

Will change come to Tax?

According to Albert Einstein, you cannot do the same thing over and over again and expect a different result.



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As we continue to bask in the euphoria of a peaceful election and the hope of a smooth transition to a new government, we must now begin to reflect on the things we have to do differently. Nigeria relies heavily on oil revenue to fund government activities and this is not sustainable. A more reliable and predictable source of revenue is taxation.

Coincidentally, there is a new head of the Federal Inland Revenue Service (FIRS) and by extension the Joint Tax Board (JTB). Since there will be competing demands and priorities, I have outlined my “Top 10” pick of concrete action points for the new government and FIRS leadership to consider in order to improve our tax system.

Action #1 – Review and implement the National Tax Policy

The National Tax Policy (NTP) was approved in January 2010. It was designed to provide a set of principles and direction for the tax system especially in terms of tax legislation and administration. Unfortunately it was never implemented and now it due for a review. Given the role we expect tax to play in funding government expenditure going forward, it is important to now review the NTP to ensure it is fit for purpose and then put a structure in place to ensure its full implementation. To facilitate this, there should be a body with representations from key stakeholders including tax authorities at all levels, organised private sector groups

and relevant professional bodies. Their primary role will be to monitor implementation and report progress and desired changes periodically (at least once every year) to an appropriate authority such as the National Economic Council. The body will also have the responsibility of keeping the NTP under constant review and vet changes to tax policies and introduction of new tax laws.

Action #2 – Address multiple taxation and multiple agencies

There is an ongoing effort to address multiplicity of taxes including earmark taxes that are being introduced arbitrarily without regard to best practice and overall interest of the country. This effort should be fast-tracked. Ultimately, the problem must be addressed from the source through a review of the Constitution to clearly outline the powers of governments at different levels regarding imposition and collection of taxes. It should also streamline the approved list of taxes to ensure adherence by all tiers of government.

Closely connected to this is the menace of multiple revenue collection agencies especially at the federal level. This not only increases the risk of non-remittance of revenue collection but also duplicates administrative cost for government and increases compliance costs for taxpayers. Why should different agencies collect crude oil royalty; industrial training fund; and so on rather than the FIRS? Government should sanitise tax collection and allow the FIRS and Customs alone collect all revenues on behalf of the federal government. State governments should implement a similar structure at the state and local government levels.

Action #3 – Simplify tax administration and build world class capacity

Nigeria currently ranks 179 out of 189 economies on the ease of paying taxes in the 2015 survey conducted by the World Bank and PwC. We clearly cannot remain in this position and expect to be globally competitive. We must make the entire process of paying taxes to be as simple as it possibly can be. Tax administration should be redesigned to enhance taxpayer experience. The introduction of electronic tax system by the FIRS and the ongoing initiative by the JTB are commendable but must be harmonised for effectiveness. The authorities should pursue the implementation with vigour and monitor usage. It is pointless to have an electronic system that simply duplicates the compliance process or creates more problems than solutions.

An 'Office of Tax Simplification' should be established to continuously seek ways of improving the tax system. There should be quality capacity building for the tax authorities through quality training, exchange programme with

developed countries, and recruitment of competent staff. Nigeria must actively get involved in global actions against tax avoidance and evasion so that our voice may be heard. Nigeria should also lead regional initiatives such as the ECOWAS integration. Ironically, like any investment, you must spend money to make money.

Actions #4 – Set the tone from the top and screen political office holders for tax compliance

The tax burden on individuals and companies should be proportionate to their level of income/consumption and their abilities to pay. Compliance should cut across both private and public sectors. All political office holders, whether elected or appointed, must pay adequate taxes in line with the law and on time. Along with declaration of assets, there should be full disclosure of income from all sources and corresponding taxes paid. History of tax compliance which bears some correlation with declaration of assets should be part of the screening process for political appointments. MDAs and tax officers must themselves be fully tax compliant too.

Action #5 – Make tax laws simple to read and understand

This will involve a review of tax laws to remove ambiguities and rewrite the legislation in plain English. We could even consider translation into the major languages – Hausa, Igbo and Yoruba for better reach. The legislative arm at all levels must consciously make laws which are clear and easy to understand. Lawmakers should be more diligent and avoid passing laws with easy to spot errors; it makes us look collectively unintelligent as a people. We should never impose changes with retroactive effect especially if the changes impose an obligation on people and businesses as was the case with the Personal Income Tax amendment in 2011 and the 2014 Pension Reform Act. We should always give a reasonable transition period for individuals and businesses to adjust.

To ensure adequate focus on tax matters – there should be a specific committee of the National and State Assemblies on Tax Matters. This will ensure that timely actions are taken and robust decisions are made from time to time in consultation with key stakeholders.

Action #6 - Declare tax amnesty and embark on taxpayer awareness campaign

Taxpayer education is key to increasing tax compliance which is currently embarrassingly low as shown by our ratio of tax to GDP. Tax awareness should not be one-off or only when there is a new tax project like transfer pricing. There should be continuous taxpayer engagement, education and awareness. This should go beyond the

traditional targets in cities to villages and remote areas. We should also get creative; use social media, introduce raffle draws, annual taxpayer awards etc. Tax authorities should start gathering reliable data for taxpayers profiling and compliance monitoring. There should be collaboration among government agencies - FIRS, State Internal Revenue Services, Joint Tax Board, Corporate Affairs Commission, Nigeria Customs Service, Land Registry, etc.

Declare tax amnesty under which taxpayers will be given the opportunity to carry out self-reviews with part or full waiver of penalty and interest. The review period may be limited to 6 years for large companies and one or two years for small companies and the informal sector players. Any liability beyond these periods can be fully waived. This gesture will significantly improve the level of voluntary compliance after which the tax authorities will commence full enforcement with appropriate sanctions.

Actions #7 – Block tax leakages and streamline tax incentives

Create structures to stamp out corruption in tax administration especially through the use of technology and introduce a framework for whistle blowing.

Also, incentives and waivers should be streamlined and should be sector based to provide a level playing field and avoid economic distortion. This should include renegotiating existing tax treaties to limit tax give-aways. The existing tax treaties grant reduced withholding tax rates of 7.5% on investment income compared to 10% without treaty advantage. In many cases this is not reciprocated by the contracting state and given that Nigeria is predominantly a net importer of capital, we are giving away far too much than we are getting in return.

Action #8 – Set key performance indicators, improve tax revenue reporting and put taxpayers' money to work

If you don't have a predetermined destination, how do you know if and when you get there? It is not enough to simply set revenue collection targets and celebrate when they are met or exceeded. Taxation is not a game where the end justifies the means. On the contrary, it is the means that determines the end.

Government should set key performance measurements for the tax authority (and tax officers), and develop a framework for a robust reporting by the tax authorities. This should include analysis of value of tax relief granted, cost of collection, refunds paid to taxpayers and amounts outstanding. It should also highlight key success factors like

tax to GDP ratio, ease of paying taxes ranking and duration of tax audit completion.

And more importantly, government must utilise tax money for social services and visible development and be accountable to the people for the taxes they have paid.

Action #9 – Remove prohibitive practices and legal barriers to investments

To encourage businesses and reduce unemployment, we must address various provisions of the law and tax practice that discourage investments. Notable among these are (1) excess dividend tax (2) minimum tax provisions and (3) commencement rules.

Excess dividend tax imposes double taxation on companies especially those that reinvest their profits and holding companies when they redistributes their dividends. This is a huge disincentive to economic growth and the use of Nigeria as headquarters location for group entities. The minimum tax provisions force companies to pay tax out of their capital if they make losses or small profits. This does not promote investment and growth. Commencement rules impose double taxation on start-up companies at the time they are most vulnerable and struggling to survive. Taxes should be paid only once on actual profit made, not twice given that such start-up companies are often fragile and therefore unable to bear the extra burden.

To reduce uncertainty in the economy, government budgets should be passed on time and include annual changes to tax policy. There should be consistency in policies with sufficient time for businesses to prepare for changes. Tax refunds should be paid on time and it should be possible to offset overpayment in one tax head against another. This is simple accounting!

Action #10 – Getting tax justice should not be rocket science

It is inevitable that there will be disputes between taxpayers and tax authorities. At the moment, tax dispute resolution takes about 10 years thereby making tax justice extremely expensive for taxpayers.

Getting tax justice should be less painful, less time consuming and inexpensive. To ensure a quick dispensation of tax justice, the Tax Appeal Tribunal should be given constitutional backing or better still establish a tax court. The tax appeal process should be simplified and less legalistic focusing on substance rather than strictly ticking boxes of legal form.

Conclusion

It is unrealistic to expect that a single administration will solve all our tax problems within four years or so but it is reasonable to expect good progress in key areas that is not only worth the elapse time but also help recover lost time and missed opportunities. The magic formula is to close the tap of tax corruption and raise compliance level. This is the only sustainable way to keep the lifeblood of our nationhood flowing and secure our future devoid of over dependence on resources that we can barely control.

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