OIL, GAS AND OTHER MINERALS TAXATION

A PAPER PRESENTED

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AT THE SPECIAL TRAINING PROGRAMME OF THE CHARTERED INSTITUTE OF TAXATION OF NIGERIA (CITN)

The Chartered Institute of Taxation of Nigeria

Established in 1982 and Chartered by Act No. 76 of 1992

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CONTENT

- PRINCIPLES AND PRACTICE OF TAXATION
- TAXATION IN THE SOLID MINERALS INDUSTRY IN NIGERIA
- TAXATION IN THE OIL AND GAS INDUSTRY IN NIGERIA
- PETROLEUM INDUSTRY BILL

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INTRODUCTION

- The word Tax and Taxation have been used interchangeable to mean the same thing. This is not so. Tax, in the words of Dalton, H. "*is a compulsory contribution imposed by a public authority, irrespective of the exact amount of service rendered to the taxpayer in return, and not imposed as penalty for any legal offence*."
- whereas taxation could be described as all the processes involved in the contract drafting/negotiation for the design of the fiscal system, the legal framework, administration and imposition.

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INTRODUCTION (Cont'd)

- A good tax system should have some basic characteristic. These characteristics, as opined by Adams Smith in his book "The Wealth of Nations" are referred to as Canons of Taxation. Accordingly, Adam Smith stated four (4) basic canons of taxation to include:
  - Equity
  - Certainty
  - Convenience
  - Economy

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INTRODUCTION (Cont'd)

These canons of taxation have today been expanded to include

- the design of the fiscal system and
- the legal framework

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INTRODUCTION (Cont'd)

- If tax is levied directly on personal or corporate income, then it is a direct tax. If levied on the price of a good or service, then it is called an indirect tax, a consumption tax. The purpose of taxation is to generate revenue and finance government expenditure.
- Taxation in Nigeria falls under the concurrent list. The Federal, State and Local Governments impose one form of tax/levy or the other with each having its boundaries spelt out in the various legislations

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INTRODUCTION (Cont'd)

The following are a list of the major relevant Tax Regulations and Fiscal Systems operating in Nigeria. They include:

- Capital Gains Tax
- Value Added Tax
- Education Tax
- Petroleum Profits Tax
- Withholding Tax
- Customs and Exile Duty
- Personal Income Tax
- Companies Income Tax
- Others include:
  - Stamp Duties
  - Double Taxation Treaty
  - Nigerian Social Insurance Trust Fund

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INTRODUCTION (Cont'd)

- **CAPITAL GAINS TAX** is a tax imposed on the capital gains accruing on the disposal of assets. The Capital Gains Tax Act of 1st April 1967 is the appropriate legislation. The rate used to be 20% until 1996 when the then Military Administration of Late General Sani Abacha reduced the tax rate from 20% to 10%. All capital gains accruing to an individual or corporate body is subject to tax under this act except otherwise stated in the Act.

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INTRODUCTION (Cont'd)

- **COMPANIES INCOME TAX**
- Tax is levied on a resident company's world wide income being its profits accruing in, derived from, brought into or received in Nigeria. For a non resident company, it is levied on only that income derived from its Nigerian operation. Assessment is on Preceding Year (PY) basis. Remittance is 2months after due date of filling of Returns
- CIT is 30% and 20% for small companies engaged in manufacturing or wholly in export including oil & gas within the first five years of its operation.

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INTRODUCTION (Cont'd)

- **PETROLEUM PROFITS TAX (PPT)**

PPT is levied on the income of companies engaged in upstream petroleum operation. The rate is 85% for Joint Ventures and 50% for Production Sharing Contracts (PSC).

- **EDUCATION TAX (ET)**

ET is levied on all Nigeria companies' assessable profits. The rate of tax is 2% of Assessable profits. This has now been replaced by the Tertiary Education Tax

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INTRODUCTION (Cont'd)

- **VALUE ADDED TAX (VAT)**

It is a consumption tax. It is chargeable on the supply of taxable goods and services except otherwise stated by the ACT (zero rated or exempted). VAT can either be input VAT or OUPUT VAT. The standard rate is 5%.

Remittance date is 21 days after the month of supply/ payment due to delays in payment process.

- **PERSONAL INCOME TAX (PIT)**

PITA imposes a tax on the income of Individuals, employees, partnerships and incorporated trusts, on the basis of residency.

PIT (Amendment) Act 2011 provides for consolidated relief Allowance of

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PERSONAL INCOME TAX (continued)

- N200,000 subject to a minimum of 1 % of gross income and the balance shall be taxed in accordance with the following tax table:-

1st N300,000.00 at 7%, next N300,000.00 11%, next N500,000.00 15%, next 500,000.00 @19%, next N1,600,000.00 at 21%and above N3,200,000.00 at 24%.

- Remittance is 10 days after the end of or after the payment.

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INTRODUCTION (Cont'd)

- **CUSTOMS AND EXCISE DUTIES**
- Custom duties are levied on costs, insurance and freight with varying rates for different items.
- Other levies include:
- NDDC Levy which is 3% of annual budget in the Oil and Gas Sector
- National Housing Fund Contribution
- Employees Compensation Scheme

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INTRODUCTION (Cont'd)

- **CUSTOMS AND EXCISE DUTIES**
- Pension Contribution
- Stamp Duties etc
- All of these taxes and levies affect the Oil and Gas and other businesses and Industries in Nigeria including the Solid Minerals Industry.

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INTRODUCTION (Cont'd)

▪ WITHHOLDING TAX (WHT)

- Withholding Tax was originally introduced through the provision of section 21c to Section 21f of ITMA 1961. Withholding tax is an advance payment of income tax. It is solely intended to curb tax evasion by bringing the prospective tax payer to the knowledge of the tax authorities. Credit is normally given at the presentation of a valid withholding tax receipt. Upon the determination of income tax liability, tax payable is arrived at by first deducting from the initial tax payable all the withholding taxes earlier paid and for which the relevant tax authorities had earlier issued a withholding tax receipt. The withholding tax receipts thus serve as tax credits and are used to reduce the final tax burden on the paying organization.
- **Tax Coverage**
- WHT covers rent, dividends, directors' fees, all aspects of building, construction and related services.
- All types of contract and agency arrangement, other than outright sale and purchase of goods and property in the ordinary course of business. Consultancy, Technical and Professional services, Management services, Commissions, Interest and Royalty.
- **REMITANCES**
- WHT on non-resident individuals in Nigeria, residents of FCT, members of the police force, armed forces and foreign affairs are payable to FIRS. All other individuals including sole proprietorships, partnerships and other business enterprises which fall within the tax jurisdiction of state governments, payments are to be made to the relevant tax authority of the state where the individual resides.

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INTRODUCTION (Cont'd)

The payment is to be accompanied with a schedule showing:

- The name of the contractor
- Invoice or Payment details
- The file registration number of the contractor; Tax Identification Number (TIN)
- The value of the contract
- The amount of tax withheld.
- WHT is remitted through nominated banks 21 days of the following month of the deduction .
- Failure to deduct or remit the tax deducted attract a fine of 200% of the tax not withheld or not remitted.

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INTRODUCTION (Cont'd)

- **CURRENCY OF REMITTANCE**

WHT is payable in the currency the contract was transacted and in which the tax was deducted.

WHT rates

The following are the applicable WHT rates

	Companies	Individual
Dividends, Interest, Rent	10%	10%
Directors Fees	10%	10%
Royalties	15%	15%
Commission, Consultation, Technical, Service Fees	10%	5%
Management fees	10%	5%
Construction/Building Contracts	5%	5%
Contracts, other than outright sales and purchase of goods in the ordinary course of business	5%	5%

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INTRODUCTION (Cont'd)

- **Income subject to Withholding Tax**
- The underlining principle is that transactions that are ordinarily not liable to tax in Nigeria are also not liable to WHT; thus, contracts and supplies of goods and services performed entirely outside Nigeria by non-resident taxpayers will not be liable to WHT. The residence of the taxpayer is generally not relevant for the purpose of determining liability to tax or the application of WHT, but it is important to consider whether the provider/supplier of the goods or services is liable to Nigerian tax. Incomes liable to WHT include:
- 1.**Rents**

  Where a person rents or hires property/services from another, WHT at the rate of 10% will apply. But where a person provides services to another for using his/her own equipment/facilities, the transaction becomes a contract of services rather than rental or hire.
- 2 **Interest:**

  All income from investments of every kind is subject to WHT including to income from government securities and income from bonds or Treasury bills. Interest on loans paid by a Nigerian company is often not subject to WHT.
- 3 **Dividends:**

  These are income from shares. Dividends are subject to tax whether received by a Nigeria company or a non-resident company. The tax imposed is regarded as final tax, but corporate bodies are allowed to recoup WHT deduction where the dividend is to be redistributed as Franked Investment Income (FII). The Petroleum Profit Tax Act (PPTA) however exempts dividends payable by oil producing companies on petroleum operations from WHT imposition.

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INTRODUCTION (Cont'd)

- 4 . Royalty: It is payment of any kind as a consideration for the use of or the right to use any intellectual property of another or right of occupation such as petroleum resources, minerals in the Oil &Gas, patent rights.
- 5. Consultancy/Professional/Management/Technical Services

  These include the rendition of all specialized services by corporate bodies or individuals.
- 6. All aspects of Building, Construction and Related Activities

  These include all types of construction contracts, including laying of pipelines, maintenance activities and service charges. Drilling and related activities properly fall under this classification.
- 7. All types of Contract Activities and Arrangements, other than Outright sale and Purchase of Goods and Property.

INTRODUCTION (Cont'd)

- **Incomes Not Liable to WHT**

  The following incomes are not liable to WHT:

- 1.**Where there is a dual relationship between parties in a business transition**

  An example of this contract is where a manufacturer/ producer require raw materials from a supplier for its production. This is dual relationship between both parties and the transaction will not be liable to WHT.

- 2.**Where there is a tripartite relationship between parties in a transaction.**

  In a tripartite contract relationship involving a manufacturer, supplier and agent, there could be either two options, depending on the level of financial arrangement. For example, where Manufacturer A, engages Agent C to procure or source for raw materials from Supplier, B, for his production line, there is a tripartite arrangement here. There is nothing preventing Manufacturer, A from dealing directly with supplier B in order to achieve a dual contract relationship.

- (a) If Agent C is mobilized by Manufacturer, B with fund to source for materials for its operation, there will be need to segregate the service cost from the entire contraction, and only the service component will be liable to WHT.

- (b) If the Agent, C, entirely finances the sourcing of the raw materials for Manufacturer A, the entire contract value will be liable to WHT at the time of payment.

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INTRODUCTION (Cont'd)

- 3.**Where a manufacturer delivers its normal products to its distributors and dealers for Sale**

  In this situation, the income accruing to the manufacturer will not be liable to Withholding tax (WHT) as it is regarded as transaction in the ordinary course of business, but the Commission earned by the distributors/Dealers will be subjected to WHT.

- 4. **Agency Transactions & Arrangements**

  Agency arrangement implies a contract between a principal and agent. The reward payable for services rendered by the agent is Commission, which is subject to WHT of 10%. However, if the principal is a non-resident, any sales proceeds from the arrangement will attract5% WHT, where any of the conditions in Section 26(1) (b) of CITA holds.

- **Companies Operating within the Free Trade Zones/EPZ**

  All companies operating within the Free Trade Zones are exemption from the payment of Nigerian taxes by virtue of their status as operating outside the country.

- Where there are incentives for waiver.

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Other Types of Income Not Liable to WHT

- **Insurance premium**
- **Turnover/Income from Dealership or Distributive trade**

  The income earned by distributors or dealers from their trading activities is regarded as arising from transactions in the ordinary course of business and such income is not liable to WHT, but the Commission paid to them by the companies they represent will be liable to WHT.

- **Telephone Bills are not subject to WHT**
- **Withholding Tax Implication on Foreign Transactions**
- **Non Resident Companies/Enterprises**

  Non Resident companies/enterprises are not liable to WHT because of the impracticability of inspecting such company's records.

- **Double Taxation Agreement (DTA)**

  Services performed entirely outside Nigeria by non-resident individuals are not liable to WHT. Nigeria has treaty agreements with about eight (8) countries and these countries are granted a reduced rate of WHT deduction, usually at 7.5% of the generally applicable WHT rate. These countries include UK, Northern Ireland, Canada, France, Belgium, the Netherlands, Pakistan, and Romania.

INTRODUCTION (Cont'd)

Permanent Establishment Principle Exists Under Nigeria Taxation

- The rules construe a PE where:
- - the company has a ''fixed base'' in Nigeria.
- - The company operates in Nigeria through a dependent agent authorized to conclude contracts or deliver goods on its behalf,
- - The company is executing a turnkey project in Nigeria, or
- - The operation between the company and its Nigeria affiliate does not appear to be at arms length.
- - ''Fixed base'' implies some degree of permanence and will include:
- - Facilities, such as a factory, office, branch, mine, oil or gas well
- - Activities, such as building, construction, assembly or installation
- - Provision of services in connection with the activities listed above
- Nigeria tax laws do not exempt the income of branch from tax. A branch is seen as a permanent establishment and its income is taxable in Nigeria. It therefore has WHT obligations
- There could be waivers as incentives in some circumstances as a pioneer status, Free Trade Zone and Export processing Zone e.g NLNG had exemption from taxes based on a ten year Tax Holiday on the Fiscal Incentives Guarantee and Assurances Decree of 1999 as amended by Decree no 113 of 1999 for its pioneer status. This tax holiday expired in October 2009.

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SOLID MINERALS

TAXATION IN NIGERIA

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A BRIEF HISTORY

- The history of organized mining in Nigeria began in 1903 with the creation of the Mineral Survey of the Northern protectorates by the British colonial government. A year after, the Mineral Survey of the Southern Protectorates also was founded.
- For the next four decades after, the mining industry witnessed the influx of British and German foreign mining companies such as the amalgamated Tin Mining company of Nigeria, Exlands, Gold and Base Metals, etc. These companies introduced mechanized mining which led to higher productivity of the mines and consequently land devastation as no law was put in place by the colonial government to guide mineral extraction. By the 1940s, Nigeria was a major producer of tin, columbite, and coal
- All Mining Activities in Nigeria are regulated by the **Nigerian Minerals and Mining Act 2007 as amended.**

HISTORICAL OVERVIEW

- The Act defines: **"minerals" or "mineral resources"** as any substance whether in solid, liquid or gaseous form occurring in or on the earth, formed by or subjected to geological processes including occurrences or deposits of rocks, coal, coal bed gases, bituminous shales, tar sands, any substances that may be extracted from coal, shale or tar sands, mineral water, and mineral components in tailings and waste piles, but with the exclusion of petroleum and waters without mineral content.

- The Act also provides that all lands containing mineral resources belong to the Federal Government in line with the provisions of the Land Use Act of 1978. In other participate in the mining of solid minerals, prospectives must apply and obtain the following licenses:

a) a Reconnaissance Licence;

b) an Exploration Licence under this Act in respect of the area covered by the interim right or licence;

(c) a Small-scale Mining Lease;

(d) a Mining Lease; or

(e) a Quarry Lease.

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TAX IMPLICATIONS

- **Solid Minerals companies, like all other companies in Nigeria (excluding upstream petroleum operations) are subject to tax under CITA.**
- **The tax rate under CITA is 30%. A provision of 20% tax rate is; however, available for small companies in the first five years of their operations.**
- **Special Reliefs for Solid Minerals Companies are available in the Nigerian Minerals and Mining Act 2007 as amended.**

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TAX IMPLICATIONS

- **CAPITAL ALLOWANCES**

  Accelerated Capital Allowance of 95% is granted on Qualifying Capital Expenditure incurred in the year in which the investment is incurred:

- *(a)* all certified exploration, development and processing expenditure, including feasibility study and sample assaying costs; and
- *(b)* all infrastructure costs incurred regardless of ownership and replacement.
- **LOSS RELIEF**

  Losses can be relieved for a maximum period of 4 years after which all un-relieved losses will lapse.

TAX IMPLICATION

- **Permission to retain and use earned foreign exchange**

  S.26 provides that where the holder of a mineral title earns foreign exchange from the sale of his minerals he may be permitted by the Central Bank of Nigeria to retain in a foreign exchange domiciliary account a portion of his foreign exchange earnings for use in acquiring spare parts and other inputs required for the mining operations which would otherwise not be readily available without the use of such earning.

- **Free transferability of funds**
- S.27 of the Act provides that a holder of a mineral title shall be guaranteed free transferability through the Central Bank in convertible currency of-
- *(a)* payments in respect of loan servicing where a certified foreign loan has been obtained by the holder for his mining operations; and
- *(b)* the remittance of foreign capital in the event of sale or liquidation of the mining operations or any interest therein attributable to foreign investment.

TAX IMPLICATIONS

- **CUSTOM DUTIES AND OTHER BENEFITS**

By S.25 of the Nigerian Minerals and Mining Acts 2007,

- (1) All operators in the mining industry shall be granted the following benefits-

  (a) exemption from payment of customs and import duties in respect of plant, machinery, equipment and accessories imported specifically and exclusively for mining operations;

  (b) expatriate quota and resident permit in respect of the approved expatriate personnel; and

  (c) personal remittance quota for expatriate personnel, free from any tax imposed by any enactment for the transfer of external currency out of Nigeria.

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TAX IMPLICATIONS

- **Annual capital cost indexation**
- An annual capital cost indexation, whereby the unclaimed balance of capital costs is increased yearly by five percent, shall apply to mines starting production within five years from the date of enactment of this Act.
- **33. Royalty**

(1) Any mineral obtained in the course of exploration or mining operations shall be liable to pay royalty as prescribed in the regulations made under this Act.

(2) The Minister may reduce or waive royalty on any mineral which the Minister is satisfied is being exported solely for the purpose of analysis or experiment or as a scientific specimen, not being in greater quantity than is reasonably necessary for that purpose.

(3) The Minister may defer payment of royalty on any minerals for a specific period, on the approval of the Federal Executive Council.

- A TOTAL TAX RELIEF PERIOD OF 5YEARS

TAX IMPLICATIONS

A tax relief period of 3years at the first instance and 2years after the first 3years can be granted to companies engaged in Mining and Solid Minerals

- RESERVES FOR ENVIRONMENTAL PROTECTIONS

Tax deductible reserve for environmental protection, mine rehabilitation, reclamation and mine closure costs shall be established by companies engaged in the exploitation of mineral resources; provided however, that the appropriateness of the reserve is certified by an independent qualified person taking into account the determination made under the provisions of this Act-

- *(a)* the reserve is recorded in the audited financial statements of the companies;
- *(b)* tax deductibility will be restricted to actual amount incurred for the purpose of the reclamation; and
- *(c)* a sum equivalent to the reserve amount is set aside every year and invested in a dedicated account or trust fund managed by independent trustees appointed pursuant to the provisions of the Act.

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TAXATION IN THE OIL AND GAS INDUSTRY IN NIGERIA

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THE OIL/GAS INDUSTRY

- **EVOLUTION OF OIL LEGISLATIONS**
- Minerals Oil Ordinance 17 of 1914
- Minerals Oil Act Cap 120 of 1958
- The Governor-General could grant licenses and leases to companies but these companies must be registered in Britain or any of the colonies.
- With the commencement of commercial production of oil in 1958 and the need to prescribe the mode of imposition of taxes on the profits accruing from oil revenue, the Petroleum Tax Ordinance of 1959 was enacted.

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THE OIL/GAS INDUSTRY

- **CURRENT LEGISLATIONS**

After this, several legislations governing the operations of the oil/gas industry have arisen. At present, the current legislations in the oil/gas industry can be broken into two:

1. Legislations made purposely to regulate petroleumoperations:

- Petroleum Decree of 1959 and the Petroleum Drilling and Production Regulation of 1969.
- The Oil Pipelines Act of 1958
- The Minerals Oils (Safety) Regulations of 1963
- Petroleum Refining Regulations 1974

2. Others that have bearings on certain aspects of petroleum operations :

- The Petroleum Profits Tax Act of 1959
- The Offshore Oil Revenue Decree of 1971

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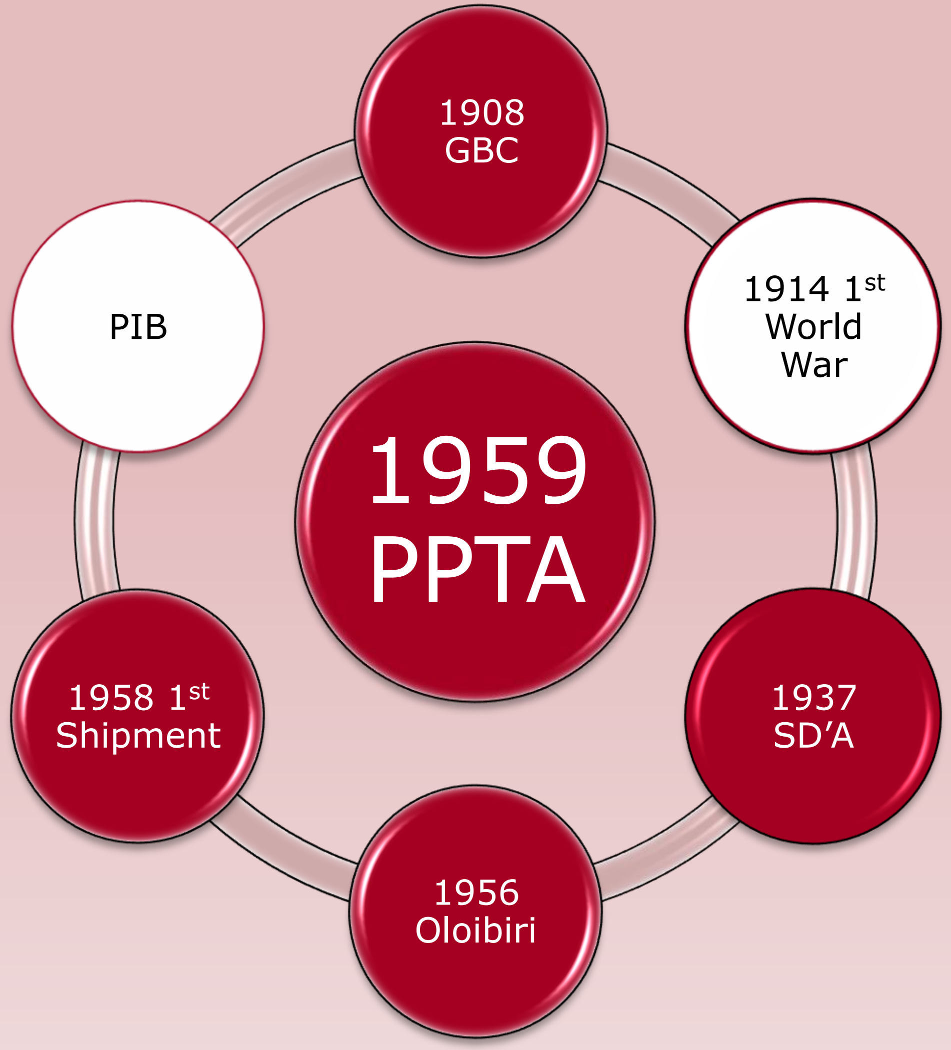
HISTORICAL PERSPECTIVE OF THE OIL AND GAS INDUSTRY IN NIGERIA

HISTORICAL OVERVIEW

- 1908 German Bitumen Company
- 1914 World War 1
- 1937 Shell D'Archy + British Petroleum
- 1956 Oil in Commercial Qty @ Oloibiri
- 1958 1st Shipment of Oil
- 1959 The Birth of PPTA with retrospective effect
- The PIB



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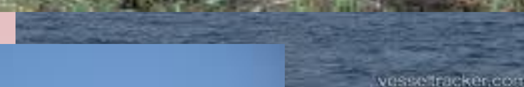
SECTORS IN THE OIL/GAS INDUSTRY

THE UPSTREAM



THE DOWNSTREAM

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THE DOWNSTREAM SECTOR

ACTIVITIES OF THE DOWN STREAM:

- TRANSMISSION AND CONVEYANCE
- REFINING
- OIL SERVICING:
  - FISHING
  - AIR TRANSPORTATION
  - CEMENTING
  - RIG FASCILITY
  - MARKETING
  - TRANSPORTATION
  - ETC

TAX IMPLICATIONS:

- ALL DOWNSTREAM ACTIVITIES ARE SUBJECT TO TAX UNDER CITA AS AGAINST PPTA.
- INITAL TAX HOLIDAY OF 3-5YEARS
- INTEREST ON LOAN FOR GAS IS DEDUCTIBLE FOR TAX PURPOSES WITH PRIOR APPROVAL FROM FED MIN OF FINANCE.
- ACCELERATED CAPITAL ALLOWANCE OF 95% AFTER THE INITIAL TAX HOLIDAY WITH 10% RETAINED UNTIL ASSET IS DISPOSED.
- ALL DIVIDENDS DECLARED DURING THE TAX HOLIDAY PERIOD ARE EXEMPTED FROM TAX
- COULD OPT FOR INVESTMENT ALLOWANCE OF 15%
- WHT/VAT @ THE APPROPRIATE RATES ARE APPLICABLE

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THE UPSTREAM ACTIVITIES

ACTIVITIES OF THE UPSTREAM SECTOR:

- MINERAL RIGHTS ACQUISITION
  - OEL
  - OPL
  - OML
- EXPLORATION/APPRAISAL ACTIVITIES
- DEVELOPMENT ACTIVITIES
- PRODUCTION ACTIVITIES

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TAX IMPLICATIONS

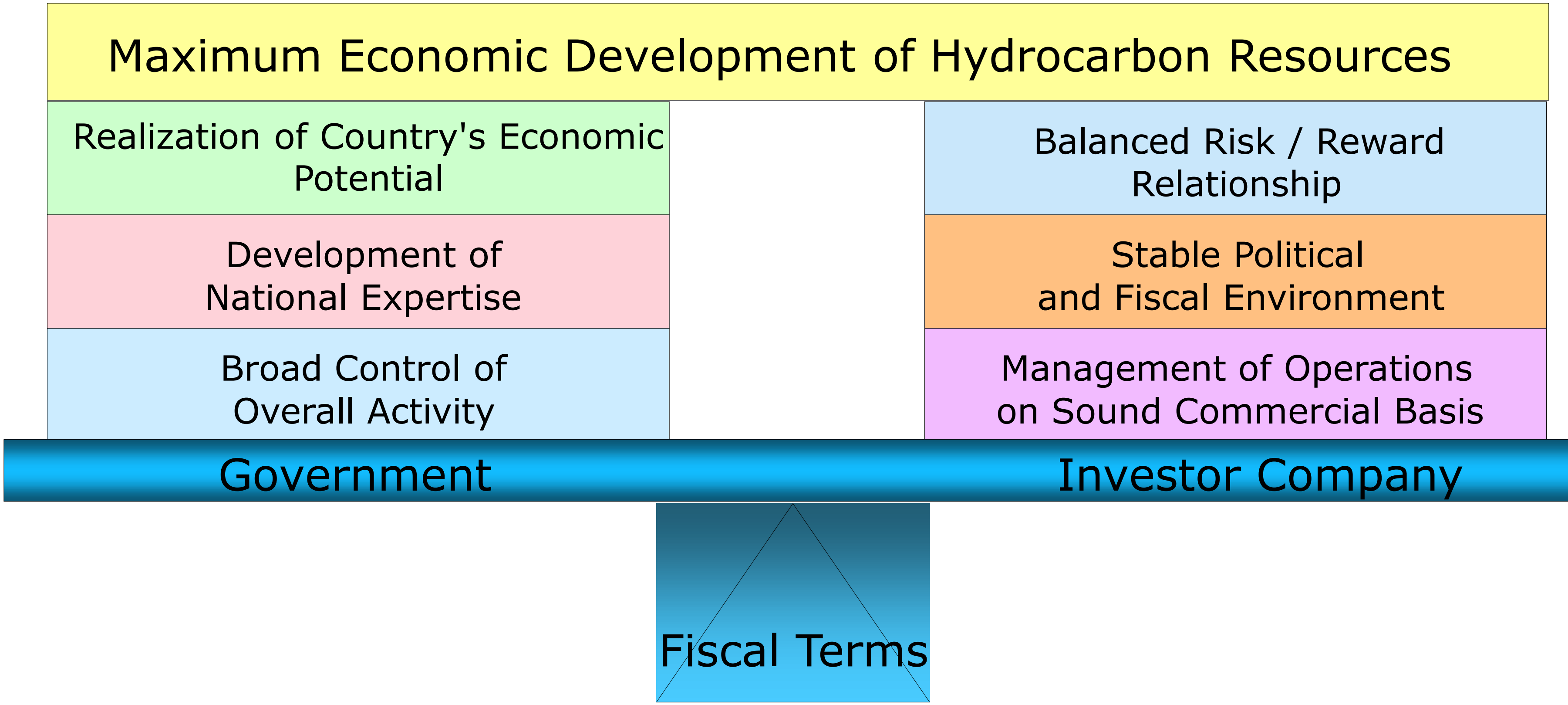
- ALL REVENUES FROM CFUDE OIL ACTIVITIES IN THE UPSTEAM SECTOR ARE TAXED UNDER PPTA WHILE REVENUE FROM GAS ARE TAXED UNDER CIT
- UNRELIEVED LOSSES ARE CARRIED FORWARD INDEFINITELY
- 0% PPT AND 0% ROYALTY ON ASSOCIATED GAS
- ACCELERATED CAPITAL ALLOWANCE OF 20% FOR 5 YEARS OR 60 MONTHS AT 20, 20, 20, 20, 19 ON STRAIGHTLINE DEPRECIATION
- ON STINVESTMENT TAX CREDIT IS GIVEN IN LIEU OF INITIAL ALLOWANCE AS FOLLOWS:

  - ON SHORE 5%
  - OFF SHORE:

WATER DEPTH	RATE
0 – 100M	10% (non-productive rent, custom duties on essentials, royalties on domestic sales investment tax credit)
101M - 200M	15%
ABOVE 200M	20%

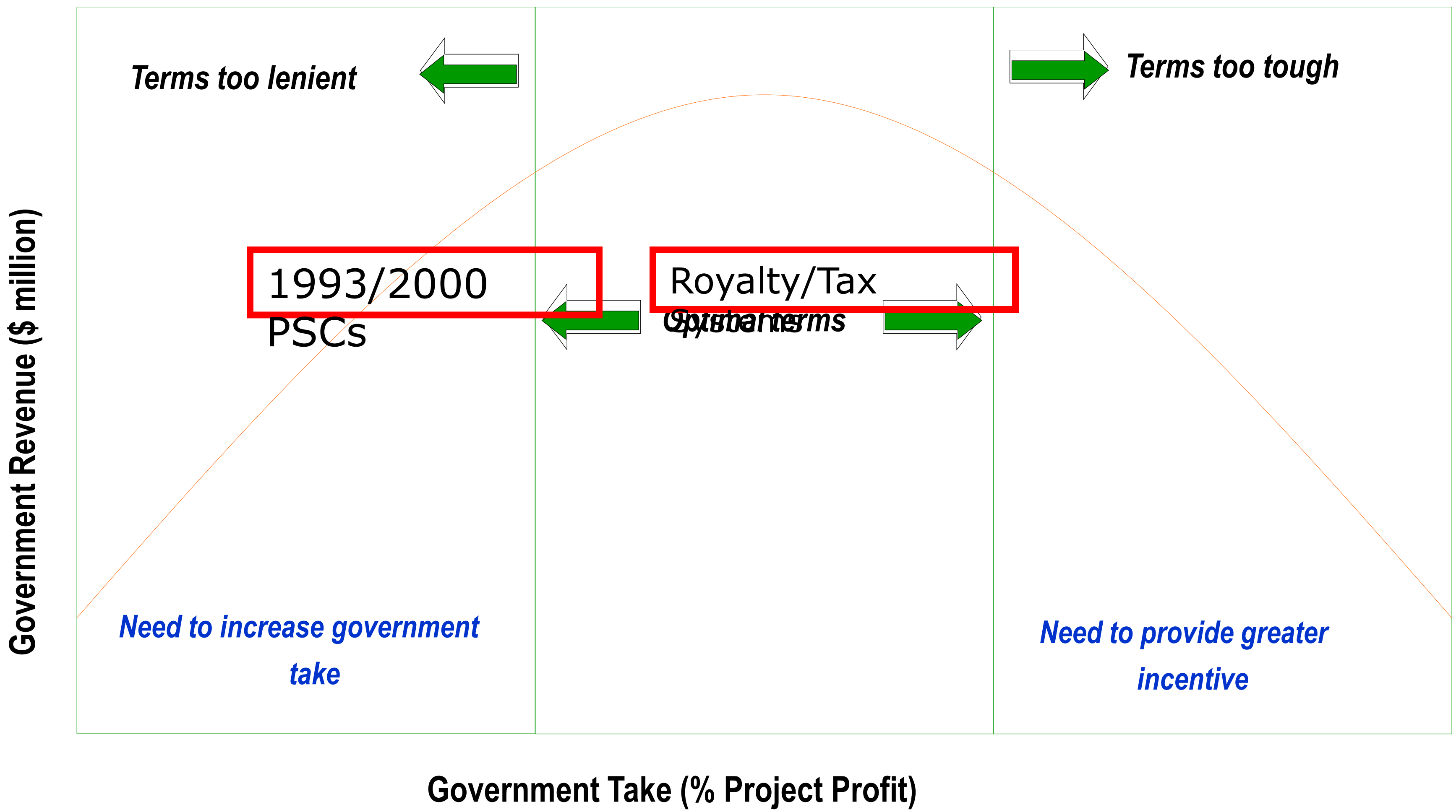
- CAITAL ALLOWANCE IS RESTRICTED TO 85% OF ASSESSABLE PROFITS LESS 170% OF TAX OFFSETS

Fiscal Systems: Balance of Objectives



- ***Fiscal terms act as the contractual balance between the financial objectives of the government and the investor company***

Balancing Government Take:

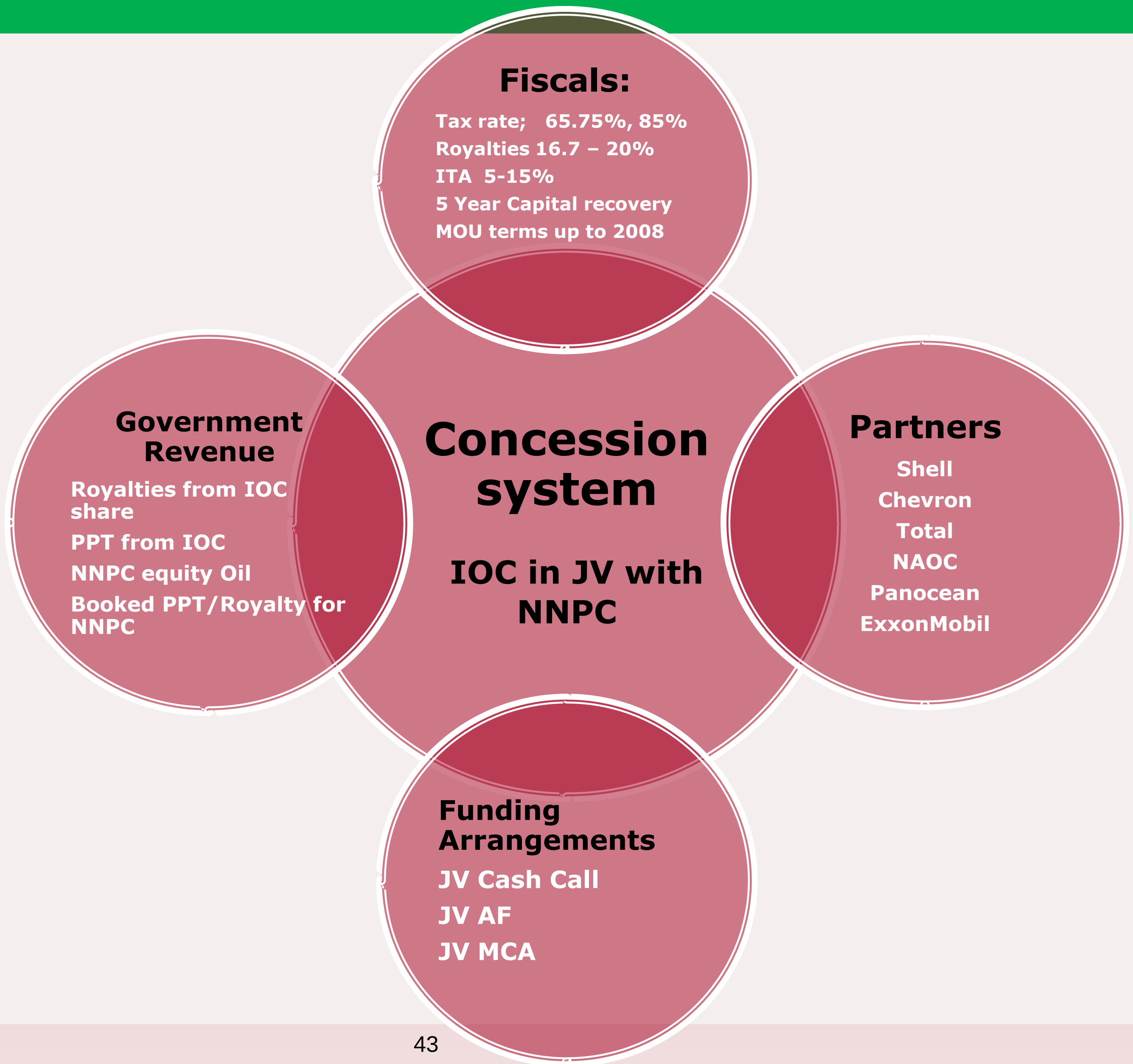


Nigerian Oil and Gas Fiscal Arrangements

Fiscal/Legal Framework

- **Concession System**
  Royalty/Tax system with Operator owning equity or whole of lease
  - **Multinationals in JV with NNPC**
    MOU & JOA
  - **Indigenous Companies**
    Indigenous producers incentives regulation
- **Contractual System**
  Operator is Contractor to NNPC or an indigenous company
  - **Risk Service Contracts**
    Agip Energy SC with NNPC and NPDC
  - **Production Sharing Contracts**
    Shallow water & Deepwater PSC

The Concession system- Joint Venture



Concession system: Independent and Indigenous Companies

Fiscals:

- Tax rate; 65.75%, 85%
- Royalties 16.7 – 20%
- ITA 5-15%
- 5 Year Capital recovery
- MOU terms do not apply
- Graduated royalties

Government Revenue

- Royalties in cash
- PPT in cash

Concession system

Indigenous Companies

Operators

- Afren
- Cavendish
- Dubri
- Famfa
- Sapetro
- etc

Funding Arrangements

- No recourse to Govt.
- Usually with foreign Tech Partners

Production sharing Contracts

WHY PSCs?

- Government Funding Constraints
- High Geologic Risk in Deep Water and Inland Basins
- Redirection of scarce resources
- Retention of Title to Concessions
- Drive to Increase reserve base

Shallow Water PSC

- **Fiscal Terms;** Graduated royalties based on field production
  - Tax rate as in the PPTA (with amendments)
  - Investment Tax Allowances applies
  - MOU terms applicable
  - 5 year Capital recovery & depreciation

- **Existing Active Contracts**
  - Addax Antan/brass
  - Addax Okwori
  - Sterling Global OML 143
  - Production aprox . 120kbpd

Deepwater & Inland Basin Production Sharing Contracts: Fiscal Terms transition

1ST Batch 1993

- Duration of OPL -10yrs
- PPT rate at 50%
- ITC at 50% flat rate
- Economic Stability Clause
- Graduated Royalty rate , water depth dependent, 0-16.67%
- Profit share with NNPC, Min 20% for Govt, Change with increased cum Prod.

2nd Batch 2000

- Duration of OPL -10yrs
- PPT rate at 50%
- **ITA at 50% flat rate**
- Economic Stability Clause
- Graduated Royalty rate , water depth dependent, 0-16.67%
- Profit share with NNPC, Min 30% for Govt, Change with increased cum .production
- **Cost Oil Limit introduced**

3rd Batch 2005 - 2007

- Duration of OPL -10yrs
- PPT rate at 50%
- ITA at 50% flat rate
- Economic Stability Clause
- **Graduated Royalty rate , water depth dependent, 8 -18.5%**
- **Graduated Profit share with R factor and Change with cost efficiency**
- **Cost Oil Limit of 60%, subject of Bid**
- **Recovery for incremental investment only from incremental production**

Changes introduced with reduction in risk, perfection of Deepwater Technology and urge to increase Government Take

FISCAL TERMS

PETROLEUM PROFIT TAX

TERRAIN	TAX RATE
▪ ONSHORE/SHALLOW OFFSHORE	
FIRST FIVE YEARS (NEW COMERS)	65.75%
FIRST FIVE YEARS (EXISTING COMP.)	85.00%
SUBSEQUENT YEARS (ALL PLAYERS)	85.00%
▪ DEEP OFFSHORE/FRONTIER BASINS:	50.00% FLAT

Note that the tax rule operates through write-off mechanism which reduces amount of profit to be taxed

DEDUCTIONS PERMITTED UNDER THE PPTA:

- Intangible drilling costs
- Home office overheads, etc
- Preceding year losses
- Capital Allowance
- Petroleum investment allowance
- Outgoing and expenses

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ARRANGEMENTS IN THE UPSTREAM SECTOR

JOINT VENTURE	PRODUCTION SHARING CONTRACT	SERVICE CONTRACT	MARGINAL FIELDS
• Between NNPC and Oil Companies ▪ Tax rate is 65.75% (the Company is expected to recoup capitalized Pre-production costs) in the first 5 years and 85% subsequently. ▪ Operations Consolidated ▪ Fiscal regime was enhanced by MOU, MOU IS TERMINATED IN 2008. ▪ 10% investment Tax Allowance	▪ NNPC owns the License ▪ Companies are engaged as investors/ contractors ▪ Operations are Ring fenced ▪ Contractor takes the risk and recovers 100% cost through cost oil ▪ Tax is PPT at 50%	• Contractor Undertakes exploration Development and Production on behalf of the Holder (NNPC) • Contractor is taxed under CITA on service fee at 30%	• IOCs relinquish Fields that are not economically Viable. • Relinquished well s are assigned to indigenous companies for exploration • Tax is at 65.75/85% under PPTA

CLASSIFICATION OF FISCAL SYSTEMS

ASSIGNMENT OF CONCESSION INTEREST

- LEASEE MAY ASSIGN A MAX OF 40% INTEREST TO FOREIGN TECHNICAL PARTNER
- HMPR'S CONSENT IS REQUIRED (PARA 14 1ST SCHEDULE, PETROLEUM ACT)
- ASSIGNMENT OF "ECONOMIC INTEREST EXCEEDING 40% WIDELY PRACTISED
- FOREIGN TECHNICAL PARTNER MUST REGISTER NIGERIAN SUBSIDIARY TO HOLD CONCESSION INTEREST (PETROLEUM ACT, COMPANIES AND ALLIED MATTERS 1990)

CLASSIFICATION OF FISCAL SYSTEMS

JOINT VENTURE FUNDING & REVENUE DISTRIBUTION

NNPC

(MOSTLY 60%)

COMPANY

(MOSTLY 40%)

- OWNERSHIP

ASSETS JOINTLY OWNED BY JV PARTNERS IN ACCORDANCE WITH THEIR WORKINHG INTERESTS

- FUNDING

IN ACCORDANCE WITH THEIR WORKING INTERESTS
PAYMENT BY MONTHLY CAH CALLS

- LIFTING

IN ACCORDANCE WITH THEIR WORKING INTEREST

- PAYMENT OF ROYALTIES & TAXES

COMPANY PAYS ROYALTY AND TAXES TO FGN

CLASSIFICATION OF FISCAL SYSTEMS

- ***RENTS***

FISCAL TERMS

- ***OPL -- US$10 PER SQ.KM. ANNUALY***
- ***OML -- US$20 PER SQ. KM. (THE FIRST 10 YEARS) ANNUALY***
- ***OML -- US$15 PER SQ. KM ANNUALY AFTER 10 YEARS AND UNTIL LEASE EXPIRES***

PENALTIES

- ***Penalty for flaring gas - =N=10/1000 SCF***

CLASSIFICATION OF FISCAL SYSTEMS

FISCAL TERMS

INVESTMENT TAX ALLOWANCE

Land Operation	5%
Offshore Depth ≤ 100m	10%
Offshore From 100-200m	15%
Offshore Depth > 200m	20%
Deep Offshore	50%
Inland Basin	50%

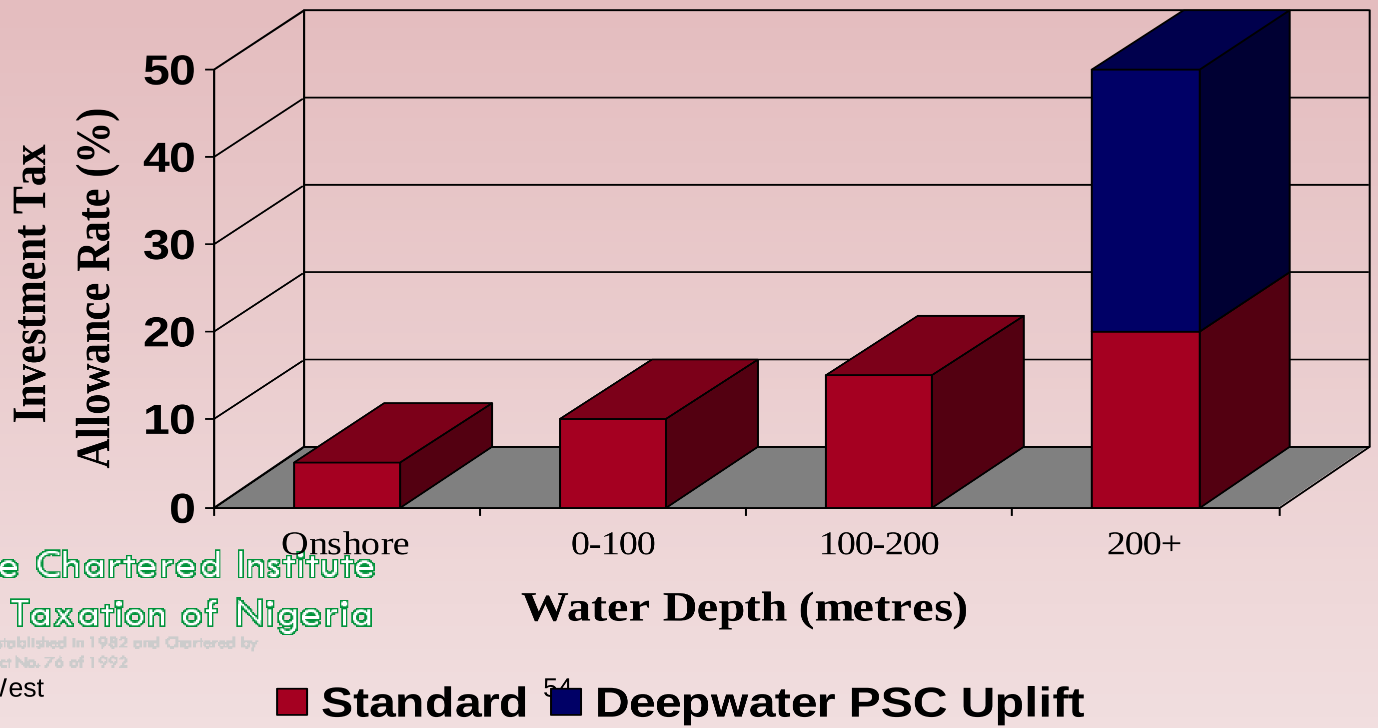
CLASSIFICATION OF FISCAL SYSTEMS

INVESTMENT TAX ALLOWANCE (ITA) RATES

ITA is an incentive for companies to invest

Designed to compensate for the time value of money due to delay in capital recovery
ITA is a deductible allowance against taxable revenue

ITA granted is based on field location



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FISCAL TERMS

Capital Allowances

- Capital expenditures are recovered through the capital cost allowance system
- All capital expenditures are amortized over 5 years from the year of expenditure
- Only 1% is retained in the accounting books as salvage value

The capital recovery mechanism is as follows:

Year 1 (year of expenditure)	20%
Year 2	20%
Year 3	20%
Year 4	20%
Year 5	19%

CLASSIFICATION OF FISCAL SYSTEMS

FISCAL TERMS

GAS

ITEM	PRODUCTION	SUPPLY TO LNG	TRANSPORTATION/ UTILISATION
TAX RATE	*30%*	*45%*	*30%*
ROYALTY			
ONSHORE	*7%*	*7%*	*NA*
OFFSHORE	*5%*	*5%*	*NA*
ITA	*5%*	*10%*	*15% (35% FOR NGL AND GTL*
AGFA	*APPLICABLE*	*APPLICABLE*	*NA*

CLASSIFICATION OF FISCAL SYSTEMS

FISCAL TERMS

GAS

ITEM	PRODUCTION	SUPPLY TO LNG	TRANSPORTATION/ UTILISATION
CAPITAL ALLOW			
Y1-4	20%	Y1-3	Y1 60%
Y5	19%	33%	Y2 20%
			Y3 19%
TAX HOLIDAY	NA	NA	APPLICABLE FOR 5+2 YRS
DUTY/VAT ON CONSTRUCTION EQUIPMENT	NONE	NONE	NONE

CLASSIFICATION OF FISCAL SYSTEMS

FISCAL TERMS

INCENTIVES FOR GAS DEVELOPMENT

NOTE: TO INCREASE GAS PRODUCTION AND ITS UTILISATION

A NUMBER OF INCENTIVES ARE IN PLACE

- ***TAX FREE PERIOD OF 3 YEARS RENEWABLE FOR ADDITIONAL PERIOD OF 2 YEARS, BUT NLNG HAS 10 YEARS TAX HOLIDAY***
- ***ACCELERATED CAPITAL ALLOWANCES***
- ***IMPORT DUTY EXEMPTION ON PLANT MACHINERY AND EQUIPMENT***

CLASSIFICATION OF FISCAL SYSTEMS

FISCAL TERMS

OTHER INCENTIVES FOR OIL AND GAS OPERATIONS

- ***DRILLING COST FOR EXPLORATORY WELL TO BE EXPENSED***
- ***DRILLING COST FOR APPRAISAL WELLS (1^{ST} & 2^{ND}) TO BE EXPENSED***
- ***AIM IS TO ENCOURAGE COMPANIES TO GO INTO ACTIVE EXPLORATION WORK.***

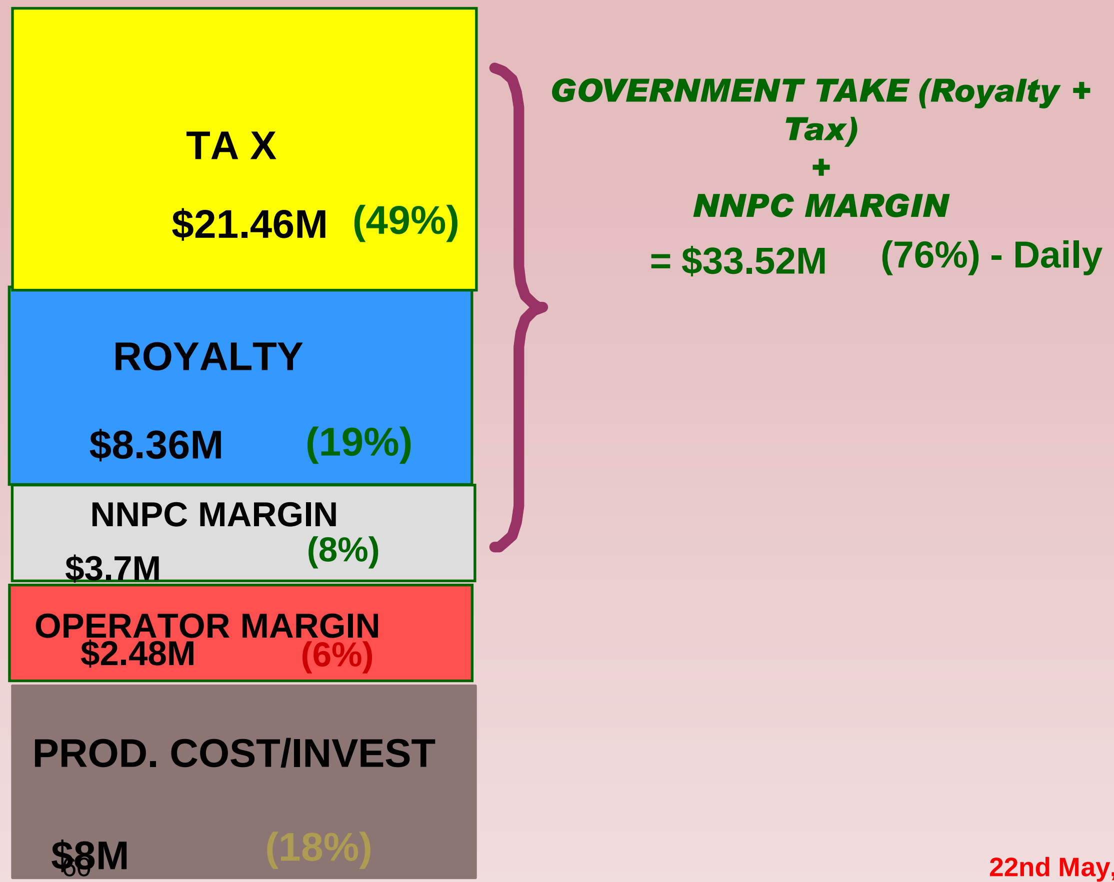
CLASSIFICATION OF FISCAL SYSTEMS

FISCAL TERMS

EXAMPLE CALCULATION OF GOVT TAKE: (Royalty + Tax +NNPC's Margin) UNDER THE JOINT VENTURE

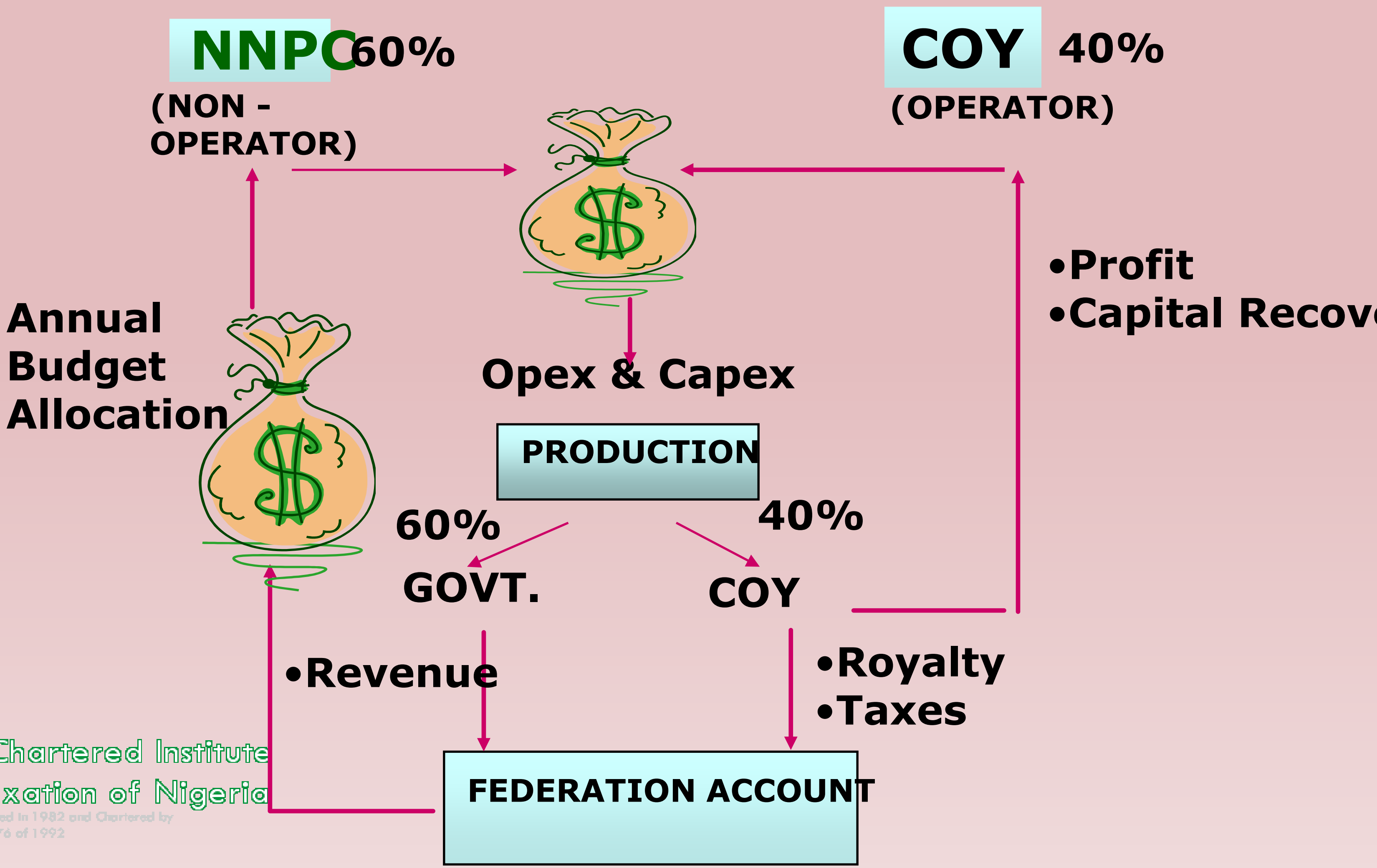
•******Assumptions:*

- *2MB/D – Production, Price - $22/BBL Split - 60/40*



CONCESSIONARY SYSTEMS

EXAMPLE OF A JV CONCESSIONARY SYSTEM- GOVT/COY



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PPT COMPUTATION

Computation of Adjusted Profits

If Net Profit is Given

	N	N
Net profit b/4 tax		XX
Add back:		
Disallowable expenses	X	
Taxable incomes omitted	X	X
		XX
Deduct: -		
Allowable expenses omitted	X	
Non-allowable incomes included	X	
Education Tax (2/102 x Ass. profit b/4 education tax)	X	X
		X X

Where Net Profit Is Not Given

	N	N
Fiscal value of oil sold: Domestic	X	
Export sale	X	X
Value of un-chargeable oil disposed		X
Incidental income		X
Total income		**XX**
Less: -		
Allowance Expenses (S.10)	X	X
Education Tax (2/102 x Ass. Profit b/4 Education tax)	X	(X)
		XX

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PPT COMPUTATION CONT'D

ASSESSABLE PROFIT	**N**	**N**
ADJUSTED PROFIT		XX
LESS LOSS B/F (S.14)		(X)
ASSESSABLE PROFIT		XX
LESS: C/ALLOWANCE (S.18)		(XX)
CHARGEABLE PROFIT		XX
PPT@85%	X	
LESS: - TAX OFFSETS	(X)	
CHARGEABLE TAX	X	

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FISCAL SYSTEMS

PRODUCTION SHARING CONTRACT

- ***Govt. grants the lease to Nigerian National Petroleum Corporation (NNPC) as concessionaire***
- ***Concessionaire invites bidding for award as investor/Contractor***
- ***Contractor undertakes certain work program, which must be approved by NNPC***
- ***Funds exploration, development and production 100%***
- ***Incentive is granted to recover all such costs 100%***
- ***Risk is borne by partner(s) or contractor(s)***
- ***Produced crude is shared into cost oil, (to contractor)***
- ***Royalty & tax oil (to govt.) , profit oil to contractor(s) and Concessionaire***
- ***Profit sharing based on negotiated and agreed ratio, e.g. the 1993 PSC's are in the ratio of 80% to the contractor and 20% to (NNPC) the Concessionaire***

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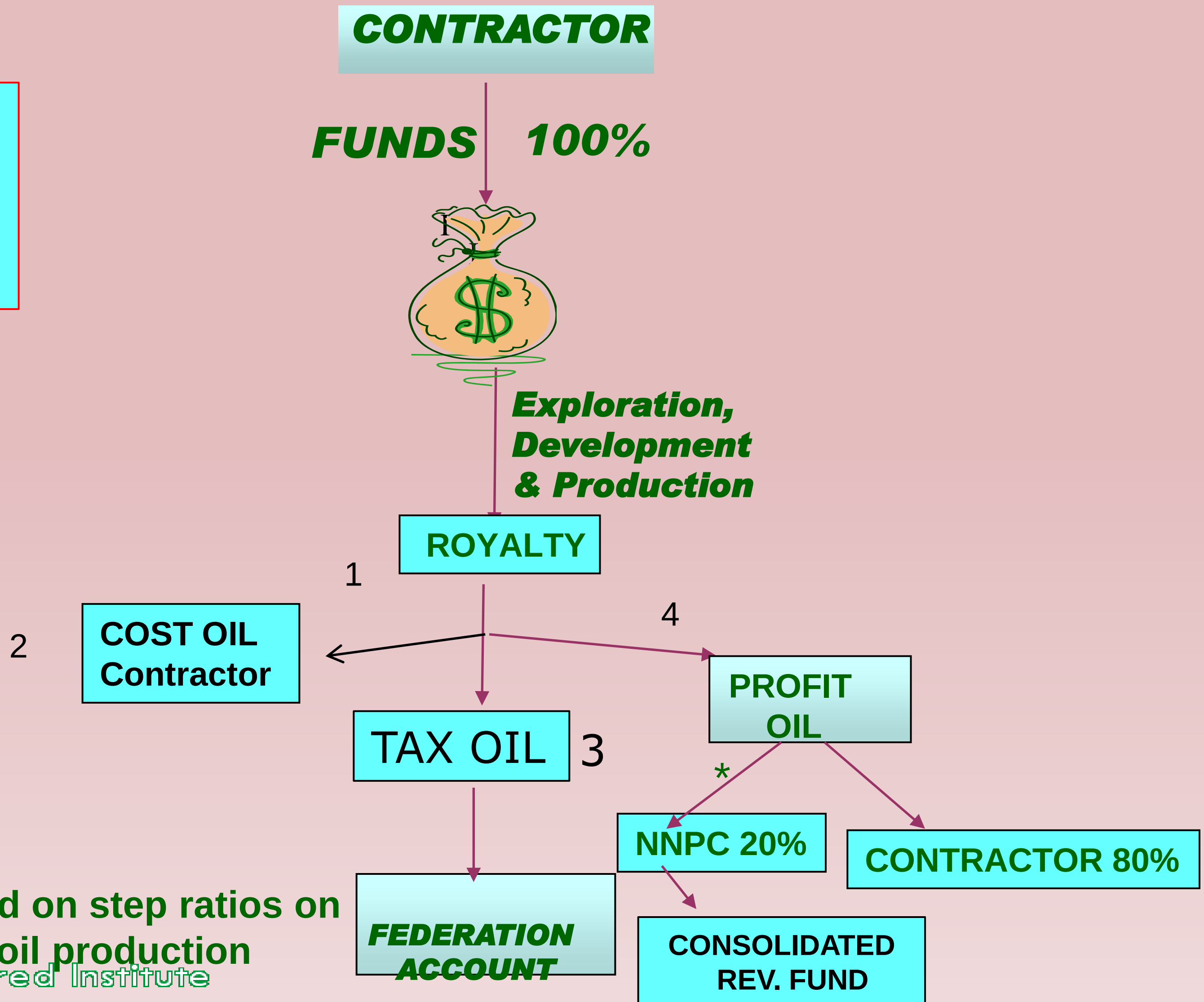
PSC FUNDING & REVENUE DISTRIBUTION (1993 PSC)

THE FOUR TRANCHES OF PROCEEDS



*Sharing based on step ratios on cumulative oil production

FISCAL TERMS

INVESTMENT TAX ALLOWANCE/CREDIT

▪ ***Land Operation***	***5%***
▪ ***Offshore Depth ≤ 100m***	***10%***
▪ ***Offshore From 100-200m***	***15%***
▪ ***Offshore Depth > 200m***	***20%***
▪ ***Deep Offshore***	***50%***
▪ ***Inland Basin***	***50%***

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FISCAL SYSTEMS

CONCESSIONARY SYSTEM (SOLE RISK OR JV)

- ***Govt. grants the lease (OPL or OML)***
- ***Lessee (+ partners – JV) undertakes certain work program***
- ***Leases are renewable***
- ***Lessee (+ partners – JV) pays tax, royalty, rents, etc. to Lessor (Govt.)***
- ***Risk or reward borne by Lessee (+ partners – JV)***
- ***Governed by Joint Operating Agreement (JOA)***

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PRODUCTION SHARING CONTRACT

PPT was basically designed for JV operations, before the advent of the PSC regime.

•Some provisions of the PPTA contradicts with the PSC regime.

• Section 10 of the second schedule of the PPTA allows all the deduction of expenditure incurred including signature bonus and interest on loans.

•Whereas, the PSC regime (contract) disallows deductions of signature bonus and interest on loans: PPTA clause (e & g) and section.13a, hence the deep off-shore and inland basin act was put in place for the operation and administration of PPTA under the PSC.

PPTA AND DEEP OFF SHORE BASIN AND INLAND BASIN PRODUCTION SHARING CONTRACTS ACT (Cont'd)

This act amongst other things was intended to give effect to certain fiscal incentives, given to the oil and gas companies operating in the deep off-shore and inland basin areas under production sharing contracts and to provide a tax system for the PSC.

Unfortunately, the ACT did not provide for method of computation and determination of Petroleum Profits Tax. Clause 3(1) of the Deep Off-Shore Act for the determination of Petroleum Profits Tax states as follows: " The Petroleum Profits Tax (PPT) payable under a Production Sharing Contract shall be determined in accordance with the Petroleum Profits Tax applicable to the contract area as defined in the Production Sharing Contracts shall be 50 percent flat rate of chargeable profits for the duration of the Production Sharing Contracts."

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PPTA AND DEEP OFF SHORE BASIN AND INLAND the)

- This provision is contradicted by the method of computation of taxes in the PPTA which is based on cost consolidation for the JV regime and Single Line basis.

- The PSC regime is Ring Fenced and therefore require a double Line basis for tax computation but the same method for JV is applied for PSC regime which means that capital allowances, and ITC are shared between the contractor and the concessionaire (usually a state owned company) who owns all the assets under the PSC contract (NNPC) in Nigeria.
- This has been a major area of contention resulting in series of arbitrations between the contractors and concessionaire.

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NIGERIA FISCAL TERMS AND OIL OPERATIONS INCENTIVES

- **Investment Tax Credit (ITC)**
- ITC essentially reduces the Tax Payable on the PSC and it serve as an incentive to promote investment in the Niger Delta Deep offshore and frontier basins.
- It applies to the entire contract Area of the PSCs which is Ring Fenced, owned by NNPC being the concessionaire and owner of the assets

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NIGERIA FISCAL TERMS AND OIL OPERATIONS INCENTIVES (Cont'd)

Method of computation of investment Tax credit by both Contractor and NNPC

In calculating ITC:

- Dispute arose on the method of determining value of Qualifying capital expenditure (QCE) Allowable for the purpose of computing Capital Allowance and its relationship with investment Tax Credit (ITC).

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NIGERIA FISCAL TERMS AND OIL OPERATIONS INCENTIVES (Cont'd)

- For cost recovery purposes, contractor recovers 100% cost. For Tax purposes, NNPC reduces the Capital Expense with the value of ITC before arriving at the QCE for Capital Allowances while contractors maintain 100% of Capital Expenses as the QCE for Capital Allowances.

- Paragraph 5 of the Second Schedule of the PPT Act provided for the **Deduction of ITC from the cost of asset to arrive at the Qualifying Capital Expenditure QCE before the computation of Capital Allowance**.

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PPT ADMINISTRATION AND CHALLENGES UNDER THE PSC REGIME IN THE OIL AND GAS INDUSTRY.

- TREATMENT OF CAPITAL ALLOWANCE

-The contractor has the obligation under the PSC's to finance all expenses and costs for the operation.

-But upon arrival of the equipment to Nigeria, the title of ownership of such assets belong to the license holder/ concessionaire in this case NNPC.

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PPT ADMINISTRATION AND CHALLENGES UNDER THE PSC REGIME IN THE OIL AND GAS INDUSTRY (Cont'd).

- Section 5(2) of the Second Schedule of the 1959 PPTA as amended states that the Investment Tax Credit (ITC) shall be deducted from the cost of the asset to arrive at the amount of qualifying expenditure before calculating the annual allowance in the manner prescribed by the PPT Act.
- The computation based on the Act is a single entry Tax computation as, in the Tax calculated on the contract Area, the concessionaire and the Contractor share the CAPITAL ALLOWANCES.

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PPT ADMINISTRATION AND CHALLENGES UNDER THE PSC REGIME IN THE OIL AND GAS INDUSTRY (Cont'd).

- -There is also Investment Tax Credit, an incentive that reduces PPT and increases profit share.
- Both NNPC & Contractor use CA and ITC incentive as tax is computed based on a single entry.
- The PSC Contract clearly states that interest on Loan is not allowable deduction due to the Nature of this regime.
- Whereas under the Joint Venture regime, The IOC and NNPC own the concession i.e. OPL and OML in proportion of their equity share e,g 60/40. Therefore they both have their names on the License, the documents Decree No. 9 of 1999.

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PPT ADMINISTRATION AND CHALLENGES UNDER THE PSC REGIME IN THE OIL AND GAS INDUSTRY (Cont'd).

- The production Sharing Contracts (PSC) -Interest on loan under the JV arrangements must be reviewed and approved under the concept of the JV partners.
- Under the Production Sharing contract (PSC) a new regime which Nigeria entered into in 1993, NNPC is the concession holder i.e. License holder and the Contractor/ Investor who has won the contract based on his /her presented financial ability to Finance the contract (block).
- In this arrangement the Contractor recovers all its investments (100% of its cost) as soon as production hit Commercial level through cost oil, Share's the profit with concessionaire in the ratio: 80% to contractor and 20% to NNPC.

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PPT COMPUTATION FOR PSC

	$	$
FISCAL VALUE OF CHARGEABLE OIL		XXXX
DEDUCTIONS		
SECTION 10 DEDUCTIONS:		
ADMIN&PRODUCTION EXP.	XXX	
ROYALTY	XXX	
EXPL. & INTANGIBLE DRILLING COSTS	XXX	
LESS: TOTAL SEC. 10 (1) DEDUCTIONS		(XXX)
ADJUSTED PROFIT		XXXX
LESS: LOSSES B/FWD Sec.14	XX	(XX)
ASSESSABLE PROFIT		xxxx
LESS: EDUCATION TAX @2%	XX	(XX)
ADJUSTED /ASSESSABLE PROFIT		XXX
PRIOR YEAR CAPITAL ALLOWANCE B/FWD	XX	
CURRENT YEAR CAPITAL ALLOWANCE SECT.18	XX	
LESS: TOTAL CAPITAL ALLOWANCE S.18		(XX)
CHARGEABLE PROFIT		XXX
ASSESSABLE TAX @ 50%		XX
TAX OFFSETS-PRIOR YEAR INV. TAX CREDIT (ITC) B/FWD	XX	
CURRENT YEAR INV. TAX CREDIT (ITC)	XX	
LESS: TOTAL INVESTMENT TAX CREDIT		(XX)
UNRECOUPED ITC		XX
CHARGEABLE TAX		XX

PPT COMPUTATION FOR PSC

PSC CRUDE ALLOCATION MODEL

FISCALISED REVENUE

BARRELS EXPORTED X REALISABLE PRICE

ROYALTY OIL

APPLICABLE RATE ON PRODUCTION

COST OIL

A. TANGIBLE DRILLING COST
B. CAPITAL COST
C. INTANGIBLE DRILLING COST
D. NON-CAPITALISED COST

TAX OIL

PROFIT OIL

OIL AND GAS INDUSTRY REGULATORY FRAME WORK CHALLENGES

- Fiscal terms and incentives are generous as compared to other countries especially under the PSC.
- It is instructive to note that the existing laws and contracts gave too many incentives to the participants in the oil/gas industry thereby negating the derivation of the optimal revenue accruing to government from the oil/gas operations in Nigeria
- The many contentious issues and conflicting provisions of the existing Laws governing the oil/gas industry caused the Federal Government through the Oil and Gas Industry Committee (OGIC) to review all the existing laws with a view to optimizing government take and creating a conducive operating environment within the industry

These identified shortcomings gave rise to the need for the PIB.

PETROLEUM INDUSTRY BILL (PIB)

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THE PIB

KEY OBJECTIVES

▪REPEAL ALL PREVIOUS PETROLEUM ACTS WITH THEIR ASSOCIATED DEFICIENCIES AND PRODUCE A ONE STOP DOCUMENT THAT WILL REGULATE THE INDUSTRY

▪THE CREATION OF A CONDUCIVE BUSINESS ENVIRONMENT

▪ENHANCE EXPLORATION AND EXPLOITATION OF PETROLEUM RESOURCES FOR THE BENEFIT OF THE NIGERIAN PEOPLE

▪OPTIMISE DOMESTIC GAS SUPPLY PARTICULARLY FOR POWER GENERATION AND INDUSTRIAL DEVELOPMENT

▪ ESTABLISH A PROGRESSIVE FISCAL FRAME WORK THAT ENCOURAGES FURTHER INVESTMENT IN THE INDUSTRY WHILE OPTIMISING REVENUE ACCRUING TO THE GOVERNMENT

▪ DEREGULATE AND LIBERALISE THE DOWNSTREAM SECTOR OF THE INDUSTRY

▪ PROMOTE TRANSPARENCY AND OPENNESS IN THE ADMINISTRATION OF THE SECTOR

▪ SIMPLIFY THE COLLECTION OF GOVERNMENT REVENUES , ESPECIALLY ROYALTIES THAT IS BASED ON A SLIDING SCALE THAT ADJUSTS TO THE ECONOMIC CIRCUMSTANCE

KEY DOCUMENTS ON FISCAL SYSTEMS (THAT WILL BE REPEALED OR AFFECTED BY THE PIB WHEN PASSED

- ***Petroleum Profit Tax Act 1959 (PPTA)***
- ***Petroleum Act (1969) (PA)***
- ***Petroleum (Drilling & Production Regulations (1969)***
- ***Deep Offshore and Inland Basin PSC Decree 1999***
- ***Memorandum of Understanding (MOU) 1986, 1991, 2000***

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THE PIB FISCAL REGIME (HIGHLIGHTS)

- ALL COMPANIES ENGAGED IN UPSTREAM PETROLEUM OPERATION TO PAY COMPANIES INCOME TAX UNDER CITA AT 30%
- INTRODUCTION OF HYDROCARBON TAX (NHT) AT:
  - **50% FOR ON SHORE AND SHALLOW AREAS OF UPTO 200 METRES DEPTH**

    OR
  - **25% FOR BITUMEN, FRONTIER ACREAGES, DEEP WATER AREAS**

  WHERE OPERATIONS FALL IN GEOGRAPHICAL AREAS THAT ARE SUBJECT TO DIFFERENT TAX RATES, NHT SHALL BE LEVIED ON THE PROPORTIONATE PARTS OF THE PROFIT ARISING FROM SUCH PERATIONS

THE PIB FISCAL REGIME (HIGHLIGHTS)(Cont'd)

DEDUCTIONS NOW ALLOWED INCLUDE:

1. SUMS SET ASIDE IN A FUND FOR DECOMMISSIONING AND ABANDONMENT EXPENSES

2. INTEREST UPON ANY LOANS, INCLUDING INTERCOMPANY LOANS ON CAPITAL EMPLOYED FOR UPSTREAM OPERATIONS, EXCEPT INTEREST INCURRED UNDER A PSC OPERATION

DISALLOWED DEDUCTIONS INCLUDE :

1. ALL GENERAL , ADMIN AND OVERHEAD EXPENSES INCURRED OUTSIDE NIGERIA IN EXCESS OF, 1% OF CAPITAL EXPENDITURE AND 20% OF ANY EXPENSES INCURRED OUTSIDE NIGERIA EXCEPT FOR GOODS AND SERVICES NOT AVAILABLE DOMESTICALLY

THE PIB FISCAL REGIME (HIGHLIGHTS)(Cont'd)

- TAX INCENTIVES THAT WILL BE AVAILABLE TO UPSTREAM GAS OPERATIONS WILL BE RESTRICTED TO TAX HOLIDAYS UNDER CITA, PROVIDED THAT THE ULTIMATE DESTINATION IS SOLEY DOMESTIC
- DIVIDEND DISTRIBUTED BY UPSTREAM COMPANIES WILL NOT SUFFER WHT
- NHT AND CIT WILL BE COMPUTED AND PAID ON AN ACTUAL YEAR BASIS, MONTHLY FROM THE END OF FEBRUARY EVERY YEAR AND THE FINAL INSTALLMENT IS PAYABLE NOT LATER THAN 1 DAYS AFTER FILLING SELF-ASSESSMENT
- PRODUCTION ALLOWANCE (PA) WILL BE INTRODUCED TO REPLACE THE INVESTMENT TAX CREDIT (ITC) OR TAX ALLOWANCE (ITA) AS MAY BE APPLICABLE. THE PA IS TO ENCOURAGE INVESTMENT IN CRUDE OIL AND GAS PRODUCTION WITH SPECIFIED RATES PER BARREL EITHER AS A FIXED AMOUNT PER BARREL OR A PERCENTAGE OF OFIICIAL SELLING PRICE (OSP) SUBJECT TO CASCADING THRESHOLDS. THIS IS TO REWARD RESULTS, IN THE FORM OF PRODUCTION RATHER THAN EFFORTS IN TERMS OF CAPITAL EXPENDITURE

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THE PIB FISCAL REGIME (HIGHLIGHTS)(Cont'd)

- THE TAXATION PROVISIONS PROPOSE THE CONVERSION OF THE EXISTING PPT INTO A NATIONAL HYDROCARBON TAX, WHICH IS NOT DEDUCTIBLE FOR CIT PURPOSES

- THE CURRENT PPT RATE FOR ONSHORE AND SHALLOW WATER OPERATIONS OF 85% & 50% WITH UPLIFTS FOR CAPITAL COSTS, IS REPLACED BY A COMBINED TAX OF 80%(50% NHT AND 30% CIT) WITH PRODUCTION ALLOWANCES
- THE CURRENT PPT RATE FOR DEEP WATER OF 50% WITH UPLIFTS FOR CAPITAL COSTS, IS REPLACED BY A COMBINED TAX OF 55% (25% NHT AND 30% CIT).
- THE CONCEPT OF REPLACING THE UPLIFTS WITH PRODUCTION ALLOWANCES ON NEW LEASES ENCOURAGES INVESTMENT IN NEW PRODUCTION AND SIMPLIFIES COST ADMINISTRATION

- THE PROVISIONS HEREIN HIGHLIGHTED ARE BASED ON THE INITIAL DRAFT OF THE 2012 PIB, WHICH MAY BE DETERMINED BY THE FINAL PASSAGE OF THE BILL

CONCERNS OVER THE PIB

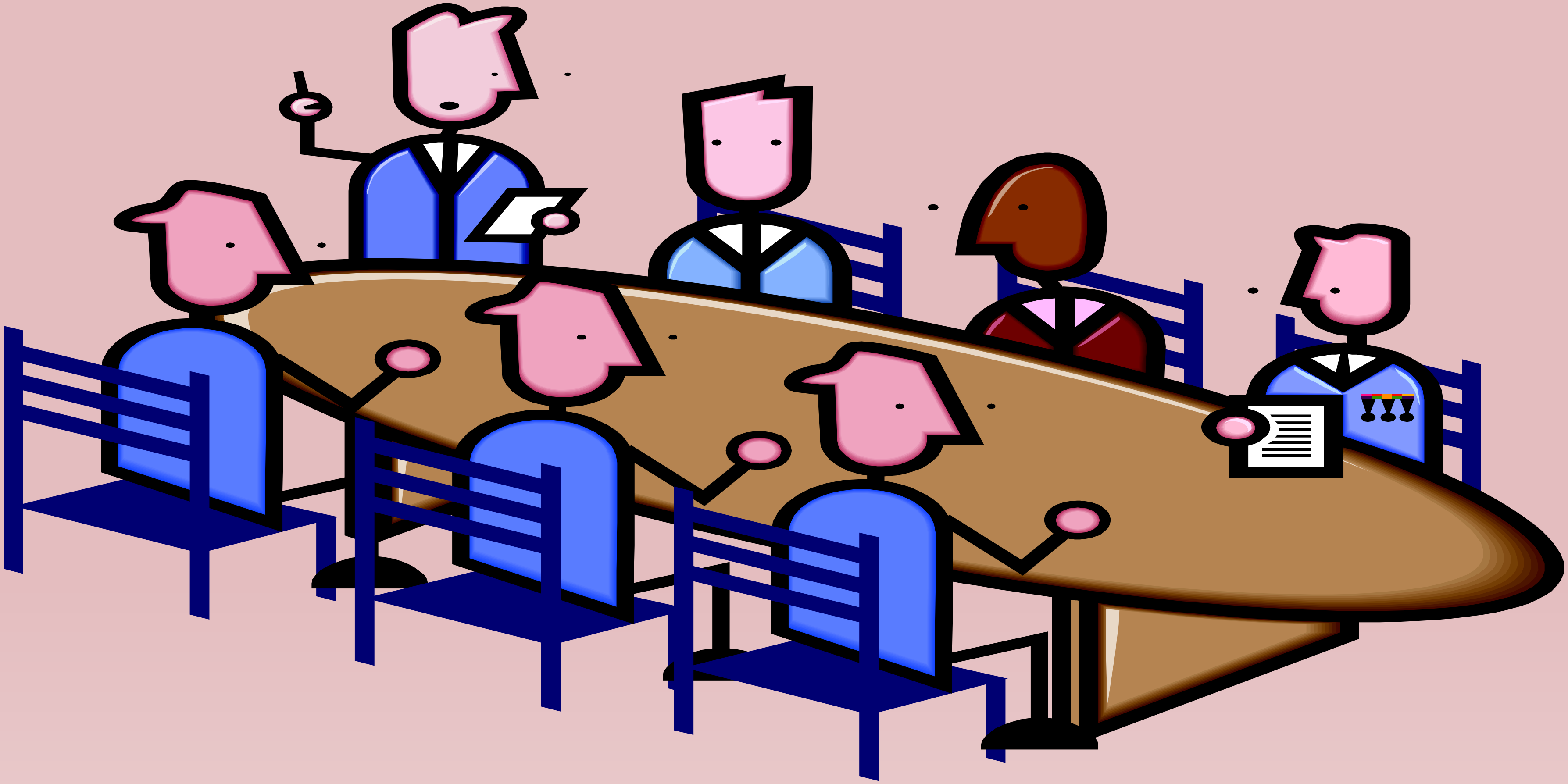
- THE PIB DOES NOT ADDRESS THE ISSUES OF RENTALS, ROYALTIES AND PRODUCTION SHARING. THIS MAKES IT IMPOSSIBLE TO OBTAIN A COMPLETE VIEW OF THE NEW FISCAL CONDITIONS.
- WITH THE REPEALING OF THE DEEP OFF SHORE INLAND BASIN AND PRODUTION SHARING ACT, ROYALTY IS ELIMINATED
- ROYALTIES SHOULD BE DETERMINED UPON PRODUCTION AT THE MEASUREMENT POINT, IN LINE WITH INTERNATIONAL BEST PRACTICE
- THE PIB DOES NOT DEAL WITH PRODUCTION SHARING, THIS IS AN AREA THAT NEEDS TO BE REVIEWED TO STIMULATE PRODUCTION AND THREREFORE INCREASE POTENTIAL REVENUE

CONCLUSIONS

- A REVIEW OF THE EXISTING LAWS REVEALES THAT THERE ARE LOTS OF CONFLICTS WITHIN THE LAWS GOVERNING THE OIL AND GAS SECTOR, THUS THE NEED FOR A SINGLE DOCUMENT FOR THE INDUSTRY:- PIB.

- THE SOLID MINERALS INDUSTRY ON THE OTHER HAND, NEEDS TO EVOLVE FISCAL REGIMES LEVERAGING ON THE EXPERIENCE IN THE OIL AND GAS SECTOR AS THEY ARE ALL NON –RENEWABLE NATURAL RESOURCES.

- THE IMMINENT ADOPTION OF IFRS IN NIGERIA HAS IMPLICATIONS FOR DEFERRED TAXATION AND THE RELEVANT TAX LAWS AS WELL AS THEIR APPLICATION IN NIGERIA



ITS BEEN A PLEASURE

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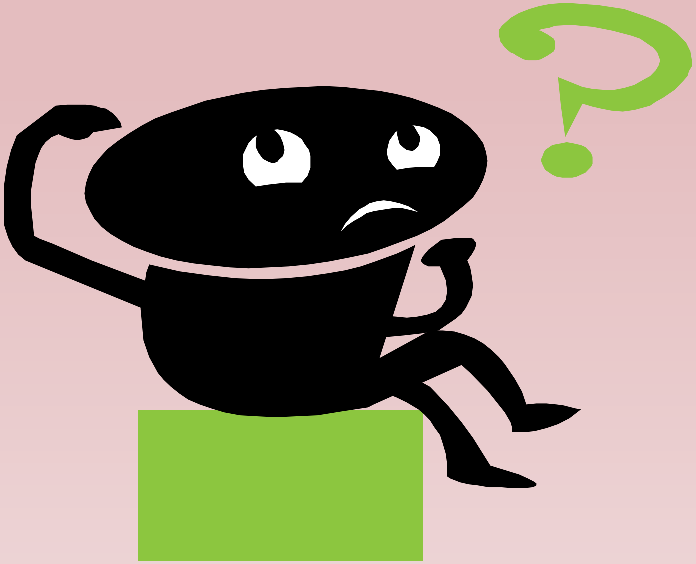
QUESTIONS & COMMENTS PLEASE



The Chartered Institute
of Taxation of Nigeria
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