

RELEVANCE OF THE PRESIDENTIAL BUDGET SPEECH FOR TAX DEVELOPMENT IN NIGERIA

Abiola Sanni, Ph.D, FCTI
Associate Professor of Law

University of Lagos

08033958020, 08024065832

asanni@abiolasanniandco.com, asanni@unilag.edu.ng

Overview

- Introduction
- Definition of terms
- Contents of a Budget Speech
- Tax Contents of a Budget Speech – 2012 & 2013
- Relevance of Budget Speech
- Limits of Budget Speech
- Conclusion
- Recommendations

Newspaper Report

“The Finance Minister, Ngozi Okonjo-Iweala, has presented the federal government’s spending plan for 2014. Mrs. Okonjo-Iweala, who represented President Goodluck Jonathan at separate sittings of the Senate and the House of Representatives, said the government proposes to spend N4.6 trillion in 2014Thursday’s presentation was devoid of the usual pomp of annual budget events. Mrs. Okonjo-Iweala was only allowed by the two chambers to lay the budgets without a speech. It was the first time since the return of democracy in 1999 that a minister would present the budget on behalf of the president. See “Okonjo-Iweala presents N4.6 trillion budget for 2014”

See <http://premiumtimesng.com/news/151754-okonjo-iweala-presents-n4-6-trillion-budget-2014.html>

Introduction

- Topicality and reality of the subject our discourse.
- There are three significant departures from established practices (convention) viz:
 - The Minister of Finance and not the President laid the budget
 - It was laid separately before the Senate and the House of Representatives rather than their joint sitting.
 - There was no budget speech broadcast live to the nation!
- These are sufficient to raise genuine concern.
- Constitutionality or otherwise of lack Presidential Budget Speech. See
<http://www.punchng.com/opinion/budget-without-a-presidential-speech>

Definitions

- A **speech** is a formal address or discourse delivered to an audience. The budget speech in the context of this paper is the formal speech usually delivered by the President of the Federal Republic of Nigeria to the National Assembly when laying the proposed budget estimates for the year before the National Assembly.
- c/f **Appropriation Act** – This is the Act of National Assembly authorizing the FGN to appropriate the various sums earmarked in the Act for the MDAs.
- Cf **Budget breakdown** - Budget breakdown (containing detailed analysis) is usually anchored by the various Ministers under the coordination of the Minister of Finance and Information after the budget presentation.

Definition contd

- **Budget** is a plan for financing the activities of government for a fixed future period, usually one year.
- **Development** is the gradual growth of something so that it becomes more advanced and stronger. It is the process of producing or creating something new or more advanced.
- **Tax development** describes when tax system as a whole becomes significantly improved in terms of policy, law and administration. Tax development goes beyond the objective of increasing tax revenue since the objectives of taxation goes beyond raising revenue

CONTENTS OF THE BUDGET SPEECH

- Protocol
- Global Economic Developments in the Domestic Environment
- Review of the 2012 Budget Implementation Subsidy Reinvestments And Empowerment Programme (Sure-P)
 - Key Achievements In The 2012 Fiscal Year
 - Power
 - Agriculture
 - Housing
 - Transport
 - Aviation
 - The Petroleum Sector
 - Job Creation
 - Security

Contents Cont'd

- THEME OF THE 2013 BUDGET
 - Macroeconomic Stability
 - Budget Structure
 - Public Debt Management
- THE 2013 BUDGET
 - Parameters/ Assumptions
 - Oil production of 2.53 million barrels per day
 - Benchmark oil price of US\$75/barrel
 - Projected GDP growth rate estimated at 6.5%

Contents Cont'd

- Revenue Expenditure Proposals
- Fiscal Policy
- Public Mass Transit:
- Gender Empowerment
- Sports
- Conclusion

TAX CONTENTS

- Revenue

Based on these assumptions, the gross federally collectible revenue is projected at N10.84 trillion, of which the total revenue available for the Federal Government's Budget is forecast at N3.89 trillion, representing an increase of about 9% over the estimate for 2012. Non-oil revenue is projected to continue to grow in 2013 as the ongoing reforms in our revenue collecting agencies, and the implementation of initiatives to further develop the non-oil sector continue to yield results.

TAX CONTENTS cont'd

- Fiscal Policy
- Sugar:
 - 0% duty for machinery and spare parts imported for local sugar manufacturing industries
 - 5-year tax holiday for “sugarcane to sugar” value chain investors.
 - Import duty and levy on raw sugar will attract 10% and 50% respectively, while refined sugar will attract 20% duty and 60% levy;
- Rice:
 - 10% import duty and 100% levy will be applied to both brown and polished rice

TAX CONTENTS cont'd

- Aircraft:
 - 0% duty and 0% VAT on all commercial aircraft and aircraft spare parts imported for use in Nigeria.
- Solid Minerals:
 - 0% duty and 0% VAT on machinery and equipment imported for use in the solid minerals sector
- Public Mass Transit:
 - 0% duty on Completely Knocked Down components (CKD) for mass transit buses of at least 40-seater capacity (formerly 5%).

Tax provisions of the 2012 BS

- Commencement of the review Customs and Excise Tariffs
- Grant concessions or waivers on a sectoral basis. The focus of any concessions will be on expanding domestic production for local consumption and boosting exports, development of value chains, and boosting employment.
- Plan to review and streamline the Export Expansion Grant (EEG) Scheme to promote non-oil exports.

Tax provisions of the 2012 BS

- Pursuit of economic diplomacy within the framework of ECOWAS to ensure that the ECOWAS Trade Liberalization Scheme (ETLS) achieves its objective of promoting intra - ECOWAS trade and that it is not used as a vehicle for dumping goods in the region. In particular, we shall review the application of the ECOWAS Trade Liberalization Scheme (ETLS) to the oil palm and other sectors.

Tax provisions of the 2012 BS

- Signing the Personal Income Tax (Amendment) Act 2011 into law. This law also provides for Tax Appeal Tribunals to listen to and address concerns of individual taxpayers as a cost-effective administrative intervention prior to recourse to the courts.

Tax provisions of the 2012 BS

- Promise to gazette other fiscal changes include tax waivers on all bonds and related instruments issued by corporate and other tiers of Government, tax rebates as incentive to companies that create jobs, regulations to support taxpayers' self- assessment, and regulations to support the growing quest of those involved in social and community development to get tax incentives for those donating to their causes.

Executive Actions on 2012 BS

- Following the last declaration, the President made the ***Companies Income Tax Exemption Order 2012*** which introduced Employment Tax Relief, Work Experience Acquisition Programme Relief and Infrastructural Tax Relief.
- - Companies Income Tax (Exemption of Bonds and Short-term Government Securities), 2011 was gazette in January, 2012

TAX CONTENTS OF THE 2014 BUDGET

- From the budget breakdown by the Minister the following have emerged:
 - import tariff of 70% and 35% levy of the cost of imported vehicle.
 - Import tariff of 10% and 100% levy on brown and polished rice.
 - a tax holiday for five to ten years for local manufacturers of tyres. The Industrial Development (Income Tax Relief) Act allows a maximum of 5 years.

RELEVANCE OF BS TO TAX DEVELOPMENT

- A primary source of tax law during the Military – For example, the Capital Transfer tax was “repealed” vide Budget Speech under the President Obasanjo’s regime.
- Articulation of emerging tax policies – The President could have seized the moment to say something, for example, on:
 - the Petroleum Industry Bill (PIB)
 - implementation of TP Regulation
 - Highlight the awareness of the need to resolve problems arising from the legal framework of TAT

RELEVANCE OF BS TO TAX DEVELOPMENT

- Indicate whether there will be another tax reform almost 11 years after the 2003 Tax Study Group Report.
- review of revenue performance of tax components
- Projection of the estimated tax revenue and set practical agenda for achieving them

LIMITS OF BP

- Taxation is statutory
- Budget speech is not a source of law – At best a statement of intent or policy direction. C/f in *Impresit Bakalori v FBIR* APP/COM/256 – held that a budget speech is not more than a mere intimidation of proposed government fiscal legislation; It creates no liability until a Decree is promulgated.
- Need for requisite legislative framework – E.g VAT Act yet to be amended to accommodate the 0% duty VAT on machinery and equipment imported for use in the solid minerals sector announced in 2013 BS.

CONCLUSION

- No standardisation in the tax provisions of budget speech. For some years no reference whatsoever to tax matters and where they are they vary in degrees.
- The essence of this discourse are mainly:
 - to signpost the potentials of BS for tax development
 - feedback from stakeholders on taxation
- While there is no violation of s.82 1999 Constitution
- The departures have deeper implications for the development of a sound budget process in Nigeria. For example, the early publication of the budget in the newspaper focused on the narrow negative reports.
- The development is ill advised and should not be adopted in future.

RECOMMENDATIONS

- Every budget speech should contain minimum tax contents on tax revenue receipt and estimates, the proposed tax policy direction, etc. The Ministry of Finance should make use of the input from FIRS. Budget Speech Writer should please take note.
- Priority should be given to amendment to tax laws. They should be prepared in advanced and passed at the same time when the Appropriation Act is passed.

RECOMMENDATIONS

- Public discourse of tax provisions should be robust and well coordinated. I hope CITN will make this a yearly event.
- Public discourse should also be directed at State Budgets.

APPRECIATION.