

# Nigeria @ 50: Top 50 Tax Issues

October 2010



### Editorial

From internal conflicts to clear ambiguities, the Nigerian tax regime can be rightly described as draconian in some respects. This situation is further exacerbated by the largely bureaucratic manual tax administration system rather than a technology driven risk based approach.

In this special publication we highlight the “Top 50 Tax Issues” in Nigeria ranging from tax legislation to administration and tax policy matters and our recommendations on how the issues can be addressed. This publication is a must read for all existing and potential investors in Nigeria both local and foreign, tax professionals, analysts, administrators, legislators and policy makers.

According to the World Bank's Doing Business 2011 report, Nigeria ranks 137 out of 183 countries surveyed on the ease of doing business and 134 on the ease of paying taxes. In the 2010 report, Nigeria ranked 134 and 131 on the ease of doing business and paying taxes respectively. Nigeria has been slipping back consistently on the ease of Paying Taxes index which is a function of three main indicators - number of tax payments, time required to comply with tax obligations and total tax rate. At 134 Nigeria is far behind a number of other African countries such as Mauritius (12), South Africa (24), Zambia (37), and Ghana (78) all competing for foreign direct investments.

The “Top 50 Tax Issues” have in fact been drawn from a much longer list. We have selected these issues based on their wide applicability and

potential impacts to:

- Reduce ambiguity in the tax law and practice
- Correct unintentional errors in drafting of tax legislation
- Reform obsolete or outmoded provisions in the laws
- Improve efficiency of tax collection and payment
- Stimulate the economy and enable Nigeria to assume a more competitive position on the global stage

We are concerned that Nigeria, in spite of its predominant position as one of Africa's leading economies, will lose out to smaller more progressive nations such as Ghana and Mauritius as a prospective destination for holding companies and other investments into Africa including shared service centres.

Although Nigeria has made some improvements to the tax system in the recent past, there is still a long way to go and the status quo is not an option. If taxes are to be collected effectively and fairly, both in monetary and equitable terms, for the benefit of all Nigerians, our proposed reforms are essential and warrant serious consideration. All stakeholders must seize the moment now to avoid Nigeria falling further behind the rest of the developing world and much of Africa in the next 50 years.

Happy reading!



- 1. Multiplicity of taxes** – This means paying similar taxes on the same or substantially similar tax base. Examples of multiple taxes include Companies Income Tax, Information Technology Tax (NITDA Levy), Education Tax, Nigerian Content Development Levy all of which are based on income or profits and Value Added Tax, Sales Tax and Hotel Consumption Tax all based on sales. Multiple taxes should be distinguished from numerous taxes which mean many but different taxes on different tax bases. Numerous taxes are likely to occur in a federation like Nigeria. To address multiple and numerous taxation earmark taxes should be reduced to the barest minimum and approved list of taxes should be streamlined and adhered to by all tiers of government.
- 2. Excess dividend tax** – The relevant provision of the law is usually interpreted and applied by the tax authorities to levy tax on a company whose dividend exceeds taxable profit regardless of whether the profit being distributed has already suffered tax (as in the case of dividend income received by a holding company or taxed retained earnings) or whether the profit is tax exempt (as in the case of pioneer profit and capital gains on stocks). The section should be amended to specifically exclude taxed profits and profits exempt from tax.
- 3. Input VAT restriction** – claimable input VAT is limited to VAT on inventory. Input VAT on services, overhead and fixed assets are not creditable but must be expensed or capitalised as the case may be. This increases the true cost of VAT borne by taxpayers on goods and services consumed much beyond the 5% nominal rate. Input VAT should be allowed as claimable on all items except where the taxpayer is the final consumer or does not produce VATable output.
- 4. Commencement, change of accounting date and cessation** – The Companies Income Tax Act (CITA) sets out the rules for the taxation of a company during commencement of business,

change of accounting date and cessation. These rules create unnecessary complications especially where a company changes its accounting date or ceases operation within the first 3 years of commencement. In addition, the commencement rule often leads to double taxation on a company at its early stage thereby increasing the risk of failure. Commencement, change of accounting date and cessation rules should be abolished. Tax should be based on accounting period using preceding year basis.



- 5. Ministerial and FIRS approval for tax deduction** – Based on CITA the approval of the Minister (of Finance) is required for expenses incurred within or outside Nigeria as management fees or for the purpose of earning management fees to be allowed as tax-deductible. Also the Federal Inland Revenue Service (FIRS) has the discretion to determine the amount allowable for tax purposes in respect of any expenses incurred outside Nigeria for and on behalf of any company. These restrictions only create a bottleneck without any concrete benefit. The section should be amended to dispense with the need for companies to obtain the permission of the Minister or FIRS for management fees and other expenses. In place of this, Nigeria should introduce a detailed transfer pricing regulation

with appropriate guidelines as to what is allowable for tax purposes.

6. **Minimum tax** - CITA imposes minimum tax on companies where they have no taxable profits or taxable profits resulting in lower than minimum tax. This effectively means that such companies would have to pay taxes out of their capital. This section is discriminatory as it does not apply to entities with significant imported equity. More importantly, it discourages investment and increases the risk of failure for companies in periods of little or no profitability.
7. **Group taxation and reorganisation** - There are instances where it may be necessary for a company to reorganise its affairs for better efficiency. The relevant section of CITA only focuses on foreign companies reconstituted and transferred to Nigerians after the civil war which ended in 1970. The section does not encourage business reorganisation and internal reconstructions for better efficiency by companies operating in Nigeria today. There should be clear provisions to enable groups of companies to freely transfer assets within their groups without a tax charge in order not to hinder internal arrangements that are necessary for better management and efficiency. The tax legislation should permit intra-group transactions without uncompetitive double taxation in the form of VAT, withholding tax or dividend tax. Put differently, the tax tail should not wag the business dog.
8. **Artificial transactions and transfer pricing** - CITA and the Capital Gains Tax Act stipulate that transactions between related or connected parties must be at arm's length else the tax authority could make adjustments as may be necessary. This allows for extreme subjectivity and gives too much discretionary power to the tax officials. Like many countries around the world, Nigeria should adopt the Organisation for Economic Cooperation and Development (OECD) guidelines on transfer pricing. Also, guidelines should be issued regarding thin capitalisation to bring clarity to investors. These will address the concern about the result

potential erosion of tax base as a result of artificial transactions.

9. **Separate source of income** - Section 25(1) of CITA states that the profits of any company for each year of assessment from such sources of profits shall be the profits of the year immediately preceding the year of assessment from each such source. Section 27(2) restricts the losses that may be relieved in any year to the assessable profits from the trade or business in which the loss was incurred. The combined effect of these sections is normally interpreted by tax officials to mean ring fencing of different sources of income to the effect that losses from one line of business cannot be used to offset profits from other lines of business by the same company. This practice is not equitable and it seems to punish genuine businesses for incurring real losses. The separate taxation of income should be abolished in line with global best practice as many countries have even gone beyond this level to permit group consolidated tax returns.
10. **Withholding tax and sales in the ordinary course of business** – Based on the tax laws, withholding tax is not applicable on sales in the ordinary course of business but there is no definition of ordinary course of business. Circulars issued by the FIRS have not been helpful in clarifying this phrase. The phrase should be clearly defined to ensure easy application.
11. **Deduction of VAT at source otherwise known as withholding VAT** The deduction of VAT at source by government and companies in the oil and gas sector from payments to their vendors leaves such vendors with claimable input VAT without adequate output VAT thereby resulting in a perpetual refund position. The obligation for government agencies and oil companies to deduct VAT at source should be removed and compliance by vendors should be enforced using information provided in the VAT and withholding tax returns of the service recipients/customers.



**12. Tax refunds** - Although there are specific provisions in the tax laws especially under section 23 of the FIRS Establishment Act 2007 for tax refunds this has yet to be fully functional. There should be appropriate funds allocated or retained out of tax collection to cater for tax refunds both at the federal and state levels. The FIRS Act requires the tax authorities to pay a tax payer's refund claim within 90 days of the application subject to appropriate audit. These audits are usually slow and time consuming sometimes running into several years. Fairness and equity requires that cash refunds be made promptly to deserving tax payers. Failure to pay refund within the stipulated timeframe should attract commercial interest.

**13. Tax technology** – Without fully embracing technology it will be difficult to realise Nigeria's dream of becoming one of the largest economies in the world by 2020. Online filing and tax payment should be introduced to reduce the compliance time and the associated cost. It will also help reduce human interaction between the taxpayers and the tax officials which could also help in checking sharp practices. Nigeria should embrace technology in tax administration to support electronic remittances and filing of returns which will reduce the burden on taxpayers and make doing business easier.

**14. Withholding tax credit notes** - Tax payers are required to file WHT returns monthly and then

follow up with the tax authority to obtain credit notes for their vendors. This process is expensive, time consuming and inefficient. There should be a robust electronic system where vendors can log on to see if tax withheld from them has been remitted to the tax authority which should be automatically credited to the beneficiary's tax records. It will therefore not be necessary for taxpayers to specifically apply to utilise their credit notes. In the meantime, taxpayers should be allowed to issue credit notes to their vendors and account for the remittance to the appropriate tax authority as a precondition for granting credit to the vendors. This is already provided for in the Companies Income Tax [Rates etc of Tax Deducted at Source (Withholding Tax)] Regulation 1997 as amended. Also, it should be possible to carry back withholding taxes or offset against other taxes.

**15. Tax evasion** – Nigeria is one of the few countries in the world where it is fashionable to evade tax. The various structures which are required to work together to make tax evasion difficult are not properly coordinated. For instance, it is possible for a company to register with the Corporate Affairs Commission (CAC) without registering with the FIRS when it could have been one of the conditions in the company registration process. Enforcement of tax compliance should be given adequate attention and various government agencies (land registry, CAC, vehicle registration department, immigration etc) should collaborate and share information to reduce tax evasion.

**16. Deemed income and deemed profit tax** – It is often the case that tax authorities, both federal and states, insist on deemed income for a non resident company or an expatriate even where information supporting tax on actual basis has been provided. Tax officers should aim to assess all taxpayers based on actual profit unless it is difficult or impracticable to do so. Deemed income or deemed profit tax should only be a fallback option not the first

consideration. Focus should be on collecting the right amount of tax, not the maximum amount of tax.

**17. Unutilised tax losses** – CITA specifically limits the carry forward of tax losses to 4 years for insurance companies which appears to have been removed for all other companies. This does not create a level playing field and is capable of impeding the development of the insurance sector. Before 2007, tax losses incurred by any company other than those in agricultural business and upstream petroleum industry can only be carried forward for a maximum period of 4 years. This restriction was removed for all companies except insurance in 2007. However, the amendments referred to Laws of the Federation of Nigeria (LFN) 2004 which appears to have imported a restrictive clause into one of the relevant subsections to suggest that the restriction was only removed from one subsection and therefore still applicable. The tax law should be applied as enacted and interpreted in line with the legislative intent to permit indefinite carry forward of tax losses.

**18. Personal reliefs and allowances** – The Personal Income Tax Act (PITA) provides for a number of tax reliefs and allowances but most of these are unrealistically low such as Children Allowance of N2,500 per child subject to a maximum of 4 children, Utility N10,000, Entertainment N6,000, Transport Allowance N20,000, Rent Allowance N150,000, Meal Subsidy N5,000, and Dependant Relative N2,000. Reliefs and allowances should be reasonable and in tune with current reality. As much as possible, allowances should be a percentage of earnings rather than an absolute amount which has the risk of becoming unreasonably low with time due to inflation and slow reviews and amendments to tax laws in Nigeria.

**19. Determination of residence for individuals** - The definitions of “place of residence” and “principal place of residence” per the First

Schedule, Paragraph 1 of PITA are unnecessarily complicated often leading to clashes between tax authorities and potentially double taxation for individuals. This rule should be simplified to minimize conflicts between tax authorities and to reduce the incidence of double taxation for individuals. One way of simplifying the rule could be to pay the employment income tax of employees to the state where their place of work is located. Individuals not in employment should pay their taxes to the state where they have their permanent home or other relevant proxies.

**20. Tax dispute resolution and due process** – Where a taxpayer is aggrieved, there is no recourse in most cases as states do not have a body of appeal commissioners in place and the tax appeal tribunal at the federal level is yet to be fully operational. This leaves the taxpayer with the unattractive option of directly approaching the High Court. Also, notwithstanding the due process clearly laid down in the tax legislation, many tax authorities especially at the state and local government levels rarely follow due process in their activities. They often harass and intimidate taxpayers without regard to the provisions of the law. Appeal tribunals and body of appeal commissioners should be constituted and functional at all times. It is critical for due process purposes to establish and enforce a tax assessment and appeal procedure that is independent, fair and efficient to all taxpayers. Speedy resolution of tax disputes is a key factor which must be addressed urgently. The slow pace of tax adjudication in Nigeria makes tax compliance more difficult and exposes the taxpayer to a higher risk of penalty and interest. Government should consider issuing a Taxpayer Bill of Rights or Taxpayers' Charter to include taxpayer obligations, as well as a commitment to professional and legitimate behaviour by tax consultants and tax officials.

**21. Risk based audit** – Many tax officials focus too much on non value adding areas during tax audit resulting in unnecessary waste of taxpayers' time and inefficient use of the authority's resources. A risk-based approach to tax administration should be adopted to

improve efficiency both for the tax authority and the taxpayers. This should be supported with the necessary tools such as Data Mining Software in order to focus more on high risk taxpayers and significant tax issues.

### 22. Double tax treaties and unilateral tax relief -

Nigeria currently has double taxation treaties with only 12 countries many of which are not major trading partners with Nigeria. One of the reasons why the Netherlands is a popular investment holding destination is because of the country's wide treaty network with about 100 countries. The UK has treaties with over 80 countries while South Africa has over 60 including treaties with major countries such as the United States. To be competitive in the global stage, Nigeria must improve its double tax treaty network and provide equivalent unilateral relief where there is no double tax treaty.

### 23. Taxation of free zone enterprises and individuals –

The free trade zone regulations provide exemptions to companies registered in the zones on all taxes but in practice there are often controversies on whether the exemption covers individuals, both nationals and expatriates working and living in the zone. There is also no clarity as to whether registered entities in the zone are obliged to account for withholding taxes on payments to vendors within the customs territory. There should be a clear guideline on the intention of the enabling laws regarding withholding tax and PAYE tax.

**24. Tax clearance certificate –** Taxpayers are required to obtain a tax clearance certificate (TCC) annually which is often needed to conduct many business transactions. Tax officials often use this as a tool to harass taxpayers by bringing up issues outside the period covered or contrary to the provisions of the law regarding TCC. For instance, the CITA requires that TCC must be issued within 2 weeks of application otherwise the tax authority must explain. TCC should be issued automatically within 2 weeks of every new calendar year provided a taxpayer has no outstanding undisputed tax liability on the last day of the previous year of assessment.

### 25. VAT registration by non resident entities –

A non resident entity carrying on business in Nigeria is required to register for VAT using the address of the Nigerian customer. The issue here is what happens if the non resident has more than one contract with different customers at the same time or in succession? Also, the registration requirement is often extended by the FIRS in practice to mean any non resident doing business with a Nigerian customer. This leads to complications where the non resident entity does not require any physical presence in Nigeria as in the case of royalty. Reverse VAT system should be introduced and non residents without a fixed base of business in Nigeria should not be required to register for VAT.



**26. Reverse charge of VAT –** This is a system whereby the recipient of a VATable supply is required to self assess VAT on imported services. This provision does not exist in the Nigerian VAT Act but is being introduced by the FIRS through Information Circulars which are not binding. This is a loophole in the tax law as certain imported services where the provider does not have to be physically present in Nigeria can legally escape VAT. The VAT Act should be amended to specifically require the Nigerian recipient of imported services to self account for VAT under reverse charge system.

- 27. Interest and penalty for tax default** – A number of tax laws in Nigeria require penalty to be calculated on an annual basis using base lending or commercial interest rates. However, there is no guideline regarding what base lending rate or commercial interest represents and whether interest should be one off, simple or compound. There is also no standard practice regarding the effective date interest should begin to accrue especially where an assessment is under objection or appeal. All these issues should be addressed accordingly.
- 28. Compulsory Tax Identification Number (TIN) registration by non residents** – The procedure for withholding tax remittance put in place by the FIRS makes it mandatory for all beneficiaries of withholding tax remittance to have tax identification numbers without which the customer will not be able to remit the withholding tax. This means for instance that a non resident investor who only earns dividend income from share investment in Nigeria will also be forced to register for income tax. This procedure should be fine tuned to exclude non residents who earn passive income from Nigeria.
- 29. Exempt and zero rated items** - Basic food items, educational materials, medical and pharmaceutical products are VAT exempt rather than zero rated. This implies that any input VAT not claimable will be passed on to consumers in form of higher prices thereby defeating the objective of ensuring that tax does not increase the cost of these items beyond the reach of ordinary people. Also, exported services are exempt rather than zero rated thereby making exported services from Nigeria less competitive in the global market place. In addition, the schedule of exempt and zero rated items are too generic which creates unnecessary confusion, for instance, what is basic food? This also creates a conflict between exemptions in the VAT act and the customs tariff code for imported items. Medical products, basic food items and educational materials should be zero rated and the schedules of exempt and zero rated items should be explicit. Exported services should be zero rated for the same reason that exported goods are zero rated.
- 30. Branch operations** - The Companies and Allied Matters Act (CAMA) requires a non resident entity doing business in Nigeria to incorporate a Nigerian entity regardless of the duration of the project. Branch operations are not permitted. This creates unnecessary administrative burden for investors without any benefits to the Nigerian economy. Branch operations should be permitted and taxed accordingly especially as the tax laws recognise the taxation of non resident companies on their Nigerian derived income.
- 31. Ruling practice** – It is often difficult and slow to obtain a ruling from the tax authorities. This makes voluntary compliance difficult for willing taxpayers. As is the case in some countries, Nigerian tax authorities should adequately resource the relevant departments in charge of tax ruling and if necessary charge for ruling requests especially on urgent matters. If a request for ruling is not replied by the tax authorities within a specified period, say 60 days, then the tax treatment of the situation under analysis as proposed by the taxpayer should be considered as approved.
- 32. VAT and withholding tax point of payment** – This is a practical challenge where an entity supplies VATable goods or services on credit with payment due after the due date for filing and payment of VAT. Businesses without free cash flow will inevitably default in VAT payment unless they borrow to pay VAT which adds to the cost of doing business. VAT payment should be on cash basis not accrual except in instances where the transaction will not be settled in cash. The same issue and possible solution apply to withholding tax.
- 33. Capital allowance on certain assets** - The Second Schedule to CITA on capital allowance does not include assets such as ships, aircraft and intangible assets such as license and franchise. The schedule of qualifying assets should be expanded for capital allowance

purposes. A related issue is pre-incorporation expenditures being necessary expenses incurred to establish a company in order to generate taxable business income in future. Since the company is yet to make profits, these expenses are capitalised but are not regarded as qualifying capital expenditure under CITA for capital allowance purposes. It is also not permissible to claim a tax deduction for them as they are normally regarded as capital in nature. There should be a provision to allow tax deduction for all necessary business expenditures.

**34. Certificate of acceptance** - The CITA requires a certificate of acceptance to be obtained for assets addition from the Ministry of Industry for capital allowance purposes. This is of no relevance and creates an extra burden without adding any value to the process in addition to creating an avenue for sharp practices. The need for certificate of acceptance should be abolished.

**35. Tax awareness and communication** – It is currently difficult to obtain the necessary information required for tax compliance purposes even for entities willing to comply voluntarily. Tax laws, guidelines, forms, information circulars, regulations, tax rulings, administrative procedures, tax treaties etc should be easily accessible to the public and freely available on the internet for instance on the website of the Joint Tax Board, FIRS and states tax authorities.



**36. Cost recovery and tax deductibility** – This is one of the major issues in the petroleum industry. Where an expense is disallowed for cost recovery by the NNPC, the practice is often to disallow also for tax purposes. Tax deduction for expenses should be based strictly on the provisions of the tax law regardless of the practice of any government agency. Other contentious issues in the petroleum industry include treatment of investment tax credit, operator sole cost, NDDC levy, community development expenses, interest on related party loan and gas flaring penalty. The Petroleum Industry Bill should hopefully address these issues.

**37. Capital gains tax and inflation** - Capital Gains Tax (CGT) is applicable on capital gains derived from the disposal of a chargeable asset. The determination of chargeable gain ignores inflation and time value of money. A taxpayer may therefore be required to pay CGT even when in real terms the tax payer has incurred a loss. There should be inflation adjustments to cost of chargeable assets in line with global best practice in calculating capital gains tax.

**38. Investment allowance** – Any expenditure on plant and equipment entitles the owner to investment allowance. However, the tax authorities often challenge whether office equipment such as computers, printers, and generators fall into this category. Since equipment is not qualified in the CITA and there is no other more appropriate classification, office equipment should be allowed to enjoy investment allowance. The law should be amended if this is not the intention.

**39. Statute of limitation** – The period to reopen tax assessments is limited to 6 years unless there is any form of fraud, wilful default or neglect. This provision is to encourage the tax authorities to carry out tax audit promptly and to manage the challenges associated with document retention on the part of the taxpayers. However, in practice, the tax

authorities often make allegations of wilful default and negligence to reopen past tax assessments without any time limit. The law should be amended to limit the ground of exemption from the statute of limitation only to fraud.

**40. Tax transparency and accountability** – Tax is a compulsory levy designed to generate revenue for public expenditure including infrastructure. Tax paying culture is poor in Nigeria due largely to the lack of transparency and accountability on the part of government as taxpayers' money is rarely seen at work. When people have to pay taxes and also provide their own infrastructure this effectively increases tax rates and costs to taxpayers. Government should be transparent and publish detailed information on tax collection and application of the revenue generated on a regular basis as a mark of accountability and fiscal responsibility. This will encourage voluntary compliance.

**41. Stamp duty** - The Act is very ambiguous as to coverage and applicability. A given transaction could fall under more than one category with different rates. Government should assess the level of revenue being generated from stamp duty and if it does not produce substantial revenue, it should be abolished. Alternatively the act should be redrafted for clarity and practicability and restricted to significant transactions such as land and shares. Also, taxpayers should not be forced to pay stamp duty to states where the payment is legally due to the federal government as in the case of land transfer involving a company.

**42. Tax treatment of penalty, interest, principal tax and levies** – The tax laws specifically disallow penalty and interest for tax default and principal tax relating to income or profit such as education tax other than foreign tax on income where such income is also liable to tax in Nigeria. In practice, the tax authorities often seek to disallow any principal tax paid arising from a tax audit relating to PAYE, VAT, vendor withholding tax and similar levies and taxes. This practice is not supported by the law and

should be discontinued. The law should be amended if the intention is to disallow all taxes.

**43. Taxation of accommodation benefit** - There is a contradiction in PITA with regards to whether accommodation provided by employer constitutes a taxable benefit. Section 5 suggests that the "annual rateable value" is taxable but section 3 of the act indicates that it should be exempt. In practice, tax authorities insist on taxing the benefit but no consistent approach in doing so. The conflict should be resolved and taxable accommodation benefit deemed at 5% in the same manner as benefit on other assets with possibly a separate rule for leased accommodation. This will also address the current challenges with obtaining information on rateable value.

**44. Introduction of new taxes** – Different taxes are sometimes introduced in a haphazard manner contrary to the new National Tax Policy. There should be a mechanism to pass all proposed tax laws through a central body perhaps the Joint Tax Board in addition to the existing procedures in place to ensure arbitrary tax laws which are disconnected with the overall policy direction are not introduced.

**45. Complex tax payment system and tax offsetting** – The payments of different taxes to different accounts for different purposes may be necessary due to the different statutory functions of each tax but there should be a seamless interconnection between the accounts such that any overpayment in one area can be used to offset underpayments in other tax areas. This is simply an accounting issue and should not be difficult to achieve but will go a long way in improving the Nigerian tax system.

**46. Taxation of individuals working offshore Nigerian territorial waters** – Individuals working offshore Nigeria for instance on oil-drilling platforms are liable to personal income tax in Nigeria except where all the exemption conditions in PITA are met. There is however uncertainty as to which tax authority the taxes should be remitted between FIRS and state internal revenue services. If states, then there is also the issue of which state especially

where two or more contiguous states can reasonably lay claim to the offshore area. There should be a clear definition of state jurisdiction to avoid double taxation otherwise the tax should be collected by the FIRS and possibly shared among all the oil producing states.

**47. Franked investment income** – This refers to dividend income which has suffered withholding tax as final tax and therefore not subject to further tax. Where such income is further distributed as in the case of a holding company, the withholding tax due on further distribution should be offset with the withholding tax suffered when the income was received. The practical challenge here is that withholding tax on receipt would have been paid to the FIRS whereas further distribution would often be to individuals whose withholding taxes are due to states. It therefore becomes difficult to offset FIRS withholding tax paid against withholding tax due to states. The law should be amended to remove the requirement to account for withholding tax on redistribution of franked investment income.

**48. Timing of VAT registration** – The law requires registration at the earlier of 6 months of commencement of a business or 6 months from commencement of the VAT Act (January 1994). Since 6 months from commencement of the VAT act was June 1994, does it mean new businesses coming up now should have registered in advance or more practically that they register immediately on commencement? The third option is to assume that registration is required within 6 months of commencement of business. If so, what happens to VATable supplies made in the first 6 months? The section should be amended to provide clarity on the timing of registration. The appropriate thing would be to require registration immediately on commencement of business and in any case before issuing the first invoice.

**49. Tax touting** – This is common practice especially at the local government level where unprofessional and untrained individuals are engaged to enforce collection of taxes and

levies. Only professionally trained personnel should be involved in tax assessment and collection. The JTBC could explore the possibility of centrally recruiting, training and deploying personnel to collect taxes at local government level to ensure professionalism and reduce multiple taxation.

**50. Capital loss deduction for CGT purpose** – Any capital gain on chargeable assets is taxable except where specifically exempted as in the case of gains on shares. On the other hand, the law does not allow deductions for capital losses. In order to ensure fairness as one of the canons of a good tax system, capital losses should be tax deductible to the extent that capital gains are taxable.



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