CHAPTER SIX

INSTRUMENTS OF TAX POLICY

Background

Nigerian tax policy up to 2010 was a varied mix of legislation, judicial pronouncements, budget speeches, committee reports and international treaties. The National Tax Policy- an outcome of the 2002 Study Group of the Nigerian tax system- was approved by the Federal Executive Council in 2010. The National Tax Policy, which is discussed in detail in the latter part of this chapter, provides the objectives to be achieved and the principles to be adhered to at all times in the Nigerian tax system. While this has provided a roadmap for better operation of the system, it still does not detract from the impact other measures such as judicial pronouncements and international treaties had; and continue to have on the overall system. The focus of this chapter is to highlight how prior to, and apart from the National Tax Policy, various policy tools have contributed to the development of the Nigerian tax system over time.

As evident in the volume of the preceding chapter, legislation has been more pervasive than any other policy tool throughout Nigeria's colonial and post colonial history. During the colonial era, legislations were passed as Ordinances and after independence, federal legislation were designated Acts while legislations passed by states were referred to as 'laws'; a practice that has endured up to date. The military introduced the nomenclature of decrees and edicts for legislation issued by the federal military government and the state military administrators respectively. It was also the military that introduced the use of *Finance (Miscellaneous Taxation Provisions) decrees* whereby different tax enactments were amended/ repealed by the instrumentality of a single, omnibus decree. The nature of these decrees were such that distinct taxes such as companies' income tax, personal income tax, capital gains tax, petroleum profits tax and such other taxes that were deemed necessary, were amended by a single legislation.[1]

Apart from imposition of tax, legislation has been used as a tool to enhance the administration of tax. For example, in 1966, the federal military government issued the *Income Tax (Authorised Communications) Decree*.[2] The decree is deemed as an Act of the National Assembly and forms part of current Nigerian statutes, having been retained as Cap I5, Laws of the Federation of Nigeria 2004. Essentially, the Act empowers the President to request the Inspector General of Police or other police officer above the rank of Chief Superintendent of Police, to inspect and if necessary remove any books, records or documents in the possession of the Federal Inland Revenue Service or any other tax authority for the purposes of any investigation. The President's direction to the Inspector General shall be in the format contained in Form 1 to the Schedule to the Act while the Inspector General's direction to the concerned tax authority shall be in the format contained in Form 2 to the Schedule. The Schedule containing the forms was introduced by the *Income Tax (Authorised Communications) (Amendment) Decree 1966*.[3] The *Income Tax (Authorised Communications) Decree 1966* was meant to be an exception to section 14 (1) of the *Companies Income Tax Act 1961*; and continues to be an exception to other income tax laws conferring an oath of secrecy on tax administrators. The purpose of the law is to empower the President, in appropriate cases, and in the public interest, to circumvent the oath of secrecy by which tax officials are ordinarily bound.

Legislation has also been used to grant relief to individual and corporate taxpayers as economic circumstances dictate. Some of these legislations include the *Income Tax (Rents) Act 1963* which was passed for the purpose of 'granting of relief from income tax on payments by way of rent received in respect of certain dwelling houses; and for purposes connected therewith'.[4] While the *Income Tax (Rents) Act 1963* was aimed at providing relief on certain advance payments made by way of rent; the *Industrial Development (Income Tax Relief) Decree 1971*[5] is intended to provide tax relief to companies that qualify as 'pioneer industries' or whose products qualify as 'pioneer products'. The criteria for qualification is contained in section 1 (1) of the decree.[6] According to the section, where the President is satisfied that:

a. any industry is not being carried on in Nigeria on a scale suitable to the economic requirements of Nigeria or at all, or there are favourable prospects of further development in Nigeria of any industry; or

b. it is expedient in the public interest to encourage the development or establishment of any industry in Nigeria by declaring the industry to be a pioneer industry and any product of the industry to be a pioneer product;

the President may direct that the list of such industries and products be published in the gazette and thereupon, a company in any of such industries may apply and obtain a pioneer status certificate granting it relief from tax for an initial period of three years, and renewable for either twice annually or once for two years.[7] Under the principal decree, the power exercisable by the President was vested in the Federal Executive Council.

Case Law

The Nigerian judicial system is hierarchical in nature. This makes for the operation of judicial precedent and *stare decisis*. Judicial precedent provides for consistency by ensuring that where a case comes before a court or tribunal and the facts of the case are similar to another case in which a decision already exists, the court or tribunal should follow the decision in the earlier case. *Stare decisis* refers to the binding element wherein a lower court or tribunal is obligated to follow the decision of a superior court where the lower tribunal is faced with a case similar to one that had been decided upon by a superior court. The aim of this segment is not to analyse all tax decisions that have been handed down but rather; to analyse a number of notable tax cases and in so doing, illustrate how courts shape tax policy.

Shell Petroleum Development Company of Nigeria Limited v. FBIR[8]

Shell Petroleum Development Company, SPDC, submitted its returns for the period 1st January - 31st December 1973 to the Federal Board of Inland Revenue, FBIR, showing the tax liability which in the view of the company was payable by it. The FBIR disallowed four expenses claimed as deductible items in the returns filed by SPDC on the ground that such expenses were not deductible in computing chargeable tax under the Petroleum Profits Tax Act, PPTA. The four items were:

a. Exchange losses on payment of petroleum profits tax;

b. Central Bank commission for payment of petroleum profits tax;

c. Scholarship expenses; and

d. Gifts and donations.

Shell registered its objection by appealing to the Body of Appeal Commissioners, BAC. At the hearing before the BAC, the company abandoned the fourth item on gifts and donations. The BAC dismissed the appeal of Shell and confirmed the revised assessment issued by the FBIR. Shell proceeded to the Federal High Court, which allowed the appeal in respect of two items namely; exchange losses on payment of petroleum profits tax and Central Bank commission. The court dismissed the appeal against scholarship expenses. Both parties appealed to the Court of Appeal; Shell against the confirmation of the assessment on scholarship expenses and the FBIR against the setting aside of the assessments on exchange losses and Central Bank charges. The Court of Appeal dismissed Shell's appeal and allowed the appeal by the FBIR, thereby restoring the decision of the BAC. Dissatisfied with the judgment, Shell appealed against it to the Supreme Court. The Supreme Court unanimously allowed the appeal.

The item that particularly impacted on Nigerian tax policy in this case was the treatment of "exchange losses" by the Supreme Court. In allowing exchange losses as deductible, the Supreme Court relied on four agreements entered into by SPDC and the FBIR between 1967 and 1972. The agreements required the oil company to pay tax in Pound Sterling into the account of the Central Bank of Nigeria, CBN, with the Bank of England in London. Shell therefore had to convert United States Dollars, which is the currency of transaction, into Naira and then convert the Naira again into the Pound Sterling to pay into the CBN's account in fulfilment of the agreements. This procedure was subject to fluctuations in foreign exchange and did give rise to exchanges losses. These were the losses the oil company sought as "deductible" arguing that the losses were incurred as expenses attributable to "petroleum operations" as defined under Section 2 of the PPTA. It must be noted that judicial reasoning has always leaned on the side of calculating tax liability in the currency of the country of assessment. The Privy Council of the House of Lords acknowledged this position in the case of *Payne v. The Deputy Commissioner of Taxation*.[9] The reasoning appears to be hinged on the understanding that a country's currency is an index of its sovereignty.[10] The Supreme Court gave credence to this reasoning but made an exception in the light of the agreements between the FBIR and SPDC. In essence, but for the agreements in question, the Nigerian Naira ought to have been the currency of taxation in this case.

The reaction of the Nigerian government to the above decision was in the form of the Finance (Miscellaneous Taxation Provisions) Decree No. 30 of 1996. Section 41 thereof provided that notwithstanding anything to the contrary in any law, all tax computations under the PPTA shall be made in the currency of transaction. Section 7 made similar provisions regarding computation of tax under the Companies Income Tax Act. The relevant provisions in the current enactments are Sections 40 and 54 of the PPTA[11] and the CITA[12] respectively.

By stamping the decision of the Supreme Court in the above case with statutory flavour, the government seeks to avoid the complications resulting from foreign exchange that gave rise to the dispute in Shell's case. However, another school of thought is of the opinion that rather than sacrifice the national currency on the altar of convenience, the statutory framework should have provided for the taxation of companies in similar situation in the national currency equivalent of what would have been the value in the currency of transaction.[13]

Aluminium Industries A. G. v. FBIR[14]

In the aforementioned case, the appellant entered an agreement with Aluminium Manufacturing Company Limited (a Nigerian company) in Zurich, Switzerland. Part of the terms of the agreement required the latter to repay the principal and interest on a loan entered into in Switzerland to the appellant in Swiss France in Zurich. In the course of assessment for tax, the assessment on the interest became subject to litigation. The Supreme Court held that the arrangement between the appellant and Aluminium Manufacturing Company Limited totally removed the transaction from under the scope of the Companies Income Tax Act 1961[15] where pursuant to Section 17, a company was deemed to be subject to tax in Nigeria, if there was a right to payment of interest in Nigeria.

The arrangement between the appellant and Aluminium Manufacturing Company Limited is a case of avoidance as the parties acted within their right to order their affairs so that the tax attaching under the appropriate Act is less than it otherwise would be. Their arrangement successfully circumvented the provisions of section 17, CITA 1961 which provided that interest was liable to Nigerian tax as interest derived from Nigeria if there is a right to the payment of the tax in Nigeria; or, the interest is by deed or obligation by virtue of any contract which is entered into in Nigeria. Consequently, the interest payment was not subject to Nigerian tax as the right to repayment by virtue of the contract was in Switzerland and the loan contract was not entered into in Nigeria.

The aforementioned case actuated an amendment to CITA 1961 and the amendment has been retained under the extant Companies Income Tax Act Cap C21 Laws of the Federation of Nigeria 2004. Section 9 (2) (a) and (b) of the Act provides that interest shall be deemed to be derived from Nigeria if:

(a) There is a liability to payment of the interest by a Nigerian company or a company in Nigeria regardless of where or in what form the payment is made; or

(b) the interest accrues to a foreign company or person from a Nigerian company or a company in Nigeria regardless of whichever way the interest may have accrued.

Stabilini Visinoni Ltd v. FBIR[16]

This was an appeal against the ruling of the Value Added Tax Tribunal. The question before the appellate court pertained to the question of the constitutionality of the provisions of Section 20, Value Added Tax Act[17] which established the defunct Value Added Tax Tribunal. The appellant's claim was that the aforementioned section radically violates the provisions of section 251 of the Constitution of the Federal Republic of Nigeria, 1999 and prayed the court to dismiss the suit on the ground that the Tribunal lacked jurisdiction to hear the suit. After considering the relevant provisions, the court granted the prayer of the appellant and further held with regards to the constitutionality of the Value Added Tax Act 1993 and the Tribunal's jurisdiction to hear the suit brought before it by the respondent, that section 20, VAT Tribunal Act was inconsistent with the Constitution and was thereby declared null and void.[18] However, by virtue of the provisions of the Federal Inland Revenue Service (Establishment) Act 2007 which abolishes the VAT Tribunal and establishes the Tax Appeal Tribunal (TAT)[19] the legal quandary in which the VAT Tribunal was placed has been addressed.

Lagos State Board of Internal Revenue v. Eko Hotels Ltd. & Anor[20]

This was an appeal to the Court of Appeal from the decision of the Federal High Court. One of the issues for determination was whether the learned judge was right when he held that Value Added Tax Act has covered the field of sales tax and that the plaintiff respondent is a taxable or remitting agent to only the Federal Board of Inland Revenue (the 2nd respondent) in respect of tax on sales to its customers and that it would amount to double taxation to require the 1st respondent to yield to the demands of both 2nd respondent and the appellant at the same time.

The core of the decision of the court was that VAT and sales tax are the same as VAT is ordinarily a national tax on sales of goods and services. With reference to whether the provisions of the VAT Act and Sales Tax Law creates double taxation, the court held in the affirmative as the actual beast of burden of the VAT/sales tax is the consumer and the tax is charged on similar consumable items as defined in the Schedules of both the VAT Act and the Lagos State Sales Law. It affirmed that with respect to VAT collection and remittance, the 1st respondent is an agent only to the 2nd respondent and as such is obligated to collect and remit VAT to same; and that it is not so obligated with reference to the appellant. The court further held that in the circumstances, VAT has covered the field of tax on consumption of the services provided by the 1st respondent. [21]

Value Added Tax is neither on the Exclusive nor Concurrent Legislative Lists contained in the Second Schedule to the 1999 Constitution. This means that VAT is a residual matter. The import of this decision on the Nigerian the tax system is that whereas the House of Assembly of a State may legislate on the residual field, where the National Assembly has already legislated on such an item, then the law passed by the House of Assembly is null and void because the "field" in question has already been "covered."[22]

Fast Forward Sports Marketing Ltd v. The Port–Harcourt City Local Government Area Council[23]

The plaintiff was served with demand notices by agents and officers of the defendants in respect of Agricultural Development Levy for 2008 as well as the Rivers State Board of Internal Revenue for 2008 Economic Development Levy respectively. The plaintiff filed the suit to challenge the action of the defendant after it had been threatened with seizure and/or distrain repeatedly by the latter.

The court in its judgement held *inter alia* that the imposition of the Agricultural Development Levy and Economic Development Levies by the Port Harcourt Local Government Area Council and Rivers State Government on the plaintiff amounts to double taxation. The court also held that the Local Government Council acted outside the scope of Part III Schedule 1 of the *Taxes and Levies (Approved List for Collection) Act.*[24]

The decision of the Federal High Court above represents the proper interpretation of statutory provisions. Tax authorities at all tiers of government must act within the limits of the law. Thus any levy or tax that is outside the powers of the taxing or levying authority is *ultra vires.*

Lagos State Board of Internal Revenue v. Nigerian Bottling Company & Anor[25]

The facts of the case are that Lagos State Government, acting through the Lagos State Board of Internal Revenue (LSBIR), on December 1, 2000, sent a letter to the Nigerian Bottling Company informing the latter of that the sales tax had been re-introduced in Lagos State and that the rate shall be 5% flat on goods/services produced in or brought into the State. The company failed to collect the requested sales tax. Acting under Section 6 of the Lagos State Sales Tax Law No. 9 of 1982 the LSBIR made an estimate of the sum due from the company as sales tax, plus a 5% penalty assessed on the estimated sum, respectively for the period between December 2000 and May 2001. The Notice of Assessment was served on the company on December 31, 2001. After receiving the Notice of Assessment, the company filed a Notice of Objection on the ground that the legality of the Sale Tax Law was the subject of litigation. In reply, LSBIR served a demand notice for the assessed sum on the company and commenced this action claiming the assessed sum as sales tax arrears, penalty as well as interest.

In its decision, the court followed the decision in *Lagos State Board of Internal Revenue v. Eko Hotels Ltd. & Anor. (supra)* which is to the effect that the defendant is under no obligation to collect additional tax on the sales of its services to its customers in that the VAT has covered the field of tax on consumption of the services provided.

Marina Nominees Ltd. v. FBIR[26]

The facts of this case are that the appellant - partnership firm - incorporated a company to perform secretariat functions which it hitherto performed in a bid to reduce its tax burden. When the agent company was faced with assessment for tax purposes, the appellant as principal challenged this by claiming that as an agent, the incorporated company was not subject to tax for tasks performed for it. At the Supreme Court, it was held that the using of an incorporated company for the purpose of performing a task does not obviate the fact that the incorporated company is a separate legal entity which must fulfil its own obligation under the law– including the obligation to pay tax.

The device of incorporating a company was clearly a means to avoid tax, as it would mitigate the tax burden of the partnership. To combat the use of the device of limited liability companies for the purpose of tax avoidance, the provisions of Section 19, CITA 2004 empower the revenue authority to deem and/or treat the undistributed profit of a company that is controlled by five persons or less as distributed where its distribution will not be detrimental to the company.

Commission/Committee Reports

Analyses of the various Fiscal Commissions as well as the various Study Groups on the reform of the tax system have been discussed earlier. The reports of these commissions and committees which were set up by the government at different times provided the basis for new trends and innovations in the system. These recommendations and innovations have also been addressed earlier in this book.

Budget Speeches

Another instrument of tax policy apart from legislation and commission reports was the budget. This policy tool was especially used by the military regimes. The 1975 budget was broadcast on 31st March 1975 by then Head of the military government, General Yakubu Gowon. The budget speech introduced eight reforms in the tax sector. First, 50 percent of salaries arrears paid to employees in the private sector following the salary increase that was initiated by the government were made tax free as was the case with public servants. Second, the rate of company income tax was reduced from 45 percent to 40 percent "in order to reduce the impact of the recent salaries and wages increases on the private sector and encourage further private investment."[27] In addition, the first 600 naira of any company's profit was exempted from tax in order to encourage small businesses. Third, in order to remove the incidence of double taxation and also encourage investment in shares, shareholders became entitled to relief in respect of tax due on their incomes by way of dividends. Fourth, initial qualifying expenditure was increased from zero to 5 percent and annual allowance from 5 percent to 10 percent in respect of building expenditure as a strategy to encourage investment in housing development. Fifth, the benefits accruing to residents of Lagos under the Income Tax Rent Act were extended to the entire country and the value of eligible property was raised from 50,000 naira to 100,000 naira. Sixth, the rate of contribution to the Industrial Training Fund was reduced from 2 percent to 1 percent as an additional means of reducing costs and expenses in the economy. Seventh, the application of the capital gains tax which had hitherto applied to only Lagos was extended to cover the federation and non-residents. The then Federal Board of Inland Revenue was entrusted with capital gains tax accruing from non-residents while state tax authorities were entrusted with capital tax gains accruing from residents. Finally, the *jangali* tax was abolished 'in principle' to 'bring some relief to the Fulani cattle owner on his capital and encourage him to keep his cattle within the country'.[28]

In the 1976-1977 budget, the federal military government again increased the rate of corporate tax to 45 percent on profits of companies in excess of 6000 naira. The then Head of State, General Olusegun Obasanjo, argued that the earlier reduction was to minimize the impact of the increase in wages at the time and that purpose having been served, the necessity for the reduction was no longer there.[29] Second, the budget tagged the maximum period for which unabsorbed losses could be carried forward at four years. Decree No. 47 of 1972 which allowed companies to claim such losses incurred in the preceding year of assessment did not specify the limit as to the number of years such losses could be carried forward. Finally, and maybe most importantly, the budget broadcast introduced the use of Tax Clearance Certificates (TCC). TCCs were to be introduced and reflected in the capital gains tax decree, making their presentation obligatory before the commissioner of stamp duties could accept documents for stamping and registration. Since its introduction, the production of TCC has become a major precondition for several transactions.

In the 1977-78 budget, three policy planks regarding taxation were introduced. First, the government introduced a turn-over tax at the rate of two and half percent in the construction and building industry as an alternative to profit tax. This was to correct the situation where companies in the sector were paying no income taxes despite an obvious boom in the industry. In the sphere of personal income tax, personal allowance fixed at 600 naira was extended to one-tenth of earned incomes while dependent relative allowance remained at 400 naira and was granted to any person who had an income in his own right. In view of these concessions, the rate of tax on chargeable incomes was supposedly increased without the broadcast stating the new rates. Lastly, state governments were required to 'institute stringent corrective and penal measures in the new year, to reduce the incidence of tax evasion' among wealthy businessmen and self-employed professionals.

The 1978-79 budget emphasized a great deal on the need to increase revenue generation and the tax measures that were introduced reflected this emphasis. Import and excise duties were raised, a port development surcharge which was introduced during the civil war as a wartime effort was re-introduced to sustain government port development efforts. In addition, companies income tax rate was increased from 45 percent to 50 percent and to curb the incidence of late payment by companies, companies were required to pay provisional tax within thirty days of declaring interim dividends on the understanding that excess payment would be refunded at the end of the assessment year. Further, companies were required to prepare provisional accounts not later than three months after the end of the accounting year and make advance payments to the revenue department on the basis of the un-audited accounts by a process of self assessment within thirty days. Where applicable, amended assessments were to be made when final and audited accounts were prepared and submitted to the Federal Inland Revenue Department. Other strategies towards enhancing tax revenues included the introduction of tolls on major highways and bridges, introduction of airport tax and the requirement of TCC as a pre-requisite for doing business with government. The 1979-1980 budget broadcast announced the promulgation of the capital transfer tax decree. Outside this, not much was contained by way of tax policy.

Treaties and Agreements

Beginning from the era of Colonial Ordinances, the various income tax laws have always contained provisions enabling a named official of the government to enter into treaties and/or agreements with foreign governments/entities as well as make such regulations as are necessary to give effect to the treaties and/or agreements. The considerations for entering into a treaty relationship are determined by the general economic objectives of the State. A state that is desirous of attracting foreign investment seeks to remove all forms of restrictions and disincentives to business. One major policy instrument in this regard is the use of avoidance of double taxation agreements, simply referred to as double taxation agreements or DTAs.

DTAs are reciprocal arrangement whereby two countries agree not to tax the income of individuals or companies brought or received into their territory if such individual or company had already paid tax on such income in the other country. They are tools which foster and encourage international trade and commerce as they are geared towards reducing the cost of doing business across State borders. During the colonial era, these agreements were concluded on behalf of Nigeria by Britain. Between 1950 and 1956, DTAs were signed between Nigeria and the following countries: Ghana (1950), Sierra Leone (1950), the Gambia (1950), New Zealand (1951), Sweden (1954), Denmark (1955) and Norway (1956). All these agreements were repealed by the Federal Military Government on 25 April 1978.[30] From 1987 to 2000 Nigeria signed comprehensive avoidance of double taxation agreements with the United Kingdom, France, the Netherlands, Belgium, Canada, Pakistan, Romania, South Africa and China.

The Nigerian National Tax Policy

The 2002 Study Group on the Nigerian tax system identified the need for a National Tax Policy to redress the imbalances and shortcomings in the Nigerian tax system; a National Tax Policy hinged principally on the foundation of fostering national development. Such a policy was envisaged to:

a. Serve as a means of attracting foreign direct investment;

b. Consolidate several documents into a single document for easy reference;

c. Blend various opinions on taxes of different kinds, as well as the issues surrounding those opinions; and

d. Provide direction and focus on general tax practice.[31]

A Presidential Committee was inaugurated in July 2005 to drive the harmonised recommendations of the Study and Working Groups on the development of a National Tax Policy. The Committee appointed a Technical Sub-Committee on the National Tax Policy and charged it with the responsibility of developing the background policy document. The Technical Committee made sensitization visits to the six geopolitical zones of the country to seek input and opinions from various stakeholders, as well as to receive feedback, and secure trust and understanding. In 2010, the final draft of the National Tax Policy was submitted to the Federal Executive Council. While the draft incorporated input from various stakeholders, the fundamentals of the draft were based on the harmonized report of the Study Group and Working Groups. The Federal Executive Council adopted the National Tax Policy on 20 January 2010.

Guiding Principles of the National Tax Policy

The underlying philosophy of the National Tax Policy and the new tax system envisioned to arise from the implementation of the policy is the promotion of sustainable development, as well as healthy competition among tax and revenue authorities in Nigeria. The National Tax Policy will uphold the principles of fiscal federalism in revenue generation and expenditure at all levels of government, within the ambits of the Nigerian Constitution. In simple terms, it will resolve issues surrounding *"who gets what, how it is collected, who controls what is collected and who is ultimately responsible for and accountable to the taxpayers for the revenue collected and its expenditure."*[52] The three tiers of Government have different powers spelt out in the Fourth Schedule of the 1999 Constitution of Nigeria. State Governments of the Federation, through the Houses of Assembly, can exercise the power of imposing fees, levies and rates collectable by them and the Local Governments in the respective States; this is in addition to the personal income tax they are constitutionally charged with collecting.

The National Tax Policy also spells out the desired features which any form of tax must adhere to before it becomes an acceptable component of the Nigerian tax system. The features are:

a. *Simplicity*, *Certainty and Clarity*: The underachievement of the Nigerian tax system has been largely blamed on the seeming complexity of tax laws and the inability of the average taxpayer to understand them. Taxes must be understood by all; the relevant laws must be consistent and clear such that stakeholders must understand the basis of imposition.

b. *Low Compliance Cost*: This places the taxpayers' interest at a high position of prominence in that taxpayers shall be accorded the entitlement of enjoying the minimum cost of compliance possible.

c. *Low Cost of Administration*: This is in line with ensuring the efficiency of the Nigerian tax system. The National Tax Policy advocates for thorough cost-benefit analysis before taxes are imposed on Nigerians.

d. *Fairness*: The Nigerian tax system shall seek to objectively apply horizontal and vertical equity to taxpayers. In as much as tax concessions are offered to certain sectors of the economy, the tax system will, as much as is practicable, make them general and across board.

e. *Flexibility*: The Nigerian tax system will be run in a way and manner that will make it responsive to changes in the local and international environment; the introduction of new taxes and the review of existing taxes will ensure such flexibility. The process of adjustments will be designed such that there will be no difficulty in the process.

f. *Economic Efficiency*: This will ensure that tax rates are not a disincentive to taxpayers to save and invest.

Objectives of the National Tax Policy

The National Tax Policy identifies the objectives of the Nigerian tax system as follows:

a. The promotion of fiscal responsibility and accountability;
b. The facilitation of economic growth and development;
c. The provision of stable resources to the Government (which in turn uses it for the provision of public goods to the citizenry);
d. The adjustment of income distribution inequalities;
e. The stabilization of the Nigerian economy; and
f. The correction of market failures and imperfections

Categories and Roles of Stakeholders under the National Tax Policy

The Executive Arm

The National Tax Policy states that the requisite leadership and direction required to push Nigeria's tax system and the revenue agencies (such as the FIRS) in the desired direction will be provided by the Presidency. The Presidency is also responsible for signing and implementing all regional and international tax treaties entered into by Nigeria. At the State level, State Governors play roles akin to those played by the Presidency at the Federal level.

They are expected to develop State tax policies which will be complimentary to the National Tax Policy. In addition, State Governors are expected to perform the following functions as spelt out by the National Tax Policy:

a. enforce Federal and State tax laws in their states;

b. carry out general oversight functions on tax and revenue authorities at State and Local Government levels;

c. provide guidance and direction to the State Ministries of Finance, the States' Boards of Internal Revenue and other agencies involved in tax administration in the States;

d. ensure cooperation among the States' Boards of Internal Revenue, the Federal Inland Revenue Service, the Nigerian Customs Service and other revenue agencies in the adoption of a nationwide Unique Taxpayer Identification Number (U-TIN) system, as well as information sharing and elimination of multiple taxes;

e. provide advice to the Federal agencies and bodies responsible for tax policy, legislation and administration in Nigeria

At the Local Government level, Local Government Chairmen as Chief Executives shoulder the responsibility of implementing and enforcing tax laws, as well as ensuring the availability of adequate and appropriate manpower for tax revenue authorities at their level of government.

The National Council of States and the National Economic Council

The National Council of States is comprised of former Presidents, Chief Justices of the Federation, serving State Governors, the President of the Senate and the Speaker of the House of Representatives. Constitutionally, the National Council of States is not specifically mandated to advise the President on tax matters; however, the Constitution provides that the Council may advise the President on matters which he may so direct and tax may well be one of those matters. The National Economic Council is a creation of the Nigerian Constitution which is charged with the responsibility of offering advice to the President on issues regarding economic matters. Taxation is a component part of the economy and the Council's purview includes making input to the President on tax affairs in Nigeria.

The Federal Executive Council, Federal Ministries of Finance, Education and Information

As the highest decision-making body at the federal tier of government, the Federal Executive Council is charged with responsibility of approving all matters which will ensure the effective oversight of tax policy and administration in Nigeria. The National Tax Policy envisages that one of the measures by which voluntary compliance by taxpayers can be guaranteed is the full disclosure of all sources of income by the members of the Federal Executive Council; the determination of the correct taxes payable by them on those incomes; and the subsequent publication of the tax clearance certificates of members by the 30th of June of every year. The Federal Executive Council shall also ensure transparency and accountability in the utilization of tax generated and keep taxpayers informed on expenditure patterns of tax revenue on a regular basis. Furthermore, the President as Chairman of the Federal Executive Council is charged with the task of assenting to tax legislations passed by the Legislature and should be at the forefront of maintaining a cordial, respectful relationship with the judicial arm of government that does not impugn in any way the independence, objectivity and integrity of the Judiciary.

The Federal Ministries, Departments and Agencies of the Federation are expected to do all they can within their purview to assist in the development of the Nigerian tax system, such as cooperating with the Federal Executive Council and sharing information necessary for improved tax assessment and collection. Technology has a place of pride in the National Tax Policy in that Ministries, Departments and Agencies are required to maintain a database which makes allowance for the inclusion of the Unique Taxpayer Identification Number of every individual, company or enterprise with which they have dealings. The National Tax Policy also advocates the use of electronic payment systems by Ministries, Departments and Agencies to directly remit taxes to the relevant accounts of Federal and States' tax authorities. Transactions entered into by the Ministries, Departments and Agencies which require Tax Clearance Certificates and requisite tax documents should be ratified only after the aforementioned tax documents have been authenticated by the relevant tax authorities. The Policy states that *"tax should be a major consideration in the evaluation process of individuals and organizations such that the lack of payment of taxes is seen as an affront on government and a crime."*

The Federal Ministry of Finance is particularly important in the tax administration system in Nigeria. It is responsible for proposals for amendments of Nigerian tax laws by the National Assembly. The permission of the Federal Ministry of Finance is also necessary and must be sought by other Federal Ministries or Agencies before executing agreements, letters or any document touching on issues of fiscal policy. The Federal Inland Revenue Service supports the Federal Ministry of Finance on tax policy issues, and vice versa.

The Federal Ministries of Education and Information are expected to also provide support to the Federal Ministry of Finance, especially in the areas of taxpayer education and public enlightenment. The Federal Ministry of Education is expected to incorporate tax education in the curricula of institutions in the Nigerian educational system, using the "cradle to grave" concept of taxpayer education, thus entrenching a tax culture in the psyche of every Nigerian at an early age. On its part, the Federal Ministry of Information is charged by the National Tax Policy to regularly implement public enlightenment campaigns on issues revolving around tax and government revenue and expenditure.

The State Executive Councils and the State Ministries of Education and Information

The State Executive Councils are the equivalents of the Federal Executive Councils at the State level, playing very similar roles at the State tier of government in Nigeria. The development of tax policies, implementation and enforcement of taxes at the State and Local Government level is the responsibility of the State Executive Council. The State Ministry of Finance is responsible for issues of tax policy at the State level. It initiates amendments to tax laws through applications to the National Assembly and the State's House of Assembly, depending on the purview of the proposed amendments. States' Ministries of Finance are enjoined by the National Tax Policy to cooperate with the Federal Inland Revenue Service, States' Boards of Internal Revenue and other tax revenue authorities to ensure there is transparency in the collection and utilization of tax. States Ministries of Information and Education are enjoined to replicate at the State level the role envisaged for their federal counterparts.

Local Government Councils

The Fourth Schedule of the 1999 Constitution states that the Local Government is the body in charge of collecting taxes and other revenue at the Local Government Level. The

Local Government Councils may also perform other functions assigned to them by the States' Houses of Assembly. The Local Government Councils are expected to carry out the following functions as well:

a. The strict implementation of tax laws and the incorporation of tax in the everyday business of Government;

b. Ensure proper assessment, collection and prompt remittance of taxes to designated government accounts;

c. Ensure the maintenance of a database of taxpayers and incorporate into the said database the Unique Taxpayer Identification Number for every individual, company and registered body under their jurisdiction;

d. The authentication of Tax Clearance Certificates and relevant tax documents used in the daily conduct of Government business by referral back to the relevant tax authority;

e. The use of the electronic payment system to ensure direct remittance of tax revenue to the appropriate accounts of the tax authorities.

The Legislature

The legislative arm of government is charged with the responsibility of enacting and amending laws. The National Assembly and State Houses of Assembly are therefore assigned prominent and important roles in tax legislation. Section 4 of the Nigerian Constitution empowers the National Assembly to enact and amend laws relating to taxation of income or profits, after duly considering the input and recommendations of other stakeholders such as the Federal Ministry of Finance, other Ministries, Departments and Agencies and citizens of the country. One of the key functions of the National Assembly is to work in tandem with the Federal Executive Council for the effective translation of tax policy recommendations to tax laws. The National Tax Policy recommends that the National Assembly should be responsible for requesting for input from members of the general public with regard to issues of tax policy recommendations and tax legislations, in furtherance of the Assembly's duty as the collection of elected representatives of all Nigerians.

The States' Houses of Assembly are responsible for translating tax policies to legislation that will enhance the ability of Local Governments to effectively collect taxes, rates, fees and levies and other collectible charges. States' legislatures are also responsible for tax laws that are within the legislative competence of the States as contained in the Constitution.

The Judiciary

The Judiciary interprets tax laws and also adjudicates on tax matters. In order to ensure its effective contribution to the Nigerian tax system, the National Tax Policy recommends that the personnel of that arm of government are regularly kept informed of current developments in tax affairs in Nigeria so that they can adjudicate appropriately and fairly on matters brought before them for adjudication.

Tax Authorities

Tax authorities include the Federal Inland Revenue Service and the States' Boards of Internal Revenue. In addition to their primary statutory function of administering taxes, they also proffer advice to the Government on tax related matters. Tax authorities are expected to maintain good relationships with the other stakeholders in the tax system such as the legislature, furnishing that arm of government with the requisite information it needs to carry out its oversight functions on the Nigerian tax system. Tax authorities are also expected to educate the public on tax matters.

The National Tax Policy advocates that tax authorities should carry out their core functions efficiently and effectively; functions such as tax assessment and collection must be performed by career tax administrators instead of contracting consultants to exercise these functions. The National Tax Policy encourages fairness in the relationship between the tax authorities and the taxpayers; the former should accord the latter respect and allow them sufficient time and space to review, challenge and appeal every tax assessment or demand made by the tax authorities.

The Joint Tax Board

The Joint Tax Board (JTB), a creation of the Personal Income Tax Act, provides a platform for federal revenue authorities and States' tax authorities on the administration of personal income tax. In the National Tax Policy, the JTB is also charged with the following functions:

a. The harmonization of tax processes and administration in Nigeria;

b. The provision of technical assistance and support to tax authorities;

c. The co-ordination of the nationwide introduction of the Unique Taxpayer Identification Number and other initiatives which may be introduced with time; and

d. The formation of standard processes and procedures for the activities of tax authorities.

Taxpayers

Taxpayers are recognised by the National Tax Policy as the most important group of stakeholders in the Nigerian tax system. Voluntary compliance on the part of taxpayers is one of the key focuses of the Policy with respect to taxpayers. Taxpayers are also expected to act in an informal supervisory role by ensuring that there is transparency and accountability in the collection, allocation, disbursement and expenditure of tax revenue. Taxpayers are also expected to perform the following functions:

a. Assist tax authorities by furnishing them with all necessary information needed to improve the Nigerian tax system, or any such assistance that will enhance the performance of tax authorities;

b. Make input in tax policy formulation and tax legislation;

c. Submit disputes with tax authorities to the Judiciary for adjudication thereby contributing to the development of Nigerian tax jurisprudence; and

d. Cooperate with the other stakeholders in the tax system

The National Tax Policy also encourages the regular organization of various forums whereby taxpayers, tax authorities and other stakeholders in the Nigerian tax system regularly interact and exchange ideas and suggestions about how to promote the development of tax administration and practice in the country.

Professional Bodies, Tax Practitioners and Consultants

The roles of professional bodies in the Nigerian tax system are statutorily enshrined in the various enactments setting them up. The Chartered Institute of Taxation of Nigeria (CITN) is empowered to determine the standards, knowledge and skill a tax practitioner must attain before entering into public practice; the CITN also maintains a register of qualified members in furtherance with its responsibility of regulating and controlling tax practice. Tax practitioners and consultants are expected to do all within their abilities to ensure there is simplification of the tax process so that the level of compliance will increase; they are expected not to be parties to non-compliance with tax laws.

Key Economic Thrusts of the National Tax Policy

The National Tax Policy places great premium on the importance of tax as a tool for national economic development. Against this background, the Policy projects that tax shall be used for the following:

a. Stimulating the growth of the Nigerian economy by using tax revenues to develop basic infrastructure such as power, roads, transportation and other such infrastructure which will stimulate economic growth;

b. Direct stimulation of certain sectors of the economy which are identified to be important for the creation of employment opportunities for Nigerians;

c. Regulating and strengthening financial and economic structures and for correcting market imbalances and economic distortions;

d. Income redistribution such that tax earned from high income earners is used for the provision of infrastructure for the lowest income earners. Taxes shall act as a means to create a social security net for *"short and long term relief to indigent members of society and other classes of persons who may require such intervention by the Government;"*[83] and

e. Stimulating domestic and foreign investment.

In order for the aforementioned objectives of the National Tax Policy to be achieved, variations in tax rates may be inevitable with the passage of time. In recognition of this point, the Policy recognises that the National Assembly is the arm of government statutorily empowered by the Constitution to vary tax rates. For instance, the Policy recognises that in order for the cost of business in Nigeria to be reduced, income tax rates should be reduced to increase the cash flow of individuals and corporate citizens. The Policy however recommends that tax reliefs and allowances relating to income taxes should be delegated to the Minister of Finance for easy administration.

In order to make up for the shortfall in revenue envisaged by the reduction of income tax rates, the National Tax Policy envisages occasional upward reviews of indirect tax rates The Policy further specifies certain special arrangements which may deviate from established structures of the Nigerian tax system as currently constituted in order to attract and retain investments in the country. Examples of such arrangements are as follows:

a. The creation of Tax Free Zones in order to foster increased investment, growth and development in certain aspects of the economy or certain economic activities. The Policy specifies that the Tax Free Zones must be set up and administered by strictly following guiding legislations on such matters. The status and benefits of Tax Free Zones are to be subject to constant periodic review and the Government has the prerogative of discontinuing such arrangements if and when they are no more of any obvious advantage to the Nigerian economy.

b. The provision of tax incentives to specific sectors or activities in the Nigerian tax system to encourage their growth and development. The granting of waivers must be transparently done and applied across board in the sectors where they are granted. The Ministry of Finance and the Ministry of Justice at the Federal and State levels are charged by the National Tax Policy to ensure that there is issuance and gazetting of the applicable Orders which specify the incentives, waivers or concessions granted. The incentives will be aimed at encouraging investment, especially in the non-oil and gas sector. Tax incentives are also to be subject to regular review to determine their usefulness.

c. The expansion of Nigeria's international treaty network so as to encourage foreign direct investment. These treaties address issues such as double taxation, residency and information sharing which is necessary to forestall tax evasion by companies and individuals. The Federal Ministry of Finance and the Federal Ministry of Foreign Affairs are empowered to negotiate such treaties while the JTB is to play an advisory role in such negotiations. Ratification by the relevant arm of the Nigerian Government, as well as cancellation if and when such treaties are no longer beneficial to the economy shall be done within the ambit of Nigerian laws.

d. Entering into Production Sharing Contracts or similar arrangements which provide a more favourable tax burden for companies operating in the oil and gas sector, thus leading to greater cash flows for oil and gas companies and overall, a much more favourable environment in which oil and gas companies may operate and invest even more to further develop the sector.

The National Tax Policy and Tax Administration

A tax policy can only be described as successful when it leads to effective tax administration. The National Tax Policy recognises that sufficient and accurate information is the major requirement needed for effective and efficient tax administration which is not always voluntarily provided by taxpayers, a situation not in any way peculiar to Nigeria. The Policy enjoins the tax authorities in the country to develop internal competencies for information and intelligence gathering, as well as active collaborations with law enforcement agencies, data gathering agencies, or any such agencies which may be in the position to furnish them with the relevant information needed to enable the tax authorities adequately perform their statutory functions. Although the U-TIN system is expected to facilitate easier identification and monitoring of taxpayers, the Policy recommends that taxpayers be educated on intelligence and information gathering methods used by tax authorities, methods which are expected to protect the privacy of the taxpayers and to be in conformity with constitutional requirements. Specifically, the National Tax Policy makes provisions on the aspects of tax administration discussed below.

Filing Returns, Payment and Collection

Tax collection completes a chain of processes which is set in motion by the filing of self-assessment returns by the taxpayer. In order to ensure the efficiency of tax administration, tax authorities are required to educate and enlighten taxpayers on the filing and returns process. This will avail tax authorities time and resources to enforce compliance on recalcitrant taxpayers. The Policy further enjoins tax administrators to:

a. ensure simplicity and transparency in the filing of self assessment returns; and

b. introduce and sustain the use of technology in for its key processes

Tax Audit, Investigation, and Enforcement Mechanisms

The audit and investigation aspect of tax administration seeks to verify the tax status of the taxpayers and to ascertain the completeness and accuracy of tax returns filed by taxpayers. In order to get a proper perspective on the taxpayer's status, it is imperative that audits are carried out regularly and within a reasonable period. The National Tax Policy recommends the use of electronic/technological and related means in the audit process. Tax audit and tax investigations involve similar processes, but they differ in the sense that the latter process is a lot more rigorous and could culminate in the prosecution of taxpayers found to be in default. The tax authorities are expected to carry out both processes openly and fairly so as to allow taxpayers ample opportunity to supply necessary and relevant information which will facilitate efficient audit and investigation of the taxpayers' records.

Leakages occasioned by tax evasion and avoidance may be plugged by:

a. strengthening the criminal prosecution process

b. collaboration among tax authorities at all levels of government;

c. taxpayer education and enlightenment;

d. capacity building of tax officers to increase skills and competencies

e. automation of key processes in order to eliminate or reduce human errors and fraud

f. identification of existing and potential loopholes in tax laws to reduce tax avoidance

g. devising appropriate sanctions to dissuade defaulters or offenders from evading tax

The National Tax Policy recommends reward for taxpayers who duly comply with tax laws, especially publicized rewards which encourage other taxpayers to do likewise.

Tax Refund Operation and Funding

The tax refund part of tax administration helps to ensure that taxpayers who pay excess taxes have the excess refunded. The National Tax Policy recommends that the first step in the refund process is that taxpayers must first establish genuine cases of overpayment. After the relevant tax authority has rigorously, fairly and objectively verified the claims, genuine refunds should be done within ninety days from the day the claim is established.

Information on any reasons for delay should be readily made available to the taxpayer. The National Tax Policy recommends that tax authorities set aside a certain percentage of their total annual collection for tax refund purposes. The amounts set aside for meeting those obligations must be appropriated in the annual estimates by the National Assembly or State Assembly. Unspent funds from such appropriated funds are expected to be returned to the relevant tier of government.

Tax Revenue Accounting

The National Tax Policy recognises that for taxpayers to be inspired to place a high level of confidence in the tax administration system of the country, tax authorities are responsible for giving proper, timely and complete account of tax revenue collected within given accounting periods. Not only is this expected to inspire confidence in the taxpayers regarding the tax administration process, it will also help the prevention of tax leakages. Leakages are more easily identified within the context of a transparent system. Tax authorities are expected to publish collection figures such that they are available to the general public and all stakeholders in the tax system, in addition to being made available to the Ministry of Finance and the Accountant General's Office.

Dispute Resolution Mechanisms

The National Tax Policy prescribes a number of ways by which such disputes can be resolved, taking into cognisance the role and status of the various stakeholders in the whole system.

Disputes between the Federal and State Governments[34]: while recognizing the extant constitutional provision which requires disputes between Federal and State Governments to be resolved by the adjudication of the Supreme Court, the Policy advocates alternative dispute resolution methods before the parties resort to litigation at the Supreme Court. The Policy recommends deliberations between the parties under the auspices of different platforms including the Nigeria Governors' Forum, the National Economic Council, the Federal Executive Council, and the Council of States meetings. Where deliberations at any or all of these fora fail, the Policy recommends mediation by the other State Governments or Federal Government Agencies or by other arms of Government such as the Judiciary. Mediation by the Judiciary must be done in a manner that does not impugn on the independence and the impartiality of the Judiciary, especially if it appears likely that such dispute may finally be resolved through judicial adjudication.

Disputes between State Governments[35]*:* The Supreme Court is also saddled with the responsibility of adjudicating on disputes between State Governments. The Policy recommends the same methods of alternative dispute resolution above in the event of disagreement between States. In addition to methods above, deliberations could also be held by the Attorneys General of Finance Commissioners or other relevant officials of the States involved.

Disputes between State and Local Governments: The States and Local Governments have closely interlinked functions such that the National Tax Policy advocates more of informal dispute resolution methods, instead of quick resort to litigation which may lead to *"dislocation and distraction to governance which such disputes may trigger."*[36] Such arbitrators as traditional rulers, State and Local Government organs and other stakeholders may intervene to resolve the disputes. The failure of these informal procedures may then give way to judicial adjudication.

Disputes between the Executive and the Legislature: The National Tax Policy also advocates the initial use of arbitration channels such as traditional rulers, relevant officials, and relevant institutions of State such as the Federal and State Executive Councils, the Council of State, the National Economic Council before resorting to litigation.[37] The Executive and the Legislature may also explore the options of using liaison officers and organs of the Judiciary such as the National Judicial Council. Judicial adjudication should be the last resort.

Disputes amongst and between the Executive, Legislature and the Judiciary: The National Tax Policy recommends that such disputes be resolved discreetly and amicably through informal channels to prevent undermining the integrity, impartiality and independence of the Judiciary which is likely to be required to resolve the disputes between and amongst the other arms of Government.[38]

Disputes with Taxpayers: Taxpayers are constitutionally empowered to seek judicial remedy to disputes in which they have a stake. Taxpayers are therefore entitled to explore the Tax Appeal process if and when they are dissatisfied with the decisions of any tax authority relating to the taxpayers status. They may also explore the same option with regard to the interpretation/application of tax laws and other matters which may affect the rights and status of the taxpayer. Tax authorities are expected to enlighten taxpayers on the tax appeal process and are responsible for informing taxpayers, individual or corporate, of their right to tax appeal. Tax authorities may also engage taxpayers so as to collaborate with them on alternative dispute resolution of such contentious issues.

Implementation of the National Tax Policy

Appendix 2 to the National Tax Policy highlights the strategies to be adopted to ensure the success of the policy and the creation of a tax system in Nigeria which will lead to the economic development and advancement of the country. The tax strategy has been devised to suit Nigeria's economic situation. Some of the strategies include:

Lowering the Tax Rates: The reduction in income tax rates is aimed at increasing the disposable income of individual taxpayers and after tax profits of corporate taxpayers. This is a strategy to attract foreign direct investment into the country by creating competitive advantage in Nigeria's favour.

Deliberate Policy Shift towards Indirect Taxation: Following the recommendations of the Study Group and the Working Group, the National Tax Policy endorses the policy shift of changing focus from direct taxation to indirect taxation. However, the Tax Policy specifies that indirect taxes such as value added tax should not be levied on essential goods and services. This will necessitate the expansion of VAT exempt or zero-rated goods and services.

Simplification of Tax Laws: As explained previously, simplified tax laws will reduce administrative costs incurred by (especially corporate) taxpayers in complying with tax laws.

Granting Tax Holidays or Pioneer Status to Taxpayers: The National Tax Policy encourages the granting of tax incentives to taxpayers only when such incentives will be beneficial to the Nigerian economy. They may be granted to sectors of the economy which the Government wishes to give priority and should be granted when there is an outstanding reason to implement such tax reliefs. Such key economic sectors identified by the Government are energy, mining, railways/roads, education, health, aviation, exports and agriculture.

Creation of Export Processing Zones (EPZs): One of Nigeria's economic goals is to transform the national economy to an export-oriented economy, especially to reduce Nigeria's international trade deficit and trade imbalance. The National Tax Policy recommends that:

a. Companies which operate in EPZs should continue to be exempt from income taxes, provided that 100% of the goods produced in the zones are meant for export. Exports from the EPZs into Nigeria which is Customs Territory shall attract the appropriate duty on imported raw materials.

b. Value added tax on goods produced in EPZs should be zero-rated.

c. All companies located within EPZs should continue to file returns to EPZ authorities even though no tax is payable.

d. Exemptions from import and export levies and taxes should continue to apply within the EPZs, except where the entities transact business outside the EPZ.

e. The various provisions of relevant legislation pertaining to percentages of EPZ production allowed into the country should be retained. However, any entity located in an EPZ which sells to the domestic market should be made to pay tax on the profit realised from sales outside the EPZ.

The main aim of the above recommendations is to ensure that only companies with the intention to produce goods for export are located within the EPZs. This will make away with the practice where some companies seek to be located at EPZs only to take full advantage of the liberal tax regime.

Reduction of Import and Excise Duties: The National Tax Policy explains that reducing import and excise duties to zero percent will present to Nigerian manufacturers a great opportunity to produce intermediate and finished goods. Reductions in the import and excise duties must be done such that they do not contravene the conditions of international trade agreements entered into or ratified by the Government of Nigeria.

Strengthening Nigeria's Oil and Tax Regime: The National Tax Policy recommends regular information sharing between tax collection agencies and agencies charged with the administration of the Nigerian oil and gas sector; agencies such as the Nigerian National Petroleum Corporation, the FIRS, the National Petroleum Investment Management Services (NAPIMS) and the Directorate of Petroleum Resources (DPR) are enjoined to share information regularly to optimise oil and gas revenues and tax compliance in the industry.

Steps are also expected to be taken to codify all regulations and orders applicable in the oil and gas sector.

Use of Presumptive Income Tax Assessment Procedure: This is intended to tackle the non-compliance of taxable persons who have failed to comply with tax laws as a result of their lack of fixed business addresses or size. The Presumptive Income Tax Assessment procedure is a simplified and quick method of assessing taxpayers.

Elimination of Multiple Taxes: Intensive taxpayer education is expected to reduce the incidence of multiple taxes, coupled with the implementation of the U-TIN system.

Improving the Existing Relationship between the FIRS and Large Taxpayers: The LTOs are mainly specialised in tax collection matters related to taxpayers with an annual turnover of at least one billion Naira. These relationships can be boosted to ensure maximum compliance by the large taxpayers.

Implementation of a Value-Added Tax (VAT) Threshold: In order to determine and improve the administration of VAT in Nigeria, the National Tax Policy proposes the determination of a given threshold for the annual turnover of companies such that companies with a turnover over and above the threshold are obligated to charge and/or remit VAT. Conversely, companies with a turnover below the threshold are not obligated to charge and/or remit VAT. Such threshold should be fixed by the FIRS.

The Institutionalisation of a Tax Culture in Nigeria: The average Nigerian citizen needs to be made tax conscious so that they cooperate fully with the Government. Nigerians have to be enlightened constantly about the benefits of complying with tax laws. Tax authorities and educational institutions are expected to play key roles in taxpayer education. Educational institutions are expected to encourage the development of taxation as a course of study at all levels of the Nigerian educational system; scholarships and incentives such as employment opportunities should be granted to students who specialise in the area of taxation. Professional taxation bodies which exist in the Nigeria should be strengthened and more created to ensure improvements in the Nigerian tax system.

Granting Autonomy to Tax Authorities: In order to perform at optimal level, tax authorities must be free from political and other influences which threaten their independence and objectivity.

The National Tax Policy enjoins governments at all levels to implement the strategies discussed above to ensure the successful implementation of the policy. The strategies can be better implemented by the passage of the necessary tax legislations which will give constitutional and statutory backing to the implementation of the National Tax Policy.

References

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2 Decree No. 30 of 1966.
3 Decree No. 32 of 1966.
4 Long title to the Income Tax (Rents) Act 1963.
5 Decree No. 22 1971, now deemed an Act of the National Assembly. This decree was preceded by the Aid to Pioneer Industries Ordinance 1952.
6 Which pursuant to section 315, Constitution of the Federal Republic of Nigeria, 1999 is deemed an Act of the National Assembly and is retained as Cap I7 LFN 2004.
7 See section 10, Industrial Development (Income Tax Relief) Decree 1971
8 [1996] 8 NWLR 256
9 (1936) 2 All ER 793
10 Kanyip, B. B oral interview with Ben Pever 27/10/2011
11 Cap P13 LFN 2004
12 Cap C21 LFN 2004
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14 (1971) NMLR 339
15 Hereafter referred to as CITA 1961.
16 (2009) I TLRN 1
17 Cap. V1 LFN 2004
18 *Ibid,* 22 – 23
19 This is pursuant to section 59, FIRSEA.
20 [2008] All FWLR (Pt. 398) 235
21 *Ibid,* 222 – 223.

22 Section 4 (5) Constitution of the Federal Republic of Nigeria
23 (2011) 4 TLRN 45.
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26 [1986] 2 NWLR (Pt. 20) 48
27 Broadcast on the 1975 - 76 Budget, page xiii.
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32 *Ibid,* Chapter 2 paragraph 2.4.
33 Chapter 4 paragraph 4.1.
34 *Ibid,* Chapter 6, paragraph 6.1.
35 *Ibid,* Chapter 6, paragraph 6.2.
36 *Ibid,* Chapter 6 paragraph 6.3.
37 *Ibid,* Chapter 6, paragraph 6.4.
38 *Ibid,* Chapter 6, paragraph 6.5 .