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An Appraisal of the Legal Framework for the Taxation of Non-Profit Organizations in Nigeria

Meshach Nnama Umenweke*

Uchenna Maryjane Anushiem**

Abstract

Over the years, there has been misconception on the status of Non-Profit Organization, Not-for-Profit Organization, or Non-Governmental Organization as they may be called, with regards to their taxability. Many have argued that NGOs are not to pay any form of taxes at all since they are engaged in humanitarian services which earn no taxable income. However, there are instances where Non-Profit organizations engage in certain transactions that may likely yield profits to the organization, like buying and selling assets and properties. Also, issues arise on the compulsory requirements of Value Added Tax (VAT) and other tax laws in Nigeria which mandates payments of tax in certain transactions that these Non-Profit Organizations would be definitely affected. The aim of this paper is to analyse the legal frameworks governing the taxation of Non-Profit organizations in Nigeria and to recommend that these Non-Profit organizations be strictly monitored, with tax obligations imposed only on transactions likely to yield profit to the organization.

Keywords: Appraisal, Legal Framework, Taxation, Non-profit Organization, Nigeria

1. Introduction

Tax is a compulsory contribution to support the government which is levied on persons, property, income, commodities, transaction and so on, now at a fixed rate most proportionate to the amount on which the contribution is levied.[1] Taxation is the process of collecting taxes within a particular location and in this regard, it can be defined as a pecuniary burden lay upon individuals or property to support government expenditure. It is therefore not a voluntary payment or donation, but an enforced and compulsory contribution exacted with legislative authority. Taxation provides a consistent source of funding for governments in Nigeria and worldwide.

Non-profit Organization (NPO) also referred to as Non-governmental organization (NGO) is a voluntary group of individuals or organizations, usually not affiliated with any government that is formed to provide charitable, religious, cultural and other incidental services to the people.[2] They are independent from government and very active in humanitarian service.[3] Non-profit Organization (NPO) also known as civil society organization is the collection of social organizations, formed voluntarily by citizens to advance shared goals or interest. They include independent public policy research organizations, advocacy organizations, organizations that defend human rights and promote democracy, humanitarian organizations, private foundations, charitable organizations and religious organizations, excluding political parties.[4]

The impact of taxation on economic growth of any country or society cannot be overemphasized. In most countries around the world, taxes have proven to be a major source of revenue generation. In Nigeria, oil has been a major source of its revenue over the past years. However, with the dwindling oil prices in the global oil market, this has truly led to a huge decrease in the funds available to the government for

* **Meshach Nnama Umenweke, PhD, FICM, ACTI, BL**, Professor of Law and Former Dean, Faculty of Law, Nnamdi Azikiwe University, Awka, Anambra State. E-mail: mn.umenweke@unizik.edu.ng Tel: 08037090048

** **Uchenna Maryjane Anushiem, BA (Hons), LL.B(Hons), BL, LL.M, PhD,** is a Lecturer 1, Department of Commercial and Property Law, Chukwuemeka Odumegwu Ojukwu University, Igbariam Campus, Anambra State Nigeria. E-mail: um.anushiem@coou.edu.ng Tel: 08062139786

[1] I.A Ayua, *The Nigerian Tax Law*(1st edn; Spectrum Law Publishing, 1996) p. 3

[2] M.P Karns, 'Non-Governmental Organization', https:// www.britannic.com/topic/non governmental- organization> accessed 8 July 2024 at 10:28pm.

[3] A Blinken, Non-Governmental Organization (NGOs) in the United States <http://www.state.gov./non government-organizations-ngos in the -united state>, accessed 9July, 2024 at 09:02am.

[4] Ibid.

infrastructural development, distribution to states and use for national and economic activities. Base on this fact, there is need for a paradigm shift in the source of revenue generation from oil sources to non-oil sources through taxation. Hence, there is need for the Federal, State and Local Government to start generating adequate revenue through tax revenue. In Nigeria, although NGOs are seen as non-profit organizations but in reality, a lot of them engage in trading and business activities thereby deviating from the object of the organization and also making a lot of profit from those business activities.

The Finance Act [5] as amended[6] exempted from tax the profits of any company being a statutory or registered friendly society, profits of any company being a co-operative society registered under any enactment or law relating to co-operative societies and profit of any company engaged in ecclesiastical or charitable activities of a public character in so far as such profits are not derived from a trade or business carried on by such company. From the above provision of the law, it is clear that although the profits made by these non-government organizations (NGOs) are exempted from tax under the law, but however when these non-governmental organizations engage in any form of trade or business, any profit made from such trade or business will be subjected to tax. Most trustees, running these NGOs are unaware that they are not totally exempted from paying taxes. A lot of them hide under the fact that they are non-profit making organizations and as such they are totally exempted from paying taxes. That is why they engage in all manner of trade and businesses and derive huge profits but do not remit that portion of profit made from the trading and business activities. These trustees buy expensive houses, landed properties, expensive cars and private jets. There is need for government to monitor the activities of theses NGOs, in order to tax the profit or income that is taxable.

In the light of the foregoing, this research makes a case for an improvement in the legal framework for taxation of income of non-governmental organization for a shift to tax-based economy.This research will discuss in details the taxation of income of non-governmental organizations (NGOs) in Nigeria and the Legal framework for taxation of income of non-governmental organization with a view to making a case, and necessary recommendations for the attainment of a tax-based economy in Nigeria.

2. Taxation of Non-Profit Organizations in Nigeria

Non-Profit Organizations also referred to as Non-Governmental Organizations (NGOs) are voluntary associations of people or groups that are typically not connected to any government and are established to offer philanthropic, spiritual, cultural, and other incidental services to the public.[7] They are usually non-profit organizations that operate independently of the government, and many of them engage in humanitarian work.[8] No easy definition can adequately capture the diversity of NGOs. They have their main goals and are made up of numerous organizations and groupings that are wholly or partially autonomous of the government. Among these goals is raising awareness to affect policy at the federal level.

In essence, their policies include but not limited to creating awareness to change governmental policies and advocating for underrepresented or underprivileged groups of people. A portion of them originate from areas where certain individuals are subjected to inequality. They speak and act on behalf of those who lack a voice, such as those with limited resources, and they lend a voice to those who are less fortunate.[9] Given the above, there is no doubt that NGOs play a crucial role in shaping the society at large but directly and also remotely.

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[5]Finance Act 2021 s.7

[6]Ibid,Companies Income Tax (Amended) Act 2011, s.23

[7]E Herbert, 'An Overview of the Assessment and Determination Employee Tax in Nigeria', (2019) (10) (1) The *Gravitas Review of Business & Property Law*, 108.

[8]A Blinken, 'Non-Governmental Organization (NGOs) in the United States', <https://www.state.gov/non-governmental-organizations-ngos-in-the-united-states/>, accessed 31July, 2024 at 2:28 pm.

[9]M I Anushiem, H O Obi and U M J Anushiem, The Role of Civil Society Organizations in the Nigerian Electoral process: A Legal Appraisal, (2021) (2) Awka Capital Bar Journal (ACBJ) 54.

As a general provision in the Nigerian tax administration, Non-Governmental Organizations are not subject to taxation although with certain exceptions.[10] Taxation significantly plays a crucial role the overall economic growth of any country or society. In numerous countries globally, taxes serve as a primary revenue generation channel. Nigeria has over the years relied heavily on oil as a key revenue source. However, the declining global oil prices have substantially reduced the government's funds for infrastructure development, state distribution, and national economic activities. In light of this situation, there is a necessity to transition from oil-based revenue generation to non-oil sources, primarily through taxation. Therefore, it is essential for the Federal, State, and Local Government to begin generating sufficient income through tax revenue. This would obviously require a general overhaul of the tax system. In Nigeria, while NGOs are perceived as non-profit organizations, many of them actually participate in commercial and business activities, which is contrary to their mission and ultimately profiting from these business endeavours. This defeats the general idea of not taxing NGOs and the idea of not taxing NGOs is being ridiculed. Given the foregoing, it would be in issue whether or not NGOs should be taxed just like any other corporate entity.

3. Legal Framework for Taxation of Non-Profit Organizations in Nigeria

3.1 Constitution of the Federal Republic of Nigeria 1999 (As Amended)

The 1999 Constitution of the Federal Republic of Nigeria, (as Amended) is the most fundamental law of the country. It is the grundnorm, meaning it is the law from which other statutes draw their power, legitimacy and relevance. Therefore, any law that contradicts any provision of the constitution shall be struck out in its entirety or to the extent of its inconsistency where such inconsistency exists only in part. The 1999 Constitution's regulation of tax administration is reflected in the division or allocation of taxing powers among the respective tiers of government. Taxing power within the context of this subhead means the power of a tier of government to impose a tax by its own law and prescribe conditions for the collection and due administration of the tax either by its own agency or that of another tier of government. This must be distinguished from the power to merely collect taxes or levies which is executive or administrative in character.[11]

3.2 The Finance Act 2023

The Finance Act 2023, which former President Muhammadu Buhari signed into law on 28 May 2023, introduced significant changes to the existing tax laws and regulatory framework, aiming to foster economic growth, enhance fiscal stability and promote sustainable development in Nigeria. The Act aims to strike a balance between fiscal stability and economic growth while addressing emerging challenges in the digital economy, sustainable economic growth and improving the tax administration. The Finance Act made key amendments to the tax laws and regulatory legislation (including sector-specific considerations).[12] Pursuant to Section 7 of the Finance Act (as amended),[13] profits of any company that is a statutory or registered friendly society, the profits of any company that is a co-operative society registered under any enactment or law relating to co-operative societies and the profit of any company engaged in ecclesiastical or charitable activities of a public character, in so far as such profits are not derived from a trade or business carried on by such company, are exempted for the purposes of taxation. From the above provision of the law, it is clear that although the profits made by these non-governmental organizations (NGOs) are exempted from tax under the law, however, when circumstances arise that these non-governmental organizations engage in any form of trade or business, any profit realised from such trade or business are taxable and will be subjected to tax.

[10]Finance Act 2021 s.7; Companies Income Tax (Amendment) Act 2011 s.23.

[11]Ezeudu & Anushiem: 'Towards a More Vibrant Legal Framework for Taxation of Non -Government Organization in Nigeria' (2023), <https://www.nigerianjournalsonline.com/index.php/COOUJPPL/article/download/3969/3859> , accessed 15July 2024 at 2:06 am

[12]Ernst & Young, Nigeria | Highlights of Finance Act (2023), <https://www.globaltaxnews.com>accessed 16July 2024 at 2:24 am

[13]Finance Act 202, 1 s.7 (as amended); Companies Income Tax (Amended) Act 2011, s.23.

3.3 Companies and Allied Matters Act 2020

The Companies and Allied Matters Act, 2020 regulates the existence of all non-human persons in Nigeria including NGOs. On 7 August 2020, President Muhammadu Buhari assented to the Companies and Allied Matters Act 2020[14] which repealed and replaced the Companies and Allied Matters Act 1990 that had been in force for more than 20 years with minor modifications. The new Act contains provisions that seeks to improve the ease of doing business in Nigeria and therefore serves as a reassuring commitment of the Federal Government to remain in tune with the ever-changing business and economic culture of the world and Nigeria also.[15] It was passed into law to establish the Corporate Affairs Commission (CAC), provides for the incorporation of companies and incidental matters, registration of business names and the incorporation of Trustees of certain Communities, Bodies and Associations. Part F of the CAMA which comprises 27 sections 24 made elaborate provisions as to the legal status of NGOs. It provides legitimacy for its existence and accords it a corporate status.

It should be noted that irrespective of the bogous provisions of CAMA as to the existence and legal statues and regulation for NGOs, none of these provisions made specific indications or mention of NGOs as to clothe it with any other special status as is seen in other Common Wealth jurisdictions such as Belize,[16] Uganda[17] and Zimbabwe[18]. These countries apart from having enactments that are similar to Part F of the CAMA do have separate enactments for NGOs[19] other than an association registered as a corporate legal person simplicita. In the unreported case of *Board of Incorporated Trustees of Malcolm OmirhoboFoundation v The National Judicial council of Nigeria & 6 Ors*[20], where this point was laid before the Federal High Court, Abuja wherein Justice Ekwo held that the Plaintiff misconstrued the provisions of section 590 (1) (now section 823)(1) of CAMA relied upon, where plaintiff had argued that by virtue of having been registered as a corporate person, it is clothed with the status of an NGO. The Court further stated that it is unable to see how Part C (now Part F) of the CAMA makes provisions for the registration of NGOs as claimed by the Plaintiff. It suffices to mention that NGOs are associated with the CAMA only because of their characteristic objectives which are very similar to those of the associations registrable under Part F of the CAMA.[21] As such, the operational guidelines as provided under CAMA for such associations registered under Part F of CAMA to which category NGOs belong are, therefore, applicable to NGOS.

3.4 Personal Income Tax (Amendment) Act, 2011

The need to tax personal income throughout the country prompted the creation of the Income Tax Management Act (ITMA) of 1961[22]. In Nigeria, personal income tax for salaried employment is based on Pay-As-You-Earn (PAYE) system (FRN, 2011) and several amendments have been made to the 1961 Income Tax Management Act. It not only regulated the taxation of personal income exclusively but also provided a uniform system of personal income taxation across the federation. The Personal Income Tax Act[23](PITA) is the current law regulating the administration of personal income tax in Nigeria. Its

[14]The Companies and Allied Matters Act (CAMA) 2020 shall herein be referred to as "The Act" or "CAMA 2020". While the Companies and Allied Matters Act 1990 shall subsequently be referred to "Former Act", "Repealed Act" or "CAMA 1990".

[15]J Oluwayansola and TAkinyosoye, 'Review of the Companies and Allied Matters Act and Emerging Issues' (2021) 4 (1) <https://unilaglawreview.org/wp-content/uploads/2021/02/Article-11.pdf> , accessed 16July 2024 at 3:15 am

[16] Non-governmental Organizations Act, Chapter 315 of Belize.

[17] The Non-governmental Organization Act, 2016, Uganda.

[18] Non-governmental Organizations Act, Zimbabwe.

[19]LC Ezeudu &UMJ Anushiem, 'Towards a More Vibrant Legal Framework for Taxation of Non-Government in Nigeria', (2023) *Chukwuemeka Odumegwu Ojukwu University Journal of Private and Public Law* 5(1), 220.

[20]Suit No: FHC/ABJ/CS/420/2019

[21]Part F covers associations whose objectives are for religious, educational, literary, scientific, development, cultural, sporting or charitable purpose.

[22]No. 21 of 1961

[23]Cap P. 8 laws of Federation of Nigeria 2004 (as amended in 2023).

provisions are similar to previous income tax laws in all material respects except that it contains in addition other provisions that are completely novel in the administration of Personal Income Tax in Nigeria. While the provisions on persons and incomes chargeable, deductions allowed, incomes exempted, assessment, returns, offences and double taxation arrangements are similar in substance to that under the ITMA and other erstwhile income tax legislation, such other provisions relating to the establishment of tax authorities,[24]the introduction of the Tax clearance certificate and the pay-As-You-Earn (P.A.Y.E) Scheme are entirely novel to all the erstwhile legislation.[25]

3.5 Capital Gains Tax Act CI LFN 2004

The Capital Gains Tax (CGTA) is the tax a person is obliged to pay on the profit(s) such person receives when such person disposes an asset or investment. Pursuant to the provisions of the Act, Capital Gains Tax Act was established to provide for the taxation of capital gains accruing on disposal of assets.[26] The Act was enacted by Act No. 44 of April 1, 1967, further amended by Act No. 45 of 1999 and finally the Finance Act 2023. According to Section 2 Subsection 1 of the Act, the rate of capital gains tax is set at 10% (ten percent) of the profit made from a disposal of disposable assets. The Act expands the chargeable assets to included: options, debts and incorporeal property generally, any currency other than Nigerian currency and, any form of property created by the person disposing of it, or otherwise coming to be owned without being acquired.[27]

3.6 Value Added Tax Act, Cap. V1 LFN 2007

Value Added Tax (VAT) is a consumption tax which charged on the supply of all goods and services other than those listed as exempt in the first schedule to the VAT Act.[28] The rate of VAT used to be 5% since its establishment in 1998, but it was raised to 7.5% by the Finance Act. VAT is a commonly used tax in numerous countries, applied to the sale of goods and services at different points in the supply chain, excluding those items specified as exempt in the relevant VAT legislation. Ultimately, the end consumer carries the burden of this tax. In Nigeria, VAT is governed by the Value Added Tax Act (VATA) and collected through registered individuals known as "taxable persons." As per the VAT Act, a taxable person must register with the FIRS for VAT collection upon commencing a business.[29] Failure to register attracts a penalty of N50,000.00 for the first month in which the failure occurs; and N25,000.00 for each subsequent month. A taxable person who permanently ceases to carry on a trade or business is required to notify FIRS of his intention to deregister for tax purposes within 90 days of such cessation of business.[30] If the charging provisions were to be strictly construed, VAT will be chargeable on international, inter-State and intra-State supplies of goods and services.[31] It appears that the FIRS Information Circular clarified that the tax should be limited to goods and services provided within Nigeria to acknowledge the need for territorial limitation. The circular specified that supplies made outside Nigeria fall outside the scope of Nigerian VAT.[32] We hold the view that even without making the above clarification; it is difficult to see how the tax can be administered extra-territorially considering the principle in *Boucher v*

[24]Ibid s 86-93.
[25]L C Ezeudu & UMJ Anushiem, (n 19).
[26]Capital Gains Tax Act s 1(1)
[27]Ibid s. 3
[28]Press release, 'Understanding VAT in Nigeria', <https://www.premiumtimesng.com/promoted/602755-understanding-vat-in-nigeria.html?tztc=1>, accessed on the 16th of July, 2024 at 6:30 am
[29]A. A Tait, Value Added Tax, National, (International Monetary Fund) (1984), p.494; Value Added Tax Act. 2007 s 2.
[30]Finance Act, 2019 (As Amended) s 8.
[31]These provisions appear to have same purport as section 1(1) of the Value Added Tax Act, 1994 of the United Kingdom which provides that "Value Added Tax shall be charged in accordance with the provisions of this Act – (a) on the supply of goods and services within the United Kingdom (including anything treated as such a supply, (b) on the acquisition in the United Kingdom from other member states of any goods; and (c) on the importation of goods from places outside the members State. Finance Act, 2019 ss.6 & 15 (2)
[32]FIRS Information Circular No. 9304 of 20th August, 1993 on Value Added Tax (VAT) item 6(ii).

Lawson[33] that no nation will take account of the revenue law of another nation.

3.7 Companies Income Tax (Amended) Act 2011

The companies Income Tax is the current enabling law that governs the collection of taxes on profits made by companies operating in Nigeria excluding companies engaged in Petroleum exploration activities. Companies Income Tax (CIT) is charged on the profits generated by companies, public corporations and unincorporated associations such as industrial and provident societies, clubs and trade associations. Companies Income Tax was created by the Companies Income Tax Act (CITA) 1979 and has its root from the Income Tax Management Act of 1961. It is one of the taxes administered and collected by the Federal Inland Revenue Service ('FIRS' or 'the Service').[34] Since enactment, the law has passed through series of amendments, with the latest being the 2023 amendment. The rate of CIT varies according to operation and size of turnover per annum and the tax is payable for each year of assessment (based on actual year) of the profits of any company. Companies Income Tax Act, 2007 (As Amended) CITA imposes taxes generally on the profits of corporate legal persons not being corporate soles[35] and NGOs falls under the category of corporate legal person by virtue of its registration as such under CAMA.[36] The CITA provides a blanket provision on persons subjects to CITA and what profits of these persons that are subject to taxation imposed by the Act.

3.8 Federal Inland Revenue Service (Establishment) Act, 2007

The Federal Inland Revenue Service (Establishment) Act, 2007 is an Act of the National Assembly of Nigeria that provides for the establishment of the Federal Inland Revenue Service which is the government organ vested with the responsibility of administering certain taxes and attending to sundry issues as assigned to it under the Act. Tax administration in this regard entails the administration, management, conduct, direction, and supervision of the execution and application of a government, country or state's taxation laws and related statues.[37]

4. Conclusion

Taxation of NGOs in Nigeria is indeed surrounded with uncertainties ranging from non-direct recognition of NGOs by the relevant corporate and Tax laws to a plethora of other tax challenges discussed in this work. Much as these uncertainties and challenges abound, there seems to be an obvious contemplation of the existence and taxation of NGOs by the relevant provisions of the Nigerian laws namely, the CAMA[38], the CITA[39] and the PITA[40]. These provisions, when diligently construed, present a position that considers NGOs pretty much like every other organization subject to tax laws in much the same manner with only one significant difference which is the income tax exemptions granted to NGOs in respect of their incomes not derived from transactions of a business nature. In other words, only incomes accruing to NGOs from donations, grants and gifts are exempted from taxation.

There is no doubt that such other taxes as VAT, Stamp Duties, Capital Gains Tax ecetera have exemptions too that could benefit NGOs, however, these exemptions are not exclusive to NGOs as they also apply to every other taxpayer that qualifies for the incentives either by purchasing the exempted goods and services, exporting zero rated goods or meeting any criteria as may have been prescribed by the relevant tax laws for such exemptions. However, when the NGOs pay adequate tax in Nigeria, it generates

[33] Cas. T. Hardw. 84, 89, 191 and ***Holman v. Johnson,*** Cowp. 341.
[34] A P Nwaeke, & F FAdegbie , *Financial Performance and Companies Income Tax of Listed Companies in Nigeria* (2024) *Caleb International Journal of Development Studies (*CIJDS) 5 (1), https://www.calebuniversity.edu.ng/oer /financial-performance-and-companies-income-tax-of-listed-companies-in-nigeria/> accessed 17 July, 2024 at 2:15 pm
[35] SPITA imposes tax on the profits of individuals and corporation sole.Personal Income Tax (Amendment) Act, 2011,s. 2(1)(a)
[36] CAMA, 2020 part F.
[37] L C Ezeudu &UMJ Anushiem: op. cit. (n. 248), p. 225
[38] Companies and Allied Matters Act, 2020 ss 823, 830, and 838.
[39] Companies Income Tax Act (Amended), 2007 s. 23 (1)(a)(c)
[40] Third Schedule, Paragraph 13

enough revenue for the Nigeria. This is because there is urgent need to move the Nigerian economy from an oil-based economy to a tax-based economy.

5. Recommendations:

5.1 Appropriate Legislation:

In Nigeria as at today, there is no dedicated statute providing exclusively and with certainty for the operation of NGOs in Nigeria other than the piece meal provisions on not-for –profit organizations littered in the CAMA, the CITA and the PITA which at best made blank provisions, lumping all Non-Profit Organizations such as churches, educational institutions, sports institutions, cultural organizations and charity organizations together in one category.

It is opined that this arrangement breads ambiguity especially with NGOs being mentioned and defined only in the FIRS Guidelines on the Tax Treatment of Non-Governmental Organizations (NGOs), 2021 but not in any tax law.A statute should be enacted by the legislature to provide for the formation, operation and regulation of NGOs in Nigeria. The statute when enacted will define in clear terms what organizations qualify as NGOs, the scope of their operations and the kind of incentives available to such NGOs as well as the extent of the incentives. With this sort of legislation in place, the very many tax laws could then be amended to reflect and achieve the intendment of the NGO Act. This we believe would introduce certainty in the Nigerian taxing system as it relates to NGOs; eschewing the system of all manner of ambiguity.

5.2 Payment of Tax Refunds.

Indeed, it is within the contemplation of the tax laws to refund taxes to taxable persons who may in one way or the other remit in excess of taxes due to the government within reasonable time hence the provisions for such refunds as contained in the laws[41]. However, the problem lies in the implementation of the refund policy. The timeframe for the refunds is not complied with and sometimes no refunds are even made at all.

It is suggested that the justice and fairness desired to be achieved by this policy lies more in the timeliness of the refunds and to achieve this, there is need for the taxing authority to set aside a reasonable amount of funds for this purpose after collection of taxes before remitting the taxes collected to the government in any given year of assessment. The reserved fund can only be remitted back to the government after a given period of time to be specified by the taxing authority within which any taxable person including NGOs who may have remitted excess taxes would be required to make their claims for refunds. This would mean that the relevant tax laws should be amended to incorporate the timeframe within which to make claims for refund as well as incorporate the percentage of the collected taxes that would be withheld by the taxing authority in their coffers for this purpose.

5.3 Discouragement of Tax Evasion/ Corruption

There is no doubt that Nigeria is one of the few countries in the world where NGOs are used to perpetrate financial crimes such as money laundering and tax evasion. This is definitely because of the imprecise status of NGOs in Nigeria. corruption politicians in Nigeria who should be making the much-needed innovative moves would rather float NGOs, take undue advantage of the presumptive tax atmosphere around NGOs to evade taxes, lauder money and deprive the state of revenues which otherwise would have accrued to the state were these NGOs engaging in legitimate dealings.

It is our recommendation that there is need now more than ever for a more transparent tax regime that would bring clarity to the Nigerian tax system as it relates to NGOs; reviewing the loopholes in the nation's tax framework to reduce the rates of tax evasion and avoidance practices by the NGOs and incorporating steps that would encourage strict compliance and enforcement in the polity. Additionally, looking at the current performance of the tax authorities in Nigeria, it would appear that the Agency lacks

[41]FIRS Act, s. 23(1)(3), VAT Act s. 16 (1) (b)

reliable and comprehensive data base of finances and operations of the NGOs to be able to capture all the taxable incomes of the civil society groups in the country. Effort should equally be intensified for progress in this regard.

5.4 Proper Control and Accountability

It is argued in some quarters that Tax defiance and truncated compliance is high in countries where taxpayers do not agree that the governments are representing the interests of taxpayers and do not trust that the authorities are meticulous in handling public funds. This is the case in Nigeria where NGOs have low trust in the genuineness of intention of the state organs.

The Nigerian tax system lacks accountability which discourages tax compliance on the part of NGOs who find no justification for remitting taxes that would not be properly deployed to good use. One would think that with the enactment of the Fiscal Responsibility Act, 2007, No.: 31 (FRA)[42], there would be better and more transparent management of revenue in Nigeria in such a manner as would encourage tax compliance but this is a far cry from the Nigerian reality.

It is recommended that special disciplinary forum should be created for penalizing and punishing irresponsibility on the part of tax officials with seamless complaint channels for reporting their unwholesome attitudes when noticed.

5.5 Zero Tolerance for Tax Touting:

The use of illegal and unprofessional methods or personnel to enforce tax compliance often leads to the abuse of individuals and widespread criminality against taxable persons, including NGOs. Such practice should be outlawed with adequate punishment prescribed for such illegality.

5.6 Tax Awareness and Communication:

Tax awareness is key to tax compliance because it is only when these NGOs are aware of their tax responsibilities that they are more likely to remit their tax liabilities as and at when due to the relevant tax authorities.

The challenges confronting taxation of NGOs in Nigeria are interwoven such that one challenge creates an enabling ground for another. This is especially true when one considers that NGOs and their tax responsibility status is so vague in Nigeria because of lack of proper legislation that specifically speaks to the operation and administration of NGOs in Nigeria which then gives room for tax assumptions, improper information and/or feigned ignorance on the part of the NGOs of their tax responsibilities.

It is recommended that apart from having a dedicated statute for taxation of NGOs and creating clarity as to the tax responsibilities of NGOs, there should be concerted efforts from tax authorities as well as all relevant government agencies to embark on periodic but constant orientation of the civil populace on the social significance of taxations.

5.7 Non-Multiplicity of Taxes

Often NGOs tend to suffer double taxation where the taxes, fees or rates are levied on them in respect of the same liability by more than one Government Agency[43].

No doubt, this situation makes investment climate unconducivefor investors who are pro- profit talk less of NGOs who are, by their very nature, restrained to apply their profits to furthering their objects which in

[42] The Act provides for prudent management of the Nation's Resources, ensure LongTerm Macro-Economic stability of the National Economy, secure greater accountability and transparency in Fiscal operations within the MediumTerm Fiscal Policy Framework, and the establishment if the Fiscal Responsibility Commission to ensure the promotion and enforcement of the Nation's Economic objectives; and for related matters

[43] Instances include Companies Income Tax, Information Technology Tax (NITDA Levy), Education Tax, Nigerian Content Development Levy all of which are based on income or profits and Value Added Tax, Sales Tax and Hotel Consumption Tax all based on sales.

most cases are for the overall good and development of the state. This is because there is no knowing the extent to which the incomes of these organizations would be taxed leading to some of the organizations, especially international or multinational NGOs, moving their operations out of some states or even out of Nigeria as such unascertained multiple taxes could lead to the NGOs' objectives being defeated for shortage of funds which would have all been spent on envisaged taxes.

It is recommended that although government needs revenue to discharge its responsibilities to the citizens, it should not be gone about in a manner as would deny the NGOs their entitlement of knowing and determining in advance how much they are obligated to pay and in what circumstances.