

## TAX COMPLIANCE AND FISCAL RESPONSIBILITY: THE RIVERS STATE GOVERNMENT EXPERIENCE

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### ABSTRACT

A high level of tax compliance cannot be dissociated from fiscal responsibility. The National Tax Policy acknowledges the absence of a taxpaying culture in Nigeria and has given tax authorities comprehensive powers to enable them function and promote tax compliance. In spite of these efforts, tax evasion amongst the self-employed persists. In Rivers State there is still great reluctance on the part of citizens to part with the requisite portion of their incomes for tax purposes. Against this background, this paper examines the legal framework for taxation of personal income and fiscal responsibility in Rivers state. This paper argues the thesis that a proper enforcement of the Rivers State Fiscal Responsibility Law will promote voluntary tax compliance. It further argues that the responsibility for enforcing the Fiscal Responsibility Law lies with the civil society. The paper seeks to, more particularly; locate the source of the apathy amongst taxpayers. Focus will be on working persons who do not have their taxes deducted at source.

**KEYWORDS:** Tax Compliance and Fiscal Responsibility

### 1.0 INTRODUCTION

Governments are financed through revenue derived from taxes. Taxation is devices employed by governments to raise funds that will enable them meet their obligations towards their populace. It is defined basically as the process of collecting taxes within a particular location.<sup>1</sup> Tax, on the other hand, is ‘a compulsory levy imposed on a subject or upon his property by the government having authority over him or the property.’<sup>2</sup> It may also be said to be ‘a universally accepted contrivance for financing government services whether in peace or war, depression or prosperity.’<sup>3</sup> It is worthy of note that a tax ‘is not a voluntary payment or donation, but an enforced and compulsory payment or donation, exacted pursuant to legislative authority.’<sup>4</sup> The New Lexicon Webster Dictionary of the English Language<sup>5</sup> defines taxation as a ‘the system by which taxes are imposed’, while defining tax as ‘a charge on a person’s income or property, (*direct tax*) or on the price of goods sold (*indirect tax*) made by government to collect revenue.’ Taxation is, in effect, a means by which persons are obliged to contribute financially towards public finance.

The objectives of taxation include the following;

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<sup>1</sup> National Tax Policy

<sup>2</sup> ‘The Government, The Constitution and the Taxpayer’ in M A Ajomo, O Akanle (eds) *Tax Laws and Tax Administration in Nigeria* (Lagos: NIALS, 1991) p1.

<sup>3</sup> A. Sanni *Revenue Law* p3 [www.citn.org/others/Revenue\\_Law.pdf](http://www.citn.org/others/Revenue_Law.pdf) accessed Dec 21, 2011

<sup>4</sup> National Tax Policy

<sup>5</sup> (1998 ed) 1987 Lexicon Publications Inc, New York, p1014

- *Raising money for public purpose:* Revenue Generation is viewed as the primary and most important role of taxation. In the Nigerian context, the Federal Inland Revenue Service (F.I.R.S) which is the umbrella body charged with the responsibility, amongst others, to assess, collect and account for revenue accruable to the Government of the federation,<sup>6</sup> has the responsibility of controlling and administering the different taxes and laws specified in the First Schedule of the Act.<sup>7</sup> Towards boosting public finance, the Taxes and Levies (Approved List for Collection) Act<sup>8</sup>, which is administered by the F.I.R.S(Est) Act, Outlined the taxes to be collected by each tier of government in part I, part II and part III of the schedule to the Act. Furthermore, the Value Added Tax Act prescribes revenue distribution to the three tiers of government for the effective administration of government as follows;
- 15% to the Federal Government
- 50% to the State Governments and the Federal Capital Territory, Abuja; and
- 35% to the Local Governments.<sup>9</sup>

All these are part of government's effort to raise money for the public and to effectively administer taxes.

- *A tool for redistribution of income and wealth:* Taxes may be used to transfer wealth from one section of the society to another;
- *Management of the economy:*<sup>10</sup> That is to say taxes can be designed in such a way as to bring direct private investment in line with national needs and priorities. For instance through the use of, *inter alia*, tax incentives to attract industries to remote areas of the country.
- *Regulation or deterrence of particular:* Taxes could be used to discourage activities of citizens which are thought to be undesirable on social grounds such as drinking alcohol, smoking or betting.<sup>11</sup>

Although the Nigerian economy is greatly dependent on revenue generated from petroleum, as a result of which, little or no attention had been given to revenue from other sources such as taxation.<sup>12</sup> Taxation has however, been identified by government as an alternative to oil revenue and a more reliable source of revenue because it is constant and available.<sup>13</sup> This is unlike petroleum reserves which are exhaustible.<sup>14</sup>

<sup>6</sup> Long title, Federal Inland Revenue Service (Establishment) Act Cap 13, 2007

<sup>7</sup> Section 2 and 1<sup>st</sup> schedule of the F.I.R.S (Est) Act.

<sup>8</sup> No. 2, 1998

<sup>9</sup> Section 40 VAT Act

<sup>10</sup> IA Ayua *The Nigerian Tax Law* (Spectrum Law Publishing, Ibadan, Nigeria, 1996)pp5&6

<sup>11</sup> *Ibid*, p6

<sup>12</sup> National Tax Policy

<sup>13</sup> National Tax Policy, pp9&10 [www.citn.org](http://www.citn.org) accessed on 21 May 2013

<sup>14</sup> See A Ogbu, C Osagie, S Balogun 'Jonathan; Nigeria's Oil Reserve May Dry Up in 35 Years' <http://www.thisdaylive.com/articles/jonathan-nigerias-oil-reserve-may-dry-up-in-35-years/105510/> accessed 15<sup>th</sup> June, 2013; Y Adeoye 'Nigeria's Crude Oil to Dry Up in 37 Years, except...' <http://www.vanguardngr.com/2011/11/nigeria%E2%80%99s-crude-oil-to-dry-up-in-37-years-except%E2%80%A6/> accessed 15<sup>th</sup> June, 2013. It is now a notorious fact that there is presently a persistent decline in the prices of crude in the international market. See <http://www.bbc.com/news/business-29643612>. Accessed 9th February, 2016

## 1.1 Imposition of Taxes

In Nigeria, there are 3 major bases for the imposition of tax. These are Income, Capital and consumption.<sup>15</sup> Examples of taxes on income are the personal income tax provided for by the Personal Income Tax (Amendment) Act, 2011, the discontinued social welfare levy provided for by the Rivers State Social Contributory Levy Law, 2010, and the company income tax provided by the Company Income Tax Act<sup>16</sup>. An example of a tax on capital in Nigeria is the capital gains tax provided for by the Capital Gains Tax Act.<sup>17</sup> Taxes on consumption include the Value Added Tax (VAT) provided for by the Value Added Tax Act<sup>18</sup> and the various sales taxes imposed by some state governments.<sup>19</sup> Some of these sales tax laws have, however, been held to be wholly unconstitutional<sup>20</sup> while only certain provisions in some others have been declared unconstitutional.<sup>21</sup> Deviating from the above classification, the National Tax Policy identifies 4 bases for the imposition of tax in Nigeria; individuals, corporate entities, transactions and assets. Example of taxes imposed on individuals are personal income tax and development levies. Taxes imposed on corporate entities include Companies income tax, petroleum profits tax, education tax and technology levy. Taxes imposed on transactions include value added tax, capital gains tax, stamp duty, excise duty, import duty and export duty. Finally, an example of a tax imposed on assets is property tax.<sup>22</sup>

## 1.2 Challenges

The administration of tax is fraught with challenges. The path of the tax collector made difficult with issues of tax evasion and tax avoidance. While tax avoidance is not an offence, Tax evasion is an offence.<sup>23</sup>

Tax Evasion involves avoiding or reducing taxes by adopting a method not permitted by law. Such evasion usually involves direct subterfuge, camouflage, concealment or an attempt to color or obscure events. Tax avoidance, on the other hand, is ‘Tax deduction through methods permitted by law such as the deferral of income into the following years’. It is a method by which ‘a taxpayer legally reduces his or her tax liability..... By investing in a tax shelter’<sup>24</sup>

The major problem of tax administration in Nigeria has been identified as lying with ‘the collection of the taxes especially from the self-employed such as the business men, contractors, professional practitioners like lawyers, doctors, accountants, architects, surveyors and traders in shops among others.’<sup>25</sup> This class of persons evades tax for reasons

<sup>15</sup> IA Ayua, *ibid* 13; JA Ariwodola *Personal Taxation in Nigeria: including Capital Gains Tax* 5<sup>th</sup> ed (2008, JAA Nigeria Limited, Lagos) 239, 287; GSA Wheatcroft ‘What is Taxable Income?’ B.T.R, P310 in IA Ayua, *Ibid*, p13

<sup>16</sup> Cap C21, Laws of the Federation of Nigeria, 2004

<sup>17</sup> Cap C1 LFN, 2004.

<sup>18</sup> CAP V1, Laws of the Federation of Nigeria, 2004

<sup>19</sup> Sales Tax Law, Cap 175 and Sales Tax Schedule (Amendment) Order 2000 of Lagos State, The Hotel Occupancy and Restaurant Consumption Law of Lagos State, 2009, Enugu State House of Assembly Hotel Sales Tax Law, 2010 and the Sales Tax Law of Ogun State, 1982

<sup>20</sup> *Princel Court Limited v. Attorney General of Lagos State & 2Ors* (2010) 3TLRN.30 at 59-60

<sup>21</sup> *Mama Cass & 2Ors v. Federal Board of Internal Revenue & Anor* (2010) 2TLRN.99 at 126-127; *Attorney General of Ogun State v. Aberuagba* (2009) 1TLRN 82 at 112,127

<sup>22</sup> National Tax Policy, pp6&7

<sup>23</sup> S. 26 VAT Act

<sup>24</sup> Larry Crumbly ‘Tax Dictionary’ in B.B OCHEI, *the Nigerian Taxman’s book* (2008, Pyramid Unit Publishers, Lagos) 177

<sup>25</sup> IA Ayua, *ibid* p265; V Thuronyi, ‘Presumptive Taxation’ *Tax Law Design and Drafting* (volume 1; International Monetary Fund: 1996; Victor Thuronyi, Ed.)p6; unstructured interview with the Acting Director, Personal Income Tax, Rivers State Board of Internal Revenue, 3<sup>rd</sup> June, 2013

ranging from sheer dishonesty to inadequate tax education.<sup>26</sup> It was once observed that ‘The degree of voluntary compliance with tax laws in this country is as low as the degree of honesty in financial matters.’<sup>27</sup> This observation made as far back as 1991 still stands true today, albeit unfortunately. In Nigeria, taxpayers in the informal sector and professionals are still rather unconcerned with maintaining accurate reporting standards or even making attempts at deciphering complex tax codes. This has resulted in non-compliance and evasion, requiring additional resources and efforts from the tax administrator to enforce compliance.<sup>28</sup> It has been further observed that a good number of employed persons are also employers. However at the end of an assessment year these persons only pay taxes as employees, failing to deduct and remit taxes from their own employees, thus, depriving the government of its legitimate earnings. B.B Ochei<sup>29</sup> gives a perfect example of this scenario;

An established legal practitioner, in year 1999 was employed as a part time lecturer in the law school. He has his chambers at Commercial Avenue to which is attached a small private school where he conducts evening classes for law students, some of whom are the same students he lectured at the law school.

He owns a storey building at the GRA Ikeja from which he receives some rent. He also has shares in a company from which he receives dividends and a fixed deposit account from which he receives interest.

He has a big library, and a well set-up office with computer, some staff, two cars and some practicing accessories. Going by Section 3 of Personal Income Tax (PIT) he ought to pay tax not only as a lecturer but on other incomes earned.

Section 3 PIT provides that

...tax shall be payable for each year of assessment on the aggregate amounts each of which is the income of every taxable person, for the year, from a source inside or outside Nigeria, including, without restricting the generality of the foregoing-

- Gain or profit from any trade, business, profession or vocation, for whatever period of time such trade, business, profession or vocation may have been carried on or exercised:
- Any salary, wage fee, allowance or other gain or profit from employment including compensations, bonuses, premiums, benefits or other perquisites allowed, given or granted by any person to any temporary or permanent employee other than so much of any sums as or expenses incurred by him in the performance of his duties, and from which it is not intended that the employee should make any profit or gain; ....

Tax compliance is inextricably linked to fiscal responsibility. Fiscal responsibility in governance promotes voluntary tax compliance. It is generally presumed that the responsibility to enforce fiscal responsibility lies primarily with the government. This study however, argues that the responsibility to promote fiscal responsibility lies with the taxpayers. The study focuses largely on examining the legal framework for fiscal responsibility in Rivers State, focusing particularly on the extent to which the laws that guarantee fiscal responsibility in the state have been implemented. The study also seeks to identify what impact fiscal responsibility or the absence of it has on tax compliance.

<sup>26</sup> Some female traders erroneously believe that women are not to pay tax. Unstructured interview with the Acting Director, Personal Income Tax, Rivers State Board of Internal Revenue, 3<sup>rd</sup> June, 2013.

<sup>27</sup> O Oladunjoye, ‘Tax Administration: the Problems of Assessment and Collection’ in M A Ajomo, O Akanle, (eds) *Tax Law and Tax Administration in Nigeria* ibid p96

<sup>28</sup> *Ibid.*

<sup>29</sup> BB Ochei, *The Nigerian Taxman’s book*, *Ibid*, 157.

To prevent tax evasion, the general principle is that each tax payer's tax is properly assessed and properly paid.<sup>30</sup> Where a taxpayer's liability is assessed at a sum that he cannot conveniently pay, the tax administrators are bound to face a herculean task collecting the assessed tax from such a tax payer. As a result of the difficulty faced by tax administrators in ascertaining the global income of the above mentioned category of persons, resort is had to estimated assessments of tax,<sup>31</sup> which are sometimes unrealistic.

The presumptive tax approach is generally viewed as effective in curbing tax evasion and ensuring equality in taxation.<sup>32</sup> In Nigeria, presently, Presumptive taxation is statutorily rooted in section 6 of the Personal Income Tax (Amendment) Act, 2011, which introduced a new subsection (6) to section 36 of the preceding act, to wit;

Notwithstanding any of the provisions of this Act, where for all practical purposes the income of the taxpayer cannot be ascertained or records are not kept in such manner as would enable proper assessment of income, then such manner a taxpayer shall be assessed on such terms and conditions as would be prescribed by the Ministry of Finance in regulations by order of gazette under a presumptive tax regime.'

Driving at the core essence of presumptive taxation, it has been stated that, 'presumptive taxation is targeted at increasing revenue collection using the simplest means possible.'<sup>33</sup>

Towards achieving the objectives of this work, the paper is divided into four Parts. Part One introduces the subject matter of discourse. Part Two is devoted to an examination of the concept of fiscal responsibility, Fiscal Responsibility Act and the legal framework for fiscal responsibility in Rivers State with a view towards highlighting and discussing its strengths and weaknesses, if any. Furthermore, this part examines the effectiveness of the implementation of the laws forming the legal framework for fiscal responsibility in Rivers State. Part Three discusses challenges faced in the enforcement of fiscal responsibility. In discussing the challenges, this Part further examines the interconnectivity between fiscal responsibility and taxation. Part Four identifies stakeholders in taxation and discusses the roles of these stakeholders while, Part Five contains the conclusion to the paper.

## 2.0 FISCAL RESPONSIBILITY

The word 'fiscal' relates to financial matters, public finance or taxation.<sup>34</sup> Fiscal responsibility has been defined as 'wisely managing resources, preparing for the future and avoiding debt' which 'entails the prudent and wise management of public funds and resources'.<sup>35</sup> Fiscal responsibility is therefore a term that denotes accountability and transparency in the management of public finance. This term can thus, not be effectively discussed without addressing the twin issues of public accountability and transparency. These can rightly be said to be the pillars of fiscal responsibility. It is

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<sup>30</sup> I A Ayua, *ibid* p266

<sup>31</sup> O Oladunjoye 'Tax Administration: The Problems of Assessment and Collection' in M A Ajomo and O. Akanle (eds) *ibid*, p97.

<sup>32</sup> A Embuka 'Taxing the Assumed Income: The Presumptive Tax Phenomenon' *The Nation* <http://thenationonlineng.net/new/taxation-2/taxing-the-assumed-incomethe-presumptive-tax-phenomenon/> accessed 12 June, 2013.

<sup>33</sup> 'Presumptive methods can be rebuttable or irrefutable. Rebuttable methods include administrative approaches to reconstructing the taxpayer's income, and may or may not be specifically described in the statute. If the taxpayer disagrees with the result reached, the taxpayer can appeal by proving that his or her actual income, calculated under the normal tax accounting rules, was less than that calculated under the presumptive method.' E Embuka, *ibid*.

<sup>34</sup> *Ibid*

<sup>35</sup> O Olutuyi, 'Fiscal Responsibility Act: What Good' <http://nigeriaworld.com/articles/2008/feb/261.html> accessed 26th October, 2013.

widely accepted that ‘the level of development in any given society is directly related and proportional to the level of accountability and transparency of its fiscal governance.’<sup>36</sup>

One of the objectives of the Nigerian Tax System is ‘to contribute to the well being of all Nigerians and taxes which are collected by government should directly impact on the lives of the citizens.’<sup>37</sup> This is to be accomplished ‘through proper and judicious utilization of the revenues collected by government.’<sup>38</sup> There is therefore a responsibility on the part of those charged with the management of public finance to account for the ways in which public finance is administered.

This responsibility can be viewed through the prism of the social contract theory. Government has an obligation to collect taxes in a transparent manner and also account for the use to which taxes are put. Fiscal responsibility is thus an important component of the social contract between government and taxpayers.<sup>39</sup> The managers of public funds are to be regarded as trustees of the public funds which they administer, while the beneficiaries are the citizenry whom the public fund managers are accountable to.<sup>40</sup> The need for fiscal responsibility is therefore premised on the view that managers of public funds are to utilize the funds for the general good of the populace.

At all tiers of government fiscal irresponsibility translates to corruption. A taxpaying population is wont to demand for accountability as taxpayers would want to know how their monies are administered and in addition have a say as to how their monies should be spent. Against the backdrop of prevalent and open practice of corruption the Federal Government enacted the Fiscal Responsibility Act, 2007 (hereinafter referred to simply as the Act) to ‘provide for prudent management of the nation’s resources, ensure long-term micro-economic stability of the National economy, secure greater accountability and transparency in fiscal operations within a medium term fiscal policy framework and the establishment of the Fiscal Responsibility Commission to ensure the promotion and enforcement of the nation’s economic objectives; and for related matters.’<sup>41</sup> Prior to the passage of the Act there was no culture of saving at the various tiers of government in the country engaged in unsustainable borrowing?<sup>42</sup> Furthermore, transparency in governance was almost absent as there was restricted or no access to fiscal information.<sup>43</sup> The above issues were replicated at the state government level. There was, therefore, need for state governments to enact their fiscal responsibility laws.

The observation that mismanagement of public funds is rife at all levels of government in Nigeria<sup>44</sup> is one that cannot reasonably be subjected to argument. Fiscal irresponsibility in Nigeria has become an almost notorious fact. It has been pointed out that the accountability system in Nigeria is ‘weaker than those found in most federations.’<sup>45</sup> Annually, in Nigeria, huge sums of money are appropriated for several purposes. These sums are sometimes not used to address the

<sup>36</sup> E Onyekpere, (Lead Director, Center for Social Justice) ‘Overview of the FRA, 2007’, P4

<sup>37</sup> National Tax Policy, *ibid*, p14

<sup>38</sup> *ibid*

<sup>39</sup> National Tax Policy p.55

<sup>40</sup> A. Sanni *ibid*, p1; National Tax Policy, p63

<sup>41</sup> Long Title of the Fiscal Responsibility Act, 2007

<sup>42</sup> E Onyekpere, *ibid* p12

<sup>43</sup> *Ibid* p15

<sup>44</sup> V Ushie ‘Implementing the Fiscal Responsibility Act at the State Level in Nigeria’

CSEA Working Paper WPS/10/002, October, 2010, pp3-4

<sup>45</sup> G Anderson, (President, Forum of Federations) ‘Nigerian Fiscal Federalism Seen From a Comparative Perspective’ Notes for Address to Governors’ Forum Abuja, Nigeria, 28th October, 2007 at [www.forumfed.org>Home>Federalism>Forumpresidentonfederalism](http://www.forumfed.org>Home>Federalism>Forumpresidentonfederalism) accessed 5<sup>th</sup> March, 2013.

issues for which they have been appropriated.<sup>46</sup> In a similar vein, the Nigeria Appropriation Act is usually riddled with ‘wasteful expenditure that contributes little or nothing to the public welfare.’<sup>47</sup> As a result of the unbridled mismanagement of public funds which characterized the Nigerian public service, the need arose for the enactment of a legislation aimed at enforcing fiscal responsibility. It should be noted that Fiscal Responsibility Acts (FRAs) are now widely used by countries to entrench fiscal prudence and macroeconomic stability.<sup>48</sup>

The point must be made that tax laws do not by themselves guarantee tax compliance. Except periodical reports are rendered to taxpayers on the use to which public funds are put, tax compliance amongst the self-employed will remain low.

As at 2010, 20 states in Nigeria had passed their Fiscal Responsibility Laws.<sup>49</sup> Rivers State is one of such states. The Fiscal Responsibility Law of Rivers State was enacted in 2010.<sup>50</sup> The choice of the Fiscal Responsibility Law of Rivers State for this study is not one done in error, in the light of the revelation that Rivers State is the second largest sub-national economy and Nigeria’s leading producer of oil and gas which is the main stay of the nation’s economy.<sup>51</sup>

## 2.1 Legal Framework for Fiscal Responsibility in Rivers State

The legal framework for fiscal responsibility in Rivers State consists basically of the Rivers State Fiscal Responsibility Law,<sup>52</sup> the Rivers State Public Procurement Law,<sup>53</sup> and the Freedom of Information Act 2011. These laws together can be effective in addressing the fears of the taxpaying public who desire to know how much revenue was raised from taxation and to what use such monies have been put.

***Rivers State Fiscal Responsibility Law:*** Three years after the enactment of the Fiscal Responsibility Act, 2007, the Rivers State government passed its Fiscal Responsibility Law.<sup>54</sup> The Law is to provide prudent management of the State’s resources, Ensure Long Term Macro-Economic stability of the economy of the State, secure greater accountability and transparency in fiscal operations within a Medium Term Fiscal Policy Framework, and the establishment of the Fiscal Responsibility Commission to ensure the promotion and enforcement of the state’s Economic objectives and for related matters.

Section 1(1) of the Law establishes the Fiscal Responsibility Commission to, amongst other things, monitor and enforce the provisions of the Law. Although S.2 (2) of the Law provides that the Commission shall be independent in the performance of its functions, S.6 (1) provides that the emoluments of the Chairman, Commissioner and other members of the commission are to be determined by the Governor. This provision withholds financial autonomy from the Commission thereby detracting from the independence given the body in S.1 of the Law. However, S.7 (1)(d) protects an aspect of the

<sup>46</sup> A Sanni, *ibid*, p2

<sup>47</sup> E Onyekpere, V Abel ‘Recommendations on the Line Items of the 2013 Federal Budget Estimates’ (2012, Citizens Wealth Platform)vi; see also

<sup>48</sup> V Ushie, *ibid*, p7

<sup>49</sup> V Ushie, *ibid*, p26

<sup>50</sup> Law No.8 of 2010

<sup>51</sup> ‘2013 Budget Speech by His Excellency, the Governor of Rivers State, Rt Hon Rotimi Chibuike Amaechi Presented To the Rivers State House of Assembly on the 24<sup>th</sup> December, 2012.’ Available at <http://www.riversstate.gov.ng/item/946-2013-budget-speech-by-his-excellency-the-governor-of-rivers-state-rt-hon-rotimi-chibuike-amaechi-presented-to-the-state-house-of-assembly-on-24th-december-2012.html> accessed on 5th March, 2013.

<sup>52</sup> No. 8 of 2010

<sup>53</sup> No. 4 of 2008

<sup>54</sup> Law No.8 of 2010

independence of the Commission by ensuring that members of the Commission are not arbitrarily removed by the Governor. Where the Governor seeks to remove a member of the commission from office, the motion seeking the removal of such a member must be supported by two-thirds majority of members present and voting. It is unclear whether 'members' referred to in this provision are the members of the State House of Assembly or the members of the Fiscal Responsibility Commission.

S.10 (1) of the Law provides that the State Government shall, after consultation with the Local Government Councils, prepare a Medium Term Expenditure Framework(MTEF). The MTEF is to cover a period of three financial years and is to be prepared not later than six months from the commencement of the Rivers State Fiscal Responsibility Law. Towards the end of the three year period covered by a MTEF, not later than four months before the commencement of the next financial year another MTEF is to be prepared to cover the next three financial years. The MTEF enables the government plan in advance as to what use resources will be put, promotes transparency and accountability, and also promotes fiscal discipline.<sup>55</sup> In the spirit of fiscal responsibility, S.14 stipulates that the MTEF shall be published in the state official gazette.

To guide against misappropriation of public funds, S.26 provides that the sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Law. In a bid to promote transparency, S.28 (2) gives the Commissioner for Budget and Economic Planning discretion as to whether or not to publish his report on the Implementation of the Annual Budget of the state. The failure of the draftsman to make this provision mandatory may render it ineffective.

Towards strengthening the framework for transparency S.43 provides that,

- The State Government shall ensure that its fiscal and financial affairs are conducted in a transparent manner and ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and their implications for its finances.
- The House of Assembly shall ensure transparency during the preparation and discussion of the Medium Term Expenditure Framework, Annual Budget and the Appropriation Bill.

In the same vein, S.44(1) mandates the state government to publish their audited accounts not later than six months following the end of the financial year in the state official gazette, newspapers of national and local circulation or the website of the Ministry of Finance. S.44(2) further mandates the state government to not later than two years after the commencement of the Law and subsequently, not later than seven months after the end of each financial year, consolidate and publish in the mass media its audited accounts for the previous year. S. 44(1) makes publication in the website of the state Ministry of Finance optional. Publication on the said website should be made mandatory as in this age the website would be most easily accessible to a large segment of the citizenry.

In the implementation of the Fiscal Responsibility Law of Rivers State, there is no evidence that the Rivers State Fiscal Responsibility Commission, the body charged with overseeing the implementation of the Law,<sup>56</sup> has been established.

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<sup>55</sup> PN Makau, 'Using MTEF as a Tool for Improved Fiscal Management' Ministry of Finance Kenya *cabri-sbo.org/session%202\_kenya.ppt* accessed 17<sup>th</sup> June, 2013.

<sup>56</sup> S.1 Rivers State Fiscal Responsibility Law, 2010.

**Rivers State Public Procurement Law:** Fiscal irresponsibility cannot be effectively addressed without addressing the modalities for public procurement. To this end the Rivers State Public Procurement Law No. 4 of 2008 was enacted. One of the fundamental principles of the Law is that public procurements should be conducted in a manner which is transparent, timely and equitable for ensuring accountability and conformity with the Procurement Law and Regulations made pursuant to the said Law.<sup>57</sup> S.34 of the Rivers State Fiscal Responsibility Law provides that all contracts with regards to the execution of annual budget shall comply with the provisions of the Public Procurement Law. S.35 of the Rivers State FRL further provides that ‘any person who contravenes the provisions of S.34 commits an offence and shall be punished in accordance with the provisions of the Public Procurement Law No. 4 of 2008.’ S.55(1) of the Rivers State Public Procurement Law stipulates a penalty of imprisonment for a term of 2years or an option of fine of N200,000 or both for any person who contravenes a provision of the Procurement Law. It follows that this penalty will also apply to a person who contravenes the provisions of S.34 of the Rivers State Fiscal Responsibility Law. The Rivers State Public Procurement Law (hereinafter referred to as ‘the Procurement Law’) establishes the Rivers State Bureau of Public Procurement as the regulatory authority responsible for the monitoring and oversight of public procurement.<sup>58</sup> It is the responsibility of the Bureau to publicize and explain the provisions of the Law,<sup>59</sup> publish the details of major contracts in the procurement journal,<sup>60</sup> publish paper and electronic editions of the procurement journal and maintain an archival system for the procurement journal.<sup>61</sup> The Bureau is also to establish a single internet portal that shall serve as a primary and definitive source of all information on government procurement, containing and displaying all public sector procurement information at all times.<sup>62</sup> A simple search on the internet reveals that this provision is yet to be complied with. The provision does not however absolve a procuring entity of her duty of accountability and ensuring that the provisions of the Rivers State Public Procurement Law and the Regulations laid down by the Bureau are complied with.<sup>63</sup> This seems to suggest that a procuring entity cannot use the failure of the Bureau to comply with the provisions of S.3 (q) as a defense for non compliance with the Rivers State Public Procurement Law and Regulations of the Bureau.

The Bureau also has a responsibility to de-list a supplier, contractor or service provider that contravenes the Public Procurement Law or Regulations made pursuant to the Procurement Law,<sup>64</sup> maintain a list of delisted firms and publish same in the Procurement Journal<sup>65</sup> A person who feels that the provisions of the Procurement Law have not been complied with by the Bureau can bring an action against the Bureau.<sup>66</sup>

**Freedom of Information Act:** Transparency is the underlying principle of this Act. The passage of the Freedom of Information Act in 2011, after prolonged lobbying and debate, was greeted with much applause by the civil society in Nigeria. It has been argued that this Act does not apply to states. Based on this opinion states such as Ekiti state have

<sup>57</sup> S.14(d) Rivers State Public Procurement Law No. 4 of 2008.

<sup>58</sup> Long Title Rivers State Public Procurement Law, 2008

<sup>59</sup> S. 3(b) *Ibid*

<sup>60</sup> S.3 (e) *ibid*

<sup>61</sup> S. 3(f) *ibid*

<sup>62</sup> S. 3(q) *Ibid*

<sup>63</sup> S. 14(20) *Ibid*

<sup>64</sup> S. 4(C) *Ibid*.

<sup>65</sup> S. 4(d) *Ibid*.

<sup>66</sup> S. 12 Rivers State Public Procurement Law No.4 of 2008

enacted their own Freedom of Information Law.<sup>67</sup> This position is however, misconceived as a combined reading of paragraphs 4 and 5 of the Concurrent Legislative List<sup>68</sup> reveal that the right of state Houses of Assembly to make laws on archives and public records of the state government is subject to the right of the National Assembly to enact laws for the federation or any part thereof with respect to archives and public records of the federation. Thus where, as in the case of the Freedom of Information Act, 2011, the National Assembly has passed a Law on an item on which it shares legislative competence with the state Houses of Assembly, the latter need not proceed to legislate on the same issue. Where they choose to so do, the law passed must be consistent with that of the National Assembly. Where it is inconsistent the law passed by the National Assembly shall prevail and the state law shall be void to the extent of its inconsistency with the federal law.<sup>69</sup>

The Freedom of Information Act makes public records and information more freely available, provides for public access to public records and information, protect public records and information to the extent consistent with the public interest and the protection of personal privacy, protect serving public officers from adverse consequences for disclosing certain kinds of official information without authorization and establish procedures for the achievement of those purposes.<sup>70</sup> The Act establishes a person's right of access to public records<sup>71</sup> without the need to establish locus.<sup>72</sup> It does appear that in Rivers State, there is more awareness of this Act than there is of the Fiscal Responsibility Law.<sup>73</sup> The provisions of this Act aid the effective implementation of the Fiscal Responsibility Act and Public Procurement Act.

With the passage of the Rivers State Social Welfare Contributory Levy, 2010<sup>74</sup> and its subsequent implementation in 2012, the hitherto quiet demands for public accountability have gotten louder. This is not unrelated to the perception of inhabitants of the state that they are being overtaxed and that the state and local governments have failed to render account as to how revenue generated from tax is utilized. It is evidently as a result of one or both of these perceptions that *Obidinma & anor v. The Chairman, Obio/Akpor Local Government Council & anor*<sup>75</sup> was instituted. In this Suit the Claimants sought, amongst other things, to know whether the Defendants are not bound to render account and give information on its activities including the receipt and expenditure of monies for public goods. The Suit was instituted following the failure of the Obio/Akpor Local Government Council in Rivers State to supply the Claimants with the following information;

- The certified Council budget from 2009-2012
- The spreadsheet of projects undertaken in the Local Government Council since the inception of the 1<sup>st</sup> defendant administration. Itemizing particular projects, their cost, contractor and location.
- Projects undertaken in each of the 17 wards in the Local Government Council since the inception of the 1<sup>st</sup>

<sup>67</sup> The emergence of Nigeria's Freedom of Information Act 2011, [www.internationallawoffice.com/newsletters/detail.aspx?g=e066adf0-c3f0-496d-b823-30494f0432ff](http://www.internationallawoffice.com/newsletters/detail.aspx?g=e066adf0-c3f0-496d-b823-30494f0432ff) Accessed 18<sup>th</sup> June, 2013.

<sup>68</sup> Part II Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>69</sup> S. 4(5) CFRN 1999 (As Amended)

<sup>70</sup> Explanatory Memorandum, Freedom of Information Act, 2011.

<sup>71</sup> S. 1(1) Freedom of Information Act, 2011.

<sup>72</sup> S1 (2) Freedom of Information Act, 2011

<sup>73</sup> See pp 36 and 37

<sup>74</sup> This Law has however been declared unconstitutional by the High Court of Rivers State in Suit No.PHC/2447/2010 *Institute of Human Rights and Humanitarian Law vs. AG Rivers State &2ors*

<sup>75</sup> Suit No. PHC/257/2012 unreported

Defendant administration.

- Full, cogent and verifiable particulars on projects undertaken in Ward 1, Obio/Akpor Local Government Area.
- Total amount of revenue received from the Federation Account, State Joint Account, and internally generated revenue and detailed statement of expenditure.

The suit which was brought pursuant to the Freedom of Information Act, 2011 was on the 6<sup>th</sup> day of June, 2013, struck out on technical grounds.

*Felix Amadi v. Obio/Akpor Local Government Council*<sup>76</sup> was also filed to demand accountability. The Claimant in this Suit, an indigene of the Defendant, brought the Suit, which is still pending, pursuant to Section 21 of the Freedom of Information Act, 2011 seeking the following, amongst others;

- an order compelling the Obio Akpor local government council to release the required record and information requested by the claimant as regards to the detected particular and financial statements of income, approved estimate expenditure and Bank statements of the council since inception of the present regime of Hon. Prince Timothy Nsirim, the executive chairman.
- Fine of N500, 000 for wrongful denial of access to information.<sup>77</sup>

### 3.0 FISCAL RESPONSIBILITY AND TAXATION

With the drafting of what can rightly be said to be a well thought out National Tax Policy, Nigeria can no longer be said to lack a coherent policy on taxation. The first objective of the Nigerian Tax system is to promote fiscal responsibility and accountability.<sup>78</sup> The State Policy on Taxation which is an appendix to the National Tax Policy provides that ‘the State shall direct its policy towards ensuring fiscal responsibility and accountability to Nigerians.’<sup>79</sup> Furthermore, the National Tax Policy acknowledges that ‘the manner of utilization of revenues collected impacts directly on the ease with which such revenues are collected.’<sup>80</sup> It is thus, recognized that a tax system that does not entrench fiscal responsibility is failure bound.

At the sub national level, the state governments are expected to frame state tax policies that complement the National Tax Policy.<sup>81</sup> The executive arm of government is to encourage voluntary compliance by tax payers by ensuring that revenues collected from tax are put to good use.<sup>82</sup> The need for fiscal responsibility as it relates to the handling of revenues generated from taxation is a recurring theme in the National Tax Policy.<sup>83</sup>

<sup>76</sup> Suit No. PHC/1692/12 [http://rsjudiciary.com.ng/caseAssignments.php?pageNum\\_rsCases=43&totalRows\\_rsCases=3011](http://rsjudiciary.com.ng/caseAssignments.php?pageNum_rsCases=43&totalRows_rsCases=3011) Accessed 17<sup>th</sup> June, 2013

<sup>77</sup> Niger Delta Citizens and Budget Platform ‘Court to Hear Application to Inspect Obio/Akpor Finances’ [http://www.citizensbudget.org/index.php?option=com\\_content&view=article&id=166:court-to-hear-application-to-inspect-obio-akpors-finances](http://www.citizensbudget.org/index.php?option=com_content&view=article&id=166:court-to-hear-application-to-inspect-obio-akpors-finances) culled from <http://www.thetidenewsonline.com>. Accessed 17<sup>th</sup> June, 2013

<sup>78</sup> National Tax Policy, *ibid*, p14

<sup>79</sup> National Tax Policy, *ibid*, p80

<sup>80</sup> *Ibid*, p9

<sup>81</sup> *Ibid*, p21

<sup>82</sup> *Ibid* p22

<sup>83</sup> *Ibid*, pp 9,14,21,22,26,32,33,50,55,61,62,63,80

### 3.1 Tax Education

It is an established fact that there is a lack of tax consciousness among the Nigerian citizenry.<sup>84</sup> Some of the problems encountered by tax authorities include identifying the prospective taxpayers and their place of residence to enable notices to be served on them.<sup>85</sup> There are two major methods of collecting Personal Income Tax; deduction at source under the Pay as you Earn system and collection through direct assessment by tax officials.<sup>86</sup> The latter mode of collection of taxes poses a greater problem as those covered by the latter mode do not voluntarily pay their tax.<sup>87</sup> These tax payers fail to realize that, as Ajomo puts it, ‘government is a silent partner in every business transaction and must share in the profit and gains but not the loss.’<sup>88</sup>

Tax education, increasing the powers of tax authorities and improved fiscal responsibility are ways that can be used to address tax compliance. It used to be the argument of tax academics that ‘tax authorities should be given stronger powers in aid of assessment such as the right of forcible entry to examine documents.’<sup>89</sup> Some of these powers have now been given to tax authorities. However, in spite of the plenitude of powers given to tax authorities,<sup>90</sup> there is still a low level of tax compliance amongst the self employed. It has been argued that ‘coercive order alone cannot guarantee compliance with tax laws...rather tax payers education and constant public enlightenment are capable of changing the tax orientation of Nigerians if integrated as complements to enforcement instruments.’<sup>91</sup> To this end it was suggested that tax education should be compulsorily provided for in Tax legislations as was done in the FIRS (Establishment) Act, 2007.<sup>92</sup> It is believed that ‘once taxpayers are sufficiently educated and enlightened the cost of administration and by extension the huge revenue loss will be considerably reduced.’<sup>93</sup> It is further argued that tax education is not coercive as it appeals to the conscience of taxpayers and consequently, may be more effective than the application of coercive orders alone.<sup>94</sup>

In recognition of the importance of tax education in increasing tax compliance the National Tax Policy makes the following stipulations;

- Federal and state Ministries of Education are to ensure the inclusion of taxation in the curricula of Nigerian educational institutions. Ranging from Primary to tertiary institutions of learning.<sup>95</sup>
- The academia/ educational institutions are to ensure that Taxation as a course is included in curricula at all levels of the Nigerian educational system<sup>96</sup>

<sup>84</sup> H I Sa’adu ‘The Nigerian Constitution, Taxation and Sustainable Development’ in *Law and Sustainable Development in Africa* (2012; Al-Fattah Publications Ltd, Illorin)p440; National Tax Policy Ibid pp23&26

<sup>85</sup> I A Ayua, p267.

<sup>86</sup> *Ibid*, p293

<sup>87</sup> *Ibid*, p294; M A Ajomo, *ibid*, p98.

<sup>88</sup> M A Ajomo, *ibid*.

<sup>89</sup> I A Ayua, p266.

<sup>90</sup> These powers include powers to levy distress, conduct search and seizure and to prosecute tax delinquencies. See Sections 104, 53(1), 78(1) Personal Income Tax Act...; Sections 86(1), 64 Companies Income Tax Act CAP C21 Laws of the Federation of Nigeria, 2004; Sections 33(1), 34(1) Federal Inland Revenue Services (Establishment) Act, 2007.

<sup>91</sup> S M Olokooba, AA Kareem, B Adimula, A Akintoye ‘Tax Education and Mobilization: A means to Sustainable Development in Nigeria’ in *Law and Sustainable Development in Africa* *ibid* p411

<sup>92</sup> *Ibid* p412

<sup>93</sup> *Ibid*.

<sup>94</sup> *Ibid*, p413

<sup>95</sup> National Tax Policy, *ibid*, pp24, 26

<sup>96</sup> *Ibid*, p59

- The Federal and state ministries of information are expected to provide support to the relevant Ministries of Finance and the relevant tax and revenue authorities in carrying out public enlightenment campaigns on tax and revenue matters affecting the country and state respectively. The Ministry of information is to support the process of providing accurate and timely information flow to Nigerians on all tax and revenue matters decided at the Executive level. In this regard, the federal ministry of information shall co-operate with the Federal Ministry of Finance (the state ministries of information are to cooperate with both the state and federal ministries of information) and the relevant tax and revenue authorities to obtain the required information for dissemination to the public.<sup>97</sup>

In the same vein, the Strategy for the Implementation of the Proposed Tax Policy<sup>98</sup> stipulates that tax laws should be simplified and amended for clarity.<sup>99</sup> It goes without saying that the drafting of tax laws in clear terms will aid tax education as taxpayers will easily comprehend the provisions of tax legislation. This does not necessarily mean that tax laws should be couched in indigenous languages, as has been suggested in some quarters.<sup>100</sup> A person who has difficulty understanding written English is most likely bound to experience difficulty understanding written indigenous languages. The above mentioned strategy further stipulates that all tax/revenue authorities in Nigeria should adopt wide-spread taxpayer education strategies. This they may do in conjunction with other government agencies such as the Ministries of information and education.<sup>101</sup>

While the role of tax education in increasing tax compliance cannot be overlooked, tax education without fiscal responsibility cannot ensure improved tax compliance. Hence, the National Tax Policy lays down several guideline, rules and modus operandi geared towards ensuring fiscal responsibility. These include,

- Rewarding and enforcing arms of government that demonstrate effective utilization of revenues.<sup>102</sup>
- Use of U-TIN at federal and state levels of government.<sup>103</sup>
- Use of electronic payment systems in all tax transactions.<sup>104</sup>
- Ministries of finance have a responsibility to ensure that taxpayers monies collected are effectively accounted for and judiciously utilized.<sup>105</sup> They are to further communicate with the taxpayers the use to which these monies are being put.
- All tiers of government as well as the tax authorities are expected to provide guidance and information to the taxpaying public which should elicit higher cooperation from the taxpayers.<sup>106</sup>
- All members of the FEC shall on an annual basis ensure that they fully disclose all sources of income and ensure

<sup>97</sup> *Ibid*, pp24,26

<sup>98</sup> Appendix 2, National Tax Policy, *ibid*

<sup>99</sup> *Ibid*, pp67,74; M A Ajomo, *ibid* p99.

<sup>100</sup> SM Olokooba et al 'Tax Education and Mobilization: A Means to Sustainable Development in Nigeria', in *Law and Sustainable Development in Africa*, *ibid*, p426.

<sup>101</sup> *Ibid*, National Tax Policy, *ibid*, pp30,34,42,74

<sup>102</sup> National Tax Policy, *ibid* p10

<sup>103</sup> *Ibid* pp23, 25

<sup>104</sup> *Ibid*, p23

<sup>105</sup> *Ibid*, p26

<sup>106</sup> *Ibid*,p33

the right taxes are computed culminating in the publication of their tax clearance certificate by the 30th of June annually. The FEC shall in addition ensure in all of its decisions and actions that tax revenue is judiciously allocated and utilized for the benefit of the entire citizenry. The FEC shall also ensure that on a monthly basis taxpayers are informed of the use to which tax monies are being applied. In this wise, the FEC shall ensure that matters of taxation and revenue generation in general form an intrinsic part of the deliberations and decisions around the annual appropriation budget as well as in discussions at the Federal Executive Council meetings on at least a quarterly basis.<sup>107</sup> Interestingly, this guideline was not extended to cover members of the State Executive Council.

#### 4.0 STAKEHOLDERS IN THE PURSUIT OF FISCAL RESPONSIBILITY AND TAX COMPLIANCE

The National Tax Policy cannot in itself succeed. Stakeholders are to play their designated roles in giving life to the tax policies of the nation. These stake holders include;

##### 4.1. The Auditor General

In entrenching accountability, the role of the office of the Auditor General of the Federation cannot be deemphasized.<sup>108</sup> Sections 85(1) and 126(1) of the Constitution of the Federal Republic of Nigeria (As Amended) provide for the office of the Auditor General of the Federation and state, respectively. There is currently an Audit Bill before the National Assembly that seeks to further strengthen the office of the Auditor-General<sup>109</sup> the office of the Auditor-General is one that holds the public's trust to ensure that all revenue appropriated or disbursed is accounted for and verified for public scrutiny. The stronger this institution is made in the discharge of its role, the greater a role; it would be able to play in strengthening and institutionalizing a tax culture.<sup>110</sup>

##### 4.2. Taxpayers

The primary duty of taxpayers is co-operating with tax authorities and all other stakeholders in the tax system to ensure effective and efficient tax administration in the country. They have the secondary responsibility of acting in an informal supervisory role, as they have the right to demand for transparency and accountability in the collection, allocation, disbursement and expenditure of tax revenue. Going by the legislative framework for fiscal responsibility in Rivers State, Tax payers are legally empowered to submit disputes with tax authorities to the Judiciary for adjudication when necessary in order to aid the development of Nigerian tax jurisprudence. This secondary duty of taxpayers can only be effectively performed when the taxpayer has carried out his primary duty of compliance. Taxpayers are also entitled to make necessary input to proposed tax legislation and suggest changes to existing tax legislation.<sup>111</sup> 'There is need for increase in the monitoring and enforcement efforts to ensure that the Medium Term Expenditure Framework (MTEF), budgets, audited financial accounts, and other reports are prepared and published as and when due and more rigour should be introduced into investigating infractions and reporting of same to the Attorney-General for possible prosecutions'<sup>112</sup>

<sup>107</sup> *Ibid*, p22

<sup>108</sup> A Sanni, *ibid*, p15

<sup>109</sup> Audit Bill, Center for Social Justice, 2008.

<sup>110</sup> National Tax Policy, *ibid*, p60

<sup>111</sup> National Tax Policy, *Ibid*, p32

<sup>112</sup> Fiscal Responsibility: AIAE Urges Action by State Governments. AIAE Newsletter, Vol. 5, No. 13 April, 2010, p2.

### 4.3. Government

The government, through the Board of internal Revenue, Ministries of finance, information, education and the Ministry of budget and economic planning, has the responsibility of ensuring fiscal responsibility. To this end the Rivers State Ministry of Finance is to publish the state's audited account in the mass media.<sup>113</sup> They are also to communicate with taxpayers on the use to which taxpayers monies are put.<sup>114</sup>

The commissioner for Budget and Economic Planning is to monitor and evaluate the implementation of the annual budget and report on it on a quarterly basis.<sup>115</sup> This Ministry is also responsible for the preparation of the Medium Term Expenditure framework.<sup>116</sup>

The Rivers State Board of internal Revenue is to ensure that records of revenue collected are published in a manner in which it will be available to the public.<sup>117</sup> They are also to engage in educating the public on their rights and duties with regard to tax.<sup>118</sup> The work done by the Board in this regard is evident in the state. There has been a lot of awareness<sup>119</sup> created as to why citizens should pay taxes. This has however, not yielded the desired results. The Board is presently working in conjunction with leaders of unions in the informal sector to create awareness amongst members of this sector.<sup>120</sup> They are presently sensitizing the public on the Unique-Personal Identification Number recommended by the Joint Tax Board.

## 5.0 CONCLUSIONS

Taxes are a major source of Internally Generated Revenue. The problem of tax evasion has been attributed to inefficiency and ineptitude on the part of tax authorities in the country.<sup>121</sup> Taxes are evaded from reasons ranging from lack of adequate tax education to perception of the government as being fiscally irresponsible.<sup>122</sup> Efficiency of tax authorities will not alone improve tax compliance. The existence of a fiscal responsibility law is likewise, not enough to entrench tax consciousness and ensure tax compliance in the populace. The government has the first role to play towards the promotion of tax compliance by ensuring that accountability and transparency are evident in the handling of public finance. However, a person who performs his primary responsibility of tax compliance will be better positioned to demand fiscal responsibility from the state.

Interestingly, although the Lagos state government is yet to enact its fiscal responsibility law, they have been applauded for the high level of fiscal responsibility evident in the state. It is reported that, Lagos state is one of the 13 states in the country which have presented a fiscal responsibility bill to the State House of Assembly, but unlike some states which have enacted the law and barely implemented it, Lagos state exhibits a high level of transparency and accountability

<sup>113</sup> S. 44 Rivers State Fiscal Responsibility Law, 2010.

<sup>114</sup> National Tax Policy

<sup>115</sup> S. 28 Rivers State Fiscal Responsibility Law, 2010.

<sup>116</sup> S. 10 Rivers State Fiscal Responsibility Law, 2010.

<sup>117</sup> National Tax Policy, pp50, 63.

<sup>118</sup> *Ibid*, pp54, 57

<sup>119</sup> With the use of Bill Boards, radio and television sensitization, etc

<sup>120</sup> Unstructured interview with the Acting Director, PIT, RSBIR

<sup>121</sup> *Ibid*, p269

<sup>122</sup> Unstructured interview with Acting Director, PIT, RSBIR

in its budget presentation which is detailed and available on the Lagos state government website.<sup>123</sup>

It has been opined that ‘where taxpayers are carried along in the disbursement and utilization of tax revenue, it will create increased public confidence in the tax system.’<sup>124</sup> Evidently, tax education and increase in the powers of tax administrative bodies have failed in improving tax compliance with regard to income tax. Recourse should therefore be had to entrenching fiscal responsibility in governance.

There has been an apparent effort on the part of the Rivers State government to entrench fiscal responsibility in the governance of the state. In his 2013 budget speech, the Rivers State Governor stated that accountability and transparency would be the guiding principles for governance in the state.<sup>125</sup> He further asserted that the state government would ensure disciplined spending for efficient use of resources and service delivery. In giving effect to the words of this speech, it is pertinent that the Fiscal Responsibility Commission of the state be constituted and the provisions of the laws constituting the legal framework for fiscal responsibility in the state, implemented to their last letters. For instance, the Rivers State Public Procurement Bureau should hasten to comply with the provisions of Section 3 Rivers State Public Procurement Law which, among other things, requires the establishment of a single internet portal that shall serve as a definitive source of all information on government procurement. In the same vein, Section 44(1) of the Rivers State Fiscal Responsibility Law should be amended to make publication of the state’s audited account on the website of the state Ministry of Finance mandatory. This is in view of the fact that for a document to be readily assessable to the public in these times, it has to be accessible on the world-wide-web.

In addition to the above, adherence to the National Tax Policy, with all stakeholders playing their designated roles will ensure improved tax compliance in Rivers State and in the country at large.

## REFERENCES

1. National Tax Policy
2. ‘The Government, The Constitution and the Taxpayer’ in M A Ajomo, O Akanle (eds) *Tax Laws and Tax Administration in Nigeria* (Lagos: NIALS, 1991) p1.
3. A. Sanni *Revenue Law* p3 [www.citn.org/others/Revenue\\_Law.pdf](http://www.citn.org/others/Revenue_Law.pdf) accessed Dec 21, 2011
4. National Tax Policy
5. (1998 ed) 1987 Lexicon Publications Inc, New York, p1014
6. Long title, Federal Inland Revenue Service (Establishment) Act Cap 13, 2007
7. Section 2 and 1<sup>st</sup> schedule of the F.I.R.S (Est) Act.
8. No. 2, 1998
9. Section 40 VAT Act

<sup>123</sup> N A El-Rufai, ‘Lagos-Sound Government, Sensible Budget’ Available at [www.saharareporters.com/Home/Commentary/Articles](http://www.saharareporters.com/Home/Commentary/Articles). Accessed 3<sup>rd</sup> June, 2013

<sup>124</sup> National Tax Policy, *ibid*, p62

<sup>125</sup> 2013 Budget speech [www.riversstate.gov.ng](http://www.riversstate.gov.ng) Assessed 5<sup>th</sup> May, 2013. Notes for Address to Governors' Forum Abuja, Nigeria, 28th October, 2007.

10. IA Ayua *The Nigerian Tax Law* (Spectrum Law Publishing, Ibadan, Nigeria, 1996)pp5&6
11. *Ibid*, p6
12. National Tax Policy
13. National Tax Policy, pp9&10 [www.citn.org](http://www.citn.org) accessed on 21 May 2013
14. See A Ogbu, C Osagie, S Balogun ‘Jonathan; Nigeria’s Oil Reserve May Dry Up in 35 Years’ <http://www.thisdaylive.com/articles/jonathan-nigerias-oil-reserve-may-dry-up-in-35-years/105510/> accessed 15<sup>th</sup> June, 2013; Y Adeoye ‘Nigeria’s Crude Oil to Dry Up in 37 Years, except...’ <http://www.vanguardngr.com/2011/11/nigeria%E2%80%99s-crude-oil-to-dry-up-in-37-years-exception%E2%80%A6/> accessed 15<sup>th</sup> June, 2013. It is now a notorious fact that there is presently a persistent decline in the prices of crude in the international market. See <http://www.bbc.com/news/business-29643612>. Accessed 9th February, 2016
15. IA Ayua, *ibid* 13; JA Ariwodola *Personal Taxation in Nigeria: including Capital Gains Tax* 5<sup>th</sup> ed (2008, JAA Nigeria Limited, Lagos) 239, 287; GSA Wheatcroft ‘What is Taxable Income?’ B.T.R, P310 in IA Ayua, *Ibid*, p13
16. Cap C21, Laws of the Federation of Nigeria, 2004
17. Cap C1 LFN, 2004.
18. CAP V1, Laws of the Federation of Nigeria, 2004
19. Sales Tax Law, Cap 175 and Sales Tax Schedule (Amendment) Order 2000 of Lagos State, The Hotel Occupancy and Restaurant Consumption Law of Lagos State, 2009, Enugu State House of Assembly Hotel Sales Tax Law, 2010 and the Sales Tax Law of Ogun State, 1982
20. *Prinzel Court Limited v. Attorney General of Lagos State & 2Ors* (2010) 3TLRN.30 at 59-60
21. *Mama Cass & 2Ors v. Federal Board of Internal Revenue & Anor* (2010) 2TLRN.99 at 126-127; *Attorney General of Ogun State v. Aberuagba* (2009) 1TLRN 82 at 112,127
22. National Tax Policy, pp6&7
23. S. 26 VAT Act
24. Larry Crumbly ‘Tax Dictionary’ in B.B OCHEI, *the Nigerian Taxman’s book* (2008, Pyramid Unit Publishers, Lagos) 177
25. IA Ayua, *ibid* p265; V Thuronyi, ‘Presumptive Taxation’ Tax Law Design and Drafting (volume 1; International Monetary Fund: 1996; Victor Thuronyi, Ed.)p6; unstructured interview with the Acting Director, Personal Income Tax, Rivers State Board of Internal Revenue, 3<sup>rd</sup> June, 2013
26. Some female traders erroneously believe that women are not to pay tax. Unstructured interview with the Acting Director, Personal Income Tax, Rivers State Board of Internal Revenue, 3<sup>rd</sup> June, 2013.

27. O Oladunjoye , ‘Tax Administration: the Problems of Assessment and Collection’ in M A Ajomo, O Akanle, (eds)*Tax Law and Tax Administration in Nigeria* *ibid* p96
28. *Ibid*.
29. BB Ochei, *The Nigerian Taxman’s book, Ibid*, 157.
30. I A Ayua, *ibid* p266
31. O Oladunjoye ‘Tax Administration: The Problems of Assessment and Collection’ in M A Ajomo and O. Akanle (eds) *ibid*, p97.
32. A Embuka ‘Taxing the Assumed Income: The Presumptive Tax Phenomenom’ *The Nation* <http://thenationonlineng.net/new/taxation-2/taxing-the-assumed-incomethe-presumptive-tax-phenomenon/> accessed 12 June, 2013.
33. ‘Presumptive methods can be rebuttable or irrefutable. Rebuttable methods include administrative approaches to reconstructing the taxpayer’s income, and may or may not be specifically described in the statute. If the taxpayer disagrees with the result reached, the taxpayer can appeal by proving that his or her actual income, calculated under the normal tax accounting rules, was less than that calculated under the presumptive method.’ E Embuka, *ibid*.
34. *Ibid*
35. O Olutuyi, ‘Fiscal Responsibility Act: What Good <http://nigeriaworld.com/articles/2008/feb/261.html> accessed 26th October, 2013.
36. E Onyekpere, (Lead Director, Center for Social Justice) ‘Overview of the FRA, 2007’, P4
37. National Tax Policy, *ibid*, p14
38. *ibid*
39. National Tax Policy p.55
40. A. Sanni *ibid*, p1; National Tax Policy, p63
41. Long Title of the Fiscal Responsibility Act, 2007
42. E Onyekpere, *ibid* p12
43. *Ibid* p15
44. V Ushie ‘Implementing the Fiscal Responsibility Act at the State Level in Nigeria’
45. CSEA Working Paper WPS/10/002, October, 2010, pp3-4
46. G Anderson, (President, Forum of Federations) ‘Nigerian Fiscal Federalism Seen From a Comparative Perspective’ Notes for Address to Governors’ Forum Abuja, Nigeria, 28th October, 2007 at [www.forumfed.org>Home>Federalism>Forumpresidentonfederalism](http://www.forumfed.org/Home/Federalism/Forumpresidentonfederalism) accessed 5<sup>th</sup> March, 2013.
47. A Sanni, *ibid*, p2

48. E Onyekpere, V Abel 'Recommendations on the Line Items of the 2013 Federal Budget Estimates' (2012, Citizens Wealth Platform)vi; see also
49. V Ushie, *ibid*, p7
50. V Ushie, *ibid*, p26
51. Law No.8 of 2010
52. '2013 Budget Speech by His Excellency, the Governor of Rivers State, Rt Hon Rotimi Chibuike Amaechi Presented To the Rivers State House of Assembly on the 24<sup>th</sup> December, 2012.' Available at <http://www.riversstate.gov.ng/item/946-2013-budget-speech-by-his-excellency-the-governor-of-rivers-state-rt-hon-rotimi-chibuike-amaechi-presented-to-the-state-house-of-assembly-on-24th-december-2012.html> accessed on 5<sup>th</sup> March, 2013.
53. No. 8 of 2010
54. No. 4 of 2008
55. Law No.8 of 2010
56. PN Makau, 'Using MTEF as a Tool for Improved Fiscal Management' Ministry of Finance Kenya *cabri-sbo.org/session%202\_kenya.ppt* accessed 17<sup>th</sup> June, 2013.
57. S.1 Rivers State Fiscal Responsibility Law, 2010.
58. S.14(d) Rivers State Public Procurement Law No. 4 of 2008.
59. Long Title Rivers State Public Procurement Law, 2008
60. S. 3(b) *Ibi.d*
61. S.3 (e)*ibid*
62. S. 3(f) *ibid*
63. S. 3(q) *Ibid*
64. S. 14(20) *Ibid*
65. S. 4(C) *Ibid*.
66. S. 4(d) *Ibid*.
67. S. 12 Rivers State Public Procurement Law No.4 of 2008
68. The emergence of Nigeria's Freedom of Information Act 2011, [www.internationallawoffice.com/newsletters/detail.aspx?g=e066adf0-c3f0-496d-b823-30494f0432ff](http://www.internationallawoffice.com/newsletters/detail.aspx?g=e066adf0-c3f0-496d-b823-30494f0432ff) Accessed 18<sup>th</sup> June, 2013.
69. Part II Constitution of the Federal Republic of Nigeria, 1999 (as amended)
70. S. 4(5) CFRN 1999 (As Amended)

71. Explanatory Memorandum, Freedom of Information Act, 2011.
72. S. 1(1) Freedom of Information Act, 2011.
73. S1 (2) Freedom of Information Act, 2011
74. See pp 36 and 37
75. This Law has however been declared unconstitutional by the High Court of Rivers State in Suit No.PHC/2447/2010 *Institute of Human Rights and Humanitarian Law vs. AG Rivers State &2ors*
76. Suit No. PHC/257/2012 unreported
77. Suit No.  
PHC/1692/12[http://rsjudiciary.com.ng/caseAssignments.php?pageNum\\_rsCases=43&totalRows\\_rsCases=3011](http://rsjudiciary.com.ng/caseAssignments.php?pageNum_rsCases=43&totalRows_rsCases=3011)  
Accessed 17<sup>th</sup> June, 2013
78. Niger Delta Citizens and Budget Platform ‘Court to Hear Application to Inspect Obio/Akpor Finances’  
[http://www.citizensbudget.org/index.php?option=com\\_content&view=article&id=166:court-to-hear-application-to-inspect-obio-akpors-finances](http://www.citizensbudget.org/index.php?option=com_content&view=article&id=166:court-to-hear-application-to-inspect-obio-akpors-finances) culled from <http://www.thetidewsonline.com>. Accessed 17<sup>th</sup> June, 2013
79. National Tax Policy, *ibid*, p14
80. National Tax Poicy, *ibid*, p80
81. *Ibid*, p9
82. *Ibid*, p21
83. *Ibid* p22
84. *Ibid*, pp 9,14,21,22,26,32,33,50,55,61,62,63,80
85. H I Sa’adu ‘The Nigerian Constitution, Taxation and Sustainable Development’ in *Law and Susustainable Development in Africa* (2012; Al-Fattah Publications Ltd, Illorin)p440; National Tax Policy *Ibid* pp23&26
86. I A Ayua, p267.
87. *Ibid*, p293
88. *Ibid*, p294; M A Ajomo, *ibid*, p98.
89. M A Ajomo, *ibid*.
90. I A Ayua, p266.
91. These powers include powers to levy distress, conduct search and seizure and to prosecute tax delinquencies. See Sections 104, 53(1), 78(1) Personal Income Tax Act...; Sections 86(1), 64 Companies Income Tax Act CAP C21 Laws of the Federation of Nigeria, 2004; Sections 33(1), 34(1) Federal Inland Revenue Services (Establishment) Act, 2007.
92. S M Olokooba, AA Kareem, B Adimula, A Akintoye ‘Tax Education and Mobilization: A means to Sustainable Development in Nigeria’ in *Law and Sustainable Development in Africa* *ibid* p411

93. *Ibid* p412
94. *Ibid*.
95. *Ibid*, p413
96. National Tax Policy, *ibid*, pp24, 26
97. *Ibid*, p59
98. *Ibid*, pp24,26
99. Appendix 2, National Tax Policy, *ibid*
100. *Ibid*, pp67,74; M A Ajomo, *ibid* p99.
101. SM Olokooba et al 'Tax Education and Mobilization: A Means to Sustainable Development in Nigeria', in *Law and Sustainable Development in Africa, ibid*, p426.
102. *Ibid*, National Tax Policy, *ibid*, pp30,34,42,74
103. National Tax Policy, *ibid* p10
104. *Ibid* pp23, 25
105. *Ibid*, p23
106. *Ibid*, p26
107. *Ibid*, p33
108. *Ibid*, p22
109. A Sanni, *ibid*, p15
110. Audit Bill, Center for Social Justice, 2008.
111. National Tax Policy, *ibid*, p60
112. National Tax Policy, *Ibid*, p32
113. Fiscal Responsibility: AIAE Urges Action by State Governments. AIAE Newsletter, Vol. 5, No. 13 April, 2010, p2.
114. S. 44 Rivers State Fiscal Responsibility Law, 2010.
115. National Tax Policy
116. S. 28 Rivers State Fiscal Responsibility Law, 2010.
117. S. 10 Rivers State Fiscal Responsibility Law, 2010.
118. National Tax Policy, pp50, 63.
119. *Ibid*, pp54, 57
120. With the use of Bill Boards, radio and television sensitization, etc

121. Unstructured interview with the Acting Director, PIT, RSBIR

122. *Ibid*, p269

123. Unstructured interview with Acting Director, PIT, RSBIR

124. N A El-Rufai, 'Lagos-Sound Government, Sensible Budget' Available at [www.saharareporters.com](http://www.saharareporters.com)>Home>Commentary>Articles. Accessed 3<sup>rd</sup> June, 2013

125. National Tax Policy, *ibid*, p62

126. 2013 Budget speech [www.riversstate.gov.ng](http://www.riversstate.gov.ng) Assessed 5<sup>th</sup> May, 2013.

Notes for Address to Governors' Forum Abuja, Nigeria, 28th October, 2007.