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Review Article

Issues and Challenges Inherent in the Nigerian Tax System

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Abstract: The study examined the issues and challenges inherent in the Nigerian tax system. The theoretical framework approach was adopted in this study. The Nigerian tax system is designed as a means of income generation. The three tiers of government have the responsibility of tax administration in Nigeria. Nigeria tax system is confronted with many issues and challenges such as multiplicity of taxes, bad administration, non-availability of database, tax touting, complex nature of the Nigerian tax laws, minimum tax, commencement, change of accounting date and cessation, and non-payment of tax refunds. The way forward includes streamlining collection mechanism, ensuring good, effective and efficient tax administration, introduction of tax technology, tax awareness and communication, simplifying the tax laws and abolishing some, refund of taxes overpaid, independent of tax authorities (boards of internal revenue), addressing the issue of corruption among tax officials, strengthening of tax audit, establishing special courts to handle tax issues, and stiffer penalty for tax evasion and other tax offences.

Keywords: Nigeria, Tax System, Tax Laws

1. Introduction

Currently in Nigeria, the responsibility of tax administration lies on the federal, state and local governments. Each of the three tiers of the government has her own tax laws and authority formed by the federal laws.

The Nigerian tax system is designed as a means of income generation and it is based on the 1948 tax laws of the British during the pre-independence government legacy [1]. And since then the Nigerian tax system has not been left without reforms. The tax system in Nigeria has undergone several significant reforms. The reforms are aimed at making the main laws simple and preventing out dated provisions of the tax laws.

Though several improvements have been made to reposition the Nigerian tax system, the system is still facing numerous challenges. That is, there are still the existences of many contending issues requiring immediate attention despite the improvements [2]. The tax system in Nigerian is not well and as a result confronted with many challenges [3] and the country has not advanced a tax system that is effective and efficient [4]. In October 2010, Price Waterhouse Coopers listed 50 top tax issues.

In view of the numerous issues and challenges inherent in the Nigerian tax system, the objective of this study is to

a. Ascertain the issues and challenges facing the Nigerian tax system and
b. Proffer solution in form of recommendations on the way forward

2. The Nigerian Tax System

The tax system in Nigerian is organized essentially as a tool to make revenue. It is basically statutory in nature, featuring a mixture of direct and indirect taxes [5]. At present, there are 61 taxes, levies, fees and charges enclosed in the Schedule to the new Order (9 in Part I, 25 in Part II, 21 in Part III, and 6 in Part IV), resulting in additional 22 taxes and levies from the earlier 39 in 2014.

There are plethora of other taxes and levies such as customs and excise duties, mining, rents, royalties and premium on petroleum etc., and they are provided for under different laws as well as a myriad of levies collected by local government authorities outside the ambit of the law [6]. The structure and tax administration in Nigeria is multi-tiered [6]. There are three ranks of government that are saddled with the responsibility of tax administration in Nigeria, that is, the federal, state and local governments. They all have their tax authority, made by federal laws with their power and objectives [7]. The tax authorities of the three tiers of government are;

a. The Federal Inland Revenue Services (FIRS).
b. The State Boards of Internal Revenue (SBIR)
c. The Local Government Revenue Committee.

The Federal Inland Revenue Service assess, collect and account for taxes and other revenues accruing to the Government of the Federation while the States Boards of Internal Revenue and the Local Government Revenue Committees carry out such roles at States and the Local Governments respectively [6].

The pattern of allocation of tax jurisdiction over the years in the tax system show that in most cases the state and the local governments taxed individuals while the federal government has always taxed corporate bodies [5]. Where the federal and state share jurisdiction, the power of legislature is retained by the federal government but the administration is done in collaboration with the state. Most newly introduced taxes such as information technology levy, tertiary education tax and value added tax (VAT), the federal government has always exercised jurisdiction.

2.1. The Tripartite Structure of the Tax System in Nigerian

The tax system in Nigerian is a tripartite foundation [6, 8]. It comprises of the tax policy, tax legislation and tax administration

a. The Tax Policy. It sets out the guidelines, the principles and the objectives to be accomplished through the mechanism of taxation [6]. It enumerates monetary charges the government imposed on companies, properties, transactions and individuals in order to generate revenue. It has to do with the question of what taxes government select to levy, what amount to be levied and on whom and it also deals with how much tax to be collected by the government as to meet her expenditures and the effect of the taxes on the general economic activity [9]. In summary, tax policy deals with the issue of fairness (taxes should be paid by who and how much should be paid).
b. The Tax Legislation. It forms tax types, impose rates, recommend penalties for defaulters and in general make provision that enables legal and regulatory structure for the system. The Federal Inland Revenue Services (FIRS) defined tax legislation as the act or procedure of enacting tax laws and the form of laws that makes provision for tax levy and administration. The FIRS listed the following tax legislations Acts operating in Nigeria;
   i. Associated Gas Re-Injection
   ii. Capital Gains Tax
   iii. Companies Income Tax
   iv. Deep Offshore and Inland Basin Production Sharing Contracts
   v. Tertiary Education Trust Fund
   vi. Federal Inland Revenue Service (Establishment)
   vii. Income Tax (Authorised Communications)
   viii. Industrial Development (Income Tax Relief)
   ix. Industrial Inspectorate
   x. National Information Technology Development
   xi. Nigerian Export Processing Zones
   xii. Nigerian LNG (Fiscal Incentive Guarantees and Assurances)
   xiii. Oil and Gas Export Free Zones
   xiv. Personal Income Tax
   xv. Petroleum Profits Tax
   xvi. Value Added Tax
   xvii. Stamp Duties
   xviii. Taxes and Levies (Approved List for Collection)
   xix. Casino Act.
c. *Tax Administration*. It involves the carrying out the tax laws through the activities of the authorities assigned with the obligation of assessing, collecting and accounting for tax revenue [6]. It has to do with implementing tax policy which includes complying with tax rules by taxpayers.

2.2. Fundamental Features of a Good Tax System

The criteria mentioned below are fundamental characteristics inherent in any tax system that is good

i. Simple, certain and clear. A good tax system must be simple to enable easy understand, consistent in its laws and its administration and be the basis of imposition should be understandable by all concern.
ii. Flexibility. The taxes should be flexible and not rigid so that it can respond to changes. The administration and the tax rate should also not be rigid to enable alteration without much problem to cope with changes.
iii. Low compliance cost. The compliance cost by the taxpayer should be very low to encourage compliance. This is important because when the compliance cost is high taxpayers will be discouraged.
iv. Administratively efficient. The cost incurred in the in the administration of tax must be lower when compared with the revenue generated from the tax. The National Tax Policy supports an exhaustive and comprehensive analysis of the cost and the benefit before imposing any tax in Nigeria [5].
v. Transparent and Accountable. Transparency and accountability should be the hallmark of any good tax system. Tax revenues should be properly used for the purposes for which it was imposed. Tax and government officials' should be transparent and accountable and not embezzling tax revenues.
vi. Equitability and fairness. A good tax system should be fair and treat all taxpayers equally without

discrimination. It should not be fair only to the tax authority but also fair for it to be accepted by the taxpayers. Both the horizontal and vertical equity have to be a feature of any good tax system. Horizontal equity means that people in comparable conditions are treated in comparable way while vertical equity means that people that are not in equal situation should be treated with the needed degree of inequality.

vii. Economic efficiency. The Nigeria tax system is not expected to be an obstacle on the economic productive capacity at any particular time and "the tax system should be such as to ensure that tax rates are not a disincentive to taxpayers to save and invest." [4]

2.3. Objectives of the Nigerian Tax System

The objectives of a tax system as identified by the Nigerian National Tax Policy are as follows;

a. To promote fiscal responsibility and accountability
b. Economic development and growth facilitation
c. To provide resources stability for the government while the government use the resources to provide goods and services for the public.
d. To ensure that the issue of income distribution inequalities is addressed.
e. To ensure stability of the economy
f. To correct disappointments and faultiness in the market.

3. The Issues and Challenges of the Nigerian Tax System

The Nigerian tax system is beset by myriad of challenges [10]. It is focused on trade and petroleum taxes; however neglecting the direct as well as indirect taxes that is broad based such as tax from value added (Value Added Tax) [11]. Tax administration is challenging due to high level of illiteracy, lowly awareness of tax and insufficient orientation [4].

Fifty top tax issues in Nigeria are; [9].

i. Multiplicity of taxes,
ii. Excess dividend tax,
iii. Input VAT restriction,
iv. Commencement, change in accounting date and cessation,
v. Ministerial and FIRS approval for tax deductions,
vi. Minimum tax,
vii. Group taxation and reorganization,
viii. Artificial transactions and transfer pricing,
ix. Separate source of income,
x. Withholding tax on sales in the normal course of business,
xi. VAT deduction at source (withholding VAT),
xii. Tax refunds,
xiii. Tax technology,
xiv. Withholding tax credit notes,
xv. Tax evasion,
xvi. Tax on deemed income and deemed profit tax,
xvii. Unutilised tax losses,
xviii. Personal reliefs and allowances,
xix. Determination of residence for individuals,
xx. Tax dispute resolution and due process,
xxi. Risk based audit,
xxii. Double tax treaties as well as unilateral tax relief,
xxiii. Free zone enterprises and individuals' Taxation,
xxiv. Tax clearance certificate,
xxv. VAT registration by non-resident entities,
xxvi. Reverse charge of VAT,
xxvii. Interest and penalty for tax default,
xxviii. Non-residents Mandatory Tax Identification Number (TIN) registration,
xxix. Exempt and zero rated items,
xxx. Branch operations,
xxxi. Ruling practice,
xxxii. VAT and withholding tax point of payment,
xxxiii. Capital allowance on certain assets,
xxxiv. Certificate of acceptance,
xxxv. Tax awareness and communication,
xxxvi. Cost recovery and tax deductibility,
xxxvii. Capital gains tax and inflation,
xxxviii. Investment allowance,
xxxix. Statute of limitation,
xl. Tax transparency and accountability,
xli. Stamp duty,
xlii. Tax dealing of interest, principal tax, penalty and levies,
xliii. Taxation of accommodation benefit,
xliv. Introduction of new taxes,
xlv. Complications in the system of tax payment and offsetting,
xlvi. Taxation of individuals working offshore Nigerian territorial waters,
xlvii. Franked Investment Income,
xlviii. VAT registration timing,
xlix. Tax Touting and
l. Capital loss deduction for GCT purpose.

The following are some of the challenges inherent in the Nigerian tax system [10]; unavailability of tax statistics; failure to prioritize tax efforts; tax administration is poor; tax multiplicity; regulatory challenges; structural problems in the economy; underground economy and complexity of the tax laws.

Some of the challenges and issues are discussed below.

a. Multiplicity of taxes. Multiplicity of taxes has to do with levying of tax on the same income by two or more jurisdiction. It is a situation that results from taxing an earning more than once. The term "multiplicity of taxes" is not a recognized word in the arena of taxation as such and "thus, the term seems to be peculiar to Nigeria fiscal lexicography" [12]. Individual taxpayers as well as corporate bodies are all complaining about the triple effects related with the repetition [11].
b. Bad administration. One of the main problems of tax in Nigeria is tax administration [13] and it leads to lack of transparency in the management of taxpayers' money

[14]. Tax evasion characterizes the major problems of tax administration in a developing countries including Nigeria [15].

c. Non Availability of Database. Unavailability of database of all individuals that are taxable, the tool use for assessing and collecting of taxes are inadequate and the absence of firm methods in place [16] are issues that should be addressed for an effective tax system. There are no efforts to collate or analyse the limited data available talk less of storing the data, making it possible to be assessed or retrieved [10]. This suggests that the Nigerian tax system is inefficient and ineffective in its entirety.
d. Tax touting. Tax touting in the local governments is a common practice especially at the level where individuals that are unprofessional and not trained are engaged and used in enforcing and collecting taxes and levies [9]. In Obio/Akpor and Port Harcourt City local governments in Nigeria, it is a common practice, where touts are involved and used in collecting various taxes and levies.
e. Complex nature of the Nigerian tax laws. The Nigerian tax laws are so complex that sometimes it is very difficult for even the educated individuals in the society to understand. Due to the complex nature of Nigeria's tax laws, it is not easy for ordinary taxpayers to understand and sometimes even the learned officials find it difficult because of the problematic nature of the tax laws [10].
f. Minimum Tax. The imposition of minimum tax on companies when there is no taxable profit means increasing the loss of the company for that year. That is, companies have no option than to pay tax from their capital hence increasing the risk of a possible failure of companies when recording low or no profitability. Minimum tax is seen as coercing a man to donate blood, though the man is suffering from excessive blood loss [17].
g. Commencement, Change of accounting date and cessation. The Company Income tax Act (CITA) has set out some rules for levying of taxes on a company when it commences business, changes her accounting date and during cessation. On commencement, the first three years of assessment are considered; the year the change occurred and two years following the year of change of accounting date are considered in change of accounting date while in cessation the last two years of assessment are considered. These rules are not necessary and complicated. The result of these rules is double taxation of the companies and excess tax payment by the companies.
h. Non-payment of tax refunds. Numerous tax laws provides for payment of tax refunds to taxpayers who with candid and sincere claims; this is not the case in real practice [17]. Some provisions of the law, for example, VAT deduction at source by agents of the government and in some cases the high rate of withholding tax; make the problem of tax refund a perpetual feature of the tax system [17] in Nigeria.

Others include lack of awareness, corruption, loopholes in tax laws resulting to tax avoidance.

4. Recommendations – The Way Forward

Although the Nigerian tax system is plagued with different issues and challenges, there is still a way out.

a. Streamlining collection mechanism. The three tiers of government should advance a solid base for taxpayers; restructure the means and methods used for collection and end multiplicity of taxes, which has been a reprieve to the industrial sector and the economy as a whole. Also numerous taxes should be reduced and the approved taxes and levies should be streamlined and strictly followed by the three tiers of the government.
b. Ensuring good, effective and efficient tax administration. The government should ensure that tax administration is handled by professionals and trained personnel. The personnel of the tax authorities of each of the three tiers of the government should be trained and retrained to bring the best from them and also instil discipline on them.
c. Introduction of tax technology. Filling and payment online should be introduced in Nigeria as this will reduce the time of compliance and cost associated to it and should also accept tax technology in support of electronic remittances and filling of returns which will ease the burden on taxpayers, ease human contact existing between the taxpayers and the tax officials [9]. This can assist in checking sharp practices and make doing business easier.
d. Tax awareness and communication. There is the urgent need for public enlightenment. The media should be effectively used to communicate the existing and new tax laws, the need for compliance and the penalty for defaulters. This is because most tax payers are not informed or are ill-informed.
e. Simplifying the tax laws and abolishing some. One of the essential principles of any tax system adjudged good must be simple, certain and clear. The tax laws should be phrased to ensure that taxpayers and tax officials understand it clearly. And some of the laws should be abolished such as the law on minimum tax. Cases of genuine losses declared by any company should be addressed as an issue that is separate by means of tax audit and transfer pricing instead of using the same brush to paint all companies with [17]. Concerning the commencement and cessation rule, companies should pay tax on the actual profit using the preceding year basis from the beginning to the end (if the business ceases to operate) [17].
f. Refund of taxes overpaid. Tax authorities of the three tiers of the government should embark on refunding genuine overpayment of taxes. The government as a matter of urgency make funds available for refund. As this will boost the confidence of tax payers on the government.

Other recommendations includes

a. Independent of tax authorities (boards of internal revenue). The tax authorities in the local, state and federal governments should be given an independent status. “Until independence is allowed in the system there wouldn’t be any way for the process to be impactful” [10]. This will allow the tax authorities take responsibility of their actions and how they go about the business of tax administration.
b. Addressing the issue of corruption among tax officials. Taxpayers will prefer to pay a token as tax to the government and give kick back to tax officials. The low salary of tax officials has made many of them compromises with tax offenders hence the need to address the issue of corruption and corrupt practices among tax officials. The corrupt officials should be prosecuted without allowing any top government official to influence the outcome of the prosecution. The government on her own should pay them adequately or contract out tax administration for effectiveness.
c. Strengthening of tax audit. This is a function that has been neglected in Nigeria. Tax Officials stay in their offices without proper audit of companies. “Tax administrators often employ resources for checking refunds from withholding schemes rather than going after the more difficult but higher revenue yields that would come from aggressive auditing of self-employed, professional and business firms” [10]. The tax official should be proactive so that they can discover companies and individuals that stop filling annual returns, firms declaring profits suspicious and firms reporting losses. Increase in audits will reduce tax evasion, increase efforts to keep proper record by taxpayers and accurate and timely filling of returns.
d. Establishing special courts to handle tax issues. The government should establish or designate some courts as tax courts to tackle tax problems. Issues concerning tax evaders, tax offenders, corrupt tax officials and interpretation of the tax laws should be handled by this special court. Lawyers should be given special and adequate training on tax issues, as this will help greatly in addressing the many tax issues inherent in the Nigerian tax system.
e. Stiffer penalty for tax evasion and other tax offences. The present penalties prescribed by the tax laws in Nigeria for tax offense cannot deter offenders. Stiffer Penalties, such as asset forfeiture, jail terms with no option of fine, withdrawal of license (where applicable) among others will enhance the administration of the tax system.

5. Conclusion

In conclusion, this study reviewed the Nigerian tax system. The aim was to ascertain the issues and challenges inherent in the Nigerian tax system and proffer solution in form of recommendations on the way forward. The finding shows that all is not well with the tax system in Nigeria because of the numerous problems and challenges it is faced with. These challenges includes multiplicity of taxes, bad and poor administration, tax touting, complex nature of the Nigerian tax system and et cetera. Based on the findings, recommendations (such as streamlining collection mechanism, tax awareness, ensuring good, effective and effective tax administration, simplifying the tax laws and abolishing some, refund of taxes overpaid and et cetera), independent of tax authorities (boards of internal revenue), addressing the issue of corruption among tax officials, strengthening of tax audit, establishing special courts to handle tax issues, and stiffer penalty for tax evasion and other tax offences were made to counter the challenges and improve the Nigerian tax system.

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