REFLECTIONS ON THE REALITIES AND CHALLENGES OF INCOME TAX ADMINISTRATION IN NIGERIA

Makodi Bireeenu-Nnabugwu
Email: makodibienna@gmail.com
Department of Political Science, Nnamdi Azikiwe University, Awka, NIGERIA

Nobert Chijioke Abah
Email: abbanobert@yahoo.com
Department of Political Science, Nnamdi Azikiwe University, Awka, NIGERIA

Abstract
Taxation, particularly income tax, is an indispensable source of government revenue. This paper examines the factors that affect tax administration in Nigeria. It explores statutory provisions and administrative challenges that affect the cost layout and actual returns of income tax revenue. While relying mainly on data generated through documentary sources, the data generated are analyzed descriptively. The study underlines the need for cost effective income tax administration in Nigeria.

Keywords: Income tax, tax law, public finance, tax policy, cost-benefit, tax administration.

1. Introduction
Much like individuals, every organization needs financial resources to survive. Every state, big or small, modern or antiquated, has a government and governments are often charged with the responsibilities of providing leadership and allocating resources and values authoritatively. In furtherance to this, governments are also expected to ensure public security and to provide and maintain physical infrastructure and social services. Oftentimes, the expectation of the population in terms of what the government should do or not do is legitimately on the increase. On the other hand, governments at various levels often complain of dwindling revenue to execute their programmes and policies. A critical source of government revenue is taxation. In fact many of the advanced, industrialised and developed societies of the world rely mainly on taxation for their developmental purposes. Recourse to taxation as a major source of government revenue has become even more relevant to Nigeria today in view of the volatility of the international oil market and the increasingly diminishing prospects of oil as a major source of government revenue.

The purpose of this paper is to interrogate the relevant variables that affect or impinge on taxation, particularly income tax administration in Nigeria. In particular, what laws guide income
tax administration in Nigeria? What factors affect the implementation of tax statutes in Nigeria? What are the implications of income tax administration for the Nigerian economy? The paper relies on data generated largely from documentary sources. Data so generated are analysed descriptively and through the use of tables and charts as necessary.

To address the foregoing questions, this paper is divided into five interrelated parts. This brief introduction is followed by some discourse on some contextual and theoretical issues. Part three is on the statutes and politics of income tax administration, while the fourth examines the factors and challenges of income tax administration in Nigeria. The sixth part is devoted to concluding analysis.

2. Contextual and Theoretical Issues

Taxation according to the Social Science Encyclopedia (1981: 521) is a general concept for devices used by governments to extract money or other valuable things from the people and organs by the use of law. The New International Webster’s Dictionary of the English Language (2004: 1286) sees tax as “a compulsory contribution levied upon persons, property, or business for the support of government; by extension any proportionate assessment as members of a society”, while Dalton (in Burgess, 1993) underline the fact that tax is “a compulsory contribution imposed by a public authority irrespective of the exact amount of service rendered to the tax payer in return, and not imposed as penalty for any legal offence”. Fundamentally, taxation leads to the reduction of the spending potential of the private sector and an increase in the spending potential of the public. What is very relevant to this essay is that government uses taxation to “extract money” from individuals, households ond organisations by the use of laws. This assertion is in greement with the central theme of the essay. Given the relevance of taxation, the central focus of our analysis is the administrative problems encountered while extracting money from the people based on the laws provided for such exercise.

Prest and Barr (1979: 147) have argued that administrative efficiency implies the minimisation of the real resources needed to administer any tax. It can then be inferred that administrative problems connote those things that tend to hinder implementation of tax laws by particularly increasing cost. Hence the running cost of the Federal Inland Revenue Service and / or the various state Boards of Internal Revenue tend to cut deeply into the treasury basket which they are supposed to bloat. This is a matter of concern since the costs of tax administration are economic costs in the sense that resources gained from efficiency in tax administration could be used for other purposes - public or private (Ola, 2004).

There have been several attempts to define what constitutes income as well as its imitations. In his book, Income Tax Law for Corporate and Unincorporated Bodies in Nigeria, Ola (1981: 84) defined income as “revenue receipts arising from a variety of sources.” Other writers, (such as Prest, 1975:34 - 39) have however done a more indepth analysis on the issue of income and income based tax as well as the administration of tax laws. While the notion of income and income taxation will become clearer in the course of our analysis, it is important to note here that there are two perspectives of income tax: personal and company taxes. Personal income taxes are levied on adult citizens, usually graduated (but not necessarily) depending on the income earned by the individual (Lawal and Lobley, 1981:293). Company or corporate income tax is levied on
the income (profit) of companies (Lawal and Lobley: 295). From the foregoing it must have been gleaned that this essay considers personal and company income taxes as the relevant areas of analysis in the examination of problems of income tax administration.

3. Statutes and Politics of Income Tax Administration

We shall separately examine the statutes and administrative problems of the two types of income taxes before proceeding to appraise them. According to the 1963 Republican constitution, Sections 6 (1) and 7(6), state authorities have exclusivity over personal income tax while the federal government has the exclusive jurisdiction over the taxation of all limited liability companies. The history of statutes on income tax in Nigeria is traceable to the Direct Taxation Ordinance of 1940, but it was the Income Tax Management Act of 1961 that provided the fundamental bases for income tax laws and principles applicable to the whole country today. (Ola, 1984: 7-8).

For the basis of computing the incomes of individuals, families, estates and trusts, the statute refers to the exercise of personal skill acquired from training and employment, profession, vocation, etc., as well as the dealings in circulating assets by traders, builders, etc. Also included here are the holding of investments from which is derived such income as rent, interests, dividends, etc. While the income on revenue is liable to tax in normal circumstances, income on capital and windfall receipts is not unless there are specific provisions for them to be taxed. Also rental incomes from land or building is income and is liable to tax. (Ola: 1984).

On the determination of residence, the law provides that “place of residence” means a place available for an individual’s domestic use in Nigeria but does not include hotels, rest houses, etc. If a person gains a foreign employment on the first day of a fiscal year of assessment, the duties of tax assessment on earnings from such foreign employment are not performed in Nigeria. He is regarded as being resident (in that year) in the territory in which the principal office of his employer is situated. But if on Nigerian employment, he is deemed to be resident and taxable in Nigeria as per the principal place of residence on the first day of the fiscal year. In the case of income from trust, the tax authority of the state where the administration of the trust takes place deals with it. Community income is taxed by the tax authority of the state where the members of the community are usually resident. An individual who has no source of “earned” income but has one or more sources of income not earned by personal effort is deemed to be resident in the state in which he has a principal place of residence. A body of individuals or company is deemed to be resident in the territory in which its principal office is situated on the first day of the fiscal/assessment year. An individual other than an employee or a pensioner who has a source of income earned by personal effort is regarded as resident in the state in which he has a place of principal residence (p.13). Residence is thus a critical factor in the determination of tax authority. Note that at present, fiscal year in Nigeria starts January 1 and ends December 31. This means that if a taxpayer is assessed on a current and actual basis as happens in the case of employees, the income earned between, say, January 1, 2015 and December 31, 2015 will be assessed and tax thereon collected in the year of assessment (that is 2015).

The statute also makes provision for the treatment of provident and pension funds. Consideration is thus given for the source(s) of income, and exemptions are made for transfer
payments, pension funds as well as income from an approved pension, provident funds or other retirement benefit fund or income. Capital allowance is also made for things used in producing incomes. Thus allowance s granted for expenditure on some capital equipment for plants and machinery and initial expenditure on mines and plantations.

The statute also states the types of expences which are allowed or not allowed for the purpose of income taxation. According to Lawal and Lobley (1981), certain allowances are given in respect of taxpayers’ family circumstances. Accordingly, N1,200 or 10% of earned income (whichever is higher) is allowed as personal relief while N250 each is allowed for each child/offspring but subject to a maximum of four. A tax relief of N300 is also allowed for wife and for dependent relations, N400 is allowed (p.294). But if the computation led to “negative taxation” (Ola: 667), a mximum level of 1% is imposed. It is also possible for individuals to pay income rate of N4 when the anual income is less than N1000. For company income tax, Lawal and Lobley (p. 295) explain that in 1978/79 financial year, companies were taxed at the rate of 45%, while the remaining which goes to the shareholders as dividends are also taxed st the rate of 12.5% as anearned income.

According to Ola, the statute also provides for how losses in trade, business, profession or vocation are to be computed. It also makes provision for incomes which are to be exempted from taxation. These include the official emoluments of the President, Governors, incomes of local authorities and/or government institutions as well as gratuities payable to civil servants. Also exempted are the incomes of clubs or any body of individuals or organisations formed for the purpose of promoting sporting or social activities not involving the acquisition of gain or the possibility of future gain by its individual members. Companies on tax holidays as well s dividends from such companies are also exempted. The incomes of any ecclesiastical, charitable or educational institution of public character, in so far as such incomeis not achieved from trade or business carried on by such institutions are also usually not taxable.

4. Factors and Challenges of Income Tax Administration in Nigeria

There are notably two main options available for the examination of major administrative problems encountered in the implementation of the statutes on income tax: either to view income tax practice from the statutes enumerated in the preceeding paragraphs or by comparison with the Smithian cannons of taxation. This essay considers both approaches relevant and would therefore bring into use any trait of the two considered useful in our analysis.

The premier administrative problem of income tax boaders on what should constitute income. Although the statutes on income taxation have given some insights, income measurement is obviously one of the outstanding problems of income tax administration. As Prest and Barr (1979: 41) argued, even if we agree in principle that a particular type of receipt is a form of income, it may still be difficult to say how it should be measured. But Ola (1981: 8) even made the problem more conspicuous when he opined that the inadequate number of, or complete absence of trained and qualified accountants on the staff of the tax authorities is a haandicap in accomplishing income tax goals especially in Third World countries like Nigeria. This is because unqualified staff may not know how to secure information and the technicalities of how best to use the information available to them.
On the determination of residence, the statute’s provision of domicility on the first day of the fiscal year tends to ignore the intenerant nature of many occupations. How would one, for instance, tax the income of a cattle rearer who spends much of the year in the middle belt only to come down to the south to dispose off his cattle during christmas and new year period. The dilemma of this provision becomes more obvious when we realise that it is extremely difficult to practicalise some aspects of the provision on residence because the tax system does not provide a mechanism by which the list of individuals residing at a particular place at a particular moment (for example January 1) can be determined. Unless there is a device “who resides where and when” can be determined, there is a big problem in the interpretation of this statute. More about this latter.

The statutory stipulations on the issue of transfer payments such as provident and pensions funds are also fraught with administrative problems at the implimentation level. The problem is; how do we discern or distinguish tranfer and non – transfer payments outside the few obvious cases. For instance, if according to the statute, incomes from investment of an approved pension, provident and other retirement benefits are exempted, what prevents the pensioner from including income from capital sale, for example Horse, car or land in the investment already classified as pension funded. Also when a corporate body spends money on, say, staff development through inservice training and scholarship, it is proper to refer to such as transfer payment or investment. Here again, the administration of the statute becomes problematic. When a staff is on inservice training with pay, should his income in this circumstance be regarded as salary or transfer payment?

Fourthly, there is the provision on capital allowance. According to Ola (p. 9), allowance is granted for expenditure on some capital equipment for plants and machinery and initial expenditure on mines and plantations. The administrative problem encountered in the implimentation of this statute is quite obvious. Companies are by this provision allowed to determine what constitutes capital expenditure which means that whatever they compute as capital expenditure is taken as such and allowances granted upon them. What is more disturbing is that multinational corporations use this loophole to syphone much of their companies’ receipts particularly through over – invoicing and remission of gains to the parent companies on the pretext that capital then are being ordered. The statute also states the type(s) of expenses which are allowed or disallowed for the purpose of income taxation. According to Lawal and Lobley (p. 294), certain allowances are given in respect of taxpayer’s family circumstances in form of reliefs. Since it would be tautological for one to reemphasize the difficulty in classifying incomes, the administrative problem that is worth unequivocal mention is the computation of the self – employed in the informal sector as well as subsistence farmers. In the case of farmers, the monetization of economic activities is only limited to the items which cannot be produced in the farms. The point here is that income taxation presupposes that services are calculated on the monetary values but when these services are not patterned or defined, it becomes difficult attempting to quantify them. Even when we ignore the irrationality of granting reliefs only on four children, how possible is it for the tax authority to determine who are the legitimate or non - ghost dependants for who N400 tax relief has been statutorily allowed? For company income tax, Lawal and Lobley posited that in the
1978/79 financial year, companies were taxed at the rate of 45% while the remaining part of their earning which goes to the shareholders as dividends are also taxed at the rate of 12.5% as earned income. Therefore altogether the overall company income tax becomes 57.5% (p. 295). One has to concede that in comparison with personal income tax, some administrative problems would be encountered in the process of implementation of this statutory provision. Since adequacy of the statutes is outside the purview of this paper, we shall direct our analysis simply to the extent to which these companies have been performing within the existing laws or the extent to which the tax authority is succeeding in collecting company taxes. The following table gives a glimpse of the realities of company taxation in Nigeria:

Table One: REALITIES OF COMPANY TAXATION IN NIGERIA

<table>
<thead>
<tr>
<th></th>
<th>Turn Over</th>
<th>Profit before tax</th>
<th>Tax</th>
<th>Profit after tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977</td>
<td>330.2m</td>
<td>Na</td>
<td>108.9</td>
<td>Na</td>
</tr>
<tr>
<td>1978</td>
<td>455.7m</td>
<td>Na</td>
<td>94.1</td>
<td>Na</td>
</tr>
<tr>
<td>1979</td>
<td>373.7m</td>
<td>Na</td>
<td>46.2</td>
<td>Na</td>
</tr>
<tr>
<td>1980</td>
<td>443.2m</td>
<td>90.9m</td>
<td>55.8</td>
<td>18.7</td>
</tr>
<tr>
<td>1981</td>
<td>533.9m</td>
<td>124.7m</td>
<td>72.6</td>
<td>20.3</td>
</tr>
<tr>
<td>1982</td>
<td>472.2m</td>
<td>167.5m</td>
<td>90.0</td>
<td>31.4</td>
</tr>
<tr>
<td>1983</td>
<td>Na</td>
<td>210.8m</td>
<td>40.9</td>
<td>10.7</td>
</tr>
<tr>
<td>1984</td>
<td>Na</td>
<td>266.7m</td>
<td>52.4</td>
<td>24.8</td>
</tr>
<tr>
<td>UAC</td>
<td>NBC</td>
<td>UAC</td>
<td>NBC</td>
<td>NBC</td>
</tr>
</tbody>
</table>


As the table shows, UAC which claims to be the company with the largest plants and commercial undertakings in Nigeria (UAC Annual Report, 1982: 1), made profit after tax of N26.6m in 1982 when the country was at the height of austerity is indicative of some complicity. Firstly, for the N472.2m turnover figure to yeild only N49.0m pretax profit is logically suspicious, to say the least. Although there may not be enough evidence to analyse this, to deny the existence of this suspicion on account of lack of empirical evidence would be begging the question. The case of the Nigerian Bottling Company is even more glaring. From a post tax profit of N7.8m in 1980, it quadrupled to N27.5m in 1984, showing even greater affluence in the years of depression, and more income available to individuals than government. Ultimately, the central argument here is that there are no adequate statutes to execute company taxation adequately and companies continue to avoid taxation or underpay, with impunity.

According to Ola (1981: 10), the statute also provide for the computation of losses in trade, business, profession or vocation by the companies themselves. One can easily suggest that administrative problems are sure to be encountered in the course of its implemmentation. This is particularly true of a nation like Nigeria with its high prevalence of tax evasion. Hence, the 1974 amendment to the Companies Income Tax Act (1961) granted tax relief to every company which had suffered damage in respect to its trade or operation during the civil war. Part 3 of the
Companies Income Tax Act, (1990:24-28) also provides for the following deductible allowances:

- any sum payable by way of interest on any money borrowed and employed as capital in acquiring the profit; rent... and premiums... in respect of land or building occupied for the purpose of acquiring the profit; expenses attributable to the maintenance of the property; any expenses incurred for the repair of premises, plant, machinery or fixtures employed in acquiring the profit or for the renewals, repair or alteration of any implement, utensil or articles so employed; bad debts incurred in the course of a trade or business;... any donations made for that period by that company to any fund, body or institution in Nigeria;... and the amount of reserve made out of the profits of that period by that company for research and development.

The laws granting relief to companies incurring losses in their operations, therefore, all allow the companies in question to furnish the Federal Inland Revenue Service with details of such losses. Such a provision can only encourage tax avoidance, particularly as there are no provisions for checks that could plug the loopholes, given the general corrupt nature of Nigerian officials. Who, for instance, is to check whether the accounts, returns and other information supplied by companies and certified as correct by FIRS officials are indeed correct? The free hand given to companies to supply such information for the purpose of their own taxation is dubious. According to the FIRS (2004) itself, “about 30% of registered companies in Nigeria are involved in tax evasion, and also 25% of all registered companies in the country are not paying tax.”

The tax law as it is currently constituted goes a long way to encourage this attitude of companies to taxation. Moreover, the failure of the FIRS to indict and prosecute companies for offences under the law is not helping matters. Even the fines and terms of imprisonment prescribed for different categories of offences under the law are so inadequate in contemporary Nigeria that they tend to encourage the omission of these offences. In fact, as Abiola (2011: 201) stated, “no taxpayer has been successfully prosecuted for tax evasion in Nigeria.” This is undoubtedly a recipe for failure.

The administrative problems encountered in the implementation of these provisions also include the uncertainty or vagueness which follow the definition of clubs and (charity) institutions. If a church organisation gets income from a business venture like lottery sales, how is it to be taxed? Some clubs also organise functions aimed at raising funds for charity but this may end up constituting a source of personal emolument for some of its members. These make the problem of tax administration more herculean.

Other varied administrative problems encountered in the implementation of income tax laws include: high level of illiteracy on the part of the taxpayers which prevents them from understanding the need for taxation and the appropriate methods thereof; poor relationship as well as collusion between taxpayers and tax authorities; inadequate bookkeeping by taxpayers and reluctance to engage the services of public accountants by both the taxpayers and tax authorities themselves; avoidance or evasion of tax by taxpayers as well as defective collection procedures and corruption and dishonesty of tax officials.
The technical devices used in Western countries and notably that of collection at source are only of limited application. As Prest (1975: 41) noted, one cannot apply these devices to peasants and similarly independent producers, so one would expect considerable inequity on this account. Certainly, this would further compound the issue of the administration of tax statutes.

5. Concluding Analysis

We may conclude this essay by reviewing the goals of the Nigerian tax system. According to the Presidential Committee on National Tax Policy (2008), these goals include: to contribute to the well being of all Nigerians through appropriate utilisation of tax revenue generated for the benefit of the people and to encourage economic development. However, multiplicity if taxes and collection entities at the three levels of government – federal, state and local (Ahunwan, 2009) tend to impose a heavy burden on those who are willing to pay tax. This flaw, coupled with the widespread mistrust that Nigerians have on their government which they percieve as not doing much in governance and social development “for the benefit of the people” is the vital missing link which needs to be present for the people to be willing to contribute from their hard – earned income by way of tax to support government.

It is true that government simply cannot tax a country into prosperity (Laffer, 2009) and as Nightingale (2002) once noted, no one really likes paying taxes yet they are inevitable for the provision of social welfare. However, if the people are properly motivated and favourably disposed to paying tax, taxation can contribute a huge proportion of any nation’s treasury basket. According to the Organisation for Economic Co-operation and Development (2008), taxation constitutes 50.6% of the Swedish national income. For Belgium, it is 45.4%, Australia – 31.6% and USA – 25.6%. It is also on record that nations have relied on taxation to finance expensive and important wars while at the same time financing public expenditure and social infrastructure for their people. The examples of England and France during the Napoleonic wars and America civil war easily come to mind.

Given the prevalence of tax evasion and avoidance as well as corruption in the Nigerian tax system, it is not suprising that taxation has hitherto contributed little to the country’s treasury basket. According to Abiola and Asiweh (2012), people have various excused for non – compliance with their tax obligations: some argue that payment of taxes to the government is just a way of enriching the selected few political elite who have fortified themselves with powers unquestionable. Others believe that government is so rich that imposing tax on the people is another way of exploiting the innocent citizen whereas a lot more believe that they are not getting enough from the government in return for what they are paying.

The obvious resultant effect of the flaws of the Nigerian tax system is loss of revenue and alienation of the people from government. Given the abundant natural resources in Nigeria and the very small part of the national income contributed by taxation, the government would be richly empowered to pursue its development agenda if people and companies are paying tax. To harness the benefits of taxation, the system and its administration require fundamental modifications. A good tax would possess the Smithian principles of equitability, efficiency, neutrality, flexibility and simplicity. However, the ability to achieve all these principles in a single system is practically impossible. Hence, Nightingale (2002) stated that there is no good
tax. This is because, according to Lamb et al (2005),” an efficient tax may not necessarily be considered fair and one that is equitable may not be efficient.” The onus lies with the government to build on its goodwill to endear itself to the Nigerian people so as to motivate the people to willingly contribute their own quota towards the success of government and country. This is a herculean task for any government especially such as ours that has been run by corrupt officials. The key, therefore is in the fight against corruption to diminish its impact in the tax system. Moreover, government should be seen to have the welfare of the people as its watchword. If the people perceive the government as one that uses public resources to develop society for the benefit of the people as contained in the national tax policy, the relationship between government and the people will be vastly improved and this will go a long way to improve the nation’s tax system.

References
