

AN OVERVIEW OF THE ADMINISTRATION OF VALUE ADDED TAX UNDER THE NIGERIAN TAX LAW

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ABSTRACT

The government employs Value Added Tax as a primary mechanism for generating revenue to fund public services and develop infrastructure. Governed by the VAT Act, the administration of this tax is consequently crucial for the nation's economic development. The Federal Inland Revenue Service (FIRS) is designated as the primary body responsible for managing VAT, a role that encompasses the registration of taxable entities, as well as assessment, collection, auditing, enforcement, and taxpayer education. Despite the critical importance of VAT management, the legal framework in Nigeria has been beset by numerous problems and challenges. Among these issues are weak taxpayer compliance, particularly within the informal sector, and the common practice of under-declaring sales by registered businesses. Furthermore, constitutional disputes have arisen between federal and state governments regarding taxing authority, compounded by institutional inefficiencies that undermine both enforcement and revenue collection efforts.

This paper presents a detailed analysis of Value Added Tax (VAT) administration under Nigerian tax law, concentrating on its legal structure, the institutional duties of revenue authorities, and the challenges that have influenced its implementation. Employing a doctrinal research methodology, this study determines that while VAT has been instrumental in diversifying Nigeria's revenue base away from its heavy reliance on oil, its administration has not yet achieved its maximum potential. Although recent digital reforms have enhanced efficiency, significant deficiencies persist in the areas of enforcement, taxpayer education, and inter-agency coordination. Consequently, this paper recommends that the government bolster the administrative capacity of the FIRS, resolve constitutional ambiguities surrounding taxing powers through judicial interpretation or legislative amendment, and broaden the integration of digital technologies to minimize revenue leakages.

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1.1 INTRODUCTION

Value Added Tax (VAT) has become a vital fiscal tool in Nigeria since it was introduced in 1993 as a replacement for the preceding sales tax system. As a consumption tax, VAT is structured to ensure that both individuals and corporate entities contribute to public funds through their transactions involving goods and services, with the collected revenue being distributed among the federal, state, and local governments. The tax's pivotal role in broadening Nigeria's revenue sources makes its examination a critical subject of legal and economic study.

The responsibility for VAT administration in Nigeria is principally assigned to the Federal Inland Revenue Service (FIRS), which operates under the authority of the FIRS (Establishment) Act of 2007 and the Value Added Tax Act, which has been updated by various Finance Acts. Through its operational functions—including registration, assessment, collection, auditing, enforcement, and public awareness campaigns—the FIRS is tasked with ensuring the effective implementation of the VAT system.

However, the operation of this system has been fraught with difficulties. Recent legal challenges from state governments, notably Lagos and Rivers, have ignited constitutional debates over whether VAT should continue under federal jurisdiction or be administered at the state level. These disputes underscore the inherent friction between fiscal centralization and the principles of federalism enshrined in the 1999 Constitution.

Beyond these institutional conflicts, practical hurdles have also impaired VAT administration. Widespread non-compliance is a

significant issue, especially prevalent in the informal sector and industries such as hospitality, transportation, and the expanding digital economy. Revenue losses are further exacerbated by the under-declaration of sales, ineffective enforcement strategies, and corruption. While digital innovations like e-invoicing have modernized certain administrative functions, they have yet to completely resolve compliance deficits or enhance accountability.

This analysis highlights that VAT, while already a cornerstone of Nigeria's fiscal architecture, has not yet realized its full potential to foster sustainable development. It is only by achieving more robust enforcement, establishing greater constitutional clarity, and ensuring the transparent application of collected revenues that VAT can fulfill its fiscal and developmental mandates in Nigeria.

1.2. Federal Inland Revenue Service (FIRS)

The Federal Inland Revenue Service (FIRS) stands as the principal body charged with the administration and collection of Value Added Tax (VAT) throughout Nigeria. Its operational mandate is grounded in the FIRS (Establishment) Act of 2007 and the Value Added Tax Act, as modified by subsequent Finance Acts. The FIRS is central to the execution of VAT policy and the assurance of compliance, managing this through a series of processes that include registration, assessment, collection, auditing, enforcement, and public sensitization.

A primary function of the FIRS involves the registration of taxable persons, which covers individuals, partnerships, and corporate

bodies involved in supplying taxable goods and services. Any person deemed taxable is required by law to register for VAT within six months of starting their business or from the point at which they become liable for VAT. After registration is complete, the FIRS provides a VAT certificate, which formally permits the business to charge and collect VAT on its sales.

The FIRS is also responsible for the collection of VAT at the current rate of 7.5%, as stipulated by the Finance Act of 2019, on most goods and services, with the exception of those that are specifically exempted or zero-rated. Taxable entities are required to file their VAT returns on a monthly basis and remit the collected tax to the FIRS by the 21st day of the month that follows the transaction period. These submissions must include proof of payment along with detailed schedules that break down the input and output VAT.

To uphold compliance, the FIRS undertakes frequent tax audits and on-site inspections to check the accuracy of submitted VAT returns and identify any cases of underpayment or non-compliance. When defaults or discrepancies are found, the FIRS is authorized to apply penalties and interest, and can initiate enforcement proceedings as prescribed by law. Such actions are instrumental in reducing revenue leakage and encouraging voluntary compliance among taxpayers.

More recently, the FIRS has rolled out digital platforms, notably the TaxPro Max system, which facilitates online taxpayer registration, return filing, and electronic payments. This technological advancement has significantly boosted administrative efficiency while minimizing direct human contact in the tax administration process.

1.3. State Board of Internal Revenue

In recent times, State Boards of Internal Revenue (SBIR) have begun to claim a more prominent role in tax administration, a movement catalyzed by legal disputes over the authority to collect Value Added Tax (VAT). Although VAT has historically been collected exclusively by the Federal Inland Revenue Service (FIRS), states like Rivers and Lagos have contested this system, arguing that it compromises fiscal federalism and infringes upon their constitutional mandate for internal revenue generation.

In 2021, the Rivers State House of Assembly passed the Rivers State Value Added Tax Law, which granted the Rivers State Internal Revenue Service (RIRS) the authority to collect VAT within the state's borders. Lagos State followed suit by enacting its own VAT legislation, instructing the Lagos State Internal Revenue Service (LIRS) to commence collection. These legislative actions were driven by the complaint that while certain states contribute a majority of Nigeria's VAT revenue, the federal distribution formula unfairly favors other states. For example, it is reported that Lagos State generates over half of the nation's total VAT revenue yet obtains a disproportionately small share from the central distribution.

The federal government, represented by the Attorney General of the Federation and the FIRS, legally challenged these state laws. In an initial judgment, the Federal High Court in Port Harcourt decided in favor of Rivers State, upholding the right of states to collect VAT. This decision was subsequently appealed, and the Court of Appeal issued a stay of execution, which permitted the FIRS to resume VAT collection while awaiting a conclusive verdict. The case has since been escalated to the Supreme Court, which had not issued a final judgment at the time this paper was written.

This ongoing legal battle has ignited a significant constitutional debate regarding the division of taxing powers between the federal and state governments under the 1999 Constitution of Nigeria (as amended). Some legal experts assert that VAT, as a consumption tax, should logically be categorized under the residual legislative list, placing it within the jurisdiction of the states. Conversely, others maintain that its administration by the FIRS is warranted under the Exclusive Legislative List, especially since VAT relates to inter-state commerce and national economic policy.

1.4. E-Invoicing Introduced by the Finance Act 2020

A registered non-resident supplier has the obligation to provide an electronic tax invoice to any purchaser of their goods, services, or intangibles. This invoice is required to include specific details, such as the name and Taxpayer Identification Number of the non-resident supplier, the name of the recipient of the supply, a clear description of the supply, the date it was provided, its value, and the amount of value-added tax charged.

Non-resident suppliers are mandated to apply Value Added Tax (VAT) on services or intangible goods delivered via electronic, digital, or comparable technological platforms. This applies particularly when the delivery mechanism is largely automated, involves minimal human interaction, and is fundamentally dependent on information technology for its execution. Services falling under this category include, but are not limited to:

- Access to or the streaming and downloading of digital content like movies, music, e-books, magazines, news, applications, and games.
- Online gaming activities.
- Services for online ticketing, with the exception of international air travel and freight charges.
- Services related to online betting.
- Intermediation platform services, which encompass online marketplaces, payment gateways, ride-hailing services, and booking platforms for travel and accommodation.
- Services for online advertising.
- Social media platforms that operate on a subscription basis, including applications for video conferencing, instant messaging, and image or video sharing.
- Standardized online educational offerings, such as e-learning platforms and webinars.
- Services related to cloud computing, including cloud storage solutions.
- Services for conducting auctions online.
- Automated professional and consultancy services delivered online.
- Digital storefronts and e-commerce platforms.
- Access to e-library services.

1.5. Value Added Tax (VAT) Assessment, Computation, and Remittance

1.5.1. Assessment

All taxable individuals and corporate entities that are registered with the Federal Inland Revenue Service (FIRS) are required to keep detailed records and documentation of all their transactions, operations, and imports that relate to taxable goods and services. The records maintained must be sufficiently comprehensive to allow for the precise calculation of the tax amount due as stipulated by the Value Added Tax Act. While no specific format for these records is prescribed, they must be adequate to facilitate an accurate tax computation. Additionally, taxable persons are expected to submit their tax returns on a voluntary basis, without needing a formal notice or demand from the authorities.

1.5.2. Computation

As established, an agent responsible for VAT collection has a legal duty to collect this tax on all taxable goods and services they provide to customers. Concurrently, this agent must also pay VAT on the goods and services they acquire. To meet this requirement, the agent needs to accurately calculate both the VAT collected and the VAT paid within a given tax period. This process involves three key steps.

First, the agent calculates the total VAT collected from taxable supplies made during the reporting cycle (this is the output VAT). Second, the agent determines the total VAT paid on taxable purchases and services acquired during the same period (this is the input VAT). Third, the agent finds the difference between the output VAT and the input VAT. This calculation determines the net VAT amount that must be remitted to the FIRS, as per Section 15 of the Value Added Tax Act, or identifies any excess input VAT that can be carried forward as a credit to future tax periods.

Moreover, when a taxable person pays VAT on goods bought or imported for the purpose of resale, or if these goods are used directly to manufacture other taxable products, the input VAT paid on these items can be claimed against the output VAT generated from their sale. However, it is important to note that input VAT paid on capital assets acquired for the business's use must be capitalized by adding it to the asset's cost; it cannot be deducted as input VAT. In a similar vein, VAT paid on services that are consumed during the regular course of business operations should be treated as an operational expense in the Statement of Profit or Loss and is not deductible from the collected output VAT.

1.5.3. Remittance

The procedure for remitting tax is detailed in Section 16 of the Value Added Tax Act. This section specifies that when a taxable person submits their return as required by section 15(1), they must either remit the difference to the Federal Inland Revenue Service (FIRS) if their output tax is greater than their input tax, or, if the input tax is greater than the output tax collected, they should apply the surplus amount as a credit in the following months.

1.6. Distribution of Value Added Tax (VAT) Proceeds

As detailed in previous sections, Value Added Tax (VAT) was established as a tax framework administered by the Federal Inland Revenue Service (FIRS), which acts on behalf of the federal government. The system was implemented to modernize the sales tax that was operational from 1986 to 1993. Revenue collected from VAT is allocated among the three tiers of government. The current distribution formula for VAT revenue allocates 15% to the federal government, 50% to the state governments, and 35% to the local governments.

1.7. Redress of Value Added Tax (VAT) Disputes

As indicated in the section concerning tax assessment, a taxable person is responsible for calculating their VAT liabilities and remitting the correct amount to the designated authority—the FIRS—by the 21st day of the month after the transaction occurred. It is inevitable that disagreements will arise where a taxpayer disputes an assessment, including one they calculated themselves. The Value Added Tax (Amendment) Act of 2007 stipulates that any taxpayer who is not satisfied with an assessment has the right to file an objection with the FIRS. The FIRS is then mandated to review and resolve the objection within a thirty-day period.

1.8. Tax Appeal Tribunal

Initially, the Federal High Court held sole jurisdiction over legal cases concerning the recovery of unpaid taxes, associated penalties, or interest. This authority is conferred by the 1999 Constitution of the Federal Republic of Nigeria, which empowers the court to hear cases pertaining to federal government revenue, particularly when the federal government or one of its agencies is a party to the dispute.

However, the creation of the Tax Appeal Tribunal (TAT) under Section 59(1) of the Federal Inland Revenue Service (Establishment) Act of 2007 established a specialized body dedicated to resolving tax-related conflicts. The TAT addresses disputes that emerge from taxes collected by the federal government, as specified in the Exclusive Legislative List of the Constitution. While VAT is not explicitly named on that list, its administration is carried out by the federal government for the benefit of the entire federation. In accordance with Section 59(2) of

the same act, the TAT has the authority to adjudicate disputes stemming from the application of federal tax laws that are enumerated in the First Schedule of the Act. Decisions made by the TAT can be further appealed at the Federal High Court.

1.9. Conclusion

This research has analyzed the administration and effects of the Value Added Tax Act in Nigeria, confirming that VAT has been one of the nation's most vital sources of non-oil revenue since its inception in 1993. Its administration is chiefly handled by the Federal Inland Revenue Service (FIRS), which manages all aspects from registration and assessment to collection and enforcement. However, in spite of its significance, VAT has not realized its maximum potential due to ongoing challenges. The study affirms that VAT administration in Nigeria confronts substantial obstacles.

Non-compliance is a pervasive issue, particularly within the informal economy and in key sectors like hospitality, transportation, construction, and the rapidly expanding digital marketplace. Revenue leakages are compounded by inadequate enforcement mechanisms, insufficient taxpayer education, administrative shortcomings, and corruption. Furthermore, constitutional disagreements between the federal government and state governments over the authority to tax have introduced legal ambiguity, exemplified by states like Rivers and Lagos attempting to claim control over VAT collection.

In conclusion, it is evident that while VAT has made a significant contribution to Nigeria's fiscal health and holds the promise of being a powerful driver for sustainable economic growth, its administrative framework is in pressing need of reform. To enhance compliance, it is crucial to implement stronger enforcement, provide clear constitutional guidance on taxing powers, expand the use of digital administration tools, ensure transparent use of tax revenues, and launch intensive taxpayer education programs. It is only through the adoption of such comprehensive measures that VAT can be fully leveraged not just as a tool for revenue generation, but also for fostering equity, fairness, and accountability within Nigeria's fiscal landscape.

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