A FRESH LOOK AT VALUE ADDED TAX ENFORCEMENT AND COMPLIANCE IN NIGERIA*

Abstract
Tax, generally, is structured for revenue generation. It is a system of raising money for the purpose of governance by means of contributions from individual persons or corporate bodies. Most countries of the world have a tax system in place in order to pay for public, common societal or agreed national needs and for the functions of government. Tax is the cost of the social contract made between the government and those it governs for the provision of public services. Value Added Tax which is a type of tax that has surprisingly gained global acceptance and practice, is a levy imposed on consumption. It is charged between business throughout the production and distribution chain. Whenever value is realized and added, or a sale is made, Value Added Tax is always charged and remitted to the government. The very person who bears the burden of Value Added Tax is not the same as the one who remits the tax eventually to the government. Since its introduction in Nigeria in 1993, Value Added Tax has been a strong source of revenue to the government. In year 2020 for instance, the tax generated 1.53 trillion naira. Nevertheless, Nigeria would have been making more from the tax but for the issues of compliance and enforcement. Flowing from the above therefore, this study seeks to revisit and examine Value Added Tax compliance and enforcement in Nigeria. The methodology employed in the research is doctrinal, and the approaches adopted are narrative, analytical, and descriptive. Data were obtained from both primary and secondary sources. Findings reveal among other things that poor utilization of VAT revenue by government, low per capital income of taxpayers, inadequate use of technology etc are some of the reasons for poor VAT compliance in Nigeria. The research ends with recommendations centred on proper utilization of VAT revenue by government, quick refund to tax claims as well as improved use of technology.

Keywords: Tax, Value Added Tax, Tax Compliance, Enforcement, Nigeria

1. Introduction

The first known taxation took place in Egypt around 3000-2800BC.[1] A tax is a compulsory financial charge or some other type of levy imposed on a taxpayer (an individual or legal entity)[2] by a governmental organization in order to fund government spending and various public expenditures (regional, local, or national), and tax compliance refers to policy actions and individual behaviour aimed at ensuring that taxpayers are paying the right amount of tax at the right time and securing the correct tax allowances and tax reliefs.[3] Basically, tax is the life wire of every nation, and the level of development a nation attains, most times, is dependent on the sum and volume of revenue generated through taxation.[4] Any country or government which wishes to meet and execute its obligations to the citizenry, must make taxation its priority. This will help it to sustain growth and infrastructural development to fulfil the social contract it entered with the citizens. VAT which is a type of consumption tax, is a tax based on a taxpayer's consumption of goods rather than his income, and it is payable whenever a sale of goods and services takes place. The introduction of the Value Added Tax (VAT) represents one of the most significant innovations in tax policy and administration in developing countries if not the most significant one.[5] Value Added Tax which is effectively levied only on final consumption as no credits are provided to final consumers of goods and services, has been adopted by well over 160 countries of the world, and it accounts for approximately twenty percent (20%) of the total global tax revenue.[6]

In Nigeria, Value Added Tax is federal collected and it is administered through the Federal Inland Revenue Service (FIRS). It was introduced as a federal intervention to help the State governments to modernize their Sales Tax and consequently enhance their revenue[7]. By the provision of section 2 of Value Added Tax Act, VAT shall be imposed and payable on the supply of all goods and services except those goods and services which are clearly listed by the Act as exempt goods and services. The supply of goods in the context used in the Act encompasses such transaction where the whole property in such goods is transferred, while services envisage any service provided for a pay. In the Nigerian context, Value Added Tax is presently computed and payable at the rate of 7.5% based on the value of all VATable goods and services. VAT has a Directorate in the Federal Inland Revenue Service headquarters in Abuja with a network of zonal and local offices throughout the States of the federation of Nigeria. Globally, VAT has been adopted by many countries and the yield from Value Added Tax is a fairly accurate measurement of the growth of an economy, since purchasing power of the Naira increases with economic growth.[8] The revenue from Value Added Tax has accounted for a significant percentage of the

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[1] Taxes in the Ancient World, *University of Pennsylvania Almana*, Vol. 48, No. 28, 2 April 2002.
[2] Charles E Mchure Jr. 'Taxation'. Britannica. Retrieved 4th April, 2023.
[3] HMRC, About Compliance Check, CC/FSLA, Accessed 4th April, 2023.
[4] *Ibid.*
[5] M Keen, *The Anatomy of the VAT, IMF Working Paper* 13-111, International Monetary Fund, 2013.
[6] K James, *Exploring the Origins and Global Rise of VAT. Tax Analysis Faculty of Law*, Monosh University, Melbourn, 2011.
[7] A Sanni, 'Current Law and Practice of Value Added Tax in Nigeria, *British Journal of Arts and Social Science, 2012.*
[8] *Ibid.*

total public revenue universally[9]. The tax has been embraced by many nations of the world due to the growing concern about economic efficiency and tax simplicity in the competitive and integrated world economy.[10] However, lack of enforcement and poor compliance have been the major challenges bedeviling Value Added Tax in Nigeria. Enforcement is key to tax compliance, and any government which is interested in making more money from tax must take tax enforcement and compliance serious.

2. The Meaning and Nature of Value Added Tax

Value Added Tax is a tax on spending/consumption levied at every stage of transaction but eventually borne by the final consumer of such goods and services.[11] The Black's Law Dictionary defines Value Added Tax as a tax assessed at each step in the production of commodity, based on the value added at each step by the difference between tee commodity's production cost and its selling price.[12] Value Added Tax (VAT) is meant to be an efficient and self-enforcing tax on consumption. Yet, being a rather sophisticated tax, the VAT can also be complex and costly to administer.[13] It is a tax assessed incrementally. The bearers of the burden of Value Added Tax are usually the final consumers. This is so owing to the fact that purchasers at the previous phases of manufacturing are entitled to compensation for the previous Value Added Tax they paid.

VAT is an indirect tax. It is a multi-stage tax, and the collection guarantees some level of probity, accountability and reliable remittance, hence the preference. The distinct characteristic of a Value Added Tax is that, in principle, it is a broad-based tax on all commodity sales, whether to consumers' or to other business. In Nigeria, Value Added Tax is imposed on the supply of all goods and services other than goods and services listed in the First Schedule to the Act.[14] The current VAT rate in Nigeria, following the enactment of the Finance Act, is 7.5%.[15] VAT is chargeable to every purchase made. A VATable person in Nigeria is expected to register with the Federal Inland Revenue Service (FIRS) for the collection of VAT within six months of the commencement of the Act or within six months of the commencement of business, whichever is earlier[16] .Balogun had suggested that all new businesses should be granted a period of six (6) months grace after the commencement of business to register for VAT. In our view, this suggestion is wrong. This is because, the suggestion if followed, would rob government of its VAT revenue. It might, also, deny taxable persons the chance of setting off their inputs against the output. The Value Added Tax Act provides that a penalty of N10,000 would be attracted if a VATable person fails to remit VAT for the first month in which the failure occurs; and N5,000 each for subsequent month.[17]

Value Added Tax has a refund or credit mechanism which clears up the cascading effect which is a characteristic of retail Sales Tax.[18] The striking nature of Value Added Tax is that it is self-policing and this is made possible by the input-output tax mechanism in the tax. It is the equivalent of the VAT paid by the final consumer of goods and services that would be eventually remitted to the government. Other than the goods and services listed in the Value Added Tax Act, Value Added Tax is imposed and payable on the supply of all goods and services (manufactured) or rendered locally and/or imported).[19] Value Added Tax was created to tax only the value added by a business upon the services and goods it can buy in the market.

3. Enforcement of Value Added Tax in Nigeria

Enforcement is very germane in achieving tax compliance. The word 'enforcement' involves compelling taxpayers to adhere to or obey the provisions of the relevant tax laws.[20] Enforcement is of two types": enforcement of tax laws and enforcement of judgement. Enforcement of tax laws involves the use or application of all those relevant laws that will aid and assist the tax man in the performance of his duties; laws not necessarily relating to the taxation but are relevant to the enforcement of tax law.[21] The various laws made provisions for the enforcement of Value Added Tax in Nigeria. For instance, section 33 of the Federal Inland Revenue Service (Establishment) Act[22] gives the Federal Inland Revenue Service

[9] M J Ugochukwu & J B Azubike, 'Value Added Tax and Economic Development in Nigeria' *International Journal of Development and Economic Sustainable*, 4 (3); 1-10, 2016.
[10] C Kuo, H Jenkins & Jenkins, *Is The Value Added Tax Naturally Progressive*? Working Paper 1059, Economics Department, Queen's University, 2006.
[11] M Ugwu and A Ebuka, Pay As You Consume the Value Added Tax Guauge: A Quarterly Publication of the Federal Inland Revenue Service, April/June.2012.
[12] B A Garner, *Black's Law Dictionary* (USA, West Publishing Co., 2004) P. 1499.
[13] G Mascagni, K Dom, F Santoro & D Mukama, 'The VAT in Practice: Equity, Enforcement, and Complexity'. *International Tax and Public Finance* (2023) 30:525-263.
[14] Section 2 of the Value Added Tax (Amendment) Act, 2007.
[15] See Finance Act, 2020.
[16] B Balogun, Issues in Value Added Tax. A Paper Presented at a National Seminar on Critical Issues on Tax and Management on 14th May, 1997, P. 5.
[17] Ibid, section 8(2)
[18] M T Abdulrazaq, *Revenue Law and Practice in Nigeria*, (3rd ed, Lagos, Malthouse Press Limited, 2015) p. 307-308.
[19] Section 1 of the Value Added Tax Act, Cap V-I Laws of the Federation of Nigeria, 2004.
[20] M B Tanko, Tax Law Enforcement: Practice and Procedure, Research Journal of Finance and Accounting, Vol. 6, No. 7, 2015.
[21] *Ibid*.
[22] Federal Inland Revenue Service (Establishmen) Act 2007.

(FIRS) the power to seize and/or distrain the taxpayers by their goods or other chattel, bonds or other securities; distrain upon any land, premises, or place in respect of which the taxpayer is the owner. The above power to seize and/or distrain, however, can be exercised by the Federal Inland Revenue Service only and after a demand notice has been served on such VATable or taxable person or upon the person in whose name the taxable person is chargeable and payment of such tax not made within the time limited by the demand notice. The Federal Inland Revenue Service, nevertheless, still has the right of sale over such property seized or distrained in order to recover the VAT due. The FIRS (Establishment) [23]Act also provides that distrained things may be kept for 14 days at the expense of the taxpayer and thereafter sold to settle the cost, charges and the tax due.

More so, according to the Value Added Tax Act,[24] any tax penalty or interest which remains unpaid or unremitted after the period specified for payment may be recovered by the Board (now FIRS) through proceeding in the Value Added Tax Tribunal.[25] *In Tetra Pak West Africa Limited v Federal Inland Revenue Service*,[26] the court held that penalties and interest under the Value Added Tax Act begin to accrue and count for tax returns rendered when tax remains unremitted. The onus, however, is on the tax authority to prove how it derives interest penalty on amount payable for lateness in filing of VAT returns or payment of VAT.[27] Value Added Tax Act and the general law also provide the Federal Inland Revenue Service with a comprehensive weapon with which to enforce and recover tax due to the government. In section 38 and 40 of the Value Added Tax Act,[28] the Federal Inland Revenue Service for instance, is empowered to detain goods under statutory powers without having to obtain a Court Order. The agency is also given power to take civil recovery proceedings at the Federal High Court. The agency, more so, may make use of garnishee proceedings, attachment of earnings orders of Mareva injunctions. The Federal Inland Revenue Service (FIRS) may, since unpaid Value Added Tax is a preferential debt in a bankruptcy, liquidation or receivership, secure its position by presenting a bankruptcy or winding up petition in appropriate situations.

4. Factors affecting Value Added Tax Enforcement in Nigeria

The Supreme Court in *Aberuagba v A.G Ogun State*[29] underscored the challenges or the near-impossibility and/or futility of collecting and enforcing Value Added Tax/Sales Tax at the retail level in Nigeria, where it stated thus:

> In developed countries where retail trade is carried on in departmental stores and shops where all sales are accounted for and the business addresses registered, it is convenient and safe for any government to appoint retailers as its agent for the collection of Sales Tax. Every penny collected will ordinarily reach the government. The position is entirely different in Nigeria. It is a notorious fact that except in few departmental shops, stores and drug-stores, where account of sales are kept, the bulk of the retail trade is carried on by swam of amorphous traders in the market places, and their homes, on our streets and highways, under our bridges and trees. They do not keep record or account of their business dealings and they cannot be reached by the government. It would be a bonanza to those retail trades to appoint them as agents for the collection of any Sales Tax. Except in the case of the few retailers that have been mentioned, not a kobo would reach the government. Consequently, for any meaningful Sales Tax to reach the government, it must be collected by agents such as distributors, whose accountability to the government for the Tax collected is assured.

The Justice of the Supreme Court,[30] in the above case, captured clearly the predicament in the collection and enforcement of Value Added Tax/Sales Tax in Nigeria. Collection and enforcement of Value Added Tax is difficult especially in the informal sectors as they cannot be reached by the government and they hardly keep books of record of their business dealings. More so, Nigeria is yet to fully embrace the use of technology in Value Added Tax collection and enforcement like many other advanced countries of the world. In Rwanda for instance, a 2015 law introduced Electronic Billing Machine (EBM) as a way to support enforcement and compliance.[31] The use of an EBM helps to record all sales electronically and release an official VAT invoice that can be used as proof for claims against input VAT payments. The EBM helps also to report transactions in real time to the revenue authorities. Many citizens are also not even aware of the existence of a tax known as Value Added Tax not to talk of seeing it as their obligation to remit the tax to the government. This contributes to the difficulty in the collection and enforcement of VAT in Nigeria. Many of the tax authorities or personnel don't even know their rights or their left when it comes to the provision of the law in respect of enforcement and collection of Value Added Tax in Nigeria. They lack the requisite knowledge and training about VAT and the law, and this lack of knowledge and training affects their performance thereby leading to loss of revenue for the government.

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[23] Section 33 (4) and (6) of the Federal Inland Revenue (Establishment) Act 2007.
[24] See Section 20(1) of Value Added Tax (Amendment) Act, 2007.
[25] Value Added Tax Tribunal has been replaced with the Tax Appeal Tribunal which now has powers to adjudicate on all disputes arising from the operations of various tax statutes.
[26] [2016] 24 TLRN P. 95.
[27] See FBIR v Texaco (Nig) Plc [2010] 3 TLRN, P. 79.
[28] See Value Added Tax Act, Cap V-I, Laws of the Federation of Nigeria 2004.
[29] [1995] NWLR (Pt. 3) P. 385
[30] Per Bello, J.S.C.
[31] S James and C Alley, 'Tax Compliance, Self-Assessment and Tax Administration' *Journal of Finance and Management in 2002, P. 12.*

5. Value Added Tax Compliance in Nigeria

Tax compliance refers to the willingness of individual and other taxable entitled to act in accordance within the spirit as well as the letter of tax law and administration without the application of enforcement activity. According to the Organization for Economic Corporation and Development (OECD),[32] tax compliance comprises Administrative compliance and Technical Compliance. The Administrative compliance has to do with complying with the rules relating to lodging and payment of tax, while Technical compliance is generally concerned with meeting up technical requirement of tax laws in computation of tax liability.[33] Notwithstanding the various tax reforms carried out by the government to increase tax revenue the rate of tax compliance in Nigeria is still very poor.[34] There are many ways in which people evade or fail to comply with Value Added Tax in Nigeria. Some of them include:

- By failing to register: there are many relatively small businesses operating close to the level of turnover at which registration for VAT in Nigeria becomes compulsory yet they refused to register, saving both the VAT for which they would be liable and VAT compliance costs. Traders who are wholly unknown to the Federal Inland Revenue Service (tax authority) may be able to evade Value Added Tax because of non-registration.
- By under-reported sales: A VATable person in Nigeria who is a trader may report only a proportion of Sales, falsifying his records and accounts to match, or may make some sales "off the books" entirely in order to evade VAT.
- By collecting and not remitting VAT: This can occur either via false accounting, by claiming bankrupt before tax is paid, or in other ways. Some traders usually charge and collect VAT from their customers only to disappear before the period of remitting the tax to the tax authorities.

6. Factors that may be Responsible for Poor Value Added Tax Compliance in Nigeria

Non or Poor Utilization of the VAT Revenue by the Government: One of the reasons for poor attitude of VATable or taxable persons to tax compliance in Nigeria is the government's non utilization of the revenue or money derived from Value Added Tax to provide the desired basic social services to the citizens. It is saddening and discouraging that government after receiving revenue from VAT would not judiciously utilize it to provide basic social amenities for the citizens whom the tax is collected from. This begs the question "what is government doing with the money?". It is suggestive of the point therefore that tax is an imposition to enrich the pocket of few other than the interest of the masses or citizens.

Low Income of the Taxpayer: Another factor responsible for lack of voluntary Value Added Tax compliance in Nigeria is the low per capital income of the taxpayers. The financial condition, family responsibilities and challenges affect taxpayer's financial commitment to the government. According to Brett,[35] the moderating effect of individual financial condition on tax compliance and its determinants is more pronounced in the society where there is high poverty rate as is the case in Nigeria. Individual taxpayer, with meagre financial resources may be tempted by his bad financial condition to be noncompliant where the expenses of his household are more than his income.[36] A registered VATable person might, after receiving VAT from customers, refuse to remit the sum received to the government or decide to run away with the money because of his financial condition or challenges.

Tax Refunds Delays: The Federal Inland Revenue Service Act [37] as well as Value Added Tax Act made specific provisions for tax refunds. However, this provisions of the tax law seems not to be fully functional or effective as there is usually delay in paying the refunds to the taxpayers who have been over-taxed. This is so even when the Federal Inland Revenue Service requires the tax authorities to pay a taxpayer's refund claim within 90 days of applying for the refund subject to appropriate tax audit. In Nigeria, sometimes it runs into several years. If and when taxpayers are eventually refunded, they would not get the value for their money because of the effect of inflation.[38] This situation can make a registered VATable person to not willingly comply to his tax obligations to the government.

Corruption: Corruption has to do with a dishonest and immoral conduct.[39] Within an official context, corruption is the act of doing something with an intent to give some advantage in consistent with official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefits for himself or for another person contrary to the duty and rights of others.[40] It is the use of power by anybody for capricious or arbitrary use of any other purpose foreign to

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[32] Organization for Economic Cooperation and Development (OECD) 'Compliance Measurement-Practice Note', Paris: Centre for Tax Policy and Administration, 2001.

[33] *Ibid.*

[34] O J Alabede, Z Z Ariffin and K M Idris; Public Government Quality and Tax Compliance Behaviour in Nigeria: The Moderating Role of Financial Condition and Risk Preference' *Issues in Social and Environmental Accounting Vol. 5, No. ½ December 2011, P. 5.*

[35] J F Brett, W L Cron, and J W Slocum Jr., 'Economic Dependence on Work: A Moderator of the Relationship between Organizational Commitment and Performance, *Academy of Management Journal,* 38 (1), 261-271, 1995.

[36] K M Bloomquist 'Income Inequality and Tax Evasion: A Synthesis'. Tax Notes International, 31(4), 347-367, 2003.

[37] Section 23 of the Federal Inland Revenue Service (Establishment) Act, 2007.

[38] O D Akintoye, 'The Nigerian Tax Administration in Perspective: The Way Forward' op cit.

[39] P O Itua et al, *The Nigerian Police and the Fight Against Corruption: An Assessment of Government Policies,* in Abdulqadir (ed) et al, *Corruption and National Development* (Ilorin, Unilorin Press, 2013) pp. 55-56.

[40] B A Garner, *Black's Law Dictionary* (8th edn, St. Paul M N: West Group, 2004) P. 371.

which it is meant. Pertaining Value Added Tax compliance, corruption has manifested itself in many ways. It can be seen among the taxpayers when they intentionally refuse to keep records books of their sales, hid some pieces of information for assessment purposes with the intent to remitting less tax to the government.

7. Conclusion and Recommendations

This study has critically examined the enforcement and VAT compliance in Nigeria. Enforcement and compliance to Value Added Tax in Nigeria remains poor and consequently, government has been losing a lot of revenues it would have generated from the tax had it been effectively enforced and complied with. There are a lot of factors blamed for the poor Value Added Tax enforcement and compliance as can be gleaned from this work. Nigeria still has alot to do if it is serious about making more money from Value Added Tax like other countries of the world where the tax is highly complied with and enforced.

From the observations made in this study, the following are recommended:

a) There is need to embark on intensive training and retraining of tax personal in Nigeria. This will equip them with the knowledge of what the law says about VAT enforcement and also enhance their performance in VAT administration in Nigeria.
b) Effort to get accurate data of taxpayers should be intensified by the government. The government can achieve this by embarking on business census all over the country to capture the data of all businesses both in the formal and informal sectors for the purpose of tax.
c) Nigeria should fully embrace technology in its Value Added Tax enforcement and administration. Technology will help in generating more revenue from VAT and tax generally. Like Rwanda and China, Nigeria should mandate all VAT-registered businesses to use Electronic Billing Machine (EBM) – a physical point-of-sales device that remitting data to tax authority. The use of EBM will help to report transactions in real time to the revenue authority. Also, CCTV and other monitoring gadgets should be placed or mounted in strategic positions in the stores or shops of the VAT agents so that government can monitor the sales made and the VAT received from the sales.
d) Nigeria should adhere to quick refund approach by making sure that a claim for refund by taxpayer is attended to without delay. Interest to a delayed refund should be paid immediately to taxpayers when demanded. This will motivate especially the registered VATable person more to comply to his tax responsibility.
e) Proper utilization of VAT revenue: The revenue generated from Value Added Tax and tax in general should be properly utilized in providing good government to the people. The Nigeria government, obviously, have not been so good in terms of tax funds utilization. Good governance quality is germane to have good tax system and equally, good tax system is essential to achieving quality public governance.[41] The positive action of government in terms of good leadership causes taxpayers to develop positive attitude and commitment to tax system and tax payment resulting into enhanced compliance behaviour.[42]

[41] I O Okauru, 'Emerging Issues in Tax Administration: The Way Forward for Nigeria' being a paper delivered at the fourth National Conference of the Department of Finance, Faculty of Business Administration, University of Lagos, P. 6.

[42] B Torgler, Tax Morale: 'Theory and Analysis of Tax Compliance' Unpublished Doctoral Dissertation, University of Zurich, Switzerland.