International Journal of Business & Law Research 9(1):208-221, Jan-Mar., 2021

© SEAHI PUBLICATIONS, 2021 www.seahipaj.org ISSN: 2360-8986

Administrative And Enforcement Frameworks For Taxation Of Digital Economy In Nigeria

Mr. Ikechukwu P. Chime

Lecturer in Law, Faculty of Law, University of Nigeria Enugu Campus, Nigeria

ABSTRACT
Technological innovation has created new forms of business models as well as goods and services. While these innovations have increased social benefit, they have created challenges for tax policymakers and institutions. The unique form of digital companies and services have undermined the efficiency of tax rules and institutions designed for brick-and-mortar business models. The ability of a state to maximize her tax revenue from digital economy will depend on the ability of its administrative tax systems to evolve and adapt to the changing terrain. This article reviews the administrative structure for the enforcement of digital economy taxes in Nigeria. It highlights the challenges associated tax administration in Nigeria and identifies the various agencies responsible for tax enforcement.
Keywords: Taxation, Digital Economy, Business, Law

1. INTRODUCTION.

The transformative process unleashed by advances in information and communication technology (ICT), has made "technologies cheaper, more powerful, and widely standardised, improving business processes and bolstering innovation across all sectors of the economy."[1] It has enhance digitalization and automation, thereby impacting on and changing virtually every facet of life, society and national economies. It is changing how we communicate, interact, transact and entertain ourselves. This has given rise to the digital economy, which the National Digital Economic Policy and Strategy (NDEPS) defines it as "any aspect of the economy that is based on or driven by digital technologies".[2]
The scale, pervasiveness and rapidity of evolution of digital economy has made it difficult to delimit a "rigid boundary that enables all economic activity to be rigorously placed either inside or outside the scope of 'digital economy'.[3] is not ring-fenced from the traditional economy. Some of the players in the traditional economy are establishing digital units as a means of surviving and thriving in the new economy. Thus, there is the challenge of compartmentalizing their economic revenue.
It has also affected on how government generate revenue from taxation of economic activities. The rapidity and extensiveness of digital innovation poses a challenge for tax laws, authorities and policy makers. Since tax institutions were designed to target economic rent earned by a company with physical presence in a state, they have proven ineffective in taxing digital economic activities that can be carried on by companies with no physical presence within the jurisdiction of a state. Apart from lack of physical establishment, the threats of digital companies to national tax systems emanate from their primary reliance on intangible assets, the intricate nature of the economic activities, and the challenge of ascertaining assets and types of income to be taxed. Companies in the digital economy have created new

---

[1] OECD, *Addressing the Tax Challenges of the Digital Economy, Action 1-2015 Final Report,* (Paris: OECD, October 5, 2015, p. 8)
[2] FMoCDE, *National Digital Economy Policy and Strategy (2020-2030) NDEPS* (Abuja: FMoCDE 2020) 2.
[3] Umana Bukht & Richard Heeks, 'Defining, Conceptualising and Measuring the Digital Economy', *Development Informatics Working Paper Series, Paper No. 68, p. 5.*

models of doing business that enable them create, add value and make profit. The flexibility and scalability of business model enable them to easily manipulate the distribution of taxing rights under the traditional tax rules.

Growth in the exchange of digital goods and services have, therefore, made it harder for tax authorities to track and tax economic value created within their jurisdiction, using traditional tax rules and approaches. The dynamic nature, rapid evolution and drain on public revenue collection have left tax policymakers scrambling to dimension and capture tax revenue for digital economic activities that occur within their states. Policymakers are required to provide guidance and direction concerning an unstable future and changing dynamics that technological innovation has unleashed. In this environment, for tax matters, this entails that policy development and implementation must be designed to allow for the changing economic situations, while being adequately clear to provide the certainty and clarity that enables sustainable, long-term economic growth.[4] This requires that tax authorities develop a broad range of policy tool that are capable of monitoring and measuring fiscal effectiveness and at the same time, flexible enough to address emerging tax challenges.

This fiscal challenge is faced by all nations because of the ease with which companies in the digital economy operate from tax haven and thereby pay little or no taxes to the states where they derive revenue from. This paper evaluates the administrative and enforcement systems that exist in Nigeria for taxing digital economic activities, assessing their robustness for addressing the challenges associated with taxing digital economy.

2 Background

Tax administration relates to the structure, processes, principles, and tactics applied by governments to achieve their fiscal objective of effective tax planning, collection, enforcement, accounting and utilization of the tax revenues. There are institutions established by law that regulate the taxation of the Nigerian digital economy.

2.1 Federal Inland Revenue Services

Federal Inland Revenue Service is the body responsible for assessing, collecting and accounting for tax and other revenues accruing to the Federal Government, in line with the federal structure of the Nigerian State, tax administration. Prior to its establishment, its functions had been performed by the Inland Revenue Department of British West Africa. The Board of Inland Revenue was created in 1958, and the service gained autonomy with the passing of the Federal Inland Revenue Service (Establishment) Act 2007 (FIRSEA).[5] Its jurisdiction is limited to the taxes listed in Part I, Schedule 1 of the Taxes and Levies (Approved List for Collection) Act which include CIT, Petroleum Profits Tax, VAT, Education Tax, WHT, Stamp duty and CGT on companies, residents of the Federal Capital Territory (FCT).

Federal Inland Revenue Service (Establishment) Act 2007. Under this Act Section 2 gives the object of the appellant to be control and administration of the different taxes and laws related thereto made by the National Assembly or other Regulations made thereunder by the Government of the Federation and to account for all the taxes collected. All the functions statutorily created for the appellant have to do with the collection and payment of taxes for the Federation.[6] In accordance with section 8(1) of the FIRSEA and FIRS Handbook (2012), the Service shall:

a. Assess persons including companies, enterprises chargeable with tax;
b. Assess, collect, account and enforce payment of taxes as may be due to the Government or any of its agencies;

---

[4] OECD, *Tax Challenges Arising from Digitalisation* (Interim Report: Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project, Paris: OECD Publishing 2018).

[5] Gazette No. 64, Vol. 94 of 18th June 2007

[6] Nothing outside the law establishing the statutory Body can ever be foisted by any means or contraption on the said Body. If a statutory body navigates outside the domain of its statutory functions to execute functions that are not carved for it, those extraneous functions would not be recognized by the law. *FIRS v. Governing Council of the Industrial Training Fund & anor.* (2018) LPELR-46857(CA)

c. Collect, recover and pay to the designated account any tax under any provision of this Act or any other enactment or law;
d. In collaboration with the relevant ministries and agencies, review the tax regimes and promote the application of tax revenues to stimulate economic activities and development;
e. In collaboration with relevant law enforcement agencies, carry out examination and investigation with a view to enforcing compliance with the provisions of this Act;
f. Make, from time to time, a determination of the extent of financial loss and such other losses by the government arising from tax fraud or evasion and such other losses (or revenue forgone) arising from tax waivers and other related matters;
g. Adopt measures to identify, trace, freeze, confiscate or seize proceeds derived from tax fraud or evasion;
h. Adopt measures which include compliance and regulatory actions, introduction and maintenance of investigative and control techniques on the detection and prevention of non-compliance;
i. Collaborate and facilitate rapid exchange of information with relevant national international agencies or bodies on tax matters;
j. undertake exchange of personnel or other experts with complementary agencies for purposes of comparative experience and capacity building;
k. establish and maintain a system for monitoring international dynamics of taxation in order to identify suspicious transactions and the perpetrators and other persons involved;
l. (I) provide and maintain access to up to date and adequate data and information on all taxable persons, individuals, corporate bodies or all agencies of government involved in the collection of revenue for the purpose of efficient, effective and correct tax administration and to prevent tax evasion or fraud;
m. maintain database, statistics, records and reports on persons, organizations, proceeds, properties, documents or other items or assets relating to tax administration including matters .relating to waivers, fraud or evasion;
n. undertake and support research on similar measures with a view to stimulating economic development and determine the manifestation, extent, magnitude and effects of tax fraud, evasion and other matters that affect effective tax administration and make recommendations to the government on appropriate intervention and preventive measures;
o. collate and continually review all policies of the Federal Government relating to taxation and revenue generation and undertake a systematic and progressive implementation of such policies;
p. liaise with the office of the Attorney-General of the Federation, all government security and law enforcement agencies and such other financial supervisory institutions in the enforcement and eradication of tax related offences;
q. issue taxpayer identification number to every taxable person in Nigeria in collaboration with States Boards of Internal Revenue and Local Government Councils;
r. carry out and sustain rigorous public awareness and enlightenment campaign on the benefits of tax compliance within and outside Nigeria;
s. carry out oversight functions over all taxes and levies accruable to the Government of the federation and as it may be required, query, subpoena, sanction and reward any activities pertaining to the assessment, collection of and accounting for revenues accruable to the Federation; and
t. carry out such other activities as are necessary or expedient for the full discharge of all or any of the functions under this. Act.

The Service has played a critical role in funding the nation's annual budget. In 2020, FIRS contributed over 46.7 per cent of the budget, 54.6 per cent in 2016, 55.2 per cent in 2017, 58.3 per cent in 2018, and 59.0 per cent in 2019.[7]

[7] Leon Usigbe, Tax Obligations: Why FIRS Seeks Improved Service System for Nigerians

S.25(1) of the same FIRS Act provides that "The Service shall have power to administer all the enactments listed in the First Schedule to this Act and any other enactment or law on taxation in respect of which the National Assembly may confer power on the service." The First Schedule of the Act states thusly: 'Legislations Administered by the Service 1. Companies Income Tax Act Cap. 60 LFN 1990 2. Petroleum Profits Tax Act Cap. 354 LFN 1990 3. Personal Income Tax Act No. 104, 1993 4. Capital Gains Tax Act cap. 42 LFN 1990 5. Value Added Tax Act No 102 1993 6. Stamp Duties Act can 411 LFN 1990 7. Taxes and levies (Approved List for Collection) Act No. 2 1998 8. All regulations, proclamations, government notices or rules issued in terms of these legislations. Any other law for the assessment, collection and accounting of revenue accruable to the Government of the Federation as may be made by the National Assembly from time to time or regulation incidental to those laws, conferring any power, duty and obligation on the Service. Enactment or laws imposing Taxes and levies within the Federal Capital Territory.

In *Esso v FIRS & NNPC (2017*) it was held that as the body statutorily vested with these powers, the FIRS has the right of action to prevent the exercise of these powers by another body, to enforce and administer the above-mentioned laws and to protect its exercise of the said powers.

2.2 The Joint Tax Board.

The Joint Tax Board was established pursuant to section 86(1) of the Personal Income Tax Act,[8] with a view to promoting the development of the tax administration in Nigeria. Its main area of focus is the harmonization of Personal Income Tax administration in the country, that is, the administration of income tax generally under the Income Tax Management Act 1990. The Executive Chairman of the Federal Inland Revenue Service serves as the Chairman of the Board in addition to a member from each state, being a person experienced in income Tax Matters nominated by the State; as well as co-opted members representing Federal Road Safety Commission (FRSC); Revenue Mobilization Allocation and Fiscal Commission (RMAFC); Federal Capital Territory Administration as well as a Secretary and Legal Adviser.

The Board meets every quarterly to evaluate the performance of the members and to consider on national tax issues as well as formulating strategies for the execution of their functions, which include advising all tiers of Government on tax matters, so as to evolve an efficient tax administration system in the Country; resolving areas of conflict on Tax Jurisdiction among Member States; using it's best endeavours to promote uniformity in both application of the Tax Laws and in the incidence of tax on individuals throughout the Country, imposing it's decision on matters of procedure and interpretation on Income Tax matters on member State. It also considers and approves benefits and pension schemes valid for income tax purposes throughout the country.[9]

2.3 State Boards of Internal Revenue.

Nigeria practices a Federal System of Government and this reflects in the framework for taxation. Each State in Nigeria has its own tax authority usually referred to as State Internal Revenue Service responsible for the administration of state tax laws and some federal tax laws, as the case may be. Precisely, at relevant points in time, both the Federal and State tax authorities regulate certain taxes which may touch on companies or impose certain legal obligations on them. For instance, although the obligation to pay Personal Income Tax (which is to an extent, administered by the State Boards of Internal Revenue) lies on individuals who earn the taxable income, the Personal Income Tax Act and the Pay as You Earn Regulations impose certain obligations on employers (companies inclusive).

3 Challenges of Tax Administration and Enforcement in Nigeria

There are a number of challenges that plague the Nigerian tax system faces. Addressing these challenges will go a long way in determining Nigeria's ability to tax the digital economy. They include:

https://tribuneonlineng.com/tax-obligations-why-firs-seeks-improved-service-system-for-nigerians/ accessed July 17, 2021

[8] Personal Income Tax Act cap. P8 LFN 2004.

[9] Joint Tax Board, *About JTB*, https://www.jtb.gov.ng/about-jtb/ August 18, 2021

3.1 *High Informal Nature of the Economy*

The informal economy covers a wide spectrum of economic and social situations in a country. It is broadly characterized as consisting of units engaged in the production of goods or services primarily aimed at generating employment and incomes to the persons concerned. Differing opinions exist as to the value and origin of the informal sector. For Hernando De Soto,[10] the informal sector is a pool of entrepreneurial energy and dynamism restrained by state regulation. As such, reducing regulatory impediments and improving property rights for those in the informal sector will help to unleash the power of that sector. Others consider the informal sector as parasitic, unfairly competing with formal enterprises by avoiding taxes and other regulatory requirements and costs.[11] From this latter perspective, the informal sector should be quashed and not unbridled. In terms of origin, informality has been traced to poverty, since it is dominated by poor and poorly educated citizens and reflects the underdeveloped state of an economy.[12]

Strikingly, firms in this sector tend to be small and unable to derive the benefits of economies of scale. The informal sector constitutes a significant part of the Nigerian economy, estimated by the IMF to be approximately 65% of GDP, which is higher than the Sub-Saharan average of 34% and much higher than the average 23% and 17% in Europe and OECD countries respectively.[13] Its significant size has been adduced as one of the reasons for the low 6% tax-to-GDP ratio.[14] Also, IE poses several policy challenges from a tax perspective. The operation of a significant aspect of any economy outside regulatory purview constitutes a drag on the attainment of long-term economic growth goals.[15] Apart from low productivity and inefficiency, studies have shown that an informal economy size of 17.6% to 36.7% of GDP results in an average of 3.5 to 9.8% tax revenue loss.[16] This has occasioned efforts by the country to ascertain the size and performance of their informal sector, with a view to designing efficient monetary and fiscal policies that will enhance the contribution of the sector to the nation's economic well-being.[17]

3.2 *Lack of Trust in Tax System*

Kirchler and others noted that the relationship between tax authorities and taxpayers vary on "a continuum between an antagonistic climate and a synergistic climate."[18] In an antagonistic environment, taxpayers and authorities work at cross purposes but work collaboratively in a synergetic climate. Braithwaite uses the analogy of "robbers and cops" to describe what obtains in an antagonistic climate, whereby the tax authorities consider taxpayers as robbers who must be stopped for evading taxes while the taxpayers feel persecuted by "cops" (tax authorities) from whom they should hide.[19] On the other hand, a synergetic environment exists where tax administration is considered a community service and tax payment is the citizen's contribution to the public good. However, the synergetic or antagonistic nature of a tax system is dependent on the level of trust existing between the two. A correlation exists between trust in tax authorities and the willingness and voluntariness of citizens to pay taxes, epitomized in a synergetic climate. For Kirchler and others, trust is the general opinion of individuals and social groups that the tax authorities are benevolent and work beneficially for the common good.[20]

---

[10] De Soto Hernando. *The Other Path: The Invisible Revolution in the Third World*. (New York: Harper and Row 1989).

[11] Levy Santiago, *Good Intentions, Bad Outcomes: Social Policy, Informality, and Economic Growth in Mexico* (New York: Brookings Institution Press 2008).

[12] Hernando (n 10).

[13] Ibid.

[14] SBM, 'Under the Hood: A Look into Taxation in Nigeria's Informal Sector' <https://www.sbmintel.com/2021/08/under-the-hood-a-look-into-taxation-in-nigerias-informal-sector/> accessed 19 August 2021.

[15] I Distinguin, C Rugemintwari, and R Tacneng, 'Can Informal Firms Hurt Registered SMEs' Access to Credit?' *World Development 84,* 18 – 40.

[16] TH Nguyem 'How Large is Vietnam's Informal Economy?' [2019] 39 (1) *Economic Affairs 81–100,* 82.

[17] SBM (n 14).

[18] E Kirchler, E Hoelzl and I Wahl, 'Enforced Versus Voluntary Compliance: The "Slippery Slope" Framework' [2008] (29) *Journal of Economic Psychology* 210-255.

[19] V Braithwaite, 'Dancing with Tax Authorities: Motivational Postures and Non-Compliant Actions' in V Braithwaite (ed), *Taxing Democracy: Understanding Tax Avoidance And Tax Evasion* (Aldershot: Ashgate 2003) 15–39.

[20] Kirchler and others (n 18), 212.

A huge trust gap exists in tax administration in Nigeria and efforts are being made to address this challenge. As part of efforts to bridge this gap, the Service adopted and implemented various measures for customer-friendliness, convenience, and transparency in its operations.[21] Also, in 2017, the Service launched the Voluntary Assets and Income Declaration Scheme (VAIDS),[22] which provided an opportunity for taxpayers who were in default of tax liabilities to voluntarily declare their assets and income and pay taxes due on them, and in return, obtain amnesty from prosecution among other benefits for an initial 12-month period from July 1, 2017. Beneficiaries of the Scheme were granted tax reliefs such as immunity from prosecution for tax offences, immunity from a tax audit, waiver of interest, waiver of penalties, and the availability of an option to spread payment of outstanding liabilities over a maximum period of three years.

3.3 *Tax Evasion*

Tax evasion relates to forms of manifestation of unwillingness engaged in by individuals, to avoid paying their fair share of taxes. In most cases, it entails an act or an attempt at breaking the law, with a view to reducing tax liability. It could take the form of understating income, overstating allowable deductions, adjustment of figures and data, etc. Tax evasion constitutes a major source of revenue loss for any country and has become a perennial issue for tax administrators around the world.[23] Specifically, individuals can evade tax by underreporting income, overstating deductions and allowances, engaging in barter, neglecting to timely filing of returns, or completing failing to file returns by avoiding being captured for tax purposes. In the same way, companies and organisations can also evade taxes by exaggerating deductions, understating income, and otherwise manipulating their company documents to reduce tax liability.

Studies have shown that risk deterrence alone cannot address the challenge of tax evasion as several factors account for this unwillingness to pay a fair tax, including the prevailing tax rate and overall tax burden, corruption, economic structure, audit, penalty, unemployment, etc. Tax evasion is also prevalent in states with endemic corruption. In this sense, the term ‘‘corruption’’ entails a type of dishonest or a criminal offence committed by an individual or corporation in a position of power and authority in order to get unlawful advantages or misuse power for personal benefit.[24]

3.4 *Poor Level of Tax Knowledge*

Proper information and knowledge base are central to tax administration. Tax authorities do not assess and impose tax liability in a vacuum as they need to observe economic activities to determine tax payable. Information also drives enforcement and affects the ability of taxpayers to cope and comply with tax obligations. Their inability to comply is further impaired, depending on the level of complexity of the tax system. In a study, large majorities report that tax systems remain opaque: 62% say it is difficult to find out what taxes they owe, while 76% say it is difficult to find out how the government uses tax revenue.[25]

In Nigeria, the severity of lack of tax knowledge is higher as a significant number of taxable individuals do not know the level of the tax process - means of determining their tax liability, available tax deductions, and means of tax payment. As a result of low literacy levels, taxpayers are easily confused by tax rules and therefore, unlikely to comply or utilize the advantages they have under the law. Also, due to their limited knowledge, they are more vulnerable to abuse by corrupt tax officials, who might coerce them into paying bribes and other unlawful payments. This, in turn, feeds into a negative perception of the tax system as intrinsically corrupt, thereby limiting voluntary compliance. It is therefore essential from a tax policy perspective, to advance the taxpayers' knowledge, with the attendant benefit of voluntary

---

[21] Bassey Udo, 'Interview: Our Challenges, Successes at FIRS – Fowler' <https://www.premiumtimesng.com/news/headlines/344695-interview-our-challenges-successes-at-firs-fowler.html> accessed 31 May 2021.

[22] Voluntary Assets and Income Declaration Scheme (VAIDS), Executive Order No. 004 of 2017.

[23] Braithwaite (n 19).

[24] Amoh and Ali-Nakyea, 'Does Corruption Cause Tax Evasion? Evidence from an Emerging Economy' (2019) *Journal of Money Laundering Control* <https://doi.org/10.1108/JMLC-01-2018-0001>.

[25] Rose Aiko and Carolyn Logan 'Africa's Willing Taxpayers Thwarted by Opaque Tax Systems, Corruption' (2014) Afrobarometer Policy Paper #7.

compliance derivable therefrom. This could be done by increasing the capacity and focusing same on providing sector-specific information that will enable more members of the public to obtain clearer tax information. While taxpayer education and engagement are important, the form of the information and engagement is also essential. Therefore, having the desired compliance-enhancing effect requires that the information must be such that taxpayers can relate to their daily experience. Thus, it has to go beyond the basic information about their obligation to pay taxes or the nature of taxes they ought to pay or the amount collected by the state in taxes. Rather, taxpayer information is effective when it can relate to how the money has been collected and how the revenue was meaningful spent to improve public good. Also, as much as possible, two-way interaction that gives an opportunity for taxpayer engagement and dialogue such as a town-hall meeting, or phone-in radio programs, should be embraced as it has proven effective in Ghana and Sierra Leone.[26]

3.5 *Lack of Policy Continuity*

Public institutions usually have perpetual succession. As such, each successive administration builds on the policies, achievements, and challenges of previous regimes. This approach to governance is critical as it enables the institution to re-evaluate previous decisions in the light of outcomes and make course corrections where necessary. However, tax administration in Nigeria has been hampered by the unwillingness of successive leaders of tax institutions to ensure policy continuity.[27] As such, Nigeria has launched several tax reforms, which have not remarkably improved the effectiveness of the country's tax administration.

3.6 *Limited Third-party information*

Typical tax systems rely on self-report. With the traditional aversion and unwillingness to pay taxes, the likelihood of getting accurate returns is highly unlikely. The traditional method of tackling tax evasion is to conduct audits, which is cumbersome and costly. In other cases, threats of audits have been used to provoke tax compliance levels. However, the efficiency of these audit threats dependent on the actual execution of those threats by tax authorities. Beyond the cost implication, the execution of the threats is difficult due to the problem of providing incentives for tax officials to diligently carry on the task, as well as the possibility of collusion with and corruption of tax officials by tax evaders.

3.7 *Official Corruption*

An Afrobarometer study found a lack of transparency of tax authorities and an accountability deficit of public officials as a major concern and disincentive to pay taxes. More than one-third (35%) say that 'most' or 'all' tax officials are corrupt, and another 39% think that at least some of them are.[28] Perceived corruption among tax officials appears to undermine commitment to the integrity of the tax system. More so, distrust in the conduct of tax officials increases tolerance for tax avoidance in principle and reported non-compliance with tax obligations in practice. Notably, Nigeria's tax reform efforts have not yielded desired results and one of the reasons for this justifies the assertion that the change of leadership of an institution does not lead to a change of compliance, particularly where the leader(s) has been accused of embezzlement and breach of trust. In this sense, past outcomes shape future expectations and behaviour. The success of institutional reforms depends on the extent to which the public perceives it and thereby alters individual behaviour. In this context, past behaviour shapes and determines future behaviour as a result of trust violations. Past failure has long-term consequences and is difficult to correct. Hence, a history of low compliance may remain unchanged despite institutional changes, as long as it does not change the expectation level of the taxpaying public.[29] This is due to a latent belief that institutional

---

[26] Vanessa van den Boogaard and others, 'Strengthening Tax-Accountability Links: Fiscal Transparency and Taxpayer Engagement in Ghana and Sierra Leone' (2015) ICTD Working Paper 114.

[27] Abdurrahman Adamu Pantameea and Muzainah Mansor, 'Linking History and Tax Administration Performance: The Case of FIRS Nigeria' [2019] 6 (1) *International Journal of Research in Business Studies and Management 52-57,* 54.

[28] Aiko and Logan (n 25).

[29] Aaron Kamm, Christian Koch and Nikos Nikiforakis 'The Ghost of Institutions Past: History as an Obstacle to Fighting Tax Evasion' (Behavioral and Experimental Economics, No. F18-V3, ZBW – Deutsche Zentralbibliothek für Wirtschaftswissenschaften, Leibniz-Informationszentrum Wirtschaft, Kiel, Hamburg, 2017).

reform may fail to address the root cause of institutional failure. This, at least, partly explains the chronic persistence of low compliance levels in low-tax-generating countries like Nigeria. Breaking a history of tax evasion will require more than a change of institutional nomenclature or reform or launching catchy initiatives. Specifically, a key part of a successful change of outcome must involve resetting taxpayers' expectations through broad-scale, sustained, long-term commitment to transparency, cost-effectiveness, and macro-economic improvement. In this context, the best means of improving tax compliance is in rebuilding and strengthening institutions and thereby reducing the perception of corruption.

3.9 High Tax Compliance Cost

Tax compliance cost refers to the additional cost incurred by taxpayers in complying with tax rules. This amount is separate from their actual tax liability and caused by regulatory burden. It can be looked at as a hidden cost for tax-compliant individuals and businesses. The scale of this cost varies, depending on the efficiency level of a state's tax system. Importantly, tax compliance costs come in various forms; from the opportunity cost of the time spent by company staff in completing, filing, appealing, and resolving a tax liability. It also comes in form of fees paid to tax professionals, engaged by businesses to help them navigate complex tax rules and processes, or as bribes payable to extortionary tax officials. Taking into account the amount of time spent by management and staff in addressing various government demands, the regulatory burden and compliance cost of tax has been shown to be greater than other forms of regulations that businesses comply with, such as labour regulation, business licences, etc.[30] Higher compliance cost creates/raises the prospect of demand of and the likelihood of payment of bribes which will invariably reduce compliance cost.

3.10 *Lack of Effectiveness and Equity*

Two critical factors that mould social norms and enhances tax compliance levels are the perceived fairness of the tax system and the taxpayers' ability to ascertain the effectiveness of the use of tax revenue.[31] Tax effectiveness and voluntary compliance are rooted in the perception of and belief in the fairness of the tax policy and system. Where taxable persons can avoid tax liability with impunity, the general tendency is to increase the rate of default in the populace.[32] Thus, if individuals avoid the tax to which they should logically be subject under the general scope of tax, by legal or illegal means, the equity of the tax is to a large extent lost. The ineffectiveness of the Nigerian tax system is sadly a microcosm of moral malaise and gross ineffectiveness in society. This malady has permeated government and has become the brand mark of government parastatals, a cankerworm that remains unabated, eating ever deeper into the national fabric.

3.11 *Weak Tax Dispute Resolution System*

Tax disputes in Nigeria are primarily resolved by the courts and the Tax Appeal Tribunal[33] once the administrative dispute resolution channels fail.[34] The jurisdiction of the courts depends on whether they are federal, state, or local government taxes. With respect to federal taxes, appeals lie from the Tax Appeal Tribunal to the Federal High Court, with further appeals to the Court of Appeal and ultimately to the Supreme Court. Regrettably, Nigerian courts are notorious for long delays in judicial procedures, and

[30] Ali Merima, 'Regulatory Burdens in Tax Administration and Firms' Compliance Costs in Africa' (2018) ICTD Working Paper 78, 7.

[31] Adedeji Adeniran, Mma Amara Ekeruche and Chukwuka Onywkwena, 'The Role of Social Influence in Enforcing Tax Compliance: Experimental Evidence from Nigeria' (2021) ICTD Working Paper 122, 22 <https://www.ictd.ac/publication/social-influence-enforcing-tax-compliance-evidence-nigeria/> accessed 7 November 2021.

[32] AM Sani, 'An Appraisal of the Legal Framework for Taxation in Nigeria' [2015] (34) *Journal of Law, Policy and Globalization* 85.

[33] In *SNEPCO and 3 ors v Federal Inland Revenue Service and anor*, CA/A/208/2012, the court upheld the decision of the Federal High Court that taxation disputes cannot be resolved by arbitration or other alternative dispute settlement processes.

[34] An administrative tax dispute resolution process involves a formal challenge of and objection to tax assessment directed at the Board or any dispute review panel established under any legislation. Where the objection is rejected, a notice of refusal to amend (NORA) is issued. An aggrieved party can, within 30 days of the notice appeal to the Tax Appeal Tribunal or other court of competent jurisdiction.

the absence of specialized courts that ensure that taxpayers are brought to book timeously compounds the problem of tax administration and enforcement in the country.

3.12 *Poor Penal System*

One of the ways of promoting tax compliance is through the imposition of punishment on defaulters, as the perception of the threat of punishment would encourage compliance.[35] The power of that perception is dependent on the extent to which taxpayers believe tax authorities have capacity to carry out comprehensive tax audits and detect and punish offenders. Instructively, instructively, a higher perception of punishment leads to enforced compliance as opposed to voluntary compliance resulting from trust in tax authorities. In practical situations, effective tax administration requires a complement of trust in tax authorities and their power, such power being either legitimate or coercive.[36]

4 The Role of Technology in Tax Administration in Nigeria

An ideal tax administration seeks to collect adequate revenue, keeping cost of tax compliance and administration low and treating taxpayers equitably. Tax cost-effectiveness is increased when majority of taxpayers pay appropriate taxes voluntarily, minimizing the level of tax audit and allow tax officials to focus on a small group of tax delinquents.

Effective and efficient tax revenue mobilization and administration require state capacity. Regrettably, lack of adequate capacity has been identified as a factor limiting the fiscal capacity of tax systems in developing countries like Nigeria. Weak capacity undermines state ability to monitor economic activities, aggregate and analyse reliable tax records in order to impose tax on them. The lack of reliable records impairs the ability to enforce tax compliance. As Pomeranz observed, "the challenge of enforcing taxation is particularly severe in developing countries, where many transactions in the economy are not readily observable by the government".[37] Whereas the realization of the innate weakness has necessitated tax reforms, such capacity gap cannot be breached overnight and accounts for the vast differences in GDP-to-tax ratios between low-income, developing countries and high-income developed countries. As such, building and strengthening tax administration capacities is receiving increased attention and interest in many sub-Sharan African countries including Nigeria. Part of this capacity building programme is the deployment of appropriate technological programmes and processes in the form of electronic tax filing systems.[38] Its attractiveness for many developing countries lies in it being a relatively cheap alternative for monitoring earnings information and improving fiscal capacity.[39] It also has reduces transaction time and increases transparency.

Broadly speaking, electronic government (e-government) refers to the utilization of Information Technology (IT), Information and Communication Technologies (ICT s), and other web-based telecommunication technologies to improve and/or enhance on the efficiency and effectiveness of service delivery in the public sector. It is the adaption and use of technological communication devices, in the provision of public services to citizens and residents of a country or state. Its utilization affords governments new opportunities and avenues to directly and conveniently interface with citizens. E-government can take the form of digital interactions between citizen and their government (C2G), between governments and other government agencies (G2G), between government and citizens (G2C), between government and employees (G2E), and between government and businesses/commerce (G2B). One aspect of government where the deployment of appropriate technology can yield significant benefit is in the field of tax administration. Digital technologies have the potential to reduce the cost of tax administration for the state and tax payers, while improving the ability to audit and collect appropriate

[35] T Tyler, 'Psychological Perspectives on Legitimacy and Legitimation' [2006] 57 *Annual Review of Psychology 375–400*.

[36] Kirchler, Hoelzl and Wahl (n 28) 210-255.

[37] Dina Pomeranz, 'No Taxation without Information: Deterrence and Self-Enforcement in the Value Added Tax', *American Economic Review* 2015, 105(8): 2539–2569, p. 2539

[38] M Ali., A. B. Shifa, A Shimeles, F. Woldeyes, 'Building Fiscal Capacity: The Role of ICT', *Working Paper Series No. 290, African Development Bank*, 2017.

[39] *ibid*

taxes. It will also minimize physical interaction between tax officers and the likelihood for abuse of office by tax officials. Digital technology will increase the amount data available to tax administrators as well as their capacity to analyse it.

Over the centuries, tax administrations have adopted latest technological advances to enhance the state's capacity to effectively collect tax revenue. Tax administration played a significant role in the development of writing, as it was essential to develop a system of tracking information on land ownership and agricultural produce, on which tax were imposed. The Rosetta Stone, a renowned Egyptian architectural artefact which helped unlock written language of ancient Egypt, is a tax decree. Growth in empires and kingdoms necessitated the evolution of better means of recording and transmitting tax data. The emergence of paper and print technology saw the recording of taxes on stamps and paper forms, which could be prepaid and collected. The scale and complexity of today's economy poses a challenge for the use of paper technology, on which current tax systems were built on. Transmission of data has increasingly shifted from paper form to digital forms, transferred through digital gadgets such as laptops, phones, computers etc. In the current environment, continued dependence on paper technology for centrally capturing, analysing and processing of tax will prove unwieldy and costly. Digitalization offers tax administrators an opportunity to store tax records in electronic forms. Administratively, a shift to digital forms will enhance tax administration since tax data can be easily stored in a manner than that is easily reproducible and can be analysed several tax officers. Technology makes dissemination of tax information easier. Technological software also electronically analyses data at a fraction of the time it will tax officers to do the same. With respect to administration of direct taxes of profits, automation enables taxpayers to collate, analyse and transmit tax entries to tax authorities, who in term can process bulk tax data efficiently and cost-effectively. For transaction-based taxes,

s. 25(4) FIRSEA (amended 51 Finance Act 2019) The Finance Act 2020 also strengthens the power of the FIRS to "deploy proprietary or third-party Payment Processing Companies (PPC) or digital platforms as agents to collect taxes due on international transactions in the supply of digital services.[40] It also has power deploy technology to automate the tax administration process including assessment, collection and information gathering, provided that it gives the taxpayer a notice of 30 day; and to receive assistance in the collection of revenue claims or other tax matters relating to agreements between Nigeria and other countries or bodies.[41]

The Federal Inland Revenue Service (FIRS) plans to achieve a hundred per cent automation of all its tax administration processes.[42] The aim of the automation programme is to revolutionize revenue generation in Nigeria and block revenue leakages. Pursuant to this, the Service has embarked on a major infrastructural overhaul, to facilitate the deployment of process and procedure automation technology.

The effort is also part of government's effort to tax the digital economy. Regarding the digital economy, the Service has deployed a digital service interface, the Digital Economic Compliance (DEC) Tool, which assesses entities that fall within the Significant Economic Presence (SEP)[43] threshold and relevant turnover generated from Nigeria.

---

[40] s. 25 Finance Act 2020

[41] s. 26, Finance Act 2020

[42] Don Silas, FIRS to Achieve Hundred Percent Automation of Tax Administration Processes

[43] The 2021 Act also amends the provisions of section 30 by inserting a new section 30 (1)(b)(ii) which provides that ''if the company transmits, emits, or receives signals, sounds, messages, images, or data of any kind by cable, radio, electromagnetic systems, or any other electronic or wireless apparatus to Nigeria in respect of any commerce, trade, or activity, including electronic commerce, application store, high-frequency trading, electronic data storage, online adverts, participative network platform or online payments, to the extent that the company has a significant economic presence in Nigeria, it shall assess and charge that company for that year of assessment on such fair and reasonable percentage of that part of the turnover attributable to that presence." Finance Act 2021, <https://www.firs.gov.ng/wp-content/uploads/2021/02/finance-act-2019-official-gazette-1.pdf> accessed 4 May 2021. See O Ola-Ojo O and O Soilenu, 'Significant Economic Presence and Taxation of Non-Resident Companies in Nigeria' (February 2021) <https://www.mondaq.com/nigeria/income-tax/1028832/significant-economic-presence-and-taxation-of-non-resident-companies-in-nigeria> accessed 16 March 2021. W Obayomi and V Adegite, 'INSIGHT: Taxation of Digital Economy in Nigeria- Significant Economic Presence' (August 2020)

The various technology-driven tax administration and enforcement mechanisms that have been introduced in Nigeria include:

4.1 Unique Tax Identification Number (U-TIN) project:

Tax is payable for economic activities in a jurisdiction. Such as, it is essential that the state has reliable, comprehensible and inter-related data of the taxable persons, whose economic activities are subject to tax. Hence, it is vital to have a means, both of identifying these persons, as well as tracking and increasing the number of those that are dragged into the tax net. A common attribute of countries that have robust tax systems is the existence of robust database management system, which has the details of all natural and artificial persons that are subject to tax. Such a system is also interconnected with the other databases of the various agencies of the state, that oversee immigration, security, finance, customs, health etc.[44]

Funded by the federal and state governments but overseen by the Joint Tax Board (JTB), U-TIN is an electronic system which is meant to leverage on biometric data to generate unique tax identification and store the information of tax payers. It was developed to consolidate a national unified taxpayers' database that can be accessed by various agencies of government. As such, it facilitates real information sharing and data exchange among tax authorities and stakeholders such as the Central Bank of Nigeria, Nigeria Customs Service, Corporate Affairs Commission, Nigeria Bureau of Statistics amongst others.

Every taxpayer has an obligation to register and obtain a Tax Identification Number (TIN) at designated tax offices.[45] The system relies on voluntary compliance, whereby individuals and companies keep proper record and books of account required for proper tax compliance. Taxpayers are also required to make full and voluntary disclosure of all financial transactions (income and expenditure) they have made within an accounting year, using duly completed and signed Tax Return Forms. Tax forms filed by an individual must be signed by the taxpayer in person while tax returns filed by a Company must be signed by the chairman or managing director of the Company and Company Secretary. Other supporting documents filed with Tax Return Forms include audited accounts, tax computation, capital allowances computation, schedule of fixed assets, evidence of the whole or part payment of tax, any other document as may be specified or required by the tax authorities. The TIN assists tax administrators in tracking and optimizing tax returns, as each taxpayer uses the TIN in filing Tax Return Forms. TIN is also required for operating corporate bank accounts. Given low compliance lever and the inability of many businesses to keep comprehensive accounts of sales and costs, Nigeria operates a presumptive tax system, where tax liability is calculated from estimated turnover, the use of TIN gives tax agencies access to account receivables of business, assisting them in assessment of presumptive tax liability.

While the issuance of tax identification is an essential part of incorporating taxpayers into the tax net, it does not necessarily guarantee and translate into higher tax compliance. Across various studies and contexts, research has shown that about 20 – 50 percent of registered taxpayers either do not file taxes or file zero taxes with new entrants having higher compliance costs on average.[46]

4.2 Integrated Tax Administration System

The Integrated Tax Administration System was introduced in 2013 by the Federal Inland Revenue Service (FIRS) as part of efforts to introduce global best practices in the Nigerian tax system. ITAS is an online platform that enable users to access a range of tax related processes including online tax return submission, tax payment, processing of tax clearance certificate, automatic ascertainment and imposition of penalties for late filing submission as well as a means of corresponding with tax officials. It seeks to simplify tax administration by introducing electronic filing and payment of federal taxes as well as

---

<https://news.bloombergtax.com/daily-tax-report-international/insight-taxation-of-digital-economy-in-nigeria-significant-economic-presence> accessed 14 March 2021.

[44] Besley, Timothy and Torsten Persson, "State Capacity, Conflict, and Development," *Econometrica*, 2010, 78 (1), 1–34.

[45] Generation of TIN – Law/procedure

[46] Oyebola Okunogbe, The Promise and Limitations of Technology for Tax Mobilization, World Bank Development Economics Research Group Policy Research Talk November 16, 2021, available at https://thedocs.worldbank.org/en/doc/a5b77ab0e0490f3e59c0bd9d56534755-0050022021/original/Technology-and-Tax-PRT-Slides.pdf accessed December 2, 2021

reducing physical interaction between taxpayers and the Service. ITAS offers a comprehensive tax administration system designed to streamline and automate tax management process in the country. Conceptually, ITAS has the capacity to transform the nation's tax practice by offering taxpayers convenient means of filing tax returns.[47] It provides for electronic filing of all monthly and annual tax returns, along with support documentation as well as making payments and obtaining receipts online. Each submitted document or return is given an electronically generated number. The electronic filing and archiving of tax returns and supporting documents makes for easy retrieval during tax review, audit and investigation exercises. It also allows for better engagement by taxing paying public with the Service, through the online enquiry and feedback platforms.

4.3 <u>Automated payment systems</u>

The objective of this system was to simplify the tax payment process, track payments made by tax payers, issue electronic receipts and withholding tax credit notes where applicable. Pursuant to this, the Service issued a Public Notice of its intention to connect its Automated Tax Administration System (ATAS) to access relevant records, data or information stored in computers or other electronic devices operated, owned or controlled by the taxpayers or their agents. The connection shall include relevant point of sales or invoicing platforms of all taxable persons (individuals, enterprises, companies and entities). Relevant persons are required to grant FIRS access to all computers, electronic devices or cloud computing facilities wherein records, data or information are stored or otherwise residing (Section 26, FIRS Act).[48] This fits into the plan of the agency to achieve 100 percent automation of all its tax administration processes by 2022.[49]

By providing that any person who fails to grant it access to its information processing systems to deploy its automated tax administration technology after a 30 days' notice, or such extension granted by the service, is liable to a penalty of N25, 000 for each day it continues to fail to grant the access. Any bank that fails to prepare and submit quarterly returns of new accounts or any information requested by the relevant tax authority, or submit incorrect returns or information, under section 28 of FIRSEA or sections 47 and 49 of PITA, is liable to a penalty of N1 million for each quarterly return or information not provided or incorrect returns or information provided. s. 26(3) provides penalty for failure to grant necessary access.

5. CHALLENGES IN THE USE OF TECHNOLOGY IN TAX ADMINISTRATION IN NIGERIA

Despite the deployment of various technological initiatives, tax administration in Nigeria is still inefficient. This buttresses the fact that technology is not a silver bullet that solves all tax administration issues in a country. The deployment of technological innovation in the nation's tax administration is bedevilled by a number of factors including

4.1 *<u>Low Utilization of Computerised Accounting Systems by Business Owners</u>*.

Nigerians have gotten used to the informality of tax payment process that involves in-person interaction with tax authorities. This in-person, manual process creates an opportunity for obtaining information, seeking clarification, obtaining assistance and unfortunately, creating an avenue for graft. Since the documents were filling and filed manually, the shift to the use of technology requires a new mindset. As is the case in many African nations, Nigeria still lags in terms of low level of use of electronic financial technologies. Furthermore, while the technological initiatives follow the global trend of self-assessment system, the complexity of SA systems deployed in Africa has been identified as an impediment to its broader adoption - taxpayers spend extra one day beyond global average hours on tax compliance under

[47] Chinedu Ezomike, The Case of an Integrated Tax Administration System, https://www.thisdaylive.com/index.php/2016/04/27/the-case-of-an-integrated-tax-administration-system/ accessed August 12, 2021

[48] See FIRS, 'Public Notice - Deployment Of Automated Tax Administration Solution', <https://www.firs.gov.ng/public-notice-deployment-of-automated-tax-administration-solution/> accessed 29 July 2021

[49] Busola Aro, FIRS: We'll ensure 100% automation of tax administration processes in 2022, https://www.thecable.ng/firs-well-ensure-100-automation-of-tax-administration-processes-in-2022 accessed 29 July 2021

Self-Assessment Environment. Such complexity in states with relatively low computer adoption like Nigeria, means that the adoption and compliance level with electronic tax will remain low

4.2 Enforcement

The deployment of technology does not remove the need for credible enforcement system. While technology helps in information gathering and verification, the information still needs to be acted upon. Technology may draw in many small and medium scale enterprises. With that, there will be increased cost and difficulty in enforcing and recovering the relatively small sums of tax owed the state.

4.3 *Lack of Basic Infrastructure and Connectivity*

The efficiency of electronic tax system depends on the availability of reliable basic infrastructure, especially stable electricity service and universal internet connection. This is vital, especially, for achieving the aim of expanding the tax base to bring in many in the informal sector. A large chunk of those in that sector belong to the rural, uneducated and poor, who may not have internet access. Without universal internet access in the country, it means that large sections of the Nigerian business community will not be able to utilize internet-based e-tax system. Some jurisdictions have tried to address the challenge of internet access by providing offline and less-sophisticated systems to complement the IT-heavy systems.

4.4 *Institutional Strategy and Change Management*

The shift to e-tax system constitutes a seismic shift for most tax administrations. As such, the execution process has to be managed carefully at an institutional level, in such a manner that there is a strategic and sequenced manner to the deployment. This will ensure that the transformation is not chaotic and unnerving for the system operators. Successful integration and harmonization of internal functions is essential before providing e-tax services to the public. That process will first provide a means of digitizing and uploading the existing tax data. Also, since the use tax technology applications is radically different, it will affect the work culture of tax authorities. As such, tax administrators must also pay attention to the institutional culture change aspects of the process. In addition, proper communication, synchronizing and integrating the different facets of activities that make up the tax process is critical, so that the work of each unit aligns well with others, to avoid duplication and silo efforts. Furthermore, the provision of access to the public should also be staggered, starting with pilot projects that enable tax authorities to monitor the process, obtain valuable feedback and make course correction, where necessary. Another critical element of institutional strategy and change management is mustering the political will to see through the required change process. Such strong political support will help tax administrators navigate the various interest groups and external stakeholders that will be adversely affected by the change and most likely to seek to frustrate it.

4.5 *Legal Framework*

Tax system is statute based. As such, there must be a legal foundation for tax initiatives. Tax authorities must empower tax authorities to adopt and deploy relevant technology in tax administration. The law must define expectations, impose sanctions as well as prosecutorial and enforcement mechanism enforcement mechanism. Also, the law will need to define whether the switch to e-tax services is mandatory or voluntary. The law should also address issues of liability, data privacy and confidentiality across the various agencies that have access to taxpayers' information. To this end, it is essential that the law keeps in sync with the pace of technological innovations.

4.6 *Regulatory Framework*:

ITAS works well when it is properly integrated with other aspects of government, who are part of the state revenue generation architecture or who information input sources. In this regard, the technological platforms used by these stakeholder ministries, institutions and agencies must be complementary. This could be in the form of a central automated platform that is accessible to all the stakeholder institutions for identification of taxpayers and cross-checking of information.

4.7 *Taxpayers' Low knowledge of Tax Rules and Compliance Process*:

Nigerian tax system has been opaque. As such, the general populace has limited knowledge about the tax rate, basis of liability and the tax process. Studies have shown that the possession of basic tax training significantly increases taxpayer knowledge and compliance behaviour. So, while technology makes it possible to directly file returns, the issue of knowledge gap remains and continues to militate against the success of the technological deployments of the state. In this regard, it is important that tax authorities in the country invest resources into enhancing tax knowledge, starting from the point of registration for TIN. The long-term benefit of such tax education is the formation of proper tax habits among the citizens. It will also help strengthen the confidence of taxpayers in their engagement with tax officials, thereby reducing the activities of corrupt tax officials.

4.8 *Low IT Skill Level:*

Technology cannot address the challenge of poor accounting skills that results in inability of businesses to keep proper financial statements as well as outright dishonest reporting of the financial state of their businesses by making and filing misleading and inaccurate returns about their business activities, with a view to evading tax liability. This tendency to manipulate data can be minimized by ensuring that every aspect of the tax system is integrated and automated in such a manner that minimizes the risk of manipulation and tax evasion.

4.9 *Fraudulent Tax Officials:*

Tax technology cannot completely dispense with the involvement of tax officers. Tax officials, many of whom have profited from the current dysfunctional system, have no real incentive to facilitate the use of technology in tax systems, since those systems have the potential to plug the loopholes that they have been exploiting. It can be reasonably expected that some of them will resist and seek to compromise the use of technology. Thus, it is important to find a means of incentivizing them as well as monitoring and sanctioning errant staff. In addition to disincentivized staff, there is also the need to provide proper training for tax officials, in order to build the right human capacity needed to support electronic tax systems. The typical approach is to send officials for trainings. However, it is not clear whether these trainings have been effective, given the poor competence level of public servant, despite considerable investment in trainings. It is therefore imperative that different, more nuance training approaches should be adopted to ensure efficiency.

CONCLUSION

Coinciding with globalization and the interconnected systems powered by the internet, digital allows businesses to scale rapidly and overcome territorial boundaries. The growth of digital technology and the resultant digital economy poses a significant challenge to existing tax laws and administration that were designed for the traditional economy, which was dominated by the sale of physical goods. It calls for changes in the institutional/administrative frameworks for taxing economic activities.

Nigeria's tax administrative setup is made up of the Federal Inland Revenue Service (FIRS), collecting taxes accruing to the Federal Government, the Joint Tax Board (JTB) established to promote the development of the tax administration in Nigeria with its main area of focus being the harmonization of Personal Income Tax administration in the country while each State has its tax authority responsible for the administration of state tax laws and some federal tax laws. These various tax administrative units are beleaguered by challenges including widespread tax evasion, low level of tax awareness and knowledge of tax processes, activities of dishonest tax officials, etc.

Digitalization will further complicate the problems faced by Nigeria's tax system although tax administrations in Nigeria have adopted the latest technological advances to enhance their capacity for effective tax revenue collection. At the same time, technology offers the best hope of improving the country's tax administration and enforcement. Automation will entrench, improve and modernize effective human resource management practices in the tax authorities. Hence, whereas technological innovation poses a challenge to the nation's tax system, it is also the best means of improving the system.