PROBLEMS FACING TAXATION UNDER THE NIGERIAN LAWS AND THE WAY FORWARD*

Abstract

There is no gain saying the fact that tax revenue is a powerful tool of economic reform and a major player in every economy of the world. A good system of tax offers itself as one of the most effective means of mobilizing a nation's internal resources and lends itself to creating an enabling and conducive environment for the promotion of economic growth and development. It can be said that the economic development to a country depends on various reasons one of which is the presence of an effective and efficient tax administration. The tax system in Nigeria has been running on less than efficient speed and progress. This is no doubt, a cause for concern. Thus, this article sets out to unveil the logs in the wheels of effective administration of tax in Nigeria. In doing so, the concept of taxation and types of taxes are punctiliously discussed, the history of taxation traced, while a comparative analysis is carried out. The article concludes with recommendations which if carried out, will goal on way in eliminating the problems of taxation in Nigeria, leading to an effective tax administration.

Keywords: Problems, facing, taxation, distinction, challenges, growth and development

1. Introduction

'Tax is one great power upon which the whole national fabric is based. It is as necessary to the existence and prosperity of a nation as is the air he breathes to the man.'1 From time immemorial, tax has been one of the most effective means of raising revenue for government. Over the years, its essential characteristics have barely changed. Thus, we can say, that to some degree, tax has remained true to form. It is a truism both for developed and developing countries that tax is a very important source of revenue generation to the government. Just like individual makes money to solve his unlimited needs, the governmental so generates revenue for the execution of her projects and provision of essential infrastructure. To achieve this, there needs to be in place, an efficacious system of taxation, which will ensure optimum administration of taxes. Nigeria popularly referred to as the giant of Africa, is rich in natural and human resources. In view of this, one would naturally expect rapid growth and development in Nigeria. Sadly, the reverse is the case. Nigeria undoubtedly has a tax system. However, it appears to still be taking baby steps compared to other countries. This is because its tax system is plagued with many defects, stunting its growth and development.

2. Concept of Taxation

The etymology of the word 'tax' can be traced to the Latin word 'taxare' meaning; evaluate', 'estimate', 'assess' etc. Taxation has defied a single definition as there are as many definitions of tax as there are authors. There have however been several attempts to give it a wholesome definition. For instance, the Black's Law Dictionary defines tax as 'A charge by the government on the income of an individual, corporation or trust as well as the value of an estate or gift'.2 The New Webster's Dictionary, defines tax mean 'A charge or burden, usually pecuniary, laid upon persons or properties for public purposes.'3 Olugbenga Obatola4 defines tax as: 'A compulsory levy, imposed by the government or any of the recognized authority of a state on the property, goods, services and people living in a given geographical area for the purpose of generating revenue to defray the expenses incurred by the government or authority on behalf of the people'.

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[1] *Nichols v Ames* 173 U.S 509 (1899) p. 5

[2] B.A. Garner (ed), *Black's Law Dictionary, (7th ed),* (USA: West Group,1999) p. 159.

[3] *The New Webster's Dictionary of the English Language*, College Edition (India: Surject Publications1989) p.1574.

[4] O. S. Obatola, *The Rudiments of Nigerian Taxation* (Lagos: Casco Publishers , 2013) p. 1

Tax was also defined in the United States of America in the case of Mathews v. Chicory Marketing, Board5 as ‘A compulsory exaction on money by a public authority for public purposes’. The author, Akanke, also defines taxation more generally as a ‘Compulsory levy imposed on a subject or up on his property by the government having authority over him’.6 Tax comes in a variety of forms and is also known by different names such as duties, levies, and tariffs. However, tax has sometimes been confused with these other related revenue to the government. The distinction between them shall be considered.

3. Distinction between Taxes and Other Related Revenue to the Government

All tiers of government are expected to utilize their revenue for the provision of public goods and welfare. Thus, care must be taken to distinguish taxes from other public revenue derived from specific charges which like taxes, are imposed by government. They are;

Revenue: This is the totality of the income of a government, derived from all sources, and used to pay for a country’s expenses. It encompasses taxes, fines, penalties, charges. etc.

User charges: This is the money paid by a person or an organization for the consumption of goods and services provided by the government. It is the amount paid for enjoying government provided utilities and services. The amount may in some instances be so small as to cover only the cost of producing the goods or services. eg. Payment of electricity, water, refuse disposal etc.

Rate: This is that amount paid to the government for the use of a property whose value can easily be determined and which is located in the jurisdiction of the tax authority imposing it. It is a payment that is based on the table value of the property being occupied by the tax payer e.g. is tenement rate collected by the local government in Nigeria.

Fees: This is the payment in made for the use of labour, provided by the government in the production of a commodity or discharge of a service. The payment is made to subsidize the amount paid by the government for the labour employed to produce the goods or perform the service which was made available to the public. Remarkable examples of this are school fees, registration fees, government hospital medical fees, etc.

Fine: This is an amount of money paid to the government for contravening the laws of the land. Any member of the society found to violate the law must be punished or fined as thus made to fall into line as expected of him. Examples of fines are payments made to the government due to motor vehicle wrong parking, fines paid for urinating in public places, dumping refuse at the wrong site, etc.

Penalty: This is that amount of money paid to the government for failure to meet the time stipulated for the observance of an action e.g. penalty for not filling returns, failure of a motorist to empower operating license, etc.

A government does not impose tax arbitrarily. The imposition of tax usually stems from certain needs and objectives of the government and to ensure fair imposition of taxes, there are guiding principles governing such impositions. These include:

4. Objectives and Canons of Taxation

The major objectives of taxation include;

[5] (1938) V 60 CLR 263 @ 276

[6] O.Akanle, *The Government, the Constitution and the Taxpayer in Nigeria*, (Lagos:Nigerian Institute of Advanced Legal Studies,1999)P.1

Revenue Generation: The time honoured objective of taxation is to raise revenue. Through the imposition of taxes, government is enabled to carry out the affairs of the State. The prompt and adequate payment of tax ensures the smooth and unhindered running of government and governance.

Reduction of Inequalities/Wealth Redistribution: It is now generally accepted that taxation ought to be used as a means of regulating the socio-economic life of the community. It is an effective tool to reduce the glaring in equalities of income and wealth existing in the modern society. Democratic governments aim at securing social justice. Progressive tax system is designed to achieve this objective.

Administration of the Economy: Revenue accruing from the imposition and subsequent payment of tax is used by the government for the administration of the economy.

Regulatory Objective: There are some taxes whose primary objective is to control and regulate some behavior, for example restrictions on the consumption of alcoholic liquors are affected by means of restrictive excise duties.

Incentive Objective: This includes a variety of proposal, designed to provide preferential treatment for income from business enterprises and establishing rewards and penalties to stimulate output. Its purpose is to stimulate the larger flow of investment activities in the desired channel for example; 'tax holiday' is given to investors who establish investment units in pioneer/backward areas for a certain number of years.

Adam Smith, in his book 'An inquiry into the Nature and Cause of the Wealth of Nations,' pointed out certain characteristics a good tax system must possess. They are;

Canon of Equity and Fairness: The subjects of every State ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is in proportion to the income which they respectively earn under the protection of the state. It simply means that those that earn more money should pay more taxes. Tax experts, practitioners, writers and policy advocates generally agree that two criteria are essential for a tax system to be perceived as equitable, which are horizontal and vertical equity. Horizontal equity suggests that people on the same level of income should be made to pay the same level or amount of tax. Vertical equity means that those on different levels of income should be made to pay different amount of tax.

Canon of Convenience: The injunction here is that ever tax should be levie data time or in the manner in which it is mostly likely to convenient for the contribution to pay it. If this criterion is observed, tax administration becomes easier and evasion is minimized. For this reason, tax laws normally stipulate the occasion for payment, which is usually the time at which the income to be taxed accrues or is paid to the tax payer.

Canon of Certainty: The taxpayer should be well aware of the purpose, amount and manner of the tax payment. Everything should be made clear, simple and absolutely certain for the benefit of the tax payer. The requirement of certainty in a tax system makes it important that the income or property intended to be taxed, the occasion for assessment and general administration are clearly spelt out beforehand.

Canon of Administrative Efficiency: In some ways, taxes may become more burdensome to the people than they are beneficial to the government. Tax administration is not an end in itself. Rather, it is a means to end; the running of State affairs and provision of social welfare. Even though it creates employment opportunities, care must be taken to ensure that a substantial portion of the realizable revenue is not already depleted as cost of collection.7

[7]S.H.Meer,'CanonsofTaxationinEconomics',Oct.2011.Available at www.owlcation.com/social-sciences/canons-of-taxation-in-economics. (accessed on28-04-2018)

5. Historical Evolution of Taxation in Nigeria

Taxation is an ancient and ubiquitous concept that forms one of the central pillars around which civilization has been built. One of the certainties of history is that no structural society has ever arisen without taxation. There is no doubt that taxation plays a critical role in society and has the capacity to affect the lives of everyone within it. Benjamin Franklin once stated 'In this world, nothing is certain but death and taxes'8. The author, Adulrazaq stated that a country's tax system for all interest and purposes emanates from its economic, political and cultural history.9 It is therefore trite to examine the historical evolution of taxation.

Taxation is deeply rooted in history. Records of taxation date back in antiquity; to the time of the earliest civilization. Evidence of taxation can be found in an inscription on an ancient Sumerian table from the city of Lagas (located in what is now Iraq) which states; 'You can have a Lord, you can have a King, but the man to fear is the Tax Collector'10Taxation is also featured in the times of the ancient Egyptians and Greeks. Scribes of the Pharaohs collected tax on cooking oil amongst other things. In times of war, the Athenians in ancient Greece imposed taxes and such taxes were known as Eisphora. No one was exempted from this tax even though after the war, when additional resources were gained, the Eisphora was refunded to the tax payers. The Athenians also imposed a monthly poll tax called Metoikion on foreigners. During the Roman Empire, Custom duties on imports and exports were the earliest taxes and they were called Portoria. Taxes were also imposed on farming lands, sales etc. In the medieval England, feudal properties and inheritance taxes were levied by kings and landlords. The famous Domesday Book (commissioned by William the conqueror in 7086) was the first recorded survey of property holdings in England undertaken for the purpose of assessing taxes over the years, virtually every kind of product has been taxed in some form or another including even the most basic commodities such as sugar and salt. The first law on income tax was passed by the EnglishParliamentin1404andthefirstdeductionofincometaxatsourcewasdonein 1512.

Pre-colonial Era

During the pre-colonial era, taxation functioned more or less on an ethnic basis with a centralized authority, administrative machinery and judicial institutions, such as in the Northern areas where we have Emirs, Yoruba and Benin Kingdom where we have the 'Obas'. In the non-chieftaincies areas like the Igbo, Tiv, Bura, Igbira and Bachama areas, there existed little or no form of organized taxation.11 The history of taxation in Nigeria can be traced to the Northern part of Nigeria where there was a reasonably systematic form of taxation during the early years and this was due to the fact that the Emirs had a more organized system. Types of taxes imposed in the Northern part of Nigeria included Zakat, a charitable tax levied on Muslims for religious and educational purposes, Kudin Surauta, an accession duty, paid by every chief or Holder of an office upon appointment, Gado, a death duty on a deceased's estate paid to the Emir when there was no recognized or proven heir, etc.12 In the Yoruba States of Southern Nigeria, pre-colonial taxes included the Owo-Onibode, a border fee similar to customs duty that was imposed on cross border trade, Owo Ashingu, which consisted of personal service such as building and repairing of town walls, Ishakole, which was a kind of universal kind rent, to mention a few.13 The Benin kingdom also had an advanced system of taxation which the British found, upon their arrival, at the close of the19thcentury.In1897for example, the British Consul-General at Calabar, directed the Political Resident in Benin to the effect that in assessing the people for tax purposes, the resident should take into consideration, the basis of assessment which the Edo people were formerly called upon to pay to the Oba of Benin and ensure that assessment by the resident was carried out with fairness. The Eastern part of Nigeria is said to be premised on the republican

[8] Fred Shapiro, 'Quotes Uncovered: Death and Taxes. Available at www.freakonomics.com/2011/02/17/quotes-uncovered-death-and-taxes-.(accessed on 28-04-18)

[9] M.T. Abdulrazaq, *Nigerian Revenue Law* (Lagos: Malthouse Press Ltd.,1st ed.,2005) p.16.

[10] Taxation Principles and Theories. Available at https://www.oup.com.au/-data/assets/pdf-file/0026/90953/(accessed on 28-04-

[11] Adulrazaq, 19

[12] Obika, 4

[13] 'The Development of British Indirect Rule in Colonial Nigeria', Available at tnakatawiki.wordpress.com/reasons-for-indirect-rule/(accessed on 26-04-2018)

nature of the Igbos. A popular form of tax collected was the 'Egbu-Nkwu'which is tax imposed before palm oil is harvested. It is compulsory and there can be no harvest without its community effort. Tax on members of each community for specific purpose was also imposed. It is worthy of note that the pre-colonial era taxes were not strictly pecuniary i.e. they were not only paid in cash. They were also (largely) paid in kind and through obligatory, personal services which is also known as tribute tax for instance, the Ishakole in Yoruba.

Colonial Era

The creation of the colony of Lagos in 1862 brought about the English law. Therefore, the income tax as we have it today was first introduced in Nigeria by the British through Lord Lugard in 1904. The British administrators adopted the indirect rule because they had very limited number of administrative (or political) officers available to undertake direct rule of the colony. It was also considered unwise to drastically reform existing customs and methods until the British Officials acquired better knowledge of native laws and customs and also because the practice of indirect rule in India, one of their former colonies, was successful14.To raise additional revenue, Lugard took steps to institute a uniform tax structure patterned on the traditional system that was adopted in the North during his tenure there. Upon the introduction of indirect rule, the British government under Lord Lugard introduced the first Income Tax Law in what is today known as Nigeria, in 1904 by consolidating all the various traditional taxes under the Land Revenue Proclamation of 1904. There was no such tax law in the Southern part of Nigeria until1917whenLord Lugard made certain changes to the law which culminated into the Native Revenue Ordinance of1917.The Ordinance became operative in the Western and Mid-Western Nigeria. However, it sparked off series of demonstrations in Calabar and Owerri Provinces but the most serious resistance to the introduction of direct taxation in the East was the Aba Riot of 1929.The back ground in the Eastern Region was rather more complicated than that of the North and the West because whereas in the North and the West, the existence of fairly of organized states was instrumental to the entrenchment of in direct rule. The absence of powerful chiefs in the East propelled the British government to introduce the system of Warrant Chiefs. Not only was the notion of kinship alien to the political and social formation of Easterners, the Warrant Chefs appointed by the British were more or less imposed upon the people as a result of which they were not accepted by the people. In addition, the prices of export produce were low and the prices of import produce were high, thereby creating an economic downturn that could only be aggravated by the introduction of direct taxes. The other main cause of the riot was the impression that women were going to be taxed.

Post-Colonial Era

Prior to 1960, the taxing powers and revenue allocation formula had become an Issue subsequent to Nigeria becoming a Federation in 1954.Consequently, the Riesman Commission was inaugurated in 1958 to look into the issue of how to allocate taxing powers between the Regional and Federal governments and make recommendations that would ensure an equitable tax distribution. Earlier in 1951 and 1953, two commissions were set up; they were the Hicks Phillipson Commission of 1951 and Sir Louis Chick Commission of 1953. In its composite recommendations, Hick Phillipson laid down, among others, the principle of independent revenue with a view to making the regions within the newly established federation more financial self-reliant15. While Sir Louis recommendations to a larger extent, reflected in the Sections 155-163 of the 1954 Constitution Order-In-Council. The Riesman Commission recommended that the Federal Government should have exclusive power over corporations and companies' taxes as well as taxation of non- resident persons and to enter into double taxation agreements with other countries. The Regions, (later states) had exclusive power to impose personal income tax on individuals, sole traders, partnerships, clubs, trusts, and other unincorporated associations. These recommendations formed Section 70 of the Nigerian (Constitution) Order-in-Council1 960. Corporate taxation was placed within the purview of the Federal Board of Inland Revenue, established under the Company Income Tax Act, No. 22 of 1961. The creation of states in May 1967 took the complexity in the Nigerian tax system to another level. Between 1967 and 1975,

[14] M. T. Okorodudu, Nigeria: Analysis of Federal and State Taxing Powers'[1985]*Int'l Tax J.* (11)p.305.

several developments occurred in terms of tax and tax related legislations and during this period, there were at last 21 legislations including amendments. In 1975, the Federal Board of Inland Revenue established an office in each State. Study groups were formed to among other things; assess the effectiveness in the management of the existing taxes both at the Federal and State levels, in 1978, 1991, 2002 and 2004.

6. Comparative Analysis between Nigeria and Some Other Countries

The Nigerian tax administration is in line with the British model of tax administration since 1960 and has been operating this up to 1990 when the self assessment scheme came into play which bears striking resemblance to the American tax administration system. One would assume that the Nigerian tax system, toeing the tax system of the British would be well developed. However, this is not the case. This is primarily due to the fact that while the British government administers tax on the assumption that tax payers are incompetent as to tax process, and as such, tax authorities do not rely on information supplied by tax payers. Returns of the tax payer are carefully verified through the application of the American model in reference to the rigid British model. It is therefore not surprising that at the end of the year 2017, the United Kingdom recorded a tax-GDP-ratio of 34.4.15 The Nigerian tax authorities on the other hand, rely almost exclusively on the information supplied by tax payers with very little thorough investigation or assessment on their own part. Since the year 1990, when Nigeria adopted the self assessment scheme, to a large extent, our tax administration system has been modeled after that of the United States of America. However, unlike the US, Nigeria records no development in its tax system. In spite of the advantages that can be derived from the American system, its application has not found a good place in Nigeria because all the phenomenon that made it a success in America such as transparency, voluntary tax compliance, efficient data processing system which aids the detection of fraud, etc are still not present in Nigeria. Notably, in the year 2017, the United States recorded a Tax-To-GDP ratio of 26.0 percent in 2017. Bringing the comparison between tax system in Nigeria and that of other countries down to Africa, currently, Algeria has the best tax system with a Tax-To-GDP ratio of 35.5 percent also in 2017.This is primarily because after the oil crisis, taxes became the main resource of national income. Also, Nigeria's West African neighbor, Ghana recorded a Tax-GPD-Ratio of 20.8 percent in the same year. According to the IMF, Africa's most populous nation with about 200million people, has a Tax-To-GDP ratio of 6.1 percent, the lowest among sub-Saharan countries, compared with 24.7 percent for South Africa. This raises the question of the factors that hinders tax development/progress in Nigeria which in turn will be discussed below.

7. Factors Hindering the Growth and Development of Taxation in Nigeria

A tax administration is the whole organizational set-up for the management of the tax system. The tax administration set-up is a department of government and works under regulations prescribed by tax legislation. Tax administration is essentially the process of assessing and collecting taxes from individuals and companies by authorities in such a way that the correct amount is collected efficiently and effectively with minimum tax avoidance or evasion. Guaranteeing the long-run fiscal soundness of the policies and programs of government are the broad objectives of a tax system, while the full implementation of the tax system, that is, to ensure that tax payers comply with the provisions of tax laws and that the funds derived from tax sources are paid into the government purse, is the purpose of tax administration.16 The central tasks of a tax administration revolve around the implementation and enforcement of tax legislation and regulations. These activities includes identification and registration of taxpayers, processing of tax returns and third-party information, examination of the completeness and corrections of tax returns, assessment of tax obligations, collection of taxes and provision of services to taxpayers. Thus, however good the principles of a tax system may be, the success of tax administration depends essentially on the ability of the tax administrators to utilize the principles of a good tax system, i.e. Canons of taxation. In Nigeria, several problems/challenges beset the administration of taxes. Some of them shall be considered anon.

[15] The World Bank, available at https://data.worldbank.org/indicator/NY.GDP.MKTP.CD.
[16] Ibid

8. Challenges Affecting the Growth and Development of Taxation in Nigeria

Bad Governance and Corruption: Administering the tax laws of a country should serve the public interest i.e. it should meet the needs of the government and the people of the country, served by the government. In order for the agency charged with administration of the laws to serve the public interest properly, the agency and its employees must have the confidence and esteem of the public they serve. It is essential that a tax administration carries out its responsibilities in a manner which warrants the highest degree of public confidence in the organization efficiency, integrity and fairness. Tax payers are not encouraged to pay more taxes because there is no visible or credible evidence of good governance. Too much emphasis is placed on the collection of taxes while less attention is paid to lesson customer service and taxpayers' right. Also, Taxpayers have an in-depth belief that paying taxes is just a means of funding government officials' private expenses. Hence they are not encouraged to pay tax. In addition, corruption is prevalent in the administration of taxes and duties. It is common place for tax collectors to collect tax payments partly on behalf of the government and partly to serve their own private interests. Paying tax is unattractive to many tax payers based on the belief that tax from their hard-earned money is either stolen or misapplied by public officials. Evaders prefer to bribe officials rather than pay taxes. Tax assessors collude with taxpayers, particularly with respect to personal income tax, or in some cases, in connection with the assessment. The multiple processes of clearing imports are not only a source of administrative delay, but also an avenue for entrenching corruption. as taxes are expected to end in private pockets not In public utilities. This altitude has eroded tax consciousness on the part of Nigerians.23

Poor Tax Administration: Tax administration and individual agencies suffer from limitations in manpower, money, tools and machinery to meet the ever-increasing challenges and difficulties. In fact, the negative attitude of most tax collectors towards taxpayers can be linked to poor remuneration and motivation. The predominance of support staff in a professionally inclined agency like the FIRS does not augur well for the country. The situation at the Local Government level is even more precarious. Anecdotal evidence shows that staffs are not provided with regular training to keep them abreast of developments in tax related matters. This makes the administration in terms of total coverage and accurate assessment weak. There is a huge lack of experienced personnel to man the various relevant tax authorities and this hinders the effective tax administration in Nigeria. In some States, the Board of Internal Revenue is poorly staffed, both in quality and quantity of Staff. For example, for about two years i.e. between 2016 -2018, the Tax Appeal Tribunal of various states were not operational because the Body of Appeal Commissioners were not appointed leaving the Tax Appeal Tribunal defunct.

Revenue Curse: This is a phenomenon common in Nigeria's revenue generation system. Prior to independence in 1960, and the post-independence period, toward the late 1920, agriculture was the mainstay of Nigeria's economy and a major source of revenue. However, this scenario suddenly changed when oil was discovered, and the oil boom instantly changed the direction of the economy. Agriculture was abandoned and more than 83% of the federal revenue is generated from oil sales in the international market.17 Because of the enormous proceeds from oil, the Nigerian government places less value on taxation. Also, this has led to a paradoxical situation known as resource curse; a situation in which countries with an abundance of non-renewable natural resources experience stagnant economic growth. It occurs as a country begins to focus its entire production means on a single industry such as oil, and neglects investment in other major sectors. It is also known as 'The Paradox of Plenty'18.It has led to political office holders to become voracious in pilfering public funds because of the vast amount of money gotten from oil revenue. Also, it has taken attention away from the carrying out effective taxation.

[17]AttractingDefaultersintotheTaxNet'.11thJuly2011.Availableat https://m.guardian.ng/opinion/attracting-defaulters-into-the-tax-net/.

[18] 'Resource Curse'. Available at https:www.investopedia.com/terms/r/resource-curse.asp. (accessed on7/6/2018)

Multiplicity of Taxes: In a federal system of government, it is typical to have Federal, State and Local Government's taxes. Multiple taxation is not merely synonymous with being taxed at different levels of government. It also occurs when one is taxed on the same product/service by the governments of different states.19 Multiplicity of taxes is a major problem facing the country. Individuals and corporate bodies complain about the ripple effects associated with the duplication of tax. These problems are from the States complaints about them is match between their fiscal responsibilities and fiscal powers or jurisdiction. To compensate or make up for this deficiency, some States took the initiative of levying certain taxes which has led to arbitrariness, harassment and even closure of businesses. Lagos State is a good example of efforts to offset the inequitable distribution of VAT proceeds; it proposed the re-introduction of Sales Tax.20

Tax Evasion and Tax Avoidance: It is common place to use the terms 'Tax Evasion' and 'Tax Avoidance' interchangeably. However, they are not the same. In 7UP Bottling Company Plcv Lagos State Internal Revenue Board 21, the Court of Appeal emphasized the distinction between them where it held that: 'Whereas tax avoidance is permissible, tax evasion on the other hand is illegal and gives rise to penalties and in some cases imprisonment'. Tax evasion is a deliberate and willful practice of not disclosing full taxable income so as to pay less tax. In order words, it is a contravention of tax laws whereby a taxable person neglects to pay the tax due or reduces the tax liability by making fraudulent or untrue claims on the income tax form.22 Taxpayers are very inventive in finding ways to legitimately avoid tax or evade them illegally. tax is evaded through different methods some of which are: refusing or neglecting to pay tax; entering into artificial transactions as seen in the case of Akinshete Syndicate v Senior Inspector of Taxes Akure23; where a tax payer hides away totally without making any tax return at all; making an incorrect return by omitting or understating an income liable to tax; refusing to register with the relevant tax authority.

Tax avoidance on the other hand has been defined as the arrangement of tax payer's affairs using the tax shelters in the tax laws, so as to pay less than he/she ought to pay by taking advantage of loop holes in a tax levy. Tax can be avoided in the following ways; Manipulation of charitable organizations whose affairs are controlled and dominated by its founders, thus taking advantage of income tax exemptions; Buying articles manufactured in Nigeria, thereby avoiding import duty on imported articles; Creation of a trust settlement for the benefit of children or other relation in order to manipulate the martinet tax rate such that a high income bracket taxpayer reduces his tax liability; Avoiding the consumption of articles with indirect taxes incorporated in their prices e.g. tobacco. Minimizing tax inability by investing in capital asset, (for instance, through the new form of corporate financing by equipment leasing) and thus sheltering some of the tax payers income from taxation through capital allowance claims.24

Paucity of Data Base: There is a serious dearth of tax data base in the Nigerian tax administration. The problem of adequate database that will identify and capture the statistics of tax payers has demeaned the enforcement agency on matters related to tax evasion. This in turn has led to the problem of assessment which can come in two forms;

Identification of the Person to be assessed: Due to the non-availability of tax statistics, most taxpayers are able to hide from tax authorities and if possible, would give fake addresses to conceal their identity. Our Postal system doesn't help matters here as their services are so inadequate and inefficient that even

[19] *Ecodrill v Akwa Ibom State Board of Internal Revenue*.
[20] Sales Tax Law of Lagos State
[21] [2013] 2. NRLR 105
[22] L. Soyode and S.O. Kajola, 'Taxation Principles and Practice in Nigeria, (Ibadan: Silicon Publishers, 2006) p. 68.
[23] Unreported judgment of the supreme court SC/164/67
[24] S. Eneojo & G. Tyokoso,'TaxationandRevenueGeneration;anEmpiricalInvestigationofselected StatesinNigeria,[2014]JournalofPoverty,InvestmentandDevelopment,(4).Available in http://www.eajournals.org/wp-content/uploads/Empirical-Analysis-of-Ta-Revenue-Collection-by-the-Federal-Government-in-Nigeria.pdf.(Accessedat4:11amon17-04-2018.)

letters with proper addresses are barely delivered much less those with no proper addresses. Many businessmen and women carry on their business without registration or any fixed address. It is therefore, very difficult, if not impossible, to track them down for tax purposes.

Identification of Income for Tax Purposes: Most of the time, the ascertainment of income for tax purposes prove to be difficult. Tax payers often flout notices to file returns of income forms and either they fail to render any returns at all, or even when they do so, they render virtually ineffectual returns, sometimes under the pretext that they are illiterates or do not know what to do. Also, they engage in artificial transactions to conceal or dodge the burden of tax and conceal income yielding transactions. The dearth in tax statistics involuntarily assists them as tax authorities are no the wiser.

Low Rate of Tax Education: Another problem militating against the administration of taxation in Nigeria is lack of awareness on the part of taxpayers. Most taxpayers are oblivious of the fact that they ought to pay taxes on certain goods, services, employments or transactions. An average taxpayer's awareness on payment of tax is very little if not non-existent. This ignorance is as a result of lack of, or in adequate sensitization of the people by the government.

9. Conclusion and Recommendations

Although the Nigerian tax system is plagued with many defects, they are not incurable. This article outlines certain recommendations which if carried out, will go a long way in removing the clogs in the wheels of tax development in Nigeria. They include;

Enthronement of Good Governance: To elicit voluntary compliance, the government should be more responsive to the welfare needs of the citizens. The Nigerian tax system can effectively generate more revenue when the citizens have trust and confidence in the authority. Although the introduction of the present tax refund system is a significant step in the right direction, the FIRS and SIRS should demonstrate good intention by making prompt refund of taxes over-paid by tax payers. Corruption-risk mitigating strategies must be developed for the tax collection and administration. These include efficient service delivery, code of conduct for staff, internal control, sanctions and incentives, whistle blower protection, regulation against corrupt practices, corruption auditing, etc.

Autonomy: More autonomy should be given to the States and Local Government levels as this will enable them build capacity for efficient tax collection and administration. Thus, for example, the collection and administration of personal income tax, capital gains tax (as it relates to individuals), taxes and levies (Approved List for Collection) as it relates to taxes collectible by the State and Local Governments should Be removed from the First Schedule to FIRS (Establishment) Act, 2007, to conform with our fiscal federalism.

Fiscal Diversification from Oil to Tax: This involves shifting attention from oil revenues to tax. Presently, government revenue is largely based on oil and this lack of diversification is all the more problematic because of the volatility of the oil sector which affects production and invention. A more sustainable option would be internal generation through taxes. Unlike revenue from oil, taxes have a very limited vulnerability to external pressure. It takes less time, effort and cost to improve tax collection than to implement long-term development plans such as oil prospection, exploration and mining25.There is need to diversify the economy away from oil-based sectors and if adopted, will promote better tax administration, thereby making the country prepared for life beyond oil.

Enforcement of Stringent Penalties for Evaders: Although the Federal and various State governments have commendably deployed several measures aimed at curtailing or minimizing tax evasion in Nigeria, there is still plenty of room for development. While the introduction of the Tax

[25]'Diversification: From Oil to Tax-FDC'. Available at httpswww.proshare.com/news/Taxation/Diversification-From-Oil-to-Tax-FDC/30132. (accessed on 06/06/2018

Identification Number (TIN) has helped curbing ploys to evade tax by taxpayers, it is believed that actual enforcement of penalties on evaders will goal on way in curbing tax evasion practices.

Harmonization of Taxes: There is need to harmonize the different taxes that are being levied by the different tiers of government so as to reduce the negative impact on the tax identification number is a unique sequential fourteen digit number generated electronically, as part of the registration process and assigned to a tax payer, company, enterprise or individual for identification. This number eases tracking of tax payers and access to the tax history and records. This is done in collaboration with the States Board of Internal Revenue to enhance exchange of information and has led to the discovery of fake tax clearance certificates the taxpayers. If the same or very similar heads of taxes are brought under one single head or as much as possible, harmonized, this will reduce the incidence of multiple taxation on the taxpayers and will also so a long way in reducing tax evasion.

Improvement on Electronic Taxation: Electronic tax enhances affair and better data storage of tax payer information. It provides for an electronic data base management system for taxpayers. It also improves the quality and quantity of information available to the government, hence, making it faster and easier to process tax payer 'sin formation. The information made available using this system is mostly reliable and accurate thus ensuring accountability and good stewardship.

Enhanced Tax Education and Awareness: In Nigeria, most of the citizens are religious people. Thus, with religious provisions that explicitly support fulfilling religious obligations, tax payment could be enhanced. Therefore, tax education can be encouraged to be part of religious education among the adherents. Evoking religious injunctions could elicit more voluntary compliance and reduce tax evasion and avoidance. For instance, the Biblical saying of 'Give unto Ceaser what is for Ceaser and to God, what is for God'26, as well as the provision in the Qur'an which calls on the Muslims thus, 'O you who believe, fulfill all obligations'27. Tax education can also be carried out in market places, gatherings etc. In addition, there should be vigorous enlightenment and public awareness about the payment of tax and its importance in the economy. Tax laws should be codified in simple, non-technical language and if possible, in the three major languages: Igbo, Yoruba and Hausa.

[26] Matthew 22:21
[27] Surah ak-Maida 5:1