

**VALUE ADDED TAX (VAT) AS A SOURCE OF REVENUE  
IN NIGERIA, CASE STUDY OF THE FEDERAL INLAND  
REVENUE SERVICE (FIRS)**

***BY***

**ILIYA, Isa Dibal**  
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## **DECLARATION**

I, **Iliya Isa Dibal** declare that this research project has been conducted solely by me under the guidance and supervision of Mallam Muktar Y. Abubakar of the Department of Business Administration, Faculty of Administration Ahmadu Bello University, Zaria-Nigeria.

Writers, whose works have been referred to in the project have been accordingly acknowledged.

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**Iliya Isa Dibal**

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**Date**

## CERTIFICATION

This research work entitled “Value Added Tax (VAT) as a Source of Revenue in Nigeria”. Case Study of the Federal Inland Revenue Service, FIRS written by Mr. Iliya Isa Dibal has been certified as having met the partial requirement for the award of Master in Business Administration (MBA) Degree in Ahmadu Bello University, Zaria.

\_\_\_\_\_  
**Mall. Muktar Y. Abubakar**  
**Supervisor**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Dr. M.N. Maiturare**  
**H.O.D.**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Dean Postgraduate School**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**External Examiner**

\_\_\_\_\_  
**Date**

## **DEDICATION**

This project is dedicated to the evergreen memory of my Uncle, WOII Sunday Dibal and his son Lt. Comdr Joel S. Dibal who both passed away to the great beyond as a result of a ghastly motor accident at a time this program was to round-up and to my parents Mr. & Mrs. Iliya Dibal.

## **ACKNOWLEDGEMENT**

I wish to start by saying that I am most grateful to God for granting me good health, courage, and journey mercies throughout the duration of the programme.

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## **ABSTRACT**

In partial fulfillment of the requirements for the award of Master of Business Administration (MBA) I have been chosen this topic “VAT as a source of Revenue n Nigeria” to examine how revenue is being generated with particular reference to the Federal Inland Revenue Service.

The researcher has in the course of writing this project attempted to define what revenue and VAT (Value Added Tax)

Revenue can be defined as money received as payments, income from all sources, while “VAT is a tax on the supply of goods and services which is eventually borne by the final consumer but collected at each stage of the production and distribution chain”.

Revenue has two objectives, and these include raising fun to finance government expenditures and the use of fiscal policy (taxation) to control inflationary trends.

Taxation is used to achieve economic growth, equitable distribution of wealth, encourage and protect industries within the economy and to ensure that the balance of payment of the country is in a healthy position, fight depression, allocate resources in a socially desirable manner, discourage consumption of certain goods, for example, luxurious cars, and goods that are dangerous to health e.g. cigarette control inflation and depression e.t.c.

The Nigerian VAT carries a single rate of 5% on all VATable goods and services and imports. Zero rate is assumed for export while they are goods and services exempted from the tax.

The aims and objectives of this project, however, is to lay emphasis on the revenue generated though VAT with a view to suggesting ways of improving and consequently broadening collections.

## CHAPTER ONE

### **1.0 INTRODUCTION**

Tax is a compulsory levy imposed on the citizens, organizations, cooperatives and all business organizations by the government to enable the (Government) provide essential services to its citizens. “VAT is a Tax on the supply of goods and services which is eventually borne by the final consumer but collected at each stage of the production and distribution chain”. From the above definition, VAT, is not only a consumption tax but also an indirect tax. It replaces sales Tax.

Value Added Tax (VAT) as a major source of revenue to government is enjoyed by the VAT payer and the citizens through the provision of social infrastructure, amenities, job creation and payments of civil servants’ salaries etc.

Taxes are being used by Government:-

- i) To encourage exportation
- ii) To protect local and infant industries
- iii) To discourage consumption of certain goods e.g. Alcohol, cigarette e.t.c.
- iv) As a fiscal policy by controlling inflation

The yield from VAT is a fairly accurate measurement o the growth of an economy since purchasing (which determines yield) increases economic growth.

## 1.1 STATEMENT OF GENERAL PROBLEM

In order to achieve some of its social and economic objectives, tax has to be collected. This is not a simple task especially in Nigeria where voluntary compliance is lacking. In fact the assessments may not pose much problem but tax collections constitute a real bane to the achievement of targets.

Some among the international problems are:-

- i. Unavailability of adequately/trained and professionalism qualified personnel on VAT assessments and collections.

This has resulted to under-assessment and uncollected tax. VAT returns are not well examined by VAT officials in order to fish out evasion and since assessment is the blood stream of collection, the collection has always been abysmally low.

- ii. Compromising of government revenue by officials:-

Since government has refused to look into the welfare of the officials of Federal Inland Revenue Service, coupled with lack of adequate incentive bonus (derived from collection surplus), they easily compromise certain things that are detrimental to the realization of government revenue from the taxes especially when they are given some money to overlook the irregularities associated of various offences under VAT laws.

- iii. The need for overseas training for officials. Even though the Federal Inland Revenue Services has a Training Branch that organizes training for

all categories of staff, such training is not enough. Officials need to travel out to other countries that have better experience on tax matters, particularly VAT, in order to improve on their knowledge of assessment and collection procedure.

iv. Inadequate facilities for VAT operations:- there is the problem of inadequate facilities such as transportation for VAT inspectors who are required to be visiting the premises of every VAT able person from time to time etc. Some of the external problems include :-

- i. Locating a taxpayer's correspondence address is somehow difficult as most of them change their addresses at the post of inception as well as move office without contacting the offices.
- ii. Non-cooperation between officials of the Federal Inland Revenue Service and taxpayers. Most taxpayers are of the view that since government just collect taxes without providing equitable welfare service to its citizenry, coupled with the fact that even the taxes collected are normally misappropriate by top government officials, hence their non-regard for tax. In fact, research shows that queries from officials or queries from tax authorities are not answered by taxpayers. They only show up when they are in need of Tax Clearance Certificates.

It is in view of the above shortcoming that the researcher was prompted to write this project.

## 1.2 OBJECTIVES OF THE STUDY

The main aim of the research work is to study ways of improving revenue generation to the government. Value Added Tax (VAT) is one of the most important sources of revenue to the government. It is the wish of the researcher to focus on the need to employ all means of generating more revenue through enforcing and encouraging compliance as well as discouraging or punishing all forms of tax avoidance and evasion in accordance with the provisions of Decree No. 102, part V, paragraph 21-33.

Other objectives include:

- ii. To analyse the problem inherent in the administration of VAT in Nigeria.
- iii. To analyse the ways of providing incentives or relief to companies to encourage them.
- iv. To analyse the ways of providing incentives or welfare package for the officials of Federal Inland Revenue Service (FIRS)
- v. To analyse the ways of providing incentives or welfare package for the officials of Federal Inland Revenue Service (FIRS)
- vi. To analyse what manner in which VATable persons default, avoid or evade tax
- vii. To educate taxpayers on the allowance or relief available to them and also on the provision of the tax laws.
- viii. To make recommendations

### **1.3 SIGNIFICANCE OF THE STUDY**

The study is expected to dwell into all forms of VAT administration, setup, synergy in order to:

- i. Assist policy makers to identify pit-falls in the administrative mechanism of the tax with a view to correcting the pit falls.
- ii. Assess the collection strategies adopted in the first years of the tax administration will be revealed from the actual collections of revenue for the period 1994 and 1995 i.e. the period of the study.
- iii. Seek ways and means of improving collection of the VAT proceeds from VAT payers.
- iv. Add knowledge to student(s) and Nigerians at large who will lay their hands when conducting similar research.

### **1.4 SCOPE OF THE STUDY**

VAT as a veritable source of revenue to the government is not restricted to an area of Nigeria. Hence the scope of this study is expected to cover the entire country; and examine the extent to which the revenue is accrued to the government between 1994 and 1995.

## **1.5 HYPOTHESIS**

Nigeria needs a lot of revenue to execute government projects and Value Added Tax (VAT) as a new tax regime was introduced for that purpose. The hypothesis will test whether or not taxpayers are well acquainted with the various operational laws as enshrined in Vat Degree No. 102 of 1993. This will also go along way to test whether or not the Vat Officials are themselves technically and professionally conversant with the said Degree.

## **1.6 LIMITATION OF THE STUDY**

This study is to assess the extent to which VAT has been a source of revenue to government in Nigeria. Hence it is the entire VAT collection for 1994 and 1995 that is the focus of this study.

- i. This study is limited by the fact that one cannot go round all the states to authenticate the result of revenue collection for the period under review.
- ii. The inadequacy of material and literature of VAT in Nigeria is a limiting factor itself. Since tax first came on board on 1<sup>st</sup> January, 1994.
- iii. The government syndrome of “Secrecy” is limiting the extent to which the project intend to evaluate.

However, notwithstanding the aforementioned, considerable efforts is been put to ensure a reliable and fair presentation of the study.

## 1.7 DEFINITION OF RELEVANT TERMS

**Total Income:** is the aggregate (summation) of assessable income from all sums for the year after deduction loses and capital allowances.

**Assessable Income:** The amount of income after charging expenses and outings gross income, from each source in the year immediately proceeding the year of assessment.

**Assessment Year:** Means a period of twelve months beginning from 1<sup>st</sup> January to 31<sup>st</sup> December of the year.

**Value Added Tax:** It is the tax on consumption. It is borne by the final consumer of goods and services because it is included in the final price paid. It is a multi-stage tax and a replacement of sales tax.

## **CHAPTER TWO**

### **2.0 LITERATURE REVIEW**

Many countries of the world today have been striving very hard to achieve rapid overall development through optimum tax collection and expanded revenue base. New form of taxes are selectively being introduced in this era particularly by the less developed countries to boost their revenue earning capacity with the aim of improving the socio-economic conditions of their countries. One of such modern forms of taxation is the Value Added Tax (VAT) recently introduced into the Nigeria tax system as a replacement to the sales tax. The fact that it is a relatively new tax (even in the developed countries) makes it very difficult for anyone in our own sub-region to have made any significant academic contribution on the subject. The researcher will however review some of the books and journals at his disposal at the time of this write-up.

### **2.1 INTRODUCTION**

The following definition of Value Added Tax (VAT) are considered:

- a- “A Value Added Tax is a tax levied at each stage of production”  
– James M. Bickley in his paper “the Value Added Tax: Concepts, Issues and experience”.
- b- “The Value Added Tax (VAT), as it is generally applied is a multi-stage consumption tax levied on the difference between a

firms sales and the value of the purchased inputs used in producing goods” – Oliver Oldman, Professor of law; Laverne words: both of Harvard Law School.

- c- VAT has also been defined as a “Multi-stage tax imposed on the value added to goods and services as they proceed through various stages of production and distribution and to services as they are rendered”.

These definitions by eminent scholars must have been quite adequate for the audiences for which they were intended. However, the definition of VAT that appears most pungent to the researcher is the one contained in the United Kingdom Statement on Standard Accounting Practice (SSAP) No. 5 which states that:

The beauty of this definition according to Afe-Ogundele E. in his book Value Added Tax (VAT) theory and practice, is that it brings out the three essential characteristics of Value Added Tax which he emphasized. These characteristics are:

- i. VAT IS A CONSUMPTION TAX;
- ii. VAT’s incidence is on the final consumer; and
- iii. VAT is a multi-stage tax

Where these three characteristics are present in a tax, it is a classical VAT. Where they are not all present, another form of tax or a variant of VAT bearing

similarity to VAT and variously named (e.g. Modified VAT, simplified VAT etc.) is being operated.

## 2.2 HISTORICAL BACKGROUND OF TAXES AND VALUE ADDED TAX (VAT) IN NIGERIA.

The present day taxation system in Nigeria was first introduced in 1904 by the Late Lord Frederick Lugard when “Community Tax” became operative in Northern Nigeria. He later made changes which culminated in the “Native Revenue Ordinance” in 1917. An amending ordinance passed in 1918 extended the provisions of the 1917 ordinances Southern Nigeria and it was to impose tax on all taxable adults and individuals resident in the “colony Area”, which was the administrative jurisdiction of the then Administrator/Commissioner of the colony which comprised Lagos, Badagry, Epe, and Ikorodu townships. Another legislation was enacted in 1927- (The Tax Colony) ordinance of 1927) which imposed tax on all native adults and non-native adults.

In 1939 the Company Income Tax Ordinance No. 14, 1939 was enacted which introduced to the tax legislation for the first time the word “person” including “a body of persons” defined as “a body politic, corporate or collegiate, and company, fraternity, fellowship or society of persons whether corporate or incorporate”. In 1940, the earlier Native Revenue Ordinance of 1917, 1918, and 1927 and 1939 were incorporated into the Direct Taxation Ordinance (No. 4 of 1940).

The rapid development of the country in the area of trade and commerce posed some technical challenges to Income Tax Administration. The need to have tax laws effectively coded became obvious. The assistance of experts were needed. Accordingly, the colonial tax office appointed and commissioned.

Mr. J.C. Mundy who had acquired vast experience in income tax law and its practice in many colonies practically in Ceylon (now Sri Lanka), East Africa and Southern Rhodesia (now Zimbabwe) to help draft the Revised Tax Legislation based on the model ordinance supplied to him by the colonial tax office in London.

The then Governor of Nigeria, His Excellency Sir Arthur Richards (Later Lord Milverton) appointed a committee of legislative council to consider and deliberate on the Mundy Income Tax Report and submitted a draft income tax bill which was approved and enacted into law by the Legislature as income tax ordinance 1943 (No. 29 of 1943 cap 92).

The system of taxing individual and companies under the same ordinance continued until the Chick Fisal Commission which preceded the constitution of 1954 recommended that the taxes should be the exclusive jurisdiction of the Federal Government. This recommendation was held until Raisen Fiscal Commission of 1957 which recommended that Federal Government and State, except for certain uniform principles should have exclusive jurisdiction over personal income tax and consequently resulted to the enactment of Company Income Tax Act of 1961. This repealed all ordinances before 1961. The system

allows the Federal Government to legislate on all income taxes which is an exclusive matter while the administration is in two tiers with the Federal collecting taxes principally from the limited liability companies (e.g. Companies Income Tax and Petroleum Project Tax) and Value Added Tax (VAT) under Decree No 102 of 1993 while the States collect taxes from individuals on the basis of residence. Federally collected taxes are paid with the distributable pool account (Federation Account) and shared between the Federal State and Local Government. The enactment of Company Income Tax Act (CITA) of 1961 gave birth to Federal Inland Revenue Service vide the Decree No. 28 of CITA 1979 Sec. (i) as Federal Government body empowered to administer Company Income Tax Act in Nigeria.

### **VALUE ADDED TAX**

The idea of introducing VAT in Nigeria came from the report of the Study group set up by the Federal Government in 1991 to review the entire tax system. VAT was proposed and a committee was set up to carry out feasibility study on its implementation. In January 1993, Government agreed to introduce VAT by the middle of the year. It was latter shifted to 1<sup>st</sup> September, 1993 by which time the relevant legislation would have been made and proper ground work done.

The implementation of VAT officially commenced on 1<sup>st</sup> December, 1993 when the VAT Decree No. 102 of 1993 came into effect. However, registered person were given the whole of December to adjust their accounts, particularly the incorporation of VAT information into their general ledgers, in order to comply

with the record keeping requirements of the tax. That means that registered persons started issuing VAT invoices to their customers from 1<sup>st</sup> January, 1994.

The VAT system in Nigeria is administered by the Federal land Revenue Service (FIRS) which is a Federal Government agency. The VAT Directorate, within the FIRS, is centrally located at the Head Office in Abuja with a network of Zonal and Local VAT offices throughout the federation. VAT is operated using the existing machinery of the FIRS in close cooperation with the Nigeria Customs Service (NCS).

### **2.2.1 What is Value Added**

Value Added has been described by Sam Aluko, a Nigeria Professor of Economics, as “the increase in the value of goods or services in the process of their production or delivery”. (paper on “An analysis of the classical VAT as operated in selected Countries”). In other words Value Added Tax is the amount of value a firm contributed to a good or service by applying its own factors of production namely: Land, Labour, Capital and Entrepreneurial ability.

Generally speaking, value can be added to a product in the following three ways:

- a- By altering its form (improving on it)
- b- By moving it to an area of higher need (transportation) and
- c- By passage of time (storage).

### **2.3 THE NEED FOR ENFORCEMENT OF VAT AND PROPER UTILIZATION BY GOVERNMENT**

In the works of Farayola G.O. in his book titled, “Guide to Nigeria Taxes”, ‘taxation is one of the sources of income for Government and such income is used to finance public utilities and to meet other social obligations’. In other words tax collection should be enforced and government is advised to utilize the proceeds from them in meeting up the above social obligations.

According to NORMAN D. NOWAK in his book, Tax Administrant theory and practice (New York Praeger Publishers), P. 11 “No real progress in the tax administration could be made unless there is a concerted effort by both agencies to assess the taxes due properly and enforce collection at a predictable speed in a scheduled time”.

NORMAN D. NOWAK blamed inefficiency in Tax Administration on lack of incentives and motivations for tax officers. It is in recognition of this and other government laudable objectives that a performance, bonus is being arranged for tax officials. It is the view of the researcher that unless the incentives and motivations are second to none, the present situation will always persist (inefficiency). That is tax officials or tax administrators will be bought over by tax payers due to (connivance, taughting etc), thereby reducing government revenue.

### **2.4 THE NEED FOR EFFICIENT AND EFFECTIVE IMPLEMENTATION AND EXECUTION MACHINERIES**

Ezejieve A.C. writer on Taxation wrote in the Nigeria Accountant Magazine, the official journal of institute of chartered Accountants of Nigeria P. 34 April/June 1981 edition 110/2/V RV 2 that “No matter how efficient the tax laws and policies are, unless implementation and execution machineries are equally efficient and effective the entire system (i.e. Tax system which involves, Taxpayers, Auditors/Tax representatives, Tax officials and Government) may crumble. He blamed most of our Tax problems of Tax assessment and collection purely on administration. For effective and efficient Tax collections he recommended the followings:-

1. Right oriented staff, for which graduates of Accountancy and professionally qualified accountants shall constitute the band for assessment Audit and Investigation of Taxes, while qualified lawyers shall be responsible for collection. Inspector of taxes course and several other courses should be embarked upon by the said inspector of taxes both within and abroad.
2. Staff movement programme: This may reduce connivance tendencies between Tax Officials and Taxpayers.
- 2 Right working environment for which full autonomy is proposed for the service (i.e. Federal Inland Revenue Service) FIRS) to avoid excessive government intervention.
- 3 Need for information procurement and dissemination to enlighten Taxpayers e.g. General Workshop on Self Assessment and Value Added

Tax, Radio and paper publications, calendars and information circulars for latest news on tax procedures and practice.

- 4 Enforcement of penalties and additional assessment.
- 5 Remedying imbalance in Tax assessment
- 6 Past disposition of Tax cases
- 7 Establishment of revitalization of statistics section of the revenue
- 8 Use of budgetary system of Tax collection.

In other works of Rabiun S.A., Personal Income Tax in Nigeria, Procedure and Problem P. 71. (1<sup>st</sup> Edition), Management by objective (MBO) Approach to Tax collection, “to increase the yield, the target for collection (based on the estimated Tax population) against which actual performance can be measured should be set at the beginning of every financial year. This will enable each Tax official to put in his/her best”. Furtherance to the above evaluation of the target should be carried out and returns on collection made in that order.

## **2.5 THE NEED TO CONTROL TAX ARREARS**

Professor WHITMAN in quarterly journal of administration, July 1979 gave ten prescriptions of control of Tax Arrears which include:

1. Accurate budgeting for revenue:-0 the revenue budget should not be determined arbitrarily but must be subjected to statistical data and application of appropriate techniques like fund balance recording techniques to each type of taxes

2. Accurate estimating or assessment in the case of Best of Judgment (BOJ) assessment should be based as far as possible upon adequate and realistic data so as to avoid excessive determination of Tax due. Companies industrial average may also play important role in this direction.
3. Timely demand for revenue:- Assessment should be raised immediately to avoid the payment period being reduced and increase in arrears.
4. Tax collection at source (or withholding tax or withholding VAT) i.e. Tax paid on behalf of taxpayers and the taxpayer is handed over the net balance.

#### **Types of Value Added Tax (VAT)**

Basically there are three types of Value Added Tax (VAT) depending on how purchases of new Capital Input (plants, furniture, equipment etc) are treated in the computation of the tax base. The three types are the Consumption type, the Income type and the Gross Product type.

The consumption vat:- Under the consumption VAT, capital purchases are treated the same way as the purchases of any other input. This treatment of capital input is equivalent to “expensing”.

It has three distinct advantages to the taxable firm:

- i. The taxable firm can claim credit for the tax paid on capital assets immediately and this will ease its cash flow problems.
- ii. The tax burden from capital expenses is shifted to the consumer in full immediately instead of being borne wholly or in part by the company.

- iii. The consumption VAT is easier to compute since the firm does not have to separate expenditures on capital from expenditure on other items of purchases in determining the VAT base.

The main disadvantage of consumption VAT is from the point of view of the VAT administrator. It creates refund problems such that for every long time, the revenue office may be having refund to make where very heavy and expensive machinery are involved.

The income VAT: Under the income VAT, the tax paid on purchases of capital inputs is authorized (that is credited against the firms VAT liability) over the expected lives of such capital inputs.

The Gross Product VAT: Under the Gross Product VAT, no deduction of tax on input of capital purchases is allowed against the firms output tax. In other words the taxable firm is treated as a final consumer of all its capital input. Under this situation, the tax paid on capital input serves as part of cost of capital input. However, the firm is usually allowed to capitalize the input tax paid for income tax purposes. Thus, capital allowances are claimed over the expected life-span of the asset. The main advantage of this type of VAT is to the revenue who is saved the problem of having to make cash, refunds. But the system does not encourage investment in heavy capital assets. This is the type of VAT that Nigeria has adopted.

### **The Consumption VAT**

Under the consumption, VAT capital purchases are treated the same way as the purchases of any other input. This tax treatment of capital purchases is equivalent to ‘expensing’ one advantage of this that the tax burden from capital expenses is shifted to the consumer in full and immediately instead of being borne wholly or in part by the company.

Another attraction of the consumption VAT it is easier to compute.

The firm does not have separate expenditures on capital from others in determining VAT payable.

## **2.6 VALUE ADDED TAX-OBJECTIVES AND ADVANTAGES**

The definition of VAT that appears most frequent is the one contained in the U.K. statement of Standard Accounting Practice (SSAP) No. 5, that “VAT is a tax on the supply of goods and services which is eventually borne by the final consumer but collected at each stage of the production and distribution chain.

This definition brings out the (3) essential characteristics of VAT, which are:-

- I. VAT is a Consumption Tax
- II. VAT incidence is on the final consumer
- III. VAT is a multi stage tax

The introduction of VAT came out of a study group that the Federal Government Constituted in 1991 on the Nigerian Tax System. The committee recommended the introduction of VAT in 1993 in line with ECOWAS

harmonization Programme of free regional trade. The tax was hilled to begin in 1993 but the legislation took effect from 1<sup>st</sup> January, 1994. By VAT Decree 102 of 1993.

The Value Added Tax has a number of advantages that inform its introduction as a replacement of the former Sales Tax. This are :-

Reduction in over dependence on oil revenue it has an expanded base hence more revenue is expected to accrue to the government. The VAT emphasis as on the final consumer hence more revenue to the government where the price is highest.

VAT has a refund mechanism hence reduce cascading effect

VAT does not affect international business, because its emphasis is one consumption.

VAT provides incentives to exporters and enhance balance of payment is however, limited by the fact that:-

- Its burden is spread regressively especially where there is a single rate
- One time increase in price i.e. inflation
- Increase in the administrative cost of the tax
- Self-Policing system of job by the tax administrators.
- Record keeping is sometime cumbersome to the VAT collection agents

## **CHAPTER THREE**

### **3.1 INTRODUCTION**

This chapter briefly discusses the responsibilities of the Federal Inland Revenue Service (FIRS), its organizational structure, its initial operations, enabling law and hinderances in the operation.

Value Added Tax strategies for improving and exploring collection are also to be discussed.

### **3.2 RESEARCH METHODOLOGY AND SOURCE OF INFORMATION**

Existing records in the Federal Inland Revenue Service, Personal observations, desk research and interviews with some selected personnel or staff of the Federal Inland Revenue Services and Taxpayers will be studied and reviewed in the course of this research. The major source of information used are as follows:-

- a- Studying existing records – This is done through studying relevant documents on value Added Tax (VAT) Decree, information circular from the Federal Inland Revenue Service or VAT matters, table or desk research or reading periodicals and personal observations.
- b- Interview with staff and taxpayers:- The researcher had the privilege of seeking clearance from the Chief Executive of Federal Inland Revenue Service who administer Value Added Tax (VAT), who was involved in the studies that recommended the replacement of Sales Tax with Value Added

Tax (VAT). In the same vein, the Director of VAT and other technical or field officers in charge of VAT operations were also interviewed.

- c- Personal Observations: This took the form of researcher participation in the operation of Value Added Tax (VAT) and other related areas. The interview was able to accord the researcher to interact with the accountable persons as well as the staff of the Value Added Tax Directorate.

### **3.3 TAX LEGISLATIONS IN NIGERIA**

- a- The Income Tax Management Act (ITMA). The Income Tax Management Act regulates income tax throughout the Federal Republic of Nigeria.
- b- Companies Income Tax Act 1979 (CITA). This Act regulates the collection procedures for all corporate bodies other than those in the production of crude oil and gas. This class of corporate bodies are taxed under separate Act known as the Petroleum Profit Tax (PPT) Act of 1959.
- c- The Industrial Development (Income Tax Relief) Decree 1971. The Decree was not imposing tax as such but it provided for an incentive by a way of exemption from tax, all companies that might be accorded a pioneer status by Industrial Development Coordination Committee of Ministers.
- d- Capital Gains Tax 1967. This imposes tax on the profits derived from the sale of capital items for example property shares in companies. The rate of tax is 20 per cent of the net gains after the deduction of original cost of asset, less the expenses of sale.

- e- The Stamp Duties Ordinance of 1958. This regulates the transaction which are subject to give them legal backing and for the purpose of revenue. Under this ordinance those matters over which the regions has jurisdiction to legislate upon were collected by Federal, for instance, stamp duties for the registration of capital of new companies and collected by the Federal Board of Inland Revenue. Stamp duties on legal transaction involving individual only are payable to the states. The Act is now being reviewed to stream line the various rate therein with a view to having some uniform rates.
- f- The Income Tax (Armed Forces and other Persons) Special Provisions. When it became necessary to hand over the taxation of individual in the Federal capital territory, Abuja the Federal Government had to retain the taxation of certain officers and persons who deemed not to be resident in Abuja or any state that the matter for Tax purposes. These are the Armed Forces Personnel, External Affairs Officers, Police Officers, and or recent non-resident individuals deriving income from anywhere in Nigeria and the resident of capital territory. The provision of these decree are similar to those of Personal Income Tax in Lagos.
- g- The Capital Transfer Act 1979. This is intended to tax capital being transferred from one person to another other than by straight sale. Capital is deemed to be transferred to another when the ownwer dies, but the transferee bears the tax; lifts of property form father to children during life-

time are deemed to be capital transfers liable to tax, because the law is designed to catch those that wealthy property less an N100,000 worth are not caught. States are supposed to implement this Act, but some states are dragging their feet.

- h- The Petroleum Profits Tax Act 1959. The Petroleum Profit regulates the Income Tax on the oil producing companies, including NNPC. The oil producing companies are joint venture with NNPC to produce crude oil for sale.

The sale of crude oil, less the cost of sale and overheads, less allowances provided by this Act, represent what is regarded as chargeable profits. This is changed to tax at the present rate of 85% in 1977. The magnitude of the bruises in the oil industry assumed very high proportions as from 1972 and therefore, the tax payable in this sector became substantial from N547,868,321 in 1972/73 to N12,590,711,976- in 1988.

### **3.4 THE ORGANISATIONAL STRUCTURE OF FEDERAL BOARD OF INLAND REVENUE (FBIR)**

Decree 28 of 1979 as amended by Decree 3 of 1993 establishes the Federal Board of Inland Revenue with its operational arm known as the Federal Inland Revenue Service. The composition of the Board is as contained in the enabling Decree as thus:-

- 1) An Executive Chairman

- 2) The Director and Heads of Directorates of the FIRS
- 3) The Officer from time to time holding or acting in the post of Director with responsibility for Planning Research and Statistics Matter in the Federal Ministry of Finance.
- 4) A member of the Board of the National Revenue Mobilization, Allocation and Fiscal Commission.
- 5) A Director from National Planning Commission
- 6) The Registrar-General of the Corporate Affairs Commission
- 7) Director-(Deputy Controller-General) from Nigeria Customs Service
- 8) The Legal Adviser to the Service

The service has:

- i. The Chairman as the Chief Executive
- ii. The Directors of the Service
- iii. The Legal Adviser
- iv. The Board Secretary

The powers of the Board among other things include

- i) Section 7 (2) of the VAT Decree empower the Board to assess and collect Tax.
- ii) Section 37-Power to appoint agents for defaulting manufacturers and importers and request such agents to pay tax due from the manufacturers or importers funds.

- iii) Section 39 – Power to specify the forms, statements and notices to be used.
- iv) Section 40- Power (with the approval of the Minister) to make regulations to give effect to the provision of the decree.

Schedule I & II Authority to determine additional goods and services for listing under the schedules.

The Federal Board of Inland Revenue is charged with the administration and management VAT in Nigeria. This is contained in Section (1) and (2) of VAT Decree 102 of 1993. No mention is made in the Law of the establishment of the Board or its composition.

The Federal Board of Inland Revenue administer the VAT in close cooperation with Nigeria Customs Service (NCS) and the States Internal Revenue Services.

The Nigeria Customs Service are agents of FIRS in the collection of VAT on imported items. They collect the VAT at the points and pay to designated account at the Central Bank of Nigeria. On a monthly basis, they render returns of their collection to the FIRS.

The States Internal Revenue Services (SIRS) is limited to their representation on the VAT Technical Committee and the provision of useful information on VATable firms in their territorial jurisdictions.

The VAT Technical Committee :Section 3 of the VAT Decree established a “VAT Technical Committee” whose functions are:

To advice the Board on professional and Technical mattes

To advise the Board on the proper administration of the VAT

To attend to any other matters that may be referred to it by the Board

Membership of the Committee are as follows:

- The Chairman of the FIRS shall be its chairman
- All Directors of the FIRS
- Director (Deputy Controller General) in the Nigeria Custom Service
- Three representations of the State Government who shall be members of the Joint Tax Board (JTB).

### **3.5 THE VAT DIRECTORATE**

The day to day management and administration of the tax is undertaken by the VAT directorate which is one of the six Directorates within the FIRS. The VAT Directorate is headed by a Director who is stationed at the Headquarter, Abuja.

### **3.6 THE ZONAL OFFICES**

At the middle of the structure of the Directorate and the (5) five zonal offices each head by a Deputy Director (Zonal Coordinator). This is the level at which the administration of VAT and Income Tax are concentrated in one and the same person. This is appropriate because to have only supervisory role which does not hamper day to day administration of the tax.

Lagos – for – Lagos Made up of Lagos

Ibadan – for Western Zone Comprising Delta, Edo, Ondo, Oyo, Ogun, Osdun, Kwara and Kogi States.

Enugu-for – Eastern Zone Comprising Akwa Ibom, Cross River, Rivers, Abia, Imo, Anambra and Enugu States.

Jos – for – North – Eastern Zone Made up of Plateau, Benue, Taraba, Adamwa, Borno, Yobe, Bauchi and FCT Abuja

Kaduna – for - North – West Zone Made up of Nigeria, Kaduna, Kano, Jigawa, Katsina, Sokoto and Kebbi States.

### **3.7 THE LOCAL VAT OFFICES**

This is the level at which of direct contact with the public is established. Presently, there are 50 Local VAT offices nationwide. The Government in its 1995 Budget increased the number, but due to lack of fund not all operatives became until 1996. Included in the additional Local VAT office during that period is Zaria Local VAT Office which was curved out of Kaduna VAT Office.

As time goes on, it is intended that they will be extended to other commercial centres and all Local Government headquarters in the Federation. FIRS in under the ministerial supervision of the Finance Minister. Under Section 34 of the VAT Decree, the Minister of Finance has the power to:-

- (a) Amend the rate of the tax

- (b) Amend, vary or modify the list set out in Schedule 1, 2 & 3 of the Decree.

### **3.8 THE ENABLING VAT LAW IN NIGERIA**

The Law that introduced VAT in Nigeria is the Value Added Tax Decree No. 102 of 1993. The Decree was promulgated on 24<sup>th</sup> August 1993, and it took effect from 1<sup>st</sup> December, 1993. However, invoicing of VAT was administratively delayed till 1<sup>st</sup> January, 1994.

The Decree on coming into effect, repealed the Sales Tax Decree No. 7 of 1986. The VAT decree in Section 7 (I) Vests the administration and management of VAT in Nigeria on the Federal Board of Inland Revenue. (Several aspects of the decree have been administratively amended in line with public demand. For instance, submission of returns is now one full month after the period of supply and fourteen days as in the decree. The necessary amendments will be effected at the earliest opportunity).

### **3.9 THE CONTENT OF THE DECREE**

The VAT Decree No. 102 of 1993 is made up of the following six parts and three schedules:

PART I      This part deals with the imposition of VAT. It is made up of section 1 to 6 dealing respectively with imposition, Taxable

good and Services and rates, Exemptions, Computation of VAT, Value and Value of Imports.

PART II This deals with the administration of the rate. It contains Section 7 to 9 which deals with Administration, Registration, Records and Accounts respectively

PART III Deals with Returns, Remittances, Recovery and Refund of the tax. This part contains Section 10 to 16 inclusive which deal with payment collection, rendition of Returns, remission of Tax, failure to render returns, non-remittances and recover of tax respectively.

PART IV This part set up the VAT Technical Committee. It contains Section 17 to 20 to which deal with Establishment and Composition, Functions, Proceedings, and Staff respectively.

PART V Is on offences and penalties. This part contains Section 20-23 which deal respectively with false documents, evasion attribution change in address, tax invoice, resistance, unauthorized persons, registration, records and accounts collection tax, submission of returns, aiding and abetting and body corporate.

PART VI Deals on Miscellaneous issues. It contains section 34 to 43 and they deal with power to vary schedules, power of inspection, distribution of Revenue, Agents, Signification,

Form Regulations, Repeal, Interpretation and citation and Commencement.

#### SCHEDULES I-III

SCHEDULE I List taxable goods and states the rate of tax

SCHEDULE II List taxable services and states the rate of tax

SCHEDULE III Itemise goods and services exempt from tax

### **3.10 VALUE ADDED TAX (VAT) PROCESS AND OPERATION**

Registration is one of the most important determination of the VAT base. In other word, the more the number of registration, the higher the expected tax yield because of the enhanced tax base.

In Nigeria, Section 8 of VAT Decree 102 1993 provides that;

“A Manufacturer, wholesaler, and importer and a supplier of taxable goods or services shall, within six moths of the commencement of the degree or within six months of commencement of business whichever is earlier, register with the Board for the purpose of tax”.

This provision implies the following:-

- i) Any type of business, corporate or incorporate must register for VAT
- ii) There is no registration threshold in Nigeria
- iii) Even those trading in exempt goods and services must still register

However, for administrative convenience, small traders and exempt goods and services must still register for the time being. Only manufacturers, distributors, wholesalers and large retailers are required to register. Registration is applied for form 001. without the registration VAT collection can not be possible.

### **Residence Code**

This indicates the location of the company. All the taxable persons in particular local VAT office have identical residence code to identify jurisdictional area. Thus, we have KV, BV, WV for Ikeja, Ibadan and ZV for Zaria Local VAT Office.

### **Business or Trade Code**

All business in Nigeria have been classified into trade groups. Those we have include agriculture and agro-allied business, financial institutions, hotel and catering establishments, printing and paper publishing, breweries, canning and food manufacturing, commercial and trading establishments, professional services, transport and road haulage etc. the trade codes also features in the VAT registration number for each registered person.

### **Head Office/Branch Code**

Where a registrant is a single location business, it is given a single location code. Where it has branches, the particular branch being registered is identified by the number assigned to that branch. A single location business or the head office of a business with a network of branches are given 00 while branches are assigned 01,02,03,04 or 05 as the case may be.

### **Type of Business Code**

We have individuals, registered businesses and incorporated business as possible registrants. These are assigned 0,1 and respectively.

- i) To notify the tax authority of the date of cessation of business
- ii) Furnish returns showing details of stock and their value
- iii) Pay tax due within 30 days of the cessation of business
- iv) Submit the certificate of VAT registration to the local VAT office.

## **3.11 VAT ASSESSMENT IN NIGERIA**

### **Registration Number**

The registration number of the company is the last component. Registration numbers are unique where the registered person is an individual (with no registration or incorporation number), serial numbers are assigned.

### **VAT Registration Certificate**

Every registered person must be issued with a VAT registration certificate which must be conspicuously displayed at the principal place of business enterprise. The certificate contains the name of VATable persons, the address, the VAT registration number and the like of trade. It must be duly signed by the Local VAT Officer and be counter-signed by the VAT Director or his accredited representative.

Sources of information for Registerable person include FBIR, SIRS, Nigeria Custom Service, and professional bodies such as Council of Registered Engineers (COREN), ICAN, NBA, NIQS, NIM, MA, MAN and Trade Directories among others.

### **Changes Affecting Registration**

In the life of any business enterprise, changes are inevitable. These changes have varying forces importance to the VAT Administration. This therefore, important they should be notified immediately so that even if they will not cause any material alteration in the status of the registrant, they would be kept for information purposes. The following changes are important to the status of the VATable company and should therefore be promptly notified. Changes in name, address. Additional premises acquired, premises ceases to be in use, change in ownership, change in satisfaction of goods/services supplied, addition/subtraction to a line of trade, changes in authorized signatories among others.

### **Registration**

A taxable person has to be de-registered if the condition for his registration no longer exist. It can occur when a business is liquidated. Where this happens, it is necessary.

### **VAT as a Self-Assessment Tax**

Value Added Tax in Nigeria is based on self assessment. The computation and payment are done by the Taxpayer without any interference from the VAT offices. The payment is made when the returns are submitted.

The computation of VAT payable is done on form VAT 002 which is submitted to the local VAT Office monthly by the taxable person. The forms to be completed by a principal officer of the company. The form has a column for the computation of the input tax and another for the computation of output tax. The VAT period is one calendar month. In other words, no taxable person is allowed choose the middle of the month as it VAT accounting date. So a company can submit returns for periods beginning on the 15<sup>th</sup> and ending on the 14<sup>th</sup> of each month. The condition of returns and remittance of tax payable is the calendar month following the VAT period tax period (i.e. Period of Transaction).

Due Date of filling VAT Returns Including Remittances

1/1/04 ----- 31/1/04	1/2/04 ----- 28/2/04
1/1/04 ----- 31/1/04	1/3/04 ----- 31/3/04
1/2/04 ----- 28/2/04	1/4/04 ----- 30/4/04
1/3/04 ----- 31/3/04	

**Liability to VAT**

Liability to VAT arises when the output tax is more than the input tax. The net tax in a tax period the VAT to be remitted to the Local VAT office.

**Payment**

Cheques for the amount remitted to the Government are made payable to the FEDERAL GOVERNMENT OF NIGERIA, FBIR-VAT ACCOUNT.

**Assessment**

Assessment of VATable person are made by the VAT officer when the taxable person has under assessed himself. The re-assessment form is from VAT 007 and it is also used to imposed penalty administratively under section 23, 24, 29, 30 and 31 of Decree 102 of 1993.

**Refund**

Refund could be made to taxable person if the input tax exceeds the output tax. The claim for refund made in the normal process of rendering and filling tax returns claims for refund is made in the formal process of rendering and filling tax returns. Claims for refund should have to be supported by such documents as are required by the Board as provided for under Section: 31 (1)(b) of the VAT Decree. The documents supporting refund claims are made available to the Revenue, the process of verification of the case is set in motion through ;

- Office verification i.e. checking the authentic accuracy of the excess of input tax over output tax and ascertainment of proper application of VAT Law e.g. VAT paid on Fixed asset are to be recovered in the process of claiming capital allowance rather than been included as input VAT.
- Field verification may be conducted by way of scrutinizing in voices. The verifying officer then invite a report of his findings. Recommendation for refund should be accompanied by committee to be held responsible if demand for refund is late found to be spurious.

Refund claim if approved are made out of fund set aside for that purpose from VAT proceeds. In refund cases, care must be taken to ensure that refunds are made timely and fairly to generate confidence in the system, if otherwise, then the tax system will not be respected and a lot of taxable person will have no restrain in rendering false claims.

### **The Tax Invoice**

The tax invoice is an important part of credit of VAT. It is the single most important source of verification of transactions. It does not need to accompany VAT returns, but must be kept by the taxpayer. The exact amount of sales, rate of VAT and the VAT payable must be stated clearly in addition to taxpayers identification number, name and address of VAT registration number, customers name and number, type of supply, tax rate and VAT payable.

## Mechanics of the Credit Method of VAT

The mechanics of the credit method of subtractive VAT which is the type adopted by Nigeria can be illustrated with the case of a product that goes through a manufacturer (M) wholesaler (W) and retailer ® to the final consumer(C).

- i. That the VAT rate is 5%
- ii. The cost of sales to the manufacturer which represent his outlay on factor inputs from supplies is N1,100.
- iii. The various suppliers to the manufacturer have no VATable input cost
- iv. The value added by the manufacturer, wholesaler and retailer are N1,000, N5,000 and N200 respectively.

The basic principles involved in deriving the VAT payable could be illustrated as follows using the above simplified example.

Tax agent collector	Selling price	Cost of sales	Value added	VAT collected	VAT remitted to Govt.
Supplier (S)	1100		1100	55	55
Manufacturer (M)	2100	1100	1000	105	50
Wholesaler (W)	2600	2100	500	130	25

Retailer(R)	2800	2600	200	140	10
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From the above, the following three points are evident:

- That the tax remitted to the government is the sum of Column 6 which is N140 and exactly 50% of consumer price of N2800.
- That the history of each good must be followed up in calculating tax at each stage.
- That at each stage, the seller is able to fully pass on the burden of the tax (i.e. no incidence falls on the seller at each stage).

### **3.12 OBSTACLES TO VAT OPERATION**

There are certain obstacles associated with tax assessment, those peculiar to VAT include Gross understatement of VAT payable. More often than not, the voluntary and self assessment nature of VAT gave room for this.

Non-availability of invoicing at all levels of VAT payment. Sometimes, a retailer may claim input, but does not possess invoice to back up his claims.

Not all VAT payers use receipt, hence sometimes BOJ assessment is raised with may be understated or overstated. Small business holders that do not have receipt are not within the VAT net because of poor assessment. Non-availability of trained and skill VAT officers to monitor and enforce compliance. VAT with respect to Government establishment cannot be enforced because of the Government-to-Government syndrome.

### **3.13 WAYS OF IMPROVING VAT OPERATION AND COLLECTION**

In order to have effective and efficient VAT collection machinery, trained and skillful staff are necessary. The self policing nature of VAT should be improvised with period VAT field audit enforce compliance and educate VAT payers. The VAT base should further be individual to include Retail owners and they should be made to use receipt on purchases and sales.

VAT Audit reports should be sanitized to bring to book the VAT defaulter to face appropriate penalties as specified by the Law.

VAT Officials should be moved round from time to time to avoid much familiarity that can bring about aiding and abetting to defraud government. The government should introduce VAT clearance certificate to be issued to VATable person bi-annual that will indicate that the VAT liability of one is cleared, and this should be an important requirement for his business transaction. The introduction of VAT tribunals/Courts to try VAT defaulters of all categories of offences will minimize VAT avoidance and evasion.

## **CHAPTER FOUR**

### **4.1 FUNCTIONS OF THE FEDERAL INLAND REVENUE SERVICE (FIRS)**

The board is statutorily empowered to carry out the following function under the provisions of the companies Income Tax Act 1997 (as amended) and where relevant and applicable the provision of the Personal Income Tax Act 1961:

The proper assessment and collection of the correct amount of tax due by the provisions of the law from relevant tax payers.

The proper accounting for amounts collected by ensuring that all such monies are promptly lodged into the Federal Government accounts with the Central Bank of Nigeria.

Advising the government through the minister on policies relating to taxation and helping to bring about changes in the system whenever government wants such changes to be incorporated into tax laws.

### **4.2 TECHNICAL COMMITTEE OF THE BOARD**

Finance (Miscellaneous Taxation Provision) Decree no.3 of 1993 established a Technical committee of the Board which consists of :-

The executive chairman of the Board as chairman;

All the directors and Heads of Departments of the services;

The Legal Adviser in the federal Inland Revenue service and;

The secretary to the Board.

The technical Committee may co-opt from the service such staff as it may require for the discharge of its functions.

Functions of the Technical committee are to :-

Consider all tax matters that require professional and technical expertise and make recommendations to the Board.

Advise the Board on all powers and duties listed in section 2 of the decree and in the first schedule to the Decree.

Attend to such other matters as may from time to time be referred to it by the board.

#### **4.3 ORGANIZATIONAL ARRANGEMENT.**

The federal inland revenue services is the operative arm of the Board. During the recent administrative reorganization of the FIRS, three district levels of management have emerged in order to facilitate the efficient performance of every segment within the entire system. This arrangement is also to promote regular supervision and monitoring of the entire system thereby making objective performance evaluation very easy.

The three levels of management at the moment include:- The headquarters, located in Abuja with liaison office in Lagos is made up of the Chairman-in-council. That is the Executive chairman and all his Directors. Within the set up of the Headquarters are:-

-The directorate of Human Resources, management and Planning, Research and Statistics (HRM/PRS).

-Directorate of finance and supplies (DFS)

-Directorate of Assessment, Intelligence, Tax Audit and Special Investigation.

-Directorate of Petroleum Profit and Pioneer (P&P), and

-Directorate for Tax Collection, International Tax and computerization.

The zonal coordinators, chosen from the crop of senior officers are to manage each of the zones. Each of the zonal coordinators is to supervise and preside over the activities of a group of Area offices within a zone. At the moment, there are five zones namely: Lagos, Western, Eastern, North-Western and North-Eastern zones with the zonal co-ordinators located in Lagos, Ibadan, Enugu, Kaduna and Jos respectively. The Area Tax Controllers who are the line managers execute the day to day administration of resources in the “Local Tax Office” otherwise known as “Area Tax Office”.

#### **4.4 VALUE ADDED TAX (VAT) ADMINISTRATION**

The VAT system in Nigeria is administered by the Federal Inland Revenue Service (FIRS) which is a Federal Government agency. The VAT directorate within the FIRS, is centrally located at the head office in Abuja with a net work of zonal and local VAT offices throughout the Federation.

Although VAT is administered centrally by the Federal Government by using the existing tax machinery of the Federal Inland Revenue Service (FIRS) in close cooperation with the Nigeria customs service (NCS) and the states Internal

Revenue Services (SIRS), the net proceeds from the new tax accrue solely to the state governments after making an allowance of 20% to the Federal Government to cover the cost of administration. In effect, the state governments will benefit to the tune of 80% of the entire VAT collection. This sharing formula which was written into the VAT Decree No. 102 of 1993, was adopted.

#### **4.5 THE RIGHT OF APPEAL UNDER THE NIGERIAN VAT**

If the importer disagrees with an assessment of VAT payable on an imported consignment, he has a right of appeal to the Local VAT Office, the Zonal Office and the VAT Directorate at Abuja, in that order. These are administrative review channels. The taxpayer, if not satisfied, can make further appeal to the Federal High Court. These same channels of appeal are available to suppliers to goods and services who may feel aggrieved by assessments of a VAT officer.

##### **4.5.1 MODUS OPERANDI**

Kaduna Local VAT Office Perspective: In Kaduna Local VAT Office, two mail registers maintained by administrative officer (who is not below the rank of principal tax assistant IV – Grade level 08) and the secretary to the Local VAT Officer. The Administrative officer passes the mails registers to the secretary (LVO) to record the incoming mails and thereafter forward same to the LVO for initials. The mails are then sent to the Administration Officer for assessment or collection (i.e. mails on tax matters) or individuals (i.e. letters from headquarters).

The Administration Officer also maintains the dispatch register in respect of mails to the taxpayers. He maintains discipline among the junior staff who are within the rank of Tax Assistant 1 and below, i.e. GL. 01-06.

#### **4.5.2 TECHNICAL SECTION**

This section is made up of crops of inspectors of various grades. Their chief roles are proper assessment and timely collection of the taxes assessed to enable the LVO account for monthly returns submitted to the Headquarters through the zonal coordinator.

#### **4.6 VATABLE PERSONS IN NIGERIA**

A VATable person is one who trades in VATable goods and services for a consideration. Every VATable person has an obligation to register for VAT payment. The registration is to cover all the business activities of the VATable person. The person can be sole proprietor (e.g. a trader); a professional (e.g. Lawyer); a partnership (e.g. Ahmed and Mohammed & Co.); a limited liability company (e.g. Ibrahim consultancy Ltd. Or Aliyu Abdullah Plc); a Club or Association or a charity.

All commercial importers of VATable goods and services into Nigeria are also VATable. A resident of Nigeria who performs services outside Nigeria, needs to register with the Local VAT Office. Also a non-resident who has a business, trade, profession or vocation in Nigeria, still needs to register.

#### **4.6.1 GOODS AND SERVICES COVERED BY THE NIGERIAN VAT**

At the moment, there are seventeen categories of goods and twenty four categories of services that are VATable under the Nigerian VAT. The goods and services exempted are listed below. These are items which are perceived to be heavily patronized by the poor.

##### **Good Exempted:**

- a. Medical and pharmaceutical products
- b. Basic food itmes
- c. Books and educational materials
- d. Newspapers and magazines
- e. Baby products
- f. Commercial vehicles and their spare parts, and
- g. Agricultural equipments and products and veterinary medicines.

##### **Services Exempted;**

- a. Medical services
- b. Services by community banks, peoples banks and mortgage institutions; and
- c. Plays and performances conducted by educational institutions as part of learning.

The lists of taxable goods and services are contained in the VAT Decree NO. 102 of 1993. After the first.

#### **4.7 DETERMINATION FOR VALUE**

In Nigeria, the open market value of goods and services are used for VAT. VAT is imposed on the value of supply which is used is the base of the tax. The value plus the VAT is the consideration for the supply.

Open market values of goods and services are determined in two ways in Nigeria, They are as follows:

- Fixed price tag: here the price is already determined and stated on the product by tag or other means.
- Haggling: This is price bargain between the buyer and the vendor with the buyer bidding for lower and lower prices while the vendor tries to maintain the higher price. In the northern part of the country, the seller offers the highest price possible while the buyer bids for the lowest possible price. They then both move gradually to a middle price that would be acceptable to both parties.

Consideration (value plus VAT) can be wholly in money or not wholly in money. Where consideration is in money, cash must be paid for the supply.

On the other hand, consideration may be only partly in money or not in money at all. These are cases of barter credit supply or in supply in consideration for

affection or love. In each case consideration must still be denominated in monetary terms for VAT purposes.

#### **4.7.1 The Rate of VAT in Nigeria**

The Nigerian VAT carries a single rate of 5% on all taxable goods and services. The rate of VAT on import while there are goods and services exempted from the tax

#### **4.7.2 LIABILITY TO VAT IN NIGERIA**

Liability to VAT arises when the output tax received is more than the input tax paid. The net in a tax period is the amount of VAT to be remitted to the Local VAT office.

**Output Tax:** Output tax is the tax that is due on VATable supplies. It is derived by multiplying the tax value of the aggregate supply by the tax rate.

**Input Tax:** The input tax is what is charged on business purchases and expenses. These include goods and services supplied in Nigeria or imported.

**Computation of VAT:** Every VATable person is required to charge VAT on supplies. The exact amount of sales, the rate of tax applied and the VAT payable would be stated in the tax invoice. Computation of VAT payable is made at the tax remittable to the government.

#### **4.7.3. VAT Remittance**

Every VATable person is to the relevant Local VAT office the net VAT office the net VAT payable which is the excess of the output tax over the input tax

while filling the VAT return. Remittances are supposed to be made together with the VAT returns field. In other words, the draft for a month's collection is to be submitted along with the returns. The bank certified cheque/draft is to be made payable to "federal Government of Nigeria – FIRS – VAT Account". The period of payment relative to the relevant activity period is in the table below:

**ILLUSTRATION:**

VAT period and due date of filling returns and making payments.

Tax period (i.e. period of transaction) Due date of filling

<b>And making remittance</b>	<b>VAT returns</b>
1/09/04 - 30/09/04	1/10/04 – 14/10/04
1/10/04 - 31/10/04	1/11/04 - 14/11/04
1/11/04 - 30/11/04	1/12/04 - 14/22/04
1/12/04 - 31/12/04	1/01/05 - 14/01/05

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As said earlier, the rendition of returns and period for making payments have been amended administratively to one calendar month. In the table above, the due date of filling returns will terminate at the end of the month in each case.

**4.8 RENDITION OF COLLECTION RETURN BY THE NCS**

The Nigeria Customs Services is to render on a monthly basis, returns of VAT which it has collected and paid to the Central Bank of Nigeria. These returns

are to be rendered by each point of entry to the nearest Local VAT office on or before the 14<sup>th</sup> day of the month next following that for which the returns was being submitted. (This has been administratively amended to one calendar month).

In making the returns, the Nigeria Customs Service in each point of entry must include;

- The numbers of the bills of entry
- The total value on which VAT was charged;
- The VAT charged; and
- The remittances

The return required by each point of entry is to be rendered on FORM VAT 006.

#### **4.8.1 REFUND PROCEDURES IN NIGERIA**

Refund in Nigeria does not necessarily mean direct cash payment. The VAT Decree permits a taxable persons to claim refund of the excess tax, in the event of input tax exceeding output tax.

Refund is also available for input tax paid on zero-rate goods and services. The FIRS is empowered to set the guidelines of requirements for VAT refund from time to time.

#### **4.9 VAT AND GOVERNMENT AGENCIES IN NIGERIA**

All ministries, parastatals and government agencies in Nigeria are to register as VAT agents in spite of their very important roles as consumers of VATable goods and services. They are to make the necessary provision for the payment of VAT in their purchases of goods and award of contracts of services or supplies.

VAT payable by them are to be remitted directly to the FIRS at the same time the contract payment is being made rather than being paid to other non-governmental registered VAT agents. It is very important to note that when these agencies go to open market to make purchases, they have to pay VAT to the vendor. It is only when they acquire goods or services through contract that they have to pay VAT by process of self or reverse charge.

The submission of evidence of VAT registration by a contractor is a requirement for being allowed to bid for a contract with ministries, parastatals and government agencies at all levels in Nigeria. This is to enforce compliance with VAT decree. It is an administrative measure.

VAT payment by government agencies are to be made at the nearest Local VAT officers accompanied with a schedule showing the following:

- a- Name, address and VAT registration number;
- b- Name, address and VAT registration number of the contractors;
- c- The number and amount on the invoice;

- d- The nature of the contract;
- e- The month of transaction; and
- f- The VAT payable.

All contactors are to render VAT returns to the FIRS on the contracts awarded them by the government agencies along with their other contracts. Necessary adjustments are to be made for the output tax collected at source (i.e VAT not paid to them by government agencies but paid directly to government on their behalf to arrive at a net VAT payable or the refund due. The method of computing the VAT payable or refund due has been demonstrated under “withholding VAT”.

#### **4.9.1 DUAL AGENCY ROLE OF GOVERNMENT AGENCIES AND PARASTATAL**

This policy of withholding tax in Nigeria VAT imposes a dual agency role on all government agencies that award contracts. These government agencies are to act as:

- a- Agent of government for the deduction and remittance of withholding (income) tax; and
- b- Agent of government for the remittance of self-imposed VAT.

This implies that two separate cheque-one for the payment of withholding tax and the other for the payment of VAT – are to be issued and forward to the offices of the offices of the FIRS nearest to a particular agency latest by the last day of every month. It is to be emphasized that while the withholding Tax (WT) is a deduction from the contract sum before payment is made, the VAT is borne by the government agency itself. It can therefore, not be deducted from the contract sum. It is therefore not necessary for VAT to be taken into account in concluding a contract agreement in Nigeria. After all, Nigerian VAT is price exclusive! VAT is external to the contract sum and the contractor needs to be bothered with whether or not VAT has to be paid on contracts awarded to him. He is supplier of the contract service. It is the consumer of that service that bears the incidence of VAT.

Accredited officials of the FIRS go round the ministries, parastatals and other government agent is to monitor and enforce compliance. These are strictly controlled.

#### **4.10 VAT EVASION AND AVOIDANCE**

We can't discuss VAT evasion and avoidance without first understanding Tax Evasion and avoidance. Tax Avoidance is a deliberate act of the taxpayer to pay less than he ought to pay legally. According to Professor Whactcroft, Tax avoidance is an art of winning games without actually cheating, thereby beating the internal revenue in their own game. Examples include fraudulent under declaration of income and making of an incorrect returns; false statements of account representation, and refusal to pay tax, counter-aversion of provision of the Law, failure to pay outstanding Tax Liability. The same Tax avoidance is applicable to VAT. In VAT, avoidance, is concealment of vital information to ascertain a true position of one's tax liability.

It is usually deliberate with a view to paying less of the VAT outstanding. In Tax evasion which is illegal achieves the same goal as tax avoidance but have difficult methods. Illegal methods of reducing ones tax liability such as incorrect returns by omitting or underestimating one's income non-declaration of one's income and incorrect information constitute tax evasion and are punishable as specified in the Tax Laws.

In the same way, VAT evasion is the illegal methods of reducing one's VAT liability to his advantage. By this act the Tax payer is defrauding the Government and it is punishable as contained in the VAT Decree under Section 22 on conviction by a fine of N30,000=00 or two times the amount of the tax being

evaded, whichever is the greater or to an imprisonment for a term not exceeding three years.

It is worth to mention that nearly all the other offences will qualify for prosecution under this section since they amount directly or indirectly to tax evasion.

#### **4.11 Aiding and Abetting**

The VAT Decree frowns seriously at aiding and abetting the commission of offences covered by Decree especially when a Government official is involved. This is because official collusion bound to embolden prospective tax evader and even discourage honest rendition of returns. The penalty for the offence of aiding and abetting tax is N50,000=00 or imprisonment for five years. The penalty is impossible on conviction on officers of the board or any other persons proved to have committed the offence.

Where any person's conduct is found to be involved in committing the offence above, he will be deemed to have committed an offence punishable on conviction by N10,000=00 or 4 times the tax evaded or intended to be evaded, whichever is higher and/or to imprisonment for a term not exceeding 6 months.

##### **4.11.1 Corporate Offences**

When an offence under this Decree is committed by a body, corporate or firm the other association of individual, every Director, manager, Secretary of the

Body Corporate or every partner or officer of the firm or every person concerned with the management of the Affairs of the association or anyone acting in any of these capacities shall be severally guilty of that offence and shall be liable to be proceeded against as if committed the offence himself unless he is able to prove that the offence was committed without his knowledge.

#### **4.11.2 Offences And Penalties**

There are various offences with every stiff penalties under the Nigerian VAT system. Some of the offences as:

- \* Failure to register
- \* Failure to furnish required information;
- \* Making false claims;
- \* Obstructing VAT inspectors; and
- \* Failure to submit returns

The offences carry penalties ranging from fines of up to N10,000 to various terms of imprisonment. In some cases the fines or penalties depend on the amount of tax lost to government as a result of the evasion (ad-valorem). Some of these penalties are to be administratively imposed. Others cannot be imposed by administrative fiat but through conviction by a law court of competent jurisdiction.

The law is even strict in dealing with offices of the FIRS who may be involved in any form of tax offences. Any tax officer who aids or abets the

commission of any of the offences under the VAT law will be liable to a fine of N50,000 and/or imprisonment for five years. From the foregoing analysis, it is apparently clear that VAT has achieved a lot of success in the Fiscal regime of Nigeria. From a conservative Government estimate of N6B in 1994 to record actual collection of N8.2B and, N21 Billion in 1995 from a target of N12 B as well as N32.2B collection in 1996 from estimated target of N22B.

The future remain very high for the fiscal investment to thrive harder in the economic terrain of Nigeria. But to achieved this, a systematic implementation with a view to beefing-up loopholes in the Tax administration is necessary to achieved the desired objective. We are determined to succeed and we shall; according to J.K. Naiyeju one time chairman, FIRS, now the Accountant General of the Federation.

#### **4.12 PROBLEMS AND PROSPECTS OF VAT IN NIGERIA**

The effectiveness or otherwise of any tax is a reflection of the quality of the fiscal system, which is a reflection of the domestic economy development of the socio-polity. In most situations, especially in the case of the Nigerian VAT, fiscal policy revelry crates its own problems, rather, it merely mirrors or accentuates the weaknesses existing in the society. A consideration of the myriad of problems that are likely to stall VAT engineering and VAT administration in developing countries had made some economists argue that VAT is more suitable for the developed Nations, a number of such fiscal problems were encountered at the

introduction of VAT in Nigeria and indeed in countries with similar socio-political and economic development background as Nigeria.

### ***Public Resistance***

Two factors underlie public resistance on the path of VAT administration in Nigeria. The first is the prevalent lack of confidence in the capacity of Government to judiciously use fiscal resources. Secondly, is the lingering economic stagnation marked by rising inflation, growing employment and under utilization of industrial capacity. Public resistance to VAT could be measured by the level of compliance, the barrage of exemption application and outright attempts to un-down the tax. The Taxable public even those who acknowledged the need to reform the nation's tax revenue collection was scarcely eager to comply with VAT at least in the introductory years.

The year of introduction i.e 1994, 89% of media reports/opinion published about the tax were negative. In Nigeria the public resistance was arrested by allowing Journalist and Taxpayers free access to VAT reports and data that would have remain confidential. However, with grounds well and dedication, the tax was found effective even though public acceptance is not reflected in compliance to VAT Law.

## **Small Enterprises and Accounting Culture**

The Nigeria VAT does not exempt goods and services of small enterprises, but effort is first geared towards the organised sectors. The reason is that it is more difficult to pursue the taxation of informal sector where record keeping is low and illiteracy prevails among the operators. In the small enterprise. However, this does not mean that they don't deal on goods worth million of Naira, furthermore, the accounting culture required to compute VAT liability is absent in small enterprises and the informal sector, unlike the situation in the developed countries tax accounting consultancy service and rarely engaged by Nigeria Middle level organisations save for the purpose of financial auditing or occasional tax placing. This make it fairly difficult for potential VAT payers to discharge their VAT obligations. It also hampers effective computation of tax liability and make tax evasion preferable option. Yet the introduction of VAT has simulated a new interests in both corporate taxation and better invoicing and accounting culture in business management because many consumers of taxable goods and services now demand for VAT receipts or the stipulation of VAT payment on business receipt to enhance the settlement of their VAT bills.

### **Tax Refund**

Although the VAT Directorate and Decree provides for a refund where the input tax exceeds the output tax. Taxpayers and their consultants anticipated immediate cost refund, FIRS was reluctant to grant automatic cash refund in order

to avoid a reckless abuse of the system. The Tax authorities later clarified the refund process in their information circular on the subject matter early 1995.

### **Post-Statute Exemption**

The effectiveness of VAT suffered a set back by the post-statute exemption. Seekers in both public and private sectors. In the case of certain government agencies that had placed orders for foreign goods prior to the commencement of VAT, attempts were made to ensure such imports were to be taxed. At the inception of the tax some organized Private Sector exemption seekers' practically placed little or no stress on the vetting of their goods and services while lobbying for exemption listed. This post statute exemption hence poses threat to the tax base.

### **Accounting Culture**

One factor that influenced the VAT form inception is the low level of accounting in Nigeria's business. This is more pronounced in the informal sector, but fairly absent in the organized private sector. Hence, it is more difficult to bring the informal sector into the VAT Net because of non-invoicing and accounting records. However, the introduction of VAT has stimulated awareness among consumers of goods and services to demand receipt for settlement of their VAT Bills. The FIRS on its points has produced a simplified accounting. Manual for trades and other small businesses in the unorganized private sector. It is expected

that the project will improve the book-keeping and accounting culture of small enterprises and encourage their compliance with VAT Decree.

### **VAT and Multiple Taxes**

The principles and photocopy of introduction of VAT is that it is aimed at replacing the myriads of taxes on consumption levied by various states government. To achieve this lofty goals, the proceed from VAT is been shard among the 3 tiers of government on an agreed formula. This principles not only allow the VAT alive and ensure the resurgence of various taxes in various states of the federation. Unfortunately, the introduction of VAT has not put a stop on multiple taxes which is currently on upsurge in Nigeria.

### **Administrative Complexity**

The VAT system in developing countries and Nigeria in particular is that administrative complexity. The real effect of VAT administrative complexity is operational distance among tax officers and taxpayers. Attempts at limiting the problems was assisted at least initially by the limited number of LVO'S and VAT officers throughout the country. A deliberate encouragement was given to vertical and horizontal flow of tax information as well as inter-departmental communication. Above all, VAT induction requires a complex system of administration at both public and private levels to continually remind us of the need to similarly encourage taxpayers to simplify their corporate accounting

systems to enhance easy collection, assessment and remittance of VAT e.g. representatives of government agencies and parastatals were gathered in Lagos and Abuja on how to compute VAT due on contracts following the fiscal adjustments announced in 1995 Budget. The price that developing countries pay for the complex administrative nature of VAT is that they are daily assaulted by the pains of inadequate funding of overhead expenditure.

### **Scanty Infrastructural Facilities**

Taxable person that are not located within easy reach of LVOS would have to pay more to attend VAT seminars or to file tax returns each month, such situation could be equated to a kind of disincentive to tax compliance. The general insufficiency of telecommunication facilities at both ends of VAT transaction does not encourage taxpayers to want to pick-up their say telephone to call the VAT office for clarification of issues of VAT collection, assessment and remittance. The same holds for the VAT administrators who rather than easily take up the telephone to cross-check information from taxpayers have had to embark on official visit or writing letters that may take weeks to pass through an unreliable postal system. The situation contrast sharply to what obtain in U.K. where the new electronic lodgment service serves the taxpayer to send their tax returns via their personal computers (PCS) to those of the tax authorities.

### **Tax Lag:**

Tax lag is the timing defence between when VAT liability is incurred and maximum time allowed for making remittance of the next VAT due to the tax authority.

Although the allowance of the tax lag is a kind of technical or expenditure by government, the taxpayers can exploit the incentive to the disadvantage of the short-run fiscal objectives of a policy such as VAT. Essentially, withholding tax has a time lag of 30 days from the time of the transaction within which taxpayers should render his returns with VAT, the time lag was initially 14 days from month in which activity occurred but government granted 30 days later. The crux of the matter for the differential in tax lag i.e. VAT and WT or VAT, on input, it is presumed that VAT is payable on payment of import duty while VAT on non-import is effectively 30 days. The Nigeria experienced does not support the allowance of different tax lags for different segments of the tax base since such may further, complicate the accounting system of taxable persons dealing in different goods and services in both domestic and international trade, rather it justifies VAT administration on a single tax lag.

### **Literacy Level**

In Nigeria, many taxable persons are either barely educated or much uninformed of the workings of VAT in spite of all the tax propagation programme. There are many families high-time traders who, generally because of low literacy Level, have found it difficult to understand and implement VAT in their

businesses. Such taxable person have tended to be part of the fiscal rumour industry where tax information is verbally communicate often in a distorted form, with very little attempt at personally verifying the fact in the credible Media .a public commentator but the literacy nail on the head when he observed that non-compliance with VAT often result from such sectors as ignorance, discountenance, of mediated messages and growth of the informal sector which results substantially from the high level of illiteracy.

### **Motivation**

Nigeria's fiscal planners were not unmindful of the possible impacts of under-motivation of both VAT collectors and VAT payers in the administration of the tax. The reason is that no tax system, no matter the tightness of its architecture and engineering, can thoroughly shut its doors to loopholes. Administrators of VAT all over the world would find that its major perennial problem is the manipulation of tax accounting, tax preferences and tax shelters to the disadvantages of the tax revenue.

On the few occasions FIRS has had reports of attempts at understating tax revenue, it has swiftly moved to compete the taxable person to declare their real tax liability, and penalized tax collectors that might have been involved in such manipulation. The profit table implementation of the tax has encouraged incentives to Nigerian tax collectors in the form of bonus as well as taxable persons in the form of tax cuts.

## **Inflation**

Inflation generally usually subject taxpayers to rising tax burdens. VAT across the world is associated with inflation. Hence inflation either real or imaginary free consumers to shift their consumption pattern from the elastic products to inelastic and this means that inflation affect the degree of tax compliance and therefore, the whole of financial resources required to successfully collect taxes.

### **4.12.1 Respect of VAT in Nigeria**

The Nigerian VAT system with a lot of ground work cannot be likened to a plant whose life-cycle ends at death. Of course, it is expected that there would be ups and downs in the economy which VAT administration and revenues will reflect; but as long as fiscal system exist so long will VAT continue to play a major role in the conduct of business in consumer behaviour in the mobilization allocation and distribution of economic resources. Certain variables of VAT development in Nigeria such as higher compliance, elimination of competing taxes etc are already visible in the fiscal horizon.

Another dynamic prospects of VAT in Nigeria is that of continued growth in revenue. The tax was expected to realize about 6% of GNP in the first year of operation, it did not only meet the revenue target but exceeded it by an average of N175 million on monthly basis in the period 1994. In the year 1995, the tax

achieved about 175% of its budget estimate of N9 Billion excess revenue. All things being equal, the tax growth will continue and even accelerate if Nigerian economy stabilizes in the near future.

Public compliance with the tax, may be considered rather low in view of the large number of taxable activities in the economy. It is on record, that no Fiscal Programme in Nigeria ever secured the public compliance VAT has recorded in its first two years. If government continue to effectively mobilise and enlighten the tax paying public, the VAT popularity will grow in an unprecedented manner to reach its optimal point. The rate of vat may not be changed until these optimal point is attained. The government in nearest future have to open more VAT offices in each council of the states to enlighten , monitor, and collect VAT. But should be systematic, gradual and comprehensive.

At that optimal point, the States Internal Revenue Services may be delegated the function enlightenment and monitoring compliance while local government may be used to collect the VAT in such places as the market place and public arena.

## **CHAPTER FIVE**

### **SUMMARY, FINDINGS, CONCLUSION AND RECOMMENDATIONS**

#### **5.1 SUMMARY**

It is obvious that administrators of taxes in every country do not find it easy to collect taxes from taxpayers. This being the misconception the taxpayers have that the money (from their sweat) is going to non-profitable ventures. Hence the tendencies geared towards tax evasion and avoidance.

Governments attitude towards disbursement/management of the money collected as taxes from tax-payers makes some to believe that their money is not useful to them. Hence the under-statement and non-declaring of correct income. The incentive scheme and litigation approach earlier analysed shall boost the morale of the taxpayers as well as complete them to declare their true income.

With lapses here and there and tax-payers having studied the loopholes inherent in the tax law, and other litigations thereof capitalise on those loopholes and go scot-free. Hence the need to revisit the relevant sections of the tax law with a view to improve on the administrative/technical machineries of the tax – system.

#### **5.2 CONCLUSION**

In any system tendencies towards tax evasion and avoidance are inevitable. This fact is that when acknowledged by government of any country, measures should be quickly adopted to curtail the negative situation. Severe punitive measures (For Default) and incentives (For compliance) be initiated to see if there could be

any meaningful improvement over the past. Effective revenue generation through value added and other taxes education approaches be incorporated for effective dissemination of tax policies, ruling at the moment. Taxation as a way of generating huge percentage of national income should not be allowed to fail by any of the members of the system since revenue from our natural resources are being threatened by international politics and other numerous trends. If government must fulfill its obligation of providing the citizenry of this great country with basic necessities of life, there is need to improve on the revenue generation through VAT.

### **5.3 RECOMMENDATIONS**

The problems militating against efficient revenue generation through taxation have been analysed and following recommendations are proffered.

- i. Corporate affairs branch should be initiated with corporate transaction Bank where detailed records of all inter companies transactions are kept for comparison and data matching purpose. This will reduce understatement of invoice by companies (and other VATpayers).
- ii. A Decree be promulgated to prosecute and withdraw the practicing licence of any tax practitioner that aid or abet understatement of output VAT and over statement of input VAT to reduce VAT payable.
- iii. Daily enlightenment campaign through the media be initiated to acquire the VATable persons/VATpayers of their duty to tax matter.

- iv. Tax officials be given the highest remuneration and full autonomy.
- v. More professional trainings be initiated for effective assessment and collection machineries.
- vi. Government recognition should be given to the highest taxpayer of the year (in form of an award). Also, government contracts should be benefited giant taxpayers in each zone.
- vii. A giant project like Hospital and road construction should be embarked upon so that VAT payers can visibly see and notice the impact of VAT paid rather than sharing the VAT collected. Among the tiers of government whose impact is not always visible

Finally, it is the wish of the taxpayers to see that the taxes paid are judiciously expended to benefit the citizenry rather than being mismanaged by very few government officials. This in addition to the above will boost the payment machineries of Value Added Tax (VAT).

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