

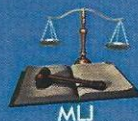
MLJ Vol. 16 (2018)



# MAIDUGURI LAW JOURNAL

ISSN 11182717

A PUBLICATION OF THE FACULTY OF LAW



**MAIDUGURI LAW JOURNAL**

(MLJ)

ISSN: 1118-2717

**PUBLISHED BY**

The Faculty of Law  
University of Maiduguri  
P. M. B. 1069  
Maiduguri – Nigeria  
lawjournal@unimaid.edu.ng

(C) 2018:

Faculty of Law  
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**Citation:**

This edition shall be cited as Vol. 16, (2018) Maiduguri Law Journal,  
MLJ

**Printed in Nigeria, by**  
Nonimod J. Ventures  
Printers and Publishers  
No. 53 Atiku Abubakar Road  
Yola, Adamawa State

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## **Socio-Legal Analysis of Taxation as a Tool for Effective Governance in Nigeria**

By

Hafsat Iyabo Sa'adu Ph.D\*

### **Abstract**

The concept of taxation and public governance are age old and this has been inherent with the history of human government. Taxation is a universally accepted means for financing government services whether in peace or war, prosperity or depression. Conversely, effective public governance has become the most requested condition for a good taxation system. The article examines the socio-legal effects of tax payment on effective governance in Nigeria and the influences the taxpayers have on effective governance. The article concluded that voluntary compliance entitles the taxpayers to verify the uses made of the budget they have contributed to which becomes therefore a major tool for rendering effective public governance. It is essential that the people have the right to know and evaluate the quality of the leadership through transparency, responsiveness and accountability. It is recommended that both the taxpayers and the government must discharge their responsibilities accordingly for effective public governance to be entrenched in Nigeria.

**Keywords:** Socio-Legal Analysis, Taxation, Tool, Effective Governance, Nigeria.

### **1. Introduction**

As the popular saying goes 'Tax is as certain as death'. This statement notwithstanding, the collection of taxes has proved an extraordinary task for governments across the globe. Particularly in developing countries like Nigeria where the enormous deficit in terms of revenue accruing to government and the level of development seems inconsistent with revenue generation. The therefore citizens find it difficult to come to terms with settlement of tax obligations with the fear that revenue collected may not be accounted for in terms of concrete development. A lot of issues are abounding which includes corruption, continuous fall in standard of living, short supply of social amenities etc. made the burden of tax payment intolerable for taxpayers. There arises the big question – can voluntary tax compliance be achieved as a means to effective good governance?<sup>1</sup>

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This article examines how taxation can serve as a tool for effective governance in Nigeria. It discussed the evolution of Nigerian tax system and features of tax policy, tax law and tax administration. This paper establishes a link between payment of tax and effective public governance vis-à-vis the effects of tax payment on public governance in Nigeria. It is obvious that voluntary compliance entitles the taxpayers to verify the uses made of the budget they have contributed to which becomes therefore a major tool for rendering effective public governance in Nigeria.

## 2. Evolution of Nigerian Tax System

A country's tax system is essentially a derivative of the history, economic structure and political economy of that country. Thus, in the case of Nigeria, her colonial history is particularly relevant. In fact, the broad outline of Nigeria's tax system took shape during the colonial era and remains substantially unchanged up to the present period. Such is the colonial link that most of the Nigerian tax laws are basically copies of similar laws in Britain or other British former colonies such as Australia.<sup>2</sup>

## 3. Pre-Colonial Taxation

A system of taxation had been in existence in Nigeria before the advent of colonial rule in the Northern Nigeria; there was in existence a politically well-organized system. In Southern Nigeria, although there was an indigenous system of taxation, it was not organized and broad-based as in the North.<sup>3</sup> However, at the turn of nineteenth century, there had developed in South Western parts of the country certain kingdoms headed by *Obas* who had legislative, executive and judicial powers and all the numerous features of modern government, though rudimentary at this stage.<sup>4</sup>

There is evidence that throughout the nineteenth century, taxes such as capital sales, excise and customs among others were already well established.<sup>5</sup> These taxes were imposed on the subjects and collected

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<sup>1</sup> S A Dickey, 'A Voluntary Tax Compliance: A Key to Sustainable Good Governance in the Role of Taxation in Good Governance', paper presented at the West African Union of Tax Institute (WAUTI) 2<sup>nd</sup> International Tax Conference (2013) 52- 54. See also B Akabueze, 'Budget and Open Government: The Quest for Transparency and Accountability', Budget Office of the Federation, May 2017.

<sup>2</sup> A Phillips, 'The Nigerian Tax System at the Crossroads' in, S A Rabi (eds), *Essays on Nigerian Taxation* (SAR Tax Publications, 2002) 14.

<sup>3</sup> A Sanni, 'Structure of the Nigerian Tax System and Its Legal Framework' in *Revenue Law*, paper presented at the Chartered Institute of Taxation of Nigeria (CITN) Special Training, (2012) 13.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

by the *Baale* (ward heads) for and on behalf of the paramount rulers.<sup>6</sup> Usually the family head, at the time of harvest, would receive the tax (capital) from the individuals within his household. He in turn would take this to the *Baale* after retaining his own share. The *Baale* on his part would convey the tax to the paramount ruler always retaining his portion that would be sufficient for his maintenance.<sup>7</sup>

Apart from the tax payable by every taxable adult for the maintenance of royalty and government, there were also taxes payable by every trader coming to trade within the jurisdiction called *Owo-Onibode*<sup>8</sup> and the one paid by every seller on market days. Payment of death duties was common among the *Egbas* and the *Ijebus*. Furthermore, every able-bodied individual was expected to allocate certain days for communal work such as the clearing of roads, building of community houses, markets, hall and construction of bridges.<sup>9</sup> In addition, there were special levies in respect of special /unusual occasions with the gradual introduction of money economy towards the end of the nineteenth century; these various taxes were computed in money.<sup>10</sup> However, in the 'stateless' society of *Ibo*, *Tiv*, *Bura*, *Igbira* and *Bachama* areas there existed little or no form of organized taxation.<sup>11</sup> It can be inferred from the above that taxation during the pre-colonial era functioned more or less on ethnic basis.<sup>12</sup>

#### 4. Introduction of the Modern Form of Taxation

At the inception of British rule in Nigeria, the colonial government was faced among other things with the problem of financing the government. The people resisted the introduction and supreme position of the English system partly because they felt that the tax was intended for the support of an alien authority.<sup>13</sup>

The first ever comprehensive attempt at direct taxation by the British was through the Land Revenue Proclamation Law of 1904. The system of direct taxation continued to be administered by the local or traditional political institutions. With the extension of indirect rule into the south and the amalgamation, the Native Revenue Ordinance of 1917 was enacted to cover the areas of the Western Region of Nigeria. It was not until 1927, after much debate and hesitation, that the first Personal Income Tax Law was introduced into the Eastern Region. This sparked off turbulence culminating in the Aba Riot of

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<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Meaning border fee reminiscent of custom duty.

<sup>9</sup> A Sanni (n 3) 14.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

1929, which resulted in the loss of lives and destruction of properties.<sup>14</sup>

In 1931, the Non-Natives (Protectorates) Ordinance was enacted. This was the first time a direct tax would be imposed on the income of non-natives resident outside the colony of Lagos. The next stage in the development of the Nigerian tax system was the enactment of a series of Ordinances in 1937 such as Colony Taxation Ordinance No. 4 1937, Non-Native Income Tax (Protectorate) Ordinance, No 1, 1937 and the Native Direct Taxation, (Colony) Ordinance No. 41, 1937.<sup>15</sup>

The year 1940, however, marked the watershed in the history of taxation in Nigeria when comprehensive legislations on income tax were enacted. These were the Income Tax Ordinance No. 3 of 1940 and the Direct Taxation Ordinance No. 14 of 1940. These two enactments formed the basis of income tax legislation in the country and some of their provisions have been re-enacted in the present Income Tax Laws in the country. The Direct Taxation Ordinance applied in relation to companies and business income generally. Apart from the repeal and re-enactment of the Income Tax Ordinance in 1943, there was no significant change in the tax system until 1956.<sup>16</sup> The Eastern Region in 1956 was the first to exercise its taxing power in line with the provisions of 1954 Constitution when it enacted the Finance Law No. 4 1956. One significant innovation of the law was the introduction of the Pay as You Earn (PAYE) system of collection whereby employees were made agents for the collection of income tax from their employers by authorizing them to deduct the tax at source. The Western Region also enacted its own Income Tax Law in 1957 whereas the Northern Region did not enact its Personal Tax Law until 1962.<sup>17</sup>

The question of division of taxing power also came up at the 1957 Constitutional Conference and was referred to a commission headed by Raisman which recommended among other things that the regions should be given full jurisdiction over personal income tax while the federal government should have power to legislate on certain areas in which uniformity was desirable.<sup>18</sup>

The Petroleum Profits Tax Act (PPTA) was enacted in 1959, while Companies Income Tax Act (CITA) in 1961, Income Tax Management Act (ITMA) in 1961 and the Personal Income Tax (Lagos) Act (PITLA) 1961. PITLA was enacted because of the

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> I A Ayua, *The Nigerian Tax Laws* (Spectrum Law Publishing, 2006) 20- 26.

peculiar position of Lagos as the seat of government of the federation, the federal government had to assume legislative and executive jurisdiction for the day-to-day administration.<sup>19</sup> Other developments of the 60's were the introduction of Capital Gain Tax and Super Tax in 1967. The super tax was a wartime levy, which was repealed at the end of the civil war in 1970.<sup>20</sup> The creation of states in 1967 resulted in the transformation of Lagos from that of a federal territory to a full-fledged state. Thus, the Personal Income Tax (Lagos) Act, 1961 ceased to be applicable.<sup>21</sup> Following the provisions of the 1960 Constitution, the Western Region enacted the Personal Income Tax Law 1962; the Eastern Region enacted the Eastern Nigeria Finance Law 1962. In 1972, the federal government enacted Income Tax (Armed Forces and Other Persons) Special Provisions Act 1972 to enable the federal government to tax the income of certain members of armed forces and non-residents who were not subject to the tax jurisdiction of any tax.<sup>22</sup>

In 1967 states' creation exercise indeed posed a possibility of having income tax rate differentials in different states unless something was done. As a result, it was then felt that federal government should assume the legislative power over Personal Income Taxation from the state in order to have a uniform law on personal income tax throughout the country. Towards this end, the federal government in 1975 enacted the Income Tax Management (Uniform Taxation Provisions) Act No.7, 1975. The Act merely succeeded in imposing uniform tax rates throughout the country while each state continued to regulate and administer its own income tax.<sup>23</sup>

Under the 1979 Constitution income tax was placed under the exclusive tax jurisdiction of the federal government with power vested in federal government to delegate the administration of the tax to the states.<sup>24</sup>

In 1990, all existing tax statutes including their amendments were codified under the Laws of Federation of Nigeria, (LFN). However, the promulgation of the Value Added Decree No. 102, 1993 replaced the Sale Tax Decree of 1986. The Personal Income Tax Decree No. 104, 1993 replaced the Income Tax (Armed Forces and Other Persons) Special Provisions Act of 1972. Thus the Education Tax

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<sup>19</sup> Ibid.

<sup>20</sup> See Super Tax (Amendment) Act No. 12 of 1970.

<sup>21</sup> A Sanni (n 3) 15.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> See Item 58 and Item D of Paragraph 7 and 8 of the Exclusive Legislative List 1979 CFRN.

Decree of 1993 and Income Tax Management Act (ITMA) of 1961 clearly indicated that taxation was a federal government affair.<sup>25</sup> In 2004, there was another codification of all tax laws in Nigeria. Personal Income Tax Decree was amended and codified to become Personal Income Tax Act (PITA) Cap P8 2004 Laws of the Federation of Nigeria<sup>26</sup> which later became Personal Income Tax (Amendment) Act 2011.<sup>27</sup>

In 2007, certain legal reforms were achieved. These include: <sup>28</sup> The Federal Inland Revenue Service (Establishment) Act 2007; the Companies Income Tax (Amendment) Act 2007; the Value Added Tax (Amendment) Act 2007 and the National Automotive Council (Amendment) Act 2007.

In 2012, Nigeria introduced the Income Tax (Transfer Pricing) Regulations, which was modified with the release of the Income Tax (Transfer Pricing) Regulations, 2018.<sup>29</sup>

### 5. Features of the Nigerian Tax System

The Nigerian Tax System is made up of;<sup>30</sup>

- i) Tax policy;
- ii) Tax laws; and
- iii) Tax administration.

Therefore, in order to have a good and efficient tax system, the three aspects must be simultaneously developed and in tune with one another otherwise the tax system will be dysfunctional. The varying degrees of the failures of any tax system including that of Nigeria can be ultimately traced to a measure of weaknesses with regard to one or more of these three basic structures.<sup>31</sup>

#### a) Tax Policy

Policies are the fundamental principles which guide the orderly development of the tax laws and administration and, therefore, form the foundation of the entire system. If the tax policies are inconsistent or weak, it is certain that the entire tax system will be dysfunctional. According to Adam Smith's *Wealth of Nations* in 1776, different nations have tried to align their tax systems, as much as possible, with the principles of equity, certainty, convenience and administrative efficiency.<sup>32</sup>

<sup>25</sup> A Sanni (n 3) 16.

<sup>26</sup> Federal Inland Revenue Service and Taxation Reforms in *Democratic Nigeria*, IO, Okauru, (eds, Safari Books Ltd., 2012) 101-119.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid, 121.

<sup>29</sup> See 2018 Transfer Pricing Regulations issued on 27 August, 2018.

<sup>30</sup> A Sanni (n 3) 17.

<sup>31</sup> Ibid see further A Odusola, *Tax Policy Reforms in Nigeria* (2006).

<sup>32</sup> Ibid.

The main objectives of the National Tax Policy Document are to 'provide a set of principles for all taxation in Nigeria'<sup>33</sup> and serve as a 'standard on which all stakeholders will be held accountable'.<sup>34</sup>

The document which was officially launched<sup>35</sup> contains proposed measures to achieve these objectives which include reduction of the number of taxes, shifting the focus of the tax system from direct to indirect taxes, reduction of internal multiple taxation, streamlining the tax incentives, strengthening the Joint Tax Board (JTB), comprehensive review of tax laws every three years, honouring and concluding more international treaties, ensuring that taxes are collected by carrier tax administrators and so on.

In 2017, the Federal Executive Council approved a new National Tax Policy for the country<sup>36</sup> with the following specific objectives among others:

- i) guide the operation and review of the tax system;
- ii) provide the basis for future tax legislation and administration;
- iii) serve as a point of reference for all stakeholders on taxation;
- iv) provide benchmark on which stakeholders shall be held accountable; and
- v) provide clarity on the roles and responsibilities of stakeholders in the tax system.

In particular, this policy contains four specific measures that are designed among others to:

- i) address multiplicity of taxes and multiplicity of revenue agencies;
- ii) reduce income tax rates and compliance burden for micro, small and medium enterprises;
- iii) improve Nigeria's ranking on the global ease of paying taxes index from the current position of 181 out of 189 economics of top 50 by the year 2020; and
- iv) encourage diversification, expand the countries tax base and improve tax to GDP ratio.

This new policy direction creates opportunities for the governance structure to identify tax options that best suites Nigeria's economic conditions at this time. In spite of this, there are myriads of challenges

<sup>33</sup> National Tax Policy – Tax Matters Nigeria ... <pwcnigeria.typepad.com> 2017/02>nig...> accessed 15 May 2018.

<sup>34</sup> Ibid.

<sup>35</sup> On 5<sup>th</sup> April, 2012 by the President of Federal Republic of Nigeria Dr. Ebele Jonathan. <<http://www.vanguardng.com/201204/why-we-introduced-national-tax-policy>> accessed 15 May 2018.

<sup>36</sup> National Tax Policy (n 33).

that bedevil Nigeria's tax administration. Some of the challenges will be dealt with later in this article.

Concern has, however been expressed about the appropriateness or even constitutionality of a 'National Tax Policy' in a federation. The federal government does not have the exclusive preserve of managing the economy, including its tax system. Thus, the constitution has vested the power to concurrently manage the economy on the federal, states and local governments within the limits of their legislative powers. In this regard, the federal government has power to impose certain taxes in exclusive legislative list<sup>37</sup> while the rest are residual to the states with the exception of tenement rates which is specifically earmarked for the local government councils.<sup>38</sup> Intendment, here, is to divide the field of tax policy decision between the federal and state governments, in such a way that none can dictate its policy preferences to the other. Therefore, it is advisable for the tax policy document to be limited to the federal government and the federal capital territory while the states are encouraged to adopt it with or without necessary modification.<sup>39</sup>

#### **b) Tax Laws**

Law is generally seen as 'a rule or body of rules which are binding and enforced among the members of a given state or society made by institutions, bodies and persons vested with the power to make such rules'<sup>40</sup>

Law consists of multifarious rules, some of which are contained in several sources such as the constitution, statutes and cases decided by the courts. It is important to state that the sources of Nigerian tax laws go beyond the statutes and cases Laws.<sup>41</sup> Law is not static but dynamic. The content of the law of any society is the product of the prevailing social, political, economic and cultural conditions at a particular time. For the law to play a vibrant role, it must be in tune

<sup>37</sup> CFRN 1999 as amended See items 16, 25, 58 and 59 of the Second Schedule, part I, Exclusive Legislative List (ELL) A Salami, 'Taxation, Revenue Allocation and Fiscal Federalism: Issues, Challenges and Policy Options' *Economic Annals* (2011). In Nigeria, there are four categories in the vertical allocation list-federal, states, and local governments and the special fund. The allocation to the FCT is accounted for under the special fund which is administered by federal government. A A Adedokun, *Government Studies* (the Polytechnic, Ibadan 2006).

<sup>38</sup> Ibid at Item D-9 and 10 Part II of the Concurrent Legislative List (CLL)

<sup>39</sup> A Sanni (n 3) 18.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid. Other sources of Nigerian tax law include budget speech, delegated or subsidiary legislation, international law etc. See also C Nwekeaku, *The Rule of Law, Democracy and Good Governance in Nigeria* [[2014] 2(1) *Global Journal of Political Science and Administration*; 26-35. G N Ogbonna G N, and A Ebimobewe 'Impact of Tax Reforms and Economic Growth of Nigeria: A Time Series Analysis' (2012) *Current Research Journal of Social Sciences* 62 – 68.

with the pace of the development of the society. It must neither lag behind nor be far ahead. The content of the law of each society usually changes as the social, political and economic conditions in which the individual lives change. Some changes are little more than transitory, and make slight impact upon the legal structure while some others may bring about permanent and far-reaching effect.<sup>42</sup> This is why the Federal Inland Revenue Service (FIRS) has taken the responsibility to champion the reform of the Nigerian tax system and amend the various federal tax laws which were earlier discussed in this article. It is hoped, however, that FIRS will continue to champion the reform so that in the near future Nigerian tax system would mature to a level where it can accommodate more fundamental structural changes that will set it on a greater path of sustainable growth, development and effective public governance.

In addition, there are certain salient characteristics of the Nigerian tax law. These are:

**i) Federal Structure**

Nigeria operates a federal system having federal states and local government councils. As a matter of strict conceptual analysis, Nigerian federation is a partnership between the federal government and the states. Hence, section 2(2) of the Constitution provides that 'Nigeria shall be a federation consisting of states and a federal capital territory'.<sup>43</sup>

Consequently, the division of legislative power under section 4 of the Constitution involves only the federal and state governments. The adoption of a federal system has far reaching implications for inter-governmental fiscal relations and resources mobilization.<sup>44</sup>

**ii) Dominance of Federal Government Tax System**

According to the Study Group and the Working Group Report,<sup>45</sup> virtually all major taxes in Nigeria are under federal jurisdiction with the federal government collecting 99% of annual tax revenue and 97% of overall (tax and non-tax) government revenue in Nigeria. This underscores the pre-eminence of the FIRS and other revenue collection agencies such as Nigeria Customs Services to the economic survival of the nation. However, it demonstrates the limited power of

<sup>42</sup> Ibid.

<sup>43</sup> The Constitution of the Federal Republic of Nigeria 1999 as amended.

<sup>44</sup> A Sanni (n 3) 18.

<sup>45</sup> The inauguration of the 2002 Study Group on the Nigerian tax system was informed by the desire to reposition the tax system and make it globally competitively. Also, the subsequent Working Group set up in 2004 which reviewed the work of the former, helped to develop a new National Tax Policy hinged principally on the foundation of fostering national development. See I O Okauru, *A Comprehensive Tax History of Nigeria*, FIRS, (Safari Books Ltd 2012) 354 – 355 <[www.firs.org.ng/firs/002](http://www.firs.org.ng/firs/002)> accessed 15 May 2018.

the states and local government councils to use taxation as an instrument or tool for effective public governance.

### iii) Dominance of Petroleum Profit Tax

The oil and gas sector (primarily upstream) provides the bulk of funding of the three tiers of government and has become the dominant driver of the Nigeria economy providing over 95% of the nation's foreign exchange earnings and over 70% of government revenue. The overall economy is until recently<sup>46</sup> over-dependent on oil.

### c) Tax Administration

Tax administration can be briefly defined as 'the implementation of the tax laws in order to achieve their objectives'.<sup>47</sup>

Tax administration in Nigeria is basically a function of the three tiers of government. Each tier has a machinery to ensure the effective collection of taxes within its jurisdiction. Before, public officers were employed to do the job and later some aspects were delegated to independent firms of tax consultants. The current position and practice is that a tax authority may delegate certain auxiliary aspect of its work but cannot delegate the core functions of raising assessment.<sup>48</sup>

The Federal Inland Revenue Service (Establishment) Act, (FIRSEA) 2007 generally establish a new legal framework for the (re) establishment and reorganization of the erstwhile Federal Board of Inland Revenue (FBIR). The establishment of the FIRS under FIRSEA is particularly significant from legal perspective; it has transformed the FIRS from humble status of an extra-ministerial agency into a government parastatal (a statutory body) with certain powers and functions clearly spelt out by the enabling statute. It is significant to note that the powers vested on the FIRS are only subject to the express provisions of the Constitution and judicial review.<sup>49</sup> Federal Inland Revenue Service is now autonomous to the extent provided in the FIRSEA. Autonomy is crucial for planning, capacity building, human resources development, training and the design of efficient reward system. FIRS is now able to innovate in the formulation and implementation of policies geared towards efficient

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<sup>46</sup> The problem is that because of huge revenue generated from petroleum profit tax, the government neglected other sources of revenue generation until the experience of fall in oil prices at the international market. The federal government presently focuses on other areas of the economy to raise more revenue. The present administration is faced with the challenge of diversifying the economic base by increasing the contribution of non-oil revenue to the economy.

<sup>47</sup> A. Sanni (n 3) 21.

<sup>48</sup> FIRSEA 2017 s 52.

<sup>49</sup> *Ibid*, s 7 and 8.

administration of tax laws, recruit, train and fire personnel, in appropriate circumstances and consult experts in situations the FIRS considers expedient. The 'autonomy' conferred on the FIRS is however not without any limit.

Section 51 of the FIRSEA provides that in the exercise of the powers and duties conferred upon FIRS, it shall be subject to the general direction of the Minister.<sup>50</sup> However, there are significant challenges associated with tax administration in Nigeria. They include the following:<sup>51</sup>

- i) Lack of an overall understanding of the role of taxation in national development;
- ii) Dependence on oil revenue leading to a neglect of taxation as a source of revenue;
- iii) Poor attitude to taxation and lack of tax culture;
- iv) Low level of voluntary compliance;
- v) Deliberate evasion and non-compliance;
- vi) Corruption and diversion of tax revenue by tax officials before and during collection by government officials after distribution;
- vii) Lack of sufficient government impact on citizens;
- viii) Large informal sector outside the tax net; and
- ix) Fragmented database of citizens in the country, making it difficult to have a holistic coverage of financial activities.

## **6. Linkage between Payment of Tax and Effective Public Governance**

The concept of taxation and public governance are age old as they both date back to the ancient history of creation, prior to civilization. While public governance is about the administration of common resources of a state or nation for the benefits of the citizens of that state or nation, taxation, on the other hand, is the process through which the residents of a state or nation contribute towards the administration of the state or nation. Both concepts are therefore complimentary as one depends on the other. The state, in the course of discharging the responsibilities of governance, depends on the citizens to perform their civic responsibility of paying their taxes

<sup>50</sup> The Minister here refers to the Minister of Finance of the Federal Republic of Nigeria.

<sup>51</sup> A R Ipaye, 'Overview of the Nigerian Tax Environment: Issues and Challenges' in Chartered Institute of Taxation of Nigeria (CITN) Nigerian Tax Guides and Statutes, (2<sup>nd</sup> edn, Vol.1, 2014). See also S Saidu and U Dauda, 'Tax Evasion and Governance: Challenges in the Nigerian Informal Sector' [[2014] 2(5), *Journal of Finance and Economics*, 156-61 and 'Challenges of Nigerian Tax System' National Tax Policy, Federal Ministry of Finance, 2017. L C Micah and C Ebere and A A Umobong, 'Tax System in Nigeria-Challenges and the Way Forward' [2012] *Research Journal of Finance*.

which forms the major source of funding the administrative responsibilities of effective governance. It is therefore a social contract, in the sense that the people are expected to pay their taxes are also full of expectations for social services through effective public governance of the state.<sup>52</sup>

Effective public governance has become the most requested condition for a good taxation. As people are paying for services to be rendered by the government, the budget becomes therefore a major tool for rendering effective public governance. Election of the leadership is the tool in the hands of the people. The most democratic countries of the world are in the same time the countries where taxpayers are most respectful of the tax law.

The budgeting cycle gives to the people the adequate tools to assure that the representatives they have chosen are doing well. For the people to demand a transparent public governance, it is required that the people sticks to the rule of law, especially the tax law. Paying the tax in a voluntary basis gives to the people the right to speak out loudly about public money. It is like if democracy imposes as prerequisite that you pay the tax before you have a right to speak out and to be listened.<sup>53</sup>

Payment of tax gives right to the taxpayers to ask the following questions:

- i) Where does public money go?
- ii) Is the money used for all good of the community, state or nation to which I belong in a fair, transparent, efficient and accountable way?

Effective public governance entitles the taxpayers to verify every single money spent on the public resource 'because I am paying, I have the right to question and to get responses on what is being done of my money'.<sup>54</sup>

It appears from this that citizens have the right to question the uses made of the budget they have contributed to constitute the foundation of effective public governance because it is essential that the people have the right to know and to evaluate the quality of the leadership.<sup>55</sup>

The right to question what has been done implies as a prerequisite to the compliance of the tax law and regulations, willingly and voluntarily without any sort of pressure or fear of the application of law. Each citizen should pay the taxes resulting from that amount of

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<sup>52</sup> M Awodun, 'Taxation and Governance: The Social Contract Imperative – The Case of the Transformation of Kwara State Internal Revenue Service' paper presented at 19<sup>th</sup> CITN Annual Conference (2017).

<sup>53</sup> S A Dieye (n 1) 33.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

his revenues. This means that there must be in place some preconditions:<sup>56</sup>

- i) The law must be simple to understand and simple to apply;
- ii) Law must be equitable and fair to all the citizens; and
- iii) The people must be convinced that the resources they contributed to assemble are managed in a transparent way and enables the government to meet the needs of the whole people.

When these conditions are met by the government the people will respect their obligations because they will see that what they pay is for the benefit of the community, state or nation.

### 7. Effects of Tax Payment on Public Governance in Nigeria

The dwindle state of the Nigerian economy and the recession which has befallen the country since 2015 have had the most severe effect on both national and states revenue as the tax structure became vulnerable. This in spite of the fact that pending responsibilities were increasing.<sup>57</sup>

The centrality of taxation to good governance which includes the capacity, responsiveness and accountability of government can no longer be underestimated. In the realm of capacity, for instance, taxation lies at the administrative heart of government and it provides the foundation for the provision of public goods and the implementation of effective regulation. On the converse, taxation is the revenue through which citizens are able to connect with government and an important catalyst for public demands for responsiveness and accountability.<sup>58</sup>

Against this background, it has been asserted that the payment of tax is directly associated with citizens' welfare, because it facilitates the provision of infrastructural development, which enhances good governance.

It is important to state here that many governments do not need to make much tax efforts because they have large non-tax incomes from

<sup>56</sup> Ibid.

<sup>57</sup> D Asada, 'The Role of Tax During Economic and Post Economic Recession: Challenges and Policy Options' in *Tropical Issues on Nigerian Tax Laws and Related Areas* J A M Agbonika and J A A Agbonika and S M Olokooba (eds), Vol. 2, (Ababa Press Ltd. 2018), 93 - 105.

<sup>58</sup> A O Taiwo, 'Implications of Policy Shift from Direct to Indirect Tax Regime in Nigeria' in A Sanni and A Elebiju, *Indirect Taxes in Nigeria*, Chartered Institute of Taxation of Nigeria (CITN). F O Iyoha and D Oyerinde, 'Accounting Infrastructure and Accountability in the Management of Public Expenditure in Developing Countries: A Focus on Nigeria', [2012] *Critical Perspective of Accounting*. See further J Abiola and M Asiweh, 'Impact of Tax Administration on Government Revenue in a Developing Economy - A Case Study of Nigeria' [2010] *International Journal of Business and Social Science*.

oil, gas and mineral exports or foreign aid.<sup>59</sup> State elites and politicians are then financially independent of citizen taxpayers. This changes the political incentives that they face, and the ways in which they seek to obtain, use and retain power. The long term consequences for governance are malign, state elites and politicians are less responsive and accountable to citizens, and depending on the sources of non-tax revenue, may have less incentive to build up the political and organizational capacities of the state. States are likely to be simultaneously arbitrary and weak. All else being equal, the dependence of governments on general taxation has positive effects on the quality of governance. But that relationship is not automatic. How governments tax also matters. We cannot assume that, because they are fully dependent on taxation for revenues, governments will be capable, responsive, or accountable. They may levy taxes coercively, and thereby damage state-society relations and reinforce poor governance. Public authorities in contemporary poor countries face some incentives to tax coercively. Establishing more consensual taxation practice is an important practical route to improving governance.<sup>60</sup>

Another issue is what influence can the taxpayer have on public governance in Nigeria? This can be looked at in two ways, namely:<sup>61</sup>

- i) At the level of individual taxpayer's behavior; and
- ii) At the level of the quality of leadership.

On the first issue which relates to the level of individual taxpayer's behaviour, section 14 (2) (c) of the Constitution provides that 'the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution'.<sup>62</sup>

The best way for people to participate in their government is voluntary compliance in payment of tax to the government because that payment is an offshoot of the Constitution. With this, the taxpayer becomes an actor in the implementation of public governance; he will watch not only what is done of his portion of tax collected but also who leads it.

To be a good citizen implies among many other requisite payment of tax the infringement of which is considered as criminal act, no one can question the need to comply with that citizen's duty. The only

<sup>59</sup> This includes Nigeria's over-dependence on oil until the fall in the prices of oil at the International market which accounts for the change of attitude to tax revenue by Nigerian government. In addition, the 2015 recession which affects her economy also contribute immensely to Nigeria aggressiveness to raise more revenues through tax.

<sup>60</sup> M Moore, 'How does Taxation Affect the Quality of Governance'? <Retrieved from [opendocs.ids.ac.uk](http://opendocs.ids.ac.uk)> accessed 15 May 2018.

<sup>61</sup> S A Dleye (n 1) 52 – 54 and B Akabueze (n 1).

<sup>62</sup> The CFRN 1999 as amended.

way for the citizens to assure that their elected leaders do what they have been elected for is to voluntarily comply to this important and compulsory obligation and in return be watchful and vigilant in surveying what has been done of their contributions to the common cake and evaluate the realization made by their representatives of the mandate they have been voted for. The voluntary tax compliance appears here as the most important tool that entitles citizen to have their voice heard and to intervene when they feel their rights are not duly recognized.<sup>63</sup>

The second issues relate to the level of quality of leadership. The same section 14(2) (a) declared that 'Sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority'.<sup>64</sup>

The above provision of the Constitution is pointing to the fact that public governance, at all levels, should involve the encouragement of the participation of the people in the management of their affairs. Accordingly, government should ensure the establishment of participatory democracy, exhibit high ethical standards in all things, and at all times, observe the rule of law, respect for human rights, and promote effective public governance and sustainable development. The Constitution further provides under subsection 2(b) that '...the security and welfare of the people shall be the primary purpose of government'.<sup>65</sup>

This terse provision in the Constitution enjoins what should be the basis of governance, in fact, effective good public governance, will guarantee the security and welfare of Nigerians, through the processes of development.<sup>66</sup>

The constitutional provisions provided the taxpayers with a capacity to select their leadership on their good tenure of the mandate to manage the country for the best interest of that. There is no

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<sup>63</sup> S A Dieye (n 1) 57.

<sup>64</sup> The CFRN 1999 as amended.

<sup>65</sup> Ibid.

<sup>66</sup> The components of the end product of development brought about by effective public governance have been enunciated by the Members States of the African Union in the following processes which they expect governments to pursue in their quest to provide for the security and welfare of their people, and the development of their countries. Accordingly, the governments are expected to pursue policies of economic growth to create employment, alleviate poverty and ensure better and equitable income distribution. See African Common Position on Crime Prevention and Criminal Justice, DC/Exp/3(11) Rev. 2. Africa's contribution to the Eleventh United Nations Congress on Crime Prevention and Criminal Justice, adopted by African Heads of State and Governments, Abuja, in January 2005, operating paragraph, 12 at 5.

immovable leadership. There are no more Robber Barons; the actual power belongs to the people.<sup>67</sup>

Finally, taxation can play an unexpected role in liberating African governments from the tyranny of International Financial Institutions if the amounts of tax collected is sufficient to help governments relinquish from the donors multiple and conflicting conditionality which have altogether deprive our countries the opportunity of effective public governance. It is discovered that there is no responsibilities of any sort if the predicament they impose result in chaos, in such occurrence there is no one to blame but the governments which followed blindly whatever advice received from the International Financial Institutions.

As it goes, it appears that the dependency on international donors' institutions is causing trouble to poor countries rather than being a substitute to tax compliance by the majority of the people.<sup>68</sup>

In the same vein, it must be recognized that the efficient tax collection is not by itself a guaranty of good and effective public governance of our countries. The taxpayers' money must be judiciously used through budgetary allocations that will impact the lives and welfare of the people.

## 8. Conclusion

As shown in the article, taxation can effectively serve as a tool for public governance in Nigeria. For effective governance to be entrenched in the system through taxation, both the government and the taxpayers must discharge their responsibilities accordingly. The best way for people to participate in their government is voluntary compliance in payment of tax to the government while government must also reciprocate this gesture by judiciously account for the revenue it generates through taxation, openness and transparency in the budget process and ensures the provision of basic infrastructures and public goods and services. The connection between taxation and achievements should be as clear as possible. When people do not know where their contribution is going, it is hardly surprising that they object to paying more and more into the black hole of government.

## 9. Recommendations

1. As advanced previously, the taxpayer is more important than the tax. Taxpayers should be seen as priorities and must be recognized as key. Hence, taxpayers should be invited by the elected legislators in their constituencies to find out their priorities. As we are in democratic era, this issue is apt and calls for the electorates

<sup>67</sup> S A Dicie (n 1) 52 – 55 and B Akabueze (n 1).

<sup>68</sup> Ibid.

to carefully vote for the right candidates not necessarily the parties.

2. There is an urgent need to diversify the Nigerian economy away from the oil sector to the tradable non-oil sector (real sector) pursuant to broadening the revenue base.
3. Finally, the Federal Inland Revenue Service (FIRS) should continue to champion the reform of Nigerian tax system so that in the near future, it would mature to a level where it can accommodate more fundamental structural changes that will set it on a greater path of sustainable growth, development and effective public governance.