# A LEGAL EXAMINATION OF THE ROLE OF TAXATION IN REVENUE GENERATION AND ECONOMIC DEVELOPMENT IN NIGERIA

**BY**

**Muhammad Bature GARBA**
**LLM/LAW/09426/2009-2010**

**BEING A DISSERTATION SUBMITTED TO THE SCHOOL OF POSTGRADUATE STUDIES, AHMADU BELLO UNIVERSITY, ZARIA. IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTER OF LAWS- LLM**

**DEPARTMENT OF COMMERCIAL LAW,**
**FACULTY OF LAW**
**AHMADU BELLO UNIVERSITY,**
**ZARIA.**

**SEPTEMBER, 2015**

## Declaration

I, declare that the work in this Dissertation entitled **"A Legal Examination of the Role of Taxation in Revenue Generation and Economic Development in Nigeria"**has been carried out by me in the Department of Commercial Law. The information derived from the literature has been duly acknowledged in the text and a list of references provided. No part of this desertion was previously presented for another degree or diploma at this or any other Institution.

| | |
|---|---|
| ---------------------------------- | ---------------------------------- |
| **Muhammad Bature GARBA** | **Date** |
| LL.M/LAW/09426/2009-2010 | |

## Certification

This dissertation entitled **"A Legal Examination of the Role of Taxation in Revenue Generation and Economic Development in Nigeria"** byMuhammad Bature GARBA meets the regulations governing the award of Master of laws(LLM) of the Ahmadu Bello University, and is approved for its contribution to knowledge and literary presentation.

| | |
|---|---|
| -------------------------------- | -------------------------- |
| **Dr. David C. John** | **Date** |
| Chairman Supervisory Committee | |
| -------------------------------- | -------------------------- |
| **Prof. Nuhu Mohammed Jamo** | **Date** |
| Member Supervisory Committee | |
| -------------------------------- | -------------------------- |
| **Dr. A.R. Agom** | **Date** |
| Head Department of Commercial Law | |
| -------------------------------- | -------------------------- |
| **Prof. Kabir Bala** | **Date** |
| Dean, Postgraduate Studies | |

## Dedication

This Dissertation is dedicated to my wives: Aishatu, Hussaina and Hadiza including all our children.

## Acknowledgments

My thanks and appreciation goes to the following people Dr. D.C. John the Chairman Supervisory Committee who guided me throughout the research, Prof. Muhammad Nuhu Jamo, Professor Y. Y. Bambale Dean Faculty of Law, Dr. (Mrs.) I. F. Akande Coordinator Postgraduate studies, Dr. A. R. Agom, Barr. Samaila Abdullah Barau, Alhaji Maye and many others that cannot be mentioned in this small space. Also my thanks goes to the entire staff of the Faculty of Law who might have helped me in one way or the other.

Finally to my family and friends for their patience and support in the production of this thesis.

## Table of Cases

## Table of Statutes

## List of Abbreviations

| | |
|---|---|
| **ITL:** | Income Tax Law |
| **P.I.T.A:** | Personal Income Tax Act |
| **I.T.M.A:** | Income Tax Management Act |
| **E.D:** | Excise Duty |
| **P.I.T:** | Personal Income Tax |
| **C.I.T:** | Company Income Tax |
| **P.P.T:** | Petroleum Profit Tax |
| **V.A.T:** | Value Added Tax |
| **E.T:** | Education Tax |
| **1999 C.F.R.N:** | 1999 Constitution of the Federal Republic of Nigeria |
| **C.E.D:** | Custom and Excise Duties |
| **S.D:** | Stamp Duties |
| **Ex.D:** | Export Duties |
| **D.T.O:** | Direct Tax Ordinance |
| **I.T.O:** | Income Tax Ordinance |
| **Im.D:** | Import Duties |
| **N.R.O:** | Native Revenue Ordinance |
| **N.N.O:** | Non-Natives (Protectorate) Ordinance |
| **N.D.T.O:** | Native Direct Taxation (Colony) Ordinance |
| **C.G.T:** | Capital Gain Tax |
| **G.D.P:** | Gross Domestic Products |
| **P.A.Y.E:** | Pay-As-You-Earn |

| | |
|---|---|
| **U.B.E:** | Universal Basic Education |
| **N.A.C.B:** | Nigeria Agricultural and Cooperative Bank |
| **U.S.S:** | United Salary Structure |
| **R.E.P:** | Rural Electrification Programme |
| **R.A.E.P:** | Rural Adult Education Programme |
| **A.E.S:** | Agricultural Extension Service |
| **I.M.F:** | International Monetary Fund |
| **P.I.O:** | Pioneer Industrial Ordinance |
| **B.I.R:** | Board of Internal Revenue |
| **F.I.R:** | Federal Inland Revenue |
| **NASS:** | National Assembly |
| **F.A.O:** | Food and Agricultural Organization |
| **A.C:** | Appeal Cases Report |
| **C.T.C:** | Canadian Case |
| **WLR:** | Weekly Law Report |
| **NLR:** | Nigerian Law Report |
| **NWLR:** | Nigerian Weekly Law Report |

## Table of Contents



### CHAPTER ONE

### GENERAL INTRODUCTION

## CHAPTER TWO

## EXAMINATION OF TAXING POWERS IN THE FEDERAL REPUBLIC OF NIGERIA UNDER THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED)



## CHAPTER THREE

## ANALYSIS OF INCOME TAX AND REVENUE GENERATION IN NIGERIA

## CHAPTER FOUR

## SIGNIFICANCE OF TAXATION IN NIGERIA



## CHAPTER FIVE

## SUMMARY, FINDINGS AND RECOMMENDATIONS

**Abstract**

*The bulk majority of the tax evasion and tax avoidance is caused by inadequate machineries and lack of skilled personal in administrative tax bodies as well as the legal framework upon which their relationship rest. This result in many problems of the tax collection in Nigeria. It is in this regard that the topic of this dissertation entitled "A Legal Examination of the Role of Taxation in Revenue Generation and Economic Development in Nigeria" was chosen. This study is to present, explore and analyze the nature and extent of tax legal provisions relating to the role of taxation in revenue generation and economic development in Nigeria. It will also present how they are maintained, practiced, adhered to and suggest some ways and means of improving the present state of affairs. The study is composed of five Chapters. Thus, Chapter one dealt with the General Introduction, Background, Statement of Problems, Aims and Objectives, Scope of the study, Significance of the study, Research Methodology, Literature Review and Organizational layout. Chapter two discussed on Examination of Taxing power in the Federal Republic of Nigeria under the 1999 Constitution of the Federal Republic of Nigeria (As amended), and the brief history of Income Taxation in Nigeria. Chapter three is the bedrock of the whole work that discussed the role of taxation in the economic development of Nigeria with its legal perspectives. Chapter four discussed on significance of Taxation in Nigeria; Nigerian Economic Situation and Tax as incentive for economic growth. Chapter five which is the last chapter discussed on Summery, Findings and Recommendations that my hopefully be help in solving the problems.*

## CHAPTER ONE

## GENERAL INTRODUCTION

### 1.1 Background ofthe Study

Tax is one of the sources of revenue for the government.[1] This is so because for the achievement of aims, goals and objectives, an organization will need to have enough funds at its disposal. This importance assumes an accelerated dimension in the face of the present economic recession in Nigeria.[2]

Therefore, tax system is one of the most powerful means available to the government to stimulate and guide its economic and social development. In the life of any nation, taxation is an indispensable tool employed by the government for the promotion of their overall economic and social objectives. The crucial role that taxation plays in the development of Nigerian economy cannot be over emphasized.[3]

Though revenue generation seems to be the primary goal of the government when it levies taxes, however it not the only purpose of the government in levying taxes, but produces economic need for the government.

For instance, when investment, production, consumption and so on, begin to rise or fall dangerously, a change in the tax structure can stop or reverse the undesired trend. It is in

[1]Is-haq (2010) Repositioning the Nigeria's Tax System; Suggested Policy Measures University of Ilorin Press Ltd p.3
[2] Jinghal L..M. (1995 ) The Economic Development Planning 28 Revised Edition, Publish offset Press, New Delhi
[3] Is-haq op cit p

recognition of this crucial role of taxation in a country's economy that the United State Supreme Court has this to say in the case of ***Nichols v. Ames***[4]

> Taxation is one great power upon which the National fabric is base. It is necessary to the existence and prosperity of a nation. It is in the air she breathes. For natural men, it is not only the power to destroy…

Taxation provides the main impetus for formulation and implementation of an optimal fiscal strategic policy. To this end state governments in Nigeria play and carry out important roles and responsibilities, for examples apart from Local governments State governments are the second tier of governments closest to the people. These governments coupled with other responsibilities they are saddled with they provides the people with social services, and to do this effectively they need to generate enough funds.

Therefore, to generate enough funds for any government in order to discharge its responsibilities effectively it is a matter of concern to everyone. The accessibility of the income of the tax payer from all sources, including balancing charge, less allowable deductions for expenses, capital allowances and losses are the income of the taxpayers. There is the unreported case of a Professor who earned ₦3,000 from a part-time state appointment. He transferred the income tohis University faculty to be used for the advancement of education. The income had never come to his hands. The revenue successfully contended that the income was that of Professor and not that of the recipient of a gift, since the recipient had not earned it. The Professor may plead that this is good example of a legal tax avoidance to benefit mankind, and that an American case of the RITES Foundation may be cited as a precedent. The point here is that it must be proved conclusively that the income is that of the taxpayers.

[4] (1935) T.C. 531

Tax rates are fixed by Government as a matter of fiscal policy. Over times, these rates have changed in line with government perception of economic realities on the ground. Tax rates in taxation makes for progression which translates into the higher the income, the higher the tax that should be paid. Taxation does not just relate to application of tax laws alone but alsoabout incidence. Tax incidence should be progressive as a pre-requisition of an efficient system of taxation. Other considerations would have arisen if chargeable income were taxed at the same rate. This would definitely be heavily weighted against those in the low income bracket. Thus, it will bring equity which government tries to promote through the policy of income tax rate as follows:

The difference between income tax and income rate is that income tax is charged on chargeable income whereas income rate is levied on total income. Income rate was abolished from 1977/78 year of assessment in respect of those who pay tax under Pay-As-You-Earn system.[5] Instead, where the chargeable income is nil, a taxpayer will be liable to pay tax at the rate of 1 percent of his total income. This was abolished in 1998.

## 1.2 Statement of Problem

The problems of this research work are as follows:

1. Tax collection appears difficult because, the tendency of some corrupt and inept tax officials conspire with tax defaulters to avoid tax payment whichcripples the aims and objectives of the government's good policy.

[5]Decree No. No. 61 (Finance miscellaneous Taxation Provisions) Act 1977, see also Federal Gazette No.43, Vol. 64, 1 September 1977

2. There is also the problem of weak or inefficient and defective legislation. There are also inadequate machineries as well as lack of skilled personnel in the administration of tax that causes low revenue generation to the government.

3. The tax rates in Nigeria are very high. This makes it difficult to achieve adequate income tax compliance resulting into tax evasion and avoidance by tax payers.

4. Another problem is the excessive corruption and mismanagement of the funds by the tax administrators in the country which can adverselyaffect the disposition of the people's attitude towards the payment of taxes, for example, the House Committee on Finance reported that, over the years the Nigerian Government has lost billions of Naira in fraudulent and underhand dealings corruptly design by some banks to evade taxes,[6]and also corruption on the side of revenue collector's account for the low revenue generation in Nigeria.

## 1.3 Aim and Objectives of Study

The central aim of this research work is to appraise the legal assessment and the importance of Income tax in the economic development of Nigeria so as to achieve the following objectives:

1. To examine the basis of taxation for the purpose of identifying those important contributions of income tax to the Nigerian economic development, and suggest ways to avoid corrupt attitude by the inept tax collection officials that conspires with some tax defaulters not to pay the correct tax due or even refuse to pay tax at all.

[6] Musa, A.K. and Ibrahim K.A. , (2013) , p.4, House of Representative uncovered massive Tax Frauds in Banks, published in: The Daily Trust Monday August 26

2. To examine and analyze the prospect and problems or major constraintsthat inhabits the smooth identification, assessment, collection and administration of income tax in Nigeria, there by result in the problem of tax evasion and tax avoidance.
3. Also to find out ways of enhancing good tax administration that will boost the positive attitudes of taxpayers towards payment of taxes. To also recommend the need for the judges and legislature to observe as much as possible moderate rates covering of tax statutes in order to avoid inadequate income tax compliance resulting in tax evasion and tax avoidance.
4. Lastly to recommend the introduction of task force which will supervise tax administrators and tax collection should be partitioned according to zones, and that the amount generated on tax should be published in any of national newspaper or magazine. This will eradicate mismanagement of tax fund by the tax administrators.

### 1.4 Scope and Limitation of the Study

This research falls under the law of taxation with reference to personal income tax. It covers geographically the whole of Nigeria including some other foreign tax jurisdiction and various tax enactments that are relevant to income taxation.

This work is limited only to the field of income tax and it deals especially with the prevailing economic situation in Nigeria with reference to the tax laws and cases. It may also be referred to some international treaties on taxation either because of the nature of the Received English Laws, or simply for the purpose of comparison to make the study robust.

## 1.5 Significance of the Study

The significance of this project lies in its ability to be able to proffer solutions to the various roles of income tax in revenue generation and development of economy in Nigeria as a whole. The research will serve as guide and helps the general public to understand the importance of payment of income taxes and what the taxes are employed for. The research will also be useful to students, lecturers, policy makers at all levels and in different units of government.

## 1.6 Research Methodology

The doctrinal method of acquiring information was used to accomplish this work, to wit primary and secondary sources were used. The primary sources include statutes and treaties on taxation law, government gazettes while the secondary Sources includes textbooks, Journals, articles, seminar paper, law reports periodicals and website.

## 1.7 Literature Review

Many writers and scholars have written on taxation from so many different perspectives. Almost all of them are unanimous in their belief that is difficult to specify what taxation is. Ola[7] in his book "IncomeLaw on Corporate and Incorporated Bodies in Nigeria" gave detailed analysis of taxation as follows:

> Income tax is one of the major sources of revenue of all government in Nigeria and is a factory to be reckoned within both state and local government budget. T he taxes collected come back to the tax payer in form of social amenities[8]

[7] Ola C. S. Mg. Income Tax Law and Practice; Macmillan Publishers, London (1985)
[8] AgyeiA.Kp (1977), Law on taxation, West African Book Publishers Ltd, Lagos

He argued that revenue collected through taxation help the government to execute both at the state and local government annual budget. AGYAI[8a] in “Principle of Personal Income Taxation in Nigeria” made a detail definition of tax problem in Nigeria and made a lot of observations on Tax administration.

Tax collection, problems of assessment and understanding of tax-payers.He identified two significant problems leading to lack of enlightenment on the end result of tax money. He stated:

> *It is expedient to let people know how their tax money is being spent.(as I see)What is more important is to produce visible and tangible evidence that their money is being spent judiciously only then will the pay tax willingly*[9]

RABIU[10]in his book “Nigerian Personal Taxation” talked about thelegal aspect of income Tax and said that the operation of any tax system of any country and the attitude of tax payers toward it, was strongly influence by the quality of its administration. AYUA[11], in his book “Nigerian Tax Law” looked at the legal stand point of income matters.

In other word the book examined the present state of law of direct income taxes and other matters. He said the law of the above taxes is found in two main sources as follows:-

Statutes, as there is no common law of taxation.

(ii) Reported decisions and dicta of the judges.

---

[9]Ibid
[10] Rabiu S.A. Lagos, John West Publications Ltd (1986)
[11] Ayua I.A. Ibadan, Spectrum Law Publication Ltd (1996)

The work of Ayua[12] was acknowledged in this work. The author, in his work, dealt extensively with procedures of Personal Income taxassessment. He maintained that the shortcomings in connection with tax administration is that of enforcing the payment of income tax.

He further maintained the view that it is in pursuance of ensuring Payment of Income tax that both the Personal Income Tax Act and Companies Income tax Act categorized various offences and punishments for violation of tax laws and regulations. He Stated that PITA laid down income tax offences and penalties, however, according to the author, the terms were toosmall and were not commensurate with the offence that were designed to defeat, and the penalty provisions were overlapped.

Ayua[13]further maintained that there is also problem of personnel; that tax officials are poorly educated and trained, and are, therefore, ill-equipped to do the job properly. He also exhaustively discussed the basis of collection Income tax and its importance in developing the Nigerian economy. This work covered the aspect that was not addressed by the above writers. From this literature review it was discovered that taxes are desirable for development, since it is the sources of generating revenue for the various arms of government. It is another way of making a mandatory contribution to government.

The work of Asada[14]discussed the nature and imposition of income tax. He stated that personal income tax is a form of taxation which imposes taxes on employees and self-employed persons. According to Asada, income of a person or individual which emanates from any of the sources

---

[12] Ibid
[13]Ayua, I.A. (1996) Nigerian Tax Law, Spectrum Law Publishing, Ibadan
[14]Asada. D. (2012) the Administration of Personal Income Tax in Nigeria & some problems apart, Extracted from http://dspace. UniJos.edu.ng/bit stream/10485/263/1/CJ 106-119

indicated as arises in  Nigeria or abroad, whether or not it is remitted into Nigeria or received abroad and is not brought into Nigeria is taxable under personal Income tax.

He highlights the problem of Personal Income tax in Nigeria as tax Administrative problem. That is, Collection, assessment, wide spread of corruption and absence of competent administration. He maintained the view that the need to improve the administration of the country's tax system cannot be over emphasized.

According to the author, the assessment and collection of income tax from taxable persons have been difficult. He maintained that collection is one of the fundamental area of problem in the income tax administration. He lamented that the problem of collection of personal Income tax is more with the self-employed rather than collection and remittance of employed and registered taxpayers. He further highlights that there are difficulties inherent in the identification and assessment of self-employed Income.

The author further stressed that the procedure provided under the a personal Income tax law gives a taxpayer ample opportunity to under-assess his or her income, there is lack of coordination between various governments department and there a numerous lacunas in the income tax law.

According to the Asada, the mode of enforcement of income tax by the tax force is unheard of, as it is uncivilized method of enforcement. The work of Asada enumerated lots of problems; however, it did not provide possible solutions or recommendations to the identified problems.

This work, therefore, recommends solution to those problems. The current research work acknowledged the work of John.[15]The author .made a lengthy discussion on decentralized governments and a degree of revenue autonomy that is allowed to them by central governments. He pointed out some shortcomings of the sub-national governments, i.e. lack of adequate system to tract collection, low compliance, corruption and bribery, shortage of qualified staff, inadequate resources and poor records management, but he did not provide for the solutions. This dissertation covered most of the issues authorized, and provided recommendations toward solving the identified problems. The work of Ola[16] was acknowledged in this research work. The author dealt with income tax in Nigeria, its importance to the economic development and challenges. The major problem ofpersonal income tax he raised was tax avoidance and tax evasion. He, however, did not provide the means by which tax avoidance or tax evasion can be prevented in the Nigerian personal Income tax system.

This dissertation dealt with issues of tax evasion and tax avoidance and provided solutions to solve those problems. The work of Ariwola[17]was also referred and acknowledged. The author gave the historicalantecedents of personal Income tax, from the enactment of ITMT 1961,which governed the taxation of individuals as opposed to Companies.

According to him, the main purpose of the Personal Income Tax throughout the *Government and State governments will be avoided. He maintained that ITMA Federation is that double taxation of incomes by the Federal was later repealed and re-enacted as Personal Income Tax Act (1993).*

---

[15] John, L.M.(2003) Developing options for the Administration of Local Taxes; An International Review, A paper presented at the World Bank Workshop entitled, innovations in local Revenue mobilization, Washington D.C. June p. 24.

[16] Ola, C.S.(1981) Income Tax for Corporate and Un-Incorporated Bodies in Nigeria, Heinemann Educational Books, Ibadan

[17]Ariwola, J.A. (2000) Personal Taxation in Nigeria, 4th Edition, J.A.A. Nigeria Ltd., Lagos

The work of Ogbonna and Ebinobowes[18]was acknowledged in thisresearch work, the authors in their work, represents a comprehensive assessmentof the impact of income tax on economic growth in Nigeria. The authorsdisaggregated tax into its components such as Excise Duties, Personal Income Tax, Companies Income Tax, Petroleum Profit tax, Value Added Tax and Education Tax, and discussed extensively on issues and challenges.

This research acknowledged the contributions of the Value Added Tax to the development of Lagos State economic and provided recommendations as solution to the identified problems.

Owolabi and Okwu[19] examined the contribution of Value Added Tax to the development of Lagos State economy. The author considered infrastructural development, environmental management, education sectors; youth and social development, health and agriculture, as well as transportation which he viewed that VAT contributed positively to the development of those sectors. However the author is silent on the Legal assessment of Income tax in the economic development of Nigeria. The current research is premised to assess the role of Personal income tax as well as other tax organs to the economic development of Nigeria.

## 1.8 Organization Layout

This research work consisted five chapters. Chapter one deals with the general introduction, statement of problem, aim and objectives, the scope of the study, significance of the study, literature review, research methodology and organizational layout employed.

Whereas chapter two concerned itself with the examination of taxing power under the 1999 Constitution of the Federal Republic of Nigeria (as amended), definition of key terms, the

[18] Ogbonna, G.N. and Ebimobowei (2012) Impact of Tax Reforms and Economic Growth of Nigeria in ;Worlu, C.N. op cit, p.217

[19]Owolabi, S.A. And Okwu, A.T.(2011) Empirical Evaluation of Contribution of value Added Tax (VAT) to Development of Lagos Economy in: World, C.N. op cit, p.216

purposes and functions of income tax, redistribution of income tax, reduction of adverse effects on inflation, reduction of unemployment, as a tool for effective fiscal policy and the imposition of income tax in Nigeria.

Chapter three takes a look at analysis of income tax and revenue generation in Nigeria, the role of taxation in the development of the Nigerian economy, rising of revenue for government services, recurrent expenditure, capital expenditure, distribution of income and economic revitalization.

Chapter four deals with the significance of taxation in Nigeria, Nigerian economic situation, tax as an incentive for economic growth and the effect of fiscal policy on economic development of Nigeria which are to stabilize all tax rates and exemptions from new taxes or modification duringthe period.

Chapter five, which is the last chapter, dealt with Summery, Conclusion Findings. In that chapter, Summery of the entire work was supplied, findings were enumerated and discussed and recommendations to the possible solutions to the identified problems that under smooth identification, assessment, Collection and administration of Income tax, as the second major source of revenue generation toward the economic development of Nigeria, was provided.

## CHAPTER TWO

## EXAMINATION OF TAXING POWERS IN THE FEDERAL REPUBLIC OF NIGERIA UNDER THE 1999 CONSTITUITON OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED)

### 2.1 Taxing Powers of the Federal Republic of Nigeria under the 1999 Constitution of the Federal Republic of Nigeria (as amended)

**T**he power to tax is one of the plenary powers of any government which need not be formally conferred upon it. According to Ayua,[1] there has been a requirement that if at all, government was to interfere with property, pry into a man's affairs and takes his money, then this must be on clear statutory authority. This was rightly exemplified in the case of ***7UP Bottling Company v. Lagos State Internal Revenue Board,***[2]where it was held that:

> *It has often been the view of the Courts here and elsewhere that if a person sought to be taxed comes within the letter of the law, then such person must be taxed. On the other hand, if the tax authority seeking to recover tax from a person is unable to bring him within the letter of the law, the person will be free, however apparently within the spirit of the law his case ought to otherwise appear to be.*

This position was upheld in the case of ***Authority v. Regional Tax Board, Attorney-General of the Western States of Nigeria and Adelaja***[3] where the Federal Court held that, "No tax can be imposed on the subject without words in an Act of parliament clearly showing an intention to lay a burden on him. "In a single tier system i.e. unitary system of government, there is no problem

[1] Ayua, I.A. (1996 Nigerian Tax Law, Spectrum Law Publishing, Ibadan p.46
[2] (2000)3 NWLR, pt. 591 p.565
[3](1976) NCLR 452-464

with the definition of the power. Consequently, such a government can impose any form of tax, for any purpose and at whatever rate that pleases its fancy. In effect such government is not subject to any constitutional limitation. The only limitation one can possibly infer is perhaps practical and that is, it may be restricted by practical considerations like ease of assessment and collection; the effect such tax may have on the political fortune of the government, especially if it operates in a bi-party or multi-party democracy where the government has to seek the mandate of the electorate on a periodic basis.

However, in a federal set up, because of the inherent conflict situation always existing between the central and the constituent governments (which conflict probably gave rise to the federal set-up in the first instance) it is essential that powers are allocated and defined in the fundamental law of the system.[4]

Thus such fundamental law (usually Constitution) delimits the extent to which each level of government can go. Beyond this limit its action is regarded as being ultra vires and unconstitutional.[5] Apart from the reason of elimination or minimization of conflict between the central and constituent governments, the need to define allocation of powers particularly in the field of taxation is understood by the interest of the taxpayer for it is not in the nature of man to voluntarily part with his property especially when it is to an abstract entity such as government, therefore there is the need for certainty in the area of who has what power to tax in any particular circumstance.[6]

---

[4] Abdurrazaq, M.T.(1999) Nigerian Revenue Law, Malthouse Ltd, Ibadan, P.37
[5] 1999 Constitution of the Federal Republic of Nigeria, as Awarded
[6] Ibid P.35

By virtue of Section 4 of the Constitution,[7] the federal government is given exclusive jurisdiction to make laws in respect of matters set out in Part 1 of the Second Schedule to the Constitution. It is also given power in respect of matters contained in Part II of the same Schedule (referred to as the Concurrent Legislative List) to the extent stated therein. Though the latter is referred to as Concurrent Legislative List, a closer look at the provisions of Subsection 4(a) of Section 4 of the Constitution[8] will reveal that there is no such area of concurrent jurisdiction in the list. What we have are mutually exclusive legislative powers over certain items.

Thus, the federal government cannot go beyond the extent provided in the column opposite the items in the list. Consequently, by virtue of Items 15, 22, and 57 of the Exclusive Legislative List, the National Assembly is given exclusive power to impose Customs and Exercise duties; Export duties and Stamp duties respectively. In addition, Item 58 gives it exclusive power to impose tax in respect of incomes, profits and capitals gains. Thus, the Federal Government is given the unfettered power to make laws in respect of this matters.[9]

By virtue of the same section 4 of the Constitution, States are empowered to make laws in respect of any matter whatsoever, provided such is neither on the Exclusive Legislative List nor specifically allocated to the Federal Government on the Concurrent Legislative List, and it is not that on which the federal government is empowered to make laws in accordance with any provision of the Constitution.[10] The result is that the power to impose any tax not specifically allocated to the Federation is properly within the legislative jurisdiction of the States. This is confirmed by Item D Paragraph 7 of the Concurrent Legislative List which permits a State to

[7] Section 4 of the 1999 Constitution, L.F.N. As Amended
[8] Ibid
[9] Para 10, Item D of the Concurrent Legislative List
[10] Abdurrazaq, M.T. op cit p.37

make provisions for the collection of any tax, fee or rate or for the due administration thereof by a Local Government Council.

Though the power to impose any tax is not expressly vested in the States as isdone in relations to the Federal Government, the power must be assumedin view of the unambiguous provision of Section 4(7) of the Constitution and in view of the constitutional maxim ***delegatus non potestdelegare***. Surely, the States must have power to impose any tax before it could delegate the function of collection to the Local Government Council, and before it could "regulate the liability of persons to the tax, fee or rate".Furthermore, the Constitution Drafting Committee in its report and the draft it submitted, specifically reserved such taxes outside those on incomes, profits, and capital gains, customs and excise duties and also stamp duties to the States.[11]

This is a deliberate departure from the arrangement under both the 1960[12]and 1963[13] Constitutions where for instance, imposition of general sales tax was exclusively reserved for the Federal Government. Surely the absence of this power to impose general sales tax under the Exclusive Legislative List of the 1999 Constitution is a clear manifestation of an intention to regulate the tax to the residual list. This interpretation is in consonance with general constitutional theory of federalism. It is a cardinal principle of federalism that the centralgovernment is a government of enumerated powers while those of the components are governments of general or residual powers. This is because of the theory that a federation is product of otherwise sovereign states(governments) coming together to surrender certain of their powers for the common good while they still retain a good many. Consequently, our Constitution in apparent compliance with the above principle, enumerated those taxes that the central

[11]Reports of the Constitution Drafting Committee, Vol. II, pp.131-154 especially p.134.Legislative List of the 1963 Constitution

[12] Item 38, Exclusive Legislative List of the 1960 Constitution.

[13] Item 38, Exclusive .Reports of the Constitution Drafting Committee, Vol. II

government can impose and therefore exclusive to it while the residual field is left to the component States. The Constitution further provides “the right to property” under Section 43.

The Constitution also protects citizens from taking of their property without justification or authorize by the law. Thus:

> 44. (1*) “No moveable property or any interest in an immovable property shall be taken possession of compulsorily……”*

However, sub section (2) (a) of the same Constitution allows derogation from that right by any law and for the purpose of enforcing payment of tax. Going by its definition, taxation is a compulsory levy, extortion(albeit a justifiable one). Ordinarily, levying of tax is a violation of the fundamental right, but as we have pointed out there is the need for the individual to surrender some of his rights for the good of all, that is utilization of tax money for the government’s capital project. Again, we have said that the government has an inherent right to impose tax.

Definitely an imposition of tax would amount to an infringement of the individual’s right to his property. In order to avoid this conflict, the 1999 Constitution of the Federal Republic of Nigeria (as amended) has provides that the prohibition of compulsory taking of property shall not be construed as affecting any “general law for the imposition orenforcement of any tax, rate or duty” as stated in Section 44 (2) of same Constitution.

The Constitution further made an equal protection on discriminationunder Section 42 Sub-Section (a) & (b) preserves the right of every citizen of Nigeria to the equal protection of the laws. Sub (b) providesthat no citizen shall be subjected to any disability or deprivation on account of sex, place of origin, religion, ethnic group or politicalopinion. The same sub section

(2) further provides that no citizen shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth. In this case even though the Constitution protects and granted Nigerian citizens on discrimination it is the same Constitution allows for tax. Therefore in relation to the taxation it can be argued that a law granting reliefs on the basis of sex to members belonging to a sex or group will not be construed as denial of certain reliefs or violation of that particular provision. Therefore based on the above provisions an edict established Board of Internal Revenue for the Kaduna State Government was promulgated by the State Legislative with the collaboration of the State Executive, known as "Cap.15.

## 2.2 Brief History of Income Taxation in Nigeria

Traditionally, the basic question was and is still why do governments levy tax? Particularly "in a country with almost all the resources of the world"?[14] It will be very difficult to answer this question if the only reason for taxation is to raise sufficient revenue to meet the need of the government current expenditure. If in Nigeria forinstance with a population of a little above hundred and forty Million people and with an estimated annual revenue of ₦214 Billion from oil alone and ₦126 Billion from non-oil in 1996[15] still concern itself with taxation particularly Personal Income Tax. Income tax has multifarious dimensions and plays a very important role especially in government, economic and social policies thus the governments impose income tax.Adesola[16]and John[17]summed up the importance of tax as follows:

[14] 1997 Budget Proposals: New Nigerian Newspaper of 10 June 1997
[15] Budget 1998: Business Time of 5th January 1998
[16] Adesola, S.M. (1998) Tax law and Administration in Nigeria: An Introduction, Obafemi Awolowo University press Limited, Ile-Ife, P.44
[17] John, D.C. (2009) Assessment of the Effectiveness of Legal Provisions Relating to criminal and civil Sanctions Ph. D. Dissertation 2008 (unpublished), A.B.U. Zaria, p.8

i) To generate income for the provision of Infrastructural facilities for industries and social amenities.

ii) For redistribution of income among the citizens.

Wheat Croft[18] argued that the present distribution of wealth is unjust and there should be attempt to reverse the situation by fixing taxes at confiscatory rate in favour of the poor. According to him high taxes on the income and wealth of the well to do can produce either incentive or disincentive effects. Sometimes a tax payer spend able income is reduced through tax and so he is compelled to work harder in order to restore his lost income.

In this regard taxes produce incentives effects increase productivity. But a high marginal tax rate can produce disincentive effect which makes the worker take leisure rather than to do extra work. According to him thus:

i. *"It will reduce the adverse effect of inflation in the country's economy*."

ii. "*With guided government's regulation it will reduce unemployment and create additional jobs.*"

Tax as an economic tool for effective fiscal policy controls measuresto transfer mobilized resources from the organized private sectors to the public sectors for national consumption and utilization. Finally income tax can be used to regulate or discourage particular effect on the citizens, which are thought to be undesirable on social ground such as drinking alcohol, smoking ganger, pool but to mention a few. In the consideration of what was said above, the introduction

[18] Wheat Craft, G.S.A. A Taxation Policy for Growth, 1988, page 143-147

of income taxation in Nigeria was dictated by the financial needs of the colonial administration.[19] Custom duties were first introduced in the South.

Direct taxation or some form of income tax was shunned initially because all semblance of direct taxation or any system which would press immediately upon the natives were regarded as injudicious in the present unsettled state of settlement and was liable to cause friction in the transition to English rule. The Northern territory was a convenient place to experiment the system of direct taxation because the people of the area were used to payment of tax under the

Northern administration. More importantly, the North was under great financial strain as there was no sea coast and imported goods had to be transported from the South to the North. Any imposition of indirect tax on goods imported to the North would be ruinous to the trade of the territory.

It was therefore not feasible to secure revenue by way of custom duties as it was the case in the South. The only alternative opened to the government of the Northern territory was to impose some form of direct taxation which had very good chance of success. Accordingly, the direct taxation was introduced in the area in 1904. It was a complete success. There was no incentive to introduce the tax in the South as the government of the Southern Nigeria had more than enough revenue from custom duties. It was partly because of financial problem of the North that the South and the North were amalgamated in 1904.

As a result of the amalgamation the revenue accruing to the South from custom duties prior to amalgamation accrued to the whole country after amalgamation.

[19] Ebere, C.(2012) Tax system in Nigeria-Challenges and the way forward, Research Journal of Financing and Accounting, Vol. 3, No. 5, p. 9

Direct taxation was introduced in the Western territory in 1916. The Yorubas and Benins who are predominant in this area already had well established native system of administration before the advent of the British administration. The system of indirect rule through the established native administration ensured the success of the new tax measure in the area. Direct taxation was not introduced in the Eastern area of the country until 1927.

Following the introduction of tax in the East in 1927, there was a major riot in 1929. This riot, known as Aba women riot, was precipitated by the attempt of the colonial authority to assess the wealth of male individuals in the area for income tax purposes. In 1926 when the tax was about to be introduced, census was taken of all the male adults in the area. Another census was about to be taken in 1929 to review and revise the list of tax payers. A warrant chief by name Okungo, acting on instruction from the District Officer, proceeded to count women, children and domestic animals. The women interpreted this action to mean that they would be taxed after the conclusion of the census. They protested by staging demonstrations which extended to most centers of population in the East.

Bloodshed accompanied the demonstrations. Various income tax enactments governing the taxation of the natives were incorporated in the Direct Taxation Ordinance,[20] The Income Tax Ordinance[21]governedthe assessment of the income of non-Africans resident outside Lagos as well as Africans and non-Africans resident in Lagos.

[20] No. 29 of 1940
[21] No. 29 of 1943

### 2.3 Definition of Tax

There is no universal definition of the term, "Tax", however, Adesola[22]defines tax as a compulsory levy which government imposes on its citizen to enable it obtain the required a revenue to finance its activities.

Abdurrazaq,[23] on the other hand, defines tax as an enforced contribution of money, extracted pursuant to legislative authority. Taxation was defined in the case of ***U.S. v. Butter***[24]as, "a tax in the general understanding of the term and as used in the Constitution signifies an exertion for the purpose of the government.

The word has never been thought to connote the expropriate of money from one group for the benefit of another. The current writers simply view tax as a burden which every citizen must bear to sustain his or her government.

The government has certain functions to perform for the benefits of those it governs. The scope of these functions will depend among other things on the political and economic orientations of the members of a particular society at a given point in time, their needs and aspirations and their and ability to pay tax.

Thus, among the traditional functions of the government is the provision of collective or public goods i.e. goods that cannot be divided among the separate willingness members of the society but which must be used for the benefits of all and such goods include the maintenance of law and order, defence against external aggression and regulation of trade and businesses to ensure social and economic justice. A society which desires to achieve more beneficial objectives through the

---

[22] Adesola, op cit, p.42
[23] Abdurrazaq, op cit, p.22
[24] (2279) U.S.I (1936) p.61

activities of the government must be willing to pay more tax to enable the government achieve those objectives and, if necessary assume the self-discipline needed to create the desired environment for the realization of such objectives. As the functions of the government increase, the revenue to finance those functions must necessarilyincrease. Suffices it to say that tax is a fact of life and it is as ubiquitous now as it has always been since the institution of government.

There are various types of taxes. ***Import duty*** is a tax levied on imported goods, ***export duty*** is a tax levied on goods exported out of the country, ***excise duty*** is a tax levied on the goods produced within the country, and ***consumption tax*** generally is a tax imposed on the consumers of goods and services. There are also taxes imposed on property such as the ***tenement rate*** and tax 'on transactions such as ***stamp duties*** payable on legal documents. **Inco*me tax*** which is the subject of this research is a tax levied on income.

### 2.3.1 Definition of Income

The word *"income"* does not lend itself to any precise definition.[25] Section 3(3) of the Act[26] defines Income as, "including any amount demand to be Income under the Act."

This definition is illusive economists define income tax as "the amount an individual can spend during a particular time period and still have the same net assets (valued in money terms) at the end of the period as at the beginning".

Another way of saying the same thing is that "income is the amount of an Individual's consumption outlays plus the increase (or minus the decrease) in his net worth during a particular time period". Income is a flow of wealth between one point in time and another. The flow of

[25] Asada, D. op cit p.3
[26] Personal Income Tax (Amendment) Act, No.21 of 2011

wealth approach to the definition of income is particularly useful when it is desirable to determine the income of a person on the basis of estimate rather than on the basis of reliable and accurate records.

A more precise definition of income may be approached from the factors of production and the reward due to them. The factors of production are the land, labour and capital. The entrepreneur organizes and uses the factors of production to create wealth. The wealth so created is then shared between the entrepreneur and the factors of production engaged in the production of the wealth. The land receives rent; labour receives wages and salaries, capital receives interest and the entrepreneur receives profits and dividend. As a matter of fact, income is categorized according to this basis for income tax purposes. It is quite possible for the same person to act as the entrepreneur and supplier of one or more of the factors of production.

It follows that a person may have more than one source of income. For example, a company director who receives director's fee and salary from a company may also have shares in the company for which he may receive dividend.

As a director, he supplies labour and as a share-holder he acts in the capacity of entrepreneur. Furthermore, the Nigerian taxing statutes do not provide a comprehensive definition of income. For instance, S. 3 (3) (b) of the Personal Income Tax (Amendment) Act[27]defines "income" as including any amount deemed to be income under the Act. This is not a very helpful definition. The fact is that income does not give any meaningful definition under any of the Nigerian tax enactments and so for the purpose of ascertaining the concept of income, recourse must be had to decided cases to see how courts have grappled with the problems.

[27] No. of 2011 As Amended

Although the courts, generally speaking, feel rather reluctant to provide themselves with a conceptual definition of income, there have, however,been some attempts. Thus in the early case of ***Colteness Iron Co. v. Black***,[28] Lord President essayed this definition of income[29] as: "The general principle of the property and income tax to which effect is given by the statutes is thateverything of the nature of income shall be assessed from what source so ever it may be derived whether from invested capital, or from skill and labour or from a combination of both, and whether temporary or permanent, steady or fluctuating, precarious or secure". Apart from showing that "*income"* is a word of wide meaning, this definition has not really told us what in principle is income for tax purposes.

In another such early case,[30] Lord MacNaghten speaking on the nature of income had this to say:[31] "Income tax, if I may be pardoned for saying so, is a tax on income. It is not meant to be a tax on anything else". This merely bags the question.[32] The basic question namely what is "income" is still unanswered.

Lord Wrenbury in ***Whitney v. IRC***[33]endeavour to define this simple but otherwise elusive term in the following words. "As regards the word income, it means such income as is within the Act taxable under the Act". Here again, this merely states the obvious without seriously attempting to define the term "income"[34] Other judges simply warn us that the subject is not one that can be dragged into logic or looked at from a conceptual angle.

---

[28] (1881) 9 T.C.287.
[29] Ibid, p.307
[30]London Country Council V. Att.-Gen. (1901) A.C.26
[31]Ibid. p.35.
[32]W.Phillips "If I may be pardoned for Adding…" (1959) B.T.R, 1t p.90.
[33] (1925) 10 T.C, 1t p.113.
[34] See the Minority Report of the Royal Commission of 1955. Cmd.9474, para.10 at p.357.

Thus in the case of ***Secretary of State for India v. Scoble***,[35] the Earl of Halsbury L.C unequivocally stated[36]"I do not think it is a matter on which one can dogmatize clearly", adding a little later that[37] "the income tax is not and cannot be, I suppose from the nature of things, cast upon absolutely logical lines". The reason for this is not hard to find, for the word "income" is not a precise term. It is a multifarious subject that does not lend itself easily to precise definition. As Solomon L.J has said:[38]

> *Profit (or income) is an elusive concept, indeed I suppose that few commercial questions have been so much debated or, in some cases proved so difficult to resolve as what is the true profit (or income) in a particular year.*

And as Abbot J, in the Canadian case of ***Oxford Motors Ltd v. Minister of National Revenue***[39] has rightly observed:

> *No one has ever been able to define income in terms sufficiently concrete to be of value for taxation purposes. In deciding upon the meaning of income the courts are faced with practical considerations which do not concern the pure theorist seeking to arrive at some definition of that term, and where it has to be ascertained for taxation purposes, whether a gain is to be classified as an income gain or capital gain, the determination of that question must depend in large measure upon the particular facts of the particular case.*

Thus the courts usually hold that every piece of income must have a source.[40] The Judicial dicta considered above are mostly English decisions which are not automatically binding here but are

---

[35] (1903) A.C. 299.
[36] (1903) A.C. 299 at p.303
[37] (1903) A.C. 299 at p.303
[38] T.C. 495 at p.514
[39] (1959) C.T.C. 195; 18 D.L. (2nd) 712
[40] Brown V. National Provident Institution (1921) at p.246 per Lonl. Atkinson. See also Leening V. Jones (1930) I.K.B. 279 at p.279. For other cases and definitions of income for Tax purpose see John Smith and Son V. Moore (1921) 2 A.C. 13 per Viscount H

of persuasive authority. The approach of our courts to the interpretation of such words as "income" or "trading profit" is similar to that adopted by the English courts and our judges have held that such words should not be interpreted less widely than the English decisions have done.[41]

From the above it will be seen that little assistance in terms of a conceptual definition of income for tax purposes is gained by recourse to the courts. Some economists have defined income as "the value of what a taxpayer could have consumed during the year without living on and so, diminishing his capital wealth in the process".[42]

Yet others have defined it as "the amount which a taxpayer could consume in any one year and yet be left with the resources and expectations at the end of that year which would enable him to maintain that same level of consumption indefinitely in the future".[43]

The question therefore arises whether there is a need for a general statutory definition of income. It seems this is not necessary as no useful purpose can be served by such a definition. The concept of income is not static, but indeed dynamic, and is therefore bound to change or to expand its scope from time to time as the society becomes more and more conscious in terms of technology and economic growth.

To reduce income into a more precise statutory definition is therefore to unwittingly prevent the Nigerian tax law from meeting the demand sand challenges of a modern society with its complexities, and worse still to deny those judges with initiative and a creative approach the opportunity to handle interesting tax law problems. Accordingly, the best thing to do, as indeed it

---

[41] Arbico Ltd. V. F.B.I.R (1986) N.C.L.R. at p.150. aldane an Eisner V. Macumber (1919) 252 U.S.18941. Arbico Ltd. V. F.B.I.R (1986) N.C.L.R. at p.150.
[42] The Report of the Meade Committee on the Structure and Reforms of Direct Taxation P. cit, at pp.30-33.
[43] The Meade Report, ibid

is done by the British courts, is to adopt a much more practical approach than to get bogged down with the attempt to provide an all-embracing conceptual definition of the term income.

The important thing is to ascertain as a matter of fact the true taxable income of the taxpayer which can easily be done by recognizing an amount received as representing income. For instance, the wage or salary received by an employee will be treated as his income.

In the case of a person who invests money in quoted shares, the dividend he receives is treated as his income from that investment. In the above cases that income is usually received in cash or cheque or by credit to a person's bank account that profit is his income, although this may be difficult to determine in practice if he does not cooperate with the Revenue officials. To assist the revenue officials in measuring the trading profits, the tax law provides for the determination of an accounting period for the purposes of that trade and for the computation of the profit from each such period in accordance with accepted commercial accounting principles.

It is in the light of the above that Nigerian tax law instead of defining income classifies income by reference to the respective sources from which it may be derived. For example, profit from trade; emoluments from an employment and so on. Furthermore, the use of words in the taxing statute to describe income such as "profits or gains" in respect of a trade, it shows that income is not only money actually received but also includes money's worth[44].Income means taxable income unless the context otherwise requires in a taxing statute.

[44] See Tenant V. Smith (1892) A.C.150-3 T.C. 158-164 per Lord Halsbury.

### 2.3.2 Distinction between "Income" and "Capital"

Income tax is a tax on income and not on capital. Whether a particular receipt is of income or capital nature has important revenue consequences as this may determine whether income tax at steeply progressive rates is imposed or capital gains tax at a considerably lower rate is paid. The distinction is therefore very important for tax purposes. Just as it is difficult to define "income", so also it is difficult to define "capital". As Lord Upjohn observed in ***Strick v. Regent Oil Co, Ltd***.[45]

> *I suppose that no part of our law of taxation presents such almost insoluble conundrums as the decision whether a receipt or outgoing is capital or income for tax purposes. Parliament wisely has never given any general statutory guidance in this matter. It has been content to leave the determination of these difficult matters to the common sense of the tribunals and judges before whom these matters are brought.*

The courts have, therefore, been called upon on numerous occasions to provide the much needed distinction in order to determine into which category income or capital, a particular sum in dispute has fallen. The ancient constricted concept of capital and income which is usually expressed in the familiar analogy "the tree is the capital from which theannual income of the fruit crops is derived"[46]appears to be the approachadopted by many courts, especially the early decided cases in varying languages.

This analogy simply means that capital represents the stock of resources from which flows the income.[47] No doubt a distinction premised on such analogy represents a common sense approach

---

[45] (1965) 3 W.L.R. at p.1571
[46]The Meade Report on the Structure and Reform of Direct Taxation, op. cit. at pp.30-33
[47] Matler v. Staveley Coal & Iron Co. Ltd. (1928) 2 K.B. 405, 13 T.C. 772 where at pp.413, 780respectively Lord Hanworth M.R. distinguished capital and income thus: "I think one has to becleared in one's mind that in dealing

to the problem, and can work well in some cases. It is the viewed of John,[48] which the current writer rightly concurred with, that little or no importance should be attached to the definition of those terms, i.e. Income or Capital.

It however, bristles with some difficulties particularly in the circumstances of today which are rather complicated. Indeed, it is very difficult today to say with any degree of precision whether a particular asset is a revenue receipt or a capital receipt even by examining its nature.[49]

Surely in many cases the analogy of a tree with its fruit as depicting capital and income respectively is not appropriate as business is becoming more and more complex with sophisticated ways and means being devised to circumvent the taxlaw.

To accord with all these practices and economic changes, our attention should not only be focused on the physical nature of the assets, for a distinction based solely on that in all cases, it is bound to include many other receipts in relation to the nature of trade, business or any other activity in question.

### 2.3.3 Definition of Income for Tax Purpose

Section 3 (2) (b) define Income as[50] "including any amount deemed to be income under the Act". This stature law and other have shied away from defining the word "Income" to the extent hardly

---

with any business, there are two kinds of capital, one the fixed capital which is laid out in the fixed plant, whereby opportunity of making profits or gains is secured, and the other the circulating capital, which is turned over and over in the course of business which is carried on. "See also Rees Roturbo Development Syndicate Ltd. V. Ducherd (1928) 13 T.C.366 at p.379 per Rowlatt J. Van den Berghs V. Clark (1935) 19 T.C.390 at 342 per Lord Macmillan

[48]John, D. C. Op.cit, p.9

[49] Golden Horse Shoe (New) Ltd. V. Thurgood (1934) I.K.B.548, 18 t.c.280 WHERE Romer L.J. brought out this difficulty.

[50]P.I.T.A. No. 21 of 2011 as amended

that its definition gives rise to all sort of conundrum, which can be agreed to have been sowed to everyone's satisfaction, for that reason recourse must be made to case laws:

In the case of ***Coltness Iron Co. v. Black.*** Lord President defined Income as:[51]

> *Everything of the nature of income shall be assessed from what source so ever it may be derived whether from invested capital or from skill and labour or from a combination of bothand whether temporary of permanent steady or fluctuating precious or secured:*

Lord Wrenbury in the case of ***Whitney v. I.R.C.***[52]gave a simple but elusive definition of Income thus:

> *"As regards the word Income, it means such income as is within the Act taxable under the Act."*

Here Lord Wrenbury simply stated the obvious without seriously attempting any definition of income. Lord Salmond L.J in ***Northern Nigeria Investment Ltd. v. Minister of National Revenue.*** Simply defined income in relation to profit when he said:

> *"Profit or Income is an elusive concept, indeed I suppose that few commercial questions have been so much debated or in some cases proved so difficult to resolve as what is the true profit or income in a particular year".*

Justice Belgore in the case of ***Northern Nigeria Investment Ltd. v.Minister of National Revenue*** *said*[53] "I have no evidence or legal authority to show that the two phases "Profit" and "Income" mean one and the same thing.

---

[51]Rabiu S.A: Nigerian Personal Taxation (Law and Practice with Selected tax cases; JohnWest Publications Ltd Ikeja (1988) 14 (1881) T.C289

[52](1945) 10 t.c. 113

In ordinary language they do not mean the same thing". In deciding upon the meaning of income, the court are faced with practical considerations which do not concern the pure theorist seeking to arrive at some definition of that term, and where it has to be ascertained for taxation purposes.

Income is a dynamic subject hence, little or no importance should be attached to its definition as the Earl of Halberd said:

> *"I do not think it is a matter on which one can dogmatize clearly, the income tax is not and cannot be, I suppose from the nature of things cast upon absolutely logical lines."*

By and large courts have held that as a prerequisite for understanding piece of what is known as such must have a source. The only conclusion therefore, is that both Nigeria and English case are not very helpful in definition of oil Income tax purpose, though the English cases are not automatically binding but are of persuasive authority.

It needs to be argued that to reduce income into a more precise definition may be too narrow and could prevent the tax laws from meeting the demands and challenges of a modern society with its complexities and worse still, deny some judges who have the initiative and creative approach, the opportunity to handle interesting tax law problems. Even the Economist cannot be of assistance in the definition of income, the best thing to do is indeed done by the British courts that are to adopt a much more practical approach than to get bogged down the faith attempt to provide an all-embracing conceptual definition of the term income.

[53](1959) C.T.C. 195

For instance, the wage or salary received by an employee will be treated as his income.[54] S.36 (i) defines total income as; “The total income of an individual or any year of assessment shall be the amount of his totalassessable income from all sources for that year together with an additional thereto be made in accordance with the previous of the fifth schedule to this Act, less any deduction to be made or allowed in sub section (2) of this section and of that schedule. Also a person who invests money in quoted shares the dividend lie elves should be treated as his income from investment.

Finally in the light of the controversy surrounding the definition of income for tax purposes Nigeria tax law instead of defining income simply classifies income by reference to the respective sources from which it may be derived.

## 2.4 Purpose and Function of Taxation

The basic purpose and some functions of taxation in Nigeria were simply raising sufficient revenue to meet the needs of government that is to meet its current expenditure.[55] This research has travelled a long way from the traditional basis concept now to a multifarious dimension on taxes revenue. Since1940s,[56] government has used changes in the level taxation as an important way of influencing activity in the economy as a whole.

Tax policy provides mechanism influence consumer demand for providing incentive for production, investment and savings. It is thus a key factor for promoting government overall economic and social objectives. The following are the objectives of taxation.

[54] Ibid p.196
[55] Ademolekun, L. (1984): Administration, Longman Mg. p.94
[56] Adesola, S. M. Op.cit, p.24

1. **Raising of Revenue:** The function of tax is to raise sufficient revenue for the government's expenditure, such as the provision of services like defense, law and order, health services and education. Revenue from taxation can also be spent on capital project, what we can call consumer expenditure, creating a social and economic infrastructure, which will improve the social life of the people and also enable the economy of the country to grow in future. Indeed the most important objective of any tax reform in Nigeria today should be to raise more revenue, so tax yields must be made more responsive to change in money and national income.
2. **Redistribution of income and wealth:** This is the second objective of taxation. The justification for redistribution of income is based on tax money should be distributed equally to provide democratic dividends to the citizens. But due to the inability of the political leaders to spend tax revenue judiciously, people will certainly resist paying taxes since government is not making judicious use of income generated from tax. Therefore, if tax revenue collected from taxpayers ended up in tax officials' and political leaders' pockets by way of corruption, taxpayers will always refuse to pay taxes as they do not see the benefit of doing so.
3. **Management of the Economy:** Taxation has become an important consideration in the planning of savings and investment, harmonizing it with development strategy and charging economic structures, the government can use taxation as a power fiscal weapon to plan and direct the economy.

Therefore, government should implement its annual budget strictly to the maximum in order to provide infrastructure and achieve social and economic objectives such as electricity, roads, health and education for the purpose of providing quality life to the people. This is because the right balance between revenue generation and utilization can best be achieved through budget implementation as the country caters for its citizens.

Again when people have access to quality life, they will be happy doing business and taking paid jobs as well as appreciating paying their taxes to the government. By doing steep booms and deep recessions can be avoided.[57]

Thus taxation can be used in shaping the economic growth and development of the country. Taxation can be designed in such a way as to direct private investment in line with national needs and priorities, for instance through the use of inter alia, tax to attract industries to remote areas of the country.

Finally, the tax system can be used to regulate or discourage particular activities of citizens which are thought to be undesirable on the grounds of alcoholism, prostitution, gambling and abetting, robbery, bribery corruption etc.

## 2.5 Imposition of Taxation in Nigeria

Tax is a necessary ingredient for civilization; the history of man shownthat man had to pay in one form or the other, that is, either in cash or in kind, initially to his chieftain and later on to a form of organization government. The payment of taxes in Nigeria had development over a number of years.[58]Historically, the development of taxation in Nigeria can be traced Less under distinct periods.

---

[57]Ibid, p.24
[58]Luggard, F. Dual Mandale

The first Period before the British; the Period[59] 1900-1918; 1918-1943and 1943 been a modern period topresent day Imposition of taxation in Nigeria before the advent of colonialism in Nigeria, a relatively well-organized system of taxation had been inexistence in the Northern states under an aristocratic rule of the Fulani conquerors, in the word of Jizya and Jangali.

In Nigeria more particularly Northern Nigeria had a specialized in history of evolution of their taxation in Africa". The Islam by enjoying the devout to give portion of their money for charitable or religious purposes provided religious basis for taxation in Northern Nigeria.

The highly organized and efficient administration of the northern emirs facilitated taxes that were paid. There was the Zakat, a type of taxation prescribed by the Holy Quran verses. The main defects of all these system of taxation lay in the multiplication of separate levies, irregularities of imposition, arbitrary assessment and. the practice of "farming out" on the collection of a tax.[60]

The period 1900-1918 as already pointed out, in the then Northern region, the chief Judges and tax collectors were well organized before the British arrival. Therefore when the British came they used the system to achieve their own administration easily. That's why Sir Fredrick Lord Luggard, the then High Commissioner of Northern Nigeria made his taxation reforms without hindrance. He first of all made a visibility study of the system and arrived at making his memoranda detailed into two such as the Native Revenue Proclamation[61] which is all the various traditional taxes were consolidated and brought under a single general tax payable on a single demand after the harvest, and whenever possible in currency instead of in kind. And also the system of lump sum assessment was improved where taxation tight-fisted (stinginess).

---

[59]An African Survey
[60]Rabiu, S. A. (1981) Personal Income in Nigeria, Manhanattan Press Ltd, Nigeria, p.15
[61]No. 2 of 1906

Assessments were made on villages according to their wealth's and ability to pay. The government fixed the rate of taxes but the assessment collections were done by the direct heads.

The Europeans officials assessed the annual value of the general tax payable on land occupied by the community, and also of Jangali the cattle tax.

The district heads assessed pro rata of the individual share of tax previously assessed on the community by government officials. The proceeds of the general tax and *Jangali* were divided between the British and the Native Authority or Administration. The Local Authority was given 50% while the (British) Central Government took 50%. Progressive tax measures were being undertaken in the North, not much was being done in the South. This was due to the view taken by the colonial office that an extension of such policy to the South would cost the British more. Lord Luggard, however, extended the Northern system of Administration later to the South West.[62] The Oba of Benin 1917 accepted direct taxation and it was introduced in Yoruba Areas of Ibadan and Egba in 1918 under the Native Revenue Ordinance of 1918.Ondo province and Ilesha willingly asked to be included in the scheme.

By 1918, it was generally felt that the whole South was ready for the introduction of direct taxation, and by 1920 direct taxation had been introduced in most parts of the West, the Yoruba and Benin Provinces respectively but excluding Asaba division and Warri Province. For fear of disturbances, taxationwas not extended when it was already operating in other parts of the country.[63]

However, after much debate and long hesitation the Native Revenue (Amendment) Ordinance was duly enacted in 1927 to apply to the Easternprovince including Warri province and Asaba

[62]Orewa, G. O. (1970): Taxation in Eastern Nigeria at p.12
[63]Ibid

Division and to be effective as from 1st April 1928. Unlike in the North, the introduction of direct taxation was resisted in some parts of South.

It sparked disturbance in Warri Province (where there was no physical opposition to assessment and count), and the Kwara Area of the Old Northern Region. In the East, apart from the minor incident in Onisha and Ogoja province, the collection of tax went on smoothly beyond all expectation. In Ogoja, the people of Essa and Izi of the Abakaliki Division bluntly refused to pay, and meetings held to resolve the issue were broken up by the women as a result of riot.

However in the East, when taxation wealth of the inhabitants of a village near Aba was being assessed by counting women, children and animals, rumours spread round that this would be followed by introduction of taxation of women. Women from Owerri and Calabar Province rallied together and there were serious demonstration throughout the area with Aba as the central point during the closing month of 1929 properties were destroyed and lives were lost, hence, the famous Aba Riot of 1929.[64]Two separate Commissions set up by the colonial's office to report on the disturbances found that they were caused by the failure of the Central government to educate the people adequately on taxation before imposing, and also by the crude and indiscriminate manner in which women, children and livestock were counted in 1929.

Many other direct taxation ordinances were passed. There was the Non-Native (Protectorate) Ordinance of 1931 which was repealed by the (Non-Natives Protectorate) in the colony Province but outside the township of Lagos. Then the colony taxation ordinance of 1937 defined the basis of taxation in Lagos Municipal Area.

---

[64] Philip, A. O. (1970): The Nigerian Tax Effort B.T.R. at 182-3

The Native Direct Taxation (Colony) Ordinance 1937 imposed tax liabilities on communities or persons. The assessment to taxable income as to be based on the annual profit or gains from land and their rentals. The annual profits of the produce, the annual profits or gain from trade, and manufacturer, office, or employment on which such communities or persons, might be engaged.[65]

In 1940, there was major legislation, the Direct Taxation Ordinance[66]repeating all previous ordinances including those of 1937.[67]Taxation Ordinance of 1940 applied to all Nigerians with the exceptions of Lagos Township. It provided for the assessment of Income of persons, the assessment on income of communities and also assessment of cattle tax. In this ordinance the basic features of earlier legislations were retained, valuation of agricultural produce was by reverence to prevailing practice and standard of cultivation in the neighborhood, and the Native Authority might use tax collection agents.

Income tax under direct Taxation Ordinance of 1940 was imposed on:-

i. Income from Land;

ii. Rents derived from land;

iii. Annual profit from trade or Manufacture;

iv. Income from employment or pension;

v. Dividend or Interest, and

vi. The value of all livestock own by individual orcommunity.

---

[65]Ibid
[66]Philip, A. O. (1970): The Nigerian Tax Effort B.T.R. at 182-3
[67]No. 4 of 1940

Income tax liability for individual under the above ordinance began with income in excess of 50 Dollars while those on smaller income paid a flat amount of 5 Dollars The importance of the Direct Taxation Ordinance in the History of Income taxation in Nigeria lies in the fact that it was the first taxing statute that applied throughout the country having consolidated all previous tax ordinances from 1966 to 1970. It also provided for the appointment and control of tax collectors by their residents. One shortcoming of the Direct Taxation Ordinance was however its failure to provide for uniform tax rate throughout the country.

The income tax ordinance[68] 1940 applied to expatriate and the Nigerians living in Lagos as well as to companies, thereby lumping together under the same law the provision for taxation of personal and company incomes.

Up to this period the essential feature of our tax system included thenarrowness of the national tax base on a few tax instruments, thereby lacking the revenue elastically required to meet the usual upward trend in national spending. This had to do with the stage of economic development, as at that time Nigeria was basically an underdeveloped country with few viable economic activities.

**The Modern Period:** 1944-1980. In 1943, a more comprehensive income tax ordinance was passed repealing the 1940 ordinance.[69] The new ordinance also revised the rate of taxes. High rate were introduced in certain ranges of income, and in general it taxed income which accrued in, derived from, were received in or brought into Nigeria and these included profits from trade, business, profession or vocation for whatever period of time such trade business, profession or vocation may have been carried on or exercised in Nigeria.

---

[68]Ibid

[69]Ayua, I. A. (1996): The Nigeria Tax Law, Spectrum Law Publishers, Kaduna, p.24

After Income Tax Ordinance 1943, there were no serious changes in the law until 1956 although the tax structure was being revised from time to time.[70] The Eastern Region set the ball rolling by passing the Finance Law[71] applying to all male Africans of 16 years and over residing in the Urban Council of Aba, Calabar, Enugu, Onisha, Umuaiha and the township of Port Harcourt.

An important novelty introduced by the 1956 law was the Pay-As-YouEarn system of taxation. A system whereby taxes were deductible at the source by the employer before the pay packet is handed over to the employee. The above law was replaced by the Eastern Region Finance Law, 1962.

Western Region also passed the income tax law in 1957, and the Northern Nigeria also passed the Northern Nigeria Personal Income Tax Law, 1962.

Following the recommendation of the Raisman Commission in 1958 for the introduction of the general principle for taxing individual incomes to be applicable to the whole county parliament was conferred with concurrent powers to make laws to that effect. In consequence, the[72] Income Tax Management Act of 1961 (I.T.M.A) was enacted.

[70] No. 1 of 1956
[71] Ibid
[72]

## CHAPTER THREE

## ANALYSIS OF INCOME TAX AND REVENUE GENERATION INNIGERIA

### 3.1 Income Tax and Revenue Generation

Traditionally, the basic function of taxation was simply to raise sufficient revenue to satisfy the needs of the government that is to meet its current expenditure. Today, however, we have travelled a long way from that, as taxation now has multifarious dimensions. Today, therefore, taxes have an important role to play especially in any government's economic and social policy.[1]

1. **The focus of tax policies with respect to economic development.**

Thus Nigerian tax system features the following:

a. Being a federal system with three constitutionally recognized Federating Units, such as Federal; 36 States and FCT; and 774 local governments. The Country's tax system and fiscal operations are made to adhere to the key principle of fiscal federalism.
b. The Nigerian tax system is dominated by returns from the sale of crude oil.

As the revenue from petroleum tax is within the jurisdiction of the Federal government, it has on average accounted for about 90% of overall national revenue. This is of course shared according to an approved revenue sharing formula between the three ties of government.

Apart from oil, other prominent tax items include: Personal Income Tax; Company Income Tax, Value Added Tax, Capital gain tax; custom and exercise duties and education tax, which is derived from the company income tax.

[1] G.S.A. Wheatcraft: A Taxation Policy for Growth, 1968, B.T.R at p.131.

2. **Income tax helps in the redistribution of income and wealth.**

This has two dimensions. The first is the doctrine that taxation should be based on the ability to pay, so that the burden of taxation ought to be heavier for rich men than for the poor, with the taxes being used to pay for social services for the less fortunate. This is achieved by the graduation or progressiveness of the rates at which the taxes are levied.[2]The idea is that the tax system ought to reduce inequality.

The second dimension sees the present distribution of wealth as being unjust and so attempts to reverse the situation by fixing taxes at confiscatory rates in favour of the poor. High taxes on the income and wealth of the well-to-do can produce either incentive or disincentive effects.[3]Sometimes a taxpayer's spendable income is reduced through taxation so he is compelled to work harder in order to restore his lost income. Taxes that produce incentive effects therefore increase productivity.

On the other hand a high marginal tax rate can produce the disincentive effect which makes then worker take to leisure rather than to extra work.It has been shown that the disincentive effects are indications of economic inefficiency and waste.[4]Disincentive effects can take different forms, including emigration to countries of low tax rates, and involvement in "black economy" activities.

Other kinds of distortion likely to be caused by a high marginal tax rate include substitution of one form of business organization for another as differences in the tax treatment of the various kinds of businesses may lead to the choice of those most favourably treated by the tax system,

[2]The Myth of Tax Progressiveness"   B.T.R. 1974 at p.7
[3]G.S.A Wheatcroft, "A Taxation Policy for Growth": 1968 B.T.R.131 AT PP.143-147.
[4] Ibid

and a high incidence of tax evasion and tax avoidance. It has been argued that in order to avoid the disincentive effects, a tax system is required which provides a broad base for revenue so that marginal rates of taxes can be kept down as the required revenue could still be generated by low rates spread over a large tax base, rather than raising the same revenue by concentrating high rates of tax on a few activities.[5]

This may well be the case, but considering the circumstances of Nigeria where the well-to-do spend lavishly on imported goods and their consequent low propensity to save or invest in activities that will be beneficial to the national economy, it may be a good idea to move in the direction of greater effective progressivity. This will, inter alia, reduce the need for imports andmake revenue available to the government for development by preventing the excessively large concentration of economic power in a few private hands which have not been used to make Nigeria grow.  Moreover, the experience we have had in Nigeria shows that any reform of the tax system will not be detrimental to private investments and savings, for the rate of investment is governed far more by market opportunities and by availability of imported goods than by tax regulations.

3. **The third objective is the management of the economy.**

Taxation has become an important consideration in the planning or savings and investments and by harmonizing it with development strategy and changing economic structure, the government can use taxation as a powerful fiscal weapon to plan and direct the economy. By so doing, steep booms and deep recessions can be avoided. Thus, taxation can be used in shaping the economic growth and development of a country.

[5]Meaden Report on the structure and reform of Direct Taxation op. cit p.9

A tax system can also provide the government with effective and flexible instruments for the day-to-day management of the economy.  Hence taxation can be used to achieve specific economic objectives of a nation. For example, capital allowances can be used as a means of stimulating the manufacturing sector by increasing the value-added content of domestic output in some key industries in Nigeria. Taxation can also be designed in such a way as to direct private investment in line with national needs and priorities, for instance through the use of, *inter alia*, tax incentives to attract industries to remote areas of the country.

Finally, the tax system can be used to regulate or discourage particular activitiesof citizens which are thought to be undesirable on social grounds such asdrinking alcohol, smoking or betting.

### 3.2 Role of Taxation in the Economic Development of Nigeria

This chapter examines the contribution of agricultural taxation, direct and indirect taxation to Nigeria's economic growth.  The purpose is to illustrate in numerical data the contribution of different types of taxes collected in Nigeria to the Nation's economy. Agricultural taxation which is mainly produce and export taxes form part of the direct taxes.

It is treated separately here because of its significant contribution to the development of early Nigeria economy. The contribution of agricultural taxation prior to oil revenue before 1974, the burden of financing the economic development in the Nigeria economic fall on agriculture. Prior to the oil boom, Nigeria economy depended very much on agriculture.

The flow of the economic surplus to the state treasury during these years was also from peasant agriculture.  That is the Agricultural exports were tax twice through (**Export duties and Purchase/Sales** weretaxed by the regional or state governments and retained. The combined effect of those taxes imposed a heavy burden on peasant incomes.  Rough estimate exist which put the average tax burden to Nigeria's four major export crops namely Cocoa, Palm kernels, Groundnut and Cotton at roughly 38% during 1954-1974 with the highest burden of 42 on cotton, 20% during 1954-1961 with the highest burden of 32.3% palm kernels.[6]From particular source.[7]The percentage revenue per Gross Domestic Products (GDP) for all taxes collected in Nigeria between 1961-63 were given as 18.8% out of the above figure, produce and export duties on agriculture contribute immensely.

These dates on produce and sales realized on agriculture taxation and the tremendous impact on the early Nigeria economy. As oil revenue became increasingly available agriculture taxation was relaxed and eventually scrapped.

In 1974, on the eve of the Third National Development Plan 1975-1980, export and produces taxes on Nigeria agricultural exports were completely removed. Direct taxation are levied on chargeable person income or capital and are paid directly by the person to the tax authority.

Personal Income Tax, Company Income Tax and tax on Capital will fall into the categories of direct tax.[8]Out of total revenue collected between 1976-1978 (which was 18.89% per Nigeria GDP) direct taxes has 14.73%. This large number was due to corporate tax which have much as 14.72%[9]per GDP.

The above data shows the direct taxes generate the greater part of the Entire revenue from tax in the early stage of Nigeria economy (direct taxes has only 4.16% between the same periods).

[6]Computed Data in Helleiner AX "Peasant Agriculture Government and Economic Growth in Nigeria:" Richard D.I (1916) p.163.
[7]Odiongenyi O.T 1987 Personal Income Tax Law in Nigeria p.2.
[8]A source from I.M.F 1984 of World Bank 1983 op.cit.pg.208-9 from the person providing goods or services their burden is usually born by the ultimate user or consumers in the form of higher prices. Because of their indirectiveness in incidences, this class of tax is sometimes referred to as hidden tax. Indirect tax include import duties, export duties and sales taxes on (VAT).
[9]Ibid at p.208-9, the bought connivance of customs official, has constituted into small way to observed decline in this Category of revenue.

Presently, direct taxes still maintain the highest amount of revenue with the introduction of petroleum profit tax which provide more than 80% of the total Federal Government Revenue from tax.

Taxes on expenditure are paid indirectly as part of the payment of some goods, services and permit to do something. While those taxes may be collected.

The most important component of indirect taxes worth of elucidation here is the import duties. Out of the total 18.8% per GDP of all tax revenue between 1976-1978, indirect taxes have4.16% per GDP.[10]

Import duties have fulfilled a dual purpose, namely as a source of Public Sector revenue on the one part, and on the other as potentially effective stabilization instrument given the very "open" nature of Nigeria economy.  As from 1960s Import duties emerged as an instrument for protecting domestic industries by increasing duties on imported items.

But this protectionist role has been for less effective given the inelastic nature of import consumption in Nigeria.  High import duties have always meant higher revenue for merit instead of reduction import consumption.

Having concisely discussed a number of taxes collected in Nigeria it is experienced that tax constitutes a means of income redistribution from one sector of society to another sector. Thus taxation is one of the oldest institution for the support and regulation of the Nigeria economy development financing prior to oil boom was the principal foreign exchange earner before the modern Nigeria economy. Such as Jangali tax from Fulani Nomands and from neighbouring

[10]Ola C.S: Income Taxation for corporate and incorporated Bodies in Nigeria, New Edition. Hevemann Educational Books Nig. Ltd. Ibadan 1984 p.163.

towns and villages that were captured by the then superpower chiefs and emirs in their territories. Even before the independent of this country there were taxes on the agricultural products such as sales from cotton, groundnut, hide and skin and so on. But a total abandonment of agricultural sector by Nigeria government in recent years means a total loss of revenue especially from produce or sales tax, export duties on agricultural product. A lot needs to be done by the Nigeria government to revitalize this important sector of the economy.

The true mirror of Nigerian's pride had faded away because culture lost its pride of place to oil and brought in its trail series of social adversaries ranging from inflation, squander mania rooted in large-scale corruption on domestic scene and serious erosion of our foreign-exchange reserved as a result of gross mismanagement of our new found oil wealth. Taxation is now considered not only as revenue raising device but as an instrument by which government can influence the direction of economy. However, the contribution of income tax revenue in Nigeria has not been encouraging since corruption, evasion, avoidance have indicated strong associate with income tax in Nigeria which results in low revenue generation.

(a) Nigeria has heavily resorted to foreign capital, such as loans and aids as a primary means to achieve rapid economic growth.

(b) Neglect of enhancing income taxation. Hence, accumulate huge external debt in respect to gross domestic product (GDP) and serious debt servicing problems in terms of foreign exchange flow and as such majority of its citizens live in abject poverty.

## 3.3 Raising of Revenue for Government Services

The classical purpose of taxation is the raising of funds to meet government expenditure in one form or the other. Tax has been the most important source of government revenue. We have two types of taxes, such as the expenditures in the form of recurrent and capital expenditures.

### 3.3.1 Recurrent Expenditure

It refers to the ordinary government expenditure on running cost which has to be met. Recurrent formation is an important part of government expenditure because it deals with provision and maintenance of very vital services and day to day administration of the country. Government uses taxes levied on the people like personal income tax to finance recurrent expenditure.

Salaries and allowances of Public and Civil Servants, judges, universities' lecturers and many high and low grade officers were being taxed from the source under Pay-As-You-Earn (PAYE). All these type of taxes help to finance government's recurrent expenditure. It also includes expenditure on economic services as maintenances of roads, social and community services as payment of teachers' salaries, free education, payment of pension and gratuity to retired public servants.

### 3.3.2 Capital Expenditure

Is the cost of bringing into existence a new project and institutional services, it refers to all government expenses on new buildings, roads, facilities or schools and equipment for provision of social and economic services. In short, capital expenditure is an expenditure made by government in acquiring structure that may be used for further production.

There are areas where government expends its capital expenditure, such as the expansion and construction of roads, hospitals, clinics & maternity centers, schools and military institutions.

Granting loans to government organizations to finance their capital project as well as gains to other government supported institution for the physical expenditure. Meeting the country's external financial obligations/relationship such as movement in foreign exchange reserved and deposits in the international institutions etc. an example of recurrent expenditure is the present monetization scheme.

Monetization was a policy during the last Obasanjo regime, a system where Public Servants were given specific sums of money base on their grade level in service to cater for their residential accommodation, medical and transport allowances. This project was sponsored from the government treasury which was sourced from the tax payers' money, used in services the workers. In the Meade Report, the question on who bears the burden of tax was answered, by those who are to benefit from the government revenue and expenditure.

### 3.4 Distribution of Income

With the increasing disparity in wealth distribution in the society and a view for stalling social upheaval that may likely result there from.

Governments have often used tax system to redistribute wealth. Income distribution refers to the force which, in free exchange or centrally planned economy, governs the division of the product of a nation between those who perform different functions or supply different factors.

In a free exchange economy the forces that govern income distribution are demand and supply better known as Market Merchant. In a centrally planned economy on the other hand, the forces are the various government policies, programme and activities that regulate direct and control what portion of the national income goes to individuals, communities and institutions.

In any of these economies these shares of the total income may be "according to the contractual arrangement under which the proceeds are received, accordingly to the persons receiving them and according to the underlying function or factors which constitute the sources of the income.[11] Income distribution may be either because of social value judgment, which excesses in the distribution of the national wealth that are undesirable or because of the economic judgment that wealth redistribution is required as a maintenance desired level of economic wealth.[12] It is the value of equity and social justice that lead to the search for viable criteria that distributes and allocates the national resources among individuals and organizations accordingly.

The criteria is that the yardstick or the measure rods employed by tax policy makers in the country in determining who get what and howmuch is to direct and regulate economic activities in general. The revenue allocation formula that distributes federal collected revenue among various levels of government and the budget thatallocates resources among various sectors in the country or among programmes and projects of an organization such as governmental or business is based on equity and social justice distribution in Nigeria involves the private and the public sectors income and the role played by each of these sectors in shaping the income levelof the economy.

The private sector in a mixed economy is nothing but a sector whose mainmotive is profit making. The individual in these sector has many economic freedom-freedom to serve, freedom to consume-freedom to possess properties.

It is this system of private property that gives great incentives to work, everybody tries to accumulate property and become rich. The criterion for distribution income in the private

[11] Meaden Report on the structure and Reform of Direct Taxation, London 1978 pp.7-11

[12] The American Economic Association-Reading in the theory of the Income Distribution. The Blackstone Company, Philadelphia, 1951, p.5

sectors is perpetuated by the “Price mechanism”; or “Market system”. Price mechanism is the termination of the market price of a commodity – goods or services. In this way one satisfies his needs and only by possessing the means to acquire such goods or services. Public sector is a sector where the forces of production are totally or partially possessed by the state. The criteria that guide income distribution in those sectors are “Community Preference” and “Public Interest” but not profit making.

The mechanism employed in distributing income in Nigeria can be classified into three:

(i) The revenue allocation formula

(ii) The Annual Budget

(iii) Government policies on Income and Wealth distribution.

Some example of government policies are:- Universal Basic Education (UBE), Unified Income Tax System, Minimum Wage i.e. (Uniform Salary Structure), Marketing Board System and Government agencies, like the Nigeria Agricultural and Cooperative Bank (NACB). All these policies and operation of these agencies have direct bearing on the income distribution. The revenue allocation formula is the ratio of distribution between the three tiers of government where each is allocated a portion.

Annual Budget on the other hand is a mechanism through which the income of a particular unit of government or organization is allocated among the various sector, programme and project intended to be financed.

Budgeting as an economic policy indicates the direction of the economy and expresses intention regarding the utilization of the community’s resources. It also strives to promote macroeconomic balance in the economy. Budgeting at national, state and local level is governed by the same principles and as such there is no clear attempt to allocate the scare resourcesat their disposal to the satisfaction of the collective demands. Generally speaking, the four main macro-economic aims of the government achievement through economic policies are to attain full employment, stable price to prevent inflation, economic growth and balance payment equilibrium.

The Universal Basic Education (UBE) guarantees free primary and junior secondary school Education. This scheme is applicable throughout the nation, complemented in reduction and pegging of tuition fees in boarding secondary schools. This policy couple with already existing scholarship schemes for higher institutions which help in shaping the income distribution pattern in the country. Unified Income Tax System is accomplished through the Pint-Tax Board comprising of all the states. Their areas felt more in Personal Income Tax since it deals with the approval of Pension schemes.

Therefore with a unified tax system a comprehensive income distribution policy can be affected through a steep progressive income tax structure.

Minimum Wage (Unified Grading and Salary Structure) (UGSS). This was an old system used for nursing different wages, which was equivalent to one hundred Dollars ($100). But this had not been properly implemented.

**Marketing Board:** This Board was concern with the agricultural products and policy of taxes in Nigeria during the sales of ginger, cotton, groundnut and alike, such as farm products from farmers that were exporting outside the country. The Board assisted in influencing of savings the income and improving the standard of peasant farmers.

**Nigerian Agricultural Bank:** Was another vital instrument for income distribution established by the Federal Government to promote in developing agricultural sector of the Nigerian economy through provision of credit to farmers (peasantries) and agro-business ventures. It equally involves in Rural Electrification Programmed (REP), Rural Adult Education Program (RAEP), Rural Boreholes Projects (RBP), and Agricultural Extension Services (AES) etc. All these were designed to improve welfare standard of living for farmers' awareness and their agricultural efficiency rather than alienate them.

### 3.5 Economic Revitalization

Tax revenue constitutes an important source of government financial. The volatility in tax revenue is also significant to economic growth. Most economy relies on income from taxation for its development, aside from its use as a means of raising government revenue. Taxation is also often used as an instrument of regulating the economy, redistribution wealth and inducing preferred modes of behavior, particularly consumption patterns and investment choices. Therefore, taxes have an important role to play especially in any government economic and social policy. The certainty of tax (as of death) and its utility are now accepted as norms that bear relation to all facets of human economic, social, and political activities.

It is trite that fiscal consideration is paramount on shaping development policies of given economic be they at the micro or macro level and whether domestic or international. The globalization of economic activities presupposes that interdependence and their relationship must be forged amongst all people and nations of economic well-being meaning.

Important consideration must be given to planning of services and investment by harmonizing them with development strategy and changing economic structure. The government can use powerful fiscal weapon to plan and direct the economy. By so doing steep booms and dead recession can be avoided. The government can use income taxation to provide effective and flexible instrument for the day to day management of the economy or to achieve specific economic objectives.  For examples tax can be used to direct private investment in line with national needs and practices. Tax incentives are to attract industries to remote areas of the country.

Income taxes also provide the government with effective and flexible instrument for shaping the economic growth and development of the country.

For example, capital allowance can be used as a means of stimulating the manufacturing sector by increasing the value added content to the domestic output in some key industries in Nigeria. Income tax can also be designed in such a way as to direct private investment.

Taxation can be used to provide reasonable degree of price stability within the nation. Combined public and private spending is likely to create serious inflation. If price stability is to be maintained, the government must either decrease its spending, or decrease private spending. Once this kind of decision is formulated it is means that government is ready to set a better tax policy.

Therefore income tax will become the residual buffer that regulates private and public demand. Thus income tax becomes primary method to contribute reasonable price stability of a nation.

## CHAPTER FOUR

## SIGNIFICANCE OF TAXATION IN NIGERIA

### 4.1 Nigerian Economic Situation

Nigeria has often been described as an "Underdeveloped" or "Developing" Nation. These terms refers to a number of things. They could mean a country with low level per capital income per head of its population which are low by the standard of western world, or a country with very low level of economic and technical advancement or achievement.[1]

Both the defining words apply to Nigeria, but this research is more concerned with the second definition. In underdeveloped countries with particular reference to Nigeria there is a prevalence of high level of illiteracy and malnutrition coupled up with inadequately housing and lack of proper medical facilities and care. Those countries also suffer serious political instability, unsettled monetary (loans of I.M.F) conditions and lack of continuity in economic life. Apart from all these, there is no large scale application of the fruits of scientific and technological advancementto agriculture and industry, subsistence production is general the order of the day.[2]Nigeria situation is not an exception to the above described problems which had led the country's growth industrialization process being at its best started. This country suffers from myriad of ailment which includes lack of infrastructure and these infrastructures where they are in place are insufficient to cater for the growing need of the populace.

Furthermore, transport is inadequate, with an insufficient road network and a great majority of roads are bad due to holes, airports are dead because of the outdated facilities, seaports in bad

[1] Hillar J. and Kanfiman K.M.(1963): Tax incentive for industry in less developed economic countries, Harvard Law School
[2] Ibid

condition due to lack of modern navigational aids. Efforts are being made to revitalized the rail network yet such effort have not been much fruitful. In country like Nigeria with potentials growth and development but inadequacy of the transportation network which constitute a major stumbling block especially in the area of domestic trade.

Another basic necessity for economic growth is electricity. In Nigeria today, the generated power supplied is far below to the need of the country. The electricity consumed by approximately 2,800 megawatts while there is a generation capacity of 5,000 megawatts while there is an improvement on the year 1960, figure of 10,000 megawattsfor a country of over 140 million people in high potential for historical development. In the manufacturing sector, where power failure often mean idle machinery and workers, and loss of production capacity of about ₦750 million is spent every year on the purchase and maintenance of electric generating sets.[3]The portable generator market adds another ₦100 million or so a year.

In 1981, for example, ₦100.5 million went into potable non-industrial generator purchase.[4] This figure jumped to ₦34.1 million in 1983 when power supply deteriorated even further.[5] These generators consume anestimate of 400,000 to 500,000 liters of petrol and diesel per year, which amount to 5-6% or Nigeria's total consumption of petroleum product.

Voltage fluctuations also took its toll, not only in damages to scientific research. Laboratories and domestic appliances but also in our capital expenditure, foreign exchange on buying voltage stabilizers which amounted a total number of330,000 of them brought into the country. In 1983 alone at the cost of about ₦36 million,[6]lack of electricity affect productivity. It raises production

[3]Lokoja Hydro Electric Product Exchange Summary 1978 pp.8.
[4] Abubakar S.M: Planning and Energy. The Case NEPA M.Sc.
[5] Ibid
[6] Business Concord, Lagos 20th April, 1983.

cost and reduces the rate of production, leading to an increase in price of goods in thedomestic market as well as in the international market. This makes Nigerian goods less competitive than goods of other countries. This is not only affecting the revenue accruing to the government but also discourages would entrepreneurs from investing in the country economy thereby solving down the rate of economic growth and industrialization. Even in the area of industrialization, there is lack of an efficient communication system, despite the fact that is a vital tool of development.

It is necessary for the exchange of ideas and information, therefore, if Nigeria's aspiration to be an industrialized nation is to be achieved it needs an efficient improvement in telecommunication technology industry despite the introduction of GSM Mobiles lines, there is still problems of in insufficient trunks and very poor network and their services are expensive comparing with other developing nations. Nigeria needs more effective modern advance telecommunication technology as the world is becominga global village with advancement in telecommunication and other information services network like Internet, Telefax, and T.V via Satellite etc. Our human resources is underutilized despite the surplus resources. Nigeria with approximately 260 million have over 150 million that are illiterate or below secondary school leavers. Unemployed, inadequate health care and living below standard of living.

Nigeria has been described by some scholars that Nigeria is rich with very poor population of over 240 in all manner, with the unequal distribution of resources and millions or majority of people living in penury. In this situation the country will hardly achieve its full potential growth. Lack of educational infrastructures in institutions of learning and poor maintenance of them contributes to high level of illiteracy. The country also have poor scheme, level of drop outs and corruption which has led to increase in the number of half-baked graduates produce yearly.

These results of skill personal manning the nation's industries. Thus, a lot of companies wind-up as a result of managerial and operational skill on the part of entrepreneur, this in turn leads to high level of unemployment.

Inadequate health care, which rises from ill-equipped hospital and partly from a lack of qualified healthcare staff of which the brain-drain (the search by nation's trained, skilled medical personnel for greener pastures) is a contributory fact, which lead to high level of mortality as well unhealthy population constituting the nation's work force. In a country with few opportunities for employment and remuneration for such employment as well as productivity is low, one cannot but have low standard of living.

However, the criterion for judging economic development is widening range of alternative opened to people as consumes and produces and extent achievement of this goal is not one which can be measured quantifiable. This however, corresponds broadly to an increase in national income and in goods and services is available consumption or investment.

Economic development improves the range of choice and opportunities in economic life. As was judged from the above, Nigeria has an uphill task increasing rate of economic development, which because of the nature of its organization and the process of ensuring accountability, it cannot be done alone, private initiative is needed to put to optimal use the limited resources of the Nigerian economy. Also by the nature of public service, people instinctively see it as communal work, the success or failure of which is unlikely to have direct impact on them, and consequently commitment is undermined. However productivity is easier where people have vested interest of some sort in the undertaking, which is not possible to create in public service. For improvement in economy, there is need to address the problems enumerated above with regards to our social and other infrastructural problems, these requires a high amount of revenue by the government. With recent event in the petroleum price that felled down it would be unwise not to look for and consolidate alternative sources of revenue like taxation.

## 4.2 Taxation as a Tool for Economic Growth

Direct taxes are those taxes levied on chargeable persons income or capital and are paid directly by the person to the tax authority. Personal income tax falls into these category of tax.[7]Income Tax is a method of raising revenue while revenue is diverted and channeled back entirely into productive use by the government. It promotes economic policies such as savings, investment, product on and consumption.[8]It regulates and directs the country economic and socialdevelopment through its incentives.[9]A tool for redistribution of income revenueoperation for government, inculcating in the citizenry the spirit of industry, hard work and self-relevance, encourages export and discourage import. Induces economic activities for example granting of generous tax relief and allowances.

Income tax becomes an important consideration in the planning for saving and investment by harmonizing it with development stagy and changing economic structure.

The government can used Income Tax as a powerful fiscal weapon to plan and direct the economy, by so doing steep booms and deep economic recessions can be avoided. Income Tax can be used in shaping the economic growth and development of the country. Income Tax system can also provide the government with effective and flexible instrument for the day to day

[7] Worlu, C.N. (2012) Tax Revenue and Economic Development in Nigeria: A macroeconomic Approach, Academic Journal of Interdisciplinary Studies, University of Rome, Vol. 1, No.2 of 2012, p.211
[8] Ibid p.212
[9] Ibid p.212

management of the economy. Hence, Income Tax can be used to achieve specific economic objectives of the nation. For example, capital allowance can be used as a means of stimulating the manufacturing sector by increasing the Value Added Tax content of the domestic output in some key industries in Nigeria.

Income tax can also be designed in such a way that it will direct private investment in line with the national needs and its priorities. For instance through the use, inter alia of tax incentives to attract industries to remote area of the country which will gear up development.

### 4.3 Taxes as Incentive for Economic Growth

Taxation provides the main impetus for formulation and implementation of an optimal fiscal strategic policy. Its key role with respect to economic development includes: raising adequate revenue to meet public expenditure budgetary targets; reducing income inequality through an optimal system of personal and corporate income taxes; discouraging the production, importation, or consumption of harmful products such as tobacco, through an optional system of trade taxes and Value Added Tax (V.A.T.); ensuring the attainment of allocated efficiency, both partial and general, through an optimal strategy of moving scarce resources from the private to the public sector and vice-versa.

**Incentive**: is defined as "reduction in affective tax burden on favored activity, as against that currently imposed upon it in the hope that deduction in government revenue (due to tax forgone) would be compensated by an expected expansion of national economy and ultimately by resulting increases in total revenue from broaden economic base".[10] A tax incentive is by far the most critical issue regarding tax policy and the rate. The structure of tax system can affect

[10] The effect of Taxation, Foreign Trade: Investment, United Nations Dept. of Economic Affairs, Lakes Success (New York) (1950) p.17

prevailing economic growth rate which is essentially depends on buildup of physical and human capital.

**Objectives of Tax Incentives** being to encourage foreign and domestic investment towards rapid industrialization and creation of investmentopportunities to entrepreneurs self-reliance in local production of essential goods, to provide more employment opportunities for the general populace and by relieving the society of some social associated problems of mass unemployment to be self-reliant as possible and to prelude towards political stability.

Since Independent, Nigeria government had been embarking on tax incentive measures. This is due to the fact that the economy had been undergoing growth and development remarkably. Tax incentive measure is a tax policy; some incentives measures include tax exemption, accelerated depreciation allowance import duties relief, long-term fiscal system and enterprises agreements etc. Recourse will be on few of these inceptives accordingly:

**Tax Exemption:** Is period by which the government of a country exempt companies and other tax payers from the payment of taxes. It is also known as “Tax Holidays” which may be partial or complete granted to the tax payer. It is partial if the tax exemption is for few years. On the other hand if it is for an indefinite period of time, it is complete tax exemption. This exemption is always applicable to pioneer companies to help them establish a firm footing.[11]

**Tax Exemption:** Is an important aspect of revitalizing industrial growth and development. Hence, many countries either developed or developing country like ours embark on it as a vehicle for industrialization. Tax exemption improves the commercial profitability of investment through tax-free income to pioneering companies and businessmen. It subsidizes the pioneering

[11] Ayua, I.A: Nigeria Tax Law: Spectrum Books Ltd, Ibadan Revised Ed.pp.306-308.

cost of new companies by allowing the companies to recover its capital cost faster. It also enables firms to easily re-invest tax free earning for the expansion of its business. What is more, it encourages the establishment of capital intensive labour, intensiveindustries which generates employment. It also attracts foreign investors to come and invest in the economy.[12]Ayua viewed Tax exemption as drawback.[13]

For instance, it grants unequal benefits to firms which enjoys higher rate of profit than profitless companies. Tax exemption tends to reduce the revenue base of the government due to the nonpayment of tax at that short run of such a period.

There is also the problem of identifying genuine new pioneer companies. Elias is of the view that tax exemption is ineffective and inefficient stimulus to investment.[14] According to him it encourages tax evasion and complicated tax legislation especially developing nations like Nigeria.

In actual fact, tax exemption, is a good tax incentive mechanism especially in developing country because it encourages the establishment of new industries, attracts foreign investment, which will no doubt generate employment and increase government revenue at the long run.[15] Some examples of tax incentives legislation for pioneer industrial relief (tax exemption) are the Pioneer Industrial Ordinance of 1952.

---

[12] Philips, A.O: Nigeria’s Experience with Income Tax Exemption. A Primary Assessment, N.I.E & SS Vol.10,No.1,1968,p.46.Ayua, I.A Op.Cit.. p

[13] Ayua, I.A, Op.Cit. p

[14] Eliash,T.O: Law in developing society p.170.

[15] S.S.12 of the Industrial Dev.(Income Tax Relief) Act Cap.17 L.F.N.2004

Industrial Development Act of 1958 and Industrial Development Act, Chapter.17 Laws Of Nigeria 2004. It grants tax relief for 3-5 years for foreign and Nigerian industries which are establish to give employment to indigenous Nigerians and local raw materials in its business.[16]

**Accelerated Depreciation Allowances: -** it is another tax incentive measures. It includes the writing off the original cost of new capital equipment minus any depreciation value in the early years of investment. In this vein, the actual cost of the capital equipment is deducted from the firm taxable income. Two methods call to mind namely: the straight line methods and the declining balance method.

The former involves the writing off the cost depreciable property in equal annual installment on its lifespan. While the latter deals with deduction on a static fraction of the unamortized balance of the cost of the asset but a declining fraction of the original cost. Therefore Nigeria uses declining balance method.

Accelerated depreciation allowance includes investment allowance and initial allowance. They all allow depreciation in excess of the cost of the assets. The merits of accelerated allowances is that it enables a company to obtain interest-free loan by means of postponed taxes thus, given more profit to the company, thereby allowing the company to have more money to invest and expand its operation. It enables the company to rely on its internal finance rather than external financing which makes the company to enhance its operation. In addition, it helps the company to acquire new equipment forincrease expansion and productive capacity. It is easy to apply and the government finds it easier to use for specific nation objectives of investment on particular areas of the national economy.

[16] Ayua, Op.Cit at p.311

Another merit of accelerated depreciation allowance hinges on taxable income which can be set-off. It will not be good where there is insufficient taxable income.[17] It only favours capitals intensive industries.

At any rate accelerated depreciation allowance is a good form of tax incentive measure and more reliable than tax exemption. The Companies' Income Tax Act,[18] grants an automatic depreciation allowance to all companies liable to income in Nigeria. They are granted in respect of capital asset to be utilized to expand their trade and business. It varies with the nature of the business.

**Import Duties Relief:** Another incentive measure is the grant of relief from custom and excise duties for industrial equipment imported by firms in Nigeria.

This also includes raw materials either for internal or external uses afterproduction. However, import duties relief may reduce government revenue and balance of payment deficit at the short run but higher benefits will be derived at the long run.

**Long Term Fiscal System:** According to Ayua[19] the aim of long term fiscal system as a form of tax incentive measure is to stabilize tax change so as to achieve benefit of tax rates stabilization at a given level for several years. Long term fiscal system actual permits exemption of change in tax assessment and collection procedure at a given period of time. The exemption also extends to new taxes introduced at a given point in time.

**Enterprise Agreement:-** This is another tax incentive measure, it is much more extensive than long term fiscal system, though similar to each other. The benefit that can be derived from tax exemption and stabilization under enterprise agreement is greater in the sense that many benefit

[17] Ayua, I.A. op cit p.32
[18] No. 23 of 2007 as amended
[19] George, E.I: Tax Incentive for Investment in Dev. Countries: Op.Cit.at pp.225-256; Quated in Ayua, I.A. op cit p.32

accrues to the firmconcerned. These includes among other things as financial guarantees for profit and capital repatriation and economic guarantees. Covering all kinds of business activities of the firm.[20]It allows free-tax import of primary materials and capital equipment. There is also right to employ foreign personnel as regular employees.

The enterprise agreement and long term fiscal system of tax incentive measure is very vulnerable to development countries especially in Africa, Asia and Latin America. The reason is that it can serve as an effective economic weapon in the hand of multinational companies/corporations who can use it to control the economics of developing countries. For instance, the tax exemption policy and financial guarantees that provides for repatriation of capital and profits for pioneer Multinational Corporation can easily manipulate the economic resources of the countries concerned. It does this by sapping their revenue through capital and profit, repatriation to the parent companies who are well established in developed countries like United Kingdom and United States of America.

A country that dare tax free importation of raw materials and capital equipment including the right to employ foreign personnel as regular employees within the country will be an easy prey to international capitalism and imperial powers that are ready to control the world economy. Developing countries are advised to approach tax incentives measures especially the long-term fiscal system and enterprise agreement with special care caution. It should be constantly reviewed from time to time.

Wheatcraft abhorred the use of taxation to achieve special economic objective because of its dangerous wrongs.[21]However, Ayua, is of the option that the best tax incentive measure for

[20] Wheatcroft, G.S.A: The implication of the second budget, 1969. BTR 2971.
[21] Ayua, Op.Cit. p.

developing countries are the tax exemption and accelerated depreciation allowances which forms part of company tax legislation.[22]

He further postulated that tax incentive should not be easily granted across the board, but should form part of an integral national plan with proper emphasis on realization of national needs and priorities.[23] It should be realized that it is the Federal Ministry of Industries, Federal Board of Internal Revenue Services, the Cabinet and Federal Executive Council that administer Tax Incentive Policies.[24]

### 4.4 Effects of Fiscal Policies on Economic Development of Nigeria

Fiscal Policy and Taxation are birds of the same feathers. Since one cannot talk about the budget policy of the Federal Government of Nigeria without considering the generation of revenue through the taxation of income from various sources in the economy. It is out of the revenue so generated from taxation of income that the government will be able to formulate the fiscal policy of the country. It is also known as the government budget which is given in form of financial statement showing the amount of money the government will spend (expenditure) and what it will obtain as income (receipt) from taxation in a fiscal year.

Policies in effect are deliberate action defined by a given government or authority in which major decision are taken to direct the running of thestate agency. Simply put fiscal policy is an official statement by the government of a country's income from taxes and how it's going to be spent. Hence, the implementation of the fiscal policy is the ability of the government to keep its

[22] Income Tax Relief Act.
[23] Income Tax Relief Act.
[24] Nigeria National Economic Employment and Dev. Strategy Needs-needs economy Corn

word by administering the budget statement according to its form and substance so as to ensure its actual execution with a given fiscal year.

Despite previous plans to diversify the revenue base of government, Nigeria fiscal and budget landscape has been dominated by oil income which in turn is a major source of instability in the domestic economy.

Hence the traditional of relying almost entirely on oil revenues by all tiers of government carries with it the risks associated with the volatility of international oil markets. Oil revenue earns not less than 90% of the total government revenues.

Thus, following savings in the international oil price and production, government revenue is volatile. In many cases, expenditure is pattern after oil income such that in period of oil boom, expenditures is ratcheted up-while period of oil price dip are treated temporally, through the Federal account system, the same pattern is repeated in the states and local governments.[25]It is generally believed that every government budget should have a main theme related to the current need of the economy. In the past years, several state military administrative in Nigeria have been given different description of their budgets such as “belt tightening budgets” or “austerity budgets”.

Budget of revenue and of recent by the Obasanjo regime, “Budget of Privatization and Commercialization”. For more than 40 years, consideration has been given to possibility of influencing not only the volume of private investment, but also the realization of deserving specific national policy objectives by the grant of tax incentives under Income and Profit Taxes.

[25] Budget Statements 1993, 1998, 2005: Federal Min .of Information.

But, these fiscal policies had not produced the desired results. Obasanjohighlighted the implementation of the 2003 budget before proceeding to present the 2004 budget. And also the 2005 budget, he said the National Assembly (NASS) enacted an appropriation bill of ₦1, 175 billion.

A supplementary budget of ₦271 billion was further appropriated in November, 2003. This is to bring the total to ₦446 billion as against forecast revenue of ₦950 billion. He postulated that the implementation of 2003 budget to build on the 2004 budget. He told the National Assembly that 2003 and 2004 budgets had significant impact on agriculture and telecommunication sectors.[26]

The agriculture sector grew at an estimate 7% P.A fuelled by good rain and supportive policies. Food and Agricultural Organization (FAO) has confirmed that the number of people undernourished in Nigeria reduced from about 25% to under 8%.[27]It was further stated Nigeria recorded 5% Gross Domestic Product (GDP) growth rate for the year, which is slightly better than last year growth of 4% but lower than the refunded 7%.In the telecommunication sector, he said that there were additional millions of telecommunication lines by many operator of GSM. He said the liberalization and privatization of Nitel created jobs.

There were about 2.5 million of wireless lines in just 2 years compared with fewer than 450,000 land lines throughout Nitel history. The President further submitted that macro-economic stability was maintained during the year, but there were some period of instability caused by an uneven pattern of spelling and weal fiscal and monetary policy responses. Inflation average 12%.From this analysis, it is clear that there are two major discretionary tools at the disposal of the fiscal policy makers. There are government expenditure and taxation.

---

[26]The Law Maker. A Monthly Legislative Magazine Volume 5, No. 86 of January 1st 2004.
[27] Ibid

These can be simply incorporation under one umbrella – the budget surplus and budget deficit of the government Fiscal Policy is formulated and implemented by the three levels of government i.e. Federal, State and Local Governments.

Each ties has definite area of competence tax jurisdiction which to legislate on aspect of fiscal policy, but Federal Government tends to dictate its major trend and focus from one year to the other.

# CHAPTER FIVE

# SUMMARY AND CONCLUSION

## 5.1 Summary

The Generation of revenue by every entity is of paramount importance. This cuts across households, firms, states and nations. Even countries in the world today are trying to adhere rapid socio-economic growth and development through optimum tax assessment, collection and utilization.

Government at every level (Federal, State or Local) is expected to discharge certain functions to its populace which include the provision of basic infrastructure and social amenities. The generation of adequate revenue is, therefore, very important for the effective discharge of the functions of government, as no meaningful development can be achieved in the absence of revenue.

However, from the foregoing Chapter one and two above Nigeria has underutilized the potential of income taxation. Although, there has been much improvement to the amount contributed as revenue to the nation, which is attributable in so small way to the introduction of personal income tax and value added tax Acts which are the laws that govern the imposition and collection of personal income tax and Value Added Tax in Nigeria. There has not been much success in achieving one of the bedrock goals of income tax system, which is reduction of disparity in income distribution redressing the imbalance, unfair and inequitable distribution of our national cake or wealth. The Nigerian tax laws on income tax failed to consider the cultural aspect of the people, especially their social habits in penchant, ostentation and conspicuous consumption pattern.

An attempt has been made to suggest various system of raising revenue through agricultural products, properties and personal income taxes by the government apart from relying on accruing oil wealth. We equally examined the basis of Income Taxation with the view or focus to identify the important roles income taxes play in the economic development of Nigeria.

Chapter three is the bedrock of the whole work it discusses the role of taxation in the economic development of Nigeria, its legal perspectives.

Raising revenue as the primary objective, income distribution and revitalization of the economy.

Chapter four is on revitalization of economy achievements through capital projects. This research showed the Nigerian economic situation, how incomestaxes been a tool of sharpening and sanitizing the economic development, social and political incentive and effect of fiscal policy which are twin birds of the same feather that fly together with tax incentives.

Lastly this work concluded with summary, findings and conclusion of the entire work with recommendations.

## 5.2 Findings

1. Generation of revenue by every entity is of paramount important. This cuts across households, firms, states, and nations. Every country of the world today is striving to achieve rapid socio-economic growth and development through optimum tax assessment, collection and utilization.

But it is observed that Nigeria has a fundamental problem of tax collection as a result of either tax evasion and tax avoidance from some private organizations, government organizations and individual people.

2. Political influence and corruption of tax revenue exhibited by government officials, particularly at top level. Where an executive may use some form of power to direct and prohibit some individuals or companies from paying tax on some transactions, without regard to tax revenue implications.

The tax reliefs may be in the form of duties waiver which in some cases are granted to favour certain taxpayers. Other problems are weak, inefficient or defective legislation against tax evasion and tax avoidance, inadequate machineries and lack of skilled personnel in the administrative tax bodies has also contributed to problem of tax collection in Nigeria.

3. It is also understood that high rate of taxation is one of the factors hindering tax administration in Nigeria hence foreign investors will prefer to divert their way to the country with less or low rates of tax.

4. Lack of civic awareness, people thinks that collection of tax is oppressive. This is also among the contributory factors of tax problem in Nigeria.

## 5.3 Recommendations

Based on the above findings, the following recommendations were provided:-

i. Taxation is not the Alpha and Omega to solve all our problems on this earth. Taxes, on their own, cannot produce adequate growth without a sound,honest and aggressive campaign for a sincere and economic planning for development. A good taxing system needs to be organized like a war geared toward achieving its effort, which will mobilize its resources, stir the imagination of the people and operate dynamically according to a carefully planned strategy. Therefore, government should have the political will and should also ensure effective assessment, collection and utilization of tax revenue.

ii. Where there are good relationships between tax payer and the government, the government may spend much money in tax administration and more revenue in provision of infrastructures and social amenities. Such as employment, health care, construction of roads, dams, schools and so on. Therefore it is recommended thateffort should be made to identify taxpayers that are yet to be captured in the tax payers net, through the issuance of a unique tax identification number and the development of data base of tax payers' profile. This will make effective assessment and collection of revenue from all sources by the government.

iii. Furthermore, judges and the legislature should try to enact laws that can beeasily interpreted to guard against injustices. This is because it is well known that taxation is statutory matter, no common law or equity will give the court any true answer to the problem of interpretation for the right application of tax legislation. The judges should try as much as possible to observe the rates governing of tax interpretation statutes.

iv. It is recommended that the government should organize workshops and seminars in order to make taxpayers know that it is their civic responsibility to pay tax to generate revenue to the government which will in turn provide them with social amenities.

## 5.4 Conclusion

It behooves on the leadership that will make income tax achieve its major objectives that will be attractive to the taxpayers not something that will look like you robbing John to please Peter. That's why the problems of tax evasion and avoidance are very common. Therefore there is need to ensure value in the way tax payers' money are spent through a system of good governance that has the capacity to control corruption and abuse of office. If the income tax's purposes are basically achieved, citizens will have true convictions that if they do not pay taxes it will look to them as a sin spiritually and a crime to humanity even to the entire nation, which of cause, will force them to pay and be proud of their obligations. Growth through taxation can only be seen if there are sincere and honest policies through skillful economic management. In this case there is need to utilize the services of registered tax professionals in the formulation and implementation of tax policies and guidelines. These are the only ways that will take us to the promise land, because respect for the tax system will be greatly enhanced if the tax payers begin to see tangibledevelopments in their locality, such as better health and education facilities as well as improved physical infrastructure and security.

## BIBLIOGRAPHY

***BOOKS***


1 Ayua, I.A: Nigeria Tax Law, Spectrum Books Ltd Ibadan, Revised Edition (1997) p.306 - 308.

2 A.S. History: Oxford English Dictionary (2000) Sixth Edition, University Press U.K. P.I.T.A CAP. P.8 L.F.N (2004).

3 Ola, C.S: Income Taxation for Corporate & Incorporate Bodies in Nigeria, New Edition Heinemann Education Books Nigeria Ltd, Ibadan (1984).

4 Ola, C.S: Nigerian Income Tax Law & Practice, Macmillan Publishers, London (1985).

5 Rabiu, S.A: Personal Income Tax in Nigeria, Manna Hannan Press Ltd, Nigeria (1981) p.15.

6 Is-haq Repositioning the Nigerian Tax System, Suggestion and Policy Measures, University of Ilorin Press Ltd (2010) p.3

7 Jinghal L.M. The Economic Development Planning 28 revised Edition, Public Offset Press, New Delhi, 1995.

8 Abdurrazaq, M.T (1999) Nigerian Revenue Law, Malthouse Ltd, p. 37

9 Elias, T.O. Law in developing Society (1998) p. 170.

10. G.S.A. Wheatcraft: a Taxation Policy for Growth, 1968, B.T.R. at p. 131.

11. D. C. John (2009) Assessment of the Effectiveness of the Legal Provisions Relating to Criminal and Civil Sanctions Ph.D. Thesis 2008 (unpublished), A.B.U. Zaria p.8.

12. Adesola M.S. (1998) Tax Law and Administration in Nigeria: Obafemi Owolowo University Press Limited, Ile-Ife, p.44.

***JOURNAL***

13. Philips A.O: Nigeria's Experience with Income Tax Exemption. A Primary Assessment, N.I.E. & SS Vol.10 No. 1, 1968, p46.

14. Ebere, C. (2012) Tax System in Nigeria-Challenges and Way Forward, Research Journal of Financing and Accounting, Vol.3 No. 5 p.5

***MAGAZINES/NEWSPAPERS***

15. 1997 Budget Proposals: New Nigerian Newspaper of 10 June, 1997.

16. Budget 1998: Business Time of 5th January, 1998.

17. Meade Report on Structure & Reform of Direct Taxation, London (1978) p.7-11.

18. BUDGET Statements 1995, 1998,2005: Federal Ministry of Information, Abuja.

***INTERNET***

19. Nigeria National Economic Employment & Development Strategy Nee-need @ 4 Nigerian economy, Com.

20. Asada D. (2012) the Administration of Personal Income Tax in Nigeria and Some Problems apart, Extracted from http://dispace.edu.ng/bit-stream/10485/263/CJ106-119.