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JOINT TAX AUDITS:  
FRIEND OR FOE OF THE FIRS?



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## The current fall in global crude oil prices and the consequent decline in Federal government revenue have again highlighted the need for Nigeria to address its over-reliance on oil revenue to fund government expenditure.

This is perhaps one of the reasons for the rather hopeful revenue projection from non-oil sources in the 2016 proposed budget since tax is considered globally to be a key revenue driver. As gathered from the President's National budget speech, out of an aggregate projected revenue of N6.07 trillion for the 2016 fiscal year, the projected revenue from taxes is N1.45 trillion which represents more than double the projected oil revenue (of N820 billion).

Against this backdrop, a lot of expectations have been placed upon the new leadership of the FIRS to introduce reforms to help drive up tax revenue collection and generally improve tax administration in the country.

As part of the measures to achieve the revenue projections for the year 2016, the Federal Inland Revenue Service ('FIRS') has, in a recent statement, declared its intention to engage the services of consulting firms to carry out investigative audit exercise on corporate taxpayers in Nigeria in order to increase tax collection. Although the role of these consulting firms does not include the actual assessment of tax which statutorily remains the function of the FIRS, the consultants will assist in the conduct of audits and investigations, provide advisory and intelligence on commercial and tax practices to the FIRS, and carry out tax education and encourage voluntary compliance.

This engagement of tax consulting firms is statutorily backed by Section 12(4) of the Federal Inland Revenue Service Act which provides that the FIRS may appoint and employ such tax consultants or accountants and agents to transact any business or to do any act required to be transacted or done in the execution of its functions under the Act.

In time past, the Federal government engaged the services of consultants in the collection, monitoring and administration of Value Added Tax and this was said to shore up VAT collection considerably. Furthermore, the previous administration in Lagos state had been widely praised for its success in increasing the monthly internally generated revenue in the state to a record high of N23 billion. This figure was accomplished through an aggressive tax collection system which involved the use of tax consultants.

While there are definite benefits to be derived by said policy direction, a drawback which could impede its successful implementation is in respect of a potential conflict of interest. Generally, a conflict of interest arises where the impartiality or independence of a professional may be impaired because he has other interests (pecuniary or otherwise) which are at odds with his professional duty in respect of a client. Conflicts of this nature are discouraged because of their corrupting tendency.

Where there is an existing relationship between the tax payer and the consulting firm, a conflict of interest could arise given the adverse interests of a professional firm as adviser on the one hand and tax compliance officer on the other hand. This may affect the quality and accuracy of audits done by the consulting firm, which ultimately defeat the aim of the policy.

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implementing measures which tailgates companies from incorporation to winding up, and which provides access to corporate filings and updates, the FIRS could monitor and regulate companies for tax compliance more effectively. This would also contribute to ensuring that its database is more robust and reliable.

As a management control measure, it is imperative that at the beginning of the exercise, the FIRS should verify the 'conflict statuses' of the consulting firms in relation to the corporate entities to be investigated/audited. Auditors are ethically required to disclose entities they have previously represented or are currently representing. In order to avoid conflicts, the FIRS should ensure that such firms are not given the responsibility for auditing those firms which they have previously represented.

In similar vein, the FIRS must also be careful that the policy is monitored to prevent arbitrariness, abuse and fraudulent activity by the consultants.

It would also be important for the FIRS to view its overall objectives from a holistic perspective rather than adopting a single pronged approach to tax administration. For example, the FIRS has already identified that a risk based approach to audits and investigations would be more advantageous than focusing on collections from easy picks such as large multi-national corporations and oil & gas companies. **In addition, the following measures may help the FIRS improve its performance and achieve its objectives:**

- Increasing tax coverage by leveraging relationships with other governmental agencies, partners and stakeholders. In particular, the FIRS should ensure a deeper collaboration with the Corporate Affairs Commission, Central Bank of Nigeria, the Customs Service and commercial banks. By

- Enhancing its processes through a more extensive use of technology. For example, the FIRS could consider conducting some of its interactions with taxpayers electronically. It should also consider enhancing its electronic filing and payment systems.
- Improving the skills and expertise of its staff (especially its specialized departments such as the inspectorate, audit and investigation department).
- Eliminating arbitrariness in its tax audits and ensure a fair and consistent application of tax law.
- Driving growth of VAT revenue by targeting both the informal and semi-formal sectors which cover retail trade, entertainment and vocational services etc.

While all the measures articulated above should help to bring a considerable change in tax revenue profile of the country, it is important to recognise that the conduct of an audit on its own does not immediately translate to increased tax revenue collection. Under a democratic dispensation, taxpayers are entitled to challenge additional tax assessments arising from the audit. Our tax statutes provide that the tax indicated in the additional assessment is kept in abeyance once the taxpayer has availed himself of the tax dispute provisions under the law. Such disputes may end up at the Supreme Court for resolution.