

RESEARCH ISSUE Brief

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Appraisal of the Federal Inland Revenue Service Establishment Act 2007: Need for Legislative Amendment

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Executive Summary

This brief highlights problems posed by the law as the Establishment Act seems to create confusion on the applicable legal regime in the areas of personal income tax, capital gains tax and stamp duties payable by individuals and unincorporated bodies. The brief concludes that the Act is a mixed grill and there is an urgent need to review and amend certain provisions of the Act to expressly exclude those aspects of Capital Gains Tax, Personal Income Tax Act and Stamp Duties Act in respect of which State Boards of Internal Revenue have been statutorily designated as the appropriate Tax Authorities. Likewise, there is need to harmonise the provisions of Sec 3 (2) (a) and Sec.11 (d) on the experience, qualifications and skills required of the Executive Chairman as the existing provision could create some problems for future appointment of an executive chairman of the FIRS.

I. Introduction

A tax law can only be relevant and meaningful within the context of the objectives that it

sets out to achieve. The FIRS (Establishment) Act 2007 Cap F 36 is an Act to “provide for the establishment of the Federal Inland Revenue Service charged with powers of assessment, collection of, and accounting for revenues accruable to the Government of the Federation; and for related matters”.

However, the FIRS Establishment Act has been pervaded with myriads of challenges, issues and contradictions as well as conflict with functions and roles of state Inland Revenue services on certain aspect of tax collection. It is against this backdrop that this brief critically examines the FIRS (Establishment) Act 2007 with a view to determine if it has lived to its objective as an Establishment Act.

II Issues

Unrelated Matters in the Act:

Parts 1 to 1V which deal with the establishment of the FIRS as an autonomous body are quite germane. The Miscellaneous Provisions and the Second

Schedule with focus on Supplementary Provisions relating to the Board are significant to the Act. But then the provisions contained in Part V are un-related to establishment of the Act consisting of issues such as Call for returns, Further Returns, Payment of Tax, Enforcement, Tax Investigation, Enforcement Powers, recovery of tax etc. Similarly Part VI on Offences and Penalties should naturally be in the Companies Income Tax Act Cap C 21 that specifically deals with assessments, returns, rates of company's tax, imposition of tax and profits chargeable on companies, ascertainment of assessable and total profits, collection, recovery, payment of company's tax etc

Applicable Legal Regime between FIRS and State Inland Revenue Services:

Problems posed by the law as the Establishment Act seems to create confusion on the applicable legal regime in the areas of personal income tax, capital gains tax and stamp duties payable by individuals and un-incorporated bodies. Certain provisions of Act contain sections that conflict with areas that are also provided for statutorily for state inland revenue services. These areas include those aspects of Capital Gains Tax, Personal Income Tax Act and Stamp Duties Act in respect of which State Boards of Internal Revenue have been statutorily

designated as the appropriate Tax Authorities.

Lack of Harmonization:

The provisions of Sec 3 (2) (a) which state that the Executive Chairman to be appointed by the President subject to confirmation of the Senate shall be experienced in taxation seems to contradict Sec.11 (d) stipulated that the Executive Chairman of the Service shall have cognate experience and skills in accountancy, economics, taxation, law and related field. The existing provision could create some problems for future appointment of an executive chairman of the FIRS.

III. Conclusion/ Issues to Note for Legislative Action.

This brief examines the Federal Inland Revenue Establish Act 2007 with a view to call for review and amendment of certain provisions of the Act. The Act currently appear as a mixed grill with some contradictions. It is against this backdrop that this brief thereby recommends that the National Assembly should propose an amendment Bill to the Federal Inland Revenue Establish Act. The amendment should cover the following areas:

- (1) That the FIRS Establishment Act be reviewed and an amendment Bill be proposed to harmonise section 3 (2) (a) and section 11 (d) of the FIRS establishment Act 2007, by so doing, the

experiences and qualifications required of the Executive Chairman of the Board would be clearly stated. Some problems for future appointment of an executive chairman of the FIRS could then be prevented.

- (2) There is need to expressly exclude in the FIRS establishment Act those aspects of Capital Gains Tax, Personal Income Tax Act and Stamp Duties Act in respect of which State Boards of Internal Revenue have been statutorily designated as the appropriate Tax Authorities.
- (3) There is need to amend the provisions contained in Part V of the Act as they are un-related to

establishment of the Act. Part V consist of issues such as Call for returns, Further Returns, Payment of Tax, Enforcement, Tax Investigation, Enforcement Powers, recovery of tax etc. Similarly Part VI on Offences and Penalties. All these issues should naturally be in the Companies Income Tax Act Cap C 21 that specifically deals with assessments, returns, rates of company's tax, imposition of tax and profits chargeable on companies, ascertainment of assessable and total profits, collection, recovery, payment of company's tax etc.

The views expressed in this Research Issue Brief are those of the author(s) and do not necessarily represent the views of the Institute and its Management.

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