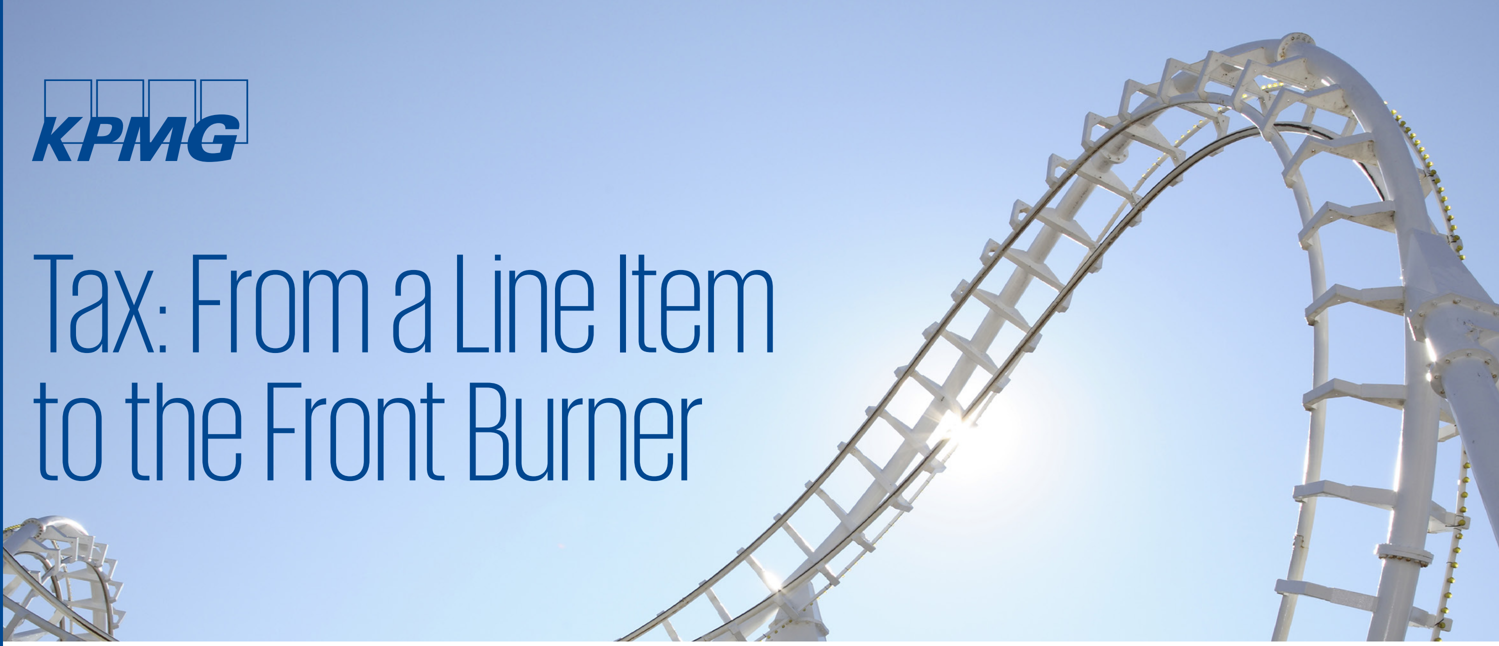

Tax: From a Line Item to the Front Burner

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Oil and gas extraction is a dominant source of export earnings and employment in most oil-producing countries. Nigeria is rich with mineral resources including oil and gas but overly dependent on oil revenue for the country's economic development. The oil boom of the 1970s encouraged Nigeria's over dependence on oil revenue to the total neglect of other revenue sources. This model is unsustainable due to the significant decline in oil revenue and has plunged the nation into deficit budgets.

From Qatar to Venezuela, one point is clear from the balance sheets of these countries: revenue from oil is declining. However, with crude oil prices falling below US$60 per barrel, the decline in crude oil price has led to a decrease in the funds available for distribution to the Governments of these countries. The need for the Nigerian government to generate adequate revenue from internal sources has therefore become a matter of extreme urgency and importance. This need underscores the eagerness on the part of government to look for alternative sources of revenue or become more aggressive and innovative in the mode of collecting revenue from existing sources.

The obvious question then is where will the additional revenue needed to fund the budget come from? The answer appears to be from non-oil revenue sources, including tax, given that the Draft 2015 budget put 1.68 trillion Nigerian nairas as gross federally collectible non-oil revenue. Therefore, it is no surprise that tax has suddenly climbed to the top of the government's sources of revenue to augment the revenue needed to fund the budget.

The federal government of Nigeria uses several agencies to collect revenue including the Federal Inland Revenue Service (FIRS). Among other functions, the FIRS was set up to control and administer the different taxes and laws specified in the First Schedule of the FIRS Establishment Act or other laws made or to be made, from time to time, by the National Assembly or other regulations made there under by the Government of the Federation and to account for all taxes collected. Given the pressure to increase tax revenue, the FIRS announced to the general public in October 2014 that it would commence enforcement activities against corporate bodies and individuals who fail to file their tax returns as and when due.

Given the above, the various revenue authorities (including the FIRS)

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will more likely embark on aggressive tax audits/ investigations of taxpayers' records to enhance tax collection. Unfortunately for multinationals and local corporates, the practice and culture of the tax authorities historically has been to focus on collecting more from compliant taxpayers rather than expanding the base to bring evaders into the tax net.

What Should Taxpayers Do?

The environment in which companies operate has changed dramatically in terms of tax reporting and compliance. With the expected increase in aggressive enforcement activities by the FIRS, there is a need for taxpayers to consider strategies to mitigate issues that may arise from tax audits/investigations through more transparent reporting, proper documentation, and periodic tax health check.

There is a lot more to tax management than ensuring that the right amount of tax is paid on time in the places where it should be paid. Stakeholder communication, the role of technology, and the structure of the tax function are other issues that contribute to effective tax management in companies. Therefore, companies would need to improve their governance, accountability, and transparency in all areas, including tax. Consequently, the need for taxpayers to develop proper tax risk management and a control framework has become crucial. To put in such a control framework, companies would need to:

1. Establish a clear tax vision and strategy aligned to the business objectives of the wider organization, and which should articulate how the tax function will deliver value.

2. Determine their appetite for risk, including reputational risks.

3. Implement processes and controls to ensure integrity in compliance and reporting.

4. Create the right operating model for their tax function by mapping out the people, processes, and technology needed to efficiently deliver the agreed tax strategy.

5. Implement a governance and control framework to manage tax risks.

6. Benchmark their tax function and put in place relevant key performance indicators to drive the right behavior and demonstrate success.

Companies need to ensure that there is commercial rationale for all transactions undertaken. Due consideration should be given to the impact on their reputation, brand, and corporate responsibilities when taking any decision. When the tax treatment of an item is uncertain and more likely than not to be challenged, the item must be subject to robust risk assessment and supported by full disclosure. It is important for taxpayers to ensure that the tax department is involved in every aspect of their businesses, from planning to implementation, to avoid unnecessary problems. Also, all dealings with tax authorities must be undertaken in a professional, respectful, and timely manner. The tax department, with its tax consultants, should proactively manage the relationship with the tax authorities to reduce the risks of dispute or damage to the corporate reputation as a result of errors or omissions in the tax returns. Therefore, by taking a holistic approach in dealing with tax, companies would be in a better position to proactively deal with any issue that may arise from a tax audit/investigation.

How Can the Revenue Authorities Increase Tax Revenue?

The primary goal of the tax authorities is to collect the taxes payable in accordance with the enablinglegislation in a way that will engender confidence in the tax system. Some taxpayers, due to ignorance, carelessness, or deliberate actions as well as weaknesses in tax administration, fail to meet their obligations. Therefore, tax administrations should implement strategies and structures to ensure that noncompliance with tax law or tax fraud is kept to the minimum possible.

Increasing the effectiveness of the risk management function is now

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more important than ever. Several factors are recognized as increasing the risks that the tax authorities face including complexity and innovations in business

structures, new financial products, large numbers of taxable persons and services, and e-commerce developments. Tax administrations also often face the need to work more efficiently, in view of not only public opinion, which demands new levels of efficiency and accountability of government services, but also reductions in budgets and restrictions to hire new personnel.

To cope with the above challenges, many tax authorities have introduced specific procedures/initiatives incorporated in a general framework, the "risk management process." These initiatives focus on (1) encouraging voluntary tax compliance, and (2) improving the technical competencies of the tax authorities.

Encouraging voluntary tax compliance.

Noncompliance is the failure to file returns, report income, calculate deductions properly, and pay correctly and on time. Some of these noncompliance matters are a result of, for example, the complexity of the tax norm, ignorance of the obligation to file a tax statement, difficulties in completing the statements, and large number of tax obligations to be met.

Voluntary compliance levels, however, vary widely. For instance, in developed countries, a larger percentage of the taxes owed from legitimate economic activities are voluntarily reported and paid. This is clearly not the case with a developing country like Nigeria, where there is a greater tax gap (the difference between the tax actually remitted and the amount that would be remitted if all persons filed complete and accurate tax returns and paid all taxes that they owed).

To encourage voluntary compliance, it is important that the tax authorities put greater emphasis on helping taxpayers meet their obligations. This could be done by providing outreach services, technical advice on tax payment obligation (this may be done by issuing tax regulations), and allowing taxpayers to file and pay in ways that minimize compliance costs such as the use of electronic filing system.

In the United Kingdom, as part of efforts to increase tax revenue, Her Majesty's Revenue & Customs (HMRC) emphasizes the promotion of voluntary compliance through various measures. One measure that HMRC adopted was to provide support and education (including tailored e-learning packages, products, and seminars) for individuals and businesses. In addition, HMRC recognized that for many small and medium-sized enterprises (SMEs), nonpayment of tax was not a deliberate choice, rather a short-term cashflow problem. To support SMEs in those circumstances, the tax authorities adopted a program called a "Time to Pay" arrangement, where the SMEs were given sufficient time to settle their tax liabilities. This was to recognize that a harder line could push small businesses and individuals into insolvency, which could lead to less debt being recovered.

Improving tax authorities' technical competencies.

As governments around the world seek a higher degree of compliance with the tax laws, they are strengthening the ranks of their tax authorities and improving the resources available to them. The aim is to enable tax authorities' staff to better understand increasingly complex tax structures, as well as handle disputes with corporate taxpayers and enforce tax laws.

With rapid advances in technology and ever-increasing globalization, commercial models are necessarily complex as are the cross-border tax rules applicable to modern global businesses. The appropriate taxation of global business is an issue with technical, legal, policy, and economic dimensions. Thus, the need to have staff with the required technical competence becomes crucial to tax administration. In the United Kingdom, the HMRC is focusing on boosting the skills of its workforce. The essence is to ensure that its staff has the required competencies to review complex business structures and the confidence to take on the best of the private sector tax experts in tax disputes.