

Contemporary legal themes in corporate income tax administration in Nigeria: An overview

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Abstract

The productivity of any tax system largely depends on the strength of the administrative machinery. The productivity of the Nigerian tax system is extremely low. Through the doctrinal research approach, this paper has found that the low productivity of the Nigerian tax system is largely due to the weak tax administrative machinery, inadequate tax legislation and poor enforcement of tax laws and that the Federal Inland Revenue Service which administers corporate taxation lacks the autonomy required to effectively perform. It has also been established that the Best of Judgment Assessment resorted to in event of failure by the taxpayer to submit a return is subject to serious abuses. The paper has gone further to establish that though some of the recent innovations in the administration of corporate taxation have the capacity to impact positively on revenue generation, the laws in that regard must be religiously enforced for maximum output. The paper as the way forward, recommends the codification of conditions for a valid Best of Judgment Assessment and jail terms without option of fine for corporate tax offenders to serve as deterrence to corporate tax resistance. It finally recommends religious enforcement of tax laws since in the hands of an incompetent tax administration, good tax policy and bad tax policy may end up looking remarkably alike.

Keywords: contemporary, corporate, income, tax, administration, overview

Introduction

The efficacy of any tax system is largely a product of the tax administrative machinery. Infact the tax administrative machinery dictates the level of tax compliance in any economy. This, it does by checking the unwholesome activities of tax evaders and avoiders, and where they do occur, appropriate punitive measures are accordingly imposed.

Generally, it has been noted that the productivity of the Nigerian tax system is remarkably low^[1]. The development, it has been argued, is largely due to Nigeria's weak and inefficient tax administration^[2]. Another argument holds that in addition to the weak tax administrative system, the low productivity of the Nigerian tax system can be attributed to complex legislations^[3]. The importance of an efficient and competent tax administration to the success of any tax system was stressed by Bird in 1970 in faraway Colombia when he remarked that "in the hands of an incompetent administration, good tax policy and bad tax policy may end up looking remarkably alike^[4]."

The term 'Administration' has been defined to mean the management or performance of the executive duties of a government, institution, or business^[5]. In ordinary parlance, "administration" refers to the act administering or carrying into effect the provisions of the law.

A corporation on the other hand has been defined as a legal entity created under a state or other statute that allows incorporation by persons who become the shareholders of the corporation^[6]. Administration of corporate income tax would therefore connote the act of administering, or carrying into effect the provisions of tax laws, or the process of assessment, collection, recovery and repayment of corporate income tax.

In Nigeria, corporate income tax is chargeable on

companies. This would include those whose incomes are chargeable under the Companies Income Tax Act^[7], and the Petroleum Profits Tax Act^[8]. This paper is therefore an examination of the efficacy of contemporary major themes in the taxation of corporate incomes with a view to strengthening the administrative machinery for higher productivity. It begins with the introductory aspect, corporate liability to income tax in Nigeria and then bodies charged with corporate tax administration in Nigeria. The paper thereafter turns to the traditional corporate tax administrative structure for the assessment, collection, recovery, and repayment processes. Important issues in this regard for discourse would include self-assessment, best of judgment assessment, turnover assessment, Automated Tax Payment System (E-payment), and the use of Tax Identification Number (TIN) by corporate taxpayers.

Basis of Liability to Corporate Income Tax in Nigeria

There are basically two of categories of corporate taxes, viz: income and transaction taxes. The focus here is on income tax.

Corporate tax is chargeable on companies. Here, the discourse is on companies incorporated for business purposes and petroleum companies. For companies incorporated for business purposes, the Companies Income Tax Act^[9] categories them into Nigerian and foreign companies. The section defines a Nigerian company as any company incorporated under the Companies and Allied Matters Act or any enactment replaced by the Act, while a foreign company is, on the other hand, defined as any company or corporation (other than corporation sole) established by or under any law enforce in any territory outside Nigeria.

This distinction is very important for tax purposes. Global

profits of Nigerian companies are deemed to accrue in Nigeria whatever the source, whether or not profits have been remitted to or received in Nigeria. Foreign companies on the other hand, are taxable in Nigeria only to the extent that they derive profits from a source within Nigeria.

The Companies Tax Act ^[10] provides a list of incomes chargeable to companies income tax. These include gains or profits from trade or business, rents or premiums arising from property, dividends, interest, discounts, charges or annuities, fees, dues and allowances (where paid for services rendered), and any source of annual profits or gains not falling within the preceding categories. Company income has been classified into two categories namely trading profits and investment income ^[11].

For Petroleum Profits Tax, the relevant legal framework for its administration is the Petroleum Profits Tax Act ^[12]. Only petroleum companies are chargeable to petroleum profits tax since Section 8 of the Act forbids individuals or partnerships from engaging in petroleum operations. There are three types of companies that operate in the petroleum industry general. These are:

- a. The crude oil producing companies. The crude oil producing companies can be classified into two, namely: Joint Venture System (JVC), which the Supreme Court of Nigeria recently held cannot be financed from the federation account ^[13], and the new system known as companies having Production Sharing Contracts (PSC);
- b. The petroleum products marketing companies; and
- c. The servicing oil companies. These services include drilling, seismic survey, logging, interpretation of data collected from field etc.

Only the profits of oil producing companies are chargeable to tax under the Petroleum Profits Tax Act ^[14]. Marketing companies such as Agip (Nig.) Ltd. and Mobil Nigerian Ltd., including other small independent marketers and other service companies, are chargeable to tax under the Companies Income Tax Act ^[15]. Petroleum profits tax is therefore charged or levied upon the profits of each accounting period, a tax to be charged, assessed and payable in accordance with the provisions of the Act ^[16].

Institutional Framework for Corporate Tax Administration in Nigeria

a. Federal Inland Revenue Service (FIRS)

The body that is charged with corporate tax administration is the Federal Inland Revenue Service (FIRS) Act ^[17]. The Act has established the Federal Inland Revenue as an autonomous body with seal and perpetual succession and bestowed it with the powers to administer all federal laws in Nigeria, including corporate tax. The Federal Inland Service also has powers to collaborate and facilitate rapid exchange of information with relevant national and international agencies or bodies on tax matters, establish and maintain a system for monitoring international dynamics of taxation in order to identify suspicious transactions and perpetrators and other persons involved, and liaise with the office of the Attorney General of the Federation, all government security and law enforcement agencies in the enforcement and eradication of the unwholesome activities of tax avoiders and evaders ^[18].

The Federal Inland Revenue Service was granted autonomy in 2007 through the Federal Inland Revenue (Establishment)

Act ^[19]. However, the purported autonomy is simply and artificial nonsense and costumed in nature since all powers of the service are subjected to the approval of the Federal Inland Revenue Service Board ^[20]. The Board is made up of public servants and appointees of the President of the Federal Republic of Nigeria. There is therefore a possibility of political interference in the running and performance of the service.

b. The Tax Appeal Tribunal

The Tax Appeal Tribunal is a statutory creation of the Federal Inland Revenue Service (Establishment) Act ^[21] which replaces the Body of Appeal Commissioners. The tribunal is charged with the powers to settle all tax disputes arising from the operation of federal tax enactments. These include the Companies Income Tax Act, the Personal Income Tax Act, the Petroleum Tax Act, the Value Added Tax Act, the Capital Gains Tax Act, Stamp Duties Act and any tax Law enacted by the National Assembly. The tribunal resolves disputes between taxpayers and tax authorities.

The tribunal though deemed to be a court ^[22], is merely an administrative and fact finding body, or at best an arbitration panel. In *Federal Board of Inland Revenue V. General Telecom Plc* ^[23], the Tax Appeal Tribunal, Lagos Zone outrightly held that the tribunal is not a court for all purposes. In the words of the tribunal:

...a factor which in addition necessitate and compels in existence and rational is that many, perhaps most of the cases that come before this Tribunal cannot even be commenced in the Federal High Court in the phase they are brought here. These are cases that are not ripe for litigation. An example here is where a taxpayer appeals here against an assessment by the FIRS without first filing an objection to its assessment, let alone waiting for Notice of Refusal to amend. A normal court like the Federal High Court would jettison such a claim as premature.

Similarly, in *Nigerian National Petroleum Corporation V. Tax Appeal Tribunal & 3 Ors* ^[24], the status of the Tax Appeal Tribunal as an arbitral body was confirmed in the following words:

Even if the Tax Appeal Tribunal is manned by legal minds, it does not enjoy the status of a court. It is like a retired justice of the Supreme Court heading an arbitration tribunal. It does not elevate him to any status more than an arbitral tribunal.

The combined implication of the above authorities is that the Tax Appeal Tribunal lacks the powers of a court. Infact, it is an arbitration body that hears and determines disputes which are not yet mature for litigation. It is an internal mechanism for resolution of disputes between the taxpayer and the tax authorities, and this explains why appeals from the tribunal lie to the Federal High Court.

The Conventional Structure or Mechanisms for Corporate Tax Administration in Nigeria

This refers to the organisation of various processes for the collection or recovery of tax. In Nigeria, collection of taxes takes two forms, viz: direct payment and withholding system. The direct assessment system is where both corporate and individual taxpayers are directly assessed and tax recovered from them. The withholding system, on the other hand, is where tax is deducted at source. In *Exclusive Stores Ltd V. Edo State Board of Internal Revenue* ^[25], it

was held that withholding tax is an advance payment to bring the taxpayer within the tax net immediately. However, for corporate income tax, it is the direct method of tax collection that is used by tax authorities.

As for the direct payment system, the various tax authorities have organised processes for performing their duties. This chain of processes as set out by Lord Dunedin in *Whitney V. IRC* [26] as follows:

Now, there are 3 stages in the imposition of tax, there is the declaration of liability, that is the part of the statute which determines what person in respect of which property are liable. Next, there is assessment. That ex-hypothesis has been fixed. But assessment particularises the exact sum which a person liable has to pay. Lastly, come the method of recovery; if the person taxed does pay voluntarily.

In carrying out their functions, the various tax administrative organs have organised processes. These include the following:

a. Submission of Returns

At the beginning of every accounting year, each taxpayer is expected to deliver to the relevant tax authority a return. That is, all corporate bodies that are resident or do business in Nigeria are required to without any notice or demand submit a return to the tax authority. The Service may also give notice to any company when and as often as it thinks necessary requiring it to deliver by such notice fuller or further returns in respect of any matter [27].

The time for making such returns may be extended by the Service upon application by the taxpayer [28]. Such returns which must be submitted at least once a year must contain the tax and capital allowance computation for the year of assessment and a true and correct statement in writing containing the amount of profit from each year source computed [29].

b. Assessment

At this stage of the process of tax administration, a return by the taxpayer would have been made. The relevant tax authority shall then proceed to assess every taxpayer to tax at the expiration of the stipulated period based on the returns filed. The tax authority may reject the return and proceed to assess the taxpayer to tax based on the Best of Judgment Assessment Method. The Best of Judgment Assessment Method may be used where the taxpayer fails to file any return [30], and where a return has been filed but the tax authority is dissatisfied with same [31].

The courts have however laid down conditions for the exercise of the Best of Judgment Assessment. In *Star Deep Water Petroleum Limited V. Lagos State Internal Revenue Service* [32], the Tax Appeal Tribunal, Lagos Zone emphasised the need for best of judgment assessments to be carried out in line with the provisions of applicable law.

In *Federal Inland Revenue Service V. J.A. Omotosho* [33], the claim by the Federal Board of Inland Revenue was on the ground that the defendant, one Mr. Omotosho who was a petrol dealer failed to file his returns in the 1965/1966, 1966/1967 and 1967/1968 assessment years, and was therefore assessed to tax based on the best of judgment assessment method. The defendant who did not initially make a representation later appeared that he contended was a bicycle repairer. The issue at stake was whether a bicycle repairer could have an annual income of N1, 600 or N2, 000 as claimed by the tax authority. In dismissing the claim of

the Federal Inland Revenue Board, the Federal High Court, Lagos Division established the criteria which authority must consider in reclaim of best of judgment assessment to prevent abuse or arbitrariness in the system. In the words of the court [34].

He must not act dishonestly, or vindictively or capriciously, because he must exercise judgment in the matter. He must make what he honestly believes to be a fair estimate of the proper figure of assessment, and for the purpose he must... be able to take into consideration local knowledge and reputation in regard to assessment circumstances, and his own knowledge of previous returns by an assessment of the assessee, and all other matters which he thinks will assist him in arriving at a fair and proper estimate.

The court went further to caution the tax authority against acting capriciously, vindictively and unreasonably in reaching best of judgment assessment. In that regard, the court specifically stated that:

For a man to pay a tax of N52 on an annual income of N2, 000 and the same man to pay a tax of N200 on the same income of N2, 000 the following year under the same conditions sounds not only capricious and vindictive but oppressive. A court should not be made to enforce such a manifestly unreasonable tax irrespective of whether the assessee disputes it or not.

In another breath, the Tax Appeal Tribunal, Lagos Zone prevented another attempt to abuse the exercise of the best judgment assessment method in *Federal Inland Revenue Service V. Mega Tech Software Limited* [35]. In this case, the respondent company was carrying out business of sale and consultancy on computer software and hardware, all valuable goods and services. Appellant claimed it has served Notice of Assessment on the company from the 2000-2004 assessment years, but the company failed to file any returns or objection to the assessments. The appellant therefore proceeded to make the best of judgment assessment to the tune of N8, 250,000.00 (Eight Million, Two Hundred and Fifty Thousand Naira). At the hearing, appellant proved service of Notice of Assessment only to the tune of N6, 750,000.00 (Six Million, Seven Hundred and Fifty Thousand Naira). The Tax Appeal Tribunal consequently awarded to the appellant only the proved amount. In its judgment, the Tribunal held that a taxing authority cannot bring an action to recover tax where it fails to issue notice of assessment on the amount in question.

The implication of the foregoing authorities is that the best of judgment assessment is occasioned by serious abuses which the courts must track down. This is commendable on the part of our courts.

c. Notice of Objection

If the taxpayer disputes the assessment raised, he or she has a right to object. The notice of objection must state in clear terms the ground of objection, and will require the tax authority to review and revise the assessment [36].

d. Appeal

Any taxpayer who is aggrieved by an assessment and made an objection to the tax authority but no amendment is done may appeal against the assessment to the Tax Appeal Tribunal. Where there is no valid appeal against the amount assessed to tax or where the amount has been determined on objection or revised or on appeal, the assessment shall be final and conclusive for all purposes [37]. However, an

assessment can be final and conclusive only where it is made in accordance with the law. The *Federal Inland Revenue V. Joseph Rezcallah & Sons Limited* [38] and *Global Scams System Ltd V. Federal Board of Inland Revenue Services* [39] established the principle that if an assessment was null and void, it cannot become final and conclusive.

e. Mode of Tax Collection

For petroleum profits tax, the chargeable tax is divided into twelve equal installments, the first being payable on or before the last day of the third month of the accounting period (that is, 31st March) and the seventeenth installment by the last day of the second month in the next accounting period (that is 28th or 29th February). The final installment is payable within 21 days of service of notice of assessment. For company taxation, tax is payable in one lump sum.

f. Method Payment

All petroleum producing companies have entered into agreement with the Federal Government of Nigeria to pay petroleum profits tax through Central Bank of Nigeria into the federal government account overseas.

Oil producing companies have arranged with the Federal Inland Revenue Service to pay tax in foreign currencies. Under the present arrangement, only the US Dollar, French Franc, Pound Sterling, the German Mark and the Deutsche Mark are acceptable currencies. Oil companies whose home currencies are not among those mentioned, have to convert their currencies into those allowed to enable them pay petroleum profits tax in Nigeria.

This arrangement could be complicated and give rise to currency exchange losses in view of the fluctuations in value in the same way as trades in foreign currency would [40].

Again the arrangement is based on mutual understanding between the oil companies and the revenue authorities. Since the arrangement is not entered into law; any of the parties may deviate from it thereby creating uncertainty and unpredictability in the tax system.

Kanyip [41] argues that the practice of paying taxes in foreign currencies reflects the extent of the sovereignty of the Nigerian body polity. According to him, a country's currency is often a benchmark or outward sign of sovereignty, and economic strength, and that the practice of paying taxes in foreign currencies puts the whole issue of the sovereignty of Nigeria in question. However, from economic perspective, paying petroleum profits tax in foreign currencies may be advantageous in view of the weak value of the Naira and the strength of those foreign currencies in the international market.

Under both Companies Income Tax Act [42] and Petroleum Profits Tax Act [43], sanctions in form of fines are imposed in the event of failure to pay tax. However, there have been controversies as to the efficacy of fines as deterrence to tax resistance. The first approach is that imprisonment characterised by terror, benevolence and reformation rather than fines appears to be the best way to ensure deterrence [44]. According to the Pennsylvania system as canvassed by Blackstone, the prisoner is denied contact with the outside world, denied access to reading materials and visitors in addition to hard labour which will inflict greater pain has the potentials to serve more as deterrence. The second approach however takes a different view. Drawing from examples of the United States and Switzerland, Kanyip [45]

is of the view that imprisonment of a taxpayer would mean that the capacity to produce income is incarcerated. Instead of imprisonment, Kanyip argues that a defaulting taxpayer should be fined five times the tax evaded or avoided [46]. This submission however does not agree with simple logic. For, if a taxpayer refuses to pay tax on income already earned, there is no guarantee that he will be willing to pay five times of his income as fine. Kanyip's analogy will render the tax authorities helpless in the foregoing scenario. In essence, fine does not have the required capacity to serve as deterrence to tax defaulters.

Developments in Corporate Income Administration

The conventional method of corporate tax administration has not shown to be effective in this era of globalisation where physical contacts between contracting parties is not necessary. In view of developments in technology, it is now possible to buy and sell without crossing national boundaries. Advancements in technology have even made it possible for funds to be moved electronically within and without national boundaries. Moreover, these developments have now provided more opportunities for tax avoidance and evasion schemes to flourish, and therefore complicated the task of national tax authorities.

The Nigerian tax system has therefore introduced into the system tax administrative reforms that are now trending globally. This forms the theme of the ensuing discourse.

a. Self-Assessment

Self-assessment has been defined as a method whereby a taxpayer is required to correctly compute own tax liability, properly complete the tax return, pay the self-assessed tax and submit the tax returns together with the accompanying documents on or before the due date in accordance with the relevant law [47].

The objectives of the self-assessment regime have been stated to include making payment of tax easy by enabling taxpayers to assess themselves and pay a fair tax according to their business activities, testing the honesty and integrity of the taxpayer, building trust in the taxpayer, and making tax administration more friendly [48]. The overall objective of the self-assessment method is therefore to create confidence in the taxpayer and ensure voluntary tax compliance.

In Nigeria, the Companies Income Tax Act permits the taxpayer to carry out a self-assessment of his or her chargeable tax [49]. It is however doubtful whether this system has any potential to increase voluntary tax compliance in the country. The system is based on the assumption that the taxpayer is honest. However, the Nigerian taxpayer may not be so honest as required by the self-assessment method. For instance, since the implementation of the self-assessment system in Malaysia in 2003, studies have shown that the number of Malaysian tax defaulters increased by almost ten times within two years from 25,160 in 2003 to 239,666 in 2005 [50]. From the Malaysian experience, the self-assessment regime may not achieve the stated objectives but rather increase tax avoidance and evasion rate leading to a fall in government revenue.

b. Tax Identification Number (TIN)

A Tax Identification Number (TIN) is an identification number unique to all taxpayers. It is a unique-digit

sequential number generated electronically as part of the registration process of tax and assigned to a taxpayer. The Tax Identification Number is a statutory creation of the Federal Inland Revenue (Establishment) Act ^[51] which gives the Federal Inland Revenue Service the power to issue a Tax Identification Number to every company, enterprise and individual in collaboration with the States Boards of Internal Revenue and Local Government Councils.

The Finance Act ^[52] which amends the Companies Income Tax Act has now made it mandatory for every company to have a Tax Identification Number (TIN) displayed by the company on all business transactions with other companies and individuals and every document, statement, returns, audited accounts and correspondences with revenue authorities, including the Federal Inland Revenue Service, ministries and all government agencies. The amendment ^[53] also makes it mandatory for the supply of a TIN as a precondition for opening a bank account by companies, and that in event of an already existing account, TIN be supplied within three months of the passage of the Act as a precondition for the continued operation of their bank account.

The philosophy behind the introduction of TIN is to have a reliable data base for taxpayers in Nigeria and thereby avoid leakages to ensure voluntary tax compliance. Consequently, a study conducted after the introduction of TIN has shown significant increase in revenue generated in Ekiti state of Nigeria ^[54]. This is a clear indication that if properly enforced, the use of the TIN has the potentials to reduce the incidence of tax evasion and increase revenue generation in the country. It is particularly worrisome that the tax administrative machinery in Nigeria is extremely weak, and tax administration determines the efficacy of any law or policy.

c. Automation of Tax Payment

Automation of tax payment also known as E-Payment of tax is a facility provided to the taxpayers to make payments through the internet using the net-banking facility. In Nigeria, the E-Payment was officially introduced into the public sector in January, 2009 to facilitate payment for goods and services as well as minimise the level of interactions between contractors and government officials, thus, eliminating corrupt tendencies ^[55]. According to the Central Bank of Nigeria Guidelines for E-Payment of taxes, specific benefits to be derived from the method include reduction in time and cost involved in making tax payments, easier and more user friendly platforms or solution for the payments of tax and ensuring that the right amounts are paid into the coffers of the relevant agency by providing information for assessment as well as facilitating the establishment of comprehensive national database ^[56].

Since its establishment in Nigeria, the E-Payment system has been confronted with several challenges. According to Richards and Ekhatior ^[57], these include low level of computer literacy level and high cost of setting up an E-Taxation system. However, the low level of computer literacy in Nigeria as a constraint to E-payment of taxes should not be overemphasised since despite the low computer literacy level in Nigeria, the Automated Teller Machines (ATM) has now developed into the most popular way of conducting banking business transactions throughout Nigeria. By the year 2011, N80 billion worth of transactions were monthly being carried out on some eight thousand,

five hundred Automated Teller Machines (ATM) deployed across the country, using 28 million debt cards ^[58]. The Central Bank of Nigeria then estimated a 200 percent growth in electronic payment cards usage by 2015 ^[59]. Empirical evidence therefore indicates that the low computer literacy level has no significant negative impact on the use of the Automated Teller Machines (ATM) in the country.

Another constraint to the use of automated tax payment system is the predominance of cybercrime. This security problem, it has been argued, is the biggest problem confronting E-Banking generally ^[60]. Cybercrime, also known as computer crime has been explained to include bank information theft, online predatory crimes, unauthorised computer access, hacking, viruses and denial of service (DOS) attacks ^[61].

In view of the dangers posed to internet business by cybercrime, there have been efforts at the global, continental and national levels towards combating the menace. At the continental level, the African Union (AU) Convention on Cyber Security and Personal Data Protection has been put in place to curtail the menace of cybercrimes across the continent. At the global level, the Budapest Convention adopted in 2001 with effect from 2004 is the instrument that seeks to curtail the activities of cyber fraudsters. In Nigeria, the Cybercrimes (Prohibition, Prevention) Act stipulates stiff sanctions against perpetrators of internet related crimes. In spite the global non-tolerant approach towards cybercrimes, the menace still persist with serious implications on tax administration in Nigeria.

Summary/Findings

The tax administrative machinery dictates the efficacy of the tax system and therefore voluntary tax compliance. In Nigeria, the productivity of the tax system is very low due largely to the weak administrative system and complex legislation.

In view of the weak nature of the conventional tax administrative machinery, the Nigerian tax system has recently witnessed some innovations aimed at improving the effectiveness of corporate tax administration in the country and standing up to technological advancements globally. These developments include the adoption of Corporate Tax Identification Number (TIN), Automation of Tax Payment otherwise called E-Tax Payment and the Self-Assessment method. Again, even in the conventional system of corporate tax administration issues like the best of judgment assessment, and the practice of paying petroleum profits tax in foreign currencies have been critically analysed in this paper.

The Best of Judgment Assessment Method has been found to be subject to abuses. Though the courts have laid down some safeguards for the protection of the taxpayer against arbitral assessment, there still exist some loopholes that can be manipulated by the tax authorities against the taxpayer. Furthermore, there is the lack of will to enforce tax laws in the tax system. For instance, most tax laws have not recommended imprisonment for tax evaders which is a crime. The laws simply stipulate fines as sanctions for the tax defaulters. This does not have the capacity to serve as deterrence to tax resistance.

In terms of the potentials of the Corporate Tax Identification Number (TIN) in improving revenue generation, it has been shown that drawing from the experiences of some South-

Western states, it has the capacity to improve on revenue generation if properly enforced.

The efficacy of self-assessment method has also been analysed. Drawing from the Malaysian experience where the system has been practiced since 2003, the paper found that rather than increase revenue generation, the system may cause a downward trend in revenue generation.

The Automation of Tax Payment also called E-Payment of tax has been shown to have potential advantages. However, the activities of fraudsters on the internet present the most serious constraint to E-Payment of taxes by corporate bodies.

Recommendations and Conclusion

As a way forward, there must be legislative intervention in the area of sanctions against tax defaulters. In China, the punishment for tax evasion can be as severe as death penalty^[62]. In terms of corporate tax offenders in Nigeria, the Companies Income Tax Act^[63] and the Petroleum Profits Tax Act^[64] must be amended to include imprisonment for the controlling minds of the company without an option of fine. It is now settled law that in serious corporate offences that go beyond regulating matters, the directing minds of the corporate entity are to be identified and made to serve prison terms while the company as an entity is fined.⁶⁵ This, it is hoped will serve as deterrence to corporate tax defaulters than just a mere fine. Furthermore, the tax authorities must also exhibit the will to religiously enforce the provisions of the law. There is a dearth of authorities where tax defaulters have been prosecuted as criminals in Nigeria. All the tax authorities are interested in is the recovery of tax owed, and no more.

Secondly, the conditions laid down by the courts for a valid best of judgment assessment exercise must be codified to give them more force of law. Thus, the duty of the tax authorities not to act dishonestly or vindictively or capriciously should be embedded in corporate tax laws to give them the required certainty and predictability.

Thirdly, because of the special nature of the internet, a commission made up of experts in the area of the internet should be put in place to dictate cybercrimes. This, it is hoped has the capacity to curb cybercrimes generally, and tax related cybercrimes in particular.

In conclusion, the tax administrative machinery for corporate income taxation has been examined and the efficacy of recent developments in the area analysed. Though contemporary methods of corporate tax administration like the use of Tax Identification Number (TIN) and the automated tax payment method have the capacity to improve on tax administration and therefore increased revenue generation, it is only a religious enforcement of tax laws that actualise this dream.

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