Are tax exemptions available to REITs in Nigeria untapped?

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A Real Estate Investment Trust (REIT) is defined as a Collective Investment Scheme (CIS) that enables investors to pool their resources to form, own and manage portfolios of real estate properties. It offers the benefits of real estate ownership without the attendant expenses or difficulties of being a landlord.

Sec. 154 of the Investment and Securities (IAS), 2007 empowers the Securities and Exchange Commission (SEC) to approve, register and regulate collective investment schemes in Nigeria, including those that are administered as REITs. The Securities and Exchange Commission Rules and Regulations, 2011, contain both rules of general and specific applications governing the operation of collective investment schemes in Nigeria.

As an investment scheme, REITs/REICs can either be publicly traded on the stock exchange or owned by private investors. The typical features of a contemporary REIT are as follows:

- The SPV may be a corporation or an Investment Trust.
- It is managed by a Board of Directors or Trustees.
- The SPV has second market window for liquidity or debt sourcing, and this implies that the SPV can be funded through foreign loans.
- The SPV has a minimum of 100 shareholders.
- Not more than 50% of shares are held by 5 or fewer individuals.
- The SPV invests at least 75% of the total assets in real estate assets (typically investment properties from which rental income is earned) and in Government Securities.
- REITs/REICs own underlying assets (real estate assets and other securities).
- REITs are liable to Companies Income Tax (CIT) at the rate of 30%.
- However, the very features of the REIT enable or activate pockets of tax exemptions which should attract investors and fund managers who are interested in investing in tax efficient schemes.
- The tax waiver issued through the Debt Management Office in 2010 by President Jonathan in 2010 has proven beneficial to the government, particularly in raising funds for its development projects.
- DEBT OFFICE
- The first such tax exemption is the tax waiver issued through the Debt Management Office in 2010 by President Jonathan in 2010. He approved a waiver of taxes on all categories of bonds, Federal, sub-national, corporate and supra-national bonds, Mortgage-backed Securities, and Asset-backed securities (which is the case with REITs' securities), etc. The range of taxable income is calculated and recognised as deferred tax. Upon eventual sale of these investment properties, roll over relief is available (to suspend the CGT payable) where the proceeds of sale are employed in acquiring another asset of the same class.
- Furthermore, any foreign loans obtained to fund the REIT's investments can be structured to gain full advantage of the tax exemptions on foreign loans. There are graduated scales of percentage tax exemptions on interest payments on foreign loans where they satisfy certain grace and repayment periods requirements. 100% tax exemption is allowed where the grace period of the loan is not less than 2 years and the total repayment period for the loans (including the grace period) is above 7 years.

Today, REITs are highly successful and beneficial in about twenty countries world over, in respect of providing less risky investment options in real estate to both small and big investors, regular and dependable income to the unit holders and attraction of massive Foreign Direct Investment (FDI) in the real estate sector of these countries. Perhaps an awareness of these pockets of tax exemption available for the REITs in Nigeria could provide the required boost to this sector.