NIGERIAN TAX SYSTEM AND PREFERENTIAL TAX POLICY FOR FOREIGN FUNDED ENTERPRISE*

Abstract

It is an obvious fact that taxation has a major and very important role to play in any given economy. In the contemporary world, every government relies on taxation measures, either minimally or substantially, to provide the much needed revenue for its socio-economic development and also to reduce the inequalities in the wealth distribution of its society. Many times, tax is used to reduce criminal tendencies and to minimize moral decadence in the society. In the words of Justice Oliver Wendell Holmes, taxes are what we pay for a civilized society!

Keywords: Tax System, Preferential Policy, Foreign Funded Enterprise, Nigeria

1. Introduction

The above dictum of Justice Oliver Wendell Holmes[1] expresses the importance of taxation to any state and its development. It is however important to stress from the onset here that apart from taxation, every state is also deeply mindful of its foreign policy on taxation issues, especially towards achieving meaningful development through attraction of foreign investments and establishment of pioneer industries. In order to achieve this, tax policies are designed, among other things, to strike a balance between the need to generate the required income from taxation and creating room for attraction of investors. The essence of this work is therefore to appraise the Nigerian taxation system, sources of taxation, typologies and categories of taxes and rates, procedure for tax management and collection, tax exemptions and preferential policy for foreign investments, especially pioneer industries, tax incentives, duty free zones and preferential policies, the trends and future of taxation system in Nigeria, and the suggested way forward.

2. The Concept of Taxation

In the simplest term, tax is defined as the money which has to be paid to the government so that the government in turn can pay for public services. People pay tax according to their income and business pay tax according to their profit.[2] It is generally recognized, that taxation has an important and established role to play in any economy. The tax system is therefore, one of the most powerful levers available to any government to stimulate and guide its economic and social development.[3] 'Tax' is in the words of the United States' Supreme Court in the case of *Nicholas v Ames,* 'the one great power upon which the whole national fabric is based; it is as necessary to the existence and prosperity of a nation as is the air he breathes to the natural man. It is not only the power to destroy; it is also the power to keep alive'.[4] The importance of taxation system was further buttressed by Benjamin Franklin in the 18th Century while commenting on the then new Constitution of the United States when he said: 'Our Constitution is in actual operation, everything appears to promise that it will last. But in this world, nothing is certain but death and taxes'.[5] The Black's Law Dictionary[6] defines tax as 'a monetary charge imposed by the government on persons, entities, transactions, or property to yield public revenue'. Similarly in the Australian case of *Mattews v Chicory Marketing Board*[7], Chief Justice Latham defined tax as '.a compulsory exaction of money by a public authority for public purposes'. Summarily, by taxation is meant, the process whereby the government imposes levies on the income or profit of persons who have income or profit which are taxable for the purpose of defraying the cost of running the government. It follows therefore, that any definition on taxation which is not tailored to serve the purpose of public social infrastructure, is not taxation properly so–called.[8]

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[1] Michael S. Afolayan (2013); *The Problem of Taxation and True Federalism in Nigeria*, Ekiti State University, Ado-Ekiti Law Journal, Vol. 5, Petoa Educational Publishers, Ado-Ekiti, at pg 491.

[2]Hormby A. S, *The Oxford Advance Leaner's Dictionary* International Student Edition, 7th Ed. Oxford University Press, 2005.Pg 1516

[3] Michael S. Afolayan, *Op. Cit* at pg 493

[4] 173 U.S 509 (1899) at p. 515

[5]'The United States' Constitution and Fascinating Facts about it' 7th Ed. Qak Publishing Company.

[6] Bryan A. Garner, 8th Ed., West Publishing C. 2004

[7] (1938) 60 C.L.R 263 at P. 276

[8]Michael S. Afolayan, op.cit.

3. Features of a Good Taxation System

Four important characteristics have been identified[9] which are here referred to as features of an ideal taxation system and should serve as a yardstick for measuring such:

(i) A Tax is compulsory and not voluntary: This implies that payment of tax is not dependent upon the receipt or conferment of any benefit on the payer. A tax payer or prospective tax payer cannot thus have a basis for refusing to pay his/her tax, on the basis, for example, that the road to his house is not tarred.

(ii) It is an imposition by the government: This account for the difference between taxation and other types of levies and the reason why the language of tax legislation is always commanding, imposing and mandatory.

(iii) It is levied for purpose of financing government: The basic reason for imposition of taxes is to meet up with the financing of government projects which have public utilitarian value. Construction of roads and other public facilities like schools, hospital, recreational facilities, portable water etc, are the primary essence of collection of taxes. However quite a number of taxes are imposed not with the primary objective of raising money but to achieving certain governmental aims or objectives such as social justice, redistribution of income and economic development. In such cases, raising of money becomes merely ancillary to the main objective.

(iv) The government imposing the tax or levy must have or exercise authority over the payer or his property: The need to finance and sustain government and its machineries in the discharge of its responsibilities has been the traditional connotation of taxation. Governmental activities are expected to be beneficial to the society and individuals. However, in the developing countries like Nigeria, such benefits are not enjoyed proportionately to contributions by taxpayers. This leads to reluctance, unwillingness and refusal of majority taxpayers to support the government in payment of taxes.

4. Subjects of Taxation in Nigeria

In Nigeria, the National Tax Policy,[10] a document which sets broad parameters for taxation and other ancillary matters connected with taxation, provides a clear statement on the principles governing tax administration and revenue collection. It further provides a set of guidelines, rules and modus operandi that regulate taxation in Nigeria.

In its chapter one, the National tax policy defines tax as ‘a monetary charge imposed by Government on persons, entities, transactions or properties to yield revenue.’ It is therefore safe to say here, that the subjects of taxation in Nigeria includes ‘persons’, ‘entities’, ‘transactions’ or ‘properties’. A particular tax legislation may impose tax on all or some of these categories of subjects, while another legislation may impose taxation on a new category of entity depending on the enactment of Laws by the Parliaments either at the National, State or Local Government Levels. This is so because Government reserves the power to impose taxation on any subject it so desires to impose taxation upon for the purpose of raising revenue or prohibiting certain behaviors. Analysis of the above mentioned subjects of taxation in Nigeria are as follows;

Persons:

Persons within the legal framework in Nigeria mean ‘natural’ or ‘artificial’ persons. While a natural person is a ‘biological being’ with blood flowing in his veins, an ‘artificial’ person is a creation of the Law like a registered Company, which possesses all the inherent Legal attributes of a natural person and is equally regarded as juristic personality. Some of the Legal regimes of taxation in Nigeria therefore impose taxes on;

- Individuals – examples of these are outlined below;
  - Personal Income Tax Act[11] (PITA) which imposes taxes on the income of all Nigeria Citizens or residents who derive income in Nigeria and outside Nigeria
  - Development Levy – a flat charge imposed on every taxable person typically within a state.
- On Companies (Corporate Entities)
  - Companies Income Tax Act[12] (CITA) – which imposed on the profits of all companies or corporate entities, duly registered in Nigeria or which derive income from Nigeria, other than those engaged in petroleum operations
  - Petroleum Profit Tax Act[13](PPTA) which imposes on the profits of all corporate entities registered in Nigeria or who derive income from oil and gas operation in Nigeria.

[9]Oluwole Akanle, *Nigerian Income Tax Law and Practice,* Center for Business and Investment Studies Ltd. 1991, pg 1.
[10] National Tax Policy, Federal Ministry of Finance, April, 2012.
[11] CAP P8, LFN 2004 (AS Amended) by Act No. 20, 2011
[12] CAP C21, LFN 2004 (AS Amended) by Act No. 11, 2012
[13] CAP P13, LFN 2004

- Education Tax ACT (Now Tertiary Education Trust Fund Act)[14] which imposed tax at the rate of 2% on profits of all corporate entities registered in Nigeria.
- Technology Levy which impose levy on selected corporate entities like Telecommunication Companies, Internet Services Providers, Pension Managers, Banks, Insurance Companies, and other financial institutions within a specified turnover range, to support nationwide development of technology infrastructure and capacity.

Entities

Entities here suggest families, communities, institutions and body aggregates which though may not constitute 'juristic' person or body under the law, but are considered taxable and are designated as such under various legal provisions in Nigeria.

- Personal Income Tax Act[15] (PITA) imposes taxes on Communities, Families, Trustees, Estate and Aggregate sole like Obaship institution or other Chieftaincy Institutions with taxable incomes.

Transactions

Some commercial and Business transactions are subject to taxation in Nigeria provided they lead to gain, profit or income. Some of the forms of taxation to which these transactions are subjected are:

- Value Added Tax[16]- which is imposed on the sales value of non-exempt, qualifying goods and services in Nigeria;
- Capital Gains Tax[17] - imposed on capital gains derived from sale or disposal of chargeable assets; and
- Stamp Duty[18] - imposed on instruments executed by individual and corporate entities in Nigeria;
- Excise Duty[19] - imposed on the manufacture of goods within the Government territory collected by the Nigerian Customs Service.
- Import Duty - imposed on the import goods into the Government territory collected by the Nigerian Custom Service.
- Export Duty - imposed on the export of goods outside the Government territory collected by the Nigerian Customs Service.

Properties or Assets

This includes taxes, such as property tax, Land Use Charge, Certificate of Occupancy fees and charges and other such taxes imposed on Land and Landed property.[20]

5. Procedures for Tax Management, Collection and Categories of Taxes and Rates in Nigeria

Nigeria's Government structure is Federal in nature, and as it is with all Federalized States, levels of Governments are clearly identifiable, demarcating the structure and categories of the tax system both in collection and distribution.

The Taxes and Levies (Approved List for Collection) Act[21] in its provisions with respect to categories of taxes and levies in Nigeria provides in its section 1 as follows;

> (1) Notwithstanding anything contained in the Constitution of the Federal Republic of Nigeria…, as Amended, or in any other enactment or Law, the Federal Government, State Government and Local Government shall be responsible for collecting the taxes and levies listed in Part I, Part II and Part III of the schedule to this Act respectively.

In the schedule to this Act[22], Part I thereof listed the taxes to be collected by the Federal Government as follows;

1. Companies Income Tax

[14] TETFUND (Establishment Act, No. 16, 2011
[15] Supra
[16] See the Value Added Tax Act, CAP V1, LFN 2004
[17] Capital Gains Tax Act, CAP C1, LFN 2004
[18] Stamp Duties Act, CAP S8, LFN 2004
[19] Excise Duties Act
[20] See generally The Land Use Act, CAP L5, LFN 2004; Property and Conveyancing Law, CAP 100 Laws of Western Nigeria 1959 and the Conveyancing Act.
[21] Act No. 21 of 1988, CAO T2 LFN 2004
[22] Ibid

2. Withholding tax on companies, residents of the Federal Capital Territory, Abuja and non-resident individuals.
3. Petroleum Profit Tax
4. Value Added Tax
5. Education Tax
6. Capital gain tax on residents of the Federal Capital Territory, Abuja, bodies corporate and non-resident individuals.
7. Stamp duties on bodies corporate and resident of Federal Capital Territory, Abuja.
8. Personal Income Tax in respect of
   (a) Members of the armed forces of the Federation
   (b) Members of the Nigerian Police Force
   (c) resident of Federal Capital Territory, Abuja
   (d) Staff of the Ministry of Foreign Affairs and Non-resident individuals.

Part II of the schedule to the Act contains taxes and levies to be collected by the State Governments in Nigeria as follows;

1. Personal Income Tax in respect of –
   (a) Pay-As-You-Earn (PAYE); and
   (b) Direct Taxation (self – assessment)
2. Withholding Tax (individuals only)
3. Capital Gains Tax (individuals only)
4. Stamp duties on instruments executed by individuals
5. Pools betting and lotteries, gaming and casino taxes
6. Road Taxes
7. Business Premise registration in respect of:
   (a) Urban areas and defined by each state
   (b) Rural area
8. Development Levy (individuals only) not more that ₦100 per annum on all taxable individuals
9. Naming of Street registration fees in the State Capital
10. Right of occupancy fees on lands owned by the State Government in urban areas of the State.
11. Market taxes and levies where State finance is involved.

Part III of the schedule contains the category of taxes and levies to be collected by the Local Government as follows;

1. Shops and kiosk rates
2. Tenement rates
3. On and off liquor license fees
4. Slaughter slab fees
5. Marriage, birth and death registration fees
6. Naming of street registration fee, excluding any street in the State Capital
7. Right of Occupancy fee on lands in rural areas, excluding those collected by Federal and State Governments
8. Market taxes and levies excluding any market where State finance is involved
9. Motor park levies
10. Domestic animal license fees
11. Bicycle, truck, canoe, wheelbarrow and cart fees, other than a mechanically propelled truck
12. Castle tax payable by castle farmers only
13. Merriment and road closure levy
14. Radio and Television License fees (other than radio and television transmitter)
15. Vehicle radio license fees (to be imposed by the Local Government of the State in which the Car is registered)
16. Wrong parking charges
17. Public Conveniences, sewage and refuse disposal fees
18. Customary burial ground permit fee
19. Religious places establishment permit fee
20. Signboard and advertisement permit fees.

It is equally worthy of mention here that there are levels of tax authority, responsible for the administration of these various taxes on behalf of the government. These Administrative bodies are;

- The Federal Board of Inland Revenue with its operational arm known as Federal Inland Revenue Service which administers federal taxes.
- The States Boards of Internal Revenue Services with their operational arms known as the State Internal Revenue Services replicated in all the 36 States of the Federation and administers States taxes.
- The Local Government Revenue Committees replicated in all the 774 Local Governments seats throughout the Federation.
- Ministries, Agencies, Government departments and other bodies charged with the responsibility for assessing or collecting the particular tax.

Furthermore, the procedures adopted for collection of the above mentioned taxes differs and depends on the efficiency and coordination of a particular level of Government and its agencies. For the most part however, these taxes are collected at the times and points where they cannot be avoided or evidence of their payment required for important mandates.

6. Tax Exemptions, Incentives, and Holidays

Tax Exemption

All across the provisions of the various tax statutes in Nigeria, provisions are made for tax exemptions for various categories of persons and business entities. However, this work is limited to those tax exemptions specially targeted at enhancing, encouraging, and attracting foreign funded enterprises as a way of attracting foreign investments. PITA and CITA shall be considered here. Section 19 of the Personal Income Tax Act[23] provides for the income exempted under the Act. It provides that 'There shall be exempt from the tax all that income specified in the Third Schedule to this Act'. A perusal of the Third Schedule to the Act reveals the following exemptions with respect to foreign investments;

(1) Item 5: All Consular fees received on behalf of a foreign state, or by a Consular Officer or employee, other than income in respect of any trade, business, profession or vocation carried on by an officer or employee or in respect of any other employment exercised by him with Nigeria.
Item 6: '...the interest on any money borrowed outside Nigeria by a corporation established by a Law in Nigeria upon terms which include the exemption of such interest form tax in the hands of any non-resident person
Item 25: Dividends paid to a person by a company incorporated in Nigeria. Provided that –
(a) The equality participation of the person in the company paying the dividends is either wholly paid for in foreign currency or by assets brought into Nigeria…'
Item 28: The interest accruing to a person on foreign currency domiciliary accounts
Item 29: Income earned from outside Nigeria by a temporary guest, lecturer, teacher, nurse, doctor and other professional and brought into Nigeria shall be exempt from tax provided that such income is deposited in a domiciliary account in an authorized bank in Nigeria.
Item 30: Income from dividend, interest from abroad and brought into Nigeria by a Nigerian resident is exempt from tax, provided that such income is brought in convertible currency and paid into a domiciliary account in a bank approved by the Government.

With respect to the Companies Income Tax Act,[24] Section 23 thereof provides for the profits exempted from taxes and those targeted at encouraging and attracting foreign investments are listed below;

S.23(j) any profits of a company other than Nigeria company which, but for this paragraph, would be chargeable to tax by reason solely of their being brought into or received in Nigeria.

S.23(i) the interest on deposit accounts of a foreign non-resident company provided that the deposits into the account are transfers wholly of foreign currencies to Nigeria on or after 1 January 1990 through Government approved channels

S.23(m) the interest of foreign currency domiciliary account in Nigeria accruing on or after 1 January 1990

S.23(o) dividend received from small companies in the manufacturing sector in the first five years on their operation.

S.23(s) the profit of a Company established within an export processing zone or free trade zone.

[23]PITA op cit.
[24]CITA op. cit.

Tax Incentives and Holidays
In encouraging foreign investment and foreign funded enterprise, certain steps have been taken to provide tax incentives and holidays both in policy and a number of tax statutes some of which are discussed sector by sector hereunder;[25]

Industrial sector
Taxation: fiscal measures have been drawn to provide for deductions and allowances in the determination of taxable income of manufacturing enterprises, including:

Pioneer status--which is a concession to pioneer companies located in economically disadvantaged areas, providing a tax holiday period of five to seven years. These industries must be considered by the government, to be beneficial to the country's economy and in the interest of the public. Companies that are involved in local raw material development; local value added; labour intensive processing; export oriented activities; in-plant training; are also qualified for additional concessions.[26]

Tax relief for research and development--Up to 120% of expenses on research and development are tax deductible provided that such research and development activities are carried out in Nigeria and are connected with businesses to which allowances are granted. The result of such research could be patented and protected in accordance with internationally accepted industrial property rights.[27]

Local raw materials utilization--30% tax concession for five years to industries that attain minimum local raw materials utilisation as follows: - agro 80% - agro allied 70% - engineering 65% - chemical 60% - petro-chemical 70%.[28]

Labour intensive mode of production--15% tax concession for five years. The rate is graduated in such a way that an industry employing one thousand persons or more will enjoy 15% tax concession while an industry employing one hundred will enjoy only 6%, while those employing two hundred will enjoy 7%, and so on.[29]
Local value added--10% tax concession for five years. This applies essentially to engineering industries, while some finished imported products serve as inputs. This is aimed at encouraging local fabrication rather than the mere assembly of completely knocked down parts.

In-plant training--2% tax concession for five years, of the cost of the facilities for training.
Export oriented industries--10% tax concession for five years. This concession will apply to industries that export not less than 6% of their products.

Infrastructure--20% of the cost of providing basic infrastructures such as roads, water, electricity, where they do not exist, it is tax deductible once and for all.

Investment in economically disadvantaged areas--100% tax holiday for seven years and additional 5% depreciation over and above the initial capital depreciation.

Abolition of excise duty-- all excise duties were abolished with effect from the 1st of January, 1999.
Import duty rebate--a 25% import duty rebate was introduced in 1995 to ameliorate the adverse effect of inflation and to ensure increase in capacity utilisation in the manufacturing sector. Investors are however, advised to ascertain the current operative figures at the time of making an investment, because these concessions have undergone some amendments in the past few years.

Re-investment allowance--this incentive is given to manufacturing companies that incur capital expenditure for purposes of approved expansion of production capacity; modernization of production facilities; diversification into related products. It is aimed at encouraging reinvestment of profits.

Investment tax allowance--Under this scheme, a company would enjoy generous tax allowance in respect of qualifying capital expenditure incurred within five years from the date of the approval of the project.

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[25]See Investment Incentives in Nigeria, Embassy of the Federal Republic of Nigeria, Washington D.C, USA. Accessed at www.nigeriaembassyusa.org/index.php?page=investment-incentives on 4th November, 2015
[26]ibid
[27]ibid
[28]ibid
[29]ibid

--Dividends derived from manufacturing companies in petro-chemical and liquefied natural gas sub-sector are exempt from tax.
--Companies with turnover of less than one million naira are taxed at a low rate of 20% for the first five years of operation if they are into manufacturing.
--Dividend from companies in manufacturing sector with turnover of less than one hundred million naira is tax-free for the first five years of their operation.Investment guarantees/effective protection.[30]

Transferability of funds--section 24 of Nigeria Investment and Promotion Corporation (NIPC)Act[31]provides that a foreign investor in an enterprise shall be guaranteed unconditional transferability of funds through an authorised dealer in freely convertible currency of- Dividends or profit (net of taxes) attributable to the investment; payments in respect of loan servicing where a foreign loan has been obtained; remittance of proceeds (net of all taxes)and other obligations in the event of a sale or liquidation of the enterprise or any interest attributable to the investment.

Guarantees against expropriation--By the provision of section 25 of the same NIPC Act, no enterprise shall be nationalised or expropriated by any government of the federation, unless the acquisition is in the national interest or for public purpose; and no person who owns either wholly or in part, the capital of any enterprise shall be compelled by law to surrender his interest in the capital to any other person. These can only be done under a law that makes provision for payments of fair and adequate compensation; and right of access to the courts for the determination of the investor's interest or right and the amount of compensation to which he is entitled.

In addition to the above safeguards, the Nigerian government is prepared to enter into investment protection agreement with foreign enterprises wishing to invest in Nigeria.

Access to land--any company incorporated in Nigeria is allowed to have access to land rights for the purpose of its activity in any state in the country. It is, however, a requirement that industrial companies comply with regulations on use of land for industrial purposes and with environmental regulations. Land lease is usually for a term of 99 years unless the company stipulates a shorter duration.

Oil and Gas Sector
The following fiscal incentives have been approved by the government in the gas production phase:

Tax rate under petroleum profit ta--Petroleum Profit Tax Act to be at the same rate as company tax which is currently at 30%; capital allowance at the rate of 20% per annum in the first 4 years, 19% in the 5th year and the remaining 1% in the books; investment tax credit at the current rate of 5%; royalty at the rate of 7% on shore and 5% offshore.

Gas transmission and distribution--Capital allowance as in production phase; tax rate as in production phase; tax holiday under pioneer status.

Liquefied Natural Gas projects--Applicable tax rate under Petroleum Profit Tax is 45%; capital allowance is 33% per annum onsight-straight-line basis in the first three years with with 1% remaining in the books; investment tax credit of 10%;Royalty of 7% on shore, 5% offshore tax deductible.

Gas exploitation (upstream operations)--All investments necessary to separate oil from gas from the reserves into suitable products is considered part of the oil field development; capital investment facilities to deliver associated gas in usable form at utilisation or transfer points will be treated for fiscal purposes as part of the capital investment for oil development; capital allowances, operating expenses and basis for assessment will be subjected to the provisions of the PPT Act and the revised memorandum of understanding (mou).

Gas Utilisation (downstream operations)--Incentives for encouragement of exploitation and utilisation of associated gas for commercial purpose include: An initial tax free period of three years renewable for an additional two years; 15% investment capital allowance which shall not reduce the value of the asset; all fiscal incentives under the gas utilisation down-stream operations in 1997 are to be extended to industrial projects that use gas in power plants, gas to liquid plants, fertiliser plants and gas distribution/transmission plants; the initial tax holiday is to extend from three to five years; gas is transferred at 0% ppt and 0% royalty; investment capital

[30]ibid
[31]Cap N LFN, 2004

allowance is increased from 5% to 15%; interest on loans for gas projects is to be tax deductible provided that prior approval was obtained from the federal ministry of finance before taking the loan; all dividends distributed during the tax holiday shall not be taxed.

Oil and gas free zone--Incentives and fiscal measures approved by the government that favour and encourage large investment in the region include:

No personal income tax; 100% repatriation of capital & profit; no foreign exchange regulation; no pre-shipment inspection for goods imported into the free zone; no expatriate quota; initial tax holidays period has been extended from 3 to 5 years and renewable for another 2 years; investment capital allowance has been increased from 5% to 15%; all dividends distributed during the tax holiday shall be tax-free, etc.
Petroleum industry very similar generous incentives package was granted the joint venture system and is contained in the mou signed with oil companies. Details of this can be down-loaded from our soon-to-be-launched embassy website - www.nigeriaembassyusa.org.

Agriculture
Without prejudice to government's deregulation of the financial sector, banks have been enjoined to recognise the differences in the gestation periods within each category of agricultural loans ranging from 6 months to 10 years, for crops, livestock, fisheries, forestry and wild life. In addition, the following incentives are also available; Companies in the agro-allied business do not have their capital allowance restricted to 60% but graduated in full - 100%; agro-allied plant and equipment enjoy enhanced capital allowances of up to 50%.

Solid minerals
Nigeria is richly endowed with a variety of solid minerals of various categories ranging from precious metals, stones and industrial minerals such as barytes, gypsum, kaolin and marble.The ministry of solid minerals has worked out a package of attractive incentives for potential investors in the solid minerals sector, including 3 to 5 years tax holiday; deferred royalty payments depending on the magnitude of the investment and strategic nature of the project; possible capitalisation of expenditure on exploration and surveys; provision of 100% foreign ownership of mining companies or concerns; in addition to roll-over relief under the capital gains tax (cgt), companies replacing their plants and machinery are to enjoy a once-and-for-all 95% capital allowance in the first year with 5% retention value until the asset is disposed of, etc.

Tourism
The tourism sector was accorded preferred sector status in 1991. This makes it qualify for such incentives as tax holidays, longer years of moratorium and import duty exemption on tourism related equipment;State governments are prepared to facilitate acquisition of land through the issuance of certificate of occupancy for the purpose of tourism development;25% of income derived from tourists by hotels in convertible currencies are tax-exempt provided such income is put in a reserve fund to be utilized within 5 years for expansion or the construction of new hotels, conference centres, etc that are useful for tourism development.
Energy sector
All areas of investment in this sector are considered to be pioneer product or industry. As a result, there is a tax holiday of 5 to 7 years for investments in the sector.There has been a deregulation of this sector resulting in the emergence of independent power producers (IPP) that will soon start operation in Nigeria.

Telecommunications
Government provides non-fiscal incentives to private investors in addition to a tariff structure that ensures that investors recover their investment over a reasonable period of time, bearing in mind the need for differential tariffs between urban and rural areas. Rebate and tax relief are provided for the local manufacture of telecommunications equipment and provision of telecommunication services.

Other Lines of Trade
Companies' profits in respect of goods exported from Nigeria are exempt from tax provided the proceeds are repatriated to Nigeria and used exclusively for the purchase of raw materials, plants equipment and spare parts. Profits of companies whose supplies are exclusively input to the manufacturing of products for exports, are excluded from tax. All new industrial undertakings including foreign companies and individuals operating in an export processing zone (EPZ), are allowed full tax holidays for three consecutive years. As a means of encouraging industrial technology, companies and other organisations that engage in research and development activities for commercialisation are to enjoy 20% investment tax credit on their qualifying expenditure. All companies engaged wholly in the fabrication of tools, spare parts and simple machinery for local consumption and export are to enjoy 25% investment tax credit on their qualifying capital expenditure while any tax payer

who purchases locally manufactured plants and machinery are similarly entitled to 15% investment tax credit on such fixed assets bought for use.[32]

Non-Oil Sector

Export proceeds can be retained in foreign currency in a domiciliary account with any authorised bank in Nigeria. A special export development fund has been set up by the government to provide financial assistance to private sector exporting companies to cover a part of their initial expenses in some export promotion activities, including training courses, symposia, seminars and workshops, export market research, advertising and publicity campaigns in foreign markets, trade missions, etc. There is also an export adjustment fund scheme which serves as supplementary export subsidy to compensate exporters for the high cost of local production arising mainly from infrastructural deficiencies, and other negative factors beyond the control of the exporter. Finally, Nigerian government established in i991, an export processing zone (EPZ), which allows interested parties to set up industries and businesses within demarcated zones, with the objective of exporting the goods and services manufactured or produced within the zones. Calabar in Cross River state has been designated as the primary EPZ territory in Nigeria. Incentives within the territory include, tax holiday relief; unrestricted remittance of profits and dividends earned by foreign investors; no import or export licenses are required; up to 100% foreign ownership of enterprises; sale of up to 25% of production is permitted in domestic market; etc, All exports under the Nigerian value added tax (VAT) system are zero-rated and dividends received from investment in export-oriented businesses are to be free of tax.[33]

7. Conclusion and Recommendations

It is my fervent believe that Nigeria economic space is robust and made more conducive for foreign investments due to the various tax exemptions, holidays and incentives availed both local and foreign investors. It is recommended that a potential investor must take his time to study the above mentioned statutory provisions and tax incentives in order to avoid payment of taxes where there is exemption. It is only in detail understanding of the various exemptions that one can avoid them.

[32]ibid

[33]ibid