



# With NTP, Taxes, Not Just Death, Now Certain in Nigeria!

'Taxspectives' by Afolabi Elebiju | Originally published in *ThisDay Lawyer*, 30th March 2010.



## Introduction

It is no longer news that the NTP was approved by the Federal Executive Council (FEC) on Wednesday, 10<sup>th</sup> February 2010. The NTP is envisioned as a **strategic roadmap** that “seeks to provide a set of guidelines, rules and modus operandi that would regulate Nigeria's tax system and provide a basis for tax legislation and tax administration in Nigeria.”

This innovation should generate excitement (at least in professional circles), given that despite many National Development (or Rolling) Plans in the 1960s till the 1980s, Nigeria never articulated a Tax Policy. Yet, Benjamin Franklin said the obvious long ago – that “two things are certain in life: death and taxes”.

The *ad hoc* approach was symbolised by pronouncements in Budget Speeches, especially during the military era. Prior to enactment of such pronouncements as amendment to tax laws, through respective **Finance & Miscellaneous Taxation**

**Provisions Decrees**, typically the regulators and tax practitioners regard the pronouncement as effective. To make matters worse, policy flip flops were common – tax amendments could be reversed and re-introduced in the course of the same year or worse still, changes could be

made retrospectively. Indeed, the **NTP (p.5)** noted that “although there had been several reforms in the past, these reforms were not pursued under any police direction and, in some cases, were carried out in an uncoordinated manner.”

As a complement to FEC's approval of the NTP and consistent with the philosophy to institutionalise tax culture in Nigeria (**section 7, NTP**), its publicity/public awareness is imperative. Currently, it is not on the FIRS website: <http://www.firs.gov.ng/> or of State tax authorities like Lagos SIRS: <http://www.lirs.net/>. Only the JTB has a write-up acknowledging the approval of the **NTP, Reviewing Nigeria's Tax Policy: [www.itb.giv.ng/node/60](http://www.itb.giv.ng/node/60)**. CITN's website (with links to many valuable/resourceful tax sites), features its position paper on the Draft NTP, which predated the current version <http://www.citn.org/others/citnnewdntp.pdf>, (all sites visited on 23.03.2010). Noteworthy however, are FIRS advertisements on Tax Identification Number (TIN) and recent advertorial clarifying that the **NTP's** recommended lower CIT and PIT rates are not effective until specifically enacted into law.

In this piece, I highlight and comment on the first 3 chapters of the 7-chapter **NTP**. Follow up articles on subsequent chapters (especially **Chapter 4**), will focus on competitiveness aspects of the **NTP**.

## Moving Forward: Problems with Current Tax Structure

**Chapter 1 (Overview)** kicks off by identifying the key *rationales* for developing the **NTP**, based on “inherent problems” of current system, which included amongst others:

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*taxpayers who suffer multiple taxation and bear a higher tax burden than anticipated;*  
*Insufficient information available to taxpayers on tax compliance requirements which created uncertainty and room for leakages in the tax system;*

*Lack of accountability for tax revenue and its expenditure;*  
*Lack of skilled manpower and inadequate funding, which led to the delegation of powers of revenue officials to third parties, thereby creating uncertainty in the tax system and increasing the cost of tax compliance;*  
*Use of aggressive and unorthodox methods for tax collection;*

*The non-refund of excess taxes to tax payers, due to the lack of an efficient system and funds;*  
*The non-review of tax legislation, which had led to obsolete laws, that do not reflect Nigeria's current realities; and*  
*The lack of a specific policy direction for tax matters in Nigeria and the absence of laid down procedural guidelines for the operation for the various tax authorities."*

*"A problem identified is a problem half solved", goes the popular saying. However, if identified issues remain unsolved, the continued existence of such*

problem becomes unjustifiable when the potential for its solution has already been identified: **Chapters 2-8 NTP** therefore builds on the foundation by "casting the vision" for the transformational journey of Nigerian Tax regime to its present state. After all, by John Maxwell's Law of Navigation, the leader must see the voyage in his mind's eye before the ship leaves the dock. Consequently, the challenge of the NTP would be execution with the goal in view, which in any event, should be a moving target in line with changing circumstances.

### **Goals, Objectives and Implementation Strategy**

One cardinal NTP goal is to lessen Nigeria's dependence on petroleum earnings – especially as "tax is a more reliable source of revenue" (**section 2.3**). Accordingly, the **NTP** encourages "a shift in focus from non-tax revenue to tax revenue by Governments at all levels of the economy." In terms of competition and collaboration between tiers of Governments in Nigeria, it is envisaged that "improved collaboration would enhance tax yield". Indeed, "it is intended that the concept of fiscal federalism would be the common thread holding the NTP together." (**section 2.4**)

According to **section 2.5**,

"Objectives of the Nigerian Tax System" includes: to promote fiscal responsibility and accountability, facilitating economic growth and development, providing stable funding for public goods and services, addressing inequalities in income distribution, providing economic stabilisation, pursuit of fairness and equity (equal treatment of equal individuals vis a vis ability-to-pay principle).

**Section 2.6** outlines "the fundamental features that taxes in the Nigerian tax system must exhibit" and "any tax that substantially violates these fundamental features should not be part of the tax system of Nigeria." They are Simplicity, Certainty and Clarity; Low Compliance Cost (on tax payer clients' who are to be treated respectfully); Low Cost of Administration; Fairness (in terms of vertical and horizontal equity); Flexibility and Economic Efficiency (through avoidance).

**Chapter 3** covers "Guiding Principles for Stakeholders" and their roles, responsibilities and relationships. State Governors for example, are to "be responsible for development of State Tax Policy which shall be complementary to the NTP" whilst Taxpayers are recognised as "the single most important group of stakeholders in the system."

### **Comparative Views**

Nigeria is not alone in these efforts. A recent FT article, '**Mexican Finance Minister Plans Tax Reform**': <http://www.ft.com/cms/s/0/0c956468-327e-11df-bf20-00144feabdco.html>, discussed Mexico's plans for a third tax reform in three years based on

the realisation that more reform was necessary if Mexico wanted to achieve faster growth. Two previous tax reforms had been enacted to boost non-oil revenues, equivalent to only 11% of GDP- a Latin America low, whilst Sub-Saharan tax to GDP ratio increased from under 15% in 1980 to 18% in 2005. Mexico's expectations of its tax regime rings a similar tone to the NTP's: it "should be a system that limits privileges, that widens the tax base, that improves simplification, one that advances accountability and transparency, and that one gives greater faculties and responsibilities to the states and municipalities."

A December 2009 EU press release, <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1895&format=HTML&aged=0&language=EN&guiLanguage=fr> stated: "the financial crisis has increased the need to raise more tax revenue in developing countries....[they] suffer high tax losses due to the structure of their economy, weak administrations, and inadequate tax policies.....The Doha Declaration 2008 from the UN Conference on Financing for Development lays the



cornerstone for action, 'to increase tax income through modern tax systems, more efficient tax collection, a widening of the tax base and effectively combating tax evasion.'

#### Conclusion

The NTP is a welcome, albeit overdue, step in the right direction. The initial chapters

reviewed above evince a clear intention to provide a systematic overarching framework for enhancing effectiveness and efficiency of the Nigerian Tax System. I will consider specific implementation proposals towards this end, in my next review. It is no gainsaying that the utility of the NTP would only be good as its execution.



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