AN ANALYSIS OF THE LEGAL FRAMEWORK FOR THE ADMINISTRATION OF PERSONAL INCOME TAX IN NIGERIA*

Abstract

Tax has become globally acknowledged as the most constant and most reliable source through which government generates revenue. Personal income tax is the oldest form of taxation and predates the modern Nigeria state having evolved from the pre-colonial era through the colonial era and still evolving in this post-colonial era. It is a tax on the personal income of the taxable individual for the year of assessment. In line with the Personal Income Tax Act, the administration of this tax is vested on the state revenue authority of each state and collectable from the residents of the state. The issue of residence has been a burning issue in the collection of this tax and certain rules have been developed to ascertain whether one is resident in a particular state thereby making him liable to pay to the revenue authority of the particular state. This paper explores the nature of personal income tax in Nigeria, its legal framework and administration. Attempt is made to concisely analyze personal income tax, the issues and challenges surrounding assessment and collection of personal income tax. The paper found out that the collection of illegal taxes, mismanagement of funds collected, large informal sector amongst other challenges have affected negatively the output of personal income tax. It recommends that the various states should adhere strictly to the rules of residence as provided for in the Personal Income Tax Act and also for the government to judiciously put into use the revenue generated through tax as this will encourage voluntary compliance from the taxpayers.

Keywords: Personal Income Tax, Administration, Legal Framework, Nigeria

1. Introduction

Taxation is a vital element in any country's economy. It is the source of funding important necessities such as education, security, health care and other things necessary to the running of the country. The personal income tax is one of such tax and imposed through the enabling law which is the Personal Income Tax Act[1]. The tax is on the income of individuals resident within a particular state and payable to the state through its revenue agency. This paper therefore seeks to appraise the legal framework for the administration of personal income tax in Nigeria. It looked at the concepts of tax and tax administration, the Personal Income Tax Act, the various rules for the determination of residence, liability to personal income tax, the mode of assessment and collection, the challenges faced by the relevant tax bodies in the course of tax administration of the tax and finally solutions will be proffered to ensure better enforcement mechanisms which will ultimately lead to raising enough revenue through personal income tax for the use of government in the provision of the basic amenities needed to better the lives of the citizens.

2. Conceptual Clarifications

Tax

All over the world taxation is a common phenomenon. There is no country that can do without the imposition of tax to boost its revenue generation[2]. Taxation is the lifeblood of a modern liberal democracy. It is the one policy area without which nearly all of the other functions and aspects of the state would not be possible. The *Black's Law Dictionary* defined the term as a monetary charge imposed by the government on persons, entitles, transactions or property to yield public revenue. Most broadly the term embraces all government impositions on the person, property, privileges, occupation and enjoyment of the people and includes duties, imposts and excises[3]. Adesola defined tax as, 'A compulsory levy which a government imposes on its citizen to enable it obtain the required revenue to finance its activities'[4]. Adams gave a Comprehensive definition of a tax stressing the various aspects of tax. He said 'from the standpoint of view of the state, a tax is a source of derivative revenue, from the angle of the citizen a tax is a coerced payment, from the administrative point of view it is a demand for money by state in conformity to established rules from the point of view of theory a tax is a contribution from individuals for common expenditure. In *Mathews v. Chicory Marketing Board*[5],

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[1] Cap P.8 Laws of the Federation of Nigria, 2004.

[2] CITN – Nigerian Tax Guide and Statutes, 1st ed, 36

[3] BA Garner, *Black's Law Dictionary* (8th ed; United States of America, Thomson West, 2004) 1496.

[4] SM Adesola, *Tax Law and Administration in Nigeria: An Introduction*,(Ile-Ife: Obafemi Awolowo University Press Limited), See also D Asada, *The Administration of Personal Income Tax in Nigeria Some Problem Areas*, available at www. http:/dspace.unijos.edu.ng (accessed on 20 June 2018)

[5] (1938) 60 C.L.R, 263 at 276.

Justice Latham of the Australian Supreme Court stated that: 'A tax is a compulsory exaction of money by a public authority for the public purposes or taxation is raising money for the purposes of government by means of contributions from individual persons'. It could also be seen from the above that it is an enforceable monetary contribution backed by legislative authority. As a result of the essential and obligatory nature of tax, tax is also seen as a responsibility which every taxable person is obliged to render. The issue of tax is not a matter of choice, whether one is to pay or not. It is a legislative demand by government and mandatory for a citizen who has attained taxable age to pay.

Tax Administration

Tax administration is the administration, management, conduct, direction, and supervision of the execution and application of a government, country or state's taxation laws and related statutes[6]. A tax administration is the whole organizational set-up for the management of the tax system. The tax administrative set-up is a department of government and of course works under regulations prescribed by tax legislation. The process of tax administration includes the enactment and review of tax statutes, identification of taxpayers, determination of chargeable income or other tax base, preparation of tax returns and assessment, hearing of objections, appeals and enforcement of tax payment[7]. This work will look at the legal framework for the administration of personal income tax in Nigeria.

3. Personal Income Tax Act

The Income Tax Management Act 1961[8], was the first enactment that was promulgated with a view to regulate the taxation of personal incomes exclusively and also provide a uniform system of personal income taxation across the federation. The Act did not repeal either law such as the Direct Tax Ordinance[9] and the Income Tax Ordinance, Cap 85. Rather pursuant to an order granted by the Governor – General in line with section 1 ITMA, upon the application of a region as aforesaid, the provisions of the Direct Taxation Ordinance and the Income Tax Ordinance continued to apply to the region in question with some modifications. The subjects upon whom the Act imposed tax were individuals, itinerant workers, communities, families, trustees and executors whose income were taxable under a regional law. As the Act applied throughout the country, the question as to which tax authority could impose tax on any of the subjects listed above was determined in the case of an individual, by his place of residence. Between 1961 and 1993, several amendments were made to the ITMA 1961. Some of the major amendments included the Income Tax (Amendment) Decree[10], Income Tax Management (Amendment) Decree[11], Income Tax Management (Uniform Taxation Provisions etc) Decree[12], Income Tax (Armed Forces and other Persons) (Special Provisions) Decree. The Personal Income Tax Act[13] is the current law regulating the administration of personal income tax in Nigeria. The Personal Income Tax Act is Similar to previous income tax laws in all material respects. But in addition it contains other provisions that are completely novel in the administration of Personal Income Tax in Nigeria. The provisions on persons and incomes chargeable, deductions allowed, incomes exempted, assessment, returns, offences and double taxation arrangements are similar in substance to that under the ITMA and other erstwhile income tax legislations. The novel provisions under the Personal Income Tax Act relate to the establishment of tax authorities,[14] the introduction of the Tax clearance certificate and the pay-As-You-Earn Scheme. The Personal Income Tax Act was also subject to series of amendments by virtue of various Finance (Miscellaneous Taxation Provisions) Decrees[15]. The latest amendments are contained in the Personal Income Tax (Amendment) Act of 2011.

4. Liability to Personal Income Tax in Nigeria

Section 3 of the Personal Income Tax Act,[16] creates a liability for individuals and unincorporated bodies to pay taxes in Nigeria. Section 3 of the Personal Income Tax Act provides as follows:

1. Subject to the provisions of this Act tax shall be payable for each year of assessment in the aggregate amounts each of which is the income of every taxable person, for the year, from a source inside or outside Nigeria including, without restricting the generality of the foregoing.

[6] 'Tax Adminstration', available at www.definitions.net/definition/tax+adminstration, (accessed on 12 August 2020)
[7] Ade Ipaye, *Nigerian Tax Law and Administration, A Critical Review* (London:Asco Prime Publishers, 2014) 67
[8] No. 21 of 1961
[9] No. 4 of 1940
[10] No 58 of 1968
[11] No. 35 of 1968, No. 24 of 1971, No. 41 of 1973
[12] No. 7 of 1975, No. 51 of 1972
[13] Cap P. 8 Laws of the Federation of Nigeria 2004 (as amended in 2011)
[14] Section 86 - 93
[15] Nos. 30, 31 and 32 of 1996, 18 and 19 of 1998 and 30 of 1999
[16] Cap. P.8 Laws of the Federation of Nigeria 2004

a. Gain or profit from any trade, business, profession or vocation, for whatever period of time such trade, business, profession or vocation may have been carried on or exercised.
b. any salary, wage, fee, allowance or other gain or profit from employment including gratuities, compensations, bonuses, premiums, benefits other perquisites allowed, given or granted by any person to an employee other than:
   i. so much of any sums as may be admitted by the relevant tax authority to represent reimbursement to the employee or expenses incurred by him in the performance of his duties, and from which it is not intended that the employee should make any profit or gain.
   ii medical or dental expenses incurred by the employee.
   iii. the cost of any passage to or from Nigeria incurred by the employee.
   iv. any sum paid in respect of the maintenance or education of a child if any provision of this Act provides that any sum received by the employee during a year of assessment shall be deducted from the personal reliefs to be granted to him for the next following year.
   v. so much of any amount of rent the employee is treated as being in receipt equal to the annual amount deemed to be incurred by the employer under section 4 of this Act.
   vi. so much, of any amount of rent the employee is treated as having received under the provision of section 5 of this Act:
   vii. so much of the amount of rent subsidy or rent allowance paid by the employer, to or on account, for the employee not exceeding ₦100,000 per annum.
   viii. the amount not exceeding ₦15,000 per annum paid to an employee as transport allowance
   ix. meal subsidy or meal allowance, subject to a maximum of ₦5,000 per annum,
   x. utility allowance of ₦10,000 per annum;
   xi entertainment allowance of ₦6,000 per annum;
   xii leave grant, subject to a maximum of ten percent of annual basic salary;
c. Gain or profit including any premiums arising from a right granted to any other person for the use or occupation of any property:
d. Dividend, interest or discount:
e. Any pension, charge or annuity.
f. Any profit, gain or other payment not falling within paragraphs (a) to (e) inclusive of this subsection.

Section 3 of the Personal Income Tax Act cited and reproduced above is the charging provision in the Personal Income Tax Act. Charging provisions are provision which create liability to pay taxes upon the tax payers. Section 3 of the Personal Income Tax Act creates the liability upon individuals, unincorporated bodies to pay taxes to the State Government where they reside or carry on a business as the case may be.

5. Taxable Persons and Determination of Residence for the Purpose of Personal Income Tax

Liability to income tax is often determined according to whether a person receiving income is resident in a state for a particular year of assessment[17]. A taxpayer is therefore liable to the tax authority of the state in which he is deemed to be resident for a year of assessment[18]. The following rules guide the determination of residence[19];

(a) An individual whether in employment or whose only sources of income are unearned income is deemed to be resident for a year of assessment in the territory in which he has a place available for his domestic use in Nigeria on the first day of January of the assessment year, and does not include any hotel, rest house or other place at which he is temporarily lodging.
(b) An executor is deemed to be resident in the territory in which the deceased individual was last deemed to be resident or would have been deemed to be resident if the law had been in force prior to the death of his date.
(c) A trustee of any trust or settlement is deemed to be resident where all the income of the settlement or trust for a year of assessment arises. Where the income arises in more than one territory or where the tax authority cannot be determined, the Federal Board of Inland Revenue is the tax authority.
(d) Partners in partnership are deemed to be resident where the principal office or the place of the partnership is situated on the first day of that year or is first established during the year.
(e) A village or an indigenous community is deemed to be resident in the territory in which the community is found.

[17] Determination of Residence, available at portal.abuad.edu.ng (accessed on 12 August 2020)
[18] *Skye Bank Plc v K.S.I.R.S.* (2021) 12 N.W.L.R. (Pt. 1789) 27
[19] Section 2 PITA

(f) An itinerant worker is deemed to be resident where he is found in a year of assessment.
(g) An individual not being a person assessable by FIRS (Section 2(1) (b)) who holds a foreign employment on the 1st day of January in a year of assessment or who first becomes liable to income tax in Nigeria for that year by reason of his entering that employment during that year, shall be deemed to be resident for that year in the territory in which the principal office of his employer is situated on that day or on the day his foreign employment commences as the case may be.
(h) An individual whose only source of earned income arising in Nigeria on the 1st day of January in a year of assessment was a pension, or who had a place or principal place on that day shall be deemed to be resident for that year in the territory in which that place or principal place or residence was situated on that day.

6. Collection of Personal Income Tax

Basically, there are two methods of collecting personal income tax under the Act. These are the direct assessment revenue and the pay as you earn (PAYE) scheme[20].

Direct Assessment

The Personal Income Tax Act has made provision for payment and recovery of tax after assessment. Under this method, tax is collected based on the assessment directly made on the taxpayer after filing his return before the relevant tax authority where he is resident. Accordingly, income tax charged by an assessment which is not subject of an objection or appeal shall be payable after the notice of assessment[21]. The relevant tax authority may in its own discretion extend the time within which payment is to be made. Where there has been a valid objection or appeal pending, payment of such tax shall remain in abeyance until such objection or appeal is determined, though the relevant tax authority may enforce payment of the portion, (if any) of tax which is not in dispute[22]. On the determination of an objection or appeal, the relevant tax authority shall serve notice on the taxable person of the tax chargeable as so determined and that tax shall be payable within one month of the date of service of the notice. Late payment of tax (i.e. after the stipulated statutory dates) attracts the penalty of 10% per annum of the unpaid tax added unto the amount of tax due[23]. In addition, the relevant tax authority may sue for the recovery of personal income tax payable, in a court of competent jurisdiction with full cost of action from the defaulting taxpayer as a debt due to government[24]. Despite the detailed provision for the payment of income tax made by the statute, there are incidences of corruption within the administering body. One would have expected that the provisions of the Act are tidy enough to guarantee a corrupt free tax collection. It is hereby suggested that the Banks designated for the payment of income tax should be mandated by legislation to make monthly or quarterly publication of the account and make copies available to House of Assembly and House Committees on public account. Such statements of account could also be published in National dailies to ensure probity and transparency.

Pay As You Earn (PAYE)

Pay as you Earn (PAYE) scheme is a method of recovering personal income tax of employees from any emolument paid to the employees by the employer. The tax is deducted by the employer and remitted to the tax authority. PAYE scheme is regulated by the provisions of section 81 of the Personal Income Tax Act and the operations of the Pay as you Earn (PAYE) Regulations[25]. The Joint Tax Board has standard guidelines which are expected to be applied by all employers of labour in assessing the salaries, allowances, benefits in kind and other incomes of their employees to tax. The major aim of this is to ensure uniformity in subjecting employees to tax[26].

An employer has an obligation to register with the tax authority for the purposes of deducting income tax from his employees with or without formal notification from the tax authority. The registration with the tax authority must be done within six months of commencement of business. It is an offence for an employer to fail to register as prescribed. The penalty is ₦25, 000.00 in addition to payment of arrears of tax due. The employer is answerable to the tax authority for the tax deducted. In the event of failure by the employer to make the deduction or properly account therefor, the amount therefor together with a penalty of 10% per

[20] JAA Agbonika, An Appraisal of the Law Regulating the Assessment and Collection of Personal Income Tax in Nigeria, Journal of Law, Policy and Globalization Vol.37, 2015, 179.
[21] Section 68 PITA
[22] Ibid (2)
[23] Section 76
[24] Section 77
[25] Lanre Akinsola, *Personal Income Tax Act, Principles & Cases In Nigeria* (London: Asco Prime Publishers, 2014) 41
[26] OS Obatola, *The Rudiments of Nigerian Taxation*, (Lagos: Asco Publishers, 2013) 179

annum of the amount plus interest at the prevailing commercial rate shall be recoverable as a debt by the employer to the relevant tax authority.

Under the PAYE scheme, income tax on wages and salaries of employees are deducted at source by employers and remitted to the relevant tax authorities. PAYE is a very efficient method of tax administration as an employee cannot hide his income from his employer. Problems could only arise where the employer fails to remit the deducted tax to the relevant tax authority or deductions are not made at all in the first instance. Situations like this could arise because of the inherent inadequacies of our tax system[27]. In *7Up Bottling Co. Plc v. L.S.I.R.B*[28] the PAYE scheme was given judicial recognition/interpretation in Nigeria. Tax payers under the PAYE scheme are the most vulnerable to tax; it is usually very difficult for this category of taxpayers to conceal information leading to their assessment to tax just as it is difficult for them to evade or avoid tax. What makes this effective is the availability of information on the taxpayers. Only an effective and efficient information technology system can guarantee information bank for effective assessment of other taxable persons under taxation of business, trades and vocations[29].

7. Issues and Challenges in the Administration of Personal Income Tax in Nigeria

Compulsory Payment of Illegal Taxes

The practice in most states of the Federation is for the Governments to insist that evidence of payment of three years Personal Income Tax should be produced by tax payers before that individual can derive any benefit, patronage or approval from government. This rule is applied to residents and non-residents of the state. The most common one is where someone lives in state A and pays his taxes to state A, but purchased a landed property in state B and desires that state B issues him with a certificate of occupancy to the said property. The usual practice is that state B will demand (even after the production of evidence of payment of five years tax in the state A), that the person should pay three years personal income tax to state B before that certificate of occupancy can be granted. This practice is draconian, obnoxious, wrong, illegal and even unconstitutional. The implication is that; the states are insisting that people should pay the same tax twice. This is double taxation. Item 59 of the Exclusive Legislative List of the 1999 Constitution is the basis upon which the National Assembly legislates upon Personal Income Tax amongst other taxes. It is on that basis that the PITA was enacted. Also item D, paragraph 8 of the Concurrent Legislative List of the 1999 Constitution states:

> Where an Act of the National Assembly provides for the collection of tax or duty on capital gains, incomes or profit or the administration of any law by an authority of a state in accordance with paragraph 7 hereof, it shall regulate the liability of persons to such tax or duty in such manner as to ensure that such tax or duty is not levied on the same person by more than one state.

Further, section 2 of PITA makes it clear that only those resident in the state are liable to taxes of that state except for members of the Armed Forces, Policemen, those living in Federal capital territory and those in Foreign Service who pay tax to the Federal Government through the Federal Inland Revenue Service. Sequel to the foregoing those states that have been collecting such illegal tax from people are perpetrating illegality, breaching the Constitution and ought to return them. Persons who are aggrieved and affected by such assessments and taxations can object and challenge such assessments through the normal channel of objections, challenges and appeals[30]. In fact what a non-resident of a State owes a State in which he has a landed property is his tenement rate, if the property is built-up; his annual ground rent (normally stated in the certificate of occupancy) or any other legitimate charge or levy but not personal income tax[31].

Illiteracy

In Nigeria where a lot of people are becoming literate, we still have large number of illiterates. This in turn is a challenge to the administration of personal income tax. In the peculiar setting of the Nigerian society, because most of the taxpayers are illiterates, especially traders who do not keep records, it becomes difficult for the tax officials to determine their taxable incomes. Officers of the various tax authorities therefore are forced to resort to best of judgment assessment many of which cannot be substantiated or defended in court if the need arises[32].

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[27] Ade Ipaye, *Nigerian Tax Law and Administration, A Critical Review* (London: Asco Prime Publishers, 2014) 246-247

[28] (2000) 3 NWLR (Pt. 650) 565

[29] JAA Agbonika (n.19) 180

[30] MN Umenweke, "Company Tax Assessment, Objections, Protests and Appeals in Nigeria" 2004 *MPJFIL* Vol. 8 Nos 3-4, 617

[31] MN Umenweke and KK Ezeibe, The Relevance of Residency in the Assessment of Tax Liability in Nigeria, *JILJ 2010, 12-13*

[32] Ahmed Sani, 'Contentious Issues in Tax Administration and Policy in Nigeria. A State Governor's Perspective', (Being a paper presented at the 1st National Retreat on Taxation, Organized by the Joint Tax Board, 22nd – 24th August 2005) 16.

Also most Nigerians probably due to illiteracy and ignorance fail to understand that they owe certain responsibilities to government, one of which is the payment of tax. In *Lagos State Internal Revenue Board v Odusami*[33], the Plaintiff commenced an action against the defendant claiming recovery of arrears of personal income tax. The defendant had paid the initial assessment of his tax liabilities for a six year period. However, upon the receipt of the defendant's returns, the revenue officials found revealing information showing that the taxpayer earned more than the income he declared. When the revenue officials investigated the taxpayer, it was found out that he allegedly owned certain businesses that were not declared and also had his children in expensive private schools. Consequently, the revenue officer acting under the provisions of paragraph 29(2)(b) of the Personal Income Tax Law[34], raised additional assessment increasing the taxpayer's liability to the best of its judgment. The taxpayer who is an illiterate protested the re-assessment as not a true representation of his income. He did this orally by taking all papers he had to the tax officials who advised and also directed him to another of their office at Eko Akete, Lagos without taking any positive steps to address the complaint of the illiterate taxpayer. In fact, nothing happened as the defendant could not do any further thing until the plaintiff brought this action to recover the balance of the tax due. The taxpayer protested again, but the plaintiff argued that any protest from the defendant should not be entertained because such was time barred. Under the law under which he was assessed, a person who disputes an assessment has 30 days to do so. And such objection or protestation must be in writing. The court therefore held that the defendant had not properly contested his re-assessment because he did not do so in writing as required by the law and that his objections were not made within the stipulated 30 days. In this case it is obvious that illiteracy was a major problem. Secondly the best of judgment method was used at the detriment of the illiterate taxpayer. Without doubt, the victim here is an illiterate taxpayer who does not know anything about the limitations imposed by the law. He suffered more when the tax officials failed to educate him about what the law expects of him. And even when the taxpayer was very anxious and willing to fulfill his legal obligation, he was left in the cloud, all alone and abandoned by the very tax officers who later commenced a legal action against him, on the basis that the taxpayer failed to meet his obligation within the period stipulated by the law. This does not encourage effective compliance and enforcement in the country. The point to be made here is that there was a technical justice which emphasized the failure of the illiterate taxpayer to appeal within a stipulated period without considering the circumstances of the case. It also shows the unfriendly nature of tax officials to handicapped taxpayers. Tax officials felt they had acted within the bounds of the law by not educating the illiterate taxpayer. To avoid this kind of scenario, the law should be able to impose the obligation of educating illiterate taxpayers and other persons who suffer other disabilities likely to hinder their compliance with the law to fulfill their fiscal obligation to the state.

Lack of Adequate Data

Generally, in Nigeria data is not available where and when it is required, therefore it constitutes a challenge to the administration of personal income tax. In a country where the number of inhabitants is unascertainable, it is almost impossible to have any data that could be used for any efficient system. A data bank is a requirement for an efficient tax system. Lack of data base of all taxable adults in the state has aided tax evasion and led to loss of revenue to government as many taxable adults are yet to be included in the tax paying bracket by giving them a unique tax identification number (U-TIN). Even where data is available, they are not put into proper use, for example, information received from applications for tax clearance certificates are not collected and used as a basis for a permanent database and collating information about the applicant taxpayer.[35] In *Eti-Osa Local Government v. Rufus Jegede*[36], the court held that: '… Taxation should be a tool of social engineering, of societal class, structural adjustment in the hands of a responsive and sensitive government can only be achieved in an economy where good records are kept'.

Mismanagement of the Taxes Collected by Government

As tax collected were not been utilized for the purpose for which it was collected. This makes taxpayers not to give out their wealth for the nation and this constitutes a challenge to the administration of personal income tax in Nigeria. Accordingly the failure of the three tiers of government to provide social amenities affects tax compliance. Apart from the problem of mismanagement of resources, more than 70 percent of the revenue is spent on recurrent operations. The individual taxpayers struggle to get the basic necessities of life and at the same time are starred in the face with the demand for taxes. The citizens pay their tax yet government does not provide the basic amenities like water, security and electricity. When out of frustration they dig boreholes to have water the government will turn around to tax them on that. When they pay security levies, the security is not provided despite the numerous security agencies, yet they engage private security outfits and pay them. The issue of electricity is the worst. They engage private firms/individuals to evacuate their waste yet the government

[33] (1979) NCLR 421
[34] Cap 91, Laws of Lagos State.
[35] Ahmed Sani (n.32)
[36] (2007) 10 N.W.L.R. (Pt.1043) 537

demand sanitation tax from them. In *Eti-Osa Local Government v. Rufus Jegede*[37], the Court of Appeal, Per Dongban-Mensem J.C.A., stated as follows:

> …taxation should be a tool of social engineering, of societal class structural adjustment in the hands of a responsive and sensitive government. This method can however be effective only in an economy where good records are kept, where the government is truly, responsible and answerable for the welfare of the people. In a situation where the constitution of the Federal Republic of Nigeria renders basic social services non-justifiable (Chapter Two of the Constitution), the Government must be weary of over burdening the citizens with all manner of levies and taxes…

To many taxpayers, the fundamental principle of government has been defeated and the moral obligation to pay taxes for the salaries of government officials no longer exists. Bad governance is therefore a discentive to tax payments. When basic infrastructure in the form of street lights, good roads, potable water, schools and hospitals, etc are lacking, this discourages voluntary payment of tax. The non provision of these amenities seriously discourages the taxpayer from the continued payment of taxes to the government. It gives rise to some energetic communities to start taxing themselves to provide these essential amenities and infrastructures thereby even defeating the moral burden of need for payment of taxes to government. This is because it gives rise to the argument that if I provide these amenities myself why I should pay tax to government[38]. Public support for tax programmes will be greatly improved if people know how the tax money collected in the past years has been spent. Experience has shown that the taxpayers would more readily pay their taxes if they could see some visible result of their taxes, no matter how small, but this is not the case with Nigeria, as the taxes are spent on white elephant projects, and the government is not accountable to the people.

Large Informal Sector

The existence of a large informal sector is a major barrier to raising revenue in Nigeria through personal income tax. Recent estimates indicate that between 2015 and 2020, Nigeria's informal sector averaged 56.7 percent of the GDP for comparison, agriculture accounted for 27 percent of the GDP in 2015. The hard-to-tax informal sector harbors millions of small-scale businesses that do not keep accurate records of transactions that principally participate in informal, cash-based dealings and that are, for the most part, unregistered with the appropriate government authorities. The large size of the informal market implies a substantial loss of revenue to the government and a proportionate reduction in its capacity to provide services. A deliberate effort must be made to bring a substantial part of the informal sector into the tax net. The use of presumptive taxation, whereby tax authorities determine the taxable income of businesses based on certain criteria, may be considered. Currently, for example, the Lagos and Anambra states government imposes on self-employed individuals an average flat rate of ₦7,550 (less than US$16 using an exchange rate of ₦500 = US$1—a low rate that merits upward revision) and issues an electronic proof of payment[39]. The irregular, non-structured and cash driven nature of the informal sector coupled with the paucity of taxpayer data on the part of the tax authorities has also contributed to tax evasion in Nigeria[40].

8. Conclusion

This paper has appraised the legal framework put in place for the administration of personal income tax in Nigeria. It appraised its readers with certain relevant provisions of the Personal Income Tax Act which every individual should be conversant with to ensure compliance with payment of personal income tax. The issue of collection of illegal taxes in clear breach of the law has amongst others affected the administration of this tax. This paper therefore advocates that the relevant tax agencies should adhere strictly to the rules of residence which is the most important consideration in the collection of personal income tax. The present practice of subjecting the taxpayers to pay the same tax twice, will lead to high incidence of tax evasion and avoidance thereby defeating the main essence of imposition of personal income tax. To ensure voluntary and timely compliance with this tax there is need for massive awareness, stiffer penalty for defaulters and most importantly the provision of basic amenities by the government.

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[37] *Supra* (n. 36)

[38] MN Umenweke, 'Tax Laws and Socio-Economic Development in Nigeria: Anambra State as a Focal Point', in SAM Ekwenze (ed), Contemporary Issues in Taxation Law in Nigeria (Enugu: Snapp Press Nigeria Ltd, 2014) 63.

[39] FO Egwaikhide, Nigeria's Low Tax Collection and Poor Quality of Government Expenditure: Political and Administrative Impediments to Improvement, available at https://www.cgdev.org/sites/default/files/PP162-Gupta-Nigeria-DRM.pdf, (accessed on 10 July 2020)

[40] Yomi Olugbenro, Tackling Tax Leakages in the 21st Century: What Lessons can Nigeria learn from the OECD? (1), available at www.deloitte.com, (accessed on 10 July 2020)