

# **Taxation and governance - part 2 (religious leadership)**



By Kenneth Erikume

*“And Jesus answering said unto them, Render to Caesar the things that are Caesar's, and to God the things that are God's. And they marvelled at him.”* Mark 12 verse 17.

The public support of Jesus on taxation shocked the people in that time. However, it should not be too shocking today if religious leaders reiterate the same words when the country is in need of revenue to meet its obligations.

## **Introduction**

In some societies, tax evasion is considered to be more criminal than burglary. In principle, a burglar steals from one person but a tax evader steals from every person who has paid their taxes in full. This happens any time the tax evader uses the resources and infrastructure provided by the government from tax revenue.

Ironically, one of the biggest challenges for our government today is meeting up with agreed obligations such as capital and revenue expenditure. Plugging tax leakages at the collection level (in the form of tax evasion) and at the expenditure level (in the form of corruption) becomes particularly more important in order to justify the moral right to impose tax.

But, what has religion got to do with taxation? In this article, I will consider the role of tax in religious leadership by answering a number of questions.

## **Question 1: Is tax a religious question?**

The way religion is viewed for the purposes of taxation varies. In some countries such as the United States, donations to churches, synagogues and other religious organisations are tax deductible. In other countries, additional taxation is imposed for being religious such as Germany that imposes an additional tax of 8 to 9% for registered Catholics, Protestants and Jews.

Irrespective of the treatment, religion has a part to play in sensitising citizens of their moral obligation towards contributing ‘coin’ to the government. Religion has a part to play in defining the behaviour of society. Religion plays a pivotal role in every moral discussion in Nigeria as it shapes the principles of what people consider to be right or wrong.

## **Question 2: Are religious institutions taxable in Nigeria?**

Religious and educational institutions ‘of a public character’ are exempt from tax both under S23(c) of the Companies Income Tax Act and para 13 of the 3<sup>rd</sup> Schedule of the Personal Income Tax Act. However, the exemption applies only to the extent that the profit does not relate to a trade or business carried on by such institution. Before the decision by the Tribunal (which was actually in relation to educational institutions – *American International School vs FIRS*), it was not quite



clear whether income of these organisations that includes for instance selling of books and tapes constitute trade or business that should be subject to taxation. However, the decision by the Tribunal seems to suggest that as long as the institution is set up as a not-for-profit entity (like incorporated trustees or limited by guarantee) and there is no proof of distribution of the profits, any activities carried on within its objects would be considered tax exempt. It is not clear if the FIRS will appeal the decision, but this is a useful precedent that draws a clear line, at least for now.

Even though the case was on income tax, not-for-profit entities could extend the interpretation to imply that they are not taxable persons as defined in the VAT Act but this would lead to further disputes.

### **Question 3: To what extent can religious institutions or their founders pay taxes?**

If the precedent is upheld, religious institutions are unlikely to find themselves in a situation where they are required to pay income taxes. It would require a significant deviation from their charter for this to happen.

However, the Nigerian tax laws do not exempt employees of religious institutions and their leaders from payment of taxes on their income. It will be difficult for religious leaders to consider themselves as institutions (i.e. a body of people or a corporate). Another big question is 'what if the religious leader is also the deity that is the focal point of the religion?' This scenario is rare, but it cannot be totally ruled out as we have different examples in the past where a person is also the established deity of the religion that he or she founded. Nigerian tax law does not envisage this scenario and imposes tax irrespective of the status of the individual as a human or a god. Only the institution can enjoy income tax exemption.

### **Question 4: Does religion play any other role in taxation?**

The federal budget has been set at about N6 trillion for 2016 in the midst of very low oil prices. While this figure is optimistic, it is achievable. The contribution from Customs and the FIRS can be improved if more people feel responsible and obliged to pay their taxes and the religious institutions have a role to play in all of these. In my view, the role of religious institutions and how they can work with government should be as follows:

**#1. Educate members to pay their taxes** – These institutions by their nature and charter have a responsibility to educate their members to

be law abiding citizens and pay their taxes as and when due. An example of this in the bible is the story of Jesus teaching his disciples the principle of abiding with the laws by paying taxes from the talent collected from the mouth of a fish. Tax is the first level of charity and philanthropy because infrastructure and amenities can be provided to everybody equally. Religion helps people to define what is right and wrong. Therefore, more needs to be done by religious bodies in telling their followers that tax evasion is immoral.

**#2. Pay tax where applicable and get their leaders to comply** – The institutions should start paying taxes on their non-exempt income like rent from properties and ensure their leaders pay tax on their income including benefits in kind provided by the organisation. Of course, this would create a particular challenge of confidentiality for the tax authorities as most of these leaders would prefer their income not to find its way to the public domain. Tax authorities must therefore look at ways of providing comfort to these religious leaders that their information will be treated with utmost confidentiality within the ambit of the law.

**#3 Tax authorities should engage religious bodies on tax compliance programs and tax amnesty** – The level of compliance in the country is still very low. Our tax to GDP ratio is worse than war torn countries like Afghanistan and countries that have no income tax such as the United Arab Emirates. This is a clear indication of low compliance and people resisting tax because they cannot see how their money is being used by the government. Tax authorities need to work with the religious institutions on programs to educate people on payment of their taxes. There is also a big question for those who have not complied in the past and how far back the tax authorities should go. It is therefore necessary that programs to encourage compliance are put in place and tax authorities begin to consider tax amnesty with reasonable cut off periods.

I would close with this quote "**And Jesus answering said unto them, Render to Caesar the things that are Caesar's, and to God the things that are God's. And they marvelling at him.**" Mark 12 verse 17. The public support of Jesus on taxation shocked the people at that time. However, it should not be too shocking today if religious leaders reiterate the same words when the country is in need of revenue to meet its obligations.

**Watch out for part 3 on tax and corporate governance. You can also read part 1 online on our tax blog or via our website below.**

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