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Regulatory changes and their Impact on Tax compliance: An overview of Finance Act 2023

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Abstract
The aim of this study is to evaluate and review the regulatory changes and their impact on tax compliance, it is an anthology of the existing literature on finance Act and tax compliance with a view to identifying the gaps to which future literature may be directed within the Nigerian context. The paper discusses the concept of finance Act and its surrounding issues on tax compliance as appraised by different authors. The data used for the study were mainly secondary data from different sources. The researchers critically review related literatures from various secondary sources with a particular emphasis on Finance Act 2023, as well as other Nigerian tax legislations. The secondary sources were complemented by the personal observation of Nigerian tax system in Nigeria by the researchers. The study revealed mixed findings on the extent to which finance Act and other financial regulations impact on the economy. The study also concludes that, the factors determining financial regulations are not fixed, and vary from one jurisdiction to another. The study therefore recommends that, from the theories that relates to financial regulations, there shall be a unified theory that amalgamates the existing theories; and that which will be amenable to the ever-changing reporting environment.

Keywords: Regulatory Changes, Finance Act, Tax Compliance.

1.0 Introduction

The issue concerning how to mobilize sufficient tax revenue to finance increasing public expenditure has been a great concern to policy makers in Nigeria and most countries in Africa. The inability of African countries to generate enough tax revenue has greatly affected the provision of security, necessary social amenities and infrastructures needed in the region. The provision of security, social amenities and infrastructures are paramount to support economic growth, create job and reduce poverty. Hinged on the background of the poor tax revenue performance, governments of some African countries have resorted to borrowing within and outside their economies to finance annual public spending. This policy option has resulted into mounting public debt. However, Alabede and Ogbole (2018) warned that continuous increase in public borrowing may have the consequence of crowding out private credit and this may further weaken the economy.

As for Nigeria, statistical data point to the fact that the country's tax revenue performance has not been impressive overtime while public expenditure is growing and public debt is much accumulating. For instance, International monetary fund (IMF) says, Nigeria has recorded a tax revenue to gross domestic product (GDP) ratio of 9.4 ratio in 2023. However, the ratio marginally appreciated to 5.7% in 2017 then to 6.3% in 2018 but down to 6.1% in 2019. This tax revenue performance is far behind African average tax-GDP ratio of 16.5% and world's ratio of 14.58% in 2018 (IMF, 2023. In fact, statistics evidence indicates that Nigeria has been recording the lowest tax-GDP ratio in Africa for some times now. However, despite the unimpressive tax revenue performance, the pressing need for security, social amenities and infrastructure, has caused central government's expenditure to increase by about 51% from N4.989 trillion in 2015 to N9.715trillion in 2019 (Central Bank of Nigeria [CBN], 2019).

Unfortunately, between 72% and 77% of the central government's expenditure went to recurrent spending in the same period. Public borrowing was used to bridge the differences between government revenue and expenditure overtimes. Consequently, public debt has also deepened from N10.948 trillion in 2015 to N22.442 trillion in 2019 representing about 49% increase over 5 years and with attendant consequence of rising in debt service. Central Bank of Nigeria's (CBN, 2024) data indicates that debt service payments continued to rise in subsequent years, with $2.02 billion paid in 2021, $2.34billion in 2022, and $3.43billion in 2023. Between January and May 2024, the country has paid $2.18 billion in debt servicing.

From literature, a number of factors have been attributed to low tax revenue collection. Researchers like Alm and McKee (2006), Bobek (2007), Torgler (2007), Alabede et al. (2011& 2013) have suggested that tax revenue effort of a country depends on the level of tax compliance among taxpayers. In Nigeria, statistical evidence suggests that Nigerian tax system is characterized with low tax compliance level. Hence, it is not surprising that tax revenue collection is poor. For instance, in 2018 only about 19 million Nigerians paid taxes to both Federal and State Governments out of the estimated 65 million active populations. This implies that about 29% of Nigerians paid their taxes in that period (World Bank, 2018 as reported in British Broadcasting Corporation New [BBC], 2019). Nevertheless, Alabede (2018) relying on the work of Bird et al. (2008), categorized factors affecting tax revenue collection in Sub Saharan African countries including Nigeria to include demand side factors and supply side factors.

On the supply side, among other factors inefficiency of the tax system has been attributed to low tax revenue yield in Nigeria (Bassey et al., 2015). Nigerian tax system which has tripartite subsystems of tax policy, tax laws and tax administration is considered to be deficient at both structural and administrative levels. At structure level angle, Bassey et al. (2015) lament that the tax provisions in the Nigerian tax system do not sufficiently capture the socio economic characteristics and problems of Nigeria. As for the administrative level, Bassey et al. (2015) declare that machinery and procedures set out for the implementation of the Nigerian tax system are weak.

Nigerian Government has made concerted efforts to address the deficiency of the Nigerian tax system overtime through various reforms. As part of deliberate efforts to institutionalize efficient tax system in Nigeria, the national tax policy was revised and approved for implementation in 2017. The main objective of the national tax policy is to increase tax revenue collection and simplify the Nigerian tax system. To simplify the Nigerian tax system and implement key recommendations of the National Tax Policy Implementation Committee (NTPIC), a number of provisions of the tax legislations were slated for amendment. In order to facilitate the amendment of the provisions of these laws simultaneously in one bill, a finance bill was introduced in 2019 for the first time in Nigeria's history. In this respect, the efforts of the government culminated into the promulgation of Finance Act (FA) 2019 and Finance Act 2020.

The Finance Act 2023 ("the Act") was finally assented to by His Excellency, President Muhammadu Buhari on the 28th May 2023 just before he left office. It is the fourth of its kind since the reintroduction of the annual Finance Act in 2019. The Finance Act which has an effective date of 1st May 2023 amends some provisions in eleven (11) existing statutes. These legislations have brought some far reaching changes in Nigerian tax system. This paper attempts to identify some of the regulatory changes and their impact on tax compliance in Nigeria, as well as the socio-economic impacts and implications of those changes. For this purpose, the rest of this paper is organized into 5 parts. The first part provides the background to Finance Act while the second part indicates the methodology adopted in the paper. The third part discusses the significant changes introduced by the Finance Act 2023 in Nigerian tax system.

Part four points out some of the outstanding issues in Nigerian tax system and the conclusion of the paper is drawn in the fifth part.

2.0 Literature Review and Hypotheses Development

In most democratic countries, it is an annual tradition that finance bill is sent alongside with public budget to parliament for approval. Finance Act is a legislation which is presented to parliament as finance bill usually during budgetary period concerning finance of the government operation including revenue, public borrowing and public expenditure. Therefore, finance Act is a finance bill which has been passed and signed into law to give legal effect to financial proposal of government in the coming fiscal year.

In Nigeria, the finance bill was introduced as part of budgetary exercise in 2019 and this resulted into Finance Act 2019. This is followed by Finance Act 2020 and now finance Act 2023. Under the military rules, a legislation having similar features as finance Act referred to Finance (Miscellaneous Provision) Decree was used as part of budgetary exercise to bring changes to the Nigerian tax environment. It should be noted that Finance (Miscellaneous Provision) Act 1999 which was enacted by military was the last finance Act in the last two decades since the advent of democratic rule until Finance Act 2019 was enacted. Although there were some amendments done to some tax legislations in 2004, 2007 and 2011, the absence of annual finance bill in the last 20 years has caused most of the provisions in Nigerian tax legislations to be obsolete and not reflecting socio economic reality of the country. The enactment of Finance Acts has brought about some significant changes in Nigerian tax system particularly tax legislations and administration. The features of finance Act include:

i. Finance Act is useful in amending several tax and non-tax legislation simultaneously.
ii. Finance Act may impose and abolish any tax.
iii. It regulates public borrowing to finance government operation.
iv. It deals with any other matters incidental to finance of government operation.

3.0 Methodology

The method adopted in this paper was descriptive analytical research method. The data used for the study were mainly secondary data from different sources. The researchers critically review related literatures from various secondary sources with a particular emphasis on Finance Act 2023, as well as other Nigerian tax legislations. The secondary sources were complemented by the personal observation of Nigerian tax system in Nigeria by the researchers.

4.0 Results and Discussion

Key Changes Introduced by Finance Acts: Their Impacts and Implications

The amended statutes include Capital Gains Tax Act, Companies Income Tax Act, Customs and Excise Tariff etc. (Consolidated) Act, Personal Income Tax Act, Petroleum Profit Tax Act, Stamp Duty Act, Value Added Tax Act, Tertiary Education Trust Fund (Establishment) Act, Corrupt Practices & Other Related offences Act, Public Procurement Act and Ministry of Finance (Incorporated), are among the Acts affected by the amendements.

Capital Gain Tax Act (CGTA)

Amendments to the CGTA include the introduction of a new Section 3(a) which brings gains from the sale of digital assets to the list of chargeable assets. This means that any gains realised from sale of

Bitcoins and other crypto currencies are now taxable under the CGTA, a first initiative towards the taxation of crypto transactions in Nigeria.

Section 5 of CGTA has also been amended to allow for the deduction of loss from the sale of shares from the gains made in subsequent periods from similar transactions, provided that such losses are not carried forward beyond five (5) years from when the loss was incurred. Similarly, Section 31(6) has been amended to allow taxpayers to claim a Roll-Over Relief on the disposal of shares and stocks. Prior to this amendment, roll-over relief was only applicable to sale of buildings, plant & machinery, ships, aircrafts, and goodwill. The introduction of roll-over relief for taxing gains from the disposal of shares implies that the chargeable gains for subsequent disposal of reinvested proceeds will be determined using the cost of the assets whose disposal proceeds were reinvested and not the cost of acquiring the new asset now disposed.

Company Income Tax Act (CITA)

The amendments to CITA include the streamlining of capital allowance claimable by companies, with the repeal of Sections 32 and 34 which hitherto granted the popular 10% investment allowance on plant and equipment as well as the rural investment allowance which ranged from 15% to 100%. Any previously claimed but yet to be fully utilised allowances shall remain available to the company. However, there is good news for upstream and midstream gas companies who are now allowed to recover their capital allowance to the maximum possible each year, via the amendment of Section 24 (7) of the Second Schedule to CITA. The hitherto restriction of capital allowance to 66 2/3% will no longer apply to these companies.

The amendment of Section 14(4) of CITA has now given legitimacy to the request by the tax authority for foreign shipping companies and airlines to submit some form of special financial statements of their Nigerian operations, certified by directors and a Nigerian auditor, as part of their tax returns in Nigeria. The companies must also be able to furnish the FIRS with details of all invoices issued to customers during the period. Furthermore, a new subsection (6) has been inserted in Section 14 to mandate Nigerian regulators of shipping and air transport operators to request evidence of income tax filing and tax clearance certificates before granting permits or relevant approvals to carry on business in Nigeria.

Finally, Section 37 has been deleted from CITA, thereby withdrawing the hitherto incentive that granted 25% exemption for hotels on incomes received in convertible (foreign) currencies. This means that all the income of a hotel business are now fully taxable unless otherwise exempted. However, companies that have set aside reserved funds shall continue to enjoy the exemption until the funds are fully utilised or lapsed after five years, whichever occurs first.

Petroleum Profit Tax Act (PPTA)

The amendments to the PPTA are in three main areas:

Deduction of Contributions to Decommissioning and Abandonment Fund (DAF): A new paragraph (1A) was introduced to Section 10 to allow for tax-deduction of any amount contributed to a fund, scheme or arrangement approved by the Nigerian Upstream Petroleum Regulatory Commission for the purpose of decommissioning and abandonment. However, any surplus or residue of the fund after decommissioning and abandonment of the field shall be subject to tax under PPTA. This amendments gives equal benefits to companies that are yet to convert to the Petroleum Industry Act (PIA) with regards to these costs, as granted under the PIA.

Additional Chargeable Tax: A new Section 23 has been introduced to replace the old provision, also to align with Section 268 of PIA which provides the basis for determining the total value of Chargeable Oil for a period, i.e. the number of barrels of crude oil determined at the measurement point multiplied by the fiscal oil price per barrel, provided that the Nigerian Upstream Regulatory Commission (NUPRC) have the power to establish the fiscal oil price for any stream for which no fiscal price is available. Updated Penalty Regime: Amendments to align the penalty regime under PPTA with that of the PIA have been made by the introduction of a new Section 30(4) and the amendments of Sections 51, 52, and 53, and the deletion of Section 55.14.

5.0 Conclusion and Recommendations

This study has identified and extensively discussed the various Regulatory changes brought into the Nigerian tax system by the introduction and signing into law the Finance Act 2023 as well as the attendant impacts and implications of these changes on the Nigerian economy, tax revenue capacity of the government and standard of living of Nigerians. Over and above that, the study also pointed out some of the outstanding issues in the Nigerian tax system which require attention of the policy makers and tax administrators in the future tax reform in Nigeria in an attempt to further enhance efficiency and effectiveness of the tax system.

With a good number of amendments cutting cross major primary tax laws of CITA, CGTA, PITA, PPTA, SDA, TETA, IDITRA and FIRSEA by Act, it is indeed obvious that the act represents phenomenal legislations which have introduced some landmark changes in the Nigerian tax system. The attendant impacts of these landmark changes are expected to lead to more tax revenue collection, improvement in ease of doing business in Nigeria, promotion of SMEs, attraction of more investments to the Nigerian economy, job creation, ameliorate the living standard of Nigerians and alleviate the pain inflicted on businesses and individuals by the current economic hardship.

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