



# D-I-Y of Tax Payment:

Increasing Taxpayers' Compliance Rate Through Certainty and Tax Education

Thought Leadership | By Ayo Fadeyi

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## Introduction

No country has ever thrived without a functional tax system; in fact the effectiveness of the tax system can be a measure of a country's development, hence the drive to improve Nigeria's tax to GDP ratio from its present low doldrums. Taxation encapsulates sets of rules, regulations and procedures with governmental arms interacting with one another to generate funds for public spending. Tax remains a major (traditional) source of government revenue. Proceeds enable government perform its functions, to: maintain law and order, provide infrastructure and social services (health, education, social welfare, etc), and protect the country's territorial integrity. Tax is also a veritable instrument of social engineering: for example, to achieve wealth redistribution and foster economic growth and development. Adams Smith in his famous treatise, *The Wealth of Nations* (1776) propounded the four major canons of a good tax system as equality, convenience, certainty and economy.

**Equality:** All taxpayers should be taxed according to their income, increase in income should necessitate a corresponding increase in tax. There are two concepts on equality of tax: horizontal and vertical. The horizontal concept provides that persons with same income should pay the same amount of tax without any discrimination between them; whilst vertical concept is concerned with how taxation treats persons with differing abilities/circumstances. A good tax system must ensure horizontal and vertical equality.

The tax table pursuant to the **Sixth Schedule, Personal Income Tax Act, Cap P8 LFN, 2004 (PITA)** embraces the equality principle by ensuring that high income earners pay more tax than low income earners. Even under **CITA** (which prescribes a 30% tax rate), higher taxable profits mean higher tax take.

**Convenience:** Tax should be levied in such manner and time that it affords maximum convenience and minimal stress to

the taxpayer. The time, manner and venue of payment must not be too cumbersome for both the taxpayer and the Revenue.

The World Bank Group and PwC's "*Paying Taxes 2017*" (11<sup>th</sup> series of a comparative study: <https://www.pwc.com/gx/en/paying-taxes/pdf/pwc-paying-taxes-2017-appendix2.pdf>) ranked Nigeria 180, out of 190 countries considered and 46<sup>th</sup> in Africa on ease of paying taxes. Also, Nigeria lags Africa (at 53<sup>rd</sup> position) with her 908 hours total time to comply (TTTC), compared to African average of 307 hours. The top 10 African countries (featuring Djibouti 1<sup>st</sup> at 82 hours, and Malawi 10<sup>th</sup> at 178 hours), have an average TTTC of 118 hours. Hopefully, faithful implementation of the Voluntary Assets and Income Declaration Scheme (VAIDS), the e-tax payment solutions and the 2017 National Tax Policy's postulations that tax authorities should work towards ensuring Nigeria's accelerated improvement on the global index of ease of paying taxes, breed positive signals in this regard. The Federal Government's recently unveiled National Action Plan 2.0 (NAP 2.0), listing 11 reform initiatives including paying taxes where government expects to reduce "*the average time for filing and paying taxes by 50%*" (*BusinessDay*, 11/10/2017, p.4), encouragingly reinforce the foregoing.

**Economy:** This Canon implies that the expenditure on tax administration should be significantly less than the tax generated. If tax administration expenses exceeds or is minimally less than the tax collected, such cannot be a good tax system. The introduction of tax e-payment options in Nigeria has reduced the cost of tax administration and paper work, tax assessment and collection can be done online without interfacing with tax officials.

**Certainty:** There should be certitude with regard to taxpayer's liability during a financial year. According to Adam Smith, the time and manner of payment, the tax liability ought to be clear to everyone, including the taxpayer. Recently, there has been advocacy for the use of simple words in Nigerian tax legislation; our legislation are known for archaic and complex words, making comprehension difficult for the ordinary taxpayer and even some tax officials.





Additionally, there are some other canons which are often not emphasized, but are nonetheless important. These include: productivity, elasticity, simplicity, diversity, desirability and expediency. We will examine hereafter, the level of uncertainty of Nigeria's tax system, its effect on taxpayer's compliance, government revenue and the economy at large.

#### ***"If the Foundation is Faulty, What Can the Righteous Do?"***

By **section 24(f) 1999 Constitution**, it is the duty of every citizen to declare his income honestly to the Revenue and pay his tax promptly. But how can a confused taxpayer pay his tax promptly? One basic problem of Nigerian's tax system is not lack of legislative provisions, but their lack of clarity and simplicity. Tax laws enacted need to be easily understood by taxpayers; this can be achieved if all tax provisions are simple and clear. Controversy springs up whenever there is a discussion on tax liability; often times both corporate and individual tax payers are at sea regarding the exact portion of their profit or income to be subjected to tax or the categories of tax to be paid.

The courts sometimes have been called to interpret contentious tax provisions. Notably, in **Shell Petroleum Development Company of Nigeria Limited v. Federal Board of Inland Revenue**<sup>1</sup> the Supreme Court had to determine whether exchange losses on payment of Petroleum Profits Tax (PPT), CBN charges on payment of PPT, scholarship expenses, gifts and donations were incurred "wholly, exclusively and necessarily" for the purpose of petroleum operations vide **section 10(1)(i) PPT Act, Cap. P13 LFN 2004**. In **A.G Ogun State & Ors v. A.G Federation**<sup>2</sup> even the three arms of government disagreed on

interpretation of tax provisions where one of the claims of the plaintiffs was "a declaration that it is illegal and unconstitutional for the Defendant to deduct funds due to the Local Government Councils in Ogun State from the Federation Account and pay same directly to the Local Government Councils rather than into the State Joint Local Government Account."

It has been observed that taxpayers would rather evade tax when uncertain on tax to be paid than feel cheated. This is especially so, for informal sector operators with limited exposure and who thereby could be at the mercy of "Council" tax collectors with all their unorthodox enforcement methods, which also aids corruption.

Many are confused on the nature and manner of tax payment. Recently on [nairaland.com](http://nairaland.com), a popular Nigeria public (online) forum, a taxpayer reportedly posed a question, thus: "I need your wise advice and input on this issue, I opened a 'business name' and will like to carry out everything by the book and pay my taxes. I need to understand this tax thing; I'm really confused. So far I have only done the VAT registration at the Federal Inland Revenue Service.

My questions are:

1. How many tax bodies do I pay to
2. I understand I have to pay VAT to FIRS, how often should this be
3. What happens if I do not get paid or provide any services
4. Am I supposed to be paying Personal Income Tax in addition to the VAT, if yes how often

I know there topics here that talk about tax **but I just need direct answers** to these questions to settle my confusion." (emphasis mine)

This is simply one of many taxpayers who, though willing to be tax compliant, are faced with the question of certainty in the number of taxes and revenue agencies in charge of

remittances with little deference to tax professionals. *Paying Taxes* lists Nigeria's 59 payments as 52<sup>nd</sup> of 53 African countries on number of tax payments. This can be contrasted with first four African countries: Morocco, South African, Mauritius and Tunisia with only 6, 7, 8 and 8 tax payments respectively.

Government's efforts to curtail abuse of tax avoidance schemes and provide clarifications on grey areas on tax compliance and liability cannot be discounted. This is evident, amongst others in: recently announced planned employment of about 7,500 Community Tax Liaison Officers (CTLOs) and declaration of "Tax Thursday" by the FIRS to create awareness among Nigerians on payment of tax and accrued benefits as a complement to VAIDS. Consistent advertisements on tax awareness (television, radio, posters, billboards), seminars, public notices on taxation by FIRS and State IRS, especially Lagos (LSIRS). Of note are recent LIRS public notices on: 'Tax Relief on Voluntary Contributions', 'Abuse of Voluntary Pension Scheme', 'Taxation of Employee Loans', 'Taxation of non-Nationals with Temporary Work Permit', "Reasonable Removal Expenses" 'Pay-As-You-Earn (PAYE) on Employee Outsourcing Arrangements', 'Withholding Tax (WHT) on Employee Outsourcing Arrangements and Other Labour Brokerage Arrangements', as a means of clarifying existing tax laws on these subjects. Incidentally, they are also available on the 'Publications' page of LIRS website. The punch line of many LIRS adverts that payment of taxes "is your civic obligation" and "is the law" whilst also showing projects evidencing "taxpayers' money in action" are strong emotive appeals that plays on the potential taxpayers' moral burden of non-compliance. FIRS' VAT adverts in the newspapers also strike the same chord.

The taxpayer in the illustration above like many other taxpayers probably do not know that answers to tax questions are provided on FAQ sections of various Revenue websites for example: FIRS (<http://www.firs.gov.ng/Pages/Default.aspx>), in fact FIRS has a 'VAIDS FAQs' page on its website, LIRS (<http://www.lirs.gov.ng/>); there is also a tax compendium of the major tax laws in Nigeria on the FIRS' website (under 'Resources' page). Whilst it would be preposterous to expect the average taxpayer to become an expert by reading these laws, their general availability, essentially democratising access thereto is a step in the right direction.

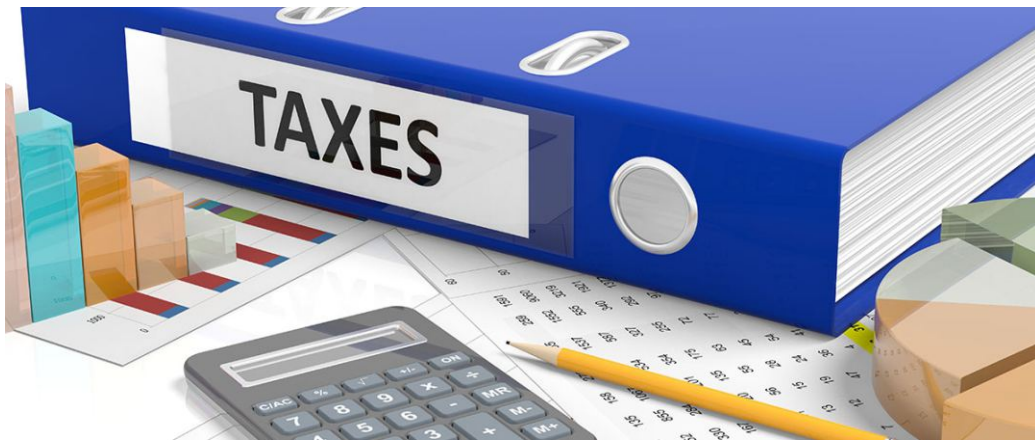
The internet is a storehouse of information, and as with any other subject, diverse

<sup>1</sup> [1996] 8 NWLR (Pt. 466), 256

<sup>2</sup> [2002] 18 NWLR (Pt. 798), 232

information (from multifarious sources, authors and websites) would be thrown up by any enquirer doing a Google search on Nigerian taxes and their compliance requirements. These could provide preliminary basis for seeking professional advice as necessary for further actions. In fairness, the LIRS website has a feature for offline messaging: “any questions, we are ready to answer” which people with enquiries like our friend on nairaland.com can use and get response to specific questions. The functionality of LIRS' website is quite impressive, especially the range of information and tools available on the site, including YouTube videos! The strident invitation banner on LIRS website, “pay your tax, lets grow together!” is contemplative of a partnership that seeks to prioritize ease of compliance.

However, this is a journey and not a



destination, hence Nigerian tax authorities can further emulate the administrative regime of countries acknowledged as simple tax systems like Sweden, Luxembourg, New Zealand, Switzerland, Australia, Estonia and Singapore. Singapore for example, has been able to dominate the “Ease of Doing Business” ranking either 1st or 2nd since 2003, majorly due to its simple method of filing taxes.

The TTTC of taxes in Luxembourg, Bahamas, Bahrain, Switzerland, Saudi Arabia, and Oman take less than 70 hours per year. By contrast, the USA which has a notoriously complex Tax Code, and according to *Demian Brady* in ‘Tax Complexity 2016: The Increasing Compliance Burdens of the Tax Code’ Americans spend over 6 billion hours annually complying with tax filing requirements. A March 2015 *Bain & Co* article noted that “the instructions the Form 1040 alone has grown from one page in 1913 to 104 pages today - few people would cite it as a high functioning system for collecting taxes.” In ‘Why The Complex U.S. Tax Code Won’t Be Simplified’, *Thursday Bram* stated that the US

Tax Code is so complicated that an advanced degree does not guarantee indepth understanding thereof. Rated as 3<sup>rd</sup> worst tax system amongst developed countries <http://www.businessinsider.com/report-us-tax-code-3rd-worst-among-developed-nations-2014-9?IR=T>, the US system is clearly not an example for Nigeria to follow.

### Conclusion

No doubt the government is striving to improve the level of clarity around the tax system in order to enhance tax compliance; most taxpayers however “just need direct answers” to tax questions as stated by the taxpayer from the illustration earlier stated. The amount of tax expected to be paid, time and manner of payment should be exact and clear. Taxpayers should find available answers to their questions and there should exist accessible platforms where confused

taxpayers can easily get clarification, all these should be put in place not forgetting the canon of economy.

Some key initiatives should include: enlightenment and education of taxpayers by the tax authorities; continuous learning programme for tax authorities; instituting an automated standard taxation procedures that will make taxpayers less dependent on the subjective expertise of individual tax officials. State IRS with no e-payment system or an online tax office should initiate such.

Tax legislation should inform taxpayers with the exact level and form of tax payable, this can also be achieved by providing a comprehensive list of all classes of tax and the exact tax amounts to be paid and periodicity; the list can be reviewed annually. **Local Government Levies (Approved Collection List) Law, Vol. 43 2010 of Lagos State** for LGCs and LCDAs in Lagos State is an example of such comprehensive tax list, whilst the LIRS website under the ‘Tax Information’ page also lists the tax types

administered by LIRS (<http://www.lirs.gov.ng/tax-information/tax-types>). Another (earlier) example is the **Taxes and Levies (Approved List for Collection) Act, Cap T2, LFN 2004**. Such list should be educative and accessible to all potential taxpayers in the country, this will unify and regulate the administration of levies and taxes in Nigeria. No doubt, the amount of tax payable is NOT a fixed sum but a variable amount, depending on the gross income of a taxpayer, and the tax relief granted. Nevertheless, taxpayers should be able to ascertain the exact amount of tax to be paid by reference to the tax laws or provisions. In this regard, LIRS aids intending taxpayers with the self-assessment functionality on its site.

The Foreword to *Paying Taxes* (p.2) emphasize (and we cannot agree less that): “everyone benefits if tax systems are well understood and are effective and efficient. To achieve this, systems need to minimize the administrative burden that they place upon governments and taxpayers while raising the revenues that are needed to fund public services.” Nigeria’s 49<sup>th</sup> position in Africa (beating only 4 countries) in ‘post filing index’, a measure of “certain processes that might take place after a tax return has been filed” reflects that we are closer to ‘the most difficult’ rather than ‘easiest’ threshold. The former means that “agreeing the final tax liabilities and potentially, obtaining refunds of taxes paid can be complex and time consuming” signalling that the Government has its job of improving our ease of paying taxes cut out.

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