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Efforts & challenges of Nigeria value added tax: from 2000-2020

Nazif Bala Yeldu [a*], Abubakar Muhammad Illo [a], Muhammad Muktar Abubakar [a], Olarinre Samson Oladele [a]

Abstract

This paper aims to analyze the efforts and challenges of the Value Added Tax (VAT) system in Nigeria from 2000 to 2020. The introduction of VAT in Nigeria was necessary as part of the government's fiscal planning to mobilize revenues and strengthen the Nigerian economy. The VAT system has been in operation for more than two decades, and its implementation had its challenges and successes. This study seeks to explore the efforts made and challenges encountered by the Nigerian government in the successful implementation of the VAT system/ from the period under review. A qualitative research approach was adopted, and data was gathered through a literature review. The findings of this study revealed that while the introduction of the VAT system has resulted in increased revenues for the government, there are still challenges that need to be addressed.These challenges include poor tax compliance, weak compliance infrastructure, capacity building, inadequate administrative infrastructure, inadequate enforcement, lack of efficiency, inadequate usage of technology, politicization of the system, and inadequate public awareness. The study concludes by suggesting several measures that could be taken to address these challenges and improve the effectiveness of the system.

Keywords: Value Added Tax, FIRS, Sales tax, Nigeria.

Author Affiliation: [a] Department of Accounting, Waziri Umaru Federal Polytechnic, Birnin Kebbi, Kebbi state, Nigeria, West Africa.

Corresponding Author: Nazif Bala Yeldu. Department of Accounting, Waziri Umaru Federal Polytechnic, Birnin Kebbi, Kebbi state, Nigeria, West Africa.

Email: nazifbalayeldu@yahoo.com

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1. Introduction

Value Added Tax is the tax imposed on the value which is added to goods and services as they pass through the various stages in the business claim by registered person in the course of their taxable activities up to the final consumers [1]. The effect is that VAT is paid by the final consumers to the registered person/business and remits the tax to the Federal Board of Inland Revenue. Federal Inland Revenue Service (FIRS) is a Board that is authorized or responsible for collection of all kinds of taxes in Nigeria [2]

The Value Added Tax system, having emerged as a convenient and reliable source of non-oil revenue generator to the nations oiling economy will in spite of its socio-economic implications, continue to occupy prominent position in the fiscal policy of federal government. Value Added Tax has been introduced into Nigerian tax system with many intentions, one of which is the achievement of a fair and equitable distribution of burden of taxation among the various strata of tax payers [3]. The new tax has however encountered a number of problems some of which harmonies with the habitual resistance to taxation generally while some are purely administrative. Other problems may also continue to crop up from time to time [4].

Value Added Tax (VAT), is a replacement of sales tax which has been in operation under the federal Government Legislation Decree No.7 of 1986, but operated only on residential basis.The Value Added Tax (VAT) on goods and services was imposed by Decree No.102 of 1993, otherwise known as Value Added Tax Decree 1993. The Decree provides for the commencement date to be first December, 1993, but the Federal Board of Internal Revenue administratively commenced collection on VAT with effect from January 1st, 1994 [5].

The Value Added Tax (VAT) therefore, can be looked at on the cost of output plus profit or the value of the output. Value Added Tax has the advantage of shifting taxation towards consumption rather than income and making taxation more equitable because "the more one consumes, the more one pays". It cannot be argued that the federal government introduced Value Added Tax system mainly for economic consideration. The government for one thing has desperately been looking for ways and means of broadening its revenue rather than over dependence on oil revenue.

In addition, the government must have been encouraged to introduce Value Added Tax, because many African countries are already operating the tax successfully. It was even felt that government might have introduced it in order to place Nigeria in the mainstream of ECOWAS fiscal trend. Since, according to the finance minister of Ghana, Kwesi Botchwey, all ECOWAS members-nation are expected to have started Value Added Tax by the year 1999 [6].

This study therefore, is to provide an insight of the efforts and challenges of Nigerian tax system as per appraising the effectiveness of Value Added Tax (VAT) in Nigeria. However, it aims at bringing the efforts of Nigerian government in providing Value Added Tax for tax revenues. It also looks at the government various ways and means of generating revenue for the purpose of meeting its expenditure, one of such direct way is taxation.Although, it could be asserted that the administration of Value Added Tax (VAT) has recorded appreciated success, this has not been without problem. The extent to which the operation of Value Added Tax (VAT) is able to solve the problems may dictate the future direction of the tax regime.

2. NIGERIAN TAX ENVIRONMENT

The development of any nation depends on the amount of revenue generated by the government for the provision of infrastructural facilities. Taxation is the key to unlocking the resources required for public investment and infrastructure growth.Taxation and tax management is a stressful activity for everyone, especially for business owners and entrepreneurs. If you're selling taxable goods or services in any state in Nigeria or you earn some income from working in the country, you almost always have tax obligations [7].

Thehistory of taxation in Nigeria dates back to even when the name Nigeria wasn't coined. During this time, the tax administrators then were the traditional chief's tax agents. At this time, it was farm produce and other primary goods. The modern taxing system by the Federal Government of Nigeria under its taxation arm; Federal Board of Inland Revenue (FBIR) could be traced back to the year 1939 when the Companies Income Tax Ordinance was created.After the creation of this first taxation body, it had always changed, in response to the changes made to the tax law which are caused by several other factors. In 1978, the Task Force on Tax Administration under the leadership of Alhaji Shehu Musa formed the Federal Inland Revenue Service (FIRS) as the operational arm of Federal Board of Inland Revenue (FBIR) [8].

Taxes are paid because the state or federal governments implement tax laws. Taxpayers' money pays for government services of all kinds. Although taxes are considered as a legal requirement, paying taxes is also considered a civic duty. If you neglect to pay, the mediating body that oversees taxes (the Federal Inland Revenue Service) will require that you do so, otherwise, you might face penalties such as large fines or jail time.

In 2015, the federal government of Nigeria collected over 3.7 trillion Naira in taxes. This come from several sources such as Personal Income Tax, Payroll Tax, Corporate Tax, Tariffs VAT and many more. The government requires these funds to discharge its numerous responsibilities for the development of the country, betterment of society as whole and other non-developmental but essential obligations to the citizens of the country [9]. Also highlighted that there are many types of taxes in Nigeria. Tax types in Nigeria is what many Nigerians are not aware of. This is in spite of the fact that ignorance is not an excuse of the law. As an individual or a business in Nigeria, you are liable to the payment of any tax and you fail to pay it, ignorance of the law cannot be used as a genuine excuse for such act of omission.

This is the reason we shall try to do justice to explaining each type of taxes in Nigeria:

1. **Companies Income Tax (CIT)**: Under Companies Income Tax Act you have to pay Companies Income tax if you are a resident or non-resident company incorporated in Nigeria.
2. **Petroleum Profit Tax (PPT)**: The Petroleum Profit Tax is subject to any resident company or person in charge of a non-resident company who are exploring for petroleum or producing it in Nigeria.
3. **Value Added Tax (VAT)**: Any person or individual, corporate sole, organizations who consumes or buys any taxable product or service will have to pay a tax levy known as Value Added Tax (VAT) in Nigeria.
4. **Personal Income Tax (PIT)**: The Personal Income Tax (PIT) is the most common tax type in the country. A Personal Income Tax is a tax imposed on individuals or entities (taxpayers) that varies with respective income or profits (taxable income). Personal Income Tax generally is computed as the product of a tax rate times taxable income.
5. **Withholding Tax (WHT)**: The Withholding Tax deductions are regarded as advance payments (or payments on account) of the relevant tax liability that will arise from the tax returns of the period concerned.
6. **Educational Tax (EDT)**: Stamp Duties (STD): Items or persons subject to Stamp Duties tax are written documents relating things between individuals or companies or group of soles. Stamp Duties may include instruments such as financial transaction, article of association between companies, statements, deals, bonds etc.
7. **Capital Gains Tax (CGT)**: All the companies registered in Nigeria which earn any capital gains are liable to Capital Gains Tax. Capital Gains Tax is calculated and submitted with Companies Income Tax to FIRS through Designated Bank.

3. EFFORTS OF GOVERNMENT ON VALUE ADDED TAX (VAT)

SALES TAX IN NIGERIA

A sales tax is a consumption tax imposed by the government on the sale of goods and services.Sales tax is levied at the point of sale, collected by the retailer, and passed on to the government. Sales taxes are only charged to the end user of a good or service. Because the majority of goods in modern economies pass through a number of stages of manufacturing, often handled by different entities, a significant amount of documentation is necessary to prove who is ultimately liable for sales tax.

Sales tax is collected by the retailer when the final sale in the supply chain is reached. In other words, end consumers pay sales tax when they purchase goods or services. When buying supplies or materials that will be resold, businesses can issue resale certificates to sellers and are not liable for sales tax. Until the sale is made to the final consumer, sales tax is not collected, and tax jurisdictions do not receive tax revenue.

The evolution of Sale Tax in Nigeria, stated that the history of sales tax in Nigeria dates back to 1953 when sales of produce Taxation Act was enacted and the government was empowered to impose a tax on the sale of specified commodities made to a marketing Board or to a licensed buying agent.

The federal Government enacted the sales of produce (Taxation) Act, 1957, to replace sales of produce Taxation Act, 1953, and provided for a tax in the Federal Territory of Lagos, on sales of produce to the Western Region Marketing Board, or any of the licensed buying agents. The commodities taxed were cocoa, palm kernel and palm oil only.

The Nigerian constitution amendment order, 1959, introduced Taxes on amount paid or payable on sale or purchase of commodities as an item on the exclusive legislative list. Some commodities were however exempted; these were Agricultural produce, hides and skin, motor spirit (gasoline) and diesel oil.

The constitution of 1979, which ushered in the executive presidential form of government, omitted item 38 in it,entirety as set out in the both the 1960 and 1963 constitutions. Though this omission precluded implicitly the imposition of sales tax as a residual subject, it was interpreted that the stated did have the competence under the constitution to legislate and impose tax on the supplyof goods and services within the states.

VALUE ADDED TAX (VAT) IN NIGERIA

An important landmark in tax reform in Nigeria was the adoption of the value-added tax (VAT) in January through the VAT Act No. 102 of 1993 but its implementation actually began in January 1994. Since its introduction, 15 of the 42 sections of the Act have been amended.Replacing sales tax, VAT was originally imposed on 17 categories of goods and 24 service categories. Such items as basic foods, medical and pharmaceutical products, books, newspapers and magazines, house rent, commercial vehicles and spare parts and services rendered by community and people's banks, however, were VAT-free. The revenue generated was to be shared 20:80 between the federal and state government: currently it is shared 15:50:35 among the federal/state/local levels. The state's allocation was to be earmarked as 30 per cent for the state of origin, 30 per cent for consumption/destination and 40 per cent for equality of the state. To ensure VAT's effectiveness, certain amendments were made to the existing tax structures. These include:

i. Reduction of the personal income tax burden through increased tax allowances and reduced tax rates;

ii. Monetization and taxation of fringe benefits;

iii.Deduction of R&D expenditure from the gross earnings of companies;

iv.Extension of tax-free status to companies in rural areas and granting of incentives based on the infrastructure available in the areas;

v. Reduction of company tax rate from 40 to 35 per cent, and subsequently to 30 per cent; and

vi.Payment of petroleum profit tax in dollars.

Although VAT is a consumption tax, a 7.5 per cent rate is levied on suppliers (i.e., taxable individuals) who are expected to add this amount to invoices for collection from customers and for further remittance to the VAT authorities on a monthly basis.

On 13 January, 2020, President Muhammadu Buhari finally signed the Finance Bill 2019 (now Finance Act 2020) into law. The Finance Act seeks to promote fiscal equity, align local laws with global best practices, introduce tax incentives for investments in infrastructure and the capital market as well as support small businesses in line with the ongoing ease of doing business reforms. More importantly, it is targeted at raising additional revenue for the Government through the introduction of new fiscal measures, including the increase in Value Added Tax (VAT) rate from 5% to 7.5%.

VAT is retained at 7.5 per cent regardless of the stage of production or distribution. This assumes the absence of cascading effects. Although enforced by federal legislation, VAT was excluded from federal jurisdiction by the 1999 Constitution. This was unusual because at the time of introduction, the federal government's tax administrative machinery was used to collect VAT on behalf of the state governments, as they had had jurisdiction over the sales tax that was being replaced by VAT. It is a non-discriminatory tax with regard to locally manufactured or imported goods. The Act designated the FIRS as the responsible instance for implementing VAT. In practice, however, the Nigerian Custom Service collects VAT on imports on behalf of FIRS. An important challenge to administering VAT is the Nigerian business environment. Written records are crucial for VAT; not only do invoices need to be issued, but recordkeeping is also important. Apart from the fact that keeping records is not common in Nigeria yet, the economy is dominated by informal activities where traders are continually on 'the move'. African trading activities hinge on bargaining, and a commodity is sold at different prices, depending on the haggling powers of each buyer.

VAT IN DEVELOPING COUNTRIES

The Value Added Tax has become one of the most important instruments of revenue mobilization in the developing world. A recent and growing body of research highlights its strengths and some of the challenges it faces.

Today, Value Added Taxes (VAT) exists in more than 160 countries, including in many developing countries that have modernized their tax systems in the past decades. Eighty percent of countries in sub-Saharan Africa have adopted the VAT, and it is now responsible for typically raising around one-quarter of all tax revenue. Moreover, countries continue to adapt and reform their VAT systems, sometimes substantially, such as India and Ghana did in 2017 [10].

Developing countries have been giving increased attention to this form of tax as a means of rationalizing their sales taxes and improving their revenues. France is credited with the first VAT, adopted in 1954, but this extended only to the wholesale level. It was not until 1967 when the European Economic Community (EEC) directed its member countries to replace existing turnover taxes with a VAT that this technique gained widespread acceptance. Although not then a member of the EEC, Denmark was the first European country to adopt a VAT extending to the retail level (on July 3, 1967); it was followed by France and Germany (on January 1, 1968). Since then, the VAT has been implemented at the retail level by Sweden and the Netherlands (January 1, 1969), Luxembourg and Norway (January 1, 1970), Belgium (January 1, 1971), and Ireland (November 1, 1972). Austria, Italy, and the United Kingdom introduced VATs in 1973 [11].

The value-added principle is incorporated in the manufacturers' sales taxes of a number of developing countries, including those of Argentina, Colombia, the Philippines, and member countries of the West African Customs Union. Several other French-speaking countries, including Algeria, Ivory Coast, the Malagasy Republic, Morocco, Senegal, and Tunisia, have replaced their turnover taxes with a VAT along the lines of the 1954 French model. But more general systems were not instituted until after 1966, by Brazil (levied by the states) in 1967, Uruguay in 1968, and Ecuador in 1970. Other developing countries have been examining the feasibility of a general VAT, and several, including Argentina, Chile, the Republic of China, Colombia, and Mexico, have drafted legislation for a VAT to replace existing sales taxes but for various reasons have not introduced it. This cautiousness can be explained in large part by the uncertainties that arise in the introduction of any major new tax, and especially one with which the developing countries have limited experience.

Although it has been proposed in developing countries in recent years, the actual move to a general consumption tax of the value-added tax has been made in relatively few of them. The tax structures of seven developing countries are compared to show the different adaptations that have been made to the VAT concept. These countries are Brazil (state levy), Ecuador, Ivory Coast, the Malagasy Republic, Morocco, Senegal, and Uruguay. The average per capita income of these seven countries covers a wide range of income levels associated with various stages of development, from a little more than US$100 in the Malagasy Republic to approximately US$200 in Ecuador, Morocco, Ivory Coast, and Senegal, US$300 in Brazil (the per capita income of the more developed states in Center-South Brazil is twice as high as the national average), and US$600 in Uruguay.

Manufacturing accounts for a low percentage of the total product (10% to 15%) in six of the seven countries, and in all but a few of the Center-South states of Brazil. Except in Brazil, the external sector plays a major part in the economy, with imports reaching 20% to 30% GDP. The share of taxes in the gross national product (GNP) is relatively high (18% to 20% in most instances and 28 per cent in Brazil).

VAT IN DEVELOPED COUNTRIES

More than 140 countries worldwide – including all European countries and United Kingdom – levy a Value-Added Tax (VAT) on purchases for consumption. The VAT is a consumption tax assessed on the value added to goods and services. The final VAT levied on a good or service is the sum of the VAT paid at each production stage. While VAT-registered businesses can deduct all the tax already paid in the preceding production stages, the end consumer does not receive a credit for the VAT paid, making it a tax on final consumption.

The potential for easy administration, significant tax revenue, and few economic distortions make the VAT one of the most efficient forms of taxation. In contrast, some other forms of taxation, such as income and corporate taxes, impede economic activity and can distort decisions between consumption and investment.

Most developed countries set thresholds for their VATs. This means that a business's revenue of taxable goods and services must be above a certain value before it is required to register and pay a VAT on its products. This registration threshold allows small businesses to save time and expenses in compliance. However, it also discriminates against larger businesses, creating economic distortions.

Registration thresholds are general concessions that relieve domestic suppliers from the requirement to register for and/or to collect VAT until such time as they exceed the revenue threshold. Relief from collection and/or registration may be available to specific industries or types of traders (for example nonresident suppliers) under more detailed rules, or a specific industry or type of trader may be subject to more stringent registration and collection requirements. The thresholds of non-euro countries have been converted into Euros for comparability by using the European Central Bank's (ECB) 2018 exchange rates. Apart from VAT rates and thresholds, the VAT base also significantly impacts the effectiveness and efficiency of a VAT.

According to EU law, EU Member States are required to levy a standard VAT rate of at least 15 percent and a reduced rate of at least 5 percent. Switzerland, as a non-EU country, levies the lowest VAT rate of only 7.7 percent, followed by Luxembourg (17 percent), Turkey (18 percent), and Germany (19 percent). The countries with the highest VAT rates are Hungary (27 percent), and Sweden, Norway, and Denmark (all at 25 percent). The average VAT rate of the European countries covered is 21.3 percent [12].

In Spain and Turkey, all businesses, regardless of their revenue, are required to register and pay a VAT. On the other hand, French and Swiss businesses are only exempt from VAT registration if their revenues stay below considerably high thresholds of € 82,200 and € 86,580, respectively.

4. EFFORT OF FEDERAL INLAND REVENUE SERVICE BOARD (FIRS) ON VAT

The Federal Inland Revenue Service (FIRS) says it will begin to impose Value Added Tax (VAT) on online transactions, both domestic and international, with effective from January 2020 [13].[The Executive Chairman of FIRS, Mr Tunde Fowler, said that a lot of countries in the world had identified Nigeria as a good market and many of them were into online businesses, adding that there was the need to tap the potentials to generate more revenue for the country.He however, said that that the date of commencement of the VAT on online transactions would be subject to government's approval."We have thrown it out to Nigerians. Effective from January 2020, we will ask banks to charge VAT on online transactions, both domestic and international.

"VAT remains the cash cow in most African countries, with an average VAT-to-total tax revenue rate of 31 percent. This is higher than the Organisation for Economic Cooperation and Development's average of 20 percent."This statistic, therefore, is a validation of the need for us to streamline the administration of this tax with the full knowledge of its potential contributions to national budgets."It is, however, also bearing in mind the rights of our taxpayers," he said.According to him, in Nigeria, for example, VAT is critical to the development of projects at all levels of government.

"VAT revenue is shared 15 percent to the Federal Government, 50 percent to state governments and 35 percent to local governments."FIRS wrote to all commercial banks in May 2018, requesting for a list of companies, partnerships and enterprises with a banking turnover of N1 billion and above."This activity is aimed at ascertaining those companies that are compliant with the tax laws and those that are not.

The Executive Secretary of ATAF, Mr Logan Wort, said that the establishment of the ATAF VAT Technical Committee in 2017 had given rise to various debates aimed at giving better policy options for countries.Wort explained that this would enable member-states to share ideas and techniques on how best to administer, design and audit VAT.He said that the establishment of the committee was a way of practically addressing some issues that were becoming common phenomena across the continent.

Since the introduction of VAT in Nigeria in 1993 and with its effective commencement in January 1994, the FIRS have been vested with the power of the VAT administration. Its administration by that tax agency has been confronted with series of legal challenges and the most recent being the ruling of the federal high court in Port Harcourt, Rivers state, presided over by Justice Stephen Pam, on 9th August, 2021, which restrained the FIRS from collecting VAT and personal income tax (PIT). The court stated that there was no constitutional basis for FIRS to demand and collect VAT, being that the constitutional powers and competence of the federal government was limited to the taxation of incomes, profits, and capital gains taxes which do not include VAT or any other species of sales tax or levy other than those specifically mentioned in items 58 and 59 of the exclusive legislative lists of the constitution [14].

Promptly reacting, on August 23, FIRS went public warning taxpayers that refusal to pay VAT to the Federal Government's agency will lead to penalties. The FIRS urged taxpayers, especially those in Rivers State to continue to pay their VAT to it to avoid paying penalties for failure to do so. It also told the public that it has appealed the judgment as well as a stay of execution so that the Rivers State Government would not go ahead with the tax collection. The FIRS thereafter brought an application back to the Federal High Court sitting in Port Harcourt, the court however dismissed the suit by the FIRS seeking to stop the Rivers State Government from commencing the collection. River States is therefore moving forward with the tax collection. It's been a drama of some sorts.

5. EFFORTS OF PROFESSIONAL BODIES ON VAT

There are three professional bodies as regards to VAT in Nigeria which include:

Association of National Accountants of Nigeria (ANAN)

Dr. Samuel Nzekwe, a former President, Association of National Accountants of Nigeria (ANAN), has advised the Federal Government to intensify efforts at implementing the five percent Valued Added Tax (VAT), rather than increasing it. Nzekwe gave the advice in an interview with the News Agency of Nigeria (NAN) in Ota, Ogun state, Nigeria [15].

He spoke while reacting to the announcement of the Minister of Finance, Budget and National Planning, Mrs. Zainab Ahmed on VAT increment.While noting that enforcement and implementation of the VAT was the major challenge confronting the country, he explained that unless the federal government works on effective implementation of VAT, the proposed policy would not achieve any meaningful result.

VAT system should be reformed because the nation has the problem of implementation", he said, adding that less than 50 percent was in the VAT net because the Federal Inland Revenue Service (FIRS) lacked the capacity to collect it.While calling on the FIRS to redouble efforts at getting more people into the VAT net, he advised the federal government to be cautious as the propose increase would drastically affect the new minimum wage in the country.

Nzekwe said that the ability of the Federal Government to effectively reform the VAT system would make more funds available for it rather than increasing the VAT to generate additional revenue.

If the administration of Value Added Tax (VAT) is decentralised to allow states administer tax law, Nigeria can realise average total revenue of N560 billion monthly. This is an equivalent of N6.7 trillion yearly, at the five per cent VAT rate, founding President, Association of National Accountants of Nigeria (ANAN) Mr. Omo ObaOlumuyiwaSosanya [16].

He said the VAT generated by the Federal Inland Revenue Service (FIRS) is about N58 billion monthly, pointing out that revenue accruable from VAT could increase 10 times if states are authorised to collect VAT with FIRS. Sosonya said decentralising VAT administration would capture the informal sector, which is over 85 per cent of the economy into the VAT net. "If our economy must reduce its dependence on oil money, the time has come to reform the tax system and other sources of revenue generation," he said.

Sosonya, who spoke during The Nation's First National Economic Forum in Lagos, said while VAT has brought fortunes to most developed countries and some African countries, such as South Africa and Ghana, "the FIRS is overwhelmed and struggling to find its bearing to turn the administration of VAT into goldmine for Nigerians". He said while South African Revenue Service (SARS) realized R813.8 billion (about N12.5 trillion) in the 2012/2013 fiscal year, Nigeria's FIRS realized a meagre N861 billion in 2014.

He regretted that while the funding of Britain's economy depends mainly on revenue generated from taxes and customs duties, the Nigerian experience is that most revenues generated end up into the private pockets of government officials instead of government coffer. Sosonya, therefore, sought the separation of tax and other revenue generation from the Ministry of Finance and a new Ministry of Taxation and Revenue created to handle such matters. This, he said, would make room for proper fiscal transformation and effective management of taxation and other revenue generation.

He pointed out that the creation of the new ministry was part of the recommendations of Dr. Pius Okigbo's Task Force on Tax Administration set up in 1978 and implemented by Alhaji Shehu Shagari administration in 1979. "In the UK, there is Secretary for Treasury who is responsible for taxation and allied matters," he added.

He also said the Lagos State government has benefited from the increase of its Internally Generated Revenue (IGR) since the appointment of a Special Adviser on Taxation and Revenue in 2007. The ANAN founding chief also canvassed the appointment of seasoned professionals as consultants to lay proper foundation for the implementation of the tax reforms over a period of time. "Civil servants should not be mandated to implement these reforms," he added.

Institute of Chartered Accountants of Nigeria (ICAN)

The Institute of the Chartered Accountants of Nigeria (ICAN) has advised the federal government and the Rivers State government to approach their on-going tussle over the collection of Value Added Tax (VAT) carefully. This is to avoid hurting vulnerable households, and Small and Medium-sized Enterprises (SMEs), and worsening the country's Ease of Doing Business (EoDB). ICAN gave the advice in a statement by its Registrar/Chief Executive, Professor Ahmed Kumshe [17].

The professional body referred to the judgement of the Federal High Court in Suit No. FHC/PH/149/2020 between the Attorney General of Rivers State, on the one hand, and the Federal Inland Revenue Service (FIRS) and the Attorney General of the Federation.The Federal High Court had ruled in favour of Rivers State regarding the power to collect VAT.

Kumshe said, "We implore the government of Rivers State and the federal government to seek an amicable resolution of this issue sooner rather than later. It should not be allowed to degenerate, given the country's precarious tax revenue position and the general business environment. It is important to protect the taxpayers and provide certainty to businesses.

"We believe that this development presents an opportunity for us to re-examine our fiscal federalism and leverage on the on-going constitution review to fashion out the most suitable fiscal structure for the country in a manner that strengthens the sub-national level of government while ensuring uniformity of treatment as much as possible. "This process should include a review of the VAT law, its administration and revenue sharing formula."

ICAN restated that the matter should be approached carefully in order to achieve a win-win outcome for all stakeholders as well as address areas of concerns, such as the impact on EoDB, multiplicity of taxes, capacity of tax administration and impact on vulnerable households and small businesses.

Commenting on the effect on the EoDB, the institute warned, "If the position is sustained and replicated by other states, it will increase the cost and time required for compliance by businesses in addition to the complexity of administering VAT at the sub-national level such as treatment of international and inter-state transactions."

ICAN, however, said the trend could lead to multiplicity of taxes as, "many states still have various taxes, which are similar in nature to consumption tax, including the Hotel Occupancy and Restaurant

Consumption tax, Entertainment Tax, etc.

"Administering VAT at the state level may add to the myriad of taxes across different levels of government many of which are targeted at the same tax base."Furthermore, the institute expressed concern over the capacity of the state governments to administer its own VAT.

It explained, "Collection of VAT by states may be more demanding, especially, in the short to medium terms, in the aspect of VAT skills and knowledge, dealing with digital transactions, VAT audit, and dispute resolution."

ICAN warned that the trend could have a telling impact, "on vulnerable households and small businesses, in the absence of exemption threshold for small businesses and limited list of exempt goods and services, there may be adverse effect on the masses in Rivers State, especially, poor households and SMEs."

The institute, while tracing the history of the introduction of VAT in Nigeria, said there had been series of legal cases against the VAT law, its administration by FIRS and powers of states to enact similar laws, such as sales or consumption tax, which was enacted by Lagos State in 2009.

Chartered Institute of Taxation of Nigeria (CITN)

The Chartered Institute of Taxation of Nigeria (CITN) has said the nation's tax system has witnessed some progress, but yet to reach the desired objectives as regards taxation in the country. Besides, it has offered to sustain its support for the Federal Inland Revenue Service (FIRS), in its avowed quest to make taxation the foremost driver of the country's revenue generation [18].

The Registrar/Chief Executive of CITN, AdefisayoAwogbade, said the institute was aware that the revenue agency has severally adopted strategies and initiatives in the collection of taxes in the previousyears. Citing examples, he said that strategies for Value Added Tax (VAT) collections during 2015 – 2017, led to approximately 40 percent increase over 2012 – 2014 collection figures.

FIRS generated N311.94 billion revenue for government through the collection of VAT, between April and June, data from the National Bureau of Statistics (NBS) showed.The figure represents a 7.9 per cent quarter-on-quarter increase from the N269.79 billion generated in Q1 of 2019, and 16.95 per cent year-on-year.

The manufacturing sector generated the highest VAT figure, bringing in a total of N34.4 billion. Professional services delivered the second highest with N29.58 billion, while commercial and trading, which placed third, generated N16.27 billion.In the fourth place is the textile and garment, which generated N316. 91 million. The pharmaceutical sector brought in N250.09 million, while mining generated N50.6 million, the least amount. Of the total VAT collection for the quarter, the sum of N151.56 billion was generated as non-import VAT locally and N94.90 billion as non-import VAT for foreign. The balance N65.48 billion was generated as NCS-Import VAT.

Between 2012 – 2014 oil revenue accounted for 57.28 percent and non-oil revenue accounted for 42.72 per cent, while for the period between 2016 – 2018, oil revenue accounted for 40.65 percent while non-oil revenue accounted for 59.33 percent of collected revenues."The various initiatives included ICT innovations, taxpayer education, taxpayer enlightenment and evaluation.

"CITN, as the only tax professional regulatory body in Nigeria, has keenly observed that since August 2015, the FIRS target for two major non-oil taxes- VAT and CIT, were increased by 52 percent and 45 percent respectively.This period has not only witnessed increase in absolute collection figures, but has more than ever increased taxpayers base and brought tax compliance consciousness to the Nigerian populace amongst others.

"There has never been a time in the modern history of Nigeria that taxation has become a serious issue for conversation," he said.He noted that as part of tax review mechanism, the institute is expressing confidence that the current strategies and initiatives of FIRS will improve revenue collections and meet the expectations of the government.

However, he hoped that with the adoption of more tax compliance strategies, the tax base will experience further widening to include more people, sectors and businesses into the tax net for enhanced revenue generation. Admitting that the job of tax collectors is a tough one as tax payers do loathe them, he said the agency deserves commendations and encouragement to raise the bar further.

6. EFFORTS OF OTHER PROFESSIONAL BODIES ON VAT

Klynveld Peat Marwick Goerdeler(KPMG) has urged the federal government to clarify the confusion surrounding the removal of Automobile Gas Oil (AGO) or diesel from Value Added Tax (VAT) Modification Order 2021, recently signed by the Minister of Finance, Budget and National Planning, Dr. Zainab Ahmed [19].

Making the comments in its November 2021 bulletin on the "Impact of the Order on Taxpayers and Businesses Operating in Affected Sectors," the global firm stated that the order, which was gazetted in September, was creating some confusion on the status of diesel as it relates to the modified taxes.

It noted that it was important that there is clarity on the tax-exempt status of diesel to avoid unnecessary dispute as was provided in the erstwhile VAT Order, 2018, explaining that pending this clarification, it will be interesting to see how the general phrase "petroleum oils' will be interpreted and applied in practice.

The firm wrote: "The Order defines petroleum products as aviation turbine kerosene, premium motor spirit, household kerosene, and locally produced liquefied petroleum gas (LPG) and crude petroleum oils (i.e. oils obtained from bituminous minerals, crude).

"This suggests that Automobile Gas Oil (AGO), that is diesel, which was hitherto included in the definition of petroleum products, that qualified for VAT exemption in the VAT Act (Schedule Modification) Order, 2018 ("VAT Order, 2018"), may no longer be a VAT exempt petroleum product.

"While the seeming exclusion of AGO from VAT exemption may reinforce the deregulation of AGO marketing in Nigeria, the key question is what do the phrases: crude petroleum oil and petroleum oil' mean? Can these be extended to cover diesel?

Interestingly, KPMG argued that there is no specific petroleum product that is referred to as "petroleum oil", adding that rather, the word is of general application referring to liquid petroleum products.

Again, it maintained that it also appeared that there was a careful attempt to distinguish the specific oil covered from other oils with the use of the modifier 'petroleum'.

"In other words, petroleum oil will not extend to edible oils, such as vegetable oil, palm oil, and other types of oils, not obtained from crude oil or bituminous minerals.

"Simply put, any oil derived from crude should qualify under the general words 'petroleum oil' based on the ejusdem generis principle of statutory interpretation.

"It should be noted that the exempt items are being identified by the Common External Tariff (CET) Codes. Thus, as there is no specific CET code for diesel, this may explain why it is not specifically listed in the Order. The only item that it can fit under is petroleum oils under the general CET code," the report insinuated.

Furthermore, KPMG stated that the Order was made available to the public in October 2021 though it was issued on 21 September 2021, questioning, therefore, whether companies in the oil and gas industry will be subjected to back duty assessments on VAT that should have been charged on the sale of diesel during the lag between the commencement date and date of issuance of the Order.

"However, as the amended definition of petroleum products in the Order was unavailable to the public during the period, and the term 'petroleum oils' can be interpreted to include AGO/ diesel, the affected companies should be able to make a case against back-duty assessment by the FIRS.

"Whilst it is unclear whether the continued exemption of the specified petroleum products from VAT is evidence that the Federal Government of Nigeria (FGN) will continue to participate in the downstream sector, it is noteworthy that excluding these items will make the products more affordable for the populace. However, the consensus is that the continued regulation of prices of petroleum products is not sustainable and will not attract the desired investment into the sector," it added.

On the exemption of gas supplied within the power sector value chain from VAT, the firm described it as a welcome development as it would have an impact on the illiquidity issue that has plagued the sector over the years.

KPMG argued that it also demonstrates the commitment of the federal government towards reducing the tax burden of operators in the sector and improving the ease of doing business.

"The exemption would have a positive impact on electricity tariffs as the VAT incurred on gas supplied within the sector would have been recovered from the end-users," it explained.

However, KPMG maintained that there are questions as to whether the reference to generation companies (Gencos) relate only to the successor generating companies of the erstwhile Power Holding Company of Nigeria (PHCN), stressing that to the extent that there is no specific definition of Gencos in the Order, it should be given its plain meaning and interpreted broadly and not narrowly

CHALLENGES OF VAT

In a study, the relevance and the problems of Value Added Tax (VAT) in Nigeria was analysed.[20] Three research questions were formulated for the study. A survey of VATable Nigerian organizations, Federal Inland Revenue Service staff and the public was conducted to gain insights into the way VAT is administered, its relevance in revenue generation, savings and consumption of consumers and the problems hindering its efficiency. The survey shows that, Value Added Tax (VAT) in Nigeria is saddled with many challenges which are viz: majority of the FIRS staff perceive that they are not adequately equipped technically and administratively to handle VAT operations, these challenges also include poor tax compliance, weak compliance infrastructure, capacity building, inadequate administrative infrastructure, inadequate enforcement, lack of efficiency, inadequate usage of technology, politicization of the system, and inadequate public awareness. Evidence from the way VAT revenue is being shared among the three levels of government in Nigeria suggests that this revenue is being re-injected into the economy through public expenditure. Governments should consider strategies for securing appropriate treatment of VAT by the VATable organizations while taking steps to ensure that the VAT revenue is targeted at sectors most likely to ameliorate the inadvertent adverse effects of VAT on consumer welfare, production, employment and income [21].

7. CONCLUSION

The Value Added Tax (VAT) since its implementation in 1994 has made an appreciable progress. Granted that it is an extra burden on the Nigerian people, because "the more one consumes, the more he pays", how much a person pays in Value Added Tax depend on the extent to which he uses VATable goods and services. The Value Added Tax system, having emerged as a convenient and reliable source of non-oil revenue generator to the nations oiling economy will in spite of its socio-economic implications, continue to occupy prominent position in the fiscal policy of federal government. A lot of logistics and administrative flaws are apparent in Value Added Tax (VAT) mechanism.

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