NIGERIA'S PETROLEUM PROFITS TAX ACT: AN ASSESSMENT

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Introduction

One of the key pillars in any industry is finance. In the petroleum industry, like any other enterprise, finance plays a key role in all areas of the industry. And as a result of the capital-intensive nature of the industry, the annual budget of the average oil company can be larger that those of some third world countries.

In Nigeria, the petroleum industry is the bedrock of the economy and is responsible for about 90 percent of her total revenue. Her other sources of revenue include, *inter alia*, agriculture, solid minerals, goods and services and most importantly taxes collected from various sources including the petroleum industry. Companies and corporations in Nigeria are taxed principally under the Companies Income Tax Act,[1] while companies engaged in petroleum operations are taxed specially under the Petroleum Profits Tax Act (as amended) (PPTA)[2] because of the peculiar and complicated nature of the oil industry. The Federal Board of Inland Revenue (FBIR) is saddled with the onerous task of collecting taxes from the various companies including those engaged in the oil business.

The focus of this paper is to examine the petroleum profits taxation system established under the PPTA, with a view to assessing whether or not it is effective in dealing with the myriad of problems associated with the financial areas of the oil industry particularly the problem of tax evasion on the part of some companies and deliberate fraudulent and incorrect assessment of the tax due and payable on petroleum profits by others. This paper shall specially examine the provisions of the PPTA and offer some commentaries on them. Towards this end, the paper shall be divided into three segments - the scope of the Act, computation of profits and assessment of tax due and payable and lastly a critical assessment of the taxing system.

Scope Of The Act

Companies in Nigeria are generally taxed under the Companies Income Tax Act, 1990 while those engaged in "petroleum operations" are taxed specifically under the PPTA. Although dated 23rd April 1959, the Act has retroactive effect from 1st January 1958. Since then, the PPTA has been amended by several pieces of legislation[3], which have now been consolidated into the current PPTA (1990) and has also since 1990 been subjected to several

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1. Cap 60, Laws of the Federation of Nigeria, 1990 (hereinafter LFN, 1990)
2. Cap. 354, LFN, 1990
3. These include *inter alia* the Income Tax (Amendment) Act, No. 65 of 1966; the Petroleum Profits Tax (Amendment) Act, No. 1 of 1967; the Oil Terminal Dues Act, No. 9 of 1969; the Petroleum Profits Tax (Amendment) Act, No. 15 of 1973; No. 55 of1973; No. 14 of 1979; and Act No. 22 of 1990.

amendments.[4] The Act is meant to regulate the financial activities of oil companies comprising those in crude oil production, petroleum marketing and the servicing companies such as seismic survey, drilling and data collection. It is the profits generated by companies that engage directly or indirectly in petroleum operations that are subject to tax under the Act, while profits generated by marketing and servicing companies are taxed under the Companies Income Tax Act. Companies engaged in petroleum operations are chargeable to tax under the PPTA.

An oil producing company is defined as a company engaged in petroleum operations. By virtue of section 2 of the PPTA, "petroleum operations" is:

> The winning of, obtaining and transportation of petroleum or chargeable oil in Nigeria by or on behalf of a company for its own account by any drilling, extracting or other like operations or process, not including refining at a refinery, in the course of a business carried on by the company engaged in such operations and all operations incidental thereto and any sale or any disposal of chargeable oil by or on behalf of the company.

All profits generated by companies engaged in such operations are chargeable to tax under section 8 of the PPTA, which provides:

> There shall be levied upon the profits of each accounting period of any company engaged in petroleum operations during that period a tax charged, assessed and payable in accordance with the provisions of the Act."

Therefore, companies involved in petroleum exploration and production fall into this class because by their various contractual agreements, they win and obtain and engage in petroleum operations on their own account. Other companies who "win or obtain petroleum" entirely under the umbrella of the Nigerian National Petroleum Corporation (NNPC)[5] account fall outside the scope of the Act.

A glance at the provisions of the PPTA reveals that it covers basically every area of petroleum operations. It is divided into eleven parts: starting with preliminary matters such as short title and interpretation through administration, imposition of tax and ascertainment of chargeable profits; ascertainment of assessable tax and of chargeable tax; persons chargeable; accounts and particulars; assessments; appeals; collection, recovery and repayment of tax; offences and penalties; to miscellaneous provisions. Four schedules bring up the rear of the Act. A cursory look at the above reveals that the Act even covers the operations of companies, which produce liquefied natural gas with its current income tax rate at 85 percent of chargeable profits during the accounting period of the company. However, companies holding oil concessions and starting oil

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4. See, for example, the Finance (Miscellaneous Taxation Provisions) Decree No.30, 1996;Finance (Miscellaneous Taxation Provisions) (No. 2) Decree No.31, 1996; Finance (Miscellaneous Taxation Provisions) Decree No.18, 1998; Finance (Miscellaneous Taxation Provisions) Decree No.30, 1999 and the Deep Offshore and Inland Basin Production Sharing Contracts Act, No. 26 of 1999. For a detailed examination of Act No.26 of 1999, see L. Atsegbua, "Nigeria's Deep Offshore and Inland Basin Production Sharing Contracts Decree, (No. 9) of 1999" [1999] 8 OGLTR, 221

5. Such companies include *inter alia,* Shell Petroleum Development Company and MobilProduction Nigeria, Agip Oil, Chevron and Total (Nig.) Plc. Etc.

production on or after 1st April 1977 shall pay 65.75 percent until their production costs are fully amortized.

In summary, the PPTA provides for the collection of tax imposed on the profits made from petroleum operations. The Act is meant to apply to the taxation of the assessed income profits of companies engaged in petroleum operations, be it crude oil or natural gas. It contains provisions relating to the definition of the operations of companies that are subject to the Act. It also defines factors to be considered in calculating tax payable by any affected company with provisions for effecting petroleum profits tax payment. Provisions have also been made by the Act for appeals against FBIR's assessed levies by dissatisfied companies in addition to the stipulation of offences and penalties for violation of the provisions of the Act by affected persons and companies.

Computation of Profits and Assessment of Tax Due and Payable

This sub-heading will not have meaning without reference to the sources of income from the petroleum industry. Revenue derivable by the FBIR on behalf of government from oil producing companies include:

i. Direct tax on the profits from petroleum operations and bonuses paid on the grant of oil prospecting licenses;
ii. Rents from concessions and grants to oil companies under the Petroleum Act;[6]
iii. Revenue from royalty paid on crude oil, petroleum spirit and gas produced from on and off-shore concessions;
iv. Payments made under Oil Terminal and Dues Act, 1969;[7] and
v. Bank charges and commission to the Central Bank of Nigeria (CBN) regarding petroleum profits tax, royalties, leases and rentals, which are paid in Nigerian currency or the currency in which the computation giving rise to the assessment was made and credited to CBN account domiciled in England and New York.[8]

Determination Of Chargeable Profits

The profits of a company engaged in petroleum operations are firstly ascertained and taxed. By virtue of section 9 of the PPTA, the profits of an accounting period is the aggregate of the following:

(a) The proceeds of sale of chargeable oil[9] sold by the company in that period;
(b) The value of all chargeable oil disposed of by the company in that period; and
(c) All income of the company incidental to and arising from any one or more of its "petroleum operations".

The "adjusted profit" of an accounting period is profit left after deducting all costs of transportation, outgoings and expenses wholly, exclusively and necessarily

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6. Now, Cap 350, LFN, 1990
7. Now, Cap 339, LFN, 1990
8. This money is determined from time to time by the CBN in foreign exchange equivalent of the tax.
9. According to s.2 PPTA, "chargeable oil" means "casing head petroleum spirit and crude oil won or obtained by the company from such operations.

incurred by the company during that period for the purpose of those operations,[10] while the "assessable profit" of an accounting period is adjusted profit of that period less the amount of any loss incurred by the company during the previous accounting period, or less the amount of loss incurred by a previous foreign company from whom a current reconstituted and incorporated company has inherited its assets.[11] The "chargeable profits" of an accounting period are the assessable profits of that period less the deductions allowed under section 18 of the PPTA, as allowances and deductions.[12] In other words, chargeable profits are profits left after:

(i) deducting all costs of transportation, outgoings and expenses wholly, exclusively and necessarily incurred for the purpose of petroleum operations (adjusted profits);
(ii) deduction of the loss incurred by the company or its predecessor during the previous accounting period; and
(iii) deductions of Investment Tax Credit (ITC) or Petroleum Investment Allowance (PIA), annual, balancing and other allowances permitted under relevant provisions of the Act.

In all situations above, an accounting period is deemed to be:

(a) a period of one year from 1st January and ending 31st December of the same year;
(b) a period commencing when the company first makes sales or bulk disposal of chargeable oil under a programme of continuous production and sales whether domestic or exported or both ending on 31st December of same year; and
(c) any period less than a year being a period commencing on 1st January of any year and ending on the date within the same year when the company ceases to engage in petroleum operations.

Having ascertained the profits of an oil producing company[13] whether profits *per se*, adjusted profits, assessable profits or chargeable profits, section 8 of the PPTA provides that the profits of each accounting period of such a company are subject to tax to be charged, assessed and paid in accordance with the provisions of sections 19 to 21 of the Act. The taxes envisaged by these sections are "chargeable tax" and "assessable tax"

Ascertainment Of Assessable Tax And Chargeable Tax

Assessable tax for any accounting period of a company is an amount equal to 85 percent of its chargeable profits for that period.[14] Chargeable tax on

10. See ss.9(3), 10 (1) and 12, PPTA
11. See ss.9(4), 14(1) and 16, PPTA.
12. See s. 9(5) and 18, PPTA. This translates to assessable profits less the aggregate amount of investment tax credit, annual and balancing allowances, permitted for incurred qualifying expenditure made wholly and exclusively for petroleum operations carried out by the company. See paragraphs 6 and 8 of the Second Schedule to the Act.
13. Section 2 of the PPTA provides for taxing profits of companies engaged in "petroleum operations", that is, those winning or obtaining and transporting petroleum or chargeable oil in Nigeria. By implication only oil-producing companies are envisaged and not refining, marketing or service companies.
14. See s.19, PPTA.

the other hand, is to be charged, assessed and paid by the company to the tune of the assessable tax payable for that period less:

i. all royalties not deductible under section 10(1)(b) of PPTA;[15]
ii. all non-productive rents, the liability for which was incurred by the company during that period;
iii. the amount of investment tax credit[16] due for the period to the company; and
iv. all sums incurred by the company during that period as custom or excise duty or other charges levied for facilities used by the company in its operations.

The only reason why i-iv above may not be deducted from the assessable tax is if such sums are incurred for the purpose of obtaining a service, facility or right to enjoy any facility, which are of a kind available to the public on payment of such sums.[17] Section 20(3) also stipulates that despite deductible non-productive rents referred to in (ii) above, deductions shall not be allowed with respect to custom duties chargeable on goods imported by the company if such goods are for re-sale or for the personal consumption of its employees or were ordered by the company at a time when such goods are locally produced in Nigeria.

Where however, the total amount of sums and royalties allowed to be deducted are in excess of the company's assessable tax or where there exists no assessable tax for that period, then such excess or total amount is carried forward for deduction from assessable tax of the next accounting period or periods until it is fully liquidated.[18] Section 21 of the Act allows for the payment of additional chargeable tax in certain circumstances such as the proceeds from all chargeable oil disposed of by the company, within the accounting period obtained by multiplying the number of barrels of crude oil by the relevant sum per barrel.

In summary, the chargeable tax of a company engaged in petroleum operations is the final amount in the computation process for petroleum profits for the relevant accounting period subject to any notice issued by the FBIR requesting the company or any other legal person to whom it may have transferred some assets, to complete and deliver to the board any returns specified in the notice, or any such information as the Board may require about the asset.[19]

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15. These are royalties deductible in respect of chargeable oil won and disposed of locally during the accounting period.

16. See paragraph 5 of the Second Schedule to the PPTA, which provides for an allowance of between 5 percent and 20 percent called "investment tax credit" to companies for qualifying capital expenditure wholly, exclusively and necessarily incurred for the purpose of its operations. However, the provisions of the Deep Offshore and Inland Basin Production Sharing Contracts Act No. 9, 1999 which took effect from 1st July, 1998, have made it clear that it is only companies which signed Production Sharing Contracts (PSC) with the Nigerian National Petroleum Corporation (NNPC) since 1993 but before 1st July, 1998 that are now entitled to claim Investment Tax Credit which is a tax offset for such companies at the rate of 50% of chargeable profits throughout the duration of the contract. By implication other companies without PSC agreements and those with PSCs signed after 1st July 1998 can only now claim Petroleum Investment Allowances. But again, the provisions of the Finance (Miscellaneous Taxation Provisions) Decree No. 30, 1999 (being a later decree), have inadvertently amended the provisions of the Deep Offshore and Inland Basin Production Sharing Contracts Act No. 9, 1999 as regards the basis of the computation of ITC. The implication of this amendment is that PSCs signed pre and post 1993 up to 1st July 1998 can only claim PIA while the PSCs signed in 1993 alone are entitled to ITC.

17. Section 20(2), PPTA.

18. Section 20(4), PPTA.

19. Section 17, PPTA.

In addition, section 21 of the Act provides for the imposition of a "posted price" on the quantity of crude oil exported from Nigeria by a company within the accounting period and which is relevant in determining whether or not an additional chargeable tax is payable.

The process by which chargeable tax is finally arrived at is not as simple and clear-cut as already discussed. This is because the very nature of the petroleum business makes tax assessment difficult because many important and relevant determinants for assessment may not ordinarily be available at the beginning of an accounting period. The FBIR with whom tax returns are filed is aided in its assessment task by the pieces of information contained in the schedules, which must accompany the company's audited returns, accounts and particulars.[20]

Persons Chargeable And Payment Of Tax

Individuals, either solely or in partnership jointly with another or others, are not allowed to engage in petroleum operations and are in fact guilty of an offence.[21] It follows, therefore, that only companies either solely or in partnership with other companies under the terms of production sharing contracts,[22] partnership, joint venture scheme or arrangement are chargeable to tax under the PPTA, either directly, through their managers or named persons resident in Nigeria (for foreign companies) or liquidators (for companies in liquidation). These companies must submit all accounts and computations within five months of the end of the accounting period.

Payment of tax (barring any pending objection or appeal[23]) for any accounting period of 12 months is made on equal monthly instalments with a final instalment which is due and payable within 21 days of the service of the notice of assessment less the sum already paid. The first monthly instalment must be paid at the end of the third month of the accounting period in the right average proportion of the annual[24] estimated chargeable tax. Payments for subsequent months are due and payable not later than the last day of the relevant month in question.[25] Failure to pay any instalment on the due dates attracts a penalty of 5 percent of the amount due, to be paid within one month after the service of a demand note by FBIR and after which the Board may enforce payment as provided under the Act.[26] The Board may sue and recover unpaid tax from defaulting companies who are obliged to pay the costs of such litigation.[27]

With respect to cases of pending objections or appeals from companies regarding assessed tax, payment of tax as determined after resolution of the appeal or objection is made immediately after the resolution or within one month from the date of service of notice of the tax payable. Failure to comply attracts

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20. Sections 28 to 37, PPTA
21. Section 22, PPTA.
22. See the Deep Offshore and Inland Basin Production Sharing Contracts Act, No. 9 of 1999, which had retroactive effect from 1 January 1993, for definition.
23. Section 41, PPTA.
24. "Annual" is a relative term which could be exactly 12 months or less depending on what month of the accounting period a company started or wound up its business.
25. Section 42, PPTA.
26. Section 43, PPTA.
27. Section 45, PPTA. The Board can sue in any court of competent jurisdiction including Magistrates' Court.

sanctions under section 39 of the PPTA. The procedure for appeals to both Appeal Commissioners and the Federal High Court against assessments are provided for in sections 38 and 39 of the PPTA.

Sections 46 and 47 of the Act provide for situations where errors or mistakes have been made by companies in their accounts, particulars or other written information supplied to the Board and which have resulted in the wrong assessment of the tax payable. Such companies are entitled to relief and a repayment of the overpaid portion of the tax provided that they make a written application for relief to the Board within six years after the end of the accounting period in respect of which the assessment was made.

Sanctions Against Violations

Certain offences have been created by the PPTA under Part X the breach of which makes a company liable to stated penalties. The offences and penalties are as follows:

i. Any offence committed by a company under the Act and for which no specific penalty is prescribed makes the company liable to a fine of ₦10,000;[28]
ii. If the offence is that created under section 22(1),[29] or where a company fails to make returns of estimated tax,[30] or fails to deliver accounts, particulars, information or keep records under Part IV of the Act, then a fine of ₦2,000 for every day the offence or failure continues in addition to ₦10,000 standing fine are prescribed. Default of payment attracts six months imprisonment in spite of the eventual payment of the cash penalty;
iii. Failure to comply with the requirements of a notice served under the Act; or to prepare and deliver accounts and particulars required by section 28; or failure to attend and answer questions in response to a notice or summons or failure to submit any returns required by either section 27 or section 32 of the Act attract an offence punishable same way as in (i) and (ii) above;
iv. The making of incorrect accounts, such as understating profits or overstating losses; incorrect schedules overstating expenditure or royalties or other sums. (Understating amounts repaid, refunded, waived or released; or giving or causing to be given incorrect information relating to liability to pay tax makes the offending party liable to a fine of (a) ₦1,000.00 and twice the amount of tax undercharged in consequence of such incorrect accounts, schedules, statements or information, provided that the complaints concerning any such offence is made within six years after the end of the accounting period);[31]
v. The making of or the aiding, abetting and counselling to make false statements and returns for the purpose of obtaining any deduction, rebate; reduction or repayment in respect of tax attracts a fine of ₦1,000.00, thrice the amount due for the accounting period, or imprisonment for six months

28. Section 48, PPTA.
29. Section 22 (1) prohibit persons who are not companies from engaging in petroleum operations.
30. Section 31, PPTA.
31. Section 49, PPTA.

or both;[32]

vi. Staffs of the FBIR and other unauthorized persons who are guilty of corruption are liable to a fine of ₦600 or three years imprisonment or both.[33]

In the case of offences referred to in paragraphs (iv) and (v) above, the FBIR reserves the right to compound any offences created under sections 49 and 50 or compound any proceedings thereunder before judgement. Generally, however, offenders are liable to pay the original tax payable irrespective of proceedings for imposition of fine, penalty or terms of imprisonment. The provisions of the Act do not also affect independent criminal proceedings under any other law against the offenders. With respect to offences created under sections 5, 49, 50 and 57 of the Act no proceedings may be commenced without the sanction or at the instance of the Board.[34]

Miscellaneous Provisions And Schedules

The miscellaneous provisions in the Act are to take care of cases of double taxation under other indigenous laws and/or with respect to taxation laws of other territories. The Act provides for the making of taxation arrangements with such other territories by the Minister of Petroleum Resources, regarding grant of tax reliefs where necessary, particularly in cases of double taxation.

The first schedule to the Act outlines the powers and duties exercisable or to be performed by the FBIR alone.[35] The Second Schedule (relating to sections 10, 18 and 28 of the Act) deals with capital allowances while the Third Schedule deals with specified times for payments. The fourth and final schedule deals with the interpretation of the Fourth Schedule to the 1979 amendment No. 95 of the Act.

Assessment

The PPTA is the only comprehensive legislation from which the rules regulating matters of taxation within the petroleum industry can be discerned. Other laws deal with the subject either only incidentally or some aspects of the oil industry.[36] It has gone through a number of amendments since 1958. On paper, the taxation system established under the Act is a workable and effective one irrespective of certain flaws. In practice however, it has had to contend with the Nigerian factors of strict enforcement problems, corruption and evasion. The Act, in its provisions, has made available to the FBIR, a manageable system of tax collection.

Unfortunately however, the typical Nigerian taxpayer, in an attempt to continue operating in business, would rather short-circuit tax laws in any way

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32. Section 50, PPTA.
33. Section 51, PPTA. See also the new s.50A added by amendment of the PPTA by the Finance (Miscellaneous Taxation Provisions) (No. 2) Decree No. 31, 1996 that prescribes punishment for failure to deduct withholding tax, or having deducted the tax, fails to remit it to the Federal Inland Revenue Service.
34. Sections. 52 to 54, PPTA
35. These are the powers and duties in ss.3(b), (d) and (e); 6 (2); 10(1)(f); 11(2)(b)(iii); 13; 29(2); 31(1); 35(1); 46; 49; 50 and 53 of the Act.
36. See, for example, the Deep Offshore and Inland Basin Production Sharing Contracts Act, No. 9 of 1999; the Income Tax Management Act, Cap 173, LFN, 1990; and the Income Tax Act, 1990.

feasible. The taxpayer often opts to negotiate with corrupt staff in return for some gratification and pay a minimal sum to the coffers of the government. This is despite the sanctions imposed by the same Act for such conduct. The problem here seems not to be lack of adequate provisions deterring such conduct, but rather the lack of enforcement machinery for the provisions of the Act. The Act simply defined offences but failed to provide machinery for detection of offenders. There is no check and balance system that could have given effect to the provisions of the Act considering the generally corrupt nature of Nigerian officials with respect to government property. Who is to check whether the accounts, statements returns and information supplied by companies and certified to be correct by the FBIR staff are indeed correct? It is arguable that the free hand given to companies to submit information comprising accounts, returns, schedules, report of asset base, balance sheet of profits and losses etc. on the basis of which the FBIR works out the tax payable is fatal to the purpose and intent of the PPTA. Even the fines and terms of imprisonment prescribed for different categories of offences under Part X are so inadequate in contemporary Nigeria that they tend to encourage rather than discourage the commission of these offences.

The Act, as it is presently, gives a lot of room for tax evasion and many companies have exploited it to their own advantage. Despite the generous tax incentives offered by the Act, a lot of companies still defraud the Nigerian government by paying much less than they should. The Act lays out an elaborate system of computing the profits and tax payable by a company but fails to establish the method of ascertaining whether what is actually computed by affected companies reflects the true picture. How many companies has the FBIR actually accused and prosecuted for the offences stated under the Act? How does the Board determine who is guilty of what? How does the Board know whether or not there have been false statements and accounts? How does the Board know which members of staff are guilty of corruption and dishonesty?

Again sections 10, 11 and 12 of the Act are said to be controversial, in that oil companies and the FBIR are always at loggerheads over the correct interpretation of these sections particularly section 11. The provision that deductible expenditure must, have been "wholly, exclusively and necessarily incurred in petroleum operations" is contentious and a subject of disagreement between the authorities and oil companies.

In the case of *Shell Petroleum v. Federal Board of Inland Revenue*,[37] the FBIR disallowed the deduction of certain expenses claimed by Shell Petroleum and these expenses included currency exchange losses, Central Bank commissions and educational scholarship expenses. The matter went through appeals from Appeal Commissioners through to the Supreme Court which held that where there is a statutory or contractual obligation to incur an expense, such expense is deductible even where it is not directly related to the tax payer's "petroleum operations". It held therefore that Shell was entitled to deduct all three categories of expenses since it had a statutory obligation to incur the said expenses.

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37. [1996] 8 NWLR (pt. 466) 256

In 1972, there was an agreement between the federal government and oil companies, directing such companies to pay all profits to the Central Bank of Nigeria through the Bank of England with a formula for determining the currency exchange rate to be applied by the companies in making their lodgements. And should there be a difference between the exchange rate applicable under one agreement and the rate prevailing in currency markets, an exchange gain or loss would arise in the hands of the oil company. It was this “exchange loss” arising in the 1973-operating year that Shell sought to deduct from its income, the subject matter of the litigation. The company had had to spend a greater sum in Nigerian currency to purchase pound sterling than the sum it had been levied as tax due to the difference between the contractual exchange rate and the open market exchange rate. This was the sum the company sought to deduct from its profits under section 10(1). And the FBIR rejected the claim for deduction under section 11(1)(f) on the ground that the expense was not incurred in the course of petroleum operations but in the course of payment of tax. The court was of the opinion that under section 11(1) of the Act, the company could not ordinarily deduct but noted that the losses arose as a result of the appellant’s obligation, pursuant to the provisions of the Petroleum Act,[38] to pay its tax in an unusual manner in pounds sterling. The court therefore concluded that Shell was entitled to deduct, for the purpose of computing petroleum profit tax payable, the “exchange losses” it incurred in making payments to the government in pound sterling in London.

Similarly, in the case of *Gulf Oil Company (Nigeria.) Limited v. Federal Board of Inland Revenue*,[39] the issue that came up for consideration was whether or not the charges and commissions paid by Gulf Oil to the Central Bank as a result of the government directive to pay the company’s profit tax abroad were expenses “wholly, exclusively and necessarily incurred” for the purpose of the company’s petroleum operations within the meaning of section 10(1) of the PPTA. The court relied on the decision in *Shell* and held in favour of Gulf Oil.

It is respectfully submitted that the courts, in the above cases were right in their decisions by adopting a broad interpretation of what amounts to deductible expenses irrespective of whether or not such expenses are directly related to the earning of income from petroleum operation. The decisions have extended the range of deductible expenses, thereby filling much-needed gaps in sections 10 and 11 of the PPTA, eliminating arbitrary abuse of those sections, and bringing a sigh of relief to tax payers. The decisions have also exposed the inadequacies of the PPTA, which, it is hoped, would be addressed by the lawmakers, as quickly as possible. In reviewing the Act, the issue of tax evasion should be specifically addressed and tackled.

Conclusion

The provisions of the PPTA have revealed a legal framework for taxation of petroleum profits of companies engaged in petroleum operations as distinct from

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38. Cap 350, LFN, 1990

39. [1997] 7 NWLR (pt.514) 698; see also L. Atsegbua, “Tax Deduction Under the Petroleum Profits Tax Act: Gulf Oil Co. (Nig.) Ltd. v FBIR” [1998] 3 M.I.L.B.Q, 122

taxing of other companies under the general tax regime in Nigeria. It is obvious that the Act has made far-reaching provisions with respect to the assessment and computation of profits and tax payable by oil producing companies and stipulated methods of collecting such tax under the management of the FBIR. It has also tried, but failed to tackle the incidence of tax evasion prevalent in the Nigerian economy. The provisions of the Act leave some ambiguities under which some companies hide to evade tax, and have failed to set a workable enforcement machinery to detect and punish violation of its provisions. Nevertheless, the Act is a piece of legislation that holds great potentials for effective taxation