



THE CHARTERED INSTITUTE OF TAXATION OF NIGERIA

(Chartered By Act No. 76 of 1992)

POSITION PAPER

ON THE

DRAFT NATIONAL TAX POLICY

A. INTRODUCTION

The Chartered Institute of Taxation of Nigeria (CITN) started on February 4, 1982 as Association of Tax Administrators and Practitioners. Thereafter, it metamorphosed into Nigeria Institute of Taxation, which was formerly launched on February 21, 1982 and statutorily recognised on May 6, 1987 as a Company Limited by Guarantee. The Institute was granted charter by the Federal Government of Nigeria via Decree No. 76 of 1992 now CITN Act Cap C10 LFN 2004. This Institute was charged with the duty, among others, to encourage, promote and co-ordinate research for the advancement of taxation in Nigeria.

B. GENERAL COMMENTS

1.0 STAKEHOLDERS IN THE NIGERIA TAX SYSTEM – EXCLUSION OF CITN

The name of The Chartered Institute of Taxation of Nigeria was omitted in the revised DNTP just as in the initial draft despite our protest. It needs to be reemphasised that the Institute is neither a consulting firm nor a government parastatal. Government had been patronising CITN on issues that bother on taxation, for example, CITN was a member of both the Study Group and Working Group on the Tax Reform Committee set up by Federal Government whose report formed part of the input into the Tax Reform Bills and Acts. Also CITN was a member of Alternative Revenue Committee set up by Federal Government to look into non-oil revenue sources for Government. The various inputs into the tax system by our body since inception cannot go unnoticed. A situation whereby CITN is rendered to the background with its input being bugged with lines of bureaucratic bottleneck is being created. It is in this wise that we strongly recommend that CITN, as a body, be included in the DNTP as a stakeholder.

2.0 THE NIGERIAN TAX LAWS - Exclusion of CITN Act in the List of Tax Laws

The CITN is the only regulatory body duly recognised by the laws for regulating the standard of tax administration and practice in the country. It follows therefore that the CITN Act is a tax law which shall be objectively consider in the Nigerian Tax system.

The exclusion of CITN Act in the Draft National Tax Policy (DNTP) as part of the tax laws in Nigeria was noted with great concern. We advise that this error should be corrected.

3.0 CALL FOR ADDITIONAL PROFESSIONAL TAXATION BODIES

Section 7.3(d)iv of the revised DNTP called for additional professional taxation bodies, even, when no mention was made of the only existing one. While we do not believe this to be a policy matter unless it has some other connotations, issues that should be raised in the policy should be how the Federal Inland Revenue Service (FIRS) and indeed Joint Tax Board (JTB) through the states Boards of Internal Revenue would be compelled to assist the Research and Technical Department of CITN by allocating funds directly to the body. Despite the output of our Institute, it should be noted that its work has been seriously challenged due to inadequate funds.

4.0 REPETITIONS IN THE NDTP

The revised draft is a significant improvement over the first draft copy, however the document is bulky with a number of repetitions and needs to be thoroughly read to eliminate typographical errors (see pages 43, 46, 53, 54, 57, 64, 67, 69, 72 and 90).

5.0 INTERPRETATION OF TERMINOLOGIES

The document contained some terms that require interpretation to avoid ambiguity. It is therefore recommended that a chapter be devoted to interpretation of these terms or definition of terms.

6.0 PRESENTATION OF TAX BILLS

The method of presenting the tax bills - whether it should be included in the annual Appropriation Acts (where these originate from the government) as it is done in United Kingdom so that they do not suffer neglect or delay.

7.0 INTRODUCTION OF TAXATION COMMITTEES IN THE LEGISLATIVE HOUSES

It should be part of the policy that the legislative houses at both the national and state levels should be encouraged to establish Committees on Taxation. The effect of this is that taxation, being a dynamic subject would be given the attention it deserves. It should be noted that legislative requirements of the capital market, banking and others are promptly attended to largely due to the availability of committees in charge. A situation whereby tax bills reside in the National Assembly for many years (as in the existing four bills) without much attention shall be avoided.

8.0 INCLUSION OF TAXPAYER'S BILL OF RIGHTS

A major stakeholder in the tax system is the taxpayer. The democracy being practiced by the country necessitates that taxation should be by participation. It follows therefore that taxpayers should buy into any tax document in order to trust and respect it. It is in this wise that we consider the inclusion of Taxpayer's Bill of Rights as an appendix to the NDTP as it is practiced in other developed system. A copy of the document is herewith included on page 9.

C. SPECIFIC COMMENTS

S/N	Sections	Description	Extracts from the Draft policy	Suggested Amendments
1.	Chapter 2 page 7	Definition of Tax	The footnote on this page suggests that the definition was obtained from Wikipedia which is largely uncensored	An important definition like this should be obtained from an authoritative source such as the Black Law Dictionary(BLD) According to the BLD, "Tax is a monetary charge imposed by the government on person, entities, transactions or property to yield public revenue"

				Another definition by BLD which has been quoted and indorsed, or approved expressly or otherwise by many different courts is "taxes are the enforced proportional contributions from persons and property, levied by the state by virtue of its sovereignty for the support of government and for all public needs"
2	Page7	Item 2.1(i) (1)	Residents who derive income in Nigeria	Should be residents who derive income in Nigeria and outside Nigeria
3.	Page 8 (ii)(1&2)	Company Income Tax; Petroleum Profit Tax	The draft indicates that PPT applies to oil and gas and CIT to operations other than oil and gas business.	Gas is substantially taxable under CIT (not PPT). Hence "oil and gas" should be changed to "petroleum operations"
4	Page 8	Property Tax	The draft policy states that "Tax such as property tax is also chargeable on assets, but such taxes do not exist in Nigeria as yet"	Property tax is a tax levied on the owner (or occupier) of property usually based on the property's value. Going by the definition, land use charge, tenement rates, governor's consent fee etc would be classified as property taxes. We therefore suggest that the comment about property tax be amended accordingly.
5	Page 8	Property tax	The draft states that "Tax such as property tax...."	This should be amended as "Other taxes such as property tax...."
6	Page 9	Distinction between Taxation and revenue	The Draft's lengthy distinction between the tax and revenue is unnecessary	It is better to have a brief but concise distinction and a list of the items
7	Page 11	Para 2 Line 2 Para 2.1 line 6,		Change "level" to "levels" in Para2 line 2, delete "a" from line 6 Para 2.1
8	Page 15	Property & Environment taxes	The draft advocated for Property and environment taxes	The policy should be clear about those who will pay these taxes. Although not specifically levied as environmental taxes, gas flaring penalty, toll fee, sewage levy etc are examples of environmental taxes in Nigeria today.
9	Page 18	2.5.6	To pursue fairness and equity	In order to truly pursue fairness and equity the policy should specifically state that any ambiguous and/or conflicting

				provisions in the tax laws are resolved in favour of taxpayer. This will ensure that government does not benefit from ambiguities created by it to the detriment of taxpayers.
10	Page 21	Stakeholders	The draft Policy did not include CITN, Tax Consultants/Practitioners as Stakeholder	Regulatory authority CITN, tax Consultants and Practitioners are major stakeholders all over the world. This fundamental omission has rendered the document incomplete. We recommend that this should be stated in the policy and their roles defined including expected standard of behaviour and acceptable practice.
11	Pages 27,29 & 33	TCC	The draft policy advocated that TCC be referred back to the relevant revenue authority for authentication	It is important for TCCs to be authenticated by the issuing Revenue authority but referring back to the relevant authority may create unnecessary delays and bottlenecks. Hence, there should be a means to authenticate TCCs online from the FIRS/SBIRS websites. TCCs could also be issued as electronic cards that can be read from a card reader to authenticate the validity.
12	Page 33	Paragraph 1	Judiciary training by the tax authorities	To ensure that the training is not biased (or seen to be biased), a recognised tax body, such as CITN should also be allowed to train the judiciary as the tax authority would more often than not be a party to a tax dispute on which the Judiciary will be required to adjudicate.
13	Pg 42	Last Paragraph	Correct anomalies in the VAT	A major anomaly in the Nigerian VAT system is input VAT claim which is extremely restricted thereby making our VAT more like a sales tax. Without correcting this, it will be wrong to compare Nigeria with other ECOWAS countries as contained in Page 86 of the Policy. The Policy should therefore

				specifically state that the anomaly regarding input VAT claim should be corrected to be in line with global practice.
14	Pg 43	4.4(a) Tax Free Zones	Government must however retain the right at all times to terminate any such special arrangement, or the rightto take benefit of such arrangements	The government should not reserve the right to terminate special arrangements as this would create uncertainties thereby discouraging investments. Rather, government should exercise caution in entering into such arrangements and agreements may cover a short period with possibility of renewal/extension as government may deem fit.
15	Pg 45	International & regional treaties	Nigeria should reserve the right at all times to cancel any arrangements which are no longer beneficial to its economy ...	Same as above. Procedures for termination in treaties and other agreements should be followed before termination otherwise other countries will be unwilling to enter into any agreement with Nigeria.
16	Pg 50	Para 2	Self assessment described as a voluntary system of tax compliance	This is no longer voluntary as it is now compulsorily required by the law (CITA Amendment of 2007).
17	Pg 54	Last Paragraph	Measures by tax authorities include freezing of the bank accounts of offenders	Freezing of bank accounts of offenders by the tax authority should be in line with the law and should follow due process.
18	Pg 55	Tax Refund Mechanism	...refunds within 90days of reaching a decisions...	We recommend that the Policy includes a timeframe within which the tax authority must reach a decision. This could be 90 days (excluding waiting time for taxpayers to provide explanation and information requested by the tax authority).
19	Appendix 1	Existing tax legislation	The analysis of existing taxes is not entirely complete.	Others such as the NDDC Act, CITN Act, NIMASA's Cabotage, WHT Regulations, etc. to be included.
20	Appendix 3	Strategy for implementation	Not applicable.	The strategy for implementation is very good. However, this should include reduction of

				number of taxes (or consolidation of similar taxes) especially those generating insignificant revenue.
21	Pg 84	Table 1	Personal income tax percentage of revenue stated as 0% for Nigeria compared to Ghana, Kenya and South Africa.	This analysis is misleading as it does not take account of the different systems of government in the different countries. For proper comparison with the other countries (which do not have fiscal federalism), the analysis should consider all levels of government or at least the Federal and State levels.
22	Pg 90	VAT threshold	Entities below threshold not to register for or charge VAT	The threshold should be reasonable and there should be a mechanism for increasing it in line with economic realities at any given point. Also, it is important to address how to deal with input VAT payable on purchases by these entities. If not properly addressed, it could discourage patronage as any items purchased from these unregistered companies would have the input VAT paid by them indirectly incorporated into their prices without the subsequent buyer being able to claim input VAT. This would make small companies less competitive.
23	Pg 94	Issues requiring consensus	Item 4 – Introduction of new taxes	There should be a mechanism to pass all proposed tax laws through the FIRS, JTB and CITN in addition to existing procedures in place to ensure that arbitrary tax laws are disconnected with the overall policy direction.

Should you require further explanation(s) on any of the issues raised above, please let us know.

Thank you.

Yours faithfully,

Prince R. 'Kunle Quadri, FCI

President/Chairman of Council

Appendix
TAXPAYER'S BILL OF RIGHTS

The Taxpayer's rights are:

1. To pay no more and no less than what is required by law.
2. To serve and be served in the official language.
3. To privacy and confidentiality.
4. To review transactions with the Revenue and subsequent appeal in line with the laws.
5. Treatment should be professional, courteous, and fair.
6. There should be complete, accurate, clear, and timely information.
7. That an individual shall be made to pay tax amounts in dispute before an impartial review.
8. That the laws should be applied consistently.
9. An individual shall lodge a service complaint and to be provided with an explanation of Revenue's findings.
10. That the Revenue shall take the costs of compliance into account when administering tax legislation.
11. That the individual expects government to be transparent and accountable.
12. That a taxpayer shall have reliefs from penalties and interest under tax legislation because of extraordinary circumstances.
13. That the Revenue shall is expected to publish service standards and report annually.
14. Receive prior warning through stakeholders meetings on proposed tax schemes in a timely manner.
15. That an Individual shall be represented by a tax professional of his/her choice.