

CHARTERED INSTITUTE OF TAXATION OF NIGERIA

(Established in 1982, Chartered by Act No. 76 of 1992)

#TaxBitOnTaxThursday

PROPOSALS FOR A FRAMEWORK FOR EFFECTIVE AND TRANSPARENT TAX INCENTIVE REGIME

1.0 Introduction

The pioneer incentive and tax waivers regime in Nigeria has been at the centre of controversies overtime. This is because it is believed that this tax expenditure has had measured impact on the various aspects of businesses in which they have been applied in the country.

Therefore, the proposed bill for and Act for the establishment of a methodology for tax expenditure reporting and transparency is welcome as it is expected to throw light on tax expenditure on pioneer sectors, tax waivers and exemptions. However, the bill should be needs to be carefully crafted and worded to avoid ambiguity.

More so, the bill should seek domiciliation in the existing **Industrial Development (Income Tax Relief) Act (IDITRA); 17, Laws of Federation; 2004 or the Fiscal Responsibility Act**. Since the IDITRA substantively contains incentives available to the Industrial sector, it therefore follows that other proposals for managing the incentive scheme should be found within such law.

2.0 Economic case for Waivers and Exemptions

Generally, waivers, concessions and exemptions are sound and ideal arrangements both as economic tools and, from the viewpoint of international trade. This is because local businesses/industries need to be positioned for improvement of their fortunes and for international competitiveness. However, the Nigerian case appears be-dogged with lots of challenges including abuses observable to the discerning Nigerian public. Situations and reports of indiscriminate waivers and concessionary approvals have all contributed in questioning the bearing and economic sustainability of this initiative of government. A regime wherein concessions and waiver beneficiaries are themselves inclined to abuse of same leaves a lot to be desired.

Whilst it may have been a good decision to suspend the issuance of import tariff waivers on new concessions and revoke all existing Exemptions and Concessions not backed by

extant laws or protocol in 2015, this is not enough as Government is enjoined to investigate reasons why the schemes failed and design appropriate strategies for addressing the identified problems.

3.0 Recommendations on future engagements on grant of Incentives

Recommendations for appropriate strategies include:

1. Regular review of concession, exemption and waiver policies with a view to integrating key stakeholders viewpoints into their provisions.
2. Proper implementation of government policies with a view to identifying genuine manufacturers/importers who ought to be the beneficiaries of these incentives.
3. Provision of platform for a transparent and broad based grant of waivers and concessions over selectivity among companies in the same sector thereby putting one at undue advantage over the others.
4. For proper identification of genuine businessmen, the role of Associations like Manufacturers Association of Nigeria (MAN), Nigeria Chambers of Commerce, Industries Mines and Agriculture (NACCIMA), etc. should not be overlooked.
5. Grants of concessions, exemptions and waivers should be strictly controlled but with due regard for the following:
 - a. The comparative advantage.
 - b. The fiscal and monetary policies in place.
 - c. Export subsidization and support.
 - d. Import control measures.
 - e. Development of local industries.
 - f. Attraction of foreign and local investors.
 - g. Beneficiaries of the incentives.
6. The introduction of a 2-stage Approach to the grant and administration of concession is canvassed with the first being the issuance of Conditional Duty Exemption/ Concession certificate from Ministry of Finance and second being the introduction and application of a **Non-Use tax** Act. This tax type is seemingly the opposite of the **Use Tax** as operated in the United States as a type of excise tax levied by numerous state governments assessed upon tangible personal property purchased by a resident of the assessing state for use, storage, or consumption in that state, regardless of where the purchase took place.

- a. The first part of this Act would serve pursuant to the second part of the Act, if passed. The first part is to be administered on the Nigeria Customs Service for implementation after approval by the Federal Ministry of Finance for clearance of cargo at the port with the Tax Identification Number of the said company correctly indicated on the certificate.
 - b. The second is a trigger and only sets in if and when it cannot be proven by the beneficiary of a concession that the equipment or plant for which the concession was given was never commissioned nor put into use.
 - c. The item enjoying concession must be clearly defined for purpose of this process.
 - d. The Federal Inland Revenue should be empowered to administer this second part of the process as it should be saddled with the responsibility of collecting an amount no less than the equivalent value of the duty concessioned or waived where the beneficiary company fails to render a valid return in that regard.
 - e. The said company shall be forwarded to the Ministry of Finance department which shall recommend its blacklisting of same where sufficient evidence abound that the company did not utilise such concessions for the intended purpose it obtained same.
 - f. All goods subject to concession/ waivers must be processed as valid for foreign exchange and the CBN department responsible shall forward the duly validated import documents after import and clearance of cargo and schedule thereof to the Ministry of Finance department mentioned above.
7. Chartered Institute of Taxation of Nigeria, being the professional body charged with the responsibility of regulating the tax profession and which is statutorily empowered to advice government on fiscal policy regimes from time to time, should be considered in the membership of any future group or sub-committee established to review the concessions, exemptions and waivers and other relevant import tariffs.

The Registrar/Chief Executives
Chartered Institute of Taxation of Nigeria
5th Floor, Tax Professionals House
Plot 16, Otunba Jobi Fele Way, Alausa, Ikeja
Lagos State.