Revisiting taxation and advancing criteria for a good tax system in Nigeria

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Tax is one of the oldest and commonest sources of revenue to government all over the world. Taxation is however not only a source of revenue but also represents a potent instrument of public policy which serves a diverse role in the modern society. The basic types and nature of taxes levied in the course of history have been profoundly affected in character and scope by the nature of the political, economic and social changes, which every society experienced. In a nutshell, the tax system operating in a country is the product of the commutative effect of the political and economic history of that country. In Nigeria, the first twenty years after independence witnessed respectable growth record in social, political and economic activities. Accompanying this economic growth rate was the problem of social inequality, external dependence, mass poverty and rural impoverishment due to many reasons of internal managerial and administration contradictions and further fuelled by external shocks. These socio-economic and political features have since had varying impacts on the pattern of nation’s development. They have also had an effect on the various sources of revenue which the various tiers of government in Nigeria depend upon. It has long been evident that tax in Nigeria has remained the most unsatisfactory, disappointing and problematic concept in spite of the fact that tax reform has of recent been a key element in economic reform which the country had undergone. It is therefore felt that taxation in Nigeria requires radical handling to ensure that a large chunk of the taxable population does not escape tax which will enhance development and growth of the economy. An effective tax system ought to satisfy the twin purpose of raising maximum revenue and at the same time encourage production. And if well structured and managed will elicit a feeling of common purpose, joint responsibility or obligation amongst the taxable persons in a country. This paper therefore examines the hydra-headed problems of tax collection and administration in our tax system. It also highlights the reasons for tax avoidance and proffer advancing criteria for good tax system in Nigeria.

Keywords: Taxation, Advancing Criteria Tax System, Revenue

INTRODUCTION

Taxation is one of the principal tools of Fiscal Policy through which government raises revenue with which it performs its major roles of maintenance of law and order and the provision of public social amenities. Taxes are levied on individuals (citizens) or corporate bodies (companies) in an economy or under the

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Jurisdiction of the government. The other sources of revenue in some cases may rake some windfall, but are pretty unreliable and fortuitous. In this paper, we hope to focus on different types of taxes, how they are collected, compliance, evasion, avoidance and delinquency. We will also look at purpose of taxation, government revenue from all sources including taxes and the effect of untapped and diverted taxes and suggest how to arrest the negative implications of untapped and diverted tax resources.

For any country to function properly there must be rulers (government) and the ruled (citizens). Between these exists a social contract which requires the former to tap all economic and natural resources of the country for the provision of social amenities such as education, good roads, hospitals, pipe borne water, etc for the latter. The ruled, on the other hand, is expected to give maximum cooperation and loyalty to the government by performing obligations as responsible citizens. The resources available to the government are extremely limited to enable her perform her numerous duties. Therefore, the responsibility of cushioning the limited resources rests on the populace who contribute to the government coffers. . The process and procedure of collecting the revenue is called “taxation”.

Conceptual Frame work

Taxation can be defined as a “compulsory levy imposed by the government through its agent on income, capital and consumption of its subjects” [Adegboyega; 1998]. Tabansi-Ochiogu [1997] also defines tax as "a levy imposed by government against the income, profit or wealth of individual, partnership or corporate organisation".

However, a somewhat encompassing definition given by Wikipedia Encyclopaedia, (2004) states that tax is “a financial charge or other levy imposed on an individual or a legal entity (company, statutory body, etc.) by a state or a functional equivalent of a state (e.g. tribes, secessionist movement or revolutionary movements).” Taxes could also be imposed by a sub-national entity.

In another sense, the New Webster’s Dictionary of English Language (International Edition (2004) defines tax as “a charge on a person’s income or property, (direct tax) or on the price of goods sold, (indirect tax) made by government to collect revenue.” The dictionary also defines taxation as “the imposition of a tax, the system by which taxes are imposed, the revenue obtained by imposing taxes.”

In most developed countries of the world, the issue of taxation is a very important one. When an individual or entity fails to pay his government taxes, or if and when taxes are not fully paid, it will ultimately result in civil penalties such as fines or forfeiture, which are carried out against the non-paying entity or individual. In some cases, it can result in imprisonment and death or grievous bodily harm, if the individual resist arrest. This goes to show that the issue of taxation is very important to most government of the world. This paper therefore examines the hydra-headed problem of tax collection and administration in Nigerian tax system .It also highlights the reasons for tax avoidance and proffer advancing criteria for a good tax system in Nigeria.

Purpose of Taxation

Funds provided by taxation have been used by states and their functional equivalents throughout history to carry out various functions. Some of the functions include:

- Enforcement of law and public order
- Protection of property
- Economic infrastructure - roads, legal tender, enforcement of contracts, etc.
- Social engineering
- Public works
- The operation of government itself.

Most modern governments also use taxes to fund welfare and public services, such as:

- Employment benefits
- Healthcare system
- Education system
- Public transportation
- Pensions for the elderly
- Energy, water and waste management systems.

Types of Taxes

There are many methods of classifying taxes. The method which is used in this presentation is that recognized by OECD (2004) (Organizational for Economic Cooperation and Development). This organization is said to publish perhaps the most comprehensive analysis of Worldwide Tax Systems. The organization classifies taxes into:

Income Tax:

Income tax is a tax on earnings – money that individuals, corporations, trusts or other legal entities receive in different ways and from different sources.

Retirement Tax:

Some countries with social security systems provide income to retired workers and fund those systems with specific dedication. These often differ from
comprehensive income taxes in that they are levied only on specific sources of income, generally wages and salary.

**Capital Gains Tax:**

A capital gains tax is the tax levied on the profit released upon the sale of a capital asset. In many cases, the amount of capital gain is treated as income and subject to the marginal rate of income tax.

**Corporate Tax:**

Corporate tax refers to a direct tax levied by various jurisdictions on the profits made by companies or associations and often includes capital gains of a company.

**Poll Tax:**

A poll tax, also called per capital tax or capititation tax is a tax that levies a set amount per individual.

**Excise Tax:**

An excise tax is a tax paid when purchases are made on a specific good such as gasoline. It is usually based on the quantity of product purchased.

**Sales Tax:**

Sales tax is a form of excise tax levied when a commodity is sold to its final consumer.

**Tariffs:**

An import or export tariff (also called customs duty or impost) is a charge for the movement of goods through a political border.

**Toll Tax:**

A toll tax is a tax which has been often used historically on roads and bridges to pay for state bridge and road projects.

**Value Added Tax:**

A value added tax (VAT) applies the equivalent of a sales tax to every operation that creates value.

**Wealth Tax:**

Some countries will require declaration of the taxpayer’s balance sheet, and from that extract a tax on the net worth of assets (assets minus liabilities), as a percentage of the net worth.

**Property Taxes:**

A property tax is a tax imposed on property by reason of its ownership. It is usually levied on the value of the property owned, usually real estate.

**Transfer Taxes:**

Historically, many countries require that a contract needed to have a stamp affixed to make it valid. The charge for the stamp will either be a fixed amount or a percentage of the value of the transaction. This is what is referred to as a transfer tax. It should be noted that this type of tax has been abolished in most countries.

**Inheritance Tax:**

This is a type of tax which is levied on the value of inherited property and wealth. The above types of taxes can be classified/collapsed into two; viz.

1. Direct tax and
2. Indirect tax

**Direct Taxes**

Direct taxes are tax income borne directly by the tax payers and the incidence of taxation is not shared or appropriated. Examples are Personal Income Tax, Company Income Tax, Capital Gains Tax and Petroleum Profit Tax.

**Indirect Taxes**

Indirect taxes are taxes initially suffered by the tax payer but whose ultimate burden is borne by the final consumer of the goods and services. The tax paid in this category can be built into the prices of the products of the company, thus serving to increase prices of the company’s products. An example of indirect taxes is customs duties, excise duties, stamp duties and
Tax shifting is the process whereby an economic agent passes on wholly or partially a tax to another economic agent. It is often difficult to verify and account for the determination of the economic entity that actually ends up paying particular tax. Some taxes are added to the price of goods produced so that the incidence of the tax clearly rests upon the consumers of the good, while some are shared in varying proportions between the producer and consumer.

Taxes may be shifted in two main directions, viz:

**Forward shifting:**

Takes place when the burden falls entirely on the user rather than the supplier of the commodity or service in question e.g., if an excise tax on luxuries increases their price to the purchaser.

**Backward shifting:**

This occurs when the price of the article taxed remains the same and the cost of the tax is borne by those engaged in producing it e.g., through lower wages and salaries, lower prices for raw materials, or a lower return on borrowed capital.

It should however be noted that it is not in all cases that a tax can be shifted. A tax may not be shifted at all; for example, a tax on business profits may reduce the net income of the owner of the business. Consider for example, payroll taxes, some of which are remitted by the employee (meaning the taxes are taken out of the pay check), and some by the employee. Almost all economists agree that the employee share of payroll taxes is born by the employee. However, economists also uniformly agree that the employer share of payroll taxes falls not on the employing business, but rather on employee pay check by a corresponding amount. This shifting may not be deliberate; rather, it reflects supply and demand in the labour market (Soyode and Kajola 2006).

The assignment of tax incidence can be a controversial subject. The following assumptions are usually made on tax incidence:

- Households bear burden of individual income and payroll taxes, which they pay directly;
- The employer share of payroll taxes falls entirely on the employee;
- Corporate income taxes fall on owners of capital in proportion to income from interests, dividends, rents, capital gains;
- Excise taxes fall on households;

As earlier stated in this paper, it can be difficult to determine the incidence of a tax. Severally, this tax may be borne partly by the taxpayer and partly shifted. In many cases, the problem can be adequately resolved by using what economists call partial equilibrium...
analysis, that is, by focusing on the market for the taxed product and ignoring all other markets. For example, if a small tax was to be imposed on an addictive substance (e.g. beer, cigarette etc), there is little doubt that it would be borne by the users of the substance, who would pay the tax rather than forgo its use. More generally however, the incidence of taxation depends on all of the market forces at work (general equilibrium analysis).

It has generally been canvassed that the ultimate tax burden is passed unto the consumer of goods. This is premised on the fact that the duty and tax paid by the producer is eventually passed onto the final consumer, since the cost of production is the consideration for selling prices and the purchase of these goods by final consumers shift the tax burden ultimately to them (consumers). Examples of goods and services that may be in this category are products produced with payment of excise duties; consumption tax, Value Added Tax (VAT), Pay as You Earn (PAYE), etc.

The roles of government in the stabilization of the economy have also supported the shift in the burden of taxation. Such roles are:
- In trying to be equitable, the government usually engages in substitution of goods and services. For instance in the 1970s, the government engaged in important substitution programmed.
- Government regulation of tax has also been done to shift the burden of tax to change the pattern of consumption in the economy, e.g. the reduction of import duties for heavy duty trucks, buses and plants;
- Government also gets involved in shifting the burden of tax to encourage developmental activities in the country. For instance, in implementing the fiscal policy, government can also use taxation to discourage consumption.
- In like manner, government can also use taxation to discourage consumption of goods and services. E.g. the hike in taxes payable on cigarettes aimed at discouraging smoking.

Who has Authority to Levy Taxes?

Historically, sovereign states derived the power to tax their citizen from their constitutions. In Nigeria, the constitution of the Federal Government of Nigeria, 1999, grants the Federal Government, State Government and Local Government Councils specific powers to levy and collect taxes and levies. The constitution has subsumed the various extant Acts and Decrees pertaining to taxation and the collection of taxes.

Some of those Acts and Decrees as quoted in (Awala: 2004) are:
- Petroleum Profit Tax Act 90.
- Capital Gains Tax Act 90.
- Personal Income Tax Decree 90.
- Education Tax Decrees 93.
- Value Added Tax Decree 93.
- Stamp Duty Act 1939.

The constitution in the exclusive list Part I empowers the National Assembly to legislate in some items such as (58) stamp duties (59) taxation of income profits and capital gains, except as otherwise prescribed by the constitution.

In the concurrent list (Part II, Paragraph 7 ), ‘the National Assembly may, subject to such conditions as it may prescribe, provide that the collection of any such taxes or duty or the administration of the law imposing it shall be carried out by the government of a state or other authority of a state’.

This implies that the national assembly can legislate for taxes and then delegate the collection and administration of such law to the states.

Paragraphs 9 and 10 empower States through their houses of assembly to collect any taxes, fees, or rates for the administration of the law by the Local Government Council. It must be seen that the same person is not taxed by more than one local government council (double taxation). The State Governments and Local Government Councils have their own organs for their tax collection.

Characteristics of a Good Tax System

Tax, though an imposition on the payer, must be seen as fair by both the government and the payer. The distribution of tax burdens by the assessor (government) must employ the principles of equity, economy, certainty, convenience, simplicity, adequacy and neutrality.

Equity:

To some people, the application of this principle means all taxpaying persons should be taxed on absolute equality basis. But the society in terms of the differential earning power of individuals’ means that a tax should be as just as possible, covering all people who ought to pay it.

Ability to Pay:

This is another form of equity in taxation. It is better illustrated in the horizontal and vertical tax equity. The horizontal equity concept states that equal sacrifice among tax payers will be attained if individuals of equal
tax paying ability are taxed equally. The vertical concept states that people of unequal tax paying ability should be taxed unequally.

**Economy:**

This principle states that the cost the government bears on the collection of a tax should be small when compared with what the government rakes from it. There should be some economic of scale in tax collection.

**Certainty:**

The tax should not be ambiguous such that any tax payer should arrive at the same amount of assessment using the law.

**Convenience:**

The process of tax payment should not constitute a burden on the payer. The place and method of payment should be spelt out.

**Simplicity:**

Both the tax system and the law should, as much as possible, be simple. A complex system in our system with the attendant high level of illiteracy may not augur well for the government.

**Adequacy:**

A particular tax should be adequate for its purpose. If the tax yield is not sufficient to achieve its objective, its purpose would be defeated.

**Neutrality:**

A neutral tax is the tax that has no adverse effect or has the least welfare effect on individuals and the economy. This type of tax can affect the allocation of resources in the economy by the private sector. Where higher income is taxed high compared to leisure, individuals may cut down on working hours and transfer income to leisure (Soyode: 2006)

**Impact of Tax on the Payer:**

A tax can be said to be progressive, regressive or proportional.

**Progressive:**

In the vertical equity concept higher income attracts higher tax. Taxes that apply this principle are said to be progressive e.g. Pay-As-You Earn (PAYE).

**Regressive:**

This is a situation where the tax burden on the taxpayer decreases as his income increases e.g. sales tax. The tax base is not usually on the taxpayer’s income but on the particular transaction.

**Proportional Tax:**

This type of tax attracts the same amount of tax regardless the income of the payer.

**Tax Collection**

Nigeria as a federation has three tiers of government, namely the Federal Government, the States and Local Government Councils. Each is autonomous to the level of autonomy granted it by the FG Constitution. Each has its own tax or revenue collection organization.
overlapping responsibilities of the various tax organs. The Federal Government through Decree No 104 of 1993 created the Joint Tax Board (JTB) to harmonize tax laws and rates in Nigeria. JTB's duties and functions among others include:

- To advise the Federal government on request, on double taxation agreement with any other country and in respect of capital allowance and other taxation matters in Nigeria.
- To promote uniform tax practices and the incidence on individuals.
- To impose its decision on matters of procedure and interpretation of personal income tax law.

Federal Board of Inland Revenue (FBIR): The Federal Board of Inland Revenue is the organization responsible for the collection of all taxes due the federal government e.g. company tax, education tax. It has offices spread throughout the federation.

Factors Affecting Tax Collection in Nigeria

The low level of non-oil revenue which could have been caused by poor collection of the taxes by various organs of the government is one of the factors. Some other factors that may impair tax collection are tax evasion, tax avoidance and tax delinquency are:

Tax Evasion

By this method, potential tax payers evade the payment of taxes of the government. An example of this is the refusal of the Vaswani Brothers to pay legitimate taxes to Federal Government. The act is criminal and impacts negatively on government programs.

Tax Avoidance

This is the method through which the tax payer utilizing existing tax laws defers his present tax obligations in order to maximize his post tax economic position. An example of this is in tax deferment.

Tax Delinquency

This is a situation where the tax payer fails to pay his tax on the due date. It could be caused by lack of money or refusal to pay when the money is available (Soyode and Kajola 2006).

Causes of Untapped Resources

An untapped tax is the tax potential that exists in tax law but is not put into use by tax officers either through negligence or inability to understand the law.

Poor tax administration in the area of collection is also a cause of untapped taxes. Another way there can be untapped taxes is through a narrow tax base where some potential tax payers are excluded out of the approved tax base. Untapped taxes can also occur through over-generous incentives by government in order to attract businesses e.g. operation of FREE ZONE PORTS in Nigeria, establishment of INDUSTRIAL PARKS. In this case, individuals and businesses pay little or no tax to government.

Tax Diversion

This is the method whereby government channels money from one vote to another. This impairs government budgetary allocations. Multinational companies operating in Nigeria in some cases divert taxes due to Nigeria to their overseas operations or tax Havens. Such monies are used in the development of other countries instead of Nigeria.

The Uses of Taxes

Taxes are paid to government to enable them perform their relative functions in the society. Apart from the traditional function of defence against outside invasion and maintenance of law and order, the Federal Government also embark on the provision of social infrastructure such as schools, roads, fire service, police, health system, employment, macro-economic stability, etc. these provisions form the basis of economic development of the society.

These functions of government are funded through taxes. In Nigeria however, oil revenue accounts for the greatest ticket of our national income. Non oil revenue through taxes and other sources account for a small part of the national income. In most mixed economies such as Nigeria, taxes are the greatest contributors to budgets. The more taxes people pay the more money the tiers of governments have to perform their duties. That would translate to economic growth and better living standards for their people. (Kolawole 2010).

Economic development

This can be broadly defined as the process of change that is focused on the betterment or improvement of a community, local government, state or nation. There are some generally accepted tools for the measurement of economic development so that comparisons can be made between communities, state and nations.
Some of those tools according to Ajayi (2010) are:

**Gross Domestic Product (GDP):**
This is the monetary value of all goods and services that are produced in a country within a given time.

**Unemployment**
This is the inability of able-bodied men and women who are willing to work but fail to find jobs.

**Income per Capital**
Total national income divided by the population.

**Mortality Rate**
This is the situation where children who are born die before they are six.

**Literacy Rate (Education)**
This is the ability to read and write.

**Life expectancy**
This is the likely number of years that someone will live.

**The Implications of Taxes on Rural Economic**
The imposition of taxes on individuals and corporate entities is the principle way through which government, both democratic and dictatorial raise monies to perform their civic functions to their citizenry.

With the tax generated, government can fund the economic development by providing such infrastructure as roads, hospital, schools, power, water, and a lot more. It would also use such monies to perform its fundamental duty of defence and provision of law and order.

The government that provides most of the above mentioned infrastructure will witness economic growth. In Nigeria, the federal government, states and local government councils derive most of their revenue from the federation account. Section 16(21) of the constitution say that all revenue collected by the government of the federation, except the proceeds from personal income tax of the personnel of the armed forces of the federation, the Nigerian police force, the ministry or department of government charged with the responsibility of foreign affairs, and the residents of the federal capital territory, Abuja, shall be paid into the federation account. If taxes dwindle the federation account will reduce, thus, making the allocations to the different tiers of government lower.

The local government councils which do not have much from taxes will not witness economic growth. A lot of able-bodied men and women willing to work will migrate to the cities in search of jobs because of the lack of employment opportunities in the area. The diversion of taxes negates the efficient operation of budgets and the allocation of public sector goods. The services for which the budget are made suffer neglect or abandonment as a result of diversion. An example is the PTDF whose funds were diverted to unrelated services.

**RECOMMENDATIONS**

**The role and Place of Legislation**
It is the primordial responsibility of government at whichever level to see to the welfare and protection of its citizens. It is because of these responsibilities that government levy or imposes taxes on its citizenry. People pay taxes for the goods and services provided by government which they consume. The federal government, as well as the other tiers of government, have been making conscious efforts to increase the non-oil revenue as a percentage of the national income. This is because the continuous dependence on oil revenue may prove catastrophic for the nation some day.

The vagaries of the international market show that the oil market is outside our control. The legislatures which are the bi-cameral national assembly made up of the senate and the House of Representatives and the house of assembly at the state should arrest the issues of untapped and diverted tax resources and come up with legislations that will stop the unpleasant issue.

**How to Attack Untapped Taxes:**

**The National Assembly Attack Untapped Taxes:**
The national assembly is the organ authorized by the constitution to legislate on taxation and that is why we have a uniform tax practice in Nigeria. There are no tax advantages enjoyed by a company operating in Rivers State as against the one operating in Borno State. The legislature should enact tax laws to broaden tax bases so that new potential taxpayers could be covered by the new tax bases. This will increase the tax revenue and thus increase government total revenue. The national
assembly should critically look into the exclusive list to see if there are items that should have been included and accordingly, after amendment, legislate on them. These new items which hitherto had been untapped will increase the government revenue and also it’s ability to provide social amenities to the people.

**The State Legislature**

The house of assembly of a state has power to legislate on the items which are assigned to them in the concurrent list and decree 21, 1998. They can also legislate on those items that are neither converged in the exclusive list nor concurrent list; this could vary from state to state.

**Local Government Legislature**

The house of assembly of the states legislates for their respective local government councils. The local government councils can primarily collect taxes on those items that are assigned to them such as rates on shops and kiosks, tenement rates on and off liquor licenses etc. The state house of assembly may also look into both the constitution and decree No 21 of 1998 to find out those areas that are neither covered in the exclusive list nor within the ambit of the states to collect and allow the Local Government Council to tax them. Capitation rate is the tax per head. A lot of people who live in the rural areas are not covered by the Pay-As-You-Earn taxation method because of poor assessment by officials or lack of verifiable means of income and so they do not pay any form of tax. Local government councils should be allowed to assess tax collected on these people. The people who earn a little amount of money and below the minimum taxable amount are exempted from personal income tax. There should be legislation for such people to pay some rate to local government councils. This payment would boost the tax income of local government councils and thus help them provide infrastructure for the economic development of their area. The introduction of the value added tax as a federally collected tax abolished sales tax by states. Lagos state government has enacted a law empowering it to charge sales tax in the state. We are watching how it will play out with the federal government. If the state wins then other states would apply it.

**CONCLUSION**

Governments all over the world need resources to achieve set goals and objectives. This goal may be economic, developmental, social, or welfare in nature. One of the major sources of revenue to achieving the set goal and objectives is taxation. The paper has taken a cursory look into the incidence and the distributional effect of taxation i.e. who actually bears the burden of the various types of taxes levied by government to fund its various developmental, economical and social objectives and the effect of taxes. Most of the considerations discussed are both analytical and theoretical. Efforts have been made to measure the impact of taxation by studying the actual effects of a particular tax on income. These studies reflect the obvious and inherent difficulty that the tax impact cannot be easily isolated from the economic consequences of other events.

It is thus clear that the incidence of taxation and its distribution effect is a complex and dynamic phenomenon. While it is relatively easy to determine the exact incidence and distributional effects of a few types of taxes; the incidence of most types of taxes are difficult to determine and often arguable.

Governments have the responsibilities for the maintenance of law and order and the allocation of social amenities or public sector goods for the welfare of their citizenry. It is the people’s responsibilities to pay their taxes to the government. The government uses the tax income and other income to perform its functions. The more money a government has, ceteris paribus, the easier it is to provide social amenities which serve as catalysts for economic development of the rural economies.

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