

Taxation and Infrastructural Development in Nigeria: Towards a Legal Alignment

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Abstract

Wishes are not horses, envying the developmental strides of developed nations or packing our bags on a lousy trip to such nations, to bask in the euphoria of its magnificence and sophistication, does not automatically replicate development in Nigeria. People must pay their tax and tax managers should allocate tax collections to meaningful infrastructural development. Failure to comply with tax payments or willful misappropriation can hamper the sustainable development of any nation. The purpose of this study is depicts tax payment as a major driver for infrastructural development and encourage defaulters to tax compliant or face the long arm of the law. This paper discusses how legal means can be used to enforce tax payment and punish officials in charge of tax that misappropriates the funds. The methodology used is mainly doctrinal with a resort to legal and non-materials, encyclopedia dictionaries, websites, journals, and others. This study revealed that enforcing already available laws and strict punishment for defaulters, and officials who misappropriate the funds respectively will control tax problems. Furthermore, accountability on the part of government officials should be non-negotiable. In conclusion, tax evaders should face criminal or civil sanctions for their various offenses, including license seizures and imprisonment. It is recommended that loopholes for tax evasion should be tightened and enforcement mechanisms strengthened. Officials who squander tax funds should pay back the full sum and punished accordingly.

Keywords: Tax, Tax Laws, Infrastructure, Development, Evasion, Penalties.

1. Introduction

Most countries in Africa, Nigeria inclusive are determined to put their stagnant economies on the road to

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development. To allow dearth and dilapidation of the countries' infrastructure without efforts towards sustainable development with the funds accruing from taxation is detrimental. Today almost everything has gone digital, there is visible rapid infrastructural development around the world and Nigeria, cannot remain in the stone age. The new age demands positive steps toward infrastructural development and provision of necessities such as light, water, food, and others for the population. This can be provided by the government through taxation, which is a compulsory levy imposed by the organ of government for public purposes. The political essence of taxation laws is for public purposes for which they are made, this is a matter of necessity including infrastructural development¹

Trading of blames between the government and the people does not solve the problem of under-development in the country, taking responsibility and fixing the problem does. The government blames the people for not paying their taxes and the people blame the government for the mismanagement of taxes paid. The government claims that in procuring and exercising taxing powers the government does not act for its peculiar interest; it acts for public purposes, the public purposes relate to the fundamental objectives and directive principles of state policy set out in chapter 2 of the constitution which contemplates development in relation to the stated political, social, economic and educational objectives, and otherwise, this is not to deny that government as a group of functionaries has its own interest and has used tax proceeds for illegitimate purposes².

In the words of Kautkiya, “Just as it is impossible not to taste the honey (or poison) that finds itself at the tip of the tongue, so it is

¹ Davies Williams et al, *Principle of Tax Law* (Sweet & Maxwell, London 1996) p 3.

² J. A Agbonika, 'Topical Issues on Nigerian Tax Laws and Related Areas, in DA Obadina (eds) *Interpretation of Tax Statutes and Development*' (Ababa Press Ltd, 2015) 149

impossible for a government servant not to eat up at least, a bit of the king's revenue. Just as fish moving underwater cannot possibly be found out either as drinking water, so government servants employed in the government office cannot be found out while taking money for themselves.³ Whatever the case may be the temptation involved in tax collection is no excuse for its misappropriation, therefore it should be handled by trustworthy and disciplined staff who do not have a record of embezzlement of public funds.

2. Evaluation of tax and offenses

The case of *AG Lagos State v Eko Hotels and FIRS*, defines a taxable person by virtue of section 46 of the VAT Act a taxable person is defined as a person (other than a public authority acting in that capacity) who independently carries out in any place an activity as a producer, wholesale traders, suppliers, of service, (including mining and other related activity) or person exploiting tangible or intangible property for the purpose of obtaining income therefrom by way of trade and business. Persons who are eligible to pay tax as defined by the act who fail to pay commits an offense of tax evasion.

Tax evasion is a serious offense for a taxpayer not to file tax returns annually under the Nigerian tax laws.⁴ Tax evasion is a criminal offense that has always made the courts require that it be proved beyond a reasonable doubt like other offenses of a criminal nature.⁵ This principle was also portrayed in *R v. Basil Ranger Lawrence*.⁶ In the case of *Okezie Victor Ikpeazu v Sampson Ogah*⁷ the onus of proof is on the person asserting that tax was not paid, alleging failure to pay tax must be proved that:

1. The person earned a taxable income during the period in question
2. That there was proper assessment of tax covering the period;
3. That notice of assessment was served on the persons to pay his tax and he defaulted; and

³ RP Bardhan, Journal of Economic literature, 45 (1997) p. 1320-1347

⁴ CS Ola, *Income Tax laws and practice in Nigeria* (Heinemann Educational Books & Dialog Prints, 1999) 98.

⁵ Section 137 Evidence Act 2011.

⁶ [1932] II NLR 678 in M.I Abdulrazaq Nigeria Tax Offences and Penalties (Princeton & Associates Publishing 2014) 109

⁷ (2017) 6NWLR Pt (1562) 347

4. That the person failed to pay the tax assessed within two months after the notice of tax

The tax board will determine the appropriate assessment for all the years on its best judgment and penalize the offenders severally under the tax laws after-tax imposition of a fine for every year the offenses occur.⁸ Tax collection may be direct or indirect and may be imposed on an individual basis, entities assets and transaction basis.⁹ In the case of *7up Bottling co. Plc v L.S.I.R.B*¹⁰ *per Nzeakor*, it was stated that failure of a tax payer to make returns, an assessment will be made on the total income which the taxing authority then considers was received by the tax payer during the year.

Imposition of tax is one of the functions of the power that be in a parliamentary democracy which is exercised with great caution. No arbitrary tax imposed is allowed and the rights of the people should not be infringed upon.¹¹ Sometimes those on assignment to collect tax face a lot of hazards and are at risk of being mobbed, some persons tend to resist tax collection.¹² In Russia (1996), 26 collectors were killed, 29 injured in the course of their work, six kidnapped, and 41 had their homes burnt down, such aggression was also witnessed in Nigeria toward tax collectors during the Aba riot of 1929.¹³

a. Taxation: This can be described as the compulsory contribution to state revenue, levied by the government on workers' income and business profits added to some goods, services, and transactions.¹⁴ It is a levy by the government on the incomes of individuals' properties and corporate bodies for the upkeep of the government failed to pay income tax by taxpayers amounts to tax

⁸ Ibid.

⁹ J Olakanmi, *Tax Laws Encyclopedia* 1. P 1.

¹⁰ [2000] 3NWLR (PT. 650) at 591

¹¹ Tax Law Report of Nigeria 2021

¹² The Abeokuta Women's Revolt (Also called the Egba Women's Tax Riot) a resistance movement led by the Abeokuta Women's Union (AWU) in the late 1940s against the imposition of unfair taxation by Nigerian Colonial Government.

¹³ MT Abdulrazaq, *Revenue Law and Practice* 3rd Ed, (Malthouse Press Ltd, (Lagos) 2015)

¹⁴ Available at <https://www.oxford dictionary. org>tax>> accessed on 3rd Sept, 2023.

evasion and tax avoidance, tax laws are classified into civil and criminal offenses.¹⁵

Tax is an obligation expected of every citizen, as the government uses tax to finance its expenditure, and carry out infrastructural, economic, and educational development. In developed nations tax is no longer a means by government to generate returns, but rather it is a means by which citizens contribute for the provision of infrastructure, utilities, security and other needs by government. It can be termed a social contract between the government and the governed.¹⁶

The National Tax Policy defined tax as a monetary charge imposed by the government on persons, entities, transactions, or properties to yield revenue, it is the enforced proportional contributions from persons and properties, levied by the state under its sovereignty for the support of the government for all public needs.¹⁷

b. Tax Evasion: According to Black's Law Dictionary is the willful attempt to defeat or circumvent the tax law to minimize one's tax liability.¹⁸ It is the contravention of tax laws whereby a taxable individual or company refuses to pay the tax due or reduce the tax liability by making fraudulent or false claims on the income tax form trying to defeat the intent of the law. This is sometimes considered criminal in nature and may result in the tax payer being convicted. In the case of *Africa Barrick Gold PLC v. Commissioner General Tanzania Revenue Authority African Barrick Gold* now known as *ACACIA Mining PLC* changing its name in 2014,¹⁹ it was found by the Tanzanian Tax Revenue Appeal Tribunal that Barrick Gold PLC engaged in tax evasion.²⁰

¹⁵ Section 92-95 companies Income Tax Act Cap C21 LFN 2004

¹⁶ Ibid note 7

¹⁷ The National Tax Policy 2012

¹⁸ BA Garner, Black's Law Dictionary 11th ed. (St Paul Minnesota: Thomas Reuters, 2019) p. 1594.

¹⁹ [2013] Tax Appeal No. 16 of 2015

²⁰ Taxation meaning, available at <https://www.acacia-annual-report account-2017>, accessed Sept 10, 2023.

c. Tax avoidance: Denotes those various devices which have been adopted to save tax and thus shelter the taxpayers' income from greater liability that would have been incurred but for the tax avoidance device.²¹ Tax avoidance is a phenomenon that occurs when a tax payer utilize the provision of tax laws identify the loopholes in the tax laws and use such for his own advantage. It is traditionally considered as not being criminal in nature because the tax payer has not taken any action that is against the provision of the law.²²

d. Tax Compliance: This is the extent, to which a taxpayer adheres to the rules of tax payment in the country, by filing a return, declaring income, and paying the right amount in the right place at the right time. Bright in the sense that the economic substance of the transactions undertaken is reported for taxation.

e. Development: This is a widely used concept that connotes “improvement” basically the quality of life for man. It means making efforts towards growth and positive change to enhance upon what is readily available or even not available for the best and well-being of the people.

The sole aim is to harmonize economic, infrastructural, social, environmental, and political institutions towards improvement and positive growth.

f. Accounting for Revenue Collected: The body legally authorized with formidable powers to collect tax IS THE **Federal Inland Revenue Services (FIRS)**.

It may sue the magistrate court or the High Court. It is the administrative organ that is in charge of revenue collection and brings matters before the Tax Appeal Tribunal (TAT) and the Federal High Courts, it can assess, and prosecute corporate tax defaulters. It was formerly known as the Federal Board of Inland

²¹ MT. Okorodudu, Measures Against Tax Evasion and Avoidance; Some Equity and Suggested Reforms

²² Seyi Ojo, Fundamental Principles of Nigerian Tax Evidenced in 267 Questions & Suggested Solutions Sagriba tax publications, 2003)

Revenue (FBIR) now the federal Inland Revenue Service (FIRS) in 2007.

Revenue authorities are charged with the responsibility of accounting for revenue collected, it is mandatory for the Executive Chairman of FIRS to keep proper records; of all revenues and expenditures.²³

Tax Offences-(Criminal and Civil Liability) of Tax Evasion in Nigeria.

In Nigeria, several persons and companies are in the habit of outsmarting the government by evading tax payments, this kind of behavior is unacceptable as it can hamper the government's positive developmental strides for the nation. Such tax evading is illegal before the law and should be punished appropriately. As responsible citizens, tax payment is compulsory and not optional and failure to comply attracts penalties under the law.

Actions tantamount to tax evasion include: -

- 1) making incorrect returns or accounts
- 2) failure to make returns for income tax or capital gain tax;
- 3) refusing to make returns for corporation tax and such acts must be done with fraudulent intent, willfully defaulting, or neglecting to comply.

The common forms as enumerated by Ibanga include²⁴

- a) providing false information
- b) unauthorized deduction of business expenses
- c) charitable deduction inflation
- d) filing false tax returns.
- e) under-reporting estate value
- f) salaries payment without proper documentation.

²³ Olariyike Akintoye, Tax Collection Laws in Nigeria. *The Gravitas Review of Business and Property law* (2015) 6(4) 87.

²⁴ Ibanga, Tax Offences and Penalties in Nigeria available at www.infoquidenigeria.com/penalty for tax-evasion-in Nigeria (2019) accessed Sept 10, 2023.

Tax funds are necessary to execute various programs in the country's budgets are also funded with tax.²⁵ It is used to expedite economic, social, and infrastructural development in the country, this makes tax evasion a serious offense since it can hamper such developmental strides and budget enhancement. Again, stating expenses to reduce taxable profit or income will also lead to the payment of less than otherwise what would have been paid.²⁶ Unfortunately, apart from individuals and indigenous companies, foreign countries investing in Nigeria are also evading tax thereby exploiting the country.²⁷

To this effect, A 2015 High-level panel report on IFFs from Africa, was commissioned in Africa. A Conference of Africa was held, and present was the then Minister of Finance, Planning, and Economic Development chaired by former South African president Thabo Mbeki, it was stated in the panel report that African countries lose up to 50 billion dollars annually in IFF²⁸ a figure representing several phenomena including excessive tax reduction via transfer pricing.²⁹

Generally, all persons having a source of income that is chargeable to tax are liable to tax, irrespective of personal capacity, the chargeable gains of companies are liable to corporation tax and not to capital gain tax. The amount to be included in respect of chargeable gains in a company's total profit for any accounting period is the total gains accruing to the company in the period, after deducting allowable losses, including unrelieved losses brought forward from an earlier period.³⁰

²⁵ AI Ahuhu, The Collaboration of Nigerians to Pay Tax, AIT news Sept 11, 2023.

²⁶ S Lekan and O Sunday, *Taxation: Principles and Practice in Nigeria*, 2006 p. 42.

²⁷ K Lambrechts, Breaking the Curse: How Transparent Taxation and Fair Taxes can turn African countries' Mineral wealth. Johannesburg: Open Society Institute of Southern Africa, (2009)

²⁸ IFF - Money illegally earned, transferred, or used that crosses borders, such reduce domestic resources and tax revenue. The acts themselves are illegal as it involves tax evasion and corruption.

²⁹ A Ezenagu, Unitary Taxation of Multinationals: Implications for Substance Development (2019) Center for International Governance Innovation.

³⁰ B Pinson and J Gardiner, *Revenue Law* (Sweet and Maxwell, 1974)

The basic doctrine is that no tax can be imposed on the subjects unless there are clear words in the statute showing an intention to impose a tax on the person.³¹

3. Infrastructural Development through Tax Funds in Nigeria

Tax payment in Nigeria by noble citizens is a civic responsibility of any honest person, as it enables the government to realize funds in the country for the provision of social basic amenities such as (light, electricity, security, defense, housing, water, health services) and infrastructural development and also maintenance. The State is itself defined by its powers to raise taxes; these powers are constitutionally recognized; in line with constitutional powers³², they also have their obligation to provide basic infrastructure for the citizen as entrenched in the laws.³³

In Nigeria today, people claim to be ardent taxpayers and still use generators as an alternative to light, private boreholes are sunk for water supply, private hospitals for health care services and housing estates are not available to the common man. The recent issue of serious security challenges has amounted to “man save thyself” situation, citizens have to make provisions for vigilante to guard their neighborhood, the concern of government should be to improve the life of its citizens and her standard of living through infrastructural development.³⁴ Such actions would lead to greater mobility, better access to market, education, health and other social services and overall quality of life.³⁵ The government claims that revenue from tax has fallen especially fuel tax, yet costs of building and repairs of structures have risen³⁶ The government Has multiple

³¹ *Phoenix Motors Ltd v. National Providence Fund Management Board* [1992] 1NTC 205, *Ahmed v. Governor of Kogi State* [2009] 1 TLRN 319

³² Section 13 and 15(3)(a) of the 1999 Constitution of the Federal Republic of Nigeria.

³³ Philippe Marchessou, 'European Tax Law and International Tax Law' 2015(1) *European Tax Studies* 1

³⁴ According to the world bank (1994) SOC include public utilities such as power, telecommunication, water supply, sanitation, and sewage, as well as public works such as roads, dams and, drainages.

³⁵ D Tsiotas, Infrastructures to the Economic and Regional Development: A review of the conceptual framework. *Journal of Theoretical and Empirical Researches in Urban Management* [2021] 15(1) 9

³⁶ K Crane, The Option of Oil. Tax to Fund Transportation and infrastructure

functions to perform for its citizens benefit and should be supported by prompt tax payment.³⁷ The level of compliance and, subsequent tax revenue that will be generated, is greatly influenced among other things by the level of tax literacy and whether or not the taxpayers perceives that the level of infrastructures provided by the government adequately justifies the tax paid. Also, good infrastructure can promote and increase business transactions within an economy.³⁸ Penalties and their structure should be easy to understand by both taxpayers and revenue collectors. Taxpayers must know the law and the repercussions associated with its breach. The revenue collectors must likewise have a command of the law so that it knows how and when to apply it.³⁹ In Nigeria the evidence of tax collection should be heightened at the level of infrastructural development, and government should do much more in transforming the lives of the people from tax collected.⁴⁰

4. Analysis of Two Basic Tax Laws in Nigeria.

1. *Companies Income Tax Act.*⁴¹

Subjects to the provisions of this Act, the tax shall, for each year of assessment, be payable at the rate specified in section 40(1) of this Act upon the profits of any company accruing in, derived from, brought into, or received in, that are not subject to tax under the Capital Gains Tax Act, Petroleum Profit Tax Act and Personal Income Tax Act.⁴²

Every company including a company granted exemption from incorporation shall, whether or not a company is liable to pay tax under this act for a year of assessment, with or without notice from

³⁷ D Afuberoh, E Okoye. The impact of Taxation on Revenue Generation in Nigeria: A study of Federal Capital Territory and selected States *International Journal of Public Administration and Management Research*, [2014] 2(2) 22-47.

³⁸ D Oluwasegun and J Afolabi, Tax Revenue, Infrastructural Development and Economic Growth in Nigeria. *International Journal of Management and Social Science Research Review*, [2020]7(7) 2.

³⁹ A Jay, Third-Party Civil Tax Penalties and Professional Standards. 6(2004) *Wisconsin Law Review* p.1611-1656

⁴⁰ JO Anyadubar and EJ Aronmwan, Taxes and infrastructural Development in Nigeria, *Nigerian Journal of Baking and Entrepreneurship Management* [2015] (1) 24

⁴¹ Companies Income Tax Act 2004

⁴² Section 9

the service, file a self-assessment return with the service in the prescribed form at least once a year.⁴³

Any person guilty of an offense against this Act or any person who contravenes or fails to comply with any of the provisions of this Act or any rule made there under. For which no other penalty is specifically provided, shall be liable on conviction to a fine of #20,000.00, where such offense is failure to furnish a statement or information or to keep records required a further sum of #2,000.00 for each day during which such failure continues and in default of payment to imprisonment for six months, the liability for such further sum to commence from the day following the conviction, or from such day thereafter as the court may order.⁴⁴

Any person who-

- (a) fails to comply with the requirements of a notice served on him under this Act; or
- (b) without sufficient cause fails to attend in answer to a notice of summons served on him under this Act or having attended or fails to answer any question lawfully put to him, shall be guilty of an offense against this Act.⁴⁵

Penalties for offenses by authorized and unauthorized persons-

Any person-

- (a) being a person appointed for the due administration of this Act or employed in connection with the assessment and collection of the tax who-
 - (i) demand from any company an amount over the authorized assessment of the tax; or
 - (ii) withholds for his use or otherwise, any portion of the amount of the tax collected; or
 - (iii) renders a false return, whether orally or in writing, of the amount of tax collected or received by him; or
 - (iv) defrauds any person, embezzles any money, or otherwise uses his position to deal wrongfully with the Board; or⁴⁶

⁴³ Section 55(1)

⁴⁴ Section 92

⁴⁵ Section 92(a) (b)

⁴⁶ Section 95(a)

- (b) not being authorized under this Act to do so, collects or attempts to collect the tax under this Act,

Shall be guilty of an offense and be liable on conviction to a fine of #600 or imprisonment for three years or to both such fines and imprisonment.⁴⁷

The institution of proceedings for, or the imposition of a penalty, fine, or term of imprisonment under this Act shall not relieve any company from liability to payment of any tax from which it is or may become liable.⁴⁸

If a company chargeable with tax fails or refuses to keep books of accounts that, in the opinion of the Board, are adequate for income tax, the Board may by notice in writing require it to keep such records, books, and accounts as the Board considers to be adequate in such form and such language as may be specified in the said notice and, subject to the provisions of the next succeeding subsection, the company shall keep records, books, and accounts as directed.⁴⁹

Penalties for companies include fines imposed, forfeiture of license or permit, revocation, loss of government contract and subsidies, compensation, dissolution orders, and declinature of relief tax on tax liabilities- (here companies that pay tax may not deduct such fines gross income as an item of ordinary and necessary business expenses on their income tax returns.⁵⁰

2. ***Personal Income Tax (Amendments) Act.***⁵¹

Imposition of tax There is hereby imposed a tax on the income— (a) of individuals, communities, and families; and (b) arising or due to a trustee or estate, which shall be determined under and be subject to the provisions of this Act.⁵²

⁴⁷ Section 95(b)

⁴⁸ Section 96.

⁴⁹ Section 53(1)

⁵⁰ SE Idhiarhi, An Examination of the scope of corporate criminal liability in Nigeria. *National Judicial Institute Law Report* [2016] (12)7.

⁵¹ Personal Income Tax Laws 2004, available at <https://www.firs.gov.ng/wp-content/uploads/2021/07/Personal-Income-Tax-Act> accessed Sept 12, 2023.

⁵² Section 1

Penalty for non-payment of income tax (1) If any income charged by any assessment is not paid within the periods prescribed in section 68 of this Act a sum equal to ten percent per annum of the tax shall be added thereto, and the provisions of this Act relating to the recovery and collection of tax shall apply to the recovery and collection of that sum. (2) The relevant tax authority shall serve a demand note on the taxable person or the person in whose name the taxable person is chargeable and, if payment is not made within one month from the date of the service of the demand note, the relevant tax authority may proceed to enforce payment as hereinafter provided. (3) A penalty imposed under this section shall not be deemed to be part of the tax paid to claim relief under any provision of this Act. (4) A person who without lawful justification or excuse, the proof whereof shall lie on such person, fails to pay the income tax within the period of one month prescribed in subsection (2) of this section, shall be guilty of an offense under this Act.⁵³

Offenses and penalties (1) A person guilty of an offense under this Act, or a person who contravenes or fails to comply with any of the provisions of this Act or any rule or regulation made thereunder for which no other penalty is specifically provided, shall be liable on conviction to a fine of N5000 and where the Personal Income Tax Act offense is the failure to furnish a return, statement or information or to keep records required, a further sum of one hundred naira for every day during which the failure continues, and, in default of payment, to imprisonment for six months, and the liability to such further sum shall commence from the day following the conviction or such other day thereafter as the court may order. (2) A person who— (a) fails to comply with the requirements of a notice served on him under this Act; or (b) without sufficient cause, fails to attend in answer to notice or summons served on him under this Act, or having attended fails to answer any question lawfully put to him. is guilty of an offense against this Act.⁵⁴

A person who, without reasonable excuse— (a) makes an incorrect return by omitting or understating any income liable to tax under this Act; or (b) gives a piece of incorrect information

⁵³ Section 76

⁵⁴ Section 94

concerning a matter or thing affecting the liability to tax of any taxable person, Personal Income Tax Act is guilty of an offense and liable on conviction to a fine of N20,000 of the correct tax and double the amount of tax which has been undercharged in consequence of the incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct.⁵⁵

A person who— (a) for the purpose of obtaining a deduction, set-off, relief or an overpayment in respect of tax for himself or any other person, or who in a return, account or particulars made or furnished with reference to tax, knowingly makes a false statement or false representation; or (b) aids, abets, assists, counsels, incites or induces any other person— (i) to make or deliver a false return or statement under this Act; or (ii) to keep or prepare false accounts or particulars concerning any income on which tax is payable under this Act; or (iii) unlawfully refuses or neglects to pay tax, is guilty of an offence and liable on conviction to a fine of N50,000 for individuals and N500,000 for corporate bodies or to imprisonment for not more than six months: Provided that where an offence under this section is committed by a person in relation to tax payable by, or repayable to him for a year of assessment, there shall be substituted for the amount of the fine as aforesaid, the amount of N10,000 or treble the tax chargeable on the person for that year, whichever is the greater.⁵⁶

Penalty for offenses by authorized and unauthorized persons A person who— (a) being a person appointed for the due administration of this Act or employed in connection with the assessment or collection of the tax— Personal Income Tax Act

- (i) demands from a person an amount above the authorized assessment of the tax; or
- (ii) withholds for his use or otherwise, a portion of the amount of tax collected; or
- (iii) renders a false return, whether orally or in writing, of the amount of tax collected or received by him; or (iv) defrauds a person, embezzles any money, or otherwise uses his position to deal wrongly with the relevant tax authority; or (b) not being

⁵⁵ Section 95

⁵⁶ Section 96

authorized under this Act to do so, collects or attempts to collect the tax under this Act, is guilty of an offense and liable on conviction to a fine of N100,000 or imprisonment for three years or both such fine and imprisonment.⁵⁷

Tax to be payable notwithstanding proceedings, the institution of proceedings for the imposition of a penalty, fine, or term of imprisonment under this Act shall not relieve a person from liability to payment of any tax for which he is or may become liable.⁵⁸

For this part of this Act. a tax collector means a duly authorized official of the State Service or the Federal Inland Revenue Service.⁵⁹ Others laws on tax include, Federal Inland Revenue Service (Establishment Act, 2007), Petroleum Profits Tax Act, 2004, and Value Added Tax Act 2004.

The purpose of tax law includes the legitimization of taxes, the common feature of the laws enjoins all eligible for tax payment to do so timely, and penalties for those guilty of infractions on tax laws have their fines and imprisonment terms provided for. Most of the fines are meager and the jail terms are insufficient, they should be re-considered and increased to deter tax defaulters and tax those who mis-manage tax collected. Also, the laws provide that those authorized to collect tax who go ahead to use the money for personal purposes or make false returns, even unauthorized collectors have penalties outlined for them. Standard book-keeping is a necessity, and defaulters must pay outstanding taxes irrespective of penalties.

Penalties of defaulting companies extend beyond fines to include: forfeiture of license or permit, revocation, loss of government contract, payment of compensation, dissolution orders, and declinature of relief tax. If fines and imprisonment terms are adequate and enforcement are strict, tax evasion and mismanagement will be minimized giving room for infrastructural development in Nigeria.

⁵⁷ Section 97

⁵⁸ Section 98

⁵⁹ Section 102

Recommendations

1. Since infrastructure represents the bedrock and structures of every nation, it should be the priority of any government.
2. Tax and infrastructural development are integrated and knitted together, taxpayers and government in charge of infrastructural development should cooperate to facilitate development and growth in any society.
3. In a bid to generate sufficient funds for infrastructural development, the citizens should not be overtaxed as this will create rancor and evasion.
4. Tax evasion should be treated as a criminal offense, and those who have been found wanting should always be made to pay for their actions as this would deter would-be evaders.
5. Accountability, transparency, and honesty in tax management would propel people to pay their taxes voluntarily without coercion since the structures are evidence of their tax payments in the country.
6. It should no longer be business as usual as those who spend and waste taxpayers' money should be jailed and also pay back the money embezzled and channeled for development.
7. Tax policies should be coherent and comprehensive, with emphasis on benefits and gains favorable to taxpayers also.
8. Taxpayers' education and enlightenment not only show of force should be adopted as this can change the orientation of the citizenry on why they need to pay tax appealing to their conscience, but national awards can also be given to faithful taxpayers.

Conclusion

In conclusion, the government still raises revenue through taxation despite the reluctance in compliance. The Chartered Institute of Taxation of Nigeria (CITN) has attributed low level of tax compliance in the country to trust deficit between the citizens and the government, among other factors.⁶⁰ Even though some persons still evade tax, it does not rule out the fact that sufficient revenue is

⁶⁰ CITN, Why Tax Compliance in Nigeria is Low 2022, <https://businessday.ng/news/article/why-tax-compliance-low-in-nigeria-revenue-citn/> accessed Sept 15th 2023.

generated by the government from ardent tax payers, what should be considered is whether or not tax generated is commensurate with development in the country.

Responsible and accountable persons should be involved in both tax collections and expenditures with adequate record keeping, annual evaluation, and detailed publication of tax generated and expenditures made available to the public, this would give the people confidence in the government through visible structures put in place as evidence of tax collected. People will naturally encourage themselves and others to pay and challenge any misapplication of tax revenue observed. Taxpayers should use laws available to pressurize the government to discharge their obligations of diligent use of tax generated for infrastructural development. taxes.

The government breaches the trust imposed on it by the public or citizens when neglect to challenge any misappropriation of tax revenue. Taxpayers should use laws available to pressurize the government to discharge their obligations by using generated revenue through tax for infrastructural development.⁶¹

Infrastructural development is lacking due to corruption and negligence in the taxation process. Tax is needed for funding public expenditure, it is a vital tool for necessities such as education, health care, security, and other things necessary for the smooth running of a country. From statistics, it is obvious that the money generated from the tax is not glaring in infrastructural development as ruins and dilapidation of government structures are evident. Those that are still functional are functioning below standard. Some states have taken it upon themselves to put taxpayers, money into visible use,⁶² because the inability to provide the required infrastructure puts the country on the reverse gear and has adverse effects on economic prosperity.⁶³

⁶¹ KA Adedokun, 'The Legal Framework for Tax Mobilization and Application in Nigeria, *Ahmadu Bello University Journal of Commercial Law* [2010-2012] 5(1) 181.

⁶² VS Zhahua, Fiscal Policy as an Engine of Economic Growth in Nigeria. *International Journal of Arts and Humanities*, [2013] 2(2) 282-298.

⁶³ A Jerome, Infrastructure, Economic Growth and Poverty Reduction in Africa *Journal of Infrastructure Development*, [2011] 3(2) 127 – 151.