

VAIDS:

How can the FGN ensure lasting tax compliance?



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INTRODUCTION

With the Voluntary Asset and Income Declaration Scheme (VAIDS or the Scheme) ending in a few weeks, (31st March, 2018), this article attempts to review the Scheme and in particular, the feasibility of the expected additional tax revenue receipts accruable to the Federal Government of Nigeria (FGN) on account of the Scheme, and to also glean some learnings based on the experience in other jurisdictions with similar tax revenue-generating experiments. More specifically, we will focus on the efficacy of such schemes in generating increased government revenue, and consider the viability of such schemes in the Nigerian environment to broaden the national tax base and maintain tax compliance following the expiration of the Scheme.

On 29 June 2017, the Nigerian Government formally announced the commencement of the Scheme billed to last from 01 July 2017 to 31 March 2018. The Scheme is a time-limited amnesty programme which grants taxpayers an opportunity to regularise their tax status by fully and honestly declaring previously undisclosed assets and income. In exchange for this declaration, the government will allow taxpayers to pay the outstanding taxes due to the government without being subject to payment of interests¹ and penalties, and criminal prosecution. The Scheme covers both personal and corporate taxes and requires tax payers to declare all assets and income for the relevant periods of default. It is suggested in the VAIDS literature that the period of default covered by the Scheme is not limited to the six-year limitation period provided by tax statutes.

The Scheme was designed as a solution to tackle the problem of illicit financial flows and tax evasion in the country. The FGN believes that the Scheme will uplift Nigeria's current tax to GDP ratio as a panacea to addressing the nationwide infrastructure deficit and the cash constraint being experienced by the current administration². It is also intended as a precursor to an enhanced tax enforcement regime which will be introduced upon the expiration of the VAIDS. At the expiration of the Scheme, all defaulting taxpayers who did not take advantage of the Scheme will undergo criminal prosecution for the failure to remit appropriate taxes. Other objectives of the Scheme include broadening the national tax base and encouraging compliance with tax laws.

The Chairman of the FIRS was quoted as saying that the Scheme has been a successful venture as it has recorded about N23 billion (approx. US\$76 million) from assets and income voluntarily declared during the Scheme out of its N80 billion (approx. US\$222 million) target within the first six months of its introduction. i.e. approximately 30% of the target³. It is yet to be seen whether the revenue from the Scheme will eventually meet or outperform the set-target.

Tax amnesties

Proponents of tax amnesties argue that the programme provides an immediate source of revenue to the government at low collection costs and will also bring forth tax evaders who would otherwise not have been easily identifiable even with enhanced detection mechanisms. It is also expected that known taxpayers will also declare additional sources of income not previously declared. These disclosures will no doubt impact positively on the government's future tax collection.

Dissenters, on the other hand, state that taxpayers may come to expect future amnesties, and as a result, refuse to pay their taxes on time. The taxpayers may also consider their previous tax evasion as successful considering that the government will possibly not detect the evasion unless they volunteer the information.

Tax amnesty programmes have varying benefits for both the taxpayer and the government alike. On the taxpayer's part, there is the obvious benefit of avoidance of penalties which would ordinarily be imposed, and obtaining a renewed tax status. For the government, it is able to collect accrued taxes with low collection and enforcement costs, gain access to data which will assist in future tax enforcement, and increasingly detect future tax evasion possibilities.

Tax amnesties have been applied widely by several countries and states with various reports of efficacy. A common feature found amongst the jurisdictions that have successfully introduced an amnesty program is that when the revenue earned during the period is considered vis-à-vis the compliance behaviour of taxpayers post the amnesty period, the positive effect is usually easily off-set⁴. Therefore, the main advantage of such schemes is the help it provides for an enhanced future tax enforcement objective than the immediate accruable tax revenue to the government.

It then becomes important to determine whether tax amnesties are advisable as a revenue-generating technique considering that the collection costs will usually increase progressively after the expiration of the amnesty period; the government still having to expend considerably towards improving its tax enforcement process. It therefore needs to be ascertained whether the amnesty period generated monies which the government could not otherwise have collected. Put differently, is the amnesty programme worth its cost of collection⁵ if the government still has an opportunity of collecting the same revenues subsequently?

¹ The waiver of interests applies to declarations made after 31 December 2017.

² Nigeria's tax to GDP ratio is 6% and currently stands as one of the lowest in the world compared to other developing countries such as India (16%),

Ghana (15.9%), South Africa (27%). It is recommended tax to GDP ratio for developing countries is between 20-25% (IMF).

³ January 15, 2018 – Premium Times

The Nigerian equation

In one of the most successful examples of tax amnesties, Ireland raised \$750million in an amnesty programme similar to VAIDS in that it offered a once in a lifetime opportunity for forgiveness of evasion, and promised more stringent enforcement of taxes. Ireland also introduced a new tax system of collection and enforcement to be implemented from the end of the amnesty period. While this programme is widely acclaimed as a success, further research has shown that much of the success was due to the laxity in collecting taxes before the amnesty which enabled a lot of citizens to successfully evade taxes and the government had never attempted a tax amnesty before then.

Juxtaposing this case with the Nigerian situation, we would find that the factors that made Ireland an outlier are not necessarily present. First, to a large extent, the problem with payment of taxes in Nigeria can be partly attributed to non- declaration of all income rather than complete tax evasion i.e. tax payers pay taxes on only one source of income and do not declare other income sources. Second, the FGN has attempted other amnesty programmes in the past before the VAIDS e.g. FIRS, in 2017, introduced a tax amnesty which waived interests and penalties in exchange for voluntary payments of unpaid taxes.

The consequences of these two factors in Nigeria may mean that on the one hand, persons who already pay taxes on their income (more often, their main source of income) may not be inclined to participate in VAIDS as they might not consider themselves tax evaders. On the other hand, the taxpayers may expect that VAIDS will not be the final FGN's amnesty schemes, and expect that there would be a future programme in which they may participate. This is more so as a bill is currently being deliberated upon at the National Assembly which seeks to grant amnesty to defaulting taxpayers upon voluntary declaration of unpaid tax. The Voluntary Taxable Income and Recovery Scheme Bill imposes a thirty percent tax rate on previously undeclared income with no interests and penalties⁶.

Therefore, the FGN's recurrent tax amnesties might inadvertently contribute to tax evasion because citizens may consider that frequent amnesties indicate that the government does not intend to exercise more stringent measures in catching up with defaulters.

As highlighted above, it is expected that since there is the probability of detection of past tax evasion for participants in a tax amnesty programme, a VAIDS participant who reports previously unreported income will have more difficulty concealing such income in the future. Although this is the intended consequence for the government but this serves as a deterrent to amnesty participation for those who plan to continue some degree of evasion. As a consequence, a taxpayer who anticipates a future intensity in the tax enforcement measures against him because of the information volunteered at VAIDS may choose to understate his taxable assets and income as a protection for himself against future payments. This realisation may render the amnesty programme somewhat unattractive for the taxpayer. While this factor will obviously not deter the government's amnesty programme, it is useful to understand a tax evader's behavioural tendencies in structuring tax amnesties.

Another issue that needs to be considered is the level of information management that is required to effectively run a tax enforcement regime. The level of tax evasion in Nigeria, at any extent to which it exists, has been made possible because the tax collection agencies do not have access to the financial information of most residents. Except for persons in formal employment and on whose behalf their employers remit income tax

on their salaries, it is difficult for the government to fully ascertain the earning power of a large percentage of Nigerians. The focus by tax enforcement agents on the large corporate taxpayers lends some credence to this assumption.

The Honourable Minister of Finance, Mrs Kemi Adeosun has stated repeatedly that continuing defaulters will face a “Name and Shame” programme which will commence after the expiration of the Scheme. It has also been suggested that relevant tax authorities are in the process of profiling certain defaulters and will be conducting audits and investigations to determine and punish tax evasion. It is worthy of note that these measures are heavily dependent on ready access to information and modern technology for enforcement purposes – which factor remains problematic for Nigerian tax authorities. As discussed above, the failure of past amnesty programmes has, in some cases, been attributed to poor tax enforcement regimes so that the one-time revenue generated from the programme was not sustained.

The success of VAIDS must be examined by weighing the revenue benefits against the costs of implementing the Scheme. Apart from the costs of enforcement already discussed, it is important to consider the already live risk that an amnesty programme can be interpreted as a sign of the government’s inability to properly enforce its own tax laws.

⁴ Stella (1991) *Journal of Public Economics*

⁵ We estimate that the cost of collection includes costs of national advertisements to raise awareness about the Scheme, retainer of forensic experts, employment of additional staff, production of information materials, logistical costs and other costs associated with the implementation of the Scheme.

⁶ The Bill contemplates, as a penalty, a surcharge of 25% of the chargeable tax.

Conclusion

A successful programme will mean that the government would focus on using the information gathered during this period to increase the tax base and extend tax enforcement to the current VAIDS participants. Information relating to taxpayers which would be gathered should not only be concentrated on financial information, but also behavioural information with a view to better understand what causes tax evasion.

Evidence suggests that amnesties record a higher rate of success when they are introduced as part of a more robust tax enforcement package. In order to increase participation and continued compliance, taxpayers must be aware that the government has verifiable means of catching up with defaulting taxpayers. Thus, existing enforcement mechanisms must be strengthened or revamped where necessary. This will ensure that current taxpayers remain compliant and VAIDS participants comply with their payment of taxes even after the end of the Scheme. Currently, it remains to be seen whether the Nigerian government has enough resources to pursue defaulters at the end of the Scheme to ensure that tax compliance remains high.

While it is laudable that the government conducted some tax education sessions to enlighten Nigerians on their tax-paying status, this exercise would have been a useful precursor to the tax amnesty programme. This is because Nigerians will be better informed on what taxes are payable and who should pay them, and the revamp of the tax enforcement mechanisms being explored by the government using various regulatory and information agencies of the government prior to the commencement of the Scheme – this might further increase participation of defaulters in VAIDS.

Furthermore, it is advisable that amnesty programmes should be a one-off event as much as possible i.e. not to be introduced too frequently (or permanently, via legislation). The government should also address the issues of trust, transparency and accountability in public finance to encourage voluntary tax compliance by citizens/residents.

It is also beneficial that the government tackles the underlying infrastructural deficit issues affecting economic and general well-being of the taxpayers.

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