessions must be transparent and sector focused and not arbitrary or only granted to specific companies or individuals only.

The Government may also seek input from relevant sectors of the Nigerian economy and populace in the determination of the desirability or otherwise of such incentives. The process for granting incentives must comply strictly with legislative provisions for granting such incentives, waivers or concessions. In addition, even if not stated in the law, incentives that will result in a reduction in income distributable to all tiers of government should advisedly require the involvement of the arms of government affected or impacted

The Federal Ministry of Finance (or the State Ministry as applicable) and the Federal Ministry of Justice (or the State Ministry as applicable) should ensure that the applicable Orders are issued and gazetted in support of any incentives, waivers or concessions granted by the

Government and those incentives, waivers or concessions are for a specified period and subject to periodic review during the duration of the period.

### (c) International and Regional Treaties

A wide network of International and Regional treaties would be beneficial to the Nigerian economy, as economic treaties usually attract foreign investment to the local economy. In this regard, Nigeria shall continue to expand its treaty network in the best interest of the Nigerian State. It should also meet its international obligations under the various tax treaties, protocols and agreements currently in force.

Generally, such treaties should address issues of avoidance of double taxation, principles of permanent establishment and residency (as required to encourage foreign direct investment amongst others), exchange of information amongst contracting countries to amongst others reduce the incidence of tax evasion.

Proposed treaties should be widely circulated amongst stakeholders and the general public in order to encourage a robust consideration of the benefits or otherwise of the treaties. The Federal tax authority working with the Federal Ministry of Finance and the Federal Ministry of Foreign Affairs shall be responsible for the negotiation and conclusion of the terms of these treaties and shall ensure that they provide the maximum benefit to the Nigerian economy. The Joint Tax Board is expected to play a critical advisory role in the negotiation of such treaties prior to conclusion.

They shall also ensure that all terms in the treaty are fair and beneficial to both parties to the treaty.

All International and Regional treaties should be duly signed and ratified by the relevant organs of the Nigerian Government, before they become operational. In addition, Nigeria should reserve the right at all times to cancel any arrangements which are no longer beneficial to its economy, which have become obsolete or which are not being observed by the other party. Cancellation of such treaties should be done in line with the provisions of the treaty and in accordance with Nigerian law.

### (d) Creating a Competitive Edge

One of the means by which economic growth and development can be achieved in the Nigerian economy is through increased domestic and

Accordingly, a critical **first** step to address these leakages is the undoubted need to fully modernise and automate the tax system, improve taxpayer convenience in the assessment and payment process whilst at the same time entrenching effective and modern human resource management practices in the tax authorities. **Second** is the need to build the performance oriented culture with persons with the relevant skills that are updated regularly overtime. **Third**, tax authorities should carry out continuous tax payer enlightenment and education on the unlawful nature and consequence of tax evasion and collaborate with relevant agencies including law enforcement agencies to identify and bring tax evaders into the tax net. **Fourth**, Government and all tax authorities must work in a collaborative manner to tackle the leakages in the system. There is need to see the tax system as belonging to all Nigerians and work together to get the best of the system, as any gaps are readily exploited by tax evaders. **Fifth**, the process of criminal prosecution cannot be relegated to the background in the quest to collect revenue. Criminal prosecution of tax evaders is necessary to send the right signals to defaulters, that evasion is a criminal offence and would be viewed with all seriousness by tax authorities and law enforcement agencies. This process shall be carried out in line with the provisions of tax and other relevant legislation.

With respect to avoidance, tax authorities and legislators should identify and address the loopholes in the laws to minimise the incidence of tax avoidance. Where a particular provision of the law is subject to various interpretations which create avenue for avoidance, necessary clarification shall be provided in the form of information circulars or rulings to resolve any such ambiguity.

Overall, however, it shall be the duty of tax-payers and their authorised agents to ensure that they fulfil their legal and patriotic duty to compute, declare and pay full and correct taxes to the Nigerian government. In this regard, Government shall ensure that tax payers who comply are rewarded and those who do not comply are sanctioned as follows:

#### (a) Reward for compliance

Tax authorities should be encouraged to provide incentives and other rewards to tax payers who comply with tax laws. Tax authorities may also hold fora where such tax payers are publicly recognised and honoured. It is hoped that such gestures would elicit favourable response from tax payers and result in higher compliance rate.

#### (b) Sanctions for non-compliance

In the same manner that rewards and incentive are provided to compliant tax-payers, sanctions and punitive measures may be taken against recalcitrant offenders and non-compliant tax payers. In this regard tax authorities shall explore all avenues in the laws and ensure that the full weight of the law is brought to bear on such tax-payers.

Measures, which may be taken by tax authorities include legal prosecution before the Courts, freezing of the bank accounts of offenders with lien over monies lodged in such accounts, sealing off and distraining of the premises of such tax-payers, public notices showing the tax status of such tax-payers (name and shame) and application to the Court for the winding up of tax debtors and recovery of unpaid taxes, where necessary. It should be emphasised that tax authorities are at liberty to employ any legal measures to recover taxes and ensure compliance by tax offenders.

### 4.8 Operation and Funding for Tax Refunds

The tax refund process is also an important and integral part of tax administration. Tax authorities are required to refund excess taxes paid over by taxpayers in order to obtain the confidence and trust of taxpayers. It is therefore important that tax payers understand that they can recover excess taxes paid to tax authorities in a timely and complete manner. In this regard, the provisions of our tax laws on tax refund shall be strictly complied with and tax payers should be encouraged to take benefit of these provisions.

#### 4.8.1 Tax Refund Mechanism

To be eligible for refund, a genuine case of overpayment must be established by the taxpayer. As provided under our tax laws, the relevant revenue authority is required to subject all claims to sufficient verification and make ALL genuine refunds within **90 days** of reaching a decision on the entitlement or otherwise of the taxpayer to a refund. In this regard, it is expected that tax authorities would give priority to refund requests and that the verification process shall be rigorous, fair and objective and that decisions are made within a reasonable time from the date of application by the taxpayer. Tax authorities, would therefore be required to provide clarifications to taxpayers in the event of an undue delay in reaching a decision of the refund application of the taxpayer. In this regard, tax

up automated systems and also train tax officials in the use and maintenance of such systems.

An electronically enabled system of record keeping would not only be in line with global best practices but greatly enhance the tax administration process and assist tax officials efficiently discharge their duties.

#### 4.6 Audit and Investigation

As part of the tax administration process, tax authorities usually carry out routine verification of returns filed by taxpayers to confirm completeness and accuracy. In addition, tax authorities may when deemed necessary carry out specific review of a taxpayer's records in order to ascertain the tax status of the taxpayer, whether the records have been previously provided to the tax authorities or not. These processes encompass the audit and investigation functions in the tax administration structure.

Audits of taxpayer's returns are routine and carried out periodically, while investigations are done for a specific purpose or in respect of the specific activities of a taxpayer. Audits should be carried out frequently and within a reasonable period after the submission of return by the taxpayers to minimise difficulties which may be occasioned by the passage of time. The tax audit function shall be a highly specialised function and tax audit processes shall be simplified and made as taxpayer friendly as possible. Tax authorities shall promote the use of electronic and other technology related systems in the audit process to reduce time and cost and protect the integrity of the audit process. Tax authorities shall carry out routine enlightenment campaigns on tax audits and there should be frequent forums where tax authorities and taxpayers interact and discuss issues related to the audit process.

Tax investigations shall be carried out in the same manner as audits, however, it is expected that the investigation process shall be more rigorous than a routine audit. In addition tax authorities shall ensure that taxpayers understand the difference between tax audits and investigations given that the outcome of an investigation may lead to legal action against taxpayers. Taxpayers on their part shall be encouraged to remain in compliance with all tax requirements as this will significantly impact the outcome of tax audits and investigations.

Overall, tax authorities shall ensure that audits and investigations are carried out in an open, fair and independent manner and taxpayers shall be afforded the opportunity to make necessary representations and provide relevant information to assist tax authorities carry out a fair and objective analysis of the taxpayer's records before arriving at a decision on the taxpayer's status. In addition any decisions reached by tax authorities on the basis of audits and investigations shall be subject to review and appeal by taxpayers following the normal appeal process provided in the various tax legislation.

#### 4.7 Enforcement of Tax Laws (Evasion and Avoidance)

It is acknowledged that in every system there are bound to be leakages. It is therefore the duty of tax authorities to identify all such avenues for leakages in the Nigerian tax system and minimise or eradicate these leakages. In this regard, two of the major means by which leakages occur in the tax system are tax evasion and avoidance.

Tax evasion can be defined as a deliberate refusal to pay taxes or make tax returns with the intention of fraudulently retaining tax revenue or concealing the actual tax status of a taxpayer. Avoidance on the other hand is the means by which tax liability is minimised or avoided by exploiting the loopholes in the law. While evasion is illegal and is a criminal offence, avoidance is not illegal, but it is not encouraged.

One tax evasion mechanism prevalent in the Nigerian system, amongst others is touting, which is the employment of middlemen or fraudulent tax "consultants" to assist in the filing of fraudulent returns and in the procurement of fraudulent tax clearance certificates. One of the reasons why touting thrives is the ignorance of tax payers who are regularly fleeced of their monies that they would otherwise have paid to the government as tax. This ignorance is exploited by criminals in collaboration with fraudulent tax officials (existing, retired, or dismissed) of the relevant tax authorities. Another reason is time constraint, as many taxpayers are too busy and cannot afford the time it takes to process tax related matters. Another reason is that it does not require a lot of investment to achieve high profits, accordingly it is a "very profitable" business venture. **Risks to date are low as very few incidences of criminal prosecution and conviction of tax offenders are initiated and completed by tax authorities and law enforcement agencies.**

foreign investment. Such investments are usually attracted when economic conditions in the country are deemed favourable. In this regard, the tax system can be used to create a competitive advantage for retaining and attracting investments to Nigeria through the following measures:

#### (i) Reduction in the Number of Effective Taxes

Taxes should be few in number, broad-based and high revenue-yielding. The administration of the taxes should also be simplified for ease of monitoring, supervision and compliance. A simple and efficient tax system is usually attractive to investors and is a major consideration when making an investment decision.

#### (ii) Avoidance of Internal Multiple Taxation

One of the major disincentives to local and foreign investments is multiple taxation. Internal multiple taxation by all tiers of Government should therefore be avoided. As much as is possible, persons engaged in economic activity should enjoy certainty and stability in the nature and number of taxes, which they are required to pay. The Federal, State and Local Governments shall ensure collaboration and close co-operation in the elimination of multiple taxation.

To achieve this, the provisions of the Nigerian Constitution on tax matters and the Taxes and Levies (Approved List for Collection) Act should be strictly complied with by all tiers of Government. The Joint Tax Board (JTB) should ensure the co-ordination of all levies, fees, tolls, rates and charges across States in Nigeria to avoid multiplicity.

#### (iii) Liberalisation of the Tariff Regime

Another means by which a competitive edge may be created in the country is by meeting our obligations under the Economic Community of West African States (ECOWAS) Common External Tariff (CET) regime. To achieve this, Customs administration in the country shall be strengthened and continuously specialised to

meet the challenges of the CET regime. The general public and all intending investors should be properly educated on the obligations of the country under the CET regime and its benefit to the Nigerian economy.

#### (iv) Use of tax incentives to diversify the Nigerian economy

The Nigerian economy shall be diversified and investments encouraged in sectors other than oil and gas in order to grow non-oil revenues. In this regard, Government shall emphasise the incentives available to these other sectors, or create necessary incentives in order to attract investments to these other sectors. In doing this Government would reduce dependence on the oil sector and diversify its sources of revenue, so that Nigeria is no longer viewed as a mono-product economy and other sources of revenue can be maximised.

#### (v) Strengthening of the Oil and Gas Sector

Notwithstanding the need to diversify the Nigerian economy as discussed above, Government shall continue to develop the oil and gas sector and enter into agreements, which shall be beneficial to the Nigerian economy and create lesser burden on taxpayers in other sectors. In this regard, greater emphasis shall be placed on Production Sharing Contracts and other similar arrangements, which provide a more favourable tax regime to the oil and gas companies and encourage greater transparency and accountability in the industry. In addition Government shall create a conducive atmosphere and provide necessary incentives, to encourage increased investment in the gas sector, as an alternative source of energy that is currently being underutilised in the country.

It should be noted that the above list is not exhaustive, accordingly Government shall explore all possible avenues for creating a competitive edge for the Nigeria economy. There should be constant engagement between all stakeholders in the Nigerian economy from time to time, in order to deliberate upon and consider other avenues and tools, which can be utilised to create and retain a competitive edge for the Nigerian economy.

## CHAPTER FOUR

### TAX ADMINISTRATION

Tax administration in Nigeria cuts across the three-tiers of Government. A core success factor for any system is its position on administrative issues. An effective tax policy document should therefore be one that establishes clear guidelines on crucial tax administration issues.

In the context of the Nigerian Tax Policy, the salient issues in tax administration include the following:

#### 4.1 Intelligence and Information Gathering

As a first step in the tax administration process, tax authorities require adequate and correct information to carry out their duties of assessment and collection of taxes. Ideally, such information should be provided voluntarily by taxpayers. However, this is not always the case and in a large number of instances, tax authorities have to source for and obtain information other than voluntarily from the tax payer. In addition, even in instances, where taxpayers voluntarily provide information, such information, may either not be complete or accurate.

It is in this respect, that authorities would be required to develop workable and secure structures for intelligence and information gathering. Such structures shall compliment the normal administrative structures in place for obtaining information from taxpayers. The tax authorities would therefore be required to develop internal competencies for such purposes and also partner with relevant government organs, such as the various law enforcement agencies, data gathering agencies and other agencies which have custody or access to information relevant to the activities of tax authorities.

In addition to the above there shall be close collaboration with these agencies to facilitate information gathering and in this regard, tax authorities shall consider short and long term measures, such as secondment of personnel, human capacity development programs (training and provision of tools), proper use of information technology and creation of permanent inter-agency structures, towards realising these objectives. Reliance shall also be placed on the introduction and use of the unique taxpayer

identification number to facilitate easier identification and monitoring of tax payers. Taxpayers shall be properly educated on the intelligence and information gathering methods of the tax authorities and all actions carried out by the tax authorities in this regard shall be done in line with statutory and Constitutional provisions, which safeguard the right to privacy of taxpayers. This is without prejudice to the rights of tax authorities (in appropriate cases), to use the instrumentality of the law to ensure full and complete access to information and data required for the effective and efficient administration of taxes in Nigeria.

#### 4.2 Registration of Taxable Persons

In order to have an effective tax system in which all tax payers are covered, every taxable person (which includes companies, enterprises, partnerships and other business entities) must be registered for tax purposes. Registration is a fundamental step in the tax administration process and tax authorities at Federal and State level shall be required to register all tax payers and issue a unique Tax Identification Number (TIN) along prescribed and standard formats, upon registration by the taxpayers. No taxpayer should have more than one TIN irrespective of place of registration. In addition every TIN shall be unique to a taxpayer.

The TIN will provide a uniform mode of identification for all taxpayers in Nigeria. Government at all levels are therefore enjoined to support the introduction of a uniform system of registration and allocation of TIN and the creation of a data-base accessible to all tax authorities (and other Federal, State and Local government agencies) in the Country.

This will provide easy and complete access to taxpayer information nationwide, which can be achieved by the efficient use of information communication technology and ultimately reduce the cost of administration and supervision while enhancing higher compliance.

The relevant tax authorities and the Joint Tax Board should ensure the successful administration/operation of the TIN programme.

#### 4.3 Filing and Returns Processing

Filing and returns processing is a core process in the tax administration system. It encompasses all the processes commencing from preparation of

returns and filing of self assessment by the taxpayer, to the issuance of assessments by the tax authority and the acceptance of returns filed by the taxpayers. It also includes the review and amendment of tax returns by taxpayers and tax authorities, examination of accounts and the determination of the tax liability of the taxpayer. The process terminates where a final liability has been agreed between the tax authority and the taxpayer and only payment is outstanding.

Given that payment of tax is based on either self assessment or assessments issued by the tax authority, it is necessary that tax authorities accord this particular function priority. In this regard, tax payers shall be encouraged to file returns on a self assessment basis in compliance with tax laws, as it saves significant time and resources required by tax authorities in ensuring compliance by taxpayers. This can be done by developing structures that will enhance and simplify compliance, such as the creation of a reliable taxpayer data base, electronic compliance system, automation and standardisation of the filing and returns process and regular publication of tax compliance manuals. Tax authorities shall also carry out widespread and regular taxpayer enlightenment on the filing and returns process.

Tax officials shall also be trained on all aspects of the filing and returns process and it shall be the responsibility of tax authorities to ensure that a transparent and simplified process is introduced which would have a multiplier effect on the rate and level of compliance and ultimately enhance tax collection and the overall effectiveness of the tax system.

#### 4.4 Payment Processing and Collection

Payment processing and collection is closely linked to the filing and returns process discussed above. This is the culmination of the core tax functions carried out by tax officials and usually signifies the successful conclusion of a filing and return circle.

In order to ensure an effective payment processing and collection system, tax authorities shall embrace the use of electronic payment (e-payment) systems in all transactions to drive automatic and improved remittances and collections. In addition, there shall be the use of technology and related systems in tax administration particularly in the payment and collection process. A rigorous and transparent, book keeping, financial regulation and reporting

framework should be adopted by tax authorities at all levels of Government to minimise and avoid leakages of tax revenue.

Tax authorities shall partner with financial institutions and other relevant government agencies to support a framework for automated payment systems. Avenues for leakages shall be identified with the assistance of these partner institutions and promptly addressed. Tax officials and taxpayers alike shall be encouraged and educated on the use of electronic payment systems, to safeguard the integrity of the tax payment and collection system.

Where an effective and efficient system of payment and collection processing is adopted, tax revenue can be properly collected and maximised, thereby increasing overall tax take and providing sustainable revenue for Government.

#### 4.5 Record Keeping

Record keeping is another core and integral function in tax administration. Significant time, effort and resources are usually channelled towards intelligence and information gathering by tax authorities. The process does not however end once information or other relevant data are obtained by tax authorities, rather there must be a sustainable system for the retention and retrieval of such information. This process is known as record keeping.

Information gathering usually entails interface with and requires the assistance of third parties. However, record keeping is entirely within the control of tax authorities. In this regard, all tax authorities are required to establish specialised record keeping units as core functions within the tax administration structure. Such specialised units should be properly staffed and provided the necessary tools to discharge their duties. Manual record keeping systems should be de-emphasised in favour of electronic systems. It is expected that where processes such as registration of taxpayers, filing and processing of returns and payment are already automated, it would aid the deployment of an automated record keeping system.

The benefits derivable from electronic and automated systems of record keeping in tax administration include ease of retrieval and movement of records, integrity and durability of the record keeping system and increased tax payer confidence in the system. Tax authorities should partner with the relevant agencies to set