

ANNEXURE 1

FAAC POST MORTEM SUB-COMMITTEE

REPORT ON TAX REFUND PAID TO TAX PAYERS BY FEDERAL INLAND REVENUE SERVICE FOR THE PERIOD MAY 2020 TO DECEMBER, 2022

1.0 BACKGROUND

- 1.1 The purpose of this memo is to brief members of the FAAC Sub-Committee on issues surrounding the use or application of deductions made from the Federation Account in favour of the Federal Inland Revenue Service (FIRS) for Tax refunds. Members may wish to note that the Stakeholders have repeatedly shown concern and even questioned the process and amounts deducted for this purpose over the years. Members may also note that in the past, efforts were made to investigate the effective use of the funds provided as well as examine the issues connected to these deductions to ensure accountability and transparency in the process.
- 1.2 Historically, issues concerning deductions made for the purpose of Tax refunds in favour of FIRS was last discussed in 2018. Those rounds of discussions and deliberations were as a result of complaints received from Stakeholders on the matter. FIRS informed members that they were mandated by law to refund taxes. Thereafter, the FAAC Post Mortem Sub-Committee was assigned to investigate the utilization of the funds deducted from Federation Account and report back.
- 1.3 As in the past, a similar complaint made by members at a recent FAAC Plenary meeting led to this new request for FAAC Post Mortem Sub-Committee to take a look at it again. Currently, Stakeholders noted with concern that **N4 billion** was being deducted for Tax refunds **in tranches**.
- 1.4 Based on the foregoing, the Sub-Committee wrote to the Executive Chairman FIRS requesting for details of all refunds for the period May 2020 to December 2022. In response, FIRS forwarded the schedule of Tax refund cases being

handled by the Service for the period May, 2020 to December 2022 in a letter dated 12th December, 2022. The schedule contains details of beneficiaries, purpose of the refund, and outstanding refunds for the period under review.

2.0 Analysis of the Submission by FIRS

- 2.1 For the period May 2020 to December, 2020, it was discovered that the Service has refunded the Gross sum of **₦26,535,946,680.30**. Details of these refunds by Tax Type are shown in Table 1 below:

Table 1: Summary of Tax Refunds for May, 2020 to December, 2020

S/N	YEAR	NO OF APPLICANTS	TAX TYPE	AMOUNT REFUNDED ₦
1	2020 (May to Dec)	27	VAT	4,698,088,489.48
2		37	WHT	20,462,161,644.88
3		8	PAYE	17,812,150.35
4		20	STAMP DUTY	597,795,317.60
5		4	EDT	267,420,598.98
6		4	CIT	26,712,251.66
	Total	118		26,535,946,680.30

- 2.2 For the period January 2021 to December, 2021, FIRS claims that it had refunded the Gross sum of **₦18,430,348,432.65**. Details of these refunds by Tax Type are shown in Table shown in Table 2 below.

Table 2: Summary of Tax Refunds for January, 2021 to December, 2021

S/N	YEAR	NO OF APPLICANTS	TAX TYPE	AMOUNT REFUNDED ₦
1	2021	21	WHT	18,309,515,541.67
2		14	STAMP DUTY	7,034,229.44
3		5	PAYE	5,845,932.31
4		2	CIT	24,461,892.10
5		2	VAT	80,090,837.13
6		1	CGT	3,400,837.13
7	Total	45		18,430,348,432.65

- 2.3 For the period January 2022 to December, 2022, FIRS claims that it had refunded the Gross sum of **₦21,814,628,043.24**. Details of these refunds by Tax Type are shown in Table 3 below:

Table 3: Summary of Tax Refunds for January, 2022 to December, 2022

S/N	YEAR	NO OF APPLICANTS	TAX TYPE	AMOUNT REFUNDED ₦
1	2022	23	WHT	13,591,258,905.68
2		13	VAT	5,374,923,841.44
3		15	STAMP DUTY	37,610,206.50
4		2	WHT	2,808,585,095.62
5		1	CGT	800,000.00
6		1	EDT	2,525,500.00
7	Total	55		21,814,628,043.24

- 2.3 In summary, refunds for each of the period under review amounted to the sum of **₦66,780,923,156.19** for the period May 2020 to December, 2022. See Table 4 below:

Table 4: Summary of Tax Refund Applications Made to FIRS from May 2020 to December 2022

S/NO	DETAILS	NO OF CASES	AMOUNT (₦)
1	Refunds made in 2020 (from May)	118	26,535,946,680.30
2	Refunds made in 2021	45	18,430,348,432.65
3	Refunds made in 2022	55	21,814,628,043.24
	Total	218	66,780,923,156.19

- 2.4 The Report also indicates that there are outstanding Corporate Tax refunds amounting to **₦26,190,847,211.35** and **\$6,471,427.67** owed to 15 different beneficiaries as at December, 2022 also ongoing tax refund application cases (undergoing audits). Further analysis revealed that the report also indicates that as at December, 2022, a total of seven hundred and seventy-one (771) on-going Tax refund applications were pending with the Service due to on-going desk or field audit amounting to **₦139,418,985,649.22** as shown in document submitted by the Service. See Table 5 below.

Table 5: Summary of Outstanding Tax Refund Cases as at December 2022

S/NO	DETAILS	NO OF CASES	AMOUNT (₦)	AMOUNT (\$)
4	Refunds awaiting Approval and Payment	15	26,190,847,211.35	6,471,427.67
5	Ongoing Tax Refund application Cases (under-going Audits)	771	139,418,985,649.22	

2.5 Excerpts of the submission provided evidence that the Service had written a letter to the Honourable Minister of Finance requesting for the release of the sum of **₦25,000,000,000 (Twenty-five Billion Naira)** as provided in the Appropriation Act 2022.

3.0 Analysis of Payment of Tax Refund between FIRS and OAGF

3.1 After the meeting of the Ad-Hoc committee on 12th January, 2023, the representative of OAGF forwarded to the Secretariat ledger of Tax refund to FIRS for the period May 2020 to December, 2022. The Secretariat analysed side by side the FIRS and the OAGF reports and observed that in 2020 FIRS report showed that the sum of **₦26,535,946,680.30** paid as Tax Gross refund for the period May 2020 to December, 2020 while OAGF records showed payment of **₦25,000,000,000** to FIRS resulting in a variance of **(₦1,535,946,680.30)**. In year 2021, FIRS reported a Tax Gross refund of **₦18,430,348,432.65** while OAGF refunded FIRS the sum of **₦25,000,000,000** leaving a difference of **₦6,569,651,567.35**.

For year 2022, FIRS reported payment of Tax Gross refund of the sum of **₦21,814,628,043.24** while the OAGF ledger of refund showed **₦20,000,000,000** resulting in a difference of **₦2,185,371,956.76**. The total amount paid as Tax Gross refund from FIRS records for the period 2020 to 2022 was **₦66,780,923,156.19** while OAGF refund ledger showed a payment of **₦70,000,000,000** to FIRS in the period under review, this gives a difference of **₦3,219,076,843.81**. (see table 6). The FIRS and OAGF representatives explained that the difference is as a result of carry-over of releases of refunds from previous years.

Table 6: Analysis of Payment of Tax Refund between FIRS and OAGF

S/N	YEAR	BUDGETED AMOUNT	OAGF RELEASES	FIRS PAYMENT OF TAX REFUND	DIFFERENCE
1	2020	25,000,000,000.00	25,000,000,000.00	26,535,946,680.30	(1,535,946,680.30)
2	2021	25,000,000,000.00	25,000,000,000.00	18,430,348,432.65	6,569,651,567.35
3	2022	25,000,000,000.00	20,000,000,000.00	21,814,628,043.24	(1,814,628,043.24)
	TOTAL	75,000,000,000.00	70,000,000,000.00	66,780,923,156.19	3,219,076,843.81

4.0 Observations

4.1 After carefully analysing the information received from FIRS, the following observations are presented:

- i. National Assembly appropriated the sum of **Twenty Five Billion Naira (25,000,000,000)** in the Budget for the purpose of Tax Refund to eligible Tax payers who have overpaid or remitted taxes in excess of their Tax liabilities for the relevant year;
- ii. Tax refunds payable to Tax payers after audit is backed by law as specified in FIRS (Establishment) Act, 2007 section 23 (1-6);
- iii. The Service usually applies to the Hon. Minister of Finance, Budget and National Planning for the release of the fund appropriated in the budget;
- iv. The Minister gives approval for the releases after due process to the Office of the Accountant General of the Federation (OAGF);
- v. The FIRS (Establishment) Act, 2007 section 23 (3) stipulates that "Any tax refund should be made within ninety (90) days of the decision of the Service";

- vi. That the Office of the Accountant-General administers the dedicated Account for the settlement of Tax refunds into which monies for such refunds are paid;
- vii. For the purpose of the dedicated Account, the Service shall prepare an annual budget for Tax refund to be funded by the Federation Account as may be approved by the National Assembly;
- viii. The OAGF representative informed the meeting that because of paucity of funds and cash management, OAGF released the funds in tranches of **₦4 billion** and a balance of **₦1 billion** as the last tranche.
- ix. The total amount paid as Tax Gross refund from FIRS records for the period 2020 to 2022 was **N66,780,923,156.19** while OAGF refund ledger showed a payment of **N70,000,000,000** to FIRS in the period under review, this gives a difference of **N3,219,076,843.81**. However, the FIRS and OAGF representatives explained that the difference is as a result of carry-over of releases of refunds from previous years.
- x. The demand for Tax refund is increasing, Table 4 shows that for the period May, 2020 to December, 2022 a total of **N66,780,923,156.19** was claimed to have been paid as Tax gross refund by the FIRS. On table 5, refunds awaiting approval and payment was **N26,190,847,211.35** and **\$6,471,427.67** while **N139,418,985,211.35** is still under-going field desk audit representing more than 200% of the total amount in the period under review. Since provision has been made for refund annually.

5.0 Prayers:

5.1 Based on the above, Members of the Sub-Committee may wish to consider and approve as follows:


- i. That FIRS should process Tax refunds in a timely and efficient manner within ninety (90) days as prescribed by the Act in order to avoid violation of the provisions of the Act;
- ii. That FIRS be requested to adopt a more careful method of assessment to avoid a high volume of refund applications which are pending before the Service;
- iii. That the process of reconciliation with the collecting banks should be timely to enable the Service confirm payments to avoid duplication.
- iv. Members of the Sub-Committee should under-go a capacity building programme to understand how Tax refund is administered in line with best practices to enable member's advice FIRS based on international best practices.
- v. The Ad-hoc Committee will be engaging with FIRS on quarterly basis to ensure that FIRS makes refunds within 90days as stipulated by the Act.
- vi. FIRS should always update FAAC on the utilization of the funds released for the Tax refund.

6.0 Conclusion

6.1 The Ad-hoc Committee established that the National Assembly appropriated the sum of **Twenty Five Billion Naira (25,000,000,000)** in the Budget for the

purpose of Tax Refund to eligible Tax payers who have overpaid or remitted taxes in excess of their Tax liabilities for the relevant year. The OAGF explained that because of paucity of funds and cash management, OAGF released the funds in tranches of **N4 billion** and a balance of **N1 billion** as the last tranche and in the event that the full budgeted amount are not paid to FIRS in any given year, the balance is carried over and paid in the subsequent year by OAGF.

6.2 The Final Report is hereby submitted for the consideration of FAAC Plenary.



Mr. Alexander Shaiyen

Vice-Chairman, FAAC Post Mortem Sub-Committee