

TOWARDS CURBING THE MENACE OF MULTIPLE TAXATIONS IN NIGERIA'S BUSINESS TAX REGIME

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Abstract

Taxes are civic duties which citizens of a nation-state are mandated by statute to perform for provision of common goods and services. Thus, by payment of taxes, citizens contribute to building sovereign state and the governments are presumed to use these revenues responsibly to meet their obligations in providing essential public services to all citizens. In Nigeria, the legal frameworks for business taxation are enshrined in the Constitution of Federal Republic of Nigeria, various business taxing statutes, Taxes and Levies Act, among others. Thus, the present paper therefore is an academic contribution to examine the extent of duplication of extant business taxing statutes which have seemed to have impeded the growth and development of the business climate. The paper adopted doctrinal methodology using expository and analytical approaches. Consequently, it was the findings of the paper, among others, that the nation's business tax regime has been submerged by too many overlapping taxes and levies being imposed and collected by various tiers of government in spite of the existence

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of the Taxes and Levies Act including the express wordings of the 1999 Constitution clarifying collectible taxes by the competing various tiers of government. Based on the above, an urgent review of the extant business taxing statutes, among others, was advocated to alleviate the present burden of multiple taxation on the business community as a way forward.

Keywords: curbing, menace, multiple taxations, business tax regime.

1. Introduction:

(i) Definition of Business Tax

There is no contextual definition of business tax by the Nigerian tax legislation or any other enabling law or statute. All that could be discerned from extant tax legislation is an assignment of descriptive explanation to the subject-matter, that is, business tax¹. Thus, according to the extant law, business tax is comprised in taxes for income purposes, emanating from trade, profession, business, vocation, etc². Under the Nigerian legal Jurisprudence, taxation of business is therefore often categorized into two compartments, namely taxation of persons and unincorporated business, and also, taxation of incorporated business³.

¹ The authors make bold to assert that the conclusion was reached after a through investigation was carried out to discern the definitive explanation on the subject which came to naught.

² IA Ayua, the Nigeria tax law, pp70-71; Jo Orojo (ed), company law and practice in Nigeria (Lagos: Mbeyi Associate, 1992) pp.4-5.

³ J Frecknall- Hughes, The theory, Principle and management of Taxation (London and New York: Rovi ledge2015) p.3.

Thus taxation of persons and incorporated business include taxation of individuals and persons, families, communities, partnerships and also, trustees, executors and settlements. Whereas taxation of incorporated business covers taxation of personal income, company's income, petroleum profits, value added tax, among others.

(ii) Business Tax Regime in Nigeria

The authors shall now examine the extant laws regulating business taxation in Nigeria. For purpose of clarity, we shall categories business formations in Nigeria and then examine the laws regulating each business specie as it were.

A. Taxation of Unincorporated Businesses

i. Sole/Individual Proprietorship

This is the oldest and most common unit of business undertaking in the country. While this system will appear to be indispensable and satisfying an important social and economic needs, it lacks assured continuity⁴ and so cannot easily attract capital for development of the business. Furthermore, since there is no limit to the liability of the individual arising from his business, the business can readily be ruined⁵. Such business attracts taxes under the PITA⁶.

⁴ JO Orojo (ed), *Company Law and Practice in Nigeria* (Lagos: Mbeyi & Associates, 1992) p.210.

⁵ *Ibid* p.5.

⁶ PITA *op cit* section 2.

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ii. Partnership:

A partnership is 'the relation which subsists between persons carrying on business with a view of making profit'⁷. The law regulating the relation between partners *inter se* and between the partners and outsiders is to be found in the various partnership laws of the states as supplemented by the common law⁸.

iii. Trusteeship:

Trusteeship is creation of law where a party/group may be nominated to act on behalf of another as if that particular action has been performed by the person the party/group is representing⁹. In the case of income or profit rising to a trustee of any settlement or trust or to an executor of any estate of a deceased person, the state authority where the administration of the trust takes place or where the deceased was last resident, as the case may be, may impose tax on such income.¹⁰ The authors shall now give a detailed discussion of these subheads constituting incorporated businesses in the course of the paper.

B. Taxation of Incorporated Business

By far, the most important unit of business organization for modern economic activities is the registered company. Because of its legal personality, perpetual succession, the opportunity for investment and for raising capital, and the strict legal control and

⁷ Partnership Laws, Cap PI, Laws of Lagos State Section 9(3).

⁸ *Ibid* section b (4).

⁹ Investment and Securities Act 2004 (As amended) section 3 (1) (4)

¹⁰ PITA *op cit* section 2(6)

protection of members and creditors,¹¹ the registered company has played and will continue to play an ever-increasing role in the development of the national economy. Such bodies are taxed under the following subheads¹²;

i. Personal Income Tax:

The Personal Income Tax Act (as amended)¹³ regulates personal income¹⁴ tax in Nigeria. It is the National Assembly that has power, to legislate on personal income tax¹⁵. The Constitution provides that the National Assembly can delegate to the states power to collect income tax¹⁶. In Nigeria, the states collect the personal income tax. The Act identifies taxable persons and chargeable income. Personal income tax is imposed on the income of all Nigerians or residents who derive income in and outside Nigeria. The tax also determines the residence of the taxpayer¹⁷ for the purpose of payment and collection of personal income tax.

ii. Companies Income Tax:

Companies Income Tax is imposed on all limited liability companies in Nigeria except companies engaged in petroleum operations¹⁸. The tax is payable upon the profits of any company

¹¹ JO Orojo (ed) *op cit* p.11

¹² Cap p8 LFN, 2011, *Ibid*.

¹³ *Ibid*.

¹⁴ CFRN 1999 (as amended) Items 7 and 8 Concurrent Legislative List.

¹⁵ PITA (as amended) *op cit* sections 2 and 3; PITA (as amended) First Schedule.

¹⁶ CITA (Amendment) Act 2010 section 9.

¹⁷ *Ibid* section 9.

¹⁸ *Ibid* section 9 (3).

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accruing in, deriving from, brought into or received in Nigeria¹⁹. A Nigerian or non-Nigerian company is chargeable to tax on profit received in or derived from Nigeria, on the contract agreement in respect of which are executed or signed outside Nigeria or because the money connected with such profits were paid outside Nigeria.²⁰ In *Offshore v FBIR*,²¹ the court on this note held that the plaintiff is liable to tax. Again in *Reiss v FBIR*,²² the court held that a Nigerian company acting as the agent of foreign company in respect of transaction carried outside Nigerian can only be liable to tax on the income it derived from the transaction. There are also several exemptions, reliefs and incentives under the Companies Income Tax Act²³.

iii. Petroleum Profits Tax:

It is the profits of oil producing companies that are chargeable to tax under the petroleum profit tax Act²⁴. Section 8 of the Act provides that a tax shall be charged, assessed and payable upon the profits of each accounting period of any company engaged in petroleum operations. The Principal Act is supplemented by the

¹⁹ *Ibid.*

²⁰ (1976) 2 All NTC 67 at 93.

²¹ (1977) 2 All NTC 309 at 334..

²² CITA (Amendment) *op cit* sections 23(1), Ss. 33, 34 and 35; Industrial Development (Income Tax Relief) Act LFN2004 sections 1-10.

²³ (Amendment) Act LFN 2004 (The principal enactment was the PPTA 1959. The Act has been amended severally and consolidated into the PPTA Cap 354 LFN 1990, which was adopted by LFN 2004.

²⁴ Of 1992 which was reviewed in 1997, 1998 and 1999 by Decree No 18, 19 and 20 of 1998.

agreements entered between the Nigerian government and the operators, which include:

- a. Associated Gas fiscal Arrangement (AGFA).²⁵
- b. Production sharing contract (PSC) of 1993 which deals with exploration and production in deep offshore territorial waters of Nigeria.²⁶
- c. Memorandum of Understanding (MOU) OF 2000.²⁷

iv. Value Added Tax:

This is a consumption tax on goods and services. Value added tax was introduced to replace sales tax in 1993²⁸. The value added tax came in with an enactment; Value added tax decree and later value added tax. The tax is chargeable and payable on the supply of goods and services except the goods and services exempted. The tax is administered and managed by the Federal Inland Revenue Service. The existence and collection of this tax is bedeviled by controversy over who, either the federal or state government, has the jurisdiction to legislate on consumption tax after the enactment of Value Added Tax Act.²⁹

²⁵ Now cited as Deep Offshore and Inland Basin Production Sharing Contract LFN 2019.

²⁶ JA Arogundade (ed), *Nigerian Income Tax and Its International Dimension*, (Ibadan; Printmarks Ventures, 2008) p.226.

²⁷ Prior to VAT there were some expenditure taxed such as sales tax, excise duty payable on goods.

²⁸ VAT (Amendment) Act 2007 Section 1 (3).

²⁹ *Ibid* section 3(2).

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2. Incidence of Multiple Taxations in Nigeria's Business Tax Regime:

A major problem facing the business climate in Nigeria is the multiplicity of taxes. Multiple taxations seem to be a Nigerian coinage which is yet to acquire international recognition. By its usage in Nigeria, multiple taxation is the imposition or collection of more than one tax on the same tax base by different taxing authority. Multiple taxation is said to occur when the same income is subjected to more than one tax treatment³⁰. From the general usage of multiplicity of taxes by stakeholders, it can be said to manifest in at least four ways.

First, it refers to the various unlawful compulsory payments being collected by the local and state governments without appropriate legal backings through intimidation and harassment of the payers. Collection of it is characterized by the use of stickers, mounting of road blocks, use of revenue agents/consultants including motor parks touts. Second, it refers to situations where a taxpayer is faced with demands from two or more different levels of government either for the same or similar taxes³¹. Third, the term refers to where the same level of government imposes two or more taxes on the same tax base. A good example is payment of Companies Income Tax, Education Tax and Technology levy by the same

³⁰ F Izedonmi, 'Eliminating Multiple Taxation in Nigeria's Business Climate 'The Capital Market Perspective', A Paper Delivered at the University of Benin in 2021, p.1.

³¹ Report of the Main Recommendations of the Study Group on the Nigerian Tax System in 'Nigeria Tax Reform in 2003 and Beyond', July 2003, p.305.

company. Fourth, it refers to cases whereby various government agencies impose taxes in the form of fees or charges³².

Individuals and corporate bodies complain about the ripple effects associated with the duplication of taxes.³³ Multiple taxations has not only become a cancerous leach in the body of corporate entities in the economy but also constituted a major source of revenue leakages as illegal agents have exploited the lapses within the tax system to pursue their selfish interests.³⁴ The manufacturing industries or sector is not left out as the manufacturing industries are confronted with multiple statutory levies and taxes which are clearly duplicated of what other tiers of government charge. Apart from the additional cost to the industries, the time spent discussing such levies constitutes a distraction to the operators of manufacturing industries in Nigeria.

It also makes planning difficult since one is not sure of how many levies and taxes will be paid. Thus the issue of multiple taxes leads to tax evasion and avoidance as the tax regime in Nigeria is severely afflicted by the multiplicity of tax imposing and tax-collecting entities at Federal, State, and Local government levels. One of the principles underlying the imposition of tax is that it has to flow from an Act of the legislature, which means that tax has to

³² AO Sanni, 'Multiplicity of Taxes in Nigeria: Issues, Problems and Solutions' (2012) *International Journal of Business and Social Sciences*, 229.

³³ A Odusola 'Tax Policy Reforms in Nigeria', (2006) *World Institute for Development in Economic Research*, 3.

³⁴ I Omesì *op cit*, 239.

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be certain in an ideal tax administration. But this seems to be defeated by the current trend where government, ministries, agencies and parastatals at almost all levels of government have devised a means of generating revenue through the imposition of multiple and illegal levies, charges and fees. It is also not only worrisome that these fees, levies and charges are imposed in circumstances that gave them the coloration of taxes, but that their imposition on the same subject matter is duplicated by the different levels of government³⁵.

Different factors have been identified as responsible for multiple tax practices in Nigeria among which are: unfair revenue formula, dwindling of state income from the capital fund, unhealthy state rivalries, political patronage, source of reimbursing so called political god-fathers, lack of political will to stop multiple taxation by some state and local governments, poor equipping and training of staff of revenue agencies and also, greed on the part of tax officials³⁶.

A basic implication of multiple taxations is illegal and inappropriate taxation of taxpayers. The incidence of multiple taxations disregards the provision of the Taxes and Levies (Approved List for Collection) Act (as amended) which provides

³⁵ A Dangote, Developing Manufacturing Industries in Nigeria, A Paper Delivered at the CBN First Annual Monetary Policy Conference on Growing the Nigerian Economy, Abuja on 5th-6th November, 2017, p. 108.

³⁶ E Onyiaso, Multiple and Illegal Taxes in Nigeria (2018) *CITN News*, 19-21. Also available at www.academic.edu/4366902/multiple-and-illegal-taxes-in-Nigeria. Accessed on 10th January, 2020 at 6.45am.

for the taxes and levies collectible by the various tiers of government. Various Ministries, Departments and Agencies (MDAS) of the Federal, State and Local tiers of government often impose illegal and inappropriate taxes and levies in form of excessive quantum of taxes demanded. There is usually a display of lawlessness in the process of tax collection by the various tiers of government contrary to the procedures laid down in the relevant tax laws for tax collection. Some states and local governments utilize the services of security personnel and thugs to force taxpayers to pay taxes and levies and sometimes business premises are shut down without prior notice or court order.³⁷ Apart from the poor state of infrastructure in Nigeria, harsh and unstable policies, difficulty in clearing goods at the ports and high lending rates, the incidence of multiple taxations seems to be a threat to investments in the country.

Telecommunication operators in Nigeria recently cried out and condemned various requests for taxes and levies that are, outside of what are prescribed by the tax laws. They cited instance where state and local governments authorities have physically invaded their offices, locked up their Base Stations and employed other unwholesome tactics to enforce these taxes and levies³⁸. Whereas taxes are expected to be backed up by statutes, many local governments collect taxes that are not backed by any law. Instead of the local government revenue committee to perform its statutory functions, most local governments today prefer to

³⁷ CAP T2 LFN 2004 (Amendment) Act 2015.

³⁸ I Omesì *op cit* 241.

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engage consultants who employ touts and armed personnel to enforce tax payment thereby rendering tax officials redundant and violating the fundamental principles or 'canon' of taxation as propounded by Adam Smith³⁹.

In order to reduce the multi-dimensional problems arising from the multiplicity of taxes at Federal, State and Local government levels and to create an investor-friendly tax regime, the Federal government enacted the Taxes and Levies (Approved Lists for Collection) Act 2015 (As Amended). The Act provides a list of taxes and levies to be collected by all tiers of government. Any tax or levy levied outside of what the Act provides is illegal.⁴⁰ The Federal, State and Local governments are responsible for collecting the taxes and levies in Parts I, II and III of the Schedule to the Taxes and Levies (Approved Lists for Collection), Act 2004 (As Amended).

3. Towards Stemming the Tide of Multiplicity of Taxes

It is therefore still surprising that even with the very clear position of the law on who gets what, yet there are still agitations among the three tiers of government. Thus a learned scholar, Umenweke had wondered why that in spite of the obvious intendment of the legislature as postulated in the Taxes and Levies Act (as amended),⁴¹ yet in the Anambra State, for instance, the State

³⁹ GN Ogbonna, 'Burning Issues and Challenges of the Nigerian Tax System with Analytical Emphasis on Petroleum Profits Tax' (2017) Vol.1 *International Journal of Accounting finance & Economic Perspectives*, 112.

⁴⁰ *Eti-Oza Local Government v Jegede* (2007) 10 NWLR, pg 545.

⁴¹ *Eti Osa Local Government v Jegede* (2007) 10 NWLR, pg 545.

House of Assembly passed into law⁴² the Property and Land Use Charge Law. He asserted that the law tried to circumvent the provisions of the Act⁴³ by incorporating sections 1(2), 1(3), 1(4), and section 10 in the new law. He noted that the sections were a direct affront on the express provisions of the Act and the Fourth Schedule to the 1999 Constitution (as amended)⁴⁴.

Umenweke regretted also that the state has gone into assessment and collection of signboards and advertisement permit fees. He averred that by virtue of Item 20, Part III of the Schedule to the Taxes and Levies Act⁴⁵, that the state government has no business collecting advert and signboard fees. He called in aid the judicial pronouncements in *Eti-Osa Local Government v Jegede*⁴⁶, where the Court of Appeal held as illegal for a tier of government to collect taxes which it was not authorized to collect by the Taxes and Levies Act. Umenweke further recalled that elsewhere the court had in *Fast Forward Marketing Ltd v the Port Harcourt City Local Government Area Council*⁴⁷ held that no law had permitted a government council to distress for non-payment of taxes without an order of court even where the taxes demanded were legal.

From the above, the number of taxes, levies and charges in Taxes and Levies (Approved List for Collection) Act are 55 different

⁴² Taxes and Levies Act *op cit*.

⁴³ S A M Ekwenze (ed), *op cit* p. 47.

⁴⁴ *Op cit*.

⁴⁵ *Ibid* .

⁴⁶ *Eti Osa Local Government v Jegede* *supra*.

⁴⁷ (2011) 4 TLN, p. 45.

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taxes, which gives a false impression that there are 55 taxes in Nigeria. It has been reported that there are over 120 taxes⁴⁸ being collected in Nigeria under different names and nomenclatures. The authors assert that following the basic principle that taxation is statutory, the correct approach to determine the number of taxes would be to count the number of the specific Federal and State laws enacted mainly for taxing purposes. By following this line of thought the number of taxes will be smaller. Even the 55 different taxes seem to be much. Many of these items are levies and charges that could be consolidated into one or two⁴⁹. By reducing the number of taxes, tax compliance and administration is simplified and efficiency is thus enhanced. We are of the view that simplicity is the new trend in tax administration and legislation. Taxpayers are motivated by a simple and efficient tax system in a business tax regime. The authors advocate an overhaul of the tax system and a reform of the extant tax laws to embrace present current demands and expectations. Reducing the total number of taxes paid, increasing transparency as to how and what to pay, and facilitating procedures for filing taxes, will be essential to reducing high compliance costs and, in so doing, increase Nigeria's tax compliance rate and also the revenue.⁵⁰

⁴⁸ The 2003 Tax Study Group *op cit* p.314.

⁴⁹ Y Olugbenro, Dealing with Multiplicity of Taxes (2015) *CITN News*, 30-36. Also available at www.yomiolugbenro.com. Accessed on 7th February 2017 at 12.09pm.

⁵⁰ Ngozi Okonjo-Iweala, Multiple Taxation Killing Economy (2012) *Financial Times Journal*, 51-55. Also available at < web.facebook.com/ngoziokojoiweala/posts/68875180281754. Accessed on 24th February, 2014 at 3.47am.

4. **Reference to Foreign Jurisdictions:**

The authors, under this sub-head, shall now beam their searchlight on some Commonwealth nations in search of an envisioned business climate with global best practices in terms of proactive business tax enactments for Nigeria. Thus we shall compare notes with these Commonwealth nations namely Australia, United Kingdom, India and Kenya in that order, as our reference points.

A Australia

Australia pursues the expansion of the traditional tax compliance to include responsive elements of regulation, as illustrated in the Australian Tax Office's (ATO) approach to tax compliance and enforcement than those available under other systems⁵¹. The responsive regulation approach is based on the proposition that effective enforcement requires a dynamic and gradual application of less to more severe sanctions and regulatory interventions. This range of sanctions and interventions balance traditional authoritarian deterrence with strategies that rely on persuasion and encouragement through three states of communication-cooperation, toughness, and forgiveness⁵². The Australian approach further advocates a deeper understanding of the motives, circumstances, and characteristics of taxpayers, so that tax authorities can tailor enforcement to effectively deliver compliance.

⁵¹ T Kelvin and J Stones, Australian Tax System Strategies with Foreign Climes (2019) 16 (4), *ATR* 10-15.

⁵² C Silver *et al*, Developments in Personal Income Tax in Australia (2019) *op cit*.

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With responsive regulations, the intent is to preserve the basic principles of economic analysis that views taxpayers as oratorical actors seeking to maximize their expected utility⁵³. Responsive regulation goes a step further, however, and also considers other parameters, including the way society, morality, and ethics affect taxpaying behaviour and particularly, the manner in which the taxpayer – tax administrated relationship shapes compliance. Thus the Australian compliance model offers a viable framework that incorporates a balanced and broad approach in the enforcement of taxes. Drawing o the principles of responsive regulation and the motivational posture doctrine, the Australian model conceptualizes taxpaying behaviour as the result of factors that go beyond the needs, desires, and constraints of the autonomous taxpayer.

With growing interest around the world in tax administration that focuses on customer service and embraces a dynamic approach to the enforcement of compliance, thus the Australian model has the potential to generate different, possibly more effective conclusions for tax enforcement than from the traditional economic compliance method.

B. United kingdom

Her Majesty Revenue and Customs (HMRC) mounts a compliance check on a company which entails a formal investigation into the corporations tax affairs to make sure its

⁵³T Sabon, *The Australian tax System* (10th edn Oxford, Oxford Press) 2019/ *op cit*.

tax return is correct and or to check that any payments made by the company are for the right amount and are paid on time. HMRC shall bring the compliance check to an end if nothing is wrong.⁵⁴ Also, HMRC carries out compliance checks on a portion of returns to check their accuracy.⁵⁵ Some checks will be completely random, while others will be made on businesses operating in ‘at risk’ sectors or where prior risk assessments have been conducted.

Furthermore, HMRC has the power to obtain relevant information from taxpayers to check if the taxpayers are paying the right amount of Corporation Tax. Such sources of information gathering are referred to as third parties, and they include banks and other financial institutions, as well as lawyers, accountants, and also estate agents⁵⁶.

HMRC shall investigate further back the more serious she thinks a case could be⁵⁷. Where she is of the opinion that there has been deliberate tax evasion, HMRC can investigate as far back as 20 years. More commonly, investigations into the affairs of a company start with a brown envelope marked ‘HMRC’ falling through its letterbox. Thus a company’s

⁵⁴ HO Stevens ‘HMRC New Strategy on Common Reporting Standards’ *New Telegraph* 29th May, 2021 pp 32-35.

⁵⁵ *Ibid* pp .31-34.

⁵⁶ H Adams, Strict Liability Offences: HMRC’s prawn Measures (2021) 8(3) *UK Tax Review*, 159 -173.

⁵⁷ Criminal finances (Amendment) Act 2017 Schedule 10.

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records will face varying degrees of scrutiny, depending on the reason the investigation has been launched⁵⁸.

C. India

The authority in-charge of assessment of income tax is the ITD, thus the Income Tax Act⁵⁹, and the Income Tax Rules obligate citizens to file returns with the ITD at the end of the every financial year. These returns should be filed before the specified due date. Every Income Tax Return form is applicable to a certain section of the Assesseees. Only these forms which are filed by the eligible assesseees are processed by the ITD in India.⁶⁰

It is therefore imperative to know which particular form is appropriate in each case. Income Tax Return Forms vary depending on the criteria of the source of income of the Assesseees and the category of the assesseees who earn income beyond the basic exemption limit in a financial year (FY), must file a statement containing details of his income, deductions, and other related information. This is called the Income Tax Return (ITR).⁶¹

⁵⁸ *Ibid* Section 81^A.

⁵⁹ S Acharya & Associates, *Aspects of the Black Economy in India* New Delhi Ministry of Finance, Indian, 1985 pp. 27- 31.

⁶⁰ MA Allingham, "Income Tax Evasion: A Theoretical Analysis" (2018) Vol. I (3) *Journal of Public Economy*, 323 – 338.

⁶¹ *Op cit* S Acharya pp. 21 -25.

Once you as a taxpayer files the income returns, the ITD will process it. However, there are occasions where based on set parameters by the Central Board of Direct Taxes (CBODT), the return of an assessee gets picked for an assessment. An assessment as filed by a tax payer could be in form of self-assessment, summary assessment, regular assessment, income escaping assessment and also, best of judgment assessment⁶²

D. Kenya

The Kenya Revenue Authority (KRA) is the agency in charge of the collection and receipt of all revenue on behalf of the Kenyan government. In performing the function, KRA has the responsibility of administering and enforcing all laws relating to revenue.⁶³ All income accrued or derived in Kenya by any person (individual or body corporate), whether resident or non-resident, is subject to tax.⁶⁴ The whole profit of a business carried on partly within and partly outside Kenya by a resident company is deemed to accrue in or be derived from Kenya and is therefore taxable in Kenya. Resident rate of CIT is 25% effective in the 2020 year of income. Prior to this year of income, the applicable rate of CIT was 30%⁶⁵.

Where a non-resident person carries on business in Kenya through a permanent establishment (PE), the income

⁶² Companies (Beneficial Ownership) Regulation , 2020 section 87(3)

⁶³ Companies (Beneficial Ownership) Regulations 2020 section 87 (3).

⁶⁴ Kenya Revenue Authority (KRA) (Amendment) Act 2020 section 7 (1).

⁶⁵ *Ibid* section 7 (1).

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attributable to the PE will be considered income accrued in or derived from Kenya⁶⁶. The tax adjusted business profits of the PE will be subject to tax at the non-resident CIT rate of 37.5%.⁶⁷

5. Conclusion and Recommendations:

In the present paper, the authors took off by discussing the general introduction to business taxation in Nigeria, the various attempts towards the definition of the subject-matter, an *expose'* on business tax regime, and also, incidence of multiple taxations in Nigeria's business tax regime was examined. Worthy of note was the adequate consideration given to the efforts put in place so far by the extant business tax laws to stem the tide of multiplicity of business taxations in Nigeria. Even at that, it remains a mystery to the present authors that multiplicity of business taxes still persists. Further in our effort to chart a new course, we compared notes on the current subject with some Commonwealth nations as a reference.

To curb the persistence of the multiplicity of business taxations, the authors hereby advocate, and strongly too, that there is an urgent need to review the extant business tax laws in Nigeria by providing some requirements on certainty, clarity and proactive measures in the nation's business tax regime to embrace the present challenges, demands and agitations of business operators. The present advocacy shall tally with what is obtainable in some

⁶⁶ *Op cit* Corporate Income Tax (Amendment) Act section 13(7).

⁶⁷ The Taxes (Amendment) Act section 35 (b) (ii).

of the other climes studied. For instance, in Australia, there seems to be some inbuilt safety valves to nip in the bud areas with potential tax conflict, in interpreting business tax statutes. Likewise, in the United kingdom⁶⁸, in the drafting of tax exemptions on value added tax, to be precise, the relevant taxing statutes were couched to reflect some clarify and simplicity. This is one area, the apparent absence, has continued to generate some uncertainty and controversy in Nigeria's business climate⁶⁹.

Conclusively, we are proposing as a step forward that, for government to elicit taxpayers appeal and acceptance, there is an urgent requirement to harmonize and further consolidate number of extant business taxes⁷⁰ through a legislative engineering. By reducing the number of taxes, tax compliance and administration is simplified and efficiency is thus enhanced. The authors are of the firm view that, if the above proposed reforms through amendments to the extant business tax laws are affected, a new dawn to the nation's business climate in tune with global best practices becomes feasible in Nigeria.

⁶⁸ T Sabon, *The Australian Tax System* (10th edn Oxford Press) 2019.

⁶⁹ HO Stevens, 'HMRL New Strategy on Common Reporting Standards, *New Telegraph*, 29th May, 2021. Pp. 32-35.

⁷⁰ The tension and uncertainty trailing the inception of VAT could be seen from these cases: *Nigeria Soft Drinks Company Ltd v AG Lagos* (1987) 2 NWLR (pt 577) 444; *AG Lagos v Nigerian Bottling Company Manufacturers Association of Nigeria* (2009) I TLRN 294; *AG Lagos v Eko Hotels Limited & FBIR* (2008) All FWLR 32 (CA); among others.