
TAX AMNESTY FOR DELINQUENT TAXPAYERS: A CLICHÉ IN NIGERIA

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ABSTRACT: *Tax evasion presents a serious problem for a number of countries. Every year, governments lose large amounts of potential revenue because citizens, in some manner avoid paying taxes. To address the problem of tax evasion, many countries have implemented tax amnesty programs over the years.¹ More and more tax administrators are coming up with diverse products and innovations to raise government revenues to meet daunting challenges in the face of slow growth rate in trade and investment.² In this paper we shall examined the successes and failures of amnesty in curbing other crimes and also see if it can be applied to cases of taxation in Nigeria.*

KEYWORDS: *Tax, Amnesty, Revenue, Successes, Failures, Nigeria.*

INTRODUCTION:

In Nigeria, amnesty has become a cliché, so to speak, in view of the conflicts of the militants in the Niger Delta and Boko Haram in the North East.³ Instead of using amnesty as a way of forgiveness of a citizen's sins, the citizen now cloaks himself with impunity to cause serious disturbance in the country as a means of getting noticed or heard with the hope that the nation would be hood winged into forgiving these improprieties someday. When amnesty was offered to Boko Haram in a bid to encourage them or stop their insurgency, they rejected it to everyone's surprise; claiming that it was then that were wronged and should be granting Nigeria amnesty.⁴

Majority of eligible taxpayers in Nigeria rarely remit their taxes and it is crucial that a common ground is found to achieve the objective of the government to raise funds from taxes through some ingenious means that work with our culture and economic landscape.⁵

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¹Federal Reserve Bank of New York, (FRBNY) Quarterly review/autumn, 1989. P.48

² Nigeria tribune, Monday, September 23rd, 2013. (how about tax amnesty) [www. Tribunenewsonline.com.ng](http://www.Tribunenewsonline.com.ng)

³ Akume, Albert. T. The Dimensions of Oil Conflict and Impact on Nigeria's Federal Relations: A Review. Mediterranean Journal of Social Sciences, MCSER Publishing, Rome – Italy.

⁴ <http://www.bbc.co.uk/news/nigeria's-boko-haram-rejects-jonathan's-amnesty-...>

⁵ Mark Faggiano ;State Tax Amnesty Programs: What are They and Are They Right For You? Available on www.google.com/m?q=mark+faggiano+%3Bstate+tax+amnesty+programs%3Awhat+are+they+and+are+they+right+for+you+client.

Amnesty will not completely knock off the penalties for deliberate tax infractions, but will seek a possible relaxation of some of these penalties to encourage the expansion of the tax net, albeit temporary. And one key demand will be an agreement between the tax-payer and the tax administrator to file future returns on time in the future.

Despite finalizing the National Tax Policy, amending the tax laws and strengthening of the Federal Inland Revenue Service for enhanced operational efficiency no real consideration has been given to measures or strategies that may encourage voluntary declaration and compliance as an alternative means of growing the nation's tax base.⁶ Since tax amnesty has worked in places like Pakistan, India, Spain and a host of other countries, I dare to say that it could also work in Nigeria, more so that Nigeria had successfully applied amnesty to other situations like militancy in the past.

DEFINITIONS

Certain key terms which will be defined are tax, amnesty, tax amnesty.

TAX: The Oxford dictionary⁷ defines tax as a compulsory contribution to support the government to carry out public services. It is levied on persons, properties, incomes, commodities, and transactions at a fixed rate mostly proportionate to the amount on which the contribution is levied.⁸ The Black's Law Dictionary⁹ defines tax as a charge usually monetary, imposed by the government to yield public revenue. The Nigerian Supreme Court has held that tax is a debt due to the government.¹⁰

AMNESTY: Amnesty has been defined by the Black's Law Dictionary¹¹ as a pardon extended by the government to a group or class of persons. It is a legal forgiveness from certain infractions.

TAX AMMNESTY: Tax amnesty is defined as waiver or reduction and sometimes removal of penalties in back taxes to encourage defaulting taxpayers to pay what they owe within a specified window.¹² It could also be said that tax amnesty is where the evader is granted freedom from prosecution but must pay the tax and full monetary penalties. The objective for tax amnesty is to forgive or negotiate the tax liabilities of individual and corporate tax-payers in line with laid down statutes. An amnesty must necessarily have legal or legislative backing for it to be effective and

⁶<http://www2.deloitte.com/ng/en/pages/tax/articles-inside-tax-articles/amnesty-for-tax-defaulters>

⁷ Hornby A.S. Oxford Advanced Learners Dictionary of Current English, Oxford University Press. 7th Edition, 2005 p.1516

⁸ *ibid*

⁹ Bryan Garner Black's law dictionary ninth edition. West Thomas Reuter Publishers p.1594

¹⁰ Shell v. FBIR (2004) FWLR pt.859 pp.46.

¹¹ Bryan Garner *op cit* p.99

¹² www2.deloitte.com/ng/en/pages/tax/articles/amnesty-for-tax-deaulters

deadline for compliance must be stipulated as part of the provisions.¹³ Accordingly, tax amnesty is a limited time opportunity for a specific group of taxpayers to pay a defined amount, in exchange for forgiveness of all tax liabilities (including interests and penalties) relating to a previous tax period or periods, without fear of criminal prosecution.¹⁴ Tax Amnesty program offers qualified taxpayers the opportunity to clear outstanding tax liabilities in exchange for a complete or partial abatement of interest and penalties, or tax that may have accrued. It typically expires when some authority begins a tax investigation of the past period. In some cases, legislation extending amnesty also imposes harsher penalties on those who are eligible for amnesty but do not take it.¹⁵

An ‘amnesty’ in the case of income tax may be given consideration in the context of an anti-evasion drive. In Nigeria where evasion has hitherto been widespread, the government wishing to tackle evasion in earnest but also to give the evader an opportunity, in the transition from a lower to a higher tax morality, to square account with the tax authorities by disclosing items previously omitted and stating their true liability, may use amnesty.

The main terms in tax amnesty include the following:

1. That the evader is granted freedom from prosecution but must pay the tax and full monetary penalties; or
2. That there is also an abatement or exemption from monetary penalties;
3. That tax is computed at a compounded rate on hitherto concealed capital when disclosure is made, at a rate intended to cover both tax and penalty.¹⁶

TAX AMNESTY IN SOME NATIONS:

Although tax amnesty has never been granted in Nigeria, proposals for its usage are not unique since examples from countries like Pakistan and India where it has been applied show that good results are obtainable where the conditions are right.¹⁷ The following are examples of some countries, which successfully applied amnesty in the past.¹⁸

IRELAND

By most accounts, the Irish government has carried out the most successful tax amnesty programme to date. In the January 1988 budget, the Irish government introduced comprehensive

¹³ *ibid*

¹⁴ *ibid*

¹⁵ The Traps in Amnesty For Taxes (www.calchamber.com/chamber_in_the_news/020305_amnesty.htm)

¹⁶ Ifeayichukwu Nwachukwu, Tax Amnesty as a solution to evasion, Business Day online 12/10/2011

¹⁷ *Ibid* quoting Prof M.Taofeeq Abdulrazaq at the birthday lecture in honour of Abdulrazaq Kunle Quadri a past President of Chartered Institute of Taxation of Nigeria (CITN)

¹⁸ Commonwealth of Nations, commonly known as the commonwealth (formerly the British Commonwealth), is an international organization of 53 members states that were mostly territories colonies.

proposal that gave delinquent taxpayers ten months to pay overdue taxes without incurring any interest or penalty charges.¹⁹ The government also promised not to prosecute any of these delinquent taxpayers. In addition to granting amnesty, the government simultaneously implemented a series of supporting measures such as increasing the number of “tax sheriffs” responsible for enforcing tax collection. It also began publishing in the national newspapers lists of the name of the people who were delinquent in their tax payment. At the end of the ten months amnesty, it introduced a new tax system to shut out those who had failed to take advantage of the amnesty. Further the government increased interest and penalty payments on delinquent taxes and gave added power to the revenue commissioners. Additional assets also came from frozen bank accounts belonging to convicted tax evaders. According to the Central Bank of Ireland, the tax amnesty raised approximately 750 million dollars.²⁰ This windfall again helped in reducing the treasury’s total borrowing requirement to approximately 34 percent of GDP in 1988, compared to 10 percent in 1987.²¹ The amount raised from the amnesty far exceeded expectation. When the amnesty was first proposed the government had anticipated raising only 50 million dollars, the final amount of 750 million dollars clearly represents a tremendous success. One factor that may undercut the success of Ireland’s amnesty increase of future tax revenues is that the government did not reduce its tax rate or increase exemptions as part of the package. The widespread evasion of taxes in Ireland was probably to a large part, a response to the country’s tax rates, which are among the highest in Europe. Therefore, while strengthened enforcement measures should help sustain the widened tax base, the maintenance of high tax rates may well increase incentive for evasion.²²

INDIA

The Indian budget of 1965 introduced a scheme which commenced on March 1, 1965, whereby an amnesty was granted in India in respect of unaccounted ‘wealth’ or income, provided 60 percent was handed over to the reserve bank by May 31, 1965. For speedy action there was a further 3 percent discount. Therefore those paying before March 31, 1965 had only to pay 57 percent. It was discovered that the only way to address black money at home and abroad was through a tax amnesty.²³

The Indian authorities had thoroughly prepared the ground for the amnesty by several months of intense anti-evasion activity including raids on and searches of business and private premises, and seizures of hoards of cash and valuables pending investigations.²⁴ It was also announced that the

¹⁹ en.m.wikipedia.org/wiki/1988_in_Ireland_...

²⁰ *ibid*

²¹ *ibid*

²² Pepper H.W.T (1966) Tax Amnesty BTR pp. 284-296, Harvard report of question and answer in the House of Common on October 5, 1944 by Major Studholme and then Chancellor, Sir, J. Anderson

²³ www.dailymail.co.uk/indiahome/indiane...only-a-tax-amnesty-will-flush-out-india's-black-...

²⁴ *Ibid*.

programme was to be intensified. In addition the Minister of Home Affairs had been conducting a campaign against corruption. Six months were allowed for payment of the tax and the amount collected was impressive, especially when it is remembered that such revenue was collected with a minimum of technical labour by the administration. In addition to this, provision was made for settlement in case of serious disputes against tax assessment.

In February 1981, the Indian government introduced a unique form of tax amnesty for a period of about three months, the government sold special bearer bonds that were designed specifically to trap untaxed money held by anyone holding black market funds and was allowed to use these funds to purchase the bonds with no questions asked about the source of the income. The bonds, which matured in 1991, carried only a normal annual interest rate of 2 percent. But the money invested in the bonds was exempted from the wealth tax imposed on other bank deposits and from an income tax on the principal and interest at the time of maturity.²⁵ Some estimates suggest that a tax evader who bought the bonds with black market money would have up to 60 percent more money in ten years than would a citizen who bought the same amount of regular issued bonds with money held in a savings account. The Indian government reported that it was able to attract over 1 billion from the issuance of these bonds²⁶. The government did not raise as much money from the amnesty as it anticipated nor did it succeed in widening the overall tax base. The enforcement mechanism remained the same and delinquent taxpayers had no reason to believe that penalties would be more likely in the future. In addition the amnesty while different in form was fifth in a series of amnesty programmes offered by the government. Generally delinquent taxpayers under such circumstances would presume there would be another amnesty and this trend may even discourage regular taxpayers.

PAKISTAN

The Pakistan amnesty was conducted in a rather exceptional circumstance. The country had recently come under martial law and there was a new spirit abroad in the land.²⁷ The amnesty was in respect of taxes for the period 1947-58, commencing from the date of the partition from India, when there had been a certain amount of upheaval and dislocation.²⁸ The intention was to give taxpayers a chance to put their affairs in order and tax was charged on the omitted profits at special flat rates which were favorable to the tax-payers. The operation was so successful that the amount paid in arrears amounted to approximately two-thirds of the annual yield of tax.²⁹

²⁵ www.timesofindia.indiatimes.com/india/...tax-amnesty-to-recover-black-money-...

²⁶ *ibid*

²⁷ www.cnn.com/.../pakistan-tax-...

²⁸ www.hindustantimes.com/.../pakistan...tax-amnesty-for-equities-an-idea-worth-studying-...

²⁹ FRBNY Quarterly review 1989. P.48

SOUTH AFRICA

The South African second small business Tax Amnesty Amendment of Taxation Law Bill of 2006 provides as follows in section 5 (1):

“An applicant whose application has been approved in terms of section 5 of the Tax Amnesty Act is deemed not have committed any offence in terms of any Act to which chapter 1 of the Tax Amnesty Act relates to the extent that relief has been granted in terms of section 8 of the Tax Amnesty Act”.

This provision of the law makes tax amnesty legal in South Africa.³⁰ Once a person is granted tax amnesty, he is deemed not to have committed any offence.

UNITED STATES

An amnesty has operated from time in New York City with regard to minor traffic offences such as parking violations. Some offenders do not pay their tickets but let them accumulate. Because of the large cost in manpower of following up all tickets for enforcement purpose, the traffic court periodically grants amnesty so that violators who come forward voluntarily to clear their arrears may pay off at face value. The ‘hard core’ offenders who do not respond, risk having to pay fines of two or three times the ticket value, plus a possibility of being jailed for six months or more. This example is indicative of the use of the administrative economy aspect to collect ‘revenue’ arrears at little collection cost, coupled with effective sanction of stiffer penalties for the evaders who remain obdurate. In 2009, a federal U.S. tax amnesty was granted to more than 14,700 American taxpayers³¹. Many U.S. states have tax amnesties. The city of Los Angeles collected \$18.6 million in its 2009 tax amnesty programme, claiming that the amount was \$8.6 million more than was expected and that businesses saved \$6.7 million in penalties. The State of Louisiana brought in \$450 million from its 2009 tax amnesty programme, which was three times more than what was expected, according to Republican Governor Bobby Jindal³². Massachusetts raised \$85 million through a tax amnesty programme; New York collected more than four times that amount.³³ In California, Illinois, Alabama, Arizona, Wisconsin, and twelve other states, people and corporations willingly stood in line for hours to pay the taxes they owed while delinquency penalties were temporarily suspended, to deliver bills and cheques and coins to state treasuries. Many were also choosing to make a first appearance on the tax rolls.³⁴

Some observers have argued that the decision whether or not to offer an amnesty should be based on a fairly mechanical weighing of additional tax collections to be achieved now, against possible losses later. Such an approach, which in effect considers an amnesty programme purely as a

³⁰ [Hppt://www.bowman.co.za/law/articles-id-712788941.asp](http://www.bowman.co.za/law/articles-id-712788941.asp)

³¹ Browning, Lynnley 14,700 “disclosed offshore accounts” the new York times, (November 18, 2009)

³² http://www.nola.com/business/index.ssf/2009/12/louisiana_tax_amnesty_program_3.html

³³ *ibid*

³⁴ *ibid*

revenue-raising device, would be most appropriate if the programme could be expected to raise a significant fraction of tax revenues, say 3 or 4 percent of total collections.

AUSTRALIA

Australia launched tax amnesty from 2007 to 2009.³⁵ This was to encourage Australian based clients with investments outside Australia, to come clean about money they had hidden offshore.

GERMANY

In 2004 Germany granted tax amnesty in connection with tax evasion.³⁶ The experiences of these tax amnesties or capital amnesties were in respect of deposits and capital belonging to Germany's war time generation. The highest amount of money collected through tax amnesty did not exceed 2.6 million Euros. Since 2004 when it was granted, more than 36,000 requests for tax amnesty were filed in Germany.

ITALY

Italy introduced a tax amnesty in 2001 that came to be known as Scudo Fiscale which was extended in 2003.³⁷ In 2009 the Italian Amnesty yielded €80 billion, while the Bank of Italy estimated that Italian citizen held around €500 billion in undeclared funds outside the country.³⁸

SPAIN

In 2012, the Minister of Economy and Competitiveness Cristobal Montoro announced a tax evasion amnesty for undeclared assets or those hidden in tax havens. Repatriation would be allowed by paying a 10 percent tax, with no criminal penalty.³⁹ This made it easy for those that had their money hidden in such havens to bring them home so long as they were willing to pay 10% of that sum to the country.

RUSSIA

In 2007, a Russian tax amnesty programme collected \$130 million in the first six months. The Russian program was not open to anyone previously convicted of tax crimes such as tax evasion.⁴⁰

³⁵ www.stepjournal.org/news/news/archive/2009/December/Australia-launches-news-offshor.aspx?en-gb

³⁶ www.2.deliote.com/.../tax/...tax/ng-amnesty..

³⁷ www.safehaven.at.wordpress-cms/wphelva-studie.pdf

³⁸ www.ft.com/int/cms...html//axzzlqdpejklx

³⁹ www.google.com/hostednews/ap/article

⁴⁰ www.tax-news.com/archive/story/Russian_Tax_Amnesty_Yields_130m

PORTUGAL

Portugal introduced tax amnesties in 2005 and 2010.⁴¹ In 2013, the Secretary of State for Fiscal Affairs, Paul Nuncio claimed that more than 140,000 taxpayers made payments under the tax amnesty recently announced.⁴² That they paid over 143 million Euros which was way above their initial expectation.

GREECE

On September 30, 2010, the Hellenic Parliament ratified a legislation pushed through by the Greek government in an effort to raise revenue, granting tax amnesty to millions of Greek citizens by paying just 55% of the outstanding debts.⁴³ In 2011, the European commission requested Greece to modify its tax legislation as its tax amnesty was considered discriminatory and incompatible with European Union treaties.⁴⁴

BELGIUM

In 2004, the Belgian parliament adopted a law allowing individuals subject to Belgian income tax to regularize the undeclared, or untaxed, assets they held before June 1, 2003.⁴⁵

UNITED KINGDOM

Tax amnesty has not been generally applied in the United Kingdom, probably, because they have had a long experience of income tax administration and have combated evasion and managed to keep it within strict bounds even though the Board of Inland Revenue have stated that they reserve to themselves complete discretion in all cases to the course which they will pursue. But it is their practice to be influenced by the fact that the taxpayer has made full confession and has given full facilities for investigation into his affairs.⁴⁶ However, the issue of tax amnesty came up in the case of **I.R.C. v. National Federation of Self-Employed and Small Businesses Ltd.**⁴⁷

The Revenue has however admitted that it has recovered over £2 billion from tax deals with Switzerland and Liechtenstein.⁴⁸ The amnesty was launched to cover tax dodgers in the tiny Alpine

⁴¹ www.mordea.lu/business+support/wealth+planning/tax+news/1077802.html?

⁴² <https://www.adminex.com/.../amnesty-law-in-portugal-...>

⁴³ Daley, Suzanne (February 20, 2011) "Greece Effort to Limit Tax Evasion Have Little Success" www.mobile.nytimes.com/2011/02/21/world/europe/21greece.html?referre=.see also www.ft.com, <http://newsletters.usdbriefs.com>

⁴⁴ "EU Commission tells Greece to change tax amnesty" (www.reuters.com)

⁴⁵ www.vandenijk-taxlaw.be/pdf/Tax%20Amnesty%20Falls%20Short%20Short%20of%20Expectation.pdf

⁴⁶ Havard Report of a Question and Answer in the House of Common on October 5, 1944 by Major Studholme and the then Chancellor, Sir, J. Anderson quoted in Pepper H. T. W (1966) op.Cit, pg.289

⁴⁷ (1981) S. T. C. 260, (1981) 2 All E. R. 93

⁴⁸ www.thisismoney.co.uk/.../fury-great-dodgers'-getaway-

principality of Liechtenstein. All they had to do was to open accounts in Liechtenstein or Switzerland and all their offshore tax dodging could be included in a settlement even without them transferring any money. The scheme allowed tax evaders with money anywhere in the world to enjoy the amnesty. Despite the amount of money recovered from this scheme, it led to fury from some Revenue critics who said it was not the job of the Revenue to help tax evaders to mitigate their risk of tax penalties.⁴⁹

AMNESTY CUSTOM IN NIGERIA:

Nigeria has not had any history of tax amnesty. But amnesty has been used in relation to the Niger Delta militants and was attempted with the Boko Haram of the North East.

NIGER DELTA

Defining the Niger Delta has depended on contextual prism. According to Petters,⁵⁰ Franki and Cordry using the geological prism first introduced the term “Niger Delta Oil Province” at the 7th World Petroleum Congress in 1967 indicating the region southward from Onitsha, Benin and Umuahia, where oil and gas occur in commercial quantities. The people of the Niger Delta comprise of those in the small ancient cities and kingdoms such as Bonny, Brass, Akassa, Kalabari, Okrika, Nembe, Ogoni, Opobo, Bassan, Andoni, Itsekiri, and Urhobo. Nonetheless, the recent Niger Delta Development Bill equates the Niger Delta with the South-South geopolitical zone, comprising Edo, Delta, Bayelsa, Rivers, Akwa Ibom and Cross Rivers States, to which neighboring oil-producing parts of Ondo, Abia and Imo States were included.

The aforementioned zone is endowed with resources ranging from rubber, timber, palm fruits and the relatively recent commodity of crude oil and gas.⁵¹ Consequently the zone has been enmeshed in the mercantilism associated with trade of such products. This has left the region embroiled in the political economy of the area in the fight for the control or/and participatory empowerment by internal and external stakeholders.⁵²

Among the issues raised by such proponents was the lack of direct benefits from royalties for the exploitation of the resource of the region, the limited participation of the citizens in the exploitation of the resources and the lack of infrastructural development in the Niger Delta roads and

⁴⁹ibid

⁵⁰ Petters S. W. (2010) Conservation and Development of the Niger Delta (Wednesday, May 26, 2010), available on www.onlinenigeria.com/economics/?blur...

⁵¹ Mike Igini, Federal Government Amnesty Strategy in the Niger Delta: will it go beyond satisfying minimalism? Center for Population and Environmental Development (CPED) policy paper series 2011 Ambik Press Ltd, Benin p.1

⁵² The consequent social and economic activism on the part of internal stakeholders has a long history, with notable proponents such as King Jaja of Opobo (1821 -1891), Garrick Sokari Braide (1882 -1981), Chief Mowoe, Isaac Boro and Ken Saro Wiwa, as well as notable events such as The Willink Commission (1957 – 1981); the Kaiama Declaration, the Declaration of the Ogoni Bill of Rights amongst others.

transportation (including water ways); potable water; electricity; telecommunication; housing; reclaimed land and planned settlements with proper sewage.

Although the central government in Nigeria have responded to each crises arising from the activism based on these issues, such responses have been considered temporary and in some cases even brutally indifferent. Some government in the past created agencies aimed at addressing the concerns of the internal stakeholders;⁵³

However, not much change was derived from such interventions. In some cases, such activisms were brutally brought down by government action such as the case of the judicial murder of Ken Saro Wiwa and others⁵⁴, the Odi massacre⁵⁵ amongst others. Given this background, it is understandable that many in the region view the current government response to the militant agitation within the region with worry, and wonder if the Disarmament, Demobilization, Rehabilitation and Reintegration (DDRR) strategy of the Yar'adua/Goodluck government was not a continuation of the organizational strategy of placating minimalism and providing limited government action, enough to create a semblance of concern.⁵⁶

The DDRR strategy which involves disarmament, and demobilization of militant activists, was followed by rehabilitation and reintegration of the activists and their followers back into the mainstream activities. Rehabilitation centers were designated across the six geopolitical zones of the country where militants would be received and accommodated.

There was an initial controversial ₦ 50 billion naira budgetary proposal with an expenditure framework that carries a huge administrative and personnel cost over and above expenditure on militant that ought to be the main target. It is envisaged under the program that militants willing to disarm would receive a monthly allowance of ₦ 37, 500.00 and a daily feeding of militants by caterers engaged by the government. The payment will run for an open-ended period of time far beyond the August to October, 2010 time frame the amnesty was slated to run.

BOKO HARAM

Since the group called Jamaatu Ahlis Sunna Lidda a Waati Wal Jihad, Nigeria's acclaimed Islamist group otherwise known as Boko Haram (which means that Western education is forbidden) started

⁵³such as the Willink Commission (1957-58), The Oil Mineral Producing Areas Development Commission (OMPADEC) [1992] and The Niger Delta Development Commission (NDDC) amongst others.

⁵⁴ Remembersarowiwa.com/.../the-ogoni-struggle-...

⁵⁵ Ec.m.wikipedia.org/wiki/odi_massacre

⁵⁶ Mike, Igini op cit

operation in Nigeria, the destruction both to lives and properties cannot be quantified, especially, within the north eastern part of the country.⁵⁷

Since they were first mentioned in 2009, they have been fighting the Nigerian State through an escalating campaign of bomb attacks, capture and occupation of villages, abduction of young school girls, forceful conversion and sexual molestation.⁵⁸ On daily basis they have bombed government offices and parasatals, markets, parks, buses, churches, mosques, etc with ignominy.

Their current leader, Abubakar Shekau took over power from the previous leader Mohammed Yusuf who was killed by the police while in custody in 2009. Although they have referred to themselves as an Islamist group, their attacks have been launched on Christians and Muslims alike.

Nigeria heaved a sigh of relief when it was reported on 2nd May, 2015 that Nigerian army rescued 234 girls and women from sambisa forest, a Boko Haram stronghold.⁵⁹ This joy was short lived when they discovered that the insurgents had turned the girls into sex slaves and over 200 of them were pregnant at the time of rescue.⁶⁰ It was further disappointing to know that the chibok girls were not among those discovered.

Their movement is opposed to the authority of the secular government. Anyone who had anything to do with the protection of the government was therefore a potential target. They have extended their fights to all uniformed persons such as the police, the soldiers, the Federal Road Safety Corp, the Civil Defence and even the members of the National Youth Service Corp. In August 2014, the Boko Haram leader declared its territory a Caliphate. Nigeria had to declare a State of Emergency in May 2013 in three States namely Borno, Yobe and Adamawa, and they were extended twice thereafter.⁶¹

Despite all those unspeakable atrocities, Nigeria's President, Dr. Goodluck Jonathan asked a high level team to look into the possibility of granting the militants a pardon.⁶² Their leader Shekau in rejecting the proposal on their behalf stated that they had done no wrong and so an amnesty was not applicable to them. In his words, he said "... what wrong have we done? On the contrary, it is we that should grant you (a) pardon."⁶³

Nigeria obviously has had the history of actual amnesty to the Niger Delta militants and an attempted amnesty to the Boko Haram insurgents. It would therefore not be out of place to show mercy on repentant evaders when those guilty of worse crimes including murder and rape had been

⁵⁷<http://www.amnesty.org/.../boko-haram-at-a-glance-...>

⁵⁸ Ibid.

⁵⁹ www.ibtimes.com/nigerian-army-rescues-234-more-girls

⁶⁰ Internal Business Times UK

⁶¹ www.telegraph.co.uk/.../nigeria/.../Nigeria-declares-state-of-emergency-in-three-states...

⁶²<http://www.bbc.co.uk/news/nigeria's-boko-haram-rejects-jonathan's-amnesty-...>

⁶³ Ibid.

granted mercy in the past. In practice, tax amnesties have been coupled with enhanced enforcement efforts, a feature that seems lacking in Nigeria and is quite essential to pressure the legitimacy of the tax code.⁶⁴ It has not been used in the area of taxation and a lot of tax delinquents will find this a cliché especially since they will do better financially if they are not discovered

CAN TAX AMNESTY WORK IN NIGERIA

As trade and investment increase, more and more tax administrators are coming up with diverse products to raise government revenues to meet daunting challenges. In Nigeria and much of the frontier markets, voluntary tax compliance is still a mirage and special efforts need to be employed to curb tax evasion.⁶⁵ Whereas in developed nations taxpayers remit voluntarily, allowing the administrators time and space to develop new tax types such as carbon tax, green gas tax amongst others, one innovation that stands out from this pack, even in developed countries, remains tax amnesty.⁶⁶

According to Taofeeq Abdulrazaq⁶⁷ at the birthday Lecture in honour of Abdulrazaq Kunle Quadri, former President, Chartered Institute of Taxation of Nigeria (CITN), the Government wishes to tackle evasion in earnest but also to give evaders an opportunity, in the transition from a lower to a higher tax morality, to square accounts with the tax authorities by disclosing items previously omitted and settling their true liability. Through such an amnesty, the money and labour it would have cost the government is removed by the evader's voluntary disclosure. The cost that the government pays to secure such a disclosure is the waiver or reduction of taxes and penalties.

BASIC ESSENTIALS FOR A SUCCESSFUL TAX AMNESTY

It is difficult to justify an amnesty in terms of equity and the main justification is that it would give impetus to anti-evasion drive, producing a useful flow of additional revenue at low administrative cost, and it would assist in producing higher tax morality among the general public at a faster rate than could otherwise be expected.⁶⁸ An amnesty may be appropriate in the following circumstances.⁶⁹

i) Tax evasion has been widespread and there are no dangers of tax payers as a whole opposing the offer of an amnesty.

⁶⁴Leonard, H. B. and Zeckhauser R. J. Amnesty Enforcement and Tax Policy, available on www.worldcat.org/.../amnesty-enforcement...

⁶⁵ Nigeria tribune, Monday, September 23rd, 2013. (how about tax amnesty) www.tribunenwsonline.com.pg

⁶⁶ Nigeria tribune, Monday, September 23rd, 2013. (how about tax amnesty)

⁶⁷Then partner, Tax Regulatory and People Services Saffron Professional Services now Professor of Law, Faculty of Law, Lagos State University, Akoka, Lagos.

⁶⁸ ibid

⁶⁹ Pepper H. W. T. (1966) Tax Amnesties, BRT pp. 284-296

- ii) There is an imminent change of government or re-election of a government with a new mandate and determination to grapple evasion coupled with a wish to show mercy to a repentant evader.
- iii) Amnesties are customary in the country and it would be anomalous to refrain from extending an amnesty to tax evaders' when worse crimes have benefitted from the periodical "exercise of mercy" by the country.
- iv) The evader must feel an imminent danger of discovery, if he does not come forward. It is therefore essential to mount an anti-evasion drive before announcing amnesty. Countries where amnesties have been successful have mounted raids on the premises of the suspected evaders and opened safes and so on in order to create a "nervous" atmosphere. Ideally the drives should continue throughout the amnesty period so as to encourage the evader to believe that it is a race against time and that there is need to confess or unmask his wrongs first.
- v) The evader must be satisfied that he will receive confidential treatment and that disclosure will not make him a "marked" man for future harassment.
- vi) The terms offered must be comparative 'bargain' so that there will be a financial inducement to come forward rather than lie low and gamble over the possibility of escaping detection.
- vii) The offer should be open for a definite and limited period, long enough for publicity about amnesty to reach all evaders, but short enough for there to be a certain amount of urgency about making a decision.
- viii) The amnesty should be a once for-all-offer and there should be no suggestion that it might be repeated at a future date. The importance of making it plain that an amnesty will be granted only once is that if this is not done some evaders may gamble with a future amnesty being offered at a future date and defer confession to some other occasion.
- ix) The picture should not be that an administration which, having tried everything else without success, is now hoping to bribe evaders who it cannot trace, to come forward on their own volition, but rather, of a merciful but determined government giving an evader a last chance to square accounts.

ADVANTAGES OF TAX AMNESTY

The programs are generally a "win win" for tax payers and tax administrators alike. A number of benefits may derive from tax amnesty programmes. In general, amnesty programs are intended to improve overall compliance with tax laws by eliminating underreporting. A number of important considerations such as the following, should be addressed before signing on to any amnesty programme.

Windfall of revenue gain: The most evident potential benefit is windfall revenue gain that accrues to the government from the collection of the past debts. Some have collected substantial sums of back taxes that have helped to reduce the treasury's borrowing requirements. Amnesty programs

have proved successful in collecting money from both underground domestic economy and capital held abroad.⁷⁰ Amnesty is both labour and money-saving since the taxpayer submits to voluntary disclosure and therefore there are some economic reasons for paying a price to ensure such disclosure and corresponding administrative economic benefits.

Expansion on Tax base: A further benefit is that amnesty programme can increase the tax base and thereby improve future tax collections. Government implements the programme hoping both to enlarge the base of registered tax payers and to increase the amount of reported economic activity. A well regulated tax can ensure that those individuals who utilize amnesty are not only added to the list of taxpayers but are also carefully audited in the future. Amnesty can therefore decrease the need to raise taxes in the future because of the expanded tax base. Consequently, regular tax payers can also benefit from tax amnesties as non-payers are brought into the fold.⁷¹

Easy Transition: An additional advantage of these programs is that, they can ease the transition to a new tax enforcement regime. A government that desires to strengthen its tax collection mechanism can enhance its enforcement with tax amnesty. This allows those taxpayers who were unwilling to acknowledge past underpayments to come forward without fear of penalties before the new collection regime is introduced. It gives these taxpayers an opportunity to disclose undeclared assets in return for reduced penalties or an exemption from legal action, by encouraging the repatriation of funds and applying a tax to them. These schemes have the added benefits of strengthening the balance sheets and injecting funds into public finance.

DISADVANTAGES OF TAX AMNESTY:

The benefits of tax amnesty programme must be weighed against a number of potential disadvantages and costs which are hereunder listed;⁷²

Frequent Implementation: First, the programme can have undesirable incentive effects if they are implemented frequently. Citizens may come to expect their government to offer tax amnesties. These expectations can decrease the incentive to pay tax routinely and lead to an increase in the number of tax evaders. Moreover, if amnesties make evasion seem forgivable, they reduce voluntary compliance over the long run, causing serious financial consequences for the government.⁷³

Rewarding Evasion: Amnesties may also have the effect of penalizing regular taxpayers. Some of the amnesties have offered better returns on assets to those who have evaded taxes than to those

⁷⁰ Islam, Muhammad Q. Tax Amnesty and Tax Revenue: Evidence from Ireland. www.econbiz.de/records/tax-amnesty-and-tax-revenue-evidence-from-ireland-islam-muhammad/10009887947

⁷¹ Suliamom Olanrewaju: Amnesty as solution to tax evasion available on www.biafranigeria.com/archive/2003/apr/10/0190.html

⁷² www.ey.com/gl/en/services/tax/wealth-underthe-spotlight---a-tax-amnesty-and-disclosure-opportunities.

⁷³ FRBNY Quarterly review/autumn, p. 49-50.

who have routinely paid. Most amnesties, however, seem simply to have rewarded errant taxpayers by absolving them of penalties on unpaid taxes.⁷⁴

Reduction of Government's Credibility: A further cost of a tax amnesty is that it can be interpreted as a sign of the government's inability to enforce its laws. Consequently, an amnesty carries the potential of reducing the credibility of the government instituting the amnesty.⁷⁵

Reduction of Government Economic Problems: By providing a windfall gain in revenue, tax amnesties may also enable the government to ignore structural problem in economy. For example, a government receiving such a windfall may be less inclined to re-examine burdensome regulation and poor economic policies that often are the root causes of the tax evasion. Where governments concentrate on correcting these structural inefficiencies, they would encourage tax payments, thereby increasing overall tax base.⁷⁶

Reduction in Real Revenue: Amnesty leads to a reduction in real revenues, which makes it to have a negative impact on revenues from taxes.

The trend in the granting of amnesties in various countries show symptoms of the growing determination to raise standards of tax morality, increase revenue and balance budgets. To grant an amnesty cannot be justified purely on equitable grounds. A successful amnesty may however be worthwhile as a business proposition in providing an economic administrative short-cut to the collection of hitherto revenue enabling evaders to graduate painlessly to full tax compliance.

Tax amnesties have raised hundreds of millions of dollars that revenue collectors would otherwise have found difficult or impossible to capture. Amnesties have swelled the rolls of paid-up taxpayers and increased the population of regular filers. State revenue department estimates suggest that a well-publicized amnesty combined with stricter future enforcement considerably increases the level of future voluntary compliance with tax laws. Amnesties may have had some less positive effects as well. They may have angered law-abiding taxpayers who dislike seeing tax breaks given to abusers of the system. Current amnesties may have encouraged some citizens to believe that there will be future amnesties as well, thereby reducing their incentives to keep current on their payments. Not surprisingly, considerable controversy has arisen over whether (and how) tax policy should make use of amnesty programs.

⁷⁴James Alm, Jorge Martinez-vasquez and Sally Wallace: Do Tax Amnesties Work? The Revenue Effects of Tax Amnesties during the Transition in the Russian Federation. *Economic Analysis & Policy*, Vol.39 No.2, September 2009

⁷⁵ Benno Torgler, Christoph A. Schaltegger (Tax Amnesty and Political Participation) available on www.estv.admin.ch/.../index.html?...

⁷⁶ FRBNY Quarterly review 1989. P. 50

CONCLUSION

Major challenges which the Federal Inland Revenue Service (FIRS) and various States Board of Internal Revenue (SBIR) are contending with are the issues of mounting tax arrears. In some cases, the companies have collapsed without complying with payments of taxes as and when due. While the tool of enforcement should not be replaced with amnesty completely, it is however a tool that can be deployed to 'increase' revenue collection. Amnesty or some form of relief will certainly encourage defaulting tax-payers to negotiate their tax debt obligations with respective collecting agencies, which will then enable them to start on a clean slate. It is pertinent to include also that a tax-payer who has enjoyed the magnanimity of amnesty will not be qualified more than once and therefore stiffer Penalties can then be applied to such a tax-payer for future tax defaults. It must also be taken into account that not all defaulting tax-payers do it deliberately.⁷⁷ Tax amnesty though a way forward, has never been granted in Nigeria.⁷⁸ This mean that whenever it is granted a lot of tax evaders will be expected to take advantage of the tax amnesty program as they did during the Niger-Delta insurgency. However for any grant of tax amnesty to be successful in Nigeria, tax evaders should be made to see the eminent danger of being discovered and prosecuted. This fear can be aroused by aggressive anti-evasion drive before announcement of the amnesty. The tax amnesty should be such that the evaders who will come forward will be guaranteed confidentiality so that in the future he may not be marked as a potential evader. The offer should be open only for a definite and limited time as this would spur evaders to pay up backlog due to the government within the stated period. As part of the reform policy in Nigeria the grant of a tax amnesty could ginger tax payers into compliance.

⁷⁷ Frank Onero Obaro. How About Tax Amnesty? Nigeria Tribune, Tuesday, September 24th, 2013.

⁷⁸ Agbonika J. A. A. Personal Income Tax in Nigeria 2012 Alaba Press Ibadan. p. 426