A REVIEW OF THE NATIONAL TAX BILLS

INTRODUCTION

In August 2023, President Bola Ahmed Tinubu inaugurated the Fiscal Policy and Tax Reforms Committee to overhaul Nigeria's tax system. The committee, in carrying out its mandate, has developed four tax reform Bills, which were submitted to the National Assembly for passage, with the aim to transform and modernise the tax landscape. These bills are the Nigeria Tax Bill (NTB) 2024, Nigeria Tax Administration Bill (NTAB) 2024, Nigeria Revenue Service Establishment Bill (NRSEB) 2024, and Joint Revenue Board Establishment Bill (JRBEB) 2024. These reforms are designed to address socio-economic challenges, boost foreign direct investment, and strengthen the value of the naira.

This article analyses the four bills and the changes they hope to make in the Nigerian tax landscape.

NIGERIA TAX BILL 2024

The NTB has the objective of unifying the fiscal legislation governing taxation in Nigeria. The consolidation undertaken in the bill affects the following laws: the Companies Incomes Tax Act (CITA), Petroleum Profits Tax Act, Personal Income Tax Act (PITA), Capital Gains Tax (CGT) Act, Value Added Tax (VAT) Act, Stamp Duties Act, Petroleum Profit Tax Act (PPTA), Deep Offshore and Inland Basin Production Sharing Contracts Act, Double Taxation Agreements, the Nigeria Export Processing Zones Act, Oil and Gas Free Zones Authority Act, Taxes and Levies (Approved List for Collection) Act, Petroleum Industry Act, Deep Offshore and Inland Basin Production Sharing Contracts Act, Double Taxation Agreements, Customs and Excise Management Act, Federal Inland Revenue Service (Establishment) Act, No. 13 of 2007 (FIRS Act), and Industrial Development (Income Tax Relief) Act.

Additionally, the bill seeks to merge overlapping taxes and reduce the total number of taxes to a single digit. The NTB also aims to institutionalise tax harmonisation, ensuring a sustainable, efficient, and predictable system. This will strengthen revenue generation and promote a more business-friendly and inclusive economy.

Some of the notable provisions of the NTB include:

Corporate Taxation: Elimination of minimum tax on loss-making companies and the re-categorisation of a small company as one earning N50 million or lower. Small companies are those earning N25 million or less under the extant CITA.

Another provision is the introduction of top-up tax for Nigerian parent companies in relation to the activities of their foreign subsidiaries that are deriving income from Nigeria, to ensure a 15% effective tax rate.

Repeal of the Stamp Duties Act: The proposed NTB introduces the repeal of the Stamp Duties Act, replacing it with a simplified framework for the taxation of chargeable instruments. This change aims to modernise the approach to stamp duties, eliminating outdated provisions and ensuring greater clarity and efficiency in administration.

Taxation of Free Trade Zone Companies: The profits of Free Zone Enterprises (FZEs)/companies will continue to enjoy full tax exemption only where 100% of their sales arise from the export of goods or services produced by such entities serve as inputs for goods or services exclusively for export; otherwise, tax will accrue proportionately on the profits of the entity in respect of goods or services sold within Nigeria.

This provision suggests that the services of FZEs operating within the Free Trade Zones will not qualify for tax income exemption.

NIGERIA REVENUE SERVICE ESTABLISHMENT BILL

One of the major changes the NRSEB proposes is the repeal of the FIRS Act, and the proposed establishment of the Nigeria Revenue Service (NRS). Although the majority of the provisions from the FIRS Act are preserved, several new ones have been introduced. One of the major reasons for the change is to establish a service that harmonises revenue administration across the federation.

Key highlights of the NRSEB include:

- The NRS will have similar functions to the FIRS, such as assessing persons that include corporations, companies, partnerships, enterprises, and individuals chargeable with tax and broadly administering taxes and revenue covered under any law enacted by the National Assembly to progressively reduce the cost of revenue collection for the federation.

- A notable new provision in the NRSEB allows the NRS to assist states, local governments, or any other tax authority in collecting or administering taxes that the requesting government is legally authorised to collect. For example, Lagos State can approach the NRS to assist in collecting the personal income tax of the residents of Lagos State.

- The NRSEB addresses the long-standing issue of non-remittance of revenues collected by government's ministries, departments, and agencies(MDAs), ensuring that funds are properly channelled into government coffers. It provides that if revenues due from MDAs are not remitted, the Accountant General of the Federation will deduct the unremitted amount from their budget allocations or other funds and remit it directly to the NRS.

NIGERIA TAX ADMINISTRATION BILL

The Nigeria Tax Administration Bill proposes the enactment of legislation aimed at standardising the assessment, collection, and accounting of revenue accruing to the federation, federal, state, and local governments. It prescribes the powers and responsibilities of tax authorities and addresses related matters.

The bill consolidates administrative provisions from existing tax laws, including CITA, PITA, PPTA, VAT Act, Stamp Duties Act, and CGT Act. Once enacted, it will serve as the primary legislation for the administration of the Nigeria Tax Bill upon its enacted. Some of the major propositions of the bill are:

- **Mandatory Registration:** All taxpayers are required to register with the relevant tax authority and obtain a Taxpayer Identification Number (Tax ID) and this must be issued within two working days, or an explanation for delay must be provided. This imposes a strict deadline on the tax authority and places a burden on them to be efficient.

- **VAT Revenue Distribution Formula:** A revised distribution formula for VAT revenue is provided as: federal government: 10% ; state governments and the Federal Capital Territory: 55%, local governments: 35%. Sixty percent of the state and local government allocation will be distributed based on derivation. This change has sparked debates, with some states opposing the emphasis on derivation, arguing it may be disadvantageous to certain regions. Alternative proposals for the sharing formula are currently being discussed by the relevant stakeholders.

- **Dispute Resolution:** The bill encourages an amicable resolution of tax disputes between taxpayers and tax authorities provided that the guiding principle set out in the Nigeria Tax Administration Bill for the resolution of such disputes are adhered to by the parties.

JOINT REVENUE BOARD (ESTABLISHMENT) BILL

The Joint Revenue Board (Establishment) Bill, 2024 proposes the establishment of the Joint Revenue Board (JRB) to replace the current Joint Tax Board. The JRB will have expanded functions and membership, focusing on maintaining a centralised taxpayer identification database in collaboration with the National Revenue Service, state internal revenue services, and local government revenue committees. It will also guide the accreditation of tax agents, promoting uniform standards across the nation.

The major highlights of the bill include:

Tax Appeal Tribunal (TAT): The bill establishes the TAT to adjudicate disputes arising from tax laws, replacing such provisions of the FIRS Act upon its repeal. The transition ensures continuity, with current tribunal members and ongoing proceedings seamlessly integrated into the JRB framework.

Notably, the bill expands the jurisdiction of the TAT to include disputes arising from any tax laws enacted by the National Assembly or a state House of Assembly. This marks a significant improvement over the previous framework, where the TAT's jurisdiction was limited to tax laws administered by the FIRS, which primarily covered federal laws. This broadened scope is a welcome development, promoting a more inclusive and harmonised approach to tax dispute resolution across all levels of government.

Office of the Tax Ombud: A key innovation of the bill is the creation of the Office of the Tax Ombud, tasked with addressing taxpayer complaints against tax authorities. The Ombud's functions include a) serve as an independent and impartial arbiter to review and resolve complaints relating to tax, levy, regulatory fee and charges, customs duty, or excise matters; b) review complaint against tax officials and authorities and resolve it through mediation or conciliation by adopting informal, fair, and cost-effective procedures; c) receive and investigate complaints lodged by taxpayers regarding the actions or decisions of the tax authorities, agencies or their officials; and d) enter and inspect any premises or place where any tax authority agency or official performs any function or duty under any law imposing taxes, levies, charges, and fees for the purpose of carrying out investigation.

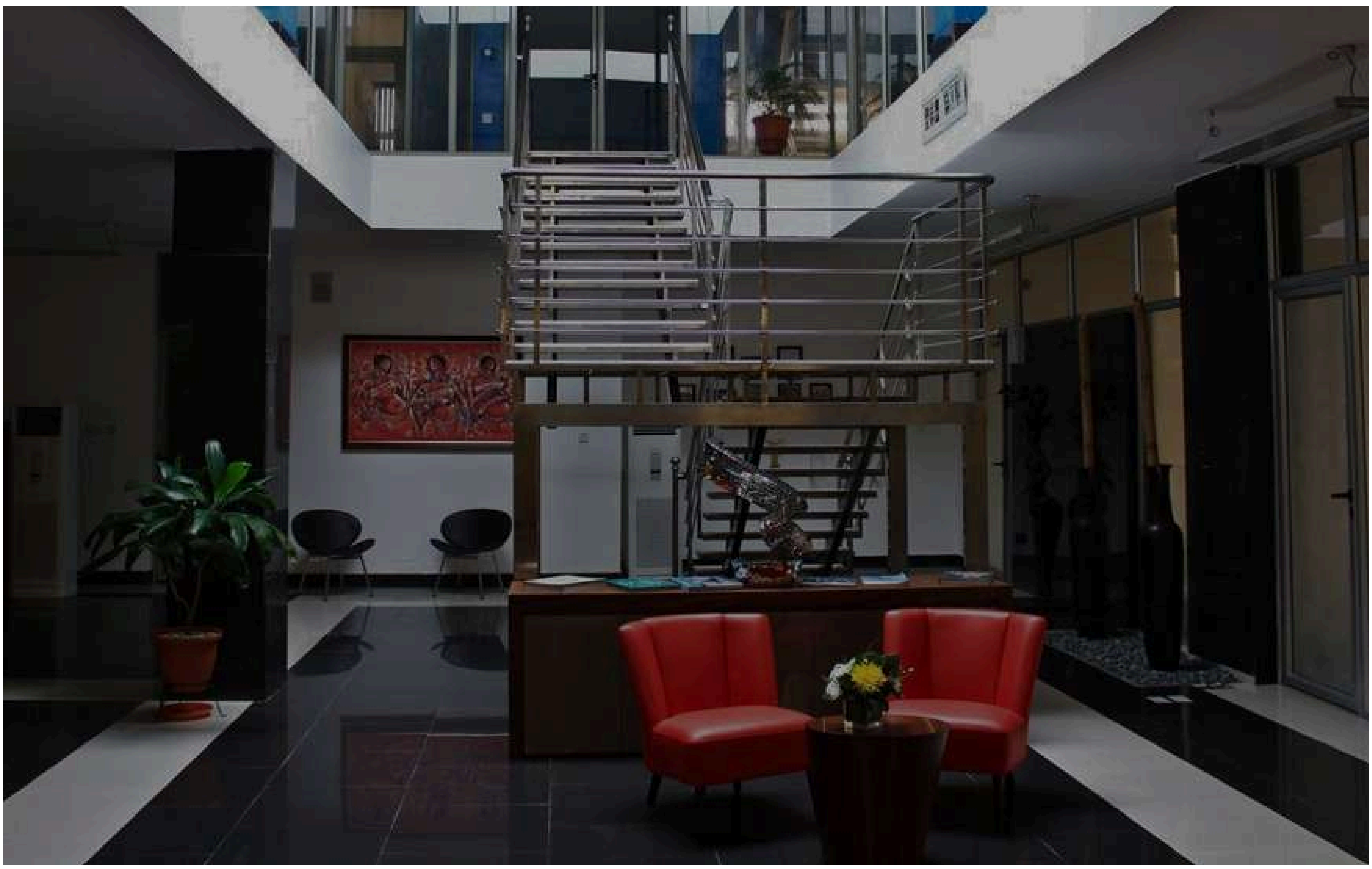
The Tax Ombud will operate as an independent and impartial body, offering services to taxpayers. However, its role is largely centred on resolution of complaints and does not extend to interpreting tax laws other than to the extent that it relates to operational, procedural, or administrative issues arising from the application of the provisions of the relevant tax law. Where agencies fail to implement recommendations without satisfactory justification, the Tax Ombud may report such matters to the National Assembly or a state House of Assembly to exercise its oversight functions over such recommendations.

CONCLUSION

In conclusion, the four tax bills signify a pivotal shift in Nigeria's tax framework, focusing on critical areas of revenue generation and economic growth. However, the process for them to become law remains ongoing. In line with Nigeria's legislative process, the bills must undergo thorough scrutiny and approval by both chambers of the National Assembly. Once passed, they will require presidential assent and gazetting under the Acts Authentication Act to become effective.

Key issues, particularly those related to revenue sharing, remain contentious. The ultimate impact of these reforms on businesses, taxpayers, and the broader economy is still uncertain. Will they alleviate the tax burden, enhance compliance, and stimulate economic growth, or will they introduce new complexities?

As these bills advance through the legislative process, we will continue to monitor their progress and evaluate their implications for Nigeria's fiscal landscape and the opportunities they may create for stakeholders.



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