# Tax Amnesty - A viable Option for Boosting Revenue

**By Ehile Adetola Aibangbee and Tozaye balogun**

It is no longer news that the relevance of internally generated revenue (in effect, taxes) to the Nigerian economy has increased considerably since the oil and gas sector fell on hard times. To keep the economy afloat, the Federal Government has, through its revenue collection agency – the Federal Inland Revenue Service (FIRS), initiated several measures to increase revenue generation through tax collection. These measures range from changing the prevailing tax practices and improving tax administration, to introducing new taxes and levies. Some have been worthwhile, others have proven to be limited in practicability and the rest, flat out ineffective.

The current strategy will at best, achieve modest improvement in tax revenue, as it is focused on existing taxpayers. It could also potentially increase the cost and burden of tax compliance. An example of this is the recent shift from taxing non-resident companies on deemed profit basis, to actual profit basis, with the latter requiring audited financial statements. The deemed profit basis is generally considered to be simple and certain. Whereas, the case for preparing and filing returns on actual profit basis is unproven, especially when one considers the greater administrative burden placed on both the taxpayer and the FIRS.

Traditionally, non-compliance with tax obligations is a common challenge for many tax authorities. During a presentation to the World Bank in 2013, the Federal Minster for Finance (Minister) stated that 75 per cent of the companies registered in Nigeria are not in the tax system. Thus, one may argue and rightly so, that increasing tax rates will not necessarily yield sustainable revenue growth, where taxpayers remain non-compliant. Furthermore, to do so will not only be punitive to the few compliant taxpayers, but will also have an undesirable effect on the economy in the long run.

A case in point is France, where the high corporate tax rate is credited with contributing to the falling competitiveness of French industries in the global market and its growing trade deficit. The high payroll and social tax imposed on French companies is also perceived to be one of the reasons for offshoring and the high level of unemployment in France[1].

Bearing in mind the disadvantages of increasing the tax rate, the obvious way forward would be to focus on increasing the number of companies in the tax net. The FIRS might want to achieve this by embarking on an aggressive drive to identify non-compliant companies. Given the limited capacity of the FIRS, the outcome of such an exercise will at best, be modest. What is needed therefore, is a model that enables companies voluntarily step forward into the tax net. But the question is, at what cost to the taxpayer?

Take the case of Mr. Domingo, who started a small-sized business some ten years ago. The business has been very successful. Mr. Domingo is now considering the next phase of the business, including inviting institutional investors. To do this, he realizes that the tax compliance of the company is one of the things that will be reviewed during a due diligence exercise. He asks his accountant to run the tax numbers for him. On getting the numbers, Mr. Domingo's enthusiasm evaporates, as he realizes that the tax bill (including interest and penalty charges) will create a big financial risk for his business. He has no choice but to put off the idea of voluntary disclosure. He has become a victim of his past.

How many Mr. Domingos might be out there? How can such people be encouraged to voluntarily come into the tax net, without fear of ruining their business?

[1] About-France.com: Overview of the French Economy

In our view, a way to achieve this, would be to 'incentivize' previously non-compliant taxpayers to voluntarily become compliant. This can be achieved through a tax amnesty program.

A tax amnesty program is one where non-compliant taxpayers are given a window of opportunity to pay an outstanding tax debt in exchange for forgiveness of a liability relating to a previous period without fear of penalty or prosecution. In 2007, Russia recovered about US$ 130 million in previously lost tax revenue from its amnesty program within the first six months. The Italian 'tax shield' program was reported to have generated revenue of about US$ 80 billion in 2009, while a record US$ 5 billion was collected from about 30,000 voluntary tax disclosures made under the United States' IRS offshore voluntary disclosure program. Ghana, in 2013, with a view to increasing its tax base, granted unregistered and non-compliant taxpayers amnesty for a period of 9 months. Although the revenue generated from this exercise is unreported, a good number of taxpayers were registered during the period.

Because granting amnesty is discretionary, governments are at liberty to determine the terms and conditions of their tax amnesty program. Nevertheless, there are common factors critical to the success of all tax amnesty programs.

The first and perhaps most important is the enactment of legislation to give backing to the program. Such legislation should speak to the basic principles of the amnesty and at the minimum provide information on the:

- type of taxes, years covered, and duration of the amnesty
- extent of tax relief or protection to be granted. For instance, whether the relief includes full or partial waiver of the outstanding liability or should be limited to a waiver of interest and penalty charges
- companies or persons eligible for amnesty. For instance, taxpayers who had previously been granted amnesty can be expressly excluded
- process, timeline and information required for application
- approval process and grounds for disapproval or revocation of amnesty
- Procedure and timeline for settlement of the agreed liabilty
- implications for taxpayers who decide to take advantage (or

otherwise) of the amnesty program
- whether or not liabilities that are currently the subject of a dispute are covered, etc.

The importance of a supporting legislation to the success of an amnesty program cannot be overemphasized. A legalframework will boost taxpayers' confidence in the objectives of the program, encourage their willingness to participate, and guarantee protection from penalization and tax investigations.

Another common factor is the objective of the amnesty program. While raising large sums of revenue in the immediate term may be a target, the overriding purpose in most cases, is to broaden the tax base and secure a constant stream of revenue from that wider base on a going-forward basis. Information provided by previously non-compliant taxpayers to the revenue authority will ultimately serve as a useful tool for tightening leakages, monitoring tax compliance, and recovering liabilities in the future.

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It is also the norm for governments (and revenue authorities) to follow through on granting all the reliefs provided for in the tax amnesty legislation. This commitment is often supported by issuing a document that releases taxpayers, who have taken advantage of the amnesty, from all previous liabilities (or specific liabilities) and to bar the authorities from further investigation into the transgressions of taxpayers. This will go a long way to guarantee the success of future amnesty programs, should they become necessary.

Lastly, amnesty is granted sparingly and for a short period of time, perhaps to ensure that the government reaps maximum benefit from the program and to limit the administrative cost to the authorities. In addition to the aforementioned common success factors, the FIRS must be adequately capacitated to handle tax cases professionally and expeditiously. There should also be a robust data management system for coping with the influx of taxpayers and for interrogating information received during the amnesty period, which can be used to uncover companies that remain outside the tax net.

Tax revenue currently contributes a meagre 7% to Nigeria's Gross Domestic Product( GDP)[2], when compared to the 15% tax revenue to GDP contribution recommended by the IMF for low to middle income economies, it becomes clear that Nigeria has a lot to achieve where tax revenue generation is concerned. It is encouraging to know that with improved tax administration, the FIRS can generate additional revenue of N460 billion (over and above the 2014 level) between 2015 and 2017[3], from existing taxpayers (and perhaps newly discovered taxpayers). That being said, tax revenue will soar even more, where the FIRS's effort to improve on tax administration is matched with voluntary compliance by taxpayers.

In view of the importance of tax revenue to the Nigerian economy, it is necessary to include as part of the strategy for increasing tax revenue, a tax amnesty program. Such a program will spur hitherto non-compliant companies to becoming compliant taxpayers. The much deeper pool of taxpayers so created, will go a long way in diversifying government's revenue base away from oil.

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[2] Dr. Ngozi Okonjo-Iweala: Presentation at a spring meeting of the World Bank and IMF in Washington DC

[3] Dr. Ngozi Okonjo-Iweala: Public presentation of the proposed Federal Government Budget for 2015



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