CHARTERED INSTITUTE OF TAXATION OF NIGERIA

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The Micro, Small and Medium Enterprises Encouragement and Financial Support Bill; 2017: A Rejoinder

1.0 Introduction

The National Assembly seeks to improve the efficacy of Small and Medium Enterprises Development Agency (SMEDAN) through the introduction of a bill to provide detailed measures and principles for speedy development of Small and Medium Scale Enterprises (MSMEs) and comprehensively define the roles of respective stakeholders for maximum contribution to National development, employment generation and poverty eradication in Nigeria. The bill looks to facilitate pairwise horizontal business information exchanges for those in similar businesses as well as information access to funding. It also seeks classification of MSMEs according to their investment size. The buy 'Naija', grow local businesses is also fused with promotion of local content by public Institutions in a bid to give MSMEs a boost. Measures for feedback mechanism has also been thrown in by way of periodic surveys, in order to feel the pulse of such businesses.

2.0 What Government is counting on

The key premise of this push is the enactment of the bill in itself and use of SMEDAN as instrumentation for facilitating development of MSMEs. This is not forgetting the strides being attained through the Presidential committee on the Ease of Doing Business in Nigeria headed by Vice President, Prof. Yemi Osinbajo; GCON. The bill also proposes a unified tax regime in concert with the Director General of SMEDAN, Ministry of Finance, State and Local government tax authorities. Meanwhile, the President is the one in whom lies the power to order the design of appropriate tax policy regime aimed at developing the MSMEs through the grant of tax waivers, exemptions and reductions. The bill also speaks of income tax relief from Companies Income Tax through the rural investment allowance provisions in the tax law.

3.0 Contextualizing the Bill

The National Assembly is right in seeking ways of improving the lot of MSMEs through Institutional capacity building. However, they could be hard pressed in being justified in the haphazard way this is being done. This is because Laws and regulations within which some of the provisions the bill seeks to enact already exists.

A case in point is the tax relief regime nuanced in the bill. Granted that there has always been clamour for a concessionary regime for MSMEs in order to nurture and grow them, these reliefs should be situated in already existing Statutes such as the Companies Income Tax Act (CITA), Industrial Development (Income Tax Relief) Act or even the Personal Income Tax Act, as it applies to business enterprises. This is to enable their exemptions to make any meaning within the context of their specific applications. Even the Companies Income Tax (Exemption of Profit Order) 2012 was issued within the scope of CITA. Such amendments to existing tax statutes and some reliefs enjoyed by MSMEs in other climes are considered below.

4.0 Some lessons from other Jurisdictions

The South African Revenue Service operates a tax band basis for imposition of taxes on small businesses. A nil tax rate applies to taxable incomes for the first R75,750, 7% for taxable incomes above this threshold but below R365,000, 21% + R20,248 above R365,000 but below R550,000 and 28% plus N59,098 on taxable income above R550,000. These tax rates are amended, as necessary, by the government during the Country's budget presentation for a new fiscal year pursuant to relevant existing tax statutes.

A turnover tax also applies to taxes paid by micro businesses whose annual turnover is R1 million or less with the following business structure vis sole proprietors, partnerships, close corporations, companies and co-operatives.

Presently, no simplified bases exist for purpose of imposing taxes on Nigerian MSMEs. Lacuna in provisions also exist with MSMEs in the realm of exemptions from Value Added Tax Act based on bases including turnover thresholds.

Currently, registration for Value Added Tax turnover with Her Majesty's Revenue and Customs (HMRC), United Kingdom is £85,000 pounds for the 2017/2018 tax year.

In such a system, Value Added Tax returns are made every quarter translating to VAT filings 4 times in a year. South Africa also have VAT thresholds for compulsion to register. Therefore, MSMEs should not only have registration thresholds but the provisions should be well nuanced in the respective tax law to which the exemption applies.

5.0 Conclusion

Indeed, MSMEs possess the capability of achieving the broad economic goals set out in this bill. The ways and means of delivering same is crucial to the sustainability of the medium by which the goals are achieved. The proposed bill could be broken down into smaller pieces of legislations and sent in as amendments to existing laws such as the Small and Medium Enterprises Industries Development Act, 2003, Companies Incomes Tax Act, Value Added Tax Act, etc.

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