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TAX EXEMPTION: A COMPARATIVE TREATMENT BETWEEN NIGERIA AND THE UNITED KINGDOM (U.K)

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ABSTRACT

This paper examines the tax exemption laws in Nigeria and the U.K with a view to making a comparative treatment of them. In achieving this aim, the paper looks into the definition, jurisprudence and nature of tax exemption in both jurisdictions. The Paper then goes on to draw out some of the Similarities and Differences which include issues on Local Content tax exemption, Charitable tax exemption as well as differences in provisions on issues like Exemption tax for the elderly. The paper then recommends amendments of tax laws to include detailed provisions in the U.K pertaining to community developments tax exemptions and inclusion of Elderly tax exemptions in Nigeria

INTRODUCTION

A tax is a compulsory levy by government through its agencies on the income, consumption and capital of its subjects. These levies are made on personal income such as salaries, business profit, interest, dividend, discount or royalties to obtain revenue. It is levied against company profit, petroleum profit, capital gains and capital transfer¹. Therefore, taxation is a compulsory payment or transfer of resources from private to public sector levied on the basis of the determined criterion and without reference to specific benefits received in order to accomplish some of the nation's economic and social objectives. Taxation is primarily aimed at generating revenue for government in order to cater for its expenditure.²

The main tax laws in Nigeria today are Companies Tax, Personal Tax, Capital Gains Tax, Petroleum Profit Tax, Capital Transfer Tax and, lately, Value Added Tax. Other sources of tax law includes, the Constitution, court judgment, circular of revenue officials, and opinion of income tax experts, budget and pronouncement of relevant ministries etc.³

In the United Kingdom taxation involves payment to a minimum of two different levels of government which are Her majesty's Revenue and Customs also referred to as the Central Government as well as the Local Government. The Tax sources are divided as the Central Government has its taxable jurisdiction from income tax, National Insurance

¹ Bello, T. 'The role of taxation in Nigerian Economy (a case of Kano State Board of Internal Revenue)' MBA unpublished project, Department of Accounting BUK Kano, Nigeria. 2001

² Al Zakari, I. A. 'Corporate Tax Compliance: A Case Study of Saudi Arabia, University of New Mexico' 1995

³ Olokooba S.M, Olatoke J.O, Abdulrazak F.F, Olatinwo K.Y. 'Advocating For Progressive Tax System as a Panacea to Economically-Induced Conflicts in Nigeria' International Journal of Humanities and Social Science Vol. 3 No. 5: March 2013

contributions, Value added tax, Corporation tax and fuel duty. Like in the Nigerian system, Local Government revenues come from grants from the Central Government. Also like the Nigerian Government, the UK Local Government receives additional tax from business rates in U.K particularly England and Wales, the Council Tax, Street Parking etc.

These taxes are not without exceptions as several jurisdiction including Nigeria and the United Kingdom recognise Tax Exemptions.

Tax exemption is in both U.K and Nigeria can be defined as a Statutory exemption to tax. It must be noted that an exemption in this case is not a mere absence of taxation on an income or corporation rather it is a form of exception to a statutorily defined tax. It could be in form of removal of a certain item from a tax group like Churches and non profiting organisation from the list of bodies eligible to pay tax or it could be inform reliefs such as reduction of tax payable upon the performance of a certain condition precedent.

Some jurisdictions allow for a specific monetary reduction of the tax base, which may be referred to as an exemption. For example, the U.S. Federal and many state tax systems allow a deduction of a specified dollar amount for each of several categories of "personal exemptions." Similar amounts may be called "personal allowances." Some systems may provide thresholds at which such exemptions or allowances are phased out or removed.⁴ Tax exempt status may provide a potential taxpayer complete relief from tax, tax at a reduced rate, or tax on only a portion of the items subject to tax. Examples include exemption of charitable organisations from property taxes and income taxes, exemptions provided to veterans, and exemptions under multi-jurisdictional principles.

There are several different approaches used in granting exemption to organizations. Different approaches may be used within a jurisdiction or especially within sub-jurisdictions.

Some jurisdictions grant an overall exemption from taxation to organizations meeting certain definitions. The United Kingdom, for example, provides an exemption from rates (property taxes), and income taxes for entities governed by the Charities Law. This overall exemption may be somewhat limited by limited scope for taxation by the jurisdiction. Some jurisdictions may levy only a single type of tax exemption from only a particular tax. Some jurisdictions provide for exemption only from certain taxes. The United States exempts certain organizations from Federal income taxes,^[3] but not from various excise or most employment taxes⁵

JURISPRUDENCE OF TAX EXEMPTION IN THE CONTEMPORATY SOCIETY

The primary intent of tax is the fulfilment of a Social Contract theory to enforce the protection of our public rights including right to preservation and public security. This is the limit of relationship with man and his Government made even clearer by the apparent preservation of Man's right to life, liberty and to own property as entrenched in primary laws in virtually all States in the World. To this end, it is easy to understand tax exemption in its raw form not as some benefit derived from the Government but a right withheld by our contract with the State to give only what is due of us in relation to our public right.

John Locke believed that Man did not surrender all their rights to one single individual, but they surrendered only the right to preserve/maintain order and enforce the law of nature. Retaining right to life, liberty and estate because these rights were considered natural and inalienable rights of men. Tax exemptions such as Charitable and religious

⁴ Legal Information Institute 'Allowance of deductions for personal exemptions' <http://www.law.cornell.edu/uscode/text/26/151> last accessed 11th June 2014

⁵ Belknap, Chauncey, "The Federal Income Tax Exemption of Charitable Organizations: Its History and Underlying Policy," 1954, reprinted as pages 2025-2043 of the *Research Papers of the Commission on Private Philanthropy and Public Needs, Volume IV*, 1977.

organisations, pension Scheme, Education and basic amenities are rights of the tax payers which have not been surrendered to the State. This perception of tax exemption makes it evident that the exemptions are rights and not privilege hence the necessity for their inclusion in the Tax laws.

NATURE OF EXEMPTION

Exempted Organisations

Tax exemption may be granted to some categories organisations by their Government. The exclusions may be restricted to entities having various characteristics like foreign investments being exempt to pay tax for the first year in some States. Other organisations that may be exempt from paying tax are Government agencies. Government agencies are usually exempted from paying tax to itself or other tiers of Government. in the case of multi-tier jurisdictions, this exemption generally extends to lower tier units and across units. For example, state and local governments are not subject to Federal, state, or local income taxes in the U.S, U.K and Nigeria.

Charitable and Religious Organisations

Many tax systems provide complete exemption from tax for recognized charitable organizations. Such organizations may include religious organizations (temples, mosques, churches, etc.), fraternal organizations (including social clubs), public charities (e.g., organizations serving homeless persons), or any of a broad variety of organizations considered to serve public purposes.

The U.K and Nigerian Governments exempts from Federal and many state income taxes the income of organizations that have qualified for such exemption. The UK generally exempts public charities from business rates, corporation tax as well as income tax. This is the same practice in Nigeria.

Recently however, Delegates to the Nigerian National Conference, 2014 overwhelmingly voted that religious bodies in the country should pay tax to the government. Showing a shift in ideology as to charitable organisations. If the recommendation is passed into law by the National Assembly, it means that churches and mosques in the country will begin to pay tax to the coffers of the government.⁶

Pension Schemes

Another area in which tax exemption may occur are of entities organised to conduct retirement investment and pension activities for employees of one or more employers or for the benefit of employees. Some systems also provide tax exemption for personal pension schemes

Exempt Individuals

Certain classes of persons may be granted a full or partial tax exemption within a system. Common exemptions are for war Veterans, Imams and Pastors or taxpayers with children where a certain amount deduction is granted for dependency. The dependent can be a natural child, step-child, step-sibling, half-sibling, adopted child, eligible foster child, or grandchild, and is usually under age 19, a full-time student under age 24, or have special needs).^[18] The exemption granted may depend on multiple criteria, including criteria otherwise unrelated to the particular tax. For example, a property tax exemption may be

⁶ Olusola Fabiyi & Friday Olokor 'Confab wants churches, mosques to pay tax' Punch Newspaper May 28, 2014 <http://www.punchng.com/news/confab-wants-churches-mosques-to-pay-tax-2/> last accessed 9th June, 2014

provided to certain classes of veterans earning less than a particular income level.^[19] Definitions of exempt individuals tend to be complex.

Exempted Income

Most income tax systems exclude certain classes of income from the taxable income base of tax payers. Such exclusions may be referred to as exclusions or exemptions or even reliefs. Among the more commonly excluded items are:

- Income earned outside the taxing jurisdiction. Such exclusions may be limited in amount.
- Interest income earned from subsidiary jurisdictions.
- Income consisting of compensation for loss.
- The value of property inherited or acquired by gift.

Some tax systems specifically exclude from taxable income, some items that the a State may be trying to encourage such as Foreign Investment. Such exclusions or exemptions can be quite specific or very general.

Among the types of income that may be included are classes of income earned in specific areas, such as special economic zones, enterprise zones, etc. These exemptions may be limited to specific industries such as Agricultural Companies in Nigeria.

EXEMPTIONS OF CORPORATE INCOME TAX IN NIGERIA AND THE U.K

CORPORATE INCOME TAX IN THE U.K

Relief for trade losses against total profits

A company carrying on a trade in the United Kingdom and makes a loss in the trade may make a claim for relief for the loss under the CTA. If the company makes a claim, the relief is given by deducting the loss from the company's total profits of the accounting period.

The company may not make a claim if, in the loss-making period, the company carries on the trade wholly outside the United Kingdom.⁷

Relief for qualifying charitable donations

Qualifying charitable donations made by a company are allowed as deductions from the company's total profits in calculating the corporation tax chargeable for an accounting period. They are deducted from the company's total profits for the period after any other relief from corporation tax other than group relief. The amount of the deduction is limited to the amount that reduces the company's taxable total profits for the period. Except as otherwise provided, a deduction is allowed only in respect of qualifying charitable donations made by the company in the accounting period concerned.⁸

Community Investment Tax Relief

Community investment tax relief (CITR), is entitlement to tax reductions in respect of amounts invested by companies in community development finance institutions.⁹

A company which makes an investment in a body is eligible for CITR in respect of the investment if at the time the investment is made the body is accredited as a community development finance institution the investment is a qualifying investment¹⁰. If the investor makes a claim for a relevant accounting period, the investor is entitled to a reduction in the

⁷ Section 37 Corporation Income Tax Act (c.4)

⁸ Section 189 Corporation Income Tax Act (c.4)

⁹ Section 218 Corporation Income Tax Act (c.4)

¹⁰ Section 219 Corporation Income Tax Act (c.4)

amount of its liability for corporation tax for that period. The amount of that reduction for the relevant accounting period is 5% of the invested amount in respect of the investment for the period¹¹

Condition as to trading and miscellaneous incoming resources

The charitable company's "trading incoming resources" for the accounting period are the incoming resources which are required to be taken into account in calculating the profits of, or losses made in, the period for any non exempt trade carried on by the company and the incoming resources which are receipts arising from such a trade. The charitable company's "miscellaneous incoming resources" for the accounting period are the incoming resources which are required to be taken into account in calculating non-exempt miscellaneous income or non-exempt miscellaneous losses for the period. Non-exempt miscellaneous income means income or gains chargeable to corporation tax under the Corporation Tax Act.

The requisite limit is 25% of the charitable company's total incoming resources for the accounting period, but must not be less than £5,000 or more than £50,000.¹²

Exemption for profits from fund-raising events

(1) The profits of a trade carried on by a charitable company are not taken into account in calculating total profits so far as they arise from an event that is VAT-exempt in relation to the company, and are applied to charitable purposes or transferred to a charity.

The profits of a trade carried on by a body to which subsection applies are not taken into account in calculating total profits so far as they arise from an event that is VAT-exempt in relation to the body are applied to charitable purposes or transferred to a charity.¹³

Exemption for profits from lotteries

The profits accruing to a charitable company from a lottery are not taken into account in calculating total profits if conditions A and B of the Corporation Tax Act are met. Condition A is that—

(a) the lottery is an exempt lottery within the meaning of the Gambling Act 2005 by virtue of Part 1 or 4 of Schedule 11 to that Act, (b) the lottery is promoted in accordance with a lottery operating licence within the meaning of Part 5 of the Gambling Act 2005, or (c) the lottery is promoted and conducted in accordance with Article 133 or 135 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)). Condition B is that the profits are applied to the purposes of the charitable company only.¹⁴

Exemption for property income

Property Income tax exemption arises in respect of rents or other receipts from an estate, interest or right in or over land, and the estate, interest or right is vested in any person for charitable purposes.¹⁵

Exemption for public revenue dividends

Public revenue dividends on securities which are in the name of trustees are not taken into account in calculating total profits so far as the dividends are applicable and applied only for the repair of a cathedral, college, church or chapel, or a building used only for the purposes of divine worship.

¹¹ Section 220 Corporation Income Tax Act (c.4)

¹² Section 482 Corporation Income Tax Act (c.4)

¹³ Section 483 Corporation Income Tax Act (c.4)

¹⁴ Section 484 Corporation Income Tax Act (c.4)

¹⁵ Section 485 Corporation Income Tax Act (c.4)

Public revenue dividends means income from securities which is payable out of the public revenue of the United Kingdom or Northern Ireland, or income from securities issued by or on behalf of a Government or a public or local authority in a country outside the United Kingdom.¹⁶

CORPORATE INCOME TAX IN NIGERIA

Companies Tax Nigeria

Charge of tax on interest relation to foreign and agricultural loans, and contain reliefs.

Any foreign loan of an amount (or of an aggregate amount) which is not less than N150,000 is granted by a foreign company to any person carrying on any trade, business, profession or vocation in Nigeria for the purposes of that trade, business, profession or vocation, then any interest derived by the foreign company from that loan (being an interest which is derived or deemed to be derived from Nigeria) shall, if the loan is not repayable by the borrower until after the expiration of a period of not less than ten years, commencing from the date on which the loan is granted, be exempt from tax. And also, if the loan is not repayable by the borrower until after the expiration of a period of less than ten years but not less than five years, commencing from the date on which the loan is granted, be chargeable to tax for each relevant year of assessment at half the rate of tax¹⁷

Profits Exempted.

Exempted from income Taxes are;

- The profits of any company being a statutory or registered friendly society, in so far as such profits are not derived from a trade or business carried on by such society;
- The profits of any company being a co-operative society registered under any enactment or law relating to co-operative societies, not being profits from any trade or business carried on by that company other than co-operative activities solely carried out with its members or from any share or other interest possessed by that company in a trade or business in Nigeria carried on by some other persons or authority;
- The profits of any company engaged in ecclesiastical, charitable or education activities of a public character in so far such profits are not derived from a trade or business carried on by such company;
- The profits of any company formed for the purpose of promoting sporting activities where such profits are wholly expendable for such purpose, subject to such conditions at the Board may prescribe;
- The profits of any company being a trade union registered under the Trade Unions Act in so far as such profits are not derived from a trade or business carried on by such trade union;
- Dividend distributed by Unit Trust.
- The profits of any company being a body corporate established by or under any Local Government Law or Edict in force in any State in Nigeria;
- The profits of anybody corporate being a purchasing authority established by an enactment and empowered to acquire any commodity for export from Nigeria from the purchase and sale (whether for the purposes of export or otherwise) of that commodity;

¹⁶ Section 487 Corporation Income Tax Act (c.4)
¹⁷ Section 11 Companies Income Tax Act CAP. C21 L.F.N. 2004

- The profits of any company or any corporation established by the law of a State for the purpose of fostering the economic development of that State, not being profits derived from any trade or business carried on by that corporation or from any share or other interest possessed by that corporation in a trade or business in Nigeria carried on by some other person or authority;
- Any profits of a company other than a Nigerian company which, but for this paragraph, would be chargeable to tax by reason solely of their being brought into or received in Nigeria;
- Dividend, interest, rent, or royalty derived by a company from a country outside Nigeria and brought into Nigeria through Government approved channels. For the purpose of this subsection, "Government approved channels", means the Central Bank of Nigeria, any bank or other corporate body appointed by the Minister as authorized dealer under the Foreign Exchange (Monitoring and Miscellaneous) Act or any enactment replacing that Act;
- The interest on deposit accounts of a foreign non-resident company: provided that the deposits into the account are transfers wholly of foreign currencies to Nigeria on or after 1st January 1990 through Government approved channels;
- The interest on foreign currency domiciliary account in Nigeria accruing on or after 1st January 1990.
- Dividend received from small companies in the manufacturing sector in the first five years of their operation;
- Dividend received from investments in wholly export oriented businesses;
- The profits of any Nigerian company in respect of goods exported from Nigeria provided that the proceeds from such export are repatriated to Nigeria and are used exclusively for the purchase of raw materials, plant, equipment and spare parts;
- The profits of a company whose supplies are exclusively inputs to the manufacturing of products for export provided that the exporter shall give
- Certificate of purchase of the inputs of the exportable goods to the seller of the supplies power to exempt.¹⁸

Deductible Donations

The Companies Income Tax Act states that for the purpose of ascertaining the profits or loss of any company for any period from any source chargeable with tax under the Act, there shall be deducted the amount of any donation made for that period by that Company to the public funds, the statutory bodies and institutions the ecclesiastical, charitable, benevolent, educational and scientific institutions, established in Nigeria¹⁹

Deduction for Research and Development

For the purpose of ascertaining the profit or loss of any company for any period from any source chargeable with tax under this Act, there shall be deducted the amount of reserve made out of the profits of that period by that company for research and development.

The deduction to be allowed to any company for any year of assessment shall not exceed an amount which is equal to ten per cent (10%) of the total profits of that company for that year as ascertained before any deduction is made.

¹⁸ Section 23 Companies Income Tax Act CAP. C21 L.F.N. 2004

¹⁹ Section 25 Companies Income Tax Act CAP. C21 L.F.N. 2004

Companies and other organization engaged in research and development activities for commercialization shall be allowed 20% investment tax credit on their qualifying expenditure for that purpose.²⁰

Rural investment allowance

Where a company incurs capital expenditure on the provisions of facilities such as electricity, water, tarred road or telephone, for the purposes of a trade or business which is located at least 20 kilometres away from such facilities, provided by the Government there shall be allowed to such company an allowance (hereafter called rural investment allowance). At the appropriate per cent of the amount of the of such expenditure. The current rate of the rural investment allowance are as follows:

No facilities - 100%

No Electricity - 50%

No water - 30%

No tarred road - 15%

No Telephone - 5%²¹

Tourism by Hotels

25% of incomes in convertible currencies derived from tourists by a hotel shall be exempt from tax provided that such income is put in a reserved fund to be utilized within five years for the building expansion of new hotels, conference centres and new facilities for the purpose of tourism development.²²

Local Content exemption

A company which engages wholly in the fabrication of spare parts, tools and equipment for local consumption and export shall be allowed 25% investment tax credit on its qualifying capital expenditure. A company which purchases a locally manufactured plant, machinery or equipment for use in its business shall be allowed 15% investment tax credit on such fixed asset bought for use.

Relief from the tax

Every Nigerian company shall be entitled to relief from the tax shall be given at a rate equal to the full rate of tax upon the first N6,000 of the total profits of such a company: Provided that where the Board is of opinion that any remuneration charged in the accounts of a company in respect of any director's services to the company is excessive in relation to those services or the nature or extent of the trade or business carried on, it may direct that the whole or any part of that remuneration be treated as forming part of the total profits of the company for the purpose of determining the amount by which the profits to be relieved of tax shall be reduced²³

²⁰ Section 26 Companies Income Tax Act CAP. C21 L.F.N. 2004
²¹ Section 34 Companies Income Tax Act CAP. C21 L.F.N. 2004
²² Section 37 Companies Income Tax Act CAP. C21 L.F.N. 2004
²³ Section 42 Companies Income Tax Act CAP. C21 L.F.N. 2004

EXEMPTION OF PERSONAL INCOME TAX IN NIGERIA AND THE U.K

INCOME TAX EXEMPTION IN THE U.K DEDUCTIONS AND ALLOWANCES

Deductions 93 The Income Tax Act of the U.K makes the following exclusions permissible to tax payers.

(a) the amount of the tenths and first fruits, duties, and ecclesiastical persons. fees on presentations paid by any ecclesiastical person within the year preceding the year of assessment ;

(b) the amount paid for procurations and synodals by ecclesiastical persons on an average of seven years preceding the year of assessment

(c) the amount expended during the year preceding the year of assessment on repairs of any collegiate church or chapel, or any chancel of a church, or of any college or hall in any university of the United Kingdom, by any ecclesiastical or collegiate body, rector, vicar, or other person bound to repair the same.

(2) The allowances granted under this section may be granted to the body or person therein described in one sum, either by deduction from the assessment, if any, on such body or person, or by repayment²⁴

Exemptions on Land

The amount of any assessment on lands inclusive of the farmhouse and other buildings (if any) shall, for the purposes of collection, be reduced by a sum equal to one-eighth part thereof. Where the amount of the assessment is more than one-eighth below the rent, after deducting from such rent any outgoing which should by law be deducted in making the assessment.²⁵

The amount allowance of an assessment upon any house or building (except a farmhouse or building) shall, for the purposes of collection, be reduced on buildings where the owner is occupier or chargeable as landlord, or where a tenant is occupier and the landlord has undertaken to bear the cost of repairs, by a sum equal to the amount of the authorised reduction hereinafter mentioned and where a tenant is occupier and has undertaken to bear the cost of repairs, by such a sum, not exceeding the amount of the authorised reduction, as may be necessary to reduce the amount of the assessment to the amount of rent payable by him.²⁶

Income not exceeding 135 pounds

If the claimant proves that his total income does from, and not exceed one hundred and thirty-five pounds, he shall be, entitled to exemption from income tax.

If the claimant, not being exempt as aforesaid, proves that his total income is less than one hundred and sixty pounds, he shall be entitled to have the amount of income tax payable in respect of his total income, exceed a sum equal to three-tenths of the amount by which his total income exceeds one hundred and thirty-five pounds, reduced to that sum.²⁷

Maintenance of Spouse

The claimant shall be entitled if he proves that for the year of assessment he has his wife living with him or that his wife is wholly maintained by him during the year of assessment, and that he is not entitled in computing the amount of his income for that year

²⁴ Section 93 Income Tax Act 1952 c.3

²⁵ Section 99 Income Tax Act 1952 c.3

²⁶ Section 100 Income Tax Act 1952 c.3

²⁷ Section 209 Income Tax Act 1952 c.3

for income tax purposes to make any deduction in respect of the sums paid for the maintenance of his wife, to a deduction from the amount of income tax with which he is chargeable equal to tax at the standard rate on one hundred and ninety pounds²⁸

Exemptions for the Elderly

The claimant shall be entitled to a deduction from Earned income the amount of income tax with which he is chargeable equal to and old age tax at the standard rate on one-fifth of the amount of his earned reliefs. income, or on four hundred pounds, whichever is the less. The claimant, if he proves that at any time within the year of assessment either he or, in the case of a married man, his wife living with him was of the age of sixty-five years or upwards and that his total income for the year of assessment does not exceed five hundred pounds, shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to tax at the standard rate on one-fifth of the amount of that income.²⁹

If the claimant proves that he has living at any time within the year of assessment any child who is either under the age of sixteen years or who, if over the age of sixteen years at the commencement of that year, is receiving full-time instruction at any university, college, school or other educational establishment, he shall, subject to the provisions of this and the next following section, be entitled in respect of each such child to a deduction from the amount of income tax with which he is chargeable equal to tax at the standard rate on seventy pounds. In this provision, " child " includes a stepchild and an illegitimate child whose parents have married each other after his birth.³⁰

If the claimant proves that for the year of assessment he has the custody of and maintains at his own expense any child who is under the age of sixteen years at the commencement of that year, or who, if over the age of sixteen years at the commencement of that year, is receiving such full-time instruction as aforesaid, and that neither he nor any other individual is entitled to relief in respect of the same child or, if any other individual is entitled to such relief, that that other individual has relinquished his claim thereto, he shall be entitled in respect of the child to the same relief as if the child were a child of his.³¹

If the claimant proves that he is a widower and that for the year of assessment a person, being a female relative of his or of his deceased wife, is resident with him for the purpose of having the charge and care of any child of his or in the capacity of a housekeeper, or that he has no female relative of his own or of his deceased wife who is able and willing to take such charge or act in such capacity and that he has employed some other female person for the purpose, he shall, be entitled to a deduction from the amount of income tax with which he is chargeable equal to tax at the standard rate on fifty pounds in respect of that female relative or female person Provided that no relief shall be allowed under this section unless the claimant proves that no other individual is entitled to relief in respect of the female relative under the provisions of this Part of this Act or, if any other individual is so entitled, that the other individual has relinquished his claim thereto and no relief shall be allowed under this section where the female relative is a married woman living with her husband and not more than one deduction of tax shall be allowed under this section to any claimant for any year.³²

If the claimant proves that he maintains at his own Dependent expense any person, being a relative of his or of his wife who relatives. is incapacitated by old age or infirmity from maintaining himself, or his or his wife's widowed mother, whether incapacitated or

²⁸ Section 210 Income Tax Act 1952 c.3

²⁹ Section 211 Income Tax Act 1952 c.3

³⁰ Section 212 Income Tax Act 1952 c.3

³¹ *ibid*

³² Section 214 Income Tax Act 1952 c.3

not, and being a person whose total income does not exceed one hundred and thirty pounds a year, he shall be entitled, in respect of each person whom he so maintains, to a deduction from the amount of income tax with which he is chargeable -cont. - equal to tax at the standard rate on fifty pounds : Provided that in the case of any person so maintained whose total income exceeds eighty pounds a year, this subsection shall have effect with the substitution for the reference to fifty pounds of a reference to fifty pounds diminished by the amount of the excess.³³

Notwithstanding anything in section one hundred and Allowances for thirty-seven of this Act, where a person carrying on a trade expenditure on scientific research incurs expenditure not of a capital nature on scientific research not research related to that trade and directly undertaken of a capital by him or on his behalf or nature and pays any sum to any scientific research association for payments to research the time being approved for the purposes of this associations, section by the appropriate Research Council or universities being an association which has as its object etc. the undertaking of scientific research related to the class of trade to which the trade he is carrying on belongs or pays any sum to be used for such scientific research to any Allowances for capital expenditure on scientific research. a deduction equal to one-fifth of the expenditure shall be allowed in charging the profits or gains of the trade for each of the five years of assessment mentioned in the following provisions of this section Provided that, in relation to any such expenditure incurred on or after the sixth day of April, nineteen hundred and forty-nine, the deduction shall be, in the first of the said five years of assessment, equal to three-fifths of the expenditure, and, in each of the remaining four of the said five years, equal to one-tenth of the expenditure.

If the expenditure is incurred before the end of the year of assessment in which the trade was set up and commenced, the five years shall be that and the next four years of assessment.

If the expenditure is incurred after the end of the year of assessment in which the trade was set up and commenced but not later than twelve months from the setting up and commencement of the trade, the five years shall be the year of assessment next following that in which the trade was set up and commenced and the next four years of assessment.

If the expenditure is incurred after twelve months from the setting up and commencement of the trade, and during the basis year for any year of assessment, the five years shall be that and the next four years of assessment³⁴.

INCOME TAX IN NIGERIA

For the purpose of ascertain the income or loss of an individual for any period from any source chargeable with the tax under this Act there shall be deducted all outgoing expenses, or any part thereof, wholly, exclusively, necessarily and reasonably incurred during the period and ultimately borne by that individual in the production of the income, including-

1. Sum payable by way of interest on money borrowed and employed as capital in acquiring the income;
2. Interest on loans for developing an owner-occupied residential house;
3. Rent for the period, and premiums the liability for which was incurred during that period, payable in respect of land or building occupied for the purpose of acquiring the income; and

³³ Section 216 Income Tax Act 1952 c.3

³⁴ Section 335 Income Tax Act 1952 c.3

Any expense incurred for repair of premises, plants, machinery or fixtures employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed
Bad debts incurred in any trade, business, profession or vocation, proved to have become bad during the period for which the income is being ascertained, and doubtful debts were due and payable prior to the commencement of the said period; provided that-

- A. Where in any period, a deduction under this paragraph is to be made as respect any particular debt, and a deduction has in any previous period been allowed in respect of the same debt, the appropriate reduction shall be made in the deduction to be made in the period in question
- B. All sums recovered during the said period on account of amounts previously written off or allowed in respect of bad or doubtful debts shall for the purpose of this Act be deemed to be income of the trade, business, profession or vocation of that period;
- C. It is proved that the debt in respect of which a deduction is claimed either were included as a receipt of the trade, business, profession or vocation in the income of the year within which they were incurred, or were advances not falling within the provisions of subsection B of section 21 of this Act made in the course of normal trading, business, professional or vocational operations;

A contribution or an abatement deducted from the salary or pension of a public officer under the Pension Act or under any approved scheme within the meaning of the Act, and any contribution, other than a penalty, made under the provision of any Act establishing the Nigeria Social Insurance Trust Fund or other retirement benefits scheme for employees throughout Nigeria;

A contribution to a pension, provident or other retirement benefits fund, society or scheme approved by the Board, subject to the provisions of the Fourth Schedule to this Act and such conditions as the Board in its absolute discretion may prescribe;

provided that where the instruments establishing in Nigeria any such fund, society or scheme contain inter alia a general power or duty of the trustees or managers thereof to invest the money of the fund, society or scheme, and on the first day of any year of assessment in the case of a fund, society or scheme deemed to have been approved under the provisions of this Act, less than thirty-three and one third percent of all moneys which are so invested is invested in securities issued by or under the authority of any Government in Nigeria or in the case of a fund, society or scheme approved under the Provisions of this section, less than 50% of all moneys which are so invested is invested In securities issued by or under the authority of any Government in Nigeria the deemed approval or approval of such fund, society or scheme shall have no effect for any purpose of this Act for that year of assessment;

3. In the case of income form a trade, business, profession or vocation, any expenses or part thereof incurred for that period (whether the liabilities was met during that or any previous period) wholly and exclusively for the purpose of the trade, business, profession or vocation unless those expenses are or the same part thereof is deductible for that or any other period under the forgoing provision of this section, and for the purpose of this paragraph an expense incurred during a period shall be treated as having been incurred for that period to the extent that it is not specifically referable to the income of any other period

9. Any expenses which are proved to the satisfaction of the relevant tax authority to have been incurred by the individual on research for the period including the amount of levy paid by him under the National Agency for Science and Engineering Infrastructure Act.³⁵

SIMILARITIES OF TAX EXEMPTIONS IN BOTH THE U.K AND NIGERIA

Both jurisdiction make provisions for community investment reliefs.

The Companies income tax act states that where a company incurs capital expenditure on the provisions of facilities such as electricity, water, tarred road or telephone, for the purposes of a trade or business which is located at least 20 kilometres away from such facilities, provided by the Government there shall be allowed to such company an allowance³⁶. On the other part, the U.K Corporate Tax Act states that community investment tax relief (CITR), is entitlement to tax reductions in respect of amounts invested by companies in community development finance institutions.³⁷ It further states that a company which makes an investment in a body is eligible for CITR in respect of the investment if at the time the investment is made the body is accredited as a community development finance institution the investment is a qualifying investment³⁸. If the investor makes a claim for a relevant accounting period, the investor is entitled to a reduction in the amount of its liability for corporation tax for that period. The amount of that reduction for the relevant accounting period is 5% of the invested amount in respect of the investment for the period³⁹

Another similarity of both Jurisdiction is on exemptions of Charitable donations. The CIT states that Qualifying charitable donations made by a company are allowed as deductions from the company's total profits in calculating the corporation tax chargeable for an accounting period. They are deducted from the company's total profits for the period after any other relief from corporation tax other than group relief. The amount of the deduction is limited to the amount that reduces the company's taxable total profits for the period. Except as otherwise provided, a deduction is allowed only in respect of qualifying charitable donations made by the company in the accounting period concerned.⁴⁰ In Nigeria however, the CITA states that The profits of any company engaged in ecclesiastical, charitable or education activities of a public character in so far such profits are not derived from a trade or business carried on by such company;⁴¹

Another similarity is on exemptions as to properties used for the purpose of acquiring income. CITA Any expense incurred for repair of premises, plants, machinery or fixtures employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed⁴². The CIT states that the amount of any assessment on lands inclusive of the farmhouse and other buildings (if any) shall, for the purposes of collection, be reduced by a sum equal to one-eighth part thereof. Where the amount of the assessment is more than one-eighth below the rent, after deducting from such rent any outgoing which should by law be deducted in making the assessment.⁴³

³⁵ Section 20 Personal Income Tax Act Cap. P8 Laws of the Federation of Nigeria 2004

³⁶ Section 37 Companies Income Tax Act CAP. C21 L.F.N. 2004

³⁷ Section 218 Corporation Income Tax Act (c.4)

³⁸ Section 219 Corporation Income Tax Act (c.4)

³⁹ Section 220 Corporation Income Tax Act (c.4)

⁴⁰ Section 189 Corporation Income Tax Act (c.4)

⁴¹ Section 23 Companies Income Tax Act CAP. C21 L.F.N. 2004

⁴² Section 20 Personal Income Tax Act Cap. P8 Laws of the Federation of Nigeria 2004

⁴³ Section 99 Income Tax Act 1952 c.3

DIFFERENCES OF TAX EXEMPTIONS IN BOTH THE U.K AND NIGERIA

One primary difference of tax exemption in both U.K and Nigeria is on the rates of and qualifications ascribed to exemptions in community development.

In Nigeria, CITA outlines the areas in which rural investment taxes may be excluded and how.

The current rate of the rural investment allowance are as follows:

No facilities - 100%

No Electricity - 50%

No water - 30%

No tarred road - 15%

No Telephone - 5%⁴⁴

In the U.K however, no such classification is made as there is a uniform 5% for any community investment for the tax period.

Another difference is on Local Content tax Exemption.

Nigerian Tax laws provide for reliefs where Nigerian tools and equipments are utilised. CITA provides that a company which engages wholly in the fabrication of spare parts, tools and equipment for local consumption and export shall be allowed 25% investment tax credit on its qualifying capital expenditure. A company which purchases a locally manufactured plant, machinery or equipment for use in its business shall be allowed 15% investment tax credit on such fixed asset bought for use. This provision is absent in the Corporate Tax Act in the U.K

Also, the Personal Income Tax Act of Nigeria makes no express provisions about exemptions due to the elderly. This is however not the case in the U.K as the Income Tax Act states a Claimant shall be entitled to a deduction from Earned income the amount of income tax with which he is chargeable equal to and old age tax at the standard rate on one-fifth of the amount of his earned reliefs. income, or on four hundred pounds, whichever is the less. The claimant, if he proves that at any time within the year of assessment either he or, in the case of a married man, his wife living with him was of the age of sixty-five years or upwards and that his total income for the year of assessment does not exceed five hundred pounds, shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to tax at the standard rate on one-fifth of the amount of that income.⁴⁵

CONCLUSION AND RECOMMENDATION

The paper sought to treat tax exemptions in both Nigeria and the U.K. it was revealed in the paper that there are several tax exemptions in virtually all works of life. Tax exemptions such as Charitable and religious organisations, pension Scheme, Education and basic amenities are rights of the tax payers which have not been surrendered to the State. This perception of tax exemption makes it evident that the exemptions are rights and not privilege hence the necessity for their inclusion in the Tax laws.

Similarities such as charitable exemptions and community development exemptions have also been addressed by this work revealing a common intent and procedure in the tax systems of both Nigeria and the U.K. Differences like the Lack of Local Content exclusions as well as rural development on specific areas in the U.K tax laws were also addressed in this work.

⁴⁴ Section 34 Companies Income Tax Act CAP. C21 L.F.N. 2004

⁴⁵ Section 211 Income Tax Act 1952 c.3

Against the backdrop of the findings, the paper makes the following recommendations

- There should be included, tax exemption in the U.K Corporate Tax Act for the utilisation of Local Content such as raw materials as well as the making and utilisation of equipment in the U.K
- Nigerian Personal Income Tax Act should include express provision as to exclusion of in the case of the Elderly.

Large Religious Organisations should be taxed as leaving it untaxed may result in the use of Churches and Mosques as means of tax avoidance and evasion.