The key issues and challenges of implementing the National Tax Policy (Part 2)

Having a roadmap is good, but it is only a start – walking the road is what makes a difference

Government should not be fixated on introducing new taxes and increasing tax rates on the already over-burdened businesses and taxpayers. A long term sustainable approach would be to support businesses by reducing their tax burden especially compliance cost to enable them grow and thereby increasing the tax base and tax revenue in the long-run.

In continuation of our series on tax reform proposals as articulated in the White Paper published by the Nigeria Leadership Initiative (NLI) in conjunction with PwC, this article is a continuation of my thoughts on how to implement the National Tax Policy.

From sports to entertainment, tourism to technology, infrastructural development to industrialisation, and the list goes on - Nigeria is a country that is often celebrated more for her potentials than real achievements. This is true even in terms of natural resources. Nigeria is one of the largest producers of petroleum in the world, with one of the largest proven oil reserves of over 35 billion barrels and over 185 trillion cubic feet of proven natural gas. One of the areas requiring significant improvement is the fiscal regime applicable to the industry.

The Petroleum Industry Bill (PIB) was initiated to address some of the issues but no concrete progress has been made and hence the negative impact on the much needed local and foreign direct investment in the sector. The inability to pass the previous versions of the PIB was due to vested interests pulling in opposite directions and lack of sufficient will by the political class.

As much as it is desirable to optimise government take in petroleum operations, this should be done after a tax impact simulation and assessment to determine the additional revenue that is likely to accrue to government and by implication cost to the operators and impact on the economy. This should also be the case for all fiscal policies; for instance, government should be required to quantify the impact of new taxes to be introduced, waivers to be granted and compliance cost among others.

Oftentimes government introduces waivers and incentives to attract investors. Whilst this may look attractive on the surface, it is seldom the solution to simply throw tax incentives at investors. The most important incentive is to develop an efficient tax administration system built on a robust tax legal framework. Investors are looking for certainty of tax treatment which is consistently applied and stable to enable long term planning.

Businesses have a key role to play in economic development and taxation is a major consideration in this regard. It is therefore important for government to develop a fair, stable, sustainable and competitive tax system. Government should not be fixated on introducing new taxes and increasing tax rates on the already over-burdened businesses and taxpayers. A long term sustainable approach would be to support businesses by reducing their tax burden especially compliance cost to enable them grow and thereby increasing the tax base and tax revenue in the long-run.

Concluding thoughts and action points

Action #1 – Establish a body to implement the National Tax Policy

As part of the implementation strategy, it is necessary to constitute a central body with representation from key stakeholders including tax authorities at different levels to monitor implementation and report regularly to an appropriate authority such as the National Economic Council or the National Assembly. The body will also have the responsibility of keeping the National Tax Policy under constant review.

Action #2 – Address multiple taxation

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. The ongoing review of the Constitution should include relevant amendments to clearly outline the powers of governments at different levels regarding imposition and collection of taxes.

Action #3 – Simplify the tax system

Tax legislation – tax laws should be written in plain language and ambiguities should be reduced to the barest minimum. Conflicting provisions should be removed. With respect to introduction of new taxes, there should be a mechanism to pass all proposed tax laws through a body of key stakeholders in addition to existing procedures in place to prevent arbitrary tax laws which are contrary to the overall policy direction. Also the commencement date of any new tax law or regulation should give adequate notice and allow a reasonable period of time for taxpayers to make the necessary changes required for implementation. Tax laws should not be applied retrospectively.

Tax administration - both FIRS and State Tax Boards should consider issuing a Taxpayer Bill of Rights, or Taxpayers' Charter. This can include taxpayer obligations, as well as a commitment to professional and legal behaviour by tax consultants and the tax authorities. Technology should be used to automate the tax system and information regarding taxation should be freely available and easily accessible electronically via tax authorities' websites and printed copies at the various tax offices. Tax refunds should be paid promptly within 90 days as provided in the law. There should also be continuous taxpayer engagement, education and awareness.

Tax adjudication - Tax courts and appeal tribunals should be more active and functional at all times. Tax disputes should be resolved as quickly as possible. Sanctions for non compliance should be of both a civil and criminal nature - to be used in an appropriate and graduated manner. Civil penalties should be proportionate to the tax lost. Interest should be charged at reasonable commercial rates, on an annual or other periodic basis - to reflect time value of money and opportunity cost to government. Likewise, offences such as failure to file tax returns, or failure to provide information on request, should carry a civil penalty. For flat rate penalties, there needs to be some simple manner for adjusting these to reflect changes in the economy such as inflation (perhaps as a percentage of minimum wage).

Actions #4 – Set the tone from the top and lead by example

An effective mechanism for achieving high compliance is to lead by example as well as by making the most efficient use of the tax revenue collected by the government. Accordingly, all political office holders on an annual basis should fully disclose all their sources of income and ensure the right taxes are paid culminating in the publication of their tax clearance certificates annually as recommended in the National Tax Policy.

History of tax compliance which must bear some correlation with declaration of assets must be a precondition for election and political appointments. Tax compliance must be all encompassing – before, during and after holding a political office.

This article was contributed by Taiwo Oyedele, Partner and Head of Tax, PwC Nigeria, to the Nigeria Leadership Initiative (NLI) White Papers Volume 2. The White Papers were published by the NLI in partnership with PwC to highlight some of the critical issues in the Nigerian tax system covering policy, legislation and tax administration. The Papers also demonstrate the urgent need for action and proffer practical solutions for tax reforms.

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