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Nigeria and the ease of paying taxes

A country in need of a coordinated approach to tax reform

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The Nigerian economy has been growing steadily at over 5% per annum for some years now. This has raised the focus of both international and local investors on the business climate in the country, including taxation. As Nigeria continues to seek ways to diversify her economy and achieve further development, government at all levels and the population are beginning to recognise the importance of a dynamic tax system that is not only geared towards raising revenue, but addresses the sophistication of today's business environment with the attendant complexities.

Taxation and fiscal policy matters are therefore now of greater interest and as the Nigerian Government and regulatory agencies observe trends in developed economies, they in turn are focusing their attention on enforcing total compliance. On the other hand, taxpayers are finding smarter and better ways to manage their tax affairs to ensure full compliance at minimum cost, and to balance tax planning with corporate responsibility and long term sustainability.

Now in its ninth year, the Paying Taxes 2014 report, a joint study of tax regimes in 189 economies by PwC and the World Bank, found that 32 economies continued to take steps during the period from June 2012 through June 2013 to make it easier to pay taxes. The report finds that on average globally a medium-sized company has a total tax obligation of 43.1% of profits (52.9% for Africa), making 26.7 payments (36.1 payments for Africa) and needing 268 hours (320 hours for Africa) to comply with its tax requirements. The report shows that the case study company for Nigeria has a total tax rate of 33.8%, makes 47 payments and spends 956 hours annually to comply with tax obligation. This means that Nigeria is globally and regionally competitive in terms of tax rates but needs significant improvements in terms of number of tax payments and time to comply. The time to comply and the number of payments account for the very low overall ranking for Nigeria of 170 out of 189 economies worldwide. This is also a decline from the country's 2013 ranking of 155 out of 185 economies.

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Over the years, the Nigerian Government, especially through the Federal Inland Revenue Service and the Joint Tax Board, has been making efforts to reform the tax system in a structured and coordinated manner. One such initiative was the development of a National Tax Policy (NTP) aimed at simplifying the tax system, eliminating multiple levels of taxation and ensuring tax transparency.

Despite the NTP, there seems to be an uncoordinated approach to the implementation of the relevant tax policies. For instance, a new law, the Employee Compensation Act, was enacted to introduce a compulsory monthly payment by all employers. This new tax resulted in an increase in each of the Paying Taxes sub-indicators – the Total Tax Rate, number of tax payments and the compliance time, hence the downward trajectory for Nigeria on the Paying Taxes sub-indicator in the 2014 report.

While the introduction of new taxes is one option for increasing tax revenues, this should be discouraged as more could in fact be achieved through increased compliance with existing laws. We welcome any measures that make tax systems more efficient and easier to follow thereby increasing voluntary compliance.

One positive step by the FIRS is the on-going effort to introduce an electronic tax system called the Integrated Tax Administration System (ITAS). The new system is expected to automate tax filing and documentation of taxpayer information. If properly implemented this should significantly reduce the compliance time. Also, a new transfer pricing regulation was introduced in 2012. While this is likely to increase the compliance time, it provides more certainty to investors and is therefore expected to have an overall positive impact on the tax system.

There was also an improvement in the approach to tax dispute resolution. The government speedily reconstituted the Tax Appeal Tribunal (TAT) tasked with the role of adjudicating over disputes arising from the operations of the tax laws and regulations. This is a marked improvement from the past where the tax appeal tribunal was not constituted for a long time leaving many tax cases unresolved for many years. That said, the recent development in which different divisions of the Federal High Court gave conflicting judgements regarding the constitutionality of the TAT is capable of eroding this gain and must therefore be urgently addressed. Like everything else, tax justice is about fairness to all stakeholders including taxpayers and tax authorities, and not about ticking boxes or focussing only on the letters, rather than the spirit of the law.

Various tax incentives are being introduced such as tax exemptions on interest from all bonds and treasury bills for a period of 10 years. Incentives have also been granted lately for companies that provide infrastructure for public purposes and companies that employ inexperienced graduates and those that retain them for at least 2 years. However, important legislative changes that would make the incentives more effective have not been addressed, such as the law that imposes corporate income tax on dividends distributed out of tax exempt profits. This is capable of misleading uninformed taxpayers while creating uncertainties for the informed.

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The speed with which tax legislation is passed also affects taxpayer certainty. There is a balance to be struck between ensuring that legislation is properly scrutinised and giving taxpayers sufficient certainty on timing to allow them to properly plan for the introduction of new legislation. There are a number of tax bills, including the Petroleum Industry Bill, that are currently pending leading to yet increased uncertainty among taxpayers.

Overall, Nigeria is taking some positive steps to reform the tax system, but to achieve the desired result in the shortest possible time, these efforts need to be coordinated rather than being implemented at cross purposes. The greatest fiscal incentive to businesses is simplicity and certainty of the tax system.

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