

# **Brief on Nigeria Tax Reform Bills, 2024**

Prepared by

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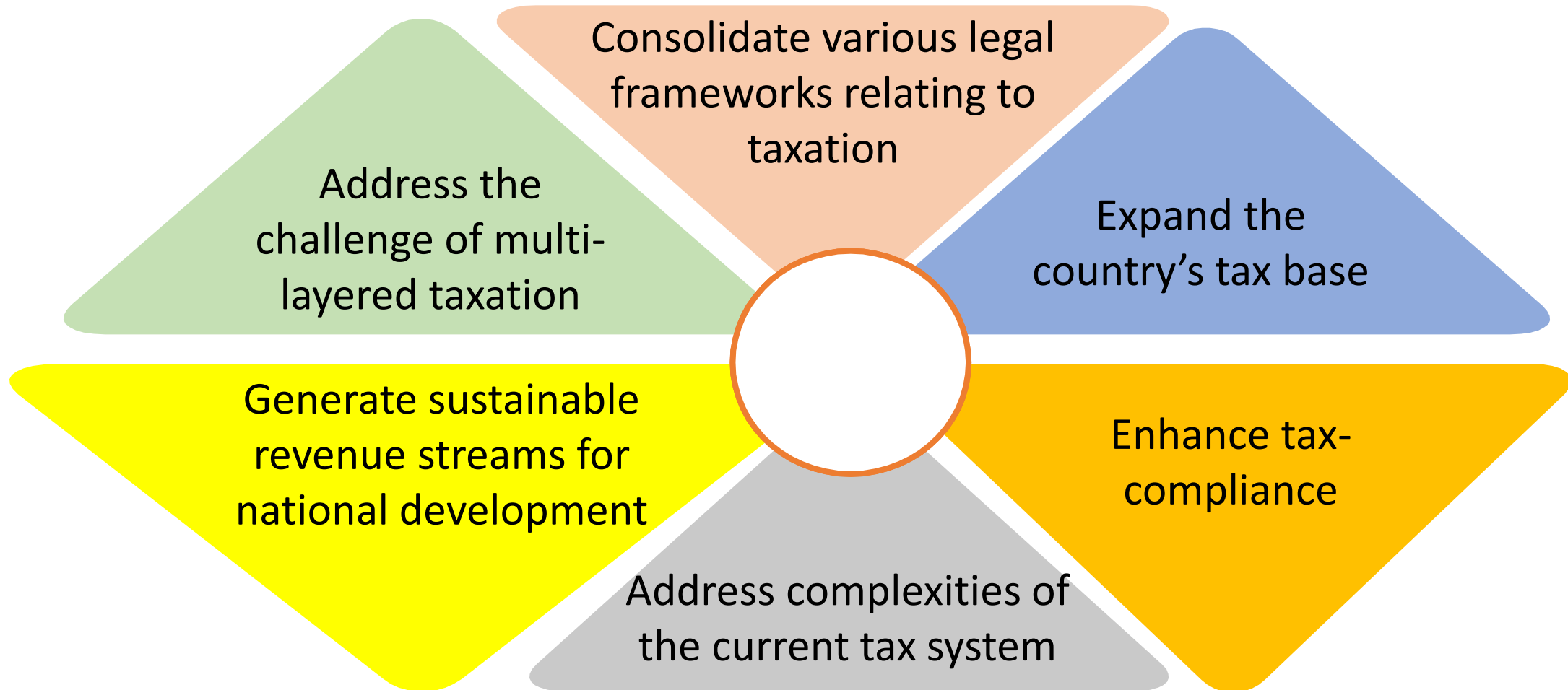
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# The Bills

Four Bills comprising the Nigeria Tax Bill (NTB), 2024, the Nigeria Tax Administration Bill (NTAB), 2024, the Nigeria Revenue Service Establishment Bill (NRSEB), 2024, and the Joint Revenue Board Establishment Bill (JRBEB) are before the National Assembly for consideration.

# The Bills [Cont'd.]

The aims of the Bills include to:



## **The Bills [Cont'd.]**

Some serious concerns have been raised on some of the provisions of the NTB and NTAB, two of which relate to Value Added Tax (VAT) and Development Levy.

## **VAT between VAT Act, NTB and NTAB**

- The VAT (Amendment) Act, 2007, the Finance Act, 2020 and other relevant supplementary legislations are the main legal documents that cover different aspects of VAT in Nigeria.
- Section 4 of the VAT Act, 2007 provides that 5% is to be charged as the VAT rate and Section 38 of the same Act empowers the Minister of Finance to amend the rate.
- Consequently, Section 42 of the Finance Act, 2020 increased the rate of VAT to 7.5% effective from February, 2020.

## VAT between VAT Act, NTB and NTAB [Cont'd.]

- Section 40 of the VAT Act, 2007 provides that VAT revenue shall be distributed as follows:

- a) 15% to the FG
- b) 50% to the State Governments and FCT
- c) 35% to Local Governments

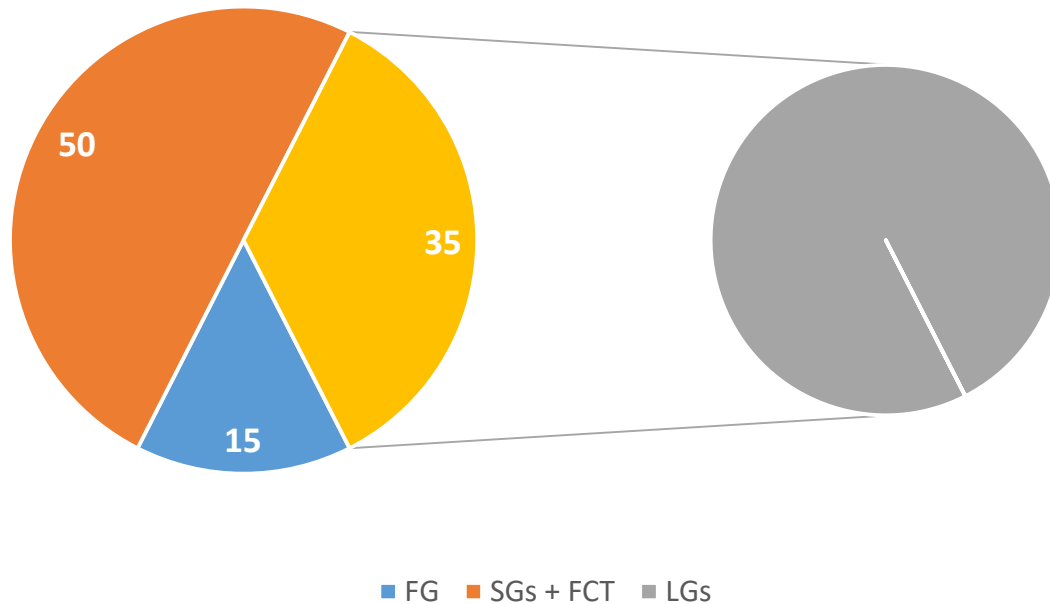
“provided that the principle of **derivation** of not less than 20% shall be reflected in the distribution of the allocation amongst States and Local Governments.”

## VAT between VAT Act, NTB and NTAB [Cont'd.]

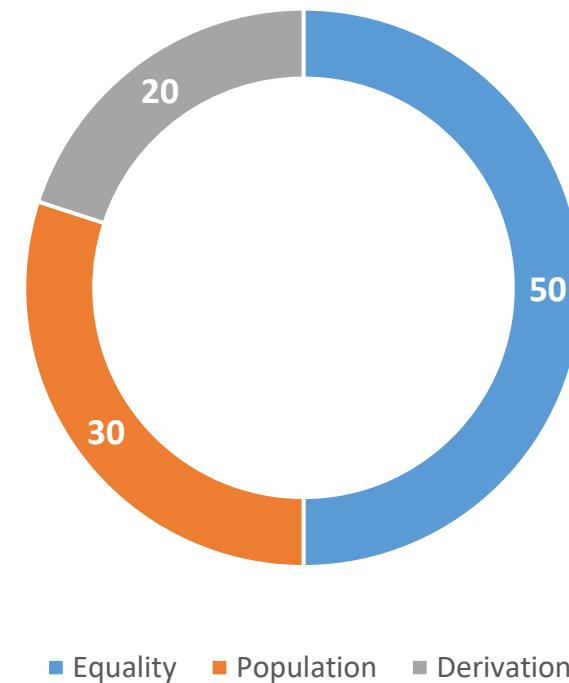
- The share for States and Local Governments is currently distributed among them as follows: 50% based on equality, 30% based on population and 20% based on **derivation**.
- In practice, the total collection is first subjected to 4% to FIRS and 2% to the Nigeria Customs Service (NCS) for import VAT before distribution.

# VAT between VAT Act, NTB and NTAB [Cont'd.]

Current VAT Vertical Sharing Formula  
among the 3 Tiers of Government based  
on the VAT Act, 2007 (%)



Current VAT Horizontal Formula (for  
sharing what belongs to SGs and LGs)  
(%)





## **VAT between VAT Act, NTB and NTAB [Cont'd.]**

- Derivation amount is shared on the basis of the total contribution made by each State or LGA in generating the VAT revenue.
- The term “derivation” has not been defined under Section 46 of the VAT Amendment Act, 2007 which is the interpretation section.

## **VAT between VAT Act, NTB and NTAB [Cont'd.]**

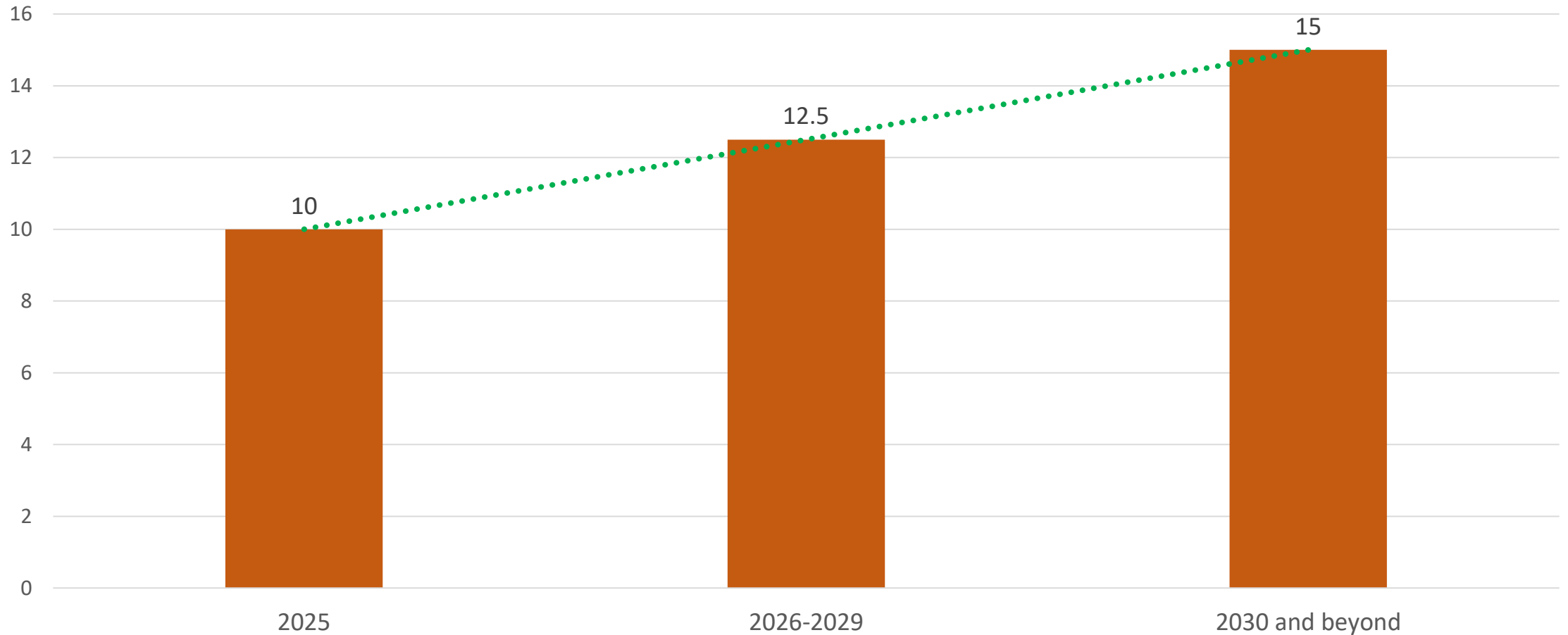
- Even though VAT is a consumption tax, the current practice in the country recognises the consumption of goods and services to have taken place in the states where the firms are headquartered rather than the location of the actual consumption.
- Based on this discretionary interpretation of “derivation”, the 20% allocation for derivation is taken largely by the states in which the headquarters of the firms that file the VAT returns are located.

## **VAT between VAT Act, NTB and NTAB [Cont'd.]**

- Chapter six of the NTB covers several aspects of VAT in terms of its imposition, nature, scope and rate, though the formula for sharing of its revenue is contained in the NTAB.
- Section 146 of the NTB proposes the following VAT rates:
  - a) 2025 year of assessment - 10%;
  - b) 2026, 2027, 2028 and 2029 years of assessment - 12.5%;
  - c) 2030 year of assessment and thereafter - 15%.

# VAT between VAT Act, NTB and NTAB [Cont'd.]

VAT rates proposed by the NTB, 2024 (%)



## **VAT between VAT Act, NTB and NTAB [Cont'd.]**

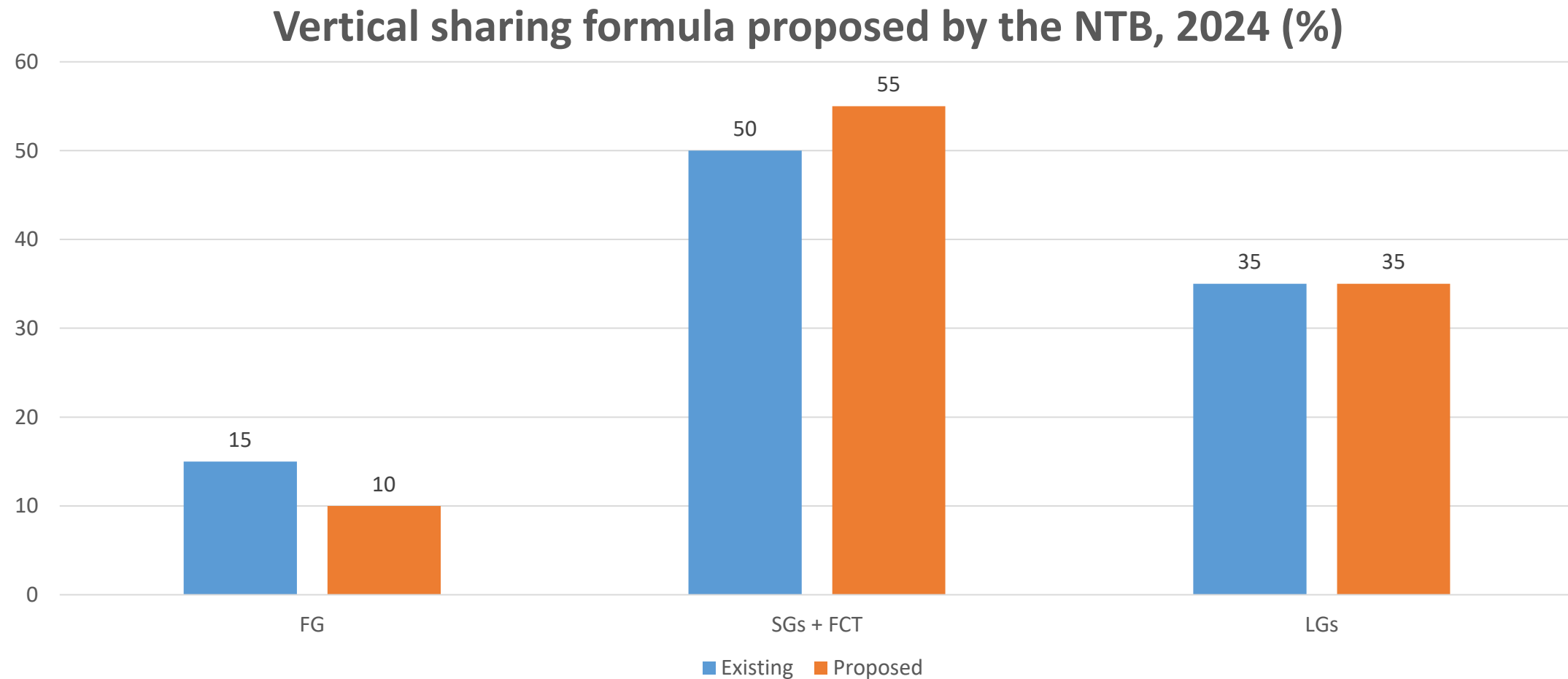
- Increasing the rate of VAT to 10% in 2025, then to 12.5% in 2026-2029, and then to 15% in 2030 is not advisable in view of the current economic realities in the country.
- VAT is a consumption tax which affects every Nigerian.
- It will be more strategic for FG to give Nigerians a breathing space after fuel and electricity subsidy removal and floating of the dollar, which made the prices of essential commodities to skyrocket because Nigeria is an import dependent country.

## **VAT between VAT Act, NTB and NTAB [Cont'd.]**

- Section 77 of the NTAB is on distribution of VAT revenue.
- The Section provides that VAT net revenue “shall be distributed as follows:
  - (a) 10% to the Federal Government;
  - (b) 55% to the State Governments and the Federal Capital Territory; and
  - (c) 35% to the Local Governments.

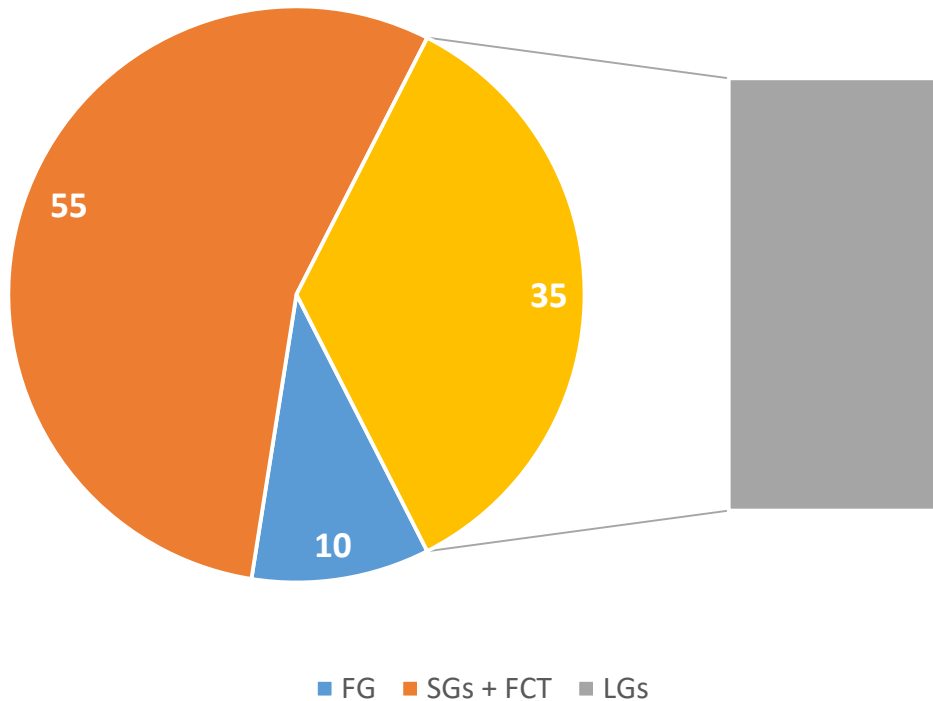
provided that 60% of the amount standing to the credit of states and local governments shall be distributed among them on the basis of derivation.”

# VAT between VAT Act, NTB and NTAB [Cont'd.]

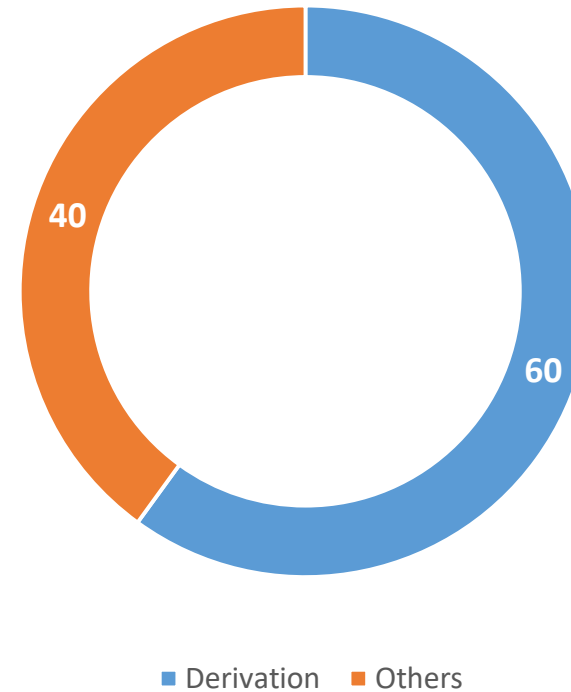


# VAT between VAT Act, NTB and NTAB [Cont'd.]

Vertical Formula for sharing VAT based on the NTAB (%)



Horizontal Formula (for sharing what belongs to SGs and LGs) %





## **VAT between VAT Act, NTB and NTAB [Cont'd.]**

- The term “derivation” has not been defined in both the NTB and NTAB Bills, 2024.
- Going by how “derivation” is being applied currently, Lagos, Rivers and Ogun states that serve as the headquarters to most of the companies that provide/produce the services and goods being consumed all over the country are bound to take the largest share of the “derivation” component of the VAT revenue being generated.

# Concerns on the Proposed VAT Rates and Revenue Sharing

Wrong timing

1

Lopsidedness

2

Burdensomeness

3

# Addressing the VAT Revenue Distribution Anomaly

- The proposed sharing formula contained in Section 77 of the NTAB is not fair to the states where VAT revenue is being actually generated, as the consuming states are denied the credit for what has been generated from them.
- Since VAT is a General Consumption Tax (GCT), the rule of “attribution based on the location of consumption” needs to be applied.

# Addressing the VAT Revenue Distribution Anomaly [Cont'd.]

- To address the anomaly created by the proposed VAT distribution formula, particularly the aspect of “derivation”, the NTB and NTAB should:
  - a) Clearly define the term “derivation” in the Bill to mean the location where the actual consumption takes place irrespective of which office of the firm files the VAT returns; or
  - b) provide for a dual VAT model (FG and SGs) in line with the spirit of true federalism; or
  - c) expunge the share for derivation from the distribution formula.

# Development Levy

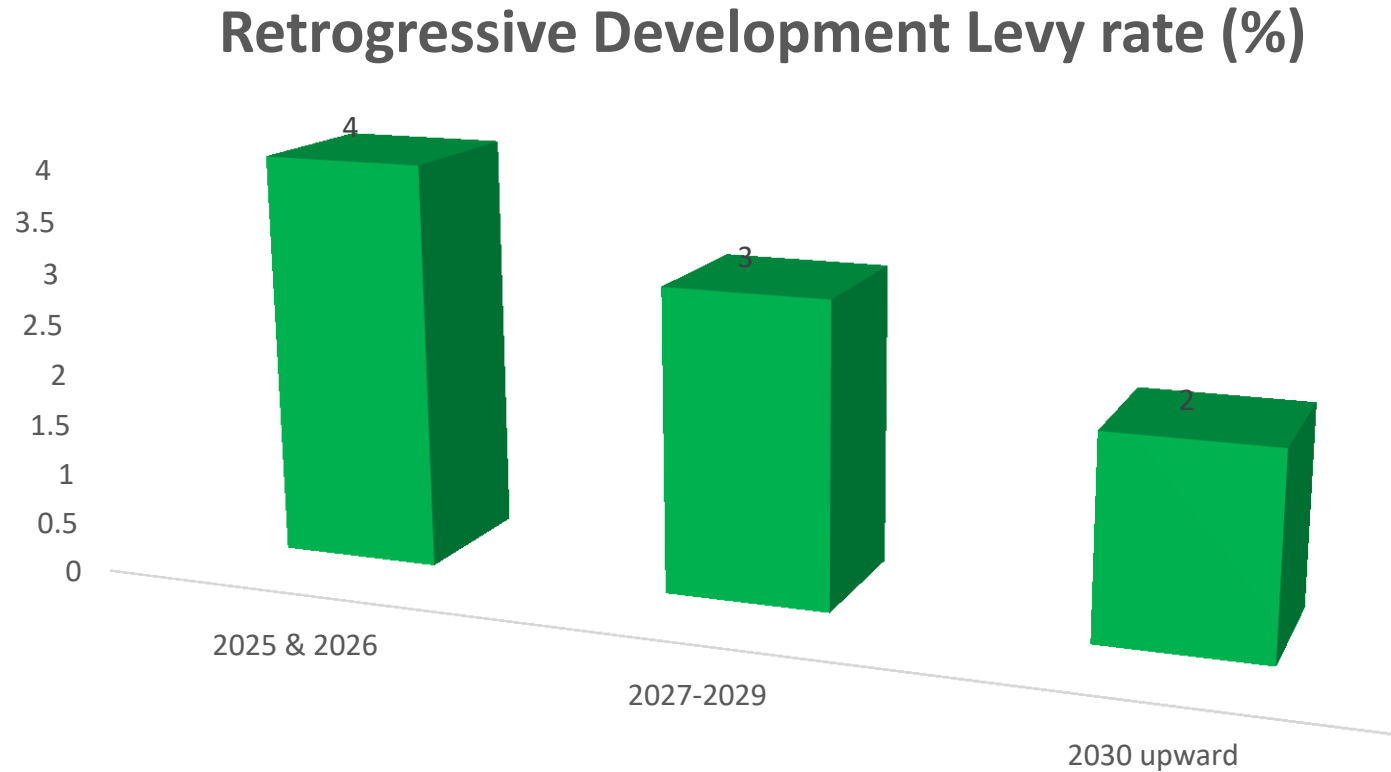
Part X of the NTB, 2024 covers Development Levy which is imposed on the assessable profits of all companies chargeable to tax under chapter two and three of the Bill.

## Development Levy [Cont'd.]

- Currently, based on TETFUND Act, 2011, NITDA Act, 2007 and NASENI Act, Cap N3 LFN 2004 as amended:
  - a) 3% tertiary education tax to TETFUND
  - b) 1% of PBT for BOFIs, insurance, PFAs, GSM service providers, Telcos and cyber and internet service providers with an annual turnover of N100 million or more to NITDA
  - c) 0.25% of the turnover of companies and firms with income or turnover of N4,000,000 and above to NASENI
  - d) 1% of all taxes, levies and duties collected by FIRS to Student Loan Fund.

# Development Levy [Cont'd.]

- Section 59(1) of NTB, 2024 provides Development Levy rates:



## Development Levy [Cont'd.]

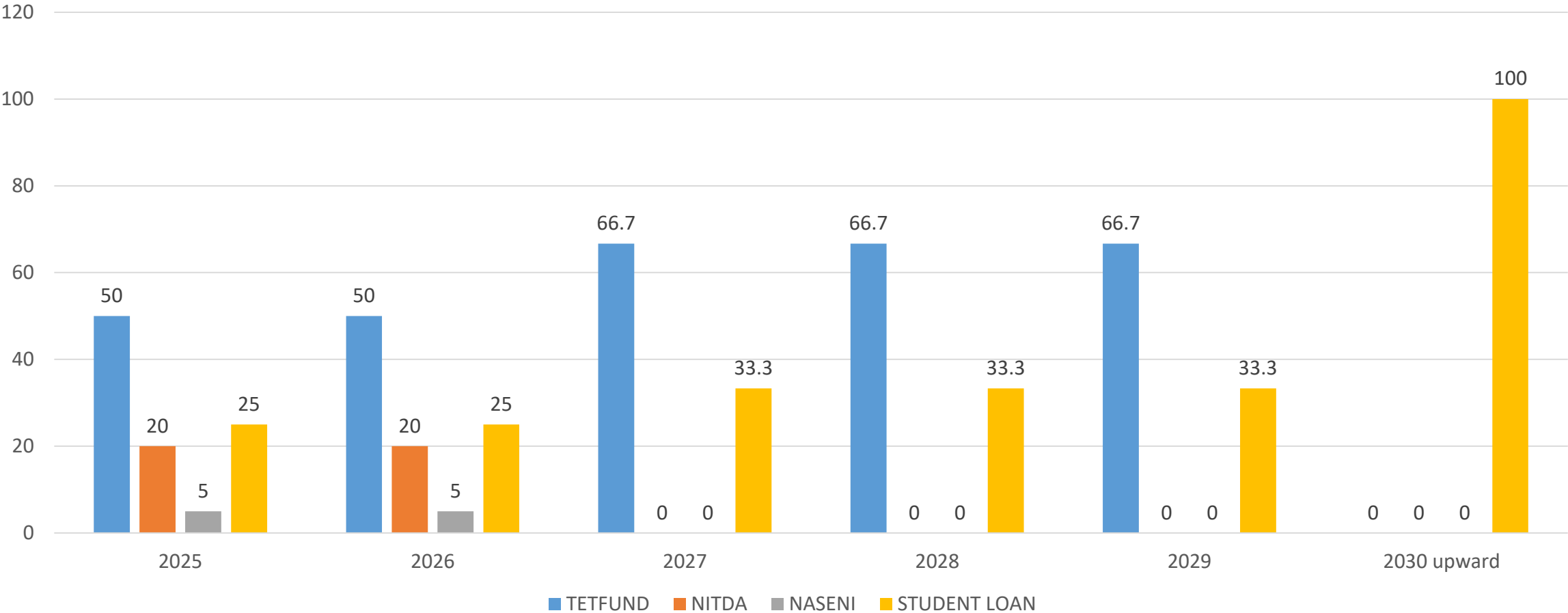
Section 59(3) provides the sharing formula for distribution of Development Levy:

Assessment year	TETFUND	NITDA	NASENI	Student Loan
2025	50	20	5	25
2026	50	20	5	25
2027	66.7	0	0	33.3
2028	66.7	0	0	33.3
2029	66.7	0	0	33.3
2030 upward	0	0	0	100



# Development Levy [Cont'd.]

Proposed Development Levy Distribution Formula (%)



# Implications of the Proposed Development Levy

## Possible phase-out

NITDA and NASENI are likely to be phased out by end of 2026; and TETFund by end of 2029, unless if the FG is to sustain them through provision from its mainstream budgetary system.

## Privatisation of TEIs

The planned concentration of the distribution to Student Loan is likely to be a strategy of forcing public TEIs to introduce exorbitant Tuition fees, and even make them revenue remitting organisations.

## Effort scuttling

If the agencies are eventually phased-out, NITDA's contribution towards making Nigeria an ICT Economy and NASENI's contribution towards making Nigeria a Science and Engineering Technology economy would be scuttled.

## Damage to TEIs

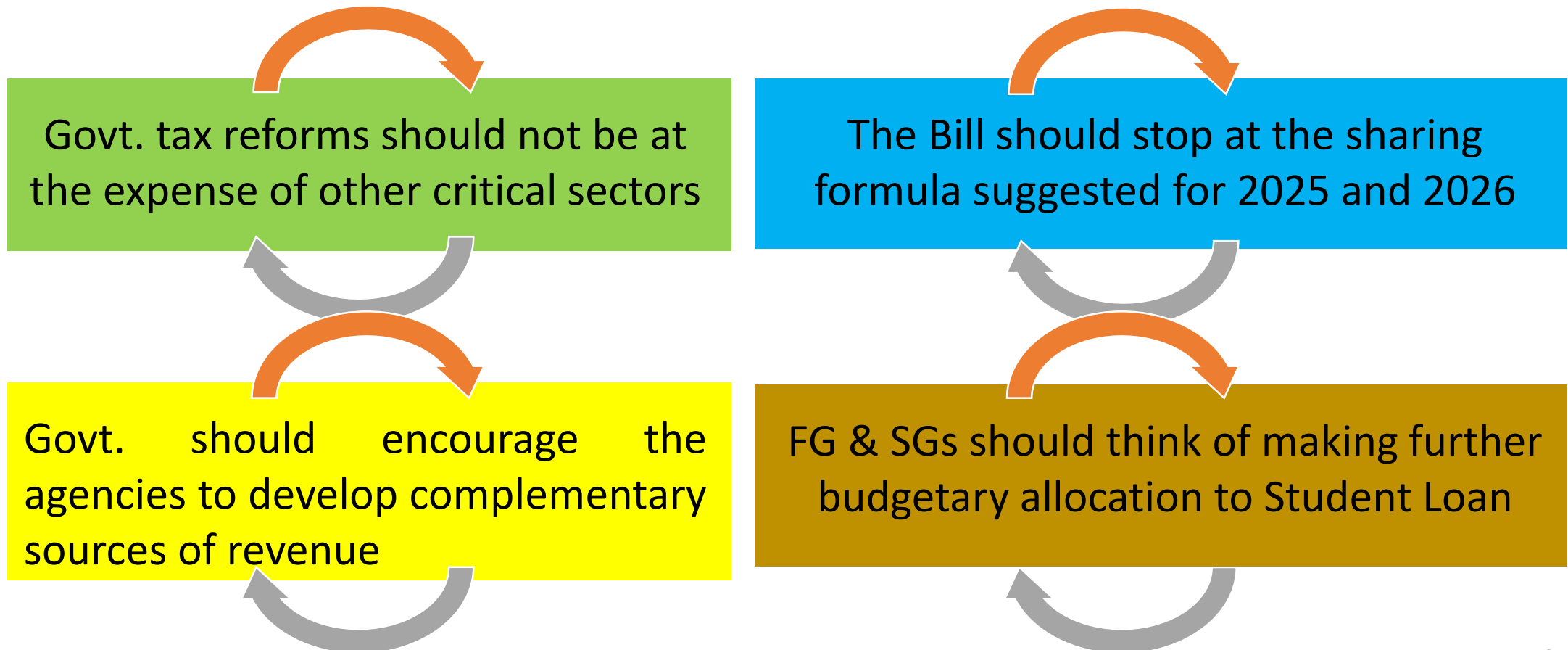
Phasing out of TETFund will be a threat to tertiary education in Nigeria because its contribution to the physical development and capacity development of TEIs personnel might come to an end.

## Youth indebtedness

The arrangement also would make students of TEIs to become chronic debtors, just like their dear country!

# Suggestions on Development Levy

The following suggestions are proposed:



**Thank you for listening**