

CHAPTER FOUR

THE STRUCTURE AND JURISDICTION OF NIGERIAN TAX AUTHORITIES

THE FEDERAL INLAND REVENUE SERVICE

The nucleus of the Federal Inland Revenue Service was formed with the appointment, in 1935, of Frank G. Lloyd as the Commissioner of Income Tax for the Colony and Protectorate of Nigeria. Like his counterparts in Gold Coast (Ghana), Sierra Leone, and Gambia, Lloyd was overseen by Walter B. Dare who was the Commissioner of Income Tax for Anglo-phone West Africa comprising of Nigeria and the aforementioned colonies. Lloyd was assisted by Fraser G. Selby as the first Assistant Commissioner of Income Tax. In 1943, the Nigerian Inland Revenue Department was carved out of the Anglo-Phone Inland Revenue Department and established as an autonomous body, and W.A.B. Carter of the United Kingdom Inland Revenue was appointed as the first Commissioner of Income Tax of the new agency, a position he held until 1951 when he was succeeded by Fraser G. Selby. The Inland Revenue Department was made up of the following:

- a. The Resident appointed by the Governor;
- b. Chief and elders in each district;
- c. Any native authority, which by native law and custom was recognized as the tax collection authority;
- d. Any native council or group of persons appointed by the Governor.

F.G. Reynolds was appointed Commissioner of Income Tax upon the retirement of F.G. Selby in 1960 and was the helmsman for only one year.¹ F. G Reynolds was succeeded by the first Nigerian Chairman of the Federal Board of Inland Revenue, Chief Ephraim A. Osindero.² Chief Osindero was chairman from 1961 to 1971. Other chairmen that followed, in chronological order are: Chief Vincent O. A. Ogunba (1971-1978), Chief David A. Olorunleke (1978 - 1992), Mr. James K. Naiyeju (1992-1999), Alhaji Ibrahim Zukogi (1999 - 2001), Mr. Ballama Manu (2001 - 2004), Ifueko Omoigui Okauru (2004 to date). In 1993, the nomenclature of the chief executive of the Service was again changed from 'Chairman' to 'Executive Chairman'.³

Although section 3 of the *Income Tax Administration Ordinance No. 39 1958*, which was a fallout from the Raisman Commission Report, statutorily provided for the establishment of the 'Federal Board of Inland Revenue',⁴ full effect was only given to that provision under the *Companies Income Tax Act (CITA) 1961*. The Federal Board of Inland Revenue consisted of a Chairman, a Deputy Chairman, and Senior Assistant Secretary with responsibility for revenue matters in the Federal Ministry of Finance; Legal Adviser in the Federal Revenue Department; two other members being Chief Inspector of Taxes or Officers of equivalent rank; and one further member appointed by notice in the Gazette by the Minister.⁵ In line with this structure, Ephraim Osindero was appointed on 29th April 1961, a position he held until 1971 when he was succeeded by O. A Ogunba.

The process of re-organization of the Board and its executive arm, the Federal Inland Revenue Department was formally approved by the federal government on the 12th of January, 1977. The purpose of the re-organization was to revitalize the Board and the Department to make them serve as potent weapons for combating the twin problem of tax evasion and avoidance and to cope effectively with the geographical and functional expansion within the Department. The highlights of the reorganization were the changes in the designation of the post of Chairman and Deputy Chairman to Director and Deputy Director of the Department respectively and the increase in the number of Deputy Directors from three to four with specific functions assigned to each Deputy Director. The re-organization also included the increase in the membership of the Board from seven to ten, appointment to the Board, representatives of ministries and other organizations whose mandate had bearing with functions performed by the Board, increase in the number of posts of Chief Inspectors and other established senior posts, upgrading of the post of the Board Secretary, creation of Intelligence Section and so on. The official opening of the inaugural meeting of the Board was performed by the Honourable Federal Commissioner for Finance on the 8th of September, 1977.⁶

The next land mark re-organisation of the Board was the promulgation of the *Finance (Miscellaneous Taxation Provisions) (Amendment) Decree No. 3 of 1993* which reconstituted and expanded the Board's membership. Further transformations came sequel to the recommendations of the Study Group and the Working Group (as earlier analysed), the most fundamental of which was the passage of the *Federal Inland Revenue Service (Establishment) Act in 2007*.

Composition of the Federal Inland Revenue Service⁷

Composition of the Board

The Board comprises of:

- a. The Executive Chairman of the FIRS, who shall be a person experienced in taxation to be appointed by the President as Chairman;
- b. Six members with relevant qualifications and expertise appointed by the President to represent each of the six geo-political zones.
- c. Chairman of the National Revenue Mobilisation, Allocation and Fiscal Commission or his representative;
- d. Representative of the Minister of Finance not below the rank of Director
- e. Group Managing Director of the Nigeria National Petroleum Corporation or his representative not below the rank of Group Executive Director or its equivalent;
- f. The Chief Executive Officer of the National Planning Commission or his representative not below the rank of Director;
- g. Comptroller-General of the Nigerian Customs Service or his representative not below the rank of Deputy Comptroller-General;
- h. The Registrar General of the Corporate Affairs Commission or his representative not below the rank of Director;
- i. A representative of the Attorney-General of the Federation;
- j. The Governor of the Central Bank of Nigeria or his representative

Powers and Duties of the Board

- a. Provision of general policy guidelines relating to the functions of the Service;
- b. Management and superintendence of policies of the Service on matters of administration of revenue assessment, collection and accounting under the Act or any enactment;
- c. Review and approval of strategic plans for the Service;
- d. Employment and determination of terms and conditions of service, including disciplinary measures for the Service;
- e. Determination of remuneration, allowances, benefits and pensions of staff of the Service in consultation with the National Salaries, Income and Wages Commission;
- f. Such other things which in its opinion are necessary to ensure the efficient performance of the functions of the Service.

There is also a Technical Committee of the Board comprising of the Executive Chairman of the Service as Chairman; all the Directors and Head of Departments of the Service; the Legal Adviser of the Service; the Secretary to the Board; and any person co-opted from the Service by the Committee. The functions of the Committee are:

- a. Consideration of all tax matters requiring professional and technical expertise and making recommendations to the Board;
- b. Advising the Board on any aspect of the functions and powers of the Service; and
- c. Such other matters as may from time to time be referred to it by the Board.

Taxes administered by the Federal Government

The Taxes and Levies (Approved List for Collection) Act 1998 defines the jurisdiction of the three tiers of government in terms of who administers what taxes. The decree originally passed as Decree No. 21 of 1998 but deemed by the saving and transitional provisions of the 1999 Constitution to be an Act of the National Assembly is now Cap T2 Laws of the Federation of Nigeria 2004. The Act vests the collection of the following taxes in the Federal Inland Revenue Service:

- a. Petroleum Profits Tax
- b. Companies Income Tax
- c. Personal Income Tax (FCT residents, non-residents, members of the Nigerian Police and the Armed Forces, employees of the Federal Ministry of Foreign Affairs)
- d. Withholding tax on companies, residents of the FCT and non-residents
- e. Capital Gains Tax (corporations, FCT residents and non-residents)
- f. Stamp Duties (corporations and FCT residents)
- g. Education Tax
- h. Value Added Tax

In addition to the eight taxes above, the National Information Technology Development Act 2007 empowers the FIRS to administer the National Information Technology Development Levy imposed by section 12 of the Act. Lastly, the Federal Inland Revenue Service (Establishment) Act 2007 empowers the Service to administer all fees, levies and taxes relating to Oil Exploration License, Oil Mining License, Oil Production License, royalties and rents.

STATE BOARDS OF INTERNAL REVENUE

The history of State Boards of Internal Revenue is traceable to the history of state creation in Nigeria. In 1967, the Federal Military Government promulgated the *States (Creation and Transitional Provisions) Decree No. 14 1967* under which the country's three regions were divided into twelve states. Lagos, which until then enjoyed the status of federal capital territory, became recognised by the decree as one of the new states. This new status came with certain implications for the state, one of which was the need to generate revenue to support the provision of services for residents of the state. In response to this challenge, collection of personal income tax in Lagos was divested from Federal Inland Revenue Department and was vested in the Lagos State Internal Revenue Department. At the time there was no uniformity in the composition of the State Boards of Internal Revenue. Indeed, some states did not even have Boards of Internal Revenue and the closest thing to a tax authority was the office of a director of tax revenue.⁸ The absence of institutional structures led some states to initiate the practice of engaging the services of tax consultants to administer taxes on behalf of the state authorities. This was the position in several states until the report of the 1991 Study Group. One major result of the Group's report was the *Personal Income Tax Decree No. 104 of 1993*. State Boards of Internal Revenue were established for every state by virtue of section 85(1) of the decree. The decree is deemed an Act of the National Assembly and retained as Cap P8, Laws of the Federation of Nigeria 2004. Under the 2004 Act, the relevant provision is section 87. The section provides that:

There is hereby established for each State, a Board to be known as the State Board of Internal Revenue (in this Act referred to as "the State Board") whose operational arm shall be known as the State Internal Revenue Service (in this Act referred to as "the State Service").

The state board shall comprise of the executive head of the State Service as chairman, who shall be a person experienced in taxation and be appointed by the governor from within the State Service; the director and heads of departments within the State Service; a director from the state ministry of finance; the legal adviser to the State Service; three other persons nominated by the commissioner for finance on their personal merit; and the secretary of the State Service who shall be an ex-officio member appointed by the Board from within the State Service.

Functions of the State Board of Internal Revenue

The State Board of Internal Revenue plays the following role in the administration of taxes:

- a. ensuring the effectiveness and optimum collection of all taxes and penalties due to the government under the relevant laws;
- b. doing all such things as may be deemed necessary and expedient for the assessment and collection of the tax and accounting for all amounts so collected in a manner to be prescribed by the commissioner;
- c. making recommendations, where appropriate, to the Joint Tax Board on tax policy, tax reform, tax registration, tax treaties and exemptions as may be required from time to time;
- d. generally controlling the management of the State Service on matters of policy, subject to the provisions of the law setting up the State Service; and
- e. appointing, promoting, transferring and imposing discipline on employees of the State Service.

The State Board is autonomous in the day-to-day running of the technical, professional and administrative affairs of the State Service. The State Board may, by notice in the gazette or in writing, authorize any person to perform or exercise on behalf of the state board, any function, duty or power conferred on the state board; and receive any notice or other document to be given or delivered to or in consequence of the decree or any subsidiary legislation made under it.

The Technical Committee of the State Board

The Act also establishes a technical committee for the state board which comprises of the chairman of the state board as chairman; the directors within the State Service; the legal adviser to the State Service; and the secretary of the State Service. The functions of the technical committee include co-opting additional staff from within the State Service in the discharge of duties; considering all matters that require professional and technical expertise and making appropriate recommendations to the board; advising the board on all its powers and duties as specifically mentioned in section 85B of the Act; and attending to such other matters as may, from time to time, be referred to it by the board.

Taxes Administered by the State Government

Under the Taxes and Levies (Approved List for Collection) Act, the administration of the following taxes is vested in the States Boards of Internal Revenue:

- a. Personal income tax in respect of *Pay-As-You-Earn* (PAYE) and direct taxation (self assessment);
- b. Withholding tax (individuals only);
- c. Capital gains tax (individuals only);
- d. Stamp duties on instruments executed by individuals;
- e. Pools betting and lotteries, gaming and casino taxes;
- f. Road taxes;
- g. Business premises registration and renewal of registration fees in respect of urban and rural areas as defined by each state;
- h. Development levy (individuals only) not more than N100 per annum on all taxable individuals;
- i. Naming of street registration fees in the state capitals;
- j. Right of occupancy fees on lands owned by the state government in urban areas of the state;
- k. Market taxes and levies where state finance is involved.⁹

LOCAL GOVERNMENT REVENUE COMMITTEES

Decree No. 104 of 1993 also established Local Government Revenue Committees for every local government in all the states. The relevant provision under the 2004 Act is section 85D. The section provides that:

There shall be established for each local government area of a State a Committee to be known as the Local Government Revenue Committee (in this Act referred to as “the Revenue Committee”).

The Revenue Committee comprises of the supervisor for finance as chairman; three local government councillors as members; and two other persons experienced in revenue matters to be nominated by the chairman of the local government on their personal merits. The functions of the Revenue Committee include the assessment and collection of all taxes, fines and rates under the jurisdiction of the local government and accounting for all amounts so collected in a manner to be prescribed by the chairman of the local government.

Taxes Administered by the Local Governments

By virtue of the Taxes and Levies (Approved List for Collection) Act, the following taxes and levies can be collected at the local government level:

- a. Shops and kiosks rates
- b. Tenement rates
- c. On and off liquor license fees
- d. Slaughter slab fees
- e. Marriage, birth and death registration fees
- f. Naming of street registration fee, excluding any street in the state capital
- g. Right of occupancy fees on lands in rural areas, excluding those collectable by the federal and state governments
- h. Market taxes and levies excluding any market where state finance is involved
- i. Motor park levies
- j. Domestic animal license fees
- k. Bicycle, truck, canoe, wheelbarrow and cart fees, other than a mechanically propelled truck
- l. Cattle tax payable by cattle farmers only
- m. Merriment and road closure levy
- n. Radio and television license fees (other than radio and television transmitter)
- o. Vehicle radio license fees (to be imposed by the local government of the State in which the car is registered)
- p. Wrong parking charges
- q. Public convenience, sewage and refuse disposal fees
- r. Customary burial ground permit fees
- s. Religious places establishment permit fees
- t. Signboard and advertisement permit fees.¹⁰

References

- 1 “Past Chairmen and Heads of Federal Inland Revenue Service”, *Gauge*, October–December, 2008, 14.
- 2 The nomenclature of Commissioner of Income Tax was changed with the establishment of the Federal Board of Inland Revenue first, in 1958 and then in 1961.
- 3 Section 15 Finance (Miscellaneous Taxation Provisions) (Amendment) Decree No. 3 of 1993.
- 4 Hereafter referred to as ‘Board’.
- 5 *Ibid.*
- 6 FBIR, *Seventh Annual Senior Officers’ Conference of the Federal Inland Revenue Department 1977* (Lagos: Federal Ministry of Information Printing Division, 1978) 10.
- 7 All references are based on the FIRS (Establishment) Act 2007, except otherwise stated.
- 8 Ndekwe, E. C., *Tax Structure and Administration* (Ibadan: NISER, 1988).
- 9 See Part II, Schedule 1, Taxes and Levies (Approved List for Collection) Act.
- 10 See Part III, Schedule 1, *ibid.*