

## #taxbitontaxthursday

### BUSINESS STRUCTURE AND TAX IMPLICATIONS

#### **Introduction.**

The fallacy that taxes are a one-way street for organizations engaged in for-profit activities often unravels before them, in practice, when they become inundated with demands by several relevant tax authorities for taxes and levies collectible. The implication of this for businesses is the discovery that they had not properly given their formal business structure due consideration at inception. A case in point is a subscriber to a newly established business, who makes a U-turn, shortly after formal registration, on realizing that the firm has obligations to both the State tax authorities and Federal authorities as well, much against the original intention of being obligated only to one tax authority, as far as possible. For such subscriber, who may have originally intended to keep things simple, being caught in the web of analyzing transactions for purpose of determining which relevant tax authorities should collect a particular tax type and its associated filing can be unnerving.

This, therefore, provides scope for practical guidance and proper delineation of taxes according to business structure.

#### **Business Structures according to the Tax laws**

The Nigerian tax system recognizes the profits of a trade or business of an enterprise as taxable in the hands of the individual who is considered the sole proprietor of the business. This type of business structure usually require one subscriber for registration with the Corporate Affairs Commission. Partnerships also fall under this category as the individuals that make up the partnerships of the enterprise have their share of profits taxed in their hands, as individuals as well. The taxation of sole proprietors and partnership, therefore, lie with the State Internal Revenue Service, which is

within the purview of the Personal Income Tax Act. Other taxes such individuals may also be liable to pay are Stamp duties, Capital gains, Hotel Consumption Tax etc. on relevant transactions chargeable to such tax under the law.

On the other hand, a business with more than one Subscriber and Directors may be a Company limited by shares or a publicly quoted company. The relevant tax authority(ies) such business is obligated for tax purpose is the Federal Inland Revenue Service and the State Internal Revenue Service (as the case may be under the operations of the Pay-As-You-Earn Scheme). Other taxes to which the company is obligated include Stamp Duties, Capital Gains, Value Added Tax, National Information Technology Development levy, Petroleum Profits Tax, Tertiary Education Tax etc.

### **Structuring for effectiveness**

The World Bank report on the ease of doing business read with the ease of paying taxes by PwC still has Nigeria a far cry away from the set of Countries with leading practices. To complicate this further through lack of sensitization of the types of formal business structures available and one that is fit-for-purpose even impacts on the ability of the business to effectively meet its primary goal.

The following are recommended for purpose of enlightening potential business owners vis:

#### **At CAC/FIRS/LIRS:**

At successful completion of name search at the Corporate Affairs Commission, make available information about key statutory obligations such newly established business is likely to meet upon successful registration. This has become necessary since the Commission has provided the option to Subscribers to register their businesses directly without the aid and advisory of accredited agents of the Commission.

The information should include all the taxes the business type are likely to encounter and filing obligations along with its frequency.

**At FIRS/LIRS:**

Seamlessly notify the newly registered business, by email and through other cost effective means, of their registration as taxpayers together with downloadable forms for them to fill and submit at the relevant tax office closest to their business.

Remind newly notified taxpayers of the various types of taxes they are liable to pay, due dates, filing and frequency as well as key points of offences and penalties.

**Practitioners/Consultants:**

Provide advisory on the tax obligations of the formal business structure the subscriber wishes to register; and

Do all things that would enable the new business become and remain tax compliant as soon as the business is registered.

**Conclusion**

Provision of a conducive business environment for a successful business outing depends more on the business owners than government and its regulatory authorities. The pathway for delivering this success in business begins with getting its formal structure right, which could very well serve as proxy to its business optimization behaviour.

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