



AfriHeritage Policy Brief

Tax Waivers for Multi-Nationals in Nigeria: Are These Based on Economic or Political Reasoning?

BY

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Executive Summary

This policy brief provides a report of a larger study on the major motives behind tax waivers for multinational corporations (MNCs) in Nigeria. The study answered an important question that has increasingly dominated the economic sphere in recent times, which borders on the economics and politics of the tax waivers consistently granted to multinational corporations in Nigeria. The major question posed was: what are the economic or political reasoning behind tax waivers/incentives granted to MNCs in Nigeria? In this regard, the study provided analysis of the global practices of tax incentives upon which tax waivers are founded and its forms in order to locate the context of Nigeria's taxation system and tax waivers.

In its findings, it was observed that there is no clear evidence to prove that tax waivers have contributed significantly to the Nigerian economy, especially when considered within the context of Foreign Direct Investments (FDI). Rather, the system of tax waivers has represented a useful conduit for the MNCs to evade taxes and perpetuate corruption in the system. Against that backdrop, the study concludes that there appears to be more politics around the granting of tax waivers to MNCs in Nigeria. The study offers recommendations on ways to strengthen the tax system and ensure that tax incentives – if they must continue – serve the purpose for which they are designed and not exploited by the foreign companies (and their local collaborators) at the expense of Nigeria.

Taxation and Tax Incentives in Nigeria

Nigeria's taxation system has its roots in the British colonial state. The taxation system was later strengthened through different colonial policies which were inherited by the post-independence government. The present taxation system is situated within a tripartite structure including: tax policy, tax legislation and tax administration.

Tax incentives and waivers are not new in Nigeria. They have been in operation since the colonial era, which was characterized by a tax system that offered different forms of relief, allowances and tax breaks for British companies and individual merchants as a strategy to establish trade links with the colony. After independence, tax incentives were adopted by the new government as a strategy to encourage the growth of the private sector and boost foreign investment for the general growth of the economy. In the Nigerian context, tax incentives can be broadly categorised into two: (i) General Incentives -- a category of incentives applicable to all sectors of the economy and extends to both local and foreign companies, with the aim of stimulating the economy; (ii) Sector-specific Incentives -- are characterised by incentives that mainly target a particular industry with the aim of encouraging investment in such industry. These include the oil and gas, agriculture, power, manufacturing, and telecommunications sectors. Nigeria also operates Free Trade Zones (FTZs) to encourage investors to establish industries in the FTZs in order to enjoy multiple tax incentives. As the products from such industries are expected to be exported, they contribute to increases in the export revenues of the country.

Tax Incentives/Waivers for the MNCs

Indeed, many of the tax incentives in existence in Nigeria are designed for foreign investors on the belief that such encouragement would facilitate economic development. Given this, MNCs have been benefiting from the Nigerian system of “massive tax breaks”. For example, an ActionAid report demonstrated how the three principal MNCs in the oil sector –Shell, Total, and Eni – which partner with Nigeria’s NNPC in Joint Ventures, were granted blanket tax waivers. The companies enjoy three levels of tax waivers covering a period of twelve years:

- 1) tax exempt in the category of Pioneer Status in the first 5 years;
- 2) between the sixth and tenth years, they enjoy waivers on corporate income tax (CIT) (when other non-favoured pioneer companies would have started paying 30% on CIT); and
- 3) in the 10 to 12th year, the companies enjoy a further CIT-free on the basis of deferred tax assets.

Some hold the view that tax waivers have facilitated some developments in the economy by generating foreign investment, job creation and industrialization. Although this position cannot be entirely disputed, the problem with most studies favouring the idea of tax incentives is their failure to provide a clearly convincing link on the positive relationship between waivers and economic growth in Nigeria. This has not helped to provide a sufficient measurement of the positive impacts of tax incentives and waivers for the economy. However, this does not imply that tax incentives have not contributed to the economy especially in the context of job creation, industrialisation and investment which are indexes for economic growth. Some studies have discovered that tax incentives attract foreign investment and represent a viable means for full employment in the country, if well implemented. In addition, the study found that a system of tax incentives can build local industries to effectively compete with the foreign companies.

On the other hand, there are substantial evidences to prove that the system has contributed hugely not only to the stunting of indigenous talent, but also to losses of revenue for Nigeria with devastating effects on the available talent pool, the economy, and the general welfare of Nigerian citizens. Less capitalized and often operating with less skilled staff and substandard technological inputs, local industries are typically disadvantaged and discouraged by the presence and special dispensations given to foreign companies despite their deeper pockets. Thus, it cannot be denied that besides the massive costs of incentives for the country – in terms of losses of revenues – the local producers and industries also often suffer in a bid to grow local industries and encourage economic diversification.

It is also important to state that despite the system of tax waivers enjoyed by MNCs, many of them still indulge in various tax evasion practices. The Halliburton bribery scandal remains the most popular in the public discourses following investigations in 2010 that the American oil company paid US\$ 2.4 million as bribe to government officials in Nigeria to cover up their tax evasion practices. Clearly, these practices disprove the idea that tax incentives encourage tax compliance – at least not in the Nigerian situation.

What is clear is that the Nigerian economy has suffered, rather than benefit from the system of tax waivers. For example, it was estimated by ActionAid that Nigeria lost US\$ 3.3 billion to a ten-year tax break granted to only three oil multinationals at the expense of other developmental and welfare programmes for the people. The former Minister of Finance, Ngozi Okonjo Iweala, also pointed out that the country lost N170.74 billion to tax waivers

between 2011 and 2013 alone. The net effect of MNC activities is that by exploiting the system to make excessive profits, they perpetuate corruption and underdevelopment and the attendant poverty in Nigeria. Clearly, such exploitation is perpetrated in close connivance with local elites and government officials using state institutions and power to grant the waivers and, as such, helping the companies to manipulate the system and evade taxes illegally. Although many government officials participate in such acts for comparatively small payoffs, some of the elites may have business interests in the companies and/or political interests.

Therefore, politics and non-economic considerations are often key factors in the policies and discretions around tax waivers for MNCs. Although it cannot be disregarded that the institutional objectives for giving tax incentives to MNCs are development-oriented, but the fact that this has failed to translate meaningfully into physical development for the country proves that in reality individuals in the corridors of power and the beneficiary companies are the main winners in the system.

Policy Recommendations

Tax incentives and waivers are key aspects of the Nigerian economy. A weak economy such as Nigeria's in reality needs radical approaches to attract investment and promote economic growth. Clearly, part of the approaches includes the institutionalisation of tax incentives to foreign investors. Notwithstanding the good economic objectives, the policy has been abused in Nigeria, leading to outright corruption and poor outcomes. Given this, there have been rising calls for the discontinuation of the policy because it has been an apparent rip-off for the economy. Research conducted in other countries has shown that tax incentives are difficult to be discontinued once implemented because of intense lobbying by the investors especially MNCs with abundant resources.

While tax incentives cannot be totally rejected as an insignificant economic strategy, it is important for the government to do a critical re-consideration of tax incentives advanced to MNCs and strengthen the existing institutions around taxation in Nigeria. Based on the foregoing discussion, the following are the policy recommendations that are considered useful.

- Government must embark on an extensive review of tax incentives using an independent audit firm. This should be used as a parameter to judge if tax incentives are really beneficial or not to the economy.
- There is need for an efficient monitoring and evaluation system that would offer a periodic and timely evaluation of the tax incentives in order to prevent abuse by MNCs and their local collaborators.
- The government must incorporate the abuse of tax waivers in its anti-corruption drive. Those found to be culprits should be punished under the framework of the existing anticorruption institutions.
- The government should strengthen its tax institutions with the aim of preventing opacity around tax waivers to MNCs. Transparency in the number of beneficiaries and the motives behind the waivers granted to them will not only address the lingering problem around the taxation system but also significantly corruption in the taxation system. .
- The National Assembly must improve on its oversight functions on the issue of tax waivers. Issues concerning tax waivers must be seriously checkmated by the legislature.