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THE EFFECT OF DIFFERENTIAL BUSINESS TAXATION ON INVESTORS BEHAVIOUR IN NIGERIA: AN EMPIRICAL STUDY OF ILORIN METROPOLIS

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ABSTRACT

Business taxation is one that established two divides for assessment of subjects. One taxed along side employment and the other as a body corporate. Those taxed along side employment pays less than those others taxed as a body corporate. This may influence choice of forms, which may have avoidance connotation. The study examines the effect of tax differential on choice of business form by investors. A sample of 120 investors provided the needed primary data by means of questionnaire administration and t - distribution for a one tailed test was used for data analysis. The study reveals that tax differential affect investor's decision on choice of business form and that the existing differential could be improved upon to enhance the government revenue potential. Segregation of personal income tax between employment and business incomes is recommended. Because of desirability problem revealed in the study, an equal business tax could not be recommended, rather the kind of differential that currently exist under company income tax was recommended. It is expected to be applied to all the forms of taxes in an equitable manner.

INTRODUCTION

Taxes have the characteristic of being a common source of revenue to all countries. It is not dependent on availability of resources like could be said of oil and other minerals revenue. However, yield differs from country to country or even region to region within a country, depending on natures endowment, ability to administer and collect and the extent to which the revenue from it is required by the government of individual state, among other things.

Taxes that apply to business income fall under direct taxes and under Nigerian law, it is administered in two forms. One is assessing business income to tax only in the hand of the owners of the businesses, which is the case when the business form is a sole proprietorship or partnership. The other, taxes business income first, (taken the business as an entity) and later assess the dividend received by owners from the same business profit to tax.

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If tax is properly administered generally, the revenue through it can improve greatly and government expenditure need could be better enhanced. The place of business taxation is particularly relevant to in Nigeria situation because, of the whole population, only a small fragment takes up salaried employment as a higher percentage are into one trade, business or crafts. All these non-salaried income earners could be classified under sole trade, partnership or company, all of whom are not discriminated against in terms of use of government provided amenities, accessibility to labour and capital market and hence, the appropriateness of their being taxed.

STATEMENT OF THE PROBLEM

The problems identified with business taxation could be better explained by a situation where two businesses probably, making similar profit from similar environment arising apparently from seemingly equivalent level of investment, pays different amount as tax as a result of differing forms of their formation by one being a Company while the other is not. A clear demonstration of inequality is depicted here especially in a situation where there is tax rate discrimination among forms of businesses. Various means of avoiding taxes exists. What this perceivable inequality could lead to is a form of tax avoidance in which case, investor(s) who are conscious of the above facts may from the threshold (even with all the capabilities of floating a Company) choose a partnership or sole trade, form of business even if it is glaring that it is not the most appropriate, if only to take tax advantage. A second possibility is the fact that existing investors(s) in Company that has gained reasonable ground may deliberately liquidate and raise partnership business to avoid high taxes.

OBJECTIVES OF THE STUDY

The main objective of this study is to examine the effects of differing business taxation on the avoid ability tendencies of the payers.

- To this end, the study specifically examines how the differences in tax liability affect investor choice of business form
- How (if any) inequitable taxation system of the different forms of business affect the overall tax yield and
- To proffer feasible recommendations, based on findings, from above, towards equitable business tax that shall reduce the inherent avoidance tendencies and would in turn improve government revenue.

HYPOTHESES OF THE STUDY

The following hypotheses, which are stated in the null, are tested in this study.

Hypothesis I: Taxation has no significant effect on choice of business ownership form of investors.

Hypothesis II: Equitable business tax has no significant effect on tax revenue yield.

JUSTIFICATION FOR THE STUDY

Generally, what could be said of other social sciences, as far as research in concerned in

Nigeria cannot be said of Taxation as a subject matter. It is not to say that studies are not being carried out from time to time, but the number of studies when compared with other fields may not be very impressive.

The topic of Taxation has obviously received a fair share of contribution from Accountant, Economists and Lawyers among others, as far as research is concerned. All this notwithstanding there is still paucity of empirical studies on the issue of taxation. To this end, this study lays particular emphasis on empirical formulation as it affects business taxation and the consequences of their differential rates on tax avoidance behavior of business owners.

RESEARCH METHODOLOGY

Primary data which are usually referred to as original fact was used. This was basically on individual respondent's tax situation and perceptions of current tax system as it relates to individuals and corporate businesses. Survey method of data collection which entails direct contact between the researcher and the respondents was adopted. In Pursuance of this, questionnaire designed for the purpose of gathering required data was administered directly on the respondents. A total of about eight hundred and fifteen businesses are officially registered in Kwara State. These comprised of about five hundred and seventy one sole proprietorships, about sixty-three partnerships and one hundred and eighty two companies. It is important to note that of the above figure, a larger percentage of about 65% are located in the capital city (Ilorin) which is the area of our study. The total number of investors could not be readily established. Based on the above, a sample of 120 respondents through random sampling without replacement, of investors was done for the overall study. This cuts across the three forms of business. Out of these only 102 returned the questionnaire and the analysis was based on same.

METHODS OF DATA ANALYSIS

The tool of analysis used for the data gathered to test the hypotheses is 't' distribution for a one-tailed test. It was used to compare the sample mean with the population mean of the group data.

It is given as $t = \frac{\bar{X} - \mu}{S_x}$

Where t = t distribution

$\bar{X}$ = sample mean

μ = population mean

S = standard error

The table value was derived thus:

$$T = n - 1$$

Mean standard deviation and coefficient of correction were also computed to be able to carry out a descriptive comparison of mean of other sample responses with population mean, dispersions from the mean and relative dispersions, among the respective

categories. Mean standard deviation and coefficient of variation were computed using these formulae:

Mean

$$X = \frac{\sum X}{n}$$

Standard deviation

$$S = \sqrt{\frac{\sum (X - \bar{X})^2}{N - 1}}$$

Coefficient of variation

$$C = S/\bar{X} \times 100\%$$

Further to these, all the responses in all categories were pooled and the mean calculated and compared with expected mean of three, as done for separate categories. Expected mean of three was arrived at by assuming equal response for the options which are on a likert scale of 1 - 5, with one (1) being the most negative response and five (5) the strongest response in affirmation. All results were interpreted in simplest words for a layman understanding.

DECISION RULE

The rule is to accept null hypotheses if calculated value of 't' is less than the table value of 't', and to assume another wise position if the calculated value is greater than table value.

THEORETICAL FRAMEWORK

Equity Theories of Taxation

The origin of Equity theory of taxation was linked to Adam Smith's wealth of a nation of 1776. It was a part of what became the four cannons of taxation identified by him. The bases of equity is said to be the principle of fairness between individuals under similar condition. It is said to require that;

The subject of every state ought to contribute towards the support of the government, as nearly equally as possible, in proportion to their respective abilities, that is, in proportion to the revenue which they respectively enjoy under the protection of the state (Seligman, 1962).

In explaining the concept of equity Kay and King (1980), taken taxes as being levied to finance collective expenditure on services, stated that;

"...the amount of tax paid by an individual should be related to the benefit which he derives from public expenditure"

The meaning of the above is that the higher you derive from what government provided or the higher your level of usage of such provision, the higher you are supposed to

contribute towards the cost of building the nation. They went further to state that "an individual should make a contribution according to the sacrifice which the tax burden imposes upon him and that individual should make proportionate sacrifice"

To put this in a simple and clear term, it means that tax payment should be based on 'ability to earn' income. That is the higher income one earns from the community the higher the contribution through taxes he makes. However the benefit aspect of equity put forward another theory that is more related to this study known as Benefit Theory of Taxation, this is as presented below.

BENEFIT THEORY OF TAXATION

A rational approach to taxation is to say that since taxes are levied to finance collective expenditure on service then the amount of tax paid by an individual should be related to the benefit which he derives from the public expenditure. This school of thought has become known as benefits theory of taxation

According to James and Nobles (1983) it is possible to theorise about which group receive the most benefit of government expenditure. Some theories, according to them, believe that the rich benefited most from governments provided protection. The thrust of this theory is to make citizen contribute to government expenditure in relation to the proportion of benefit which individual derives from such provision. The rich obviously would have more wealth in form of more cars that ply the roads, bigger houses that consume more power and water supply, than the poor.

However, the problem that has since been identified with this theory as an approach to equality is the ability to measure benefit. On this, they went further to say that, it is very difficult to measure benefit because people can rarely be excluded from enjoying the benefit of some forms of public expenditure. They then concluded by asserting that "we simply do not know the distribution of benefits of public expenditure and there is little prospect of discovering it".

Also, some types of expenditure of the government are designed to be a fairly straight forward redistribution of income toward those in need. It will therefore be wrong to use this as basis for determining tax payment as most of the beneficiaries in this category have virtually nothing to offer in return for such gesture since they are incapacitated (James and Nobes, 1983:85).

FORMS OF BUSINESS OWNERSHIP

The form of business ownership is the legal relationship that exists between the business and the owner(s). It defines the number of contributors to funding the business, the extent of liability of the owners to the business and of course its control.

Business ownership traditionally exists in five different forms. They include: sole proprietorship, partnership, Joint Stock Venture, cooperative society and public corporation. The first three being profit oriented, form the focus of this study.

SOLE PROPRIETORSHIP BUSINESS

This is the simplest form of business organisation. It is said not to exist apart from the owner who bears the risk of the business to the extent of his personal investment and properties. It is, according to Rachman and Mescon (1985), associated closely with the idea of individual initiative, self reliance and hard work. Most of the small businesses begin with this form, as it is cheap to form (Ward, 2002).

On the type of business that is most appropriate, Pfau (2003) is of the opinion that, a start up enterprises that has one owner who does not have substantial assets and that is engaged in business whose liability risks are insurable should be a sole proprietorship.

Rachman and Mescon listed the line of business in which the sole trades are often found as; retailing, agriculture, services (professionals - legal, medical, accountant) and manual (laundries and repair shops).

TAX ADVANTAGE

Sole proprietorship business is subjected to lesser tax in the form of personal income tax only. Also, self employed individuals are permitted to transfer into a personal pension account that is not subjected to tax until drawing begins from the savings as income (Rachman and Mescon 1985:2a). Their tax rate is obviously smaller comparatively.

PARTNERSHIP BUSINESS

Partnership Act of 1895 put partnership as a relationship that subsist between two or more persons carrying on business in common and with the aim of making profit. It is a legal association of two or more persons in business, as co-owners of that business. It combines the skills of several people each of who has a direct interest in the success of the business.

Partnership is usually through a deed (Idea café, 2002:2) and it is seen to enjoy more capital and skill of multiple hands when compared with sole trade. This is, however, at the expense of decision-making independence, because partners have equal right unless otherwise stated in the deed of partnership. In the words of Rachman and Mescon (1985:31), many small, as well as huge partnership firms exists to day

Tax Advantages

- There exists wide latitude for allocation of tax attributable of the partnership to each and other members, and
- The venture is not a separate entity for tax purpose but income are shared and assessed to tax in the hand of individual as personal income.

JOINT STOCK COMPANY

A Company is an entity that is authorized by law to act as a private person and legally endowed with various rights and duties among them to receive, own and transfer property, to make contracts and to sue and be sued Abdulrasaq(2002)

A company comes into being through a process of promotion, where promoters mobilize contributions from multiple of interested investors, to create an artificial person that will be legally responsible for the operations of such ventureship.

The legal responsibility of shareholders of a corporation for damages or debt owed is the extent of their investments (Rachman and Meseon 1985:33). This is what is referred to as limited liability. Further to this, is the fact that its life is separate from that of the owners and has its own rights and duties. Company could raise larger capital, transfer ownership and exist perpetually (Adebo Lawal, 1982 :).

TAXATION OF BUSINESS INCOME

Two types of taxes affect business income in Nigeria. They include Personal Income Tax (PIT) and Companies Income Tax (CIT). The personal income tax act of 1963 is the law governing the administration of personal income tax. It provides in section one that:

There is hereby imposed a tax on the income of individuals, communities and families, and arising to any trustee or executor under any settlement trust or estate, which shall be determined under and subject to all provisions of the decree (PITA, 1963).

This provision takes care of sole trade income as well as partnership income, because a partnership can not be directly assessed to tax in respect of partnership profit but rather the share of partnership profits and other incomes of an individual partner are so assessed" (Ola, 1997).

Company's income tax in Nigeria is regulated by Companies Income Tax Act of 1990. Section one of the Act established the Federal Board of Inland Revenue services that; is charged with the duty of administering the taxation of companies in regard to income tax, of making assessment, collect tax and accordingly account to the government (Abdulrasaq, 2002:120).

According to Naiyeju (1992) sole proprietors in small trade and businesses are assessed to tax as resident individual under personal income tax Act. Baiyewu (2002) stated that because partners shares the partnership net incomes, the personal income tax act of 1963 makes it mandatory for each partner to be liable to tax. For a company, Abdurasaq (2002) stated that taxation is based on classical model effect, which is on the basis of incidence of incorporation. A company is characterized by complete separation between the company and its owners, so that tax is levied on the profit of the company as a separate entity. If company further choose to distribute dividend to shareholders, the recipients of such income is further assessed to personal income tax like is for sole trader and of a partner.

The work of Charney (1979) examined the roles which the local income and property taxes play in the location decisions of manufacturing firms within metropolitan area of Detroit. Based on the final estimated expression of his derived equation, he found out, conclusively, that relative high levels of property taxes represent a significant

Hypothesis II

The hypothesis stated that: Equitable business tax has no significant effect on tax revenue yield.

Related to the above hypothesis is the analysis of response to questions that tends to investigate the effect an equitable tax, for business, will have on tax revenue performance (yield). One this, the calculated t-value for the obtained cumulated responses of 3.955 is less than the table value of 3.960. Thus, the null hypothesis two could not be rejected. This revealed that according to the perception of the respondents, an equitable tax rate will not improve government revenue much significantly. However, a look at each of the responses to the two other relevant questions revealed that the responses to desirability of rate variation over shadowed the other and affected the final result. That of its effect of reducing avoidance, evasion and improving revenue actually shows a result in support of the respondents. The importance of desirability can not be over emphasized as it actually determines the behaviour. A look at the mean scores for the grouped revealed a slight variation, with the sample mean being greater than the population mean, while individual analysis supported the above result.

On the analysis based on different forms, the response to revenue improvement issue for all the three forms revealed that the respondents perceived that equitable tax will improve revenue. For the responses to desirability issue, the calculated mean for sole trades and partnership were in accord with that of the grouped analysis above. For companies however, sample mean is seen to be greater than population mean. The implication of these is that equitable tax is desirable only by investors in companies and not sole trade or partnership. This is because the investors in companies are already paying the higher rates.

CONCLUSION

From theoretical standpoint, it has been demonstrated in this work that the current system of business taxation failed to up-hold the equity theory of taxation. As stated by Kay (1990) the reason behind higher tax for company as against individuals is based on the fact that business are able to as much as possible, recoup its cost from revenue before subjecting it to tax. This is not so for employment incomes. In practice it is all forms of businesses that tax laws allows to recoup their relevant cost from revenue, consequently, equity and fairness demand that they are equitably subjected to tax with some degree of convenience.

More importantly, it is worth stating that, the fact that differential taxation affects decisions is upheld by this study. This is in line with Charney (1979) who discovered that differentials tax rates affect firm's choice of location. From the study, it could also be concluded that incident of under reporting of income is higher for tax payers facing lower tax rate than for those facing higher rates. The fact that this study reflect a situation where investors choose a business form after given due consideration to tax effects, makes the result of this study to be in line with past similar studies. Another area to point at, as found out by this research is in respect of the suitability considerations. The sole trade,

especially the partnership is particularly suited for investors who have all their assets put into the business since they are personally involved in the running of the business. Company, on the other hand, should be for those that have other asset not used for the business i.e. with diversified portfolio investments.

In conclusions, the study being an evaluation of effect of tax differential on business ownership forms, the research evaluated the investment behaviour of investors who are tax conscious. This is born out of the fact that in-equality is seen to exist in the current tax system in favour of some forms of businesses against others. It is perceived that this in turn, leads to tax avoidance.

Based on the findings of this study, the following conclusions are drawn as regards the present system of assessing businesses to tax in this country.

Personal income tax system is one that brings together employment and some businesses under one umbrella as against company income tax system. The system demonstrates clear inequality among forms. This is well known to investors as they consider it in choice decision. The findings revealed that lower taxes makes investors in sole trade and partnership prefer the forms to company incorporated. It further leads to the conclusion that it encourages a form of avoidance. In summary it was concluded on this that, current system negate the equity theory of taxation.

Based on the above conclusions, the following recommendations were proffered, trade/business income tax should stand differently from employment income tax, this is because of fact that the disparity in taxation system between companies and individual is said to lie on cost recoverability. All forms of businesses could recoup cost from revenue before profit is subjected to tax.

A tax system that would be seen to be equitable in all forms by investors, i.e a system that assesses all forms of businesses according to a judicious merit, devoid of any form of bias in which no form of business would feel marginalized, should be introduced.

It could not be recommended straight away that all forms pay equal business taxes because of other findings here however, the kind of differential that currently exists between small companies and big companies could be extended to the forms of business ownership to make it more justified.

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