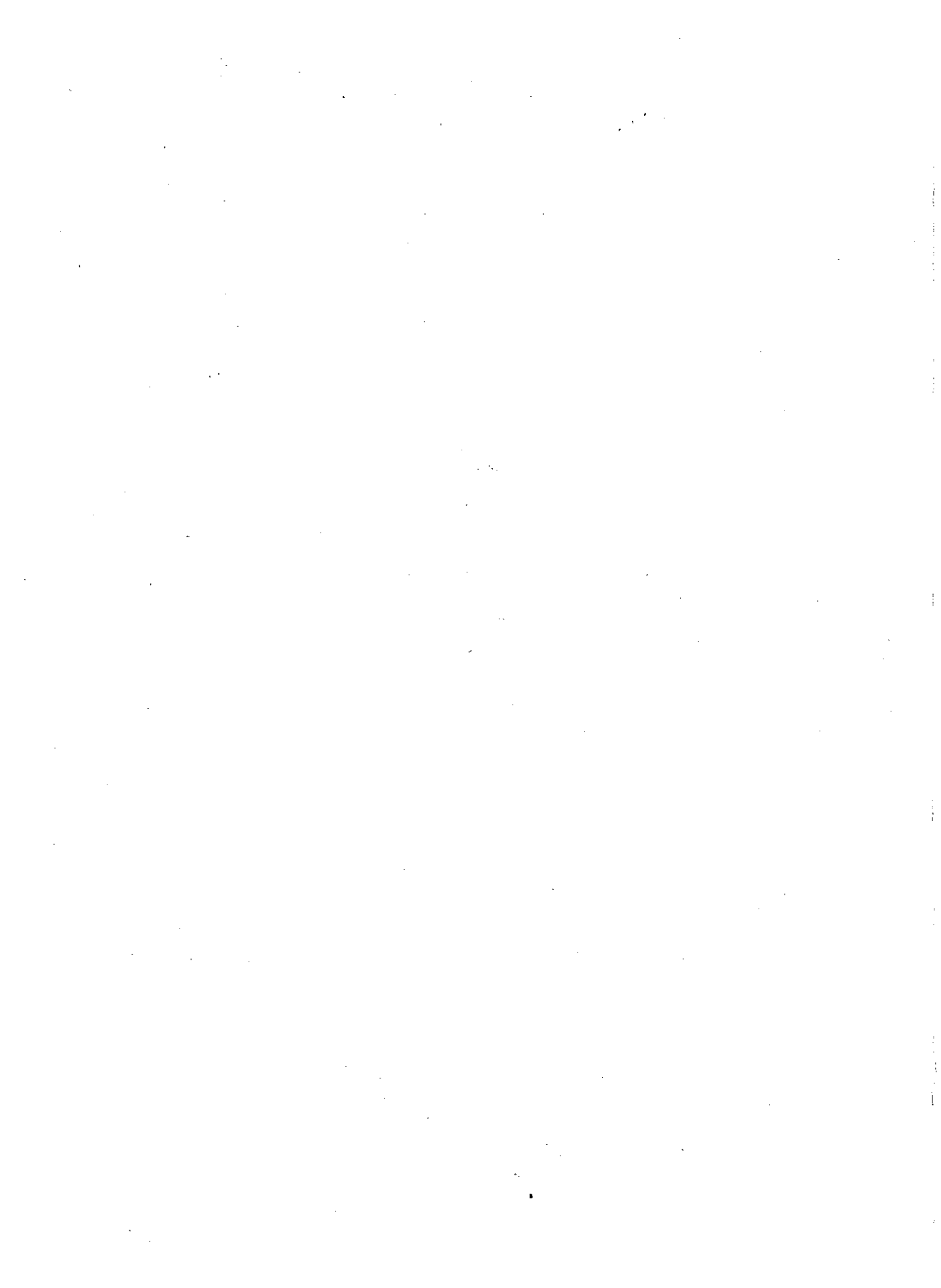


TAX INCENTIVE MANAGEMENT AND TRANSPARENCY BILL, 2017

ARRANGEMENT OF CLAUSES

*Clauses:*

1. Declaration of policy
2. Filing of tax Return and submission of Tax Incentives Report
3. Monitoring of Tax Incentives
4. Conduct of Cost-Benefit Analysis on Investment Incentives
5. Penalties for noncompliance with filing and Reportorial Requirement
6. Funding
7. Joint Oversight Committee
8. Rules and Regulations
9. Validity
10. Effect
10. Commencement
11. Interpretation
13. Citation



# A BILL

## FOR

AN ACT TO ENHANCE TRANSPARENCY IN THE MANAGEMENT AND ACCOUNTING OF TAX INCENTIVES BY RELEVANT AUTHORITIES SO AS TO CHECK CORRUPTION IN THE SYSTEM AND FOR RELATED MATTERS

*Sponsor by Hon. Jarigbe Agom Jarigbe*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

- 1           1. The Federal Republic of Nigeria declared to promote fiscal Declaration of
- 2           accountability and transparency in the grant and management of tax policy
- 3           incentives (import waivers, tax holidays, grants and concessions) by
- 4           developing means to promptly measure the government's fiscal exposure on
- 5           these grants and to enable the government to monitor, review and analyze
- 6           the economic impact thereof and thereby optimize the social benefit of such
- 7           incentives.
- 8           2.-(1) All registered business entities are required to file their tax Filing of tax
- 9           returns and pay their tax liabilities, on or before the deadline as provided return and
- 10          under the Federal Inland Revenue (Establishment) Act 2007, as amended submission of
- 11          and other legislations and issuance connected therewith. Tax Incentive
- 12          (2) For registered business entities availing of incentive Report
- 13          administered by the relevant authorities they shall file:
- 14          (a) a complete Annual Tax Incentives report of the income-based
- 15          tax incentives;
- 16          (b) value added tax and duty exemptions, deductions, credits; or
- 17          (c) exclusions from the tax base as provided in the relevant extant
- 18          rules and regulations and legislation concerned, within thirty days (30) days
- 19          from the statutory deadline for filing of tax returns and payment of taxes.
- 20          (3) The relevant authority shall within sixty (60) days from the end

1 of the statutory deadline for filing of the relevant tax returns submit to the  
2 Federal Inland Revenue Service their respective annual tax incentives reports  
3 based on the list of the registered business entities who have filed said tax  
4 incentives report.

5 (4) The details of the tax incentives reports, as provided in the  
6 preceding sub clause, shall be provided in Implementing Rules and  
7 Regulations (IRR) of this Bill.

8 (5) The foregoing provisions shall be without prejudice to the right of  
9 the FIRS and the Nigerian Customs Service (NCS) to conduct assessment  
10 within the prescribed period provided as amended, and the Tariff and Customs  
11 Code of as amended, respectively.

Monitoring of  
Tax Incentives

12 3.-(1) The Federal Inland Revenue Services and the Nigerian  
13 Customs Service shall submit the record to the Federal Ministry of Finance,  
14 notwithstanding any law to the contrary:

15 (a) the tax and duty incentives of registered business entities as  
16 reflected in their filed tax returns and import entities; and

17 (b) actual tax and duty incentives as evaluated and determined by the  
18 Federal Inland Revenue Service and the Nigeria Customs Service.

19 (2) The Federal Ministry of Finance shall maintain a single database  
20 for monitoring and analysis of tax incentives granted.

21 (3) For purpose of monitoring and transparency, the Federal Ministry  
22 of Finance shall submit to the Budget Office of the Federation (BOF) the  
23 aggregate data on a sectorial and per industry basis of the:

24 (a) amount of tax incentives availed by registered business entities;

25 (b) estimate claims of tax incentives immediately preceding the  
26 current Year; and

27 (c) programmed tax incentives for the current year;

28 (d) projected tax incentives for the following year,

29 Such information shall be given to the Oversight Committee created under  
30 Clause 9 of this Bill.

1 (4) The said data shall be reflected in the annual Fiscal Strategy  
2 Paper, which shall be known as the Tax Incentive Information section,  
3 provided that the Tax Incentive Information shall be limited to aggregate  
4 data related to incentives availed of by registered business entities based on  
5 the submissions of the Federal Ministry of Finance and the concerned  
6 Revenue Agency, categorized by sector, by Revenue Agency and type of  
7 incentive.

8 (5) Nothing in this Bill shall be construed to diminish or limit, in  
9 whatever manner, the amount of incentives that Revenue Agency may grant  
10 pursuant to their charters and existing laws, or prevent, deter, or delay the  
11 promotion and regulation of investments processing of applications for  
12 registrations, and evaluation of entitlement of incentives by Revenue  
13 Agencies.

14 4.-(1) The Nigerian Institute for Social and Economic Research  
15 (NISER) is mandated to conduct cost-benefit analysis on the investment  
16 incentives to determine the impact of tax incentives on the Nigerian  
17 economy.

Conduct of Cost-  
Benefit analysis  
in investment  
incentives

18 (2) For this purpose, all heads of the Revenue Agencies shall  
19 submit to the Nigerian Institute for Social and Economic Research the  
20 aggregate tax incentives, based on the submission of registered business  
21 entities as provided in Clause 4 of the Bill, and aggregate incentives-related  
22 data, both on a sectoral or per industry basis, which may include, but not  
23 limited to:

- 24 (a) investment projects;  
25 (b) investment cost; and  
26 (c) actual employment and export earnings.

27 5.-(1) Any registered business entity which fails to comply with  
28 filing and reportorial requirements with the appropriate Revenue Agencies  
29 or which fails to show proof of filing of taxes of the Federal Inland Revenue  
30 Service shall be imposed the following penalties;

Penalties for non-  
compliance with  
filing and  
reportorial  
requirement

1 (a) First (1st) violation: payment of a fine amounting to one hundred  
2 thousand naira (N100,000);

3 (b) Second (2nd) violation: payment of a fine amounting to five  
4 hundred thousand naira (N500,000); and

5 (c) Third (3rd) violation: cancellation of the registration of the  
6 registered business entity.

7 Provided, that if the failure to show such proof is not due to the fault of  
8 the registered business entity, the same shall not be a ground for the suspension  
9 of the ITH or other income-based tax incentives available.

10 (2) Any government official or employee who fails without justifiable  
11 reason to provide or furnish the required tax incentives report or other data or  
12 information as required under this Bill shall be penalized, after due process, by  
13 a fine equivalent to the official's or employee's basic salary for a period of one  
14 (1) month to six (6) months suspension from government service for not more  
15 than one (1) year, or both, in addition to any criminal and administrative  
16 penalties imposable under existing laws.

Funding

17 6. Such amount necessary to carry out the implementation of this Bill  
18 shall be sourced from the current existing funding of the various Revenue  
19 Agencies involved in the implementation of the various provisions of this Bill.

Joint Oversight  
Committee

20 7.-(1) A Joint Oversight Committee of the National Assembly, herein  
21 referred to as the Oversight Committee, shall be constituted in accordance with  
22 the provisions of this Bill.

23 (2) The Oversight Committee shall be composed of the respective  
24 Chairperson of the Committee on Finance of the Senate and House of  
25 Representatives and four (4) additional members from each chamber as  
26 follows:

27 (a) Chairperson of the Senate and House Committee on Trade,  
28 Industry and Investment; and

29 (b) Three other persons each selected by the President of the Senate  
30 and the Speaker of the House of Representatives.

1 (3) The Oversight Committee shall monitor and ensure the proper  
2 implementation of this Bill.

3 8. The Permanent Secretaries of the Federal Ministry of Finance  
4 and the Federal Ministry of Trade and Investment in coordination with the  
5 Nigerian Institute for Social and Economic Research Director-General,  
6 Representative of the Chartered Institute of Taxation of Nigeria, Chairman  
7 of the Federal Inland Revenue Service and Controller General of Customs  
8 and other heads of concerned Revenue Agencies Shall, within sixty (60)  
9 days from the coming into effect of this Bill, promulgate rules and  
10 regulations to faithfully implement the intent and provisions of this Act:  
11 provided, that the failure of the above offices to promulgate the rules and  
12 regulations shall not prevent the implementation of this Bill upon its coming  
13 into effect.

Rules and  
Regulations

14 9. If any provisions of this Bill is subsequently declared invalid or  
15 unconstitutional, other provisions thereof which are not affected thereby  
16 shall remain in full force and effect

Validity

17 10. This Bill gives effect to any law that will facilitate the  
18 realization of the objectives of this Bill.

Effect t

19 11. This Bill shall take effect fifteen (15) days after its complete  
20 publication either in the Official Gazette or in at least one (1) newspaper of  
21 general circulation.

Commencement

22 12. In this Bill:

Interpretation

23 “Relevant authorities” means government entities created by law, executive  
24 order, degrees or other issuance, in charge of promoting investments,  
25 administering tax and non-tax incentives, and/or overseeing the operations  
26 of the different economic free zones and ports in accordance with their  
27 respective enabling laws. These include:

28 (i) Federal Ministries (Finance, Agriculture and Rural  
29 Development, Trade, Industry and Investment, Petroleum and Power (and  
30 any other subsequent names);

- 1 (ii) Central Bank of Nigeria (CBN);
- 2 (iii) The Nigerian Customs Service (NCS);
- 3 (iv) Federal Inland Revenue Service;
- 4 (v) Nigerian Immigration Service (NIS);
- 5 (vi) Nigeria Investment Promotion Council (NIPC);
- 6 (vii) Nigerian Export Promotion Council (NEPC);
- 7 (viii) Nigeria Export Processing Zones Authority (NEPZA);
- 8 (ix) Others.

9 “Tax incentives” means fiscal incentives such as those which come in  
10 the form of income tax holidays (ITH), exemptions, deductions, credits or  
11 exclusions from the tax base, as provided by law, to registered business  
12 entities; it is also defined as a generic term for all the measures adopted by the  
13 government to deliberately manipulate the tax system to the advantage of a  
14 potential tax payer. Tax incentive is a deliberate reduction in or total  
15 elimination of tax liability granted by the government in order to encourage a  
16 particular economic unit (e.g. corporate body) to act in some desirable ways.  
17 The desirable ways may be to invest more, produce more, employ more, export  
18 more, sell more, consume less, import less and pollute less;

19 “Registered business entity” include any individual partnership,  
20 corporation, Nigerian branch of a foreign Corporation, or other entity  
21 incorporated and/or organized and existing under Nigerian laws.

Citation

22 13. This Bill may be cited as Tax Incentive Management and  
23 Transparency Bill, 2017.

#### EXPLANATORY MEMORANDUM

This Bill seeks to enhance transparency in the management and accounting of tax incentives by relevant authorities so as to check corruption in the system.