EFFECT OF TAX REVENUE ON THE ECONOMIC GROWTH OF NIGERIA

Abosede Ifeoluwa Adelusi
Department of Taxation
The Federal Polytechnic, Ilaro
ifebosede@yahoo.com

Abstract
Nigeria is an oil-producing nation, for a long time now the country has been a mono-product economy that has been described by Economists as a dangerous trend; for the revenue of the country to be solely based on oil revenue. It has been established by researchers that revenue from oil is very volatile. Oil revenue is high today, it drastically reduced tomorrow. This study examined the contribution of Tax revenue to the economic growth of the country within a period of 12 years, that is, from 2007 to 2018. Data were collected through secondary sources from the Nigeria Bureau of Statistics, the Quarterly Publications of the Central Bank of Nigeria Bulletins, and the Federal Inland Revenue Service (FIRS) Statistical Reports, Journals, textbooks, and other related publications were reviewed for the study. Data were analyzed using simply linear regression model. The findings revealed that there exists strong positive relationship between tax revenue and GDP with correlation coefficient of 0.6755 and it is significant but a very weak relationship between total revenue and GDP (r= 0.2488), that revenue from tax was significant to the economic growth of Nigeria, compared with total revenue that comprises oil revenue and non-oil revenue. This study recommends that the country should put more energy into non-oil sector of the economy such as income from taxation, export of non-oil products and technological products to generate the necessary foreign exchange needed to boost the economy of the country which will impact on the life of every citizen.

Keywords: GDP, Taxation, Tax Revenue, Total Revenue, Non-oil Revenue

Introduction
Nigeria is predominantly a mono-product economy for now, though in the recent past before the commercial exploration of crude oil for export, the country's export was basically farm produces from the three regions that made up the federation. This farm produces were cash-crops that brought in foreign exchange into the country, such crops like cocoa, palm kernel, groundnut, coffee, rubber, kola nut etc. Arguments were made in the 1970s against the exportation of these crops that they were very low in value because they were raw materials for finished goods that would be eventually imported into the country at high prices. This actually led to the loss of interest in the production of cash-crops and the movement of many from the farm into the cities and the attention of the government was drawn away from export of farm produces to exploration and export of crude oil, not minding the environmental challenges that are in exploration of crude oil.

Meanwhile, the international price for crude oil is not determined by the country but by the international market. The price may be high today but tomorrow it becomes very low thereby leading to budget deficits. For some time now the country has been faced with budget deficits year in years out and creating gaps between public expenditure and revenue in spite of increase in oil revenue, especially in 2011 and 2012 when the oil revenue was very high. According to the Central Bank of Nigeria Statistical Bulletin of 2017, total oil revenue in 2011 amount to N8.88billion and N8.02billion in 2012 while the Gross Domestic Product (GDP) for the same period amount to N62.98billion and N71.71billion respectively, compared to 2015 and 2016 where the revenue from oil was the lowest in 10years at N3.83billion and N2.69billion respectively, while the GDP for the same period was N94.14billion and N101.49billion respectively (CBN, 2017). This increase in Gross Domestic Product during the period the country had a very low revenue from oil need to be assessed, what triggers the increase? Why with very low oil revenue the GDP increased by 41.53% in 2016 in comparison with 2012, but there was an increase in GDP in 2012 when the oil revenue was slightly down by 10.72%. Moreover (Okwori and Sule,2016) noted that the revenue of the country has not been growing above the expenditure for years.

During the pre-colonial era before the amalgamation of the northern and the southern protectorates which form the country called Nigeria, district heads, obas and emirs governed their territories with the resources at their disposal through taxes and levies from their subjects, such taxes include the 'zakat, shukka-shukka, jangali, and kuroin kasa' in the northern part of the country. The South-west subject the people to the payment of 'Isakole or owo ori' and through the use of community efforts to undertake projects that are of collective importance to the community, while the eastern part of Nigeria is into payment of 'egbu-nkuru' or the use of community efforts (Otusanya, 2001). All these forms of revenue or taxes and levies mentioned were given names that were peculiar to their area of use, this means that payment of taxes is not alien to the people, it has been there but the form and the law are what has been changing over the years. As in the pre-colonial era, revenue generation is very important for the economic growth of any country most especially to the government of Nigeria, in order for the government to provide infrastructures, health services, education, employment, communication systems as well as social services like maintenance of law and order, protection of life and properties of the citizens, therefore the efficient and steady expansion of non-oil revenue is very sacrosanct (Akhor & Ekuudayo, 2016).

The tax was defined by (Anyanwu, 1997) as the first and earliest sources of public revenue, he explained further that tax is an imposed levy and it is made compulsory by the authorities on the people without the citizens expecting any direct benefit or return on the amount paid. The social, economic and political growth of a nation is calculated and depends on the total income it is able to generate (Edame &Okoi, 2014). Taxes are collected by the government through direct means or indirect methods, countries all over the world have there different sources of finance ranging from oil revenue and non-oil revenue while the major source of income of some others is mainly non-oil, especially finances from tax. Nigeria has the lowest tax contribution to GDP ratio of 6% while the Organization for Economic Co-operation and Development average is 34% (Usman, 2017), compared with other countries like United States of America 19%, China 21%, Germany 45%, South Africa 27%, Ghana 22%, Japan 35%, France 52% (PWC, 2016) cited in (Ajibade & Akintoye, 2018) also stated in the study that revenue from tax contributed significantly to the GDP growth of Lagos State, Nigeria.

Apart from tax is a means of revenue generation, it can also be used as a means of redistributing income in an economy, (Moore, 2007) was of the view that formation of accountability and affective states has been closely associated with the tax system emergency, while Akhor (2014) was of the opinion that the microeconomic effects of taxation is on the re-distribution of income and its effective use have macroeconomic effects on the level of employment, prices of goods and services, capacity output as well as general growth of the economy. Osinbajo, (2017) noted that majority of the high-income earners in the country evade tax, that only 214 taxpayers pay N20million or more per annum in Nigeria and all of these taxpayers are resident in Lagos, while 900 taxpayers paying N10million are also based in Lagos exempt two that are resident outside Lagos. What these implied is that the country is not earning as much as it is supposed to get from tax revenue, (Adelusi & Idowu, 2018) find out that non-oil revenue has a significant effect on economic growth of Nigeria, the economic growth was measured through the GDP, this study intends to find out what percentage of non-oil revenue is from tax proceeds and also to investigate the significance of tax revenue to economic growth from 2007 to 2018. The motivation for the study is the relevance of tax revenue to the revenue profile of the government and the insistence call for shift from dependence on oil revenue to non-oil revenue.

The main objective of this study is to examine the significance of revenue from the tax on Economic Growth of Nigeria between the period 2007 to 2018, also;
To find the effect of Total Revenue on the Gross Domestic Product (GDP) of Nigeria from 2007 to 2018

The research hypothesis one;
H_0: Revenue from Tax has no significant effect on the GDP of Nigeria
H_1: Revenue from Tax has a significant effect on the GDP of Nigeria

Hypothesis two;
H_0: Total Revenue has no significant effect on the GDP of Nigeria
H_2: Total Revenue has a significant effect on the GDP of Nigeria

Literature Review

Revenue is defined by (Ahmed, 2010) as every money collected or received by the government from all sources such as external debts, domestic debts, grants, aids from within and outside the countries, sale of investments, agency/private trust transactions and intra-government transfers. Public revenue consists of tax and non-tax revenue such as charges on administrative services, fines gifts, deficit financing by government and grants from International Organizations, in Nigeria public revenue is not only limited to oil and non-oil revenue but include other means that are available to the government to raise fund to execute its expenditure commitments.

In Nigeria, corporate entities are expected to contribute towards the public expenditure and the national development of the country like in other countries of the world. Income or profit of any taxable person whether corporate or otherwise is subjected to tax-exempt if such income is specifically exempted by law (Oyedele, 2014). The Company Income Tax (CIT) or the Petroleum Profit Tax (PPT) is a form of direct tax payable on the income or profit of every company carrying on business activities in Nigeria, whether resident or non-resident.

The personal income tax is also a form of direct tax that is levied on the income of a person. A person is defined in (Okoli, Njoku, & Kaka, 2014) as an individual, a partnership or an estate. Direct tax is the earliest form of taxes in Nigeria, the history of taxation in Nigeria can be traced back to the pre-colonial era but the principal law that started the regulation of tax system in the country was the Native Revenue Ordinance of 1904 in the then Northern Nigeria while that of Western and Eastern Nigeria was enacted in 1917 and 1928 respectively (Oyedele, 2014), which later was compiled together to become the Direct Taxation Ordinance of 1940. The Capital Gain Tax, Tertiary Education Tax and the National Information Technology Development levy with Stamp duties are also part of direct taxes and levies on corporate bodies and individuals in the country to generate funds for developmental projects in the country. The National Information Technology Development Levy (NITDL) is a special levy imposed on companies whose annual turnover is above N100million, it is a special levy or tax for the development of information technology in the country.

Apart from the direct tax system, the country also generates income through the indirect tax system, such as the Value Added Tax (VAT), custom and excise duties and the purchase tax. The indirect tax system is seen as a broad-based tax system which the country is expected to be given special attention, because of tax evasion and avoidance incidences that characterized the direct tax system. Odusola (2006) noted that the government had concentrated its tax system around petroleum profit tax and company income tax while neglecting the broad-based indirect tax. Oluba, (2008) as cited in (Akhor & Ekundayo, 2016) gave example of countries that increased their economic development through income from indirect taxes, the countries identified are the United Kingdom, Netherland, and Canada, they were reported to have generated a great part of their revenue from Value Added Tax and import duties which had aided the prosperity of these countries. Edame and Okoi (2014) studied the impact of taxation on investment in Nigeria, to investigate whether tax had any contribution to real Gross Domestic Product (GDP) in the country and also to determine whether the gross sectional allocation of resources through tax revenue has impact on investment in Nigeria. Ordinary least square of multiple regression was used to interpret the data sourced from the Central Bank Of Nigeria (CBN) statistical bulletins of various issues, the result shows that there is a direct relationship between taxation and government expenditure, the t-test shows that the parameter estimates of Company Income Tax (CIT) and Personal Income Tax (PIT) are statistically significant. In real term it means that taxation has a positive relationship with investment and economic development. Adelusi & Idowu (2018) concluded that there is a significant relationship between non-oil revenue and the Gross

Domestic Product GDP), while there was no significant relationship between GDP and oil revenue. The study further revealed that during the period of high revenue from oil in 2011 and 2012, the country's retained earnings were low. The country was not able to increase her retained earnings even when she was earning so much from oil, nor there was any positive significant effect on the GDP.

Gross Domestic Product (GDP) was described as the increase in the production of goods and services over a period of time in a country. Often GDP is used as the parameter to measure Economic growth, economic growth was explained by (Adebayo, 1996) to be a sustained increase in a country's real Gross National Product (GNP) and per capita GNP. The real GNP is also known as the nominal GNP in the measurement of economic growth so has to avoid the distortions of inflation. It was further explained that a country witnesses a true economic growth where there is a sustained increased in capital accumulation, technological progress and the growth in the labor force compared to the population. Smith (1776) stated that the factors of production like capital, labor, and land had a significant impact on economic growth of a nation.

Empirical Framework

Income from tax is an important source of revenue to states, which assist the states in the provision of social infrastructures for the people. It is, therefore, the civic responsibility of every member in a state to pay his tax without expecting any direct benefits from such payment. Edame & Okoi (2014) found out that tax revenue boasts the economy since it assists in the development of infrastructures which brought in investment, but if the tax is too high it can scare away potential investors. Gwaetney and Lavson (2006) noted that high marginal tax rate has serious effect on Gross Domestic Products in Nigeria, the study explained further that with high marginal rate of tax, individual is left with less disposable income where his spending ability had been eroded away through high marginal tax rate. Likewise it discouraged investors, most foreign investors would prefer to move to countries with low tax rate, eventually this leads to poor investment growth in the country with high tax rate or the incidence of multiple taxations (Ukegba, 2012) as cited in (Edame & Okoi, 2014). Okoli, Njoku, and kaka (2014) did a study on taxation and economic growth in Nigeria, granger causality approach was used to test the study's hypotheses, the taxation model that was used consisted of valued added tax, company income tax, and petroleum profit tax while the Gross Domestic Products was the variable used to assessed economic growth. The result showed that there is a significant relationship between taxation and economic growth in Nigeria from 1994 to 2012.

Taxation is seen as an aid or parameter to investment decisions, most foreign investors prefer to invest in countries with tax haven because of the natural nature of any businessman whose main intention is to earn as much profit as possible from his investment. Meanwhile the more returns on investment the more profit accruing to the government through corporation tax. Oloidi (2014) studied the effect of corporate income tax on the revenue profile of Nigeria, and also examined the corporate investment decisions of companies liable to tax under the Company Income Tax Act in the country. The population of the study is the universal set of all the small scale and medium scale enterprises in the southwest zone of Nigeria,400 questionnaires were distributed, 300 was collected and only 180 questionnaires was used for the data analysis and presentation. Percentages and frequencies were employed to evaluate the research questions for the study, the findings revealed that tax is relevant to investment decisions compared with other factors that are related to investment decisions. The study recommended that government should encourage investments by designing proper tax policies that encourage economic growth and development. A tax policy that will enhance investment in new capital that brings new production techniques that might result in the emergence of new products. Matins (2009) stated that there is reduction in gross fixed capital formation wherever tax incentives are non-existing, he was also of the opinion that tax incentives are a factor that assists both foreign and domestic investors in their investment decision.

Adegbite (2015) carried out an empirical research analysis of the effect of corporation tax on revenue profile and the impact of corporate taxation on economic growth in Nigeria. The study used only secondary data and the data were sourced from the CBN statistical bulletins of various issues from 1993 to 2013, multiple regression analysis was used to analyze the relationship between dependent variable which is the GDP and independent variable that comprised the CIT, VAT, PPT, and inflation. He concluded that reduction in corporation tax will increase level of investment in the country. Gale and Samwick, (2016) looked into how changes in the individual income tax affect long-term economic growth, the finding suggested that not all changes in tax rate have common influence on economic growth. Bariyima, Nangib, and Oyedokun (2018) investigated the influence of tax disincentives on business growth in Nigeria while Dopemu & Monday (2018) examined tax incentives and business growth in Nigeria, the two studies used different parameter to carried out their study but the two studies agreed that tax policymakers should use tax incentives to encourage compliance among taxpayers and any policy that may be a form of dis-incentive in nature should be eliminated from our laws.

Giwa and Kase (2018) examined the contribution of tax revenue to the economic growth of Nigeria, the study found out that PPT had no significant impact on gross domestic product while CIT and VAT had significant contribution to the GDP, the period covered was 1997 to 2016. Odia (2018) examined the public perception of tax policy and he recommended that government should be more accountable to the citizens and be responsive to their needs thereby enhancing their compliance with tax laws. Meanwhile, this study examined the total tax revenue accruing to the government of the Federal Republic of Nigeria and the effect on the Economic growth of the country, to examine whether any increase or decrease in tax revenue, there is a corresponding effect on the country's Gross Domestic Product from 2007 to 2018.

Theoretical Framework

The Abyssinia law related to the theory of equity and fairness in payment of taxes. Equity and fairness were explained using two principles known as the ability- to- pay theory and the benefits principle. Horizontal equity expects individuals on equal positions to pay the same amount of tax. The taxpayer must have the ability to pay, that is for government to generate revenue through taxes, there must be economic activities that will bring returns to those that are assessable to tax. Benefits received theory was based on the assumption that there exists an exchange relationship between the taxpayers and the government. Anyanfo (1996) stated that payment of taxes should be based on the proportion of the service enjoyed or benefits received by the taxpayer. The inability of government and the taxpayer to measured accurately the number of benefits received or services rendered was a hindrance to the practicality of the theory, identified in (Ahuja, 2012). The cost of service theory is also relevant to tax revenue because it emphases that the citizens must collectively take care of the cost incurred in providing certain services to them by the government (Jhingan, 2009). The theory stated further that if an individual had not utilized the service of the state such a person should not be charged to tax.

Methodology

The source of data for the study mainly from secondary data from the periodical publication of the Central Bank Of Nigeria (CBN) to source for data for total revenue and the Gross Domestic Product (GDP) of Nigeria from 2007 to 2018, the Federal Inland Revenue Service (FIRS) provide the data on tax revenue from 2007 to 2018. All the sources of tax revenue accruing to the federal government were used to assessed revenue from tax, the taxes include Value AddedTtax, company income tax, custom and excise duties, petroleum profit tax, capital gain tax and other taxes and levies collectible by the Federal Inland Revenue Service. While the variable representing total revenue includes oil revenue and non-oil revenue. The data were subjected to analysis using descriptive statistics to calculate the mean and standard deviation while in order to explain the relationship among the three variables, line plot in figure 1 was used. Tables 1 and 2 described the descriptive analysis of the variables with the Correlation matrix of the relationship between GDP, Tax Revenue and Total Revenue through ordinary linear regression method.

The model specification;

To examined the effects that of total revenue on economic growth the study adopt the model used by (Okwori & Sule, 2016) and to access the effects of tax revenue on economic growth a cue was taken from the model used in (Giwa & Kase, 2018)

Total revenue = NONOIL + OIL 1

Tax revenue = PPT + CIT + VAT + CGT + EDT + OTH 2

$GDP = a + bx_1 + bx_2 + r$ 3

Substitute x_1 for total revenue in equation 1 and x_2 for tax revenue in equation 2

GDP = a + b (NONOIL + OIL) + b (PPT + CIT + CGT + EDT + OTH) + r 4

Where

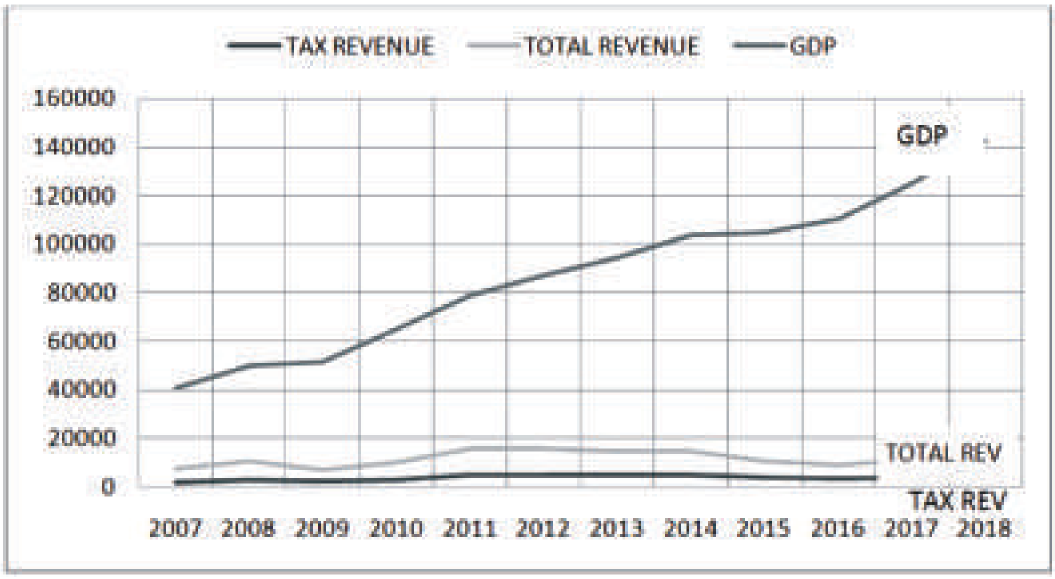
a is the constant

$_r$ is the error term.

b is the coefficient of the variables

GDP is the gross domestic product
NONOIL is the non-oil revenue
OIL is the oil revenue
PPT is the Petroleum Profit Tax
CIT is the Company Income Tax
CGT is the Capital Gain Tax
EDT is the Tertiary Education Tax
OTH representer other levies and taxes collectible by FIRS

Discussion of Findings



The line plot shown above shows the total value for each of GDP, tax revenue and total revenue. The graph depicts an increase in GDP over the years as it continues to increase over the period 2007 to 2018. A similar result was observed for total revenue and tax revenue. Though there was an increase over the years for tax revenue and total revenue the increase is not steady as there are fluctuations over the periods.

Table 1: Descriptive analysis of the variables

Variable	Obs	Mean	S.td. Dev.	Min	Max
TAX RVENUE	12	3784.18	1151.68	1864.9	5320.52
TOTAL REVENUE	12	8066.97	2113.857	4844.59	11116.85
GDP	12	75998.97	30338.94	32.995.38	127760

Figure 1: Line plot of GDP, Tax Revenue and Total Revenue

Table 1 above shows the description of the variables in terms of their mean, standard deviation, minimum value, and maximum value.

Table 2: Correlation matrix of the relationship between GDP, Tax Revenue and Total Revenue

	GDP	TAX REVENUE	TOTAL REVENUE
GDP	1	0.6755	0.2488
TAX REVENUE	0.6755	1	0.8644
TOTAL REVENUE	0.2488	0.8644	1

From table 2 above there exists a strong positive relationship between tax revenue and GDP with correlation coefficient of 0.6755 and it is significant but a very weak relationship between total revenue and GDP (r= 0.2488).

Variable	Coefficient	Std. Error	t-Statistic	Prob.
TAX_REVENUE	0.000676	7.33E-05	9.227339	0.0000
TOTAL_REVENUE	-0.000251	3.99E-05	-6.298527	0.0001
C	10.62684	0.166970	63.64537	0.0000
R-squared	0.914506	Mean dependent var		11.15703
Adjusted R-squared	0.895507	S.D. dependent var		0.435404
S.E. of regression	0.140746	Akaike info criterion		0.871407
Sum squared resid	0.178284	Schwarz criterion		0.750181
Log-likelihood	8.228443	Hannan-Quinn criteria.		0.916290
F-statistic	48.13532	Durbin-Watson stat		1.972651
Prob(F-statistic)	0.000016			

Furthermore, the F-value for the test is 48.13532 with a p-value < 0.05 significant level which is an indication that the model is adequate and sufficient in relating the variables under study.

In order to establish the nature of the relationship that exists between the variables; GDP (dependent variable) and Total revenue and tax revenue (independent variables), regression analysis was employed using ordinary least square (OLS) method (Table 3). The result shows that for every unit increase in tax revenue taking total revenue constant, there is 0.067 percent increase in GDP. In addition, for every unit increase in total revenue, there is 0.025 percent decrease in GDP provided tax revenue is constant. All the independent variables are significant and we can conclude by accepting the alternative hypothesis that both tax revenue and total revenue significantly have effect on GDP.

Moreover, the coefficient of variation indicates that about 91% variation in GDP could be attributed to the joint effects of total revenue and tax revenue. The adjusted R-squared value also indicates that addition or subtraction of any other variable will still account for about 90% variations in GDP. The Durbin-Watson stat is 1.9726 which indicates non-existence of auto-correlation.

The model is written as:
LogGDP = 10.62684 – 0.000251*TOTAL REVENUE + 0.000676*TAX REVENUE

Conclusion
There is no doubt that tax revenue is very relevant to economic growth, tax payment is from the proceeds of economic activities in an economy. The government should provide conducive environment for productive economic activities so that there would be flow of investments that will create employment and the development activities in the country. The finding revealed that tax revenue is significant to economic growth which was measured by Gross Domestic Product (GDP), but the government should be careful of high tax rate which might scare away foreign investments. This study is in agreement with the finding in (Gale & Sanwick, 2016), the focus of government should not only based on increase in tax rates but ensure to capture many people into the productive sector of the economy so more revenue can come in through company income tax and personal income tax (Giwa & Kase, 2018).

Policy Recommendations
The study thereby makes the following recommendations

1. The government should create a secure environment where properties and life are protected
2. The provision of infrastructure should be given priority by the government of the day
3. The government should put more energy into the non-oil sector of the economy such as income from taxation, export of non-oil products and technological products to generate the necessary foreign exchange needed to boost the economy of the country which will impact on the life of every citizen.
4. Youth should be encouraged to be involved in the productive sector of the economy such as agriculture and manufacturing, financial assistance through loans should provided by government with technical assistance for any youth that has interest.
5. Government youth empowerment programs should not only be for young graduates but also for the youths who are school drop out that have little or no education but are possessed with youthful energy, that can be put into economic use which can later be captured into the country's tax nets
6. Proper and adequate penalties should be melted on tax-related offenses.

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Appendix

YEAR	TAX REVENUE N'BILLIONS	TOTAL REVENUE N'BILLIONS	GDP N'BILLIONS
2007	1,847	5,727.51	32,995.38
2008	2,972.20	7,866.60	39,157.88
2009	2,197.60	4,844.59	44,285.56
2010	2,839.30	7,303.67	54,612.26
2011	4,628.50	11,116.85	62,980.40
2012	5,007.70	10,654.75	71,713.94
2013	4,805.60	9,759.79	80,092.56
2014	4,714.60	10,068.85	89,043.62
2015	3,741.80	6,912.50	94,144.96
2016	3,307.50	5,679.03	101,489.49
2017	4,027.94	7,317.70	113,711.63
2018	5,320.52	9,551.80	127,760.00

Sources: Tax revenue from Federal Inland Revenue Service report while Total Revenue and Gross Domestic Product (GDP) was from CBN Statistical Bulletins of various issues.

NATIONAL TAX POLICY AND NIGERIA TAX SYSTEM

Adedokun Yemisi, Adetola Raman &Akintoye Ishola Rufus
Department of Accounting
School of Management Sciences
Babcock University, Ilishan-Remo, Nigeria
adedokunyemisi@gmail.com

Abstract
The Nigeria tax system has deteriorated due to use of outdated tax policies, laws and mode of administration. This prompted the emergence of a new document referred to as the National Tax Policy for use by tax administrators and tax payers in Nigeria. The study examined whether the National Tax Policy has significantly influence the Nigeria tax system and investigated whether the National Tax Policy has minimized the weaknesses affecting the Nigeria tax system. A qualitative research approach was adopted and the research design was exploratory. The National Tax Policy has chartered the road map of the country's drive to a competitive tax system globally which has enhanced the economic development of Nigeria. The study recommended that all stakeholders should comply with tax reforms initiatives, the National Tax Policy should be subjected to review from time to time, a tax regime with standard policy hub should be established to achieve desired objectives and the Nigeria government should endeavor to integrate taxation as a course into the school curriculum at all levels of education to create awareness.

Keywords: Tax system, National tax policy, tax laws, tax administration, federal system

Introduction
The Nigeria Tax System has suffered due to the traditional tax policies, tax laws and tax administration methods in use, which are no more relevant in today's world. A lot of efforts have been put into developing a National Tax Policy which will serve as a guiding document for tax administrators and tax payers. Nigeria is a developing country with leading emerging economies in the world, governed by a federal system and this has impacted how the tax system is being managed. The fiscal power of the government relied on the three tiered tax structure, that is, the federal, the state and the local governments. The federal government are responsible for the collection of the Personal Income Tax, Company Income Tax, Petroleum Profit Tax, Capital Gain Tax and the Value Added Tax which are veritable the state and local governments collect other forms of taxes which are less buoyant. This tax structure is lopsided (Odusola, 2006). The Nigeria government had over relied on revenue from oil and gas and neglected other sources of revenue most especially the non-oil revenue. Revenue from taxes form a very little proportion of the revenue pool.

Over the past two decades, the oil revenue has been dwindling and this has prompted the Nigeria government to shift focus from oil revenue to enhancing the non-oil revenue. The Nigeria tax system is characterized by myriads of weaknesses which affects the implementation of tax policies and tax laws, and administration of taxes. Some of the weaknesses as identified by Nwokoye and Rolle (2016) are: paucity in availability of data, inadequate skilled manpower, administration problem, high rate of corruption amidst tax officials, complex tax laws, syndrome of tax avoidance and tax evasion, tax conflicts among the different tax jurisdictions, minimum tax practice, multiple taxation and lack of tax awareness.

These weaknesses in the Nigeria Tax System have created serious challenges to the economy. These challenges awakened the Federal Executive Council to approve the bill on the provision of National Tax Policy.

Statement of the Problem

Nigeria is a country with a federal political structure and is characterized with a fiscal regime that complies with same principle, which seriously affects how the Nigeria tax system is managed. The Tax System has not been able to provide pivotal strategies to the government for generating enough funds through taxes needed for government expenditure in a sustainable manner. The tax policies, tax laws and the administration of taxes in Nigeria have not been able to drive the country economic growth. Individuals and corporate organizations are not willing to pay taxes because of non-provision of adequate services and poor accountability.

Objectives of the Study

The general objective of this study is to examine whether the National Tax Policy has significantly influence the Nigeria Tax System.

The specific objective is to investigate if the National Tax Policy has minimize the weaknesses affecting the Nigeria tax system.

Justification for the Study

The study is very necessary at this time to measure the impact of the new National Tax Policy document on the tax system in Nigeria. It is very important at present when oil revenue is diminishing and the governments at all levels are seeking for means of enhancing the other sources of revenue, that is, the non-oil revenue and specifically the tax revenue.

Literature Review

Introduction

According to Federal Ministry of Finance (2017) in the National Tax Policy "tax is any compulsory payment to the government imposed by law without direct benefit or return of value or a service whether it is called a tax or not". A tax system is "a legal system for assessing and collecting taxes" (Farlex, 2008). Tax Systems are essential instruments used by the governments of all countries in actualizing their various objectives (Musgrave and Musgrave, 2004). The government in various countries need a fair, accurate, effective, efficient and transparent tax system to administer, assess, charge, collect and manage tax. Some of the objectives to be achieved by these governments are "maximization of governmental revenue yields, attainment of vertical and horizontal equity, and the promotion of economic development" (Akanle, 1991). To achieve these stated objectives, there is need for review of the tax system often and often.

Trend of Tax Reforms in Nigeria

The Federal Government of Nigeria had taken different steps which were aimed at reforming the tax system from time to time. These reforms are:

The 1992 Study Group on Nigeria Tax System and Administration led by Professor Emmanuel Edozien. The Study Group made the following recommendations:

- The establishment of Federal Inland Revenue Service (FIRS) as the operational arm of Federal Board of Inland Revenue (FBIR).
- The setting up of Revenue Services at the States and Local Governments (Teniola, 2018).

The 1992 Study Group on Indirect Taxation led by Dr. Sylvester Ugoh. The Study Group recommended a policy shift from direct taxation to indirect taxation/consumption which led to the evolution of Value Added Tax (VAT) (Teniola, 2018).

The 2002 Study Group on the Review of the Nigeria Tax System led by Professor Dotun Phillips. The terms of reference of the Study Group was broader in scope compared with other groups set up before 2002. The group worked on 11-points terms of reference. They gave their reports in 20 chapters of 17 volumes. The report was submitted in 2003. There recommendations are:

- That Nigeria should have a 24 clause national tax policy;
- There should be a register that will contain individuals and corporate taxpayers' data and also smart tax identity cards should be issued to all taxpayers;
- The threshold of the personal income tax need to be raised up to N200,000 and the personal income tax free allowance should be consolidated to a single bulk of 40% of assessable income and the maximum income rates should be 20%;
- There should be limitations on special tax incentives, for instance, tax holidays and import duties reliefs should be given only to industries sited in rural areas, industries engaged in full exports, companies producing solid minerals and oil and gas operations companies;
- Companies should be exposed to companies income tax in any assessment year after making profit;
- There should be reduction of companies income tax from 30% to 20% rate;
- Companies having less than N50,000,000 should henceforth pay its companies income tax to the State government where it operates;
- Amendments to the constitution to confirm the legality of VAT which should be shared between the states after deducting 3% as part of the cost of administration nationwide; and
- Tenement rate, capitation rates and defined users charges for directly beneficial services to the citizens only to be charged by local governments (Okaru, 2012).

The 2004 Working Group which is a private sector driven-group was constituted to critically evaluate the recommendations submitted by the 2002 study group and then make proposals by prioritizing sets of strategies whose implementations will impact the Nigeria Tax System, which were grouped into short term which will be within six months. Medium term which is within two years and long term which is within 5 years of submission of working group report.

The study group and the working group both addressed the micro and macro tax policies and administration issues. Some of the macro issues discussed includes the drafting of a national tax policy, tax incentives, taxation and federation, and general tax administration. The recommendations of these groups and subsequent evaluations paved way for more inputs from stakeholders in Nigeria Tax System. This led to the conveyance of the first national tax retreat in Nigeria in 2005. The stakeholders agreed that the following reasons among others are necessary and expedient for Nigeria Tax System. They are: a development of national tax policy, efficient and effective tax administration, computerization and centralization of revenue agencies, redistribution of wealth and introduction of a more equitable tax system, stimulation of the non-oil sector of the economy, simplification of tax regime, reduction of tax rates, organization of capacity building for tax administrators and taxpayers, and resolving contentious issues in tax administration.

The Federal Government approved the recommendation of producing a national tax policy among others and a document was first prepared in 2012. The National Tax Policy document was produced but not implemented until The Honourable Minister of Finance Mrs. Kemi Adeosun inaugurated another committee on the 10th of August 2016 to review the National Tax Policy produced in 2012 and the committee was led by Professor Abiola Sanni (Federal Ministry of Finance, 2017).

The Professor Abiola Sanni-led committee on Review of National Tax Policy was able to achieve the following among others: the production of a plain, simple and concise revised document having clear implementation and monitoring strategies; the reviewed policy identifies the basic objectives of the 1999 constitution and reinforces the necessity of tax laws and administrative practices to enhance the economic development, highlights the problems facing the Nigeria Tax System and key policy principles to solve them (Somorin, 2018). In February 2017, the Federal Executive Council approved the National Tax Policy and a committee was set up to drive the implementation.

Theoretical Review

Three theories of taxation are discussed in this paper the socio-political theory, the expediency theory and the Faculty (Ability-to-pay) theory. The socio-political and expediency theory are based on the assumption that there should not be any connection between the tax paid and the benefits to be derived from state activities while the Ability-to-pay theory is based on the principle of justice and equity (Bhartia, 2009).

Socio-Political Theory

The proponent of socio-political theory is Adoph Wagner a German Economist (1835-1917); he holds that social and political objectives should be the most essential factors to be considered in determining taxes to be paid by citizens. The theory hinges on the fact that tax should be an instrument for curing various ills of the society at large, and not to serve individuals. Although the society comprises of individuals but could be seen as a sovereign entity and greater than overall individual members. Thus, the state must preserve the existence of the entity and proffer solutions to its challenges. The state power of tax imposition does not rely on the conferment of benefits, but basically the exercise of sovereign power. Therefore, tax system should be seen as fiscal policy measures used for minimizing income inequalities and rate of unemployment in a country and not solely for the purpose of generating funds for government.

Expediency Theory

The expediency theory holds that in all tax proposals, the practicability of imposition and the efficiency of the collection (administration) of taxes should be the main consideration. Bhartia (2009) believes that the economic and social objectives of a country and the effects of a tax system should be seen as very essential when designing a tax system. Often, pressures arise from social, economic and political groups. These groups fight for their own personal interests and the tax authorities in order to accommodate these pressures are forced to reshape the tax structure. The Nigeria tax administrative structure rarely collects taxes imposed at a reasonable cost and therefore renders the whole tax system uneconomical.

Faculty (Ability-to-Pay) Theory

The principle of the Faculty (Ability-to-Pay) Theory originated from the sixteenth century and was systematically stretched by Jean Jacques Rousseau (1712 – 1778) a Swiss Philosopher in the seventeenth century and lastly by John Stuart Mill (1806 – 1873) an English Economist. The principle is the base of progressive tax and holds that citizens should be taxed based on their ability to pay. The theory believed that tax is a compulsory levy on individuals and organizations residing and deriving income in a country. It is a mandatory obligation and the citizen should not expect equivalent benefits from the taxes paid, and the government owes no explanation to the citizens. Bhartia (2009) argued that the tax payer is to pay taxes because he can, and his relative share in the entire tax burden is based on his relative paying capacity. The theory advocates that tax burden should be shared by citizens on the principle of equity and justice. It means that tax burden should be borne by tax payers based on their relative ability to pay.

Empirical Review

Anderson Tax (2018) reviewed National Tax Policy Implementation in Nigeria. The paper revealed that the first National Tax Policy was prepared in 2012 but reviewed, replaced and implemented in 2017 with a more concise policy. It also gives insights on tax reforms in conjunction with synopsis of the proposed amendments to tax laws in Nigeria in line with the National Tax Policy. The paper concluded that the Federal

Government of Nigeria aim of providing a National Tax Policy is to meet revenue target by increasing revenue from non-oil sources especially now that oil revenue is dwindling. Tawoju (2018) examined designing a robust tax system for Nigeria: lessons from an international perspective. The study identified the basis for a good tax policy and explores the Organization for Economic Co-operation and Development (OECD) and United Nations initiatives in relation to harmful tax practices and tax incentives. The study concluded that tax incentives are not effective and does not attract foreign direct investment and this may lead to taxpayers' abuse and erode revenue base of Nigeria. It recommends reform of the tax laws and provision of new legislations and also minimize the problem of corruption amidst tax officials in the Nigeria tax administration.

Gurama, Mansor and Pantamee (2015) examined tax evasion and Nigeria tax system, they reviewed the concept of tax evasion and the Nigeria tax system. The study concluded that taxes are essential instrument used by different countries from the ancient life to develop the community and for redistribution of wealth. However, the usefulness of taxes has been disrupted by evasion by un-patriotic citizens. Thus, the tax compliance enforcement agencies should cooperate and should share information among themselves to minimize tax evasion and non-compliance with tax laws, thereby increasing revenue generation.

Gaps in the Study

There are scanty literatures on National Tax Policy in Nigeria. The concept is new and the effective date for the implementation of the document was November, 2016. Some of the literatures reviewed revealed some gap. From Anderson (2018) work, timing gap was identified. Tawoju (2018) was scope gap, the author reviewed how Nigeria could design a robust tax system learning from international perspective but did not look deeply into the National Tax Policy. Gurama et. al. (2015) work also revealed scope gap, they reviewed tax evasion and Nigeria tax system. The National Tax Policy was not reviewed. This study has tried to bridge the gap by investigating the new National Tax Policy and the Nigeria Tax System.

Methodology

This study adopted a qualitative research approach and the exploratory research design was applied which mainly reviewed relevant literatures on National Tax Policy and the Nigeria Tax System. Also, logical analysis was the basis for the study.

Conclusion and Recommendations:

Conclusion

The National Tax Policy is a document designed to address the challenges confronting the Nigeria Tax System, it highlights the fundamental objectives of the 1999 constitution and establishes the need for tax laws and reasons for administrative practices to enhance the economic development of the country. For any country's economy to develop and be competitive in the global economy it must consider some factors and having robust macro-economic policies is one of them. The document has served as a basis from which other measures were derived. It has chartered the road map of the country's drive to a

competitive tax system globally which has enhanced the economic development.
The Ministry of Finance has helped in implementing the tax reform through the Tax Policy Implementation Committee (TPIC) and Office of Tax Simplification (OTS); and has jointly worked with the National Assembly. The Ministry provides periodic report on tax policy to the National Economic Council (NEC) and has established a tax court which has significantly influence the Nigeria Tax System.

The non-oil taxes have systematically increase since the implementation of the National Tax Policy and has improved the economic growth of Nigeria. The National Tax Policy as served as an instrument that has helped to address the weaknesses in the Nigeria Tax System. It has helped to eradicate the ambiguity of tax laws, removes obsolete provision, simplifies tax payments, increase and diversifies government revenue.

Recommendations

All stakeholders especially the corporate tax payers should be compelled to comply with every tax reforms initiative.

The National Tax Policy should be subjected to review from time to time to reflect current situations of the country and the global economy.

A tax regime with standard policy hub should be established to achieve desired objectives.

The government should endeavour to integrate taxation as a course or subject into the school curriculum at all levels of education to create awareness.

Contribution to Knowledge

Scholars and Researchers will derive great benefit from this study as it will give them a fore knowledge of what National Tax Policy entails and how it has impacted the Nigeria Tax System.

This study will also be useful for stakeholders to educate them on their roles and responsibilities in providing a robust tax system in Nigeria.

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ARE THE TRANSFER PRICING REGULATIONS A CLOG TO BUSINESS SUSTAINABILITY IN NIGERIA?

Adewusi, Adefolake
Senior Associate, AELEX, Legal Practitioners & Arbitrators.
aadewusi@aelex.com; pholarke@nigerianbar.ng

Quadri, Moshood
Associate, AELEX, Legal Practitioners & Arbitrators.
mquadri@aelex.com

Abstract
Nigeria's population of over 190 million and its continuously expanding consumer market have made it an investment destination of interest to foreign investors for some time due in part to its low corporate taxes relative to other countries. The Income Tax (Transfer Pricing) Regulations 2018 provide guidance on the application of the arm's length principle in related-party transactions which would typically involve a Nigerian incorporated entity and its foreign affiliate. The 2018 TP Regulations which replaced the 2012 version, introduced a regime of specific administrative penalties for non-compliance with the filing of TP forms and documentations. The objective of this paper is to determine whether the TP Regulations are a clog to business sustainability in Nigeria. This paper finds that the TP Regulations where enforced to the letter, may stifle the Nigerian business environment and proposes that in order not to clog operations of small and medium-sized businesses, the right of the Federal Inland Revenue Service (FIRS) to require submission of TP documentation by companies with a controlled transaction value of less than N300 million should be activated only in the most deserving of circumstances. The paper also proposes that large businesses within the TP Regulations net, should proactively prepare their TP returns ahead of their audited accounts to anticipate and address TP issues which could be flagged by FIRS in its review of the audited accounts.

KEYWORDS: Transfer Pricing, Regulations, Clog, Business, Sustainability

Introduction
Nigeria's population of over 190 million and its continuously expanding consumer market have made it an investment destination of interest to foreign investors for some time. Nigeria is the largest economy in Africa, with a GDP of US$375.8 billion as at December 2017. Investors may have viewed the country's relatively low corporate tax rates as a good incentive to do business in Nigeria, in spite of infrastructure deficits and the multiplicity of taxes at the different tiers of government which can make running a business in Nigeria quite challenging.

The Income Tax (Transfer Pricing) Regulations 2018 (the “TP Regulations”) provide guidance on the application of the arm's-length principle in related-party transactions.

The Regulations allow related parties to adopt any of a number of listed methods as a basis for pricing of controlled transactions. The 2018 TP Regulations which replaced the 2012 version, incorporate the 2017 updates to the OECD's TP guidelines and introduced a regime of specific administrative penalties for non-compliance with the filing of TP forms and documentations.

The focus of this paper is to determine whether the TP Regulations are a clog to business sustainability in Nigeria. To address this issue, this paper is divided into four parts. Part One introduces the Paper, provides an overview of the Nigerian business environment and describes the concept of business sustainability. Part Two examines the meaning of transfer pricing and provides an overview of the TP Regulations, also highlighting its relationship with the Income Tax (Country-by-Country Reporting) Regulations. Part Three responds to the issue of whether the TP Regulations are a clog to business sustainability in Nigeria while Part Four concludes the paper with recommendations.

Overview of the Nigerian Business Environment

Foreign investors desirous of carrying out business in Nigeria – Africa's largest market, must do so by incorporating a Nigerian company at the Corporate Affairs Commission as provided by the Companies and Allied Matters Act[3]. The company may be public or private and the liability of its members could be limited by shares, limited by guarantee, or unlimited.

Many companies in Nigeria are either private or public companies limited by shares, with private companies being preferred for being easier to maintain effective control over the entity and being subject to less regulatory requirements than public companies. The law however prescribes for instances where a company is required to be a public company. For example, if a company aspires to be quoted on the Nigerian Stock Exchange, it must be a public company.

A company with a foreign investor is required to have a minimum share capital of N10,000,000 (Ten Million Naira). It should, however, be noted that certain sectors have a minimum share capitalisation requirement that could be more than N10,000,000 (Ten Million Naira). In such instances, the foreign investor would be required to satisfy the capital requirement for the sector in which it intends to invest. Following its incorporation, the NIPC Act provides that the company should be registered with the NIPC prior to commencing business. In addition, foreign investors are required to obtain a business permit (for the business) and expatriate quota (for its foreign personnel) from the Ministry of Interior pursuant to the Immigration Act 2015. A company is also required to have its registered office in Nigeria and can undertake any type of legitimate business activity as contained in its Memorandum of Association.

The primary body responsible for encouraging and promoting foreign investment in Nigeria is the Nigerian Investment Promotion Commission (NIPC), which was

[3]Chapter C20, Laws of the Federation of Nigeria 2004.

established by the Nigerian Investment Promotion Commission Act 1995 ("NIPC Act"). By virtue of the NIPC Act, foreigners enjoy unlimited freedom to engage in any enterprise either wholly or in partnership with Nigerians. However, foreign investors and Nigerians are prohibited from participating in certain sectors of the economy considered to be on the negative list as defined under Section 31 of the NIPC Act.

Notably, certain regulated sectors of the Nigerian economy require prospective business entities, in addition to the above, to obtain various licences and/or approvals irrespective of the composition of its membership. These sectors include banking, insurance, broadcasting, power generation and distribution, oil and gas, mining, telecommunications and aviation. Barring these regulated sectors, foreign investors may freely invest in any sector of the economy but only after fulfilling the registration requirements.

What is Business Sustainability?

The World Council for Economic Development (WCED) defines sustainability as development that "meets the needs of the present without compromising the ability of future generations to meet their own needs." Sustainability, therefore, is an approach to creating true and real value to the systems and resources upon which that value depends on. Building on the foregoing, Business Sustainability can be said to be a process of analysis and decision-making across business functions, obtained through a committed and clear understanding of transitions that may occur in the present or the future.[4]

Thus, a business is sustainable when it holds a multi-dimensional view of its operations, its stakeholders, and its profits. In doing so, the business manages its triple bottom line namely profit, people, and planet.

In the context of this paper, business sustainability refers to the likelihood of sustenance or continuation of a business over an extended period of time. Noting that an incorporated company is theoretically expected to exist forever barring the conclusion of any winding up proceedings, it stands to reason that business sustainability is of prime importance to any investor and is indeed a major reason why the limited liability company structure is preferred to non-incorporated businesses like sole proprietorships and partnerships.

TRANSFER PRICING AND THE TP REGULATIONS

What is Transfer Pricing?

Transfer pricing is a practice that allows for the pricing of transactions internally between subsidiaries that operate under common control or ownership, including cross-border transactions. Where a subsidiary or affiliate company sells goods or services to the parent company or a fellow subsidiary, the price charged is called a transfer price.

[4] A Guide to Business Sustainability in Nigeria at https://sustyvibes.com/wp-content/uploads/2016/10/AGuidetoBusinessSustainabilityinNigeria.pdf?source=ebook-page-download (last accessed 9 August 2019).

It is the price at which goods (tangible and intangible) and services are traded between related (taxable) parties. The consideration of transfer pricing should not be confused with the consideration of problems of tax fraud or tax avoidance, even though transfer pricing policies may be used for such purposes.

When independent enterprises transact with each other, the conditions of their commercial and financial relations (such as the price of goods transferred or services provided and the conditions of the transfer or provision) ordinarily are determined by market forces. When associated enterprises transact with each other, their commercial and financial relations may not be directly affected by external market forces in the same way, although associated enterprises often seek to replicate the dynamics of market forces in their transactions with each other.

Transfer pricing relies on the application of the arm's length principle which means that the terms and conditions applied in transactions between related parties should be comparable to those used between independent parties. When transfer pricing does not reflect market forces and the arm's length principle, the tax liabilities of the associated enterprises and the tax revenues of the host countries could be distorted. Therefore, the tax authority may adjust the profits of associated enterprises as necessary to correct any such distortions and thereby ensure that the arm's length principle is satisfied.[5] An appropriate adjustment is achieved by establishing the conditions of the commercial and financial relations that they would expect to find between independent enterprises in comparable transactions under comparable circumstances.

From the perspective of the tax authority, companies can through transfer pricing, inappropriately alter their taxable income and saving taxes, as transfer pricing mechanism allows room to shift tax liabilities to low-cost tax jurisdictions. As such, there is usually a caveat that transactions between connected companies/associated enterprises/related parties must be at arm's length and it is this distortion that the TP Regulations seek to prevent and regulate. Adjustments can be made by a tax authority where the related party transactions do not comply with the arm's length principle.

Nigeria's TP Regulations: What are its Highlights?

The first transfer pricing specific regulation introduced in Nigeria was the Income Tax (Transfer Pricing) Regulations No. 1, 2012 which was enacted on 2nd August 2012. The Board of the Federal Inland Revenue Service ("FIRS") introduced the Regulation in exercise of the powers conferred on it by Section 61 of the FIRS (Establishment) Act, 2007 ("FIRS Act") which states that:

The Board may, with the approval of the Minister, make rules and regulations, as in its opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration of its provisions and may in particular, make regulations prescribing the—

[5]See for instance, Article 9 of the OECD Model Tax Convention.

a) forms for returns and other information required under this Act or any other enactment or law; and
b) the procedure for obtaining any information required under this Act or any other enactment or law.

The 2012 TP Regulations were subsequently replaced by the Income Tax (Transfer Pricing) Regulations 2018 (the "TP Regulations").

The objectives of the TP Regulations are as follows:

i. Ensure that Nigeria is able to tax on an appropriate taxable basis corresponding to the economic activities deployed by taxable persons in Nigeria, including in their transactions and dealings with related persons;
ii. Provide the Nigerian authorities with the tools to fight tax evasion that may arise through over or under pricing of transactions between related persons.
iii. Reduce the risk of economic double taxation;
iv. Provide a level playing field for both multinational enterprises and independent enterprises carrying on business in Nigeria; and
v. Provide taxable persons with certainty of transfer pricing treatment in Nigeria.[6]

The TP Regulations give effect to the relevant provisions in the Personal Income Tax Act, Companies Income Tax Act, Petroleum Profits Tax Act, Capital Gains Tax Act and Value Added Tax Act on taxation of artificial transactions.[7]

The Arm's Length Principle

The TP Regulations define "arm's length principle" as: the principle that the conditions of a controlled transaction should not differ from the condition that would have applied between independent persons in comparable transactions carried out under comparable circumstances.[8]

Where a connected person[9] has entered into a transaction or a series of transactions to which the Regulation applies, the person shall ensure that such transaction is structured in a manner that is consistent with the arm's length principle. Where it does not, the FIRS is empowered to make adjustments where necessary to bring the transaction in accordance with the arm's length principle.[10]

Where a taxpayer carries out, under the same or similar circumstances, two or more controlled transactions that are economically closely linked to one another or that form a continuum such that they cannot reliably be analysed separately, those transactions may be combined to perform the comparability analysis required by the TP Regulations.[11] Also, profit allocation should correlate with risk allocation – capital-rich, low-function companies.[12]

[6] Regulation 2 of the Income Tax (Transfer Pricing) Regulations.
[7] Regulation 1 of the Income Tax (Transfer Pricing) Regulations.
[8] Regulation 27 of the Income Tax (Transfer Pricing) Regulations.
[9] Generally, persons are deemed connected where one person has the ability to control or influence the other person in making financial, commercial or operational decisions, or there is a third person who has the ability to control or influence both persons in making financial, commercial, or operational decisions. See Regulation 12 of the Income Tax (Transfer Pricing) Regulations.
[10] Regulations 4(1), (2) & (3) of the Income Tax (Transfer Pricing) Regulations.
[11] Regulation 5(5) of the Income Tax (Transfer Pricing) Regulations.
[12] Regulation 8 of the Income Tax (Transfer Pricing) Regulations.

Documentation Requirements

The TP Regulations provide that:

> A connected person shall record, in writing or on any other electronic device or medium, sufficient information or data with an analysis of such information and data to verify that the pricing of controlled transactions is consistent with the arm's length principle (Documentation) and the connected person shall make such documentation available to the service upon written request by the service.[13]

This obligation placed on the connected person does not preclude the FIRS from requesting for additional information at any time during the course of any audit procedures it conducts on such connected person.[14] The Documentation must be in place prior to the due date for filing the income tax return for the year in which the documented transaction took place.[15]

The Documentation must be submitted within 21 (twenty-one) days of receiving a request to issue same from the FIRS and failure to submit the Documentation within this period means that the connected person shall be liable to pay a fine of N10,000,000 (Ten Million Naira) or one percent of the total value of all controlled transactions, whichever is greater, and N10,000 (Ten thousand Naira) for each day the failure persists[16] unless the connected person applies to the FIRS in writing for an extension of time to submit the Documentation and such application is granted.[17] However, where the extended submission date is not met, the penalty would apply as if no extension was granted.[18]

Information Requirements

A connected person is required to maintain all contemporaneous documentation specified in the schedule to the TP Regulations.[19] Where a merger or divesture occurs, the relevant contemporaneous documentation must be kept by the surviving enterprise.[20] The maintenance of contemporaneous documentation is however not required where the total value of controlled transactions for a connected person is less than N300,000,000 (Three Hundred Million Naira) provided that, where the FIRS demands for the relevant documentation, it is submitted not later than 90 (ninety) days from the date of receipt of the demand.[21]

Where the connected person fails to submit the documentation after receipt of a notice from the FIRS to submit same, a fine of N10,000,000 (Ten Million Naira) or one percent of the total value of all controlled transactions, whichever is greater, and N10,000 (Ten thousand Naira) for each day the failure persists shall apply unless a letter for extension of time is written and granted by the FIRS.[22]

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[13] Regulation 16(1) of the Income Tax (Transfer Pricing) Regulations.
[14] Regulation16(2) of the Income Tax (Transfer Pricing) Regulations.
[15] Regulation16(4) of the Income Tax (Transfer Pricing) Regulations.
[16] Regulation 16(5) of the Income Tax (Transfer Pricing) Regulations.
[17] Regulation 16(6)(7) of the Income Tax (Transfer Pricing) Regulations.
[18] Regulation 16(8) of the Income Tax (Transfer Pricing) Regulations.
[19] Regulation 17(1) of the Income Tax (Transfer Pricing) Regulations.
[20] Regulation 17(2) of the Income Tax (Transfer Pricing) Regulations.
[21] Regulation 17(3) of the Income Tax (Transfer Pricing) Regulations.
[22] Regulation 17(4) of the Income Tax (Transfer Pricing) Regulations.

In addition, it is likely, depending on which arm's length pricing method is adopted, that the FIRS will at some stage need to enquire into some or all of the following matters:

i. the open market prices of goods or services comparable to those supplied by or to the taxpayer;
ii. production costs;
iii. research and development costs; and
iv. the price at which the multinational group of which the taxpayer is a part ultimately sells the goods into the open market.

Offences and Penalties

Certain offences and penalties are stipulated in the TP Regulations. A connected person who is required to maintain contemporaneous documentation and fails to submit the documentation it is required to keep within 21 (twenty-one) days from the receipt of a notice from the FIRS to submit same commits and 0ffence and is liable to an administrative penalty of a sum equal to N10,000,000 (Ten Million Naira) or one percent of the total value of all controlled transactions, whichever is greater, and N10,000 (Ten Thousand Naira) for each day the failure persists.[23] It is also an offence for a connected person who is not required to keep contemporaneous documentation to fail to submit the documentation within 90 days of the receipt of a notice from FIRS to submit same. Such failure also attracts a fine of N10,000,000 (Ten Million Naira) or one percent of the total value of all controlled transactions, whichever is greater, and N10,000 (Ten Thousand Naira) for each day the failure persists.[24]

Where a person contravenes a provision of the Regulation for which no penalty is stipulated, the penalty prescribed in the relevant tax law will apply.[25]

Country by Country Reporting

The OECD has produced a number of reports on transfer pricing[26] which provide guidance when seeking to establish and maintain a transfer pricing policy. The reports provide at the very least, an invaluable bench mark against which multinational groups can start to evaluate their own pricing policies.

The OECD and G20 countries had adopted an Action Plan to address Base Erosion and Profit Shifting (BEPS) and promote:

i. coherence of corporate tax at the international level
ii. substance or value creation; and
iii. cooperation and transparency, together with certainty and predictability.

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[23] Regulation 16(3) of the Income Tax (Transfer Pricing) Regulations.
[24] Regulation 17(2) of the Income Tax (Transfer Pricing) Regulations.
[25] Regulation 20 of the Income Tax (Transfer Pricing) Regulations. The relevant tax laws are the Personal Income Tax Act, Companies Income Tax Act, Petroleum Profits Tax Act, Capital Gains Tax Act and Value Added Tax Act.
[26] See OECD Comm. on Fiscal Affairs, Issues In International Taxation (1987); OECD Comm. on Fiscal Affairs, Transfer Pricing And Multinational Enterprises ? Three Taxation Issues (1984); See also Paras 18 and 19 of the Regulations.

In pursuance of these objectives, BEPS Action 13 requires the OECD to: develop rules regarding transfer pricing documentation to enhance transparency for tax administrations, taking into consideration the compliance costs for business.

The rules to be developed will include a requirement that multinational enterprises (MNEs) provide all governments with the needed information on their global allocation of the income, economic activity and taxes among countries according to a common template.[27]

In furtherance of these objectives, the FIRS issued the Income Tax (Country-by-Country Reporting) Regulations (the "CbC Regulations") and the Guidelines on CbC Reporting in Nigeria (the "Guidelines"). The CbC Regulations were issued with the aim of implementing the OECD Base Erosion and Profit Shifting ("BEPS") program framework. They place an obligation on MNEs operating in Nigeria to provide more transparent information on the fiscal and economic activities of such MNEs, which will ultimately lead to better assessments by the tax authority and limit tax avoidance and tax evasion.[28]

Under the CbC Regulations, the Ultimate Parent Entity of an MNE with an annual consolidated group revenue equal to or higher than N160,000,000,000 (One Hundred and Sixty Million Naira only) in the preceding fiscal year is required to file a Country-by-Country ("CbC") Report with the FIRS.[29] The CbC Report shall not be filed later than 12 months after the last day of the reporting accounting year of the MNE Group.[30] Failure to file the CbC Report as at when due attracts a penalty of N10,000,000 (Ten Million Naira only) and N1,000,000 (One Million Naira only) for every month in which the default continues.[31] Filing an incorrect or false CbC Report attracts a penalty of N10,000,000 (Ten Million Naira only).[32]

Furthermore, every Constituent Entity that is resident in Nigeria is obliged to submit a yearly notification to FIRS pursuant to regulation 6 of the CbC Regulations. The entity will notify the Service whether it is the Ultimate Parent Entity or Surrogate Parent Entity, or otherwise, the details of the Reporting Entity.[33] Failure to file this notification as at when due attracts a fine of N5,000,000 (Five Million Naira only) and an additional N10,000 (Ten Thousand Naira only) for each day of default.[34]

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[27] OECD BEPS Action Plan, Action 13.
[28] Regulation 2 of the Income Tax (Country-by-Country Reporting) Regulations.
[29] Regulation 3 of the Income Tax (Country-by-Country Reporting) Regulations.
[30] Regulation 9 of the Income Tax (Country-by-Country Reporting) Regulations.
[31] Regulation 11 of the Income Tax (Country-by-Country Reporting) Regulations.
[32] Regulation 12 of the Income Tax (Country-by-Country Reporting) Regulations.
[33] Regulation 6 of the Income Tax (Country-by-Country Reporting) Regulations.
[34] Regulation 13 of the Income Tax (Country-by-Country Reporting) Regulations.

DO THE TP REGULATIONS CLOG BUSINESS SUSTAINABILITY IN NIGERIA?

Benedikt states that the relationship between corporate sustainability performance (CSP) and corporate tax avoidance is currently both theoretically and empirically ambiguous. From a theoretical perspective, traditional economic theories suggest that firms engage in tax avoidance and attempt to increase their sustainability performance to maximise shareholder value. Minimising the corporate tax liability increases shareholder value, which is limited by reputational risks and the probability of detection and punishment.[35] It is not new for companies to attempt to maximise profits by employing tax avoidance strategies and shifting profits from jurisdictions with high tax rates to jurisdictions with low tax rates.

The TP Regulations were issued with the aim of curbing tax evasion, double taxation, and to ensure that companies do not indiscriminately shift profits from Nigeria to countries with low tax rates thus depriving Nigeria of its fair share of tax, among others. Generally, by using transfer pricing, companies are able lower their tax burdens and boost their profits. Under Nigerian law, any transaction between related parties or connected persons must be at arm's length. The methods to be applied in determining whether a transaction is at arm's length are stated in the TP Regulations and are as follows:

i. The Comparable Uncontrolled Price ("CUP") method;
ii. The Resale Price method;
iii. The Cost Plus method;
iv. The Transactional Net Margin method; and
v. The Transactional Profit Split method.[36]

Where a transaction is deemed not to be at arm's length by the FIRS, it is at liberty to adjust the transaction to reflect the arm's length transaction.[37]

The implication of not conducting transactions at arms' length in FIRS' estimation, is that pricing adjustments will be made by FIRS and any ensuing profits will be subject to tax at the corporate tax rate of 30% (thirty percent). There are also penalties for failing to keep appropriate documentation, make[38] the required disclosures,[39] and various other requirements as specified by the TP Regulations.

Again, for commodity transactions, FIRS may select a quoted price at the transaction date that does not accord with the reality of transaction between the related parties.[40] The quoted price at transaction date is the applicable date in commodity transactions. In this regard, quoted price means the price obtainable from an international or domestic

[35] B. Benedikt, "Essays on Transfer Pricing, Taxes and Corporate Sustainability Performance" at https://doi.org/10.5167/uzh-149126 (last accessed 9 August 2019).
[36] Regulation 5(1) of the Income Tax (Country-by-Country Reporting) Regulations.
[37] Section 13(2)(d) of the Companies Income Tax Act.
[38] Regulation 16 of the Income Tax (Country-by-Country Reporting) Regulations
[39] Regulations 13, 14, 15 of the Income Tax (Country-by-Country Reporting) Regulations
[40] Regulation 9 of the Income Tax (Transfer Pricing) Regulations.

commodity exchange market, or from recognised and transparent price reporting or statistical agencies, or from governmental price-setting agencies, or any other index, that is used as a reference by unrelated parties to determine prices in transactions between them. Where there is more than one recognised market, statistical or price-setting agency, FIRS may by notice specify the process for determining the most appropriate index.[41]

There is also no obligation for FIRS to accept customs valuation when determining the transfer pricing.[42] This may work hardship on parties who have relied on the pricing given by another regulatory agency – Nigeria Customs Service in closing the transaction.

Also there are limited deductions for royalty. As such, allowable deductions for royalties paid for transfer of rights in intangibles (except alienation) restricted to 5% (five percent) of EBITDA.[43]

In its quest to reduce the risk of economic double taxation, double taxation may result from an adjustment is made to the taxation of a transaction or transactions of a connected person resident in Nigeria by a competent authority of a country which has a double taxation agreement with Nigeria. In such an instance, FIRS upon a request by a connected person can make a corresponding adjustment to the amount of tax charged in Nigeria on the income.[44] This ensures that the profits from a business are taxed at the appropriate location, regardless of whether that location is Nigeria or not.

From the foregoing, it seems clear that the intent of the TP Regulations is to nip tax avoidance and evasion in the bud by capturing within the tax net, taxable income which would otherwise have been lost through ingenious tax planning schemes carried out by MNEs. While this intent is laudable, there is some concern that FIRS may go overboard in its implementation of the intent and indeed some of the provisions of the TP Regulations tease out this eventuality. For instance, the punitive penalties which in many cases appear to be strict-liability based[45] and could run into a million naira per month, could cripple small and medium-sized enterprises (SMEs), where enforced by FIRS to the letter.

Of course, the corollary argument would be that ignorance of the law is no excuse and in any event, companies regardless of size, would be motivated to comply with the provisions timeously to avoid incurring the penalties.

[41] Regulation 27 of the Income Tax (Transfer Pricing) Regulations.
[42] Regulation 8 of the Income Tax (Transfer Pricing) Regulations.
[43] Regulation 7(5) of the Income Tax (Transfer Pricing) Regulations. EBITDA means earnings before interest, taxes, depreciation and amortisation.
[44] Regulation 10(1) of the Income Tax (Country-by-Country Reporting) Regulations
[45] Strict liability offences are offences which do not consider the presence of fault before holding the offender liable. As such, an ignorant or mistaken offender can be held liable for a strict liability offence.

Conclusion

When associated enterprises transact with each other, their commercial and financial relations may not be directly affected by external market forces in the same way as non-associated enterprises. Tax administrations should not therefore automatically assume that associated enterprises have sought to manipulate their profits. There may be a genuine difficulty in accurately determining a market price in the absence of market forces or when adopting a particular commercial strategy.

In the final analysis, it can be stated that the TP Regulations are intended to eliminate tax avoidance and tax evasion without having any negative impact on the business sustainability of responsible corporate entities. To fully achieve this intent without clogging business sustainability, the following action items are recommended.

Recommendations

1. The right of the FIRS to require submission of TP documentation by companies with a controlled transaction value of less than N300 million should be enforced only in the most deserving of circumstances instead of routinely. This would align with part of the rationale for replacing the 2012 version of the Regulations and would ensure that SMEs are not unduly clogged by the human, money and time resources needed to file the documentation. This, would be an indirect boost to their business sustainability.

2. MNEs and other large businesses within the TP Regulations net, should proactively prepare their TP returns before finalising their audited accounts to anticipate and address TP issues which could be flagged by FIRS in its review of their audited accounts.

VALUE ADDED TAX AND INFRASTRUCTURAL DEVELOPMENT IN NIGERIA

OKOROR Justina Adaku, UWALEKE Uche,
MUHAMMAD Akaro Mainoma & OYEDOKUN Godwin Emmanuel
Department of Accounting
Nasarawa State University, Keffi
justinagreat@yahoo.com

Abstract
This study examined empirically, the impact of Value Added Tax (VAT) on infrastructural development in Nigeria. This study adopts ex post facto research design. Secondary data was retrieved from the Central Bank of Nigeria (CBN) statistical bulletin, Federal Inland Revenue Service (FIRS) and National Bureau of Statistics for various years were used for the study. The data covered the period between 1994 - 2017. This study employed Autoregressive Distributed Lag (ARDL) model approach to co-integration. It was found that VAT is generally not characterized with threatening oscillations year-on-year over the period. This is a good sign for policy makers as it implies that over the business cycle, VAT revenue will still maintain some considerable stability and hence it can be depended upon in the forecasting, budget planning and fiscal coordination. Though VAT growth rates have been meshed with a lot of oscillations and this may be expected due to the efficiency and monitoring levels of tax management authorities and the several loop-holes associated with the remittance of VAT revenue. The coefficient and p-values for VAT; 0.5232 {0.000}, reveals that VAT has a positive and statistically significant impact on at 5% level. The result suggests that an increase in VAT has a positive impact on infrastructural development in Nigeria and with a 1% rise in VAT resulting in a 5.232% increase in infrastructural development. The study recommends that the government and tax authorities should consider the VAT- consumption based models in ensuring revenue stability. Also, there are enormous inefficiencies with regards to the way and manner infrastructural development is carried out in Nigeria. The issues of late and slow budget implementation must be addressed alongside effective budget monitoring and evaluation.

Keyword: Autoregressive distributed lag, Budget planning, Economic development, Infrastructural development, Value Added Tax

Introduction
Taxation is recognized globally by governments as a major tool for revenue generation which can be used to drive growth and development. Aside from the revenue generation role of taxation, it is also a useful tool that can address both social, economic and political outcomes. In this regards, we can look at the use of taxes as instrument that can be used to influence consumption and production decisions as well as address welfare issues such as income distribution and resource allocation (Asada, 2011). Basically, taxes working through a number of channels can go a long way in either enhancing infrastructural development which is needed for growth or can even hinder growth depending on the

structure of the tax policy and issues surrounding revenue accountability by the government. It has been recognized that any effort focused at achieving economic growth can only be effective or successful in the presence of adequate public investment in infrastructural development. It is well known that taxes constitute a major revenue source for government in the financing of public infrastructural investment. In Nigeria, there is huge dependence on tax revenue and thus the structure of the Nigerian tax system consists of company income tax, personal income tax, custom and excise duties, petroleum profit tax and Value Added Tax (VAT). Value Added Tax (hereafter referred to as VAT).

In this study, VAT is the focus it is an indirect tax that is levied on goods and services and thus it is such that the final burden is totally on the consumer. It is imposed only on the value added at every level in the chain of production. It was introduced in 1994 in Nigeria as a replacement for sales tax and the intent as with other taxes was to improve government revenue to facilitate the amongst other things the financing of infrastructural development which provided the impetus that drives economic performance. Most developed and emerging markets have begun re-directing tax policy towards more consumption based models rather than income based models and at best having an efficient combination of both models. The reason is not far-fetched as consumption taxes have been credited with having less distortionary effects on investment and less volatile because consumption expenditure appears more stable. The tax is also quite equitable as the burden is the same irrespective of income. The tax collection is highly cost effective as it is charged at point of consumption and importantly, the loop-holes for evasion or avoidance is less when compared to direct taxes. In this regards, Ajakaiye (1999) is of the view that the sterling performance of VAT in virtually all the countries that has incorporated it into their tax policy motivated the decision to introduce it in Nigeria. Statistical evidence suggests that revenue from VAT has been increasing in Nigeria, but it remains unclear whether VAT has a positive impact on economic growth and development. The World Bank (2010) notes that the rapidly growing economies, such as China, provide support for the view that higher levels of efficient tax expenditure have been important contributors to infrastructural development and poverty reduction (World Bank, 2014). On the other hand, evidence from Latin America and developing economies in Africa over the past decade has shown the crowding out of infrastructure spending by governments in favor of entitlement spending, revenue sharing, and in some cases debt service, with a resulting in misappropriation of tax revenue which impacts negatively on the build-up of critical infrastructure (World Bank, 2014) expected to drive and sustain economic growth performance. Consequently, the objective of this study is to empirically examine the impact of VAT on infrastructural development in Nigeria.

Statement of the Problem

Empirical investigation into the relationship between VAT and its effect on infrastructural development has been looked into by some scholars. For example, Oladipupo and Ibadin (2016) covering the period, 1981-2011 found positive and significant relationships between the infrastructural development and some tax revenue components. However, the study failed to test the data for stationarity and this is important because unstationary data will yield spurious regression results. Again, Ayanduba and Aronwman (2015) investigated the impact of tax revenues collected by the government on infrastructural development in Nigeria for the period 1980-2014. VAT have non-significant impact. However, the study period stopped at 2014 and thus there is the need to also consider the more recent periods. Oliver, Edeh and Chukwuani (2017) study examines the effect of Federal Government of Nigeria's Tax resources on infrastructural development of Nigeria. The study covered ten year period (2006-2015). The result reveals that VAT had positive and insignificant effect on Infrastructural Development in Nigeria. However, the study failed to test the data for stationarity and this is important because unstationary data will yield spurious regression results and the study stopped at 2015.

Key limitations observed in these studies cited above includes; firstly, the stationarity conditions of the data was not ascertained for the necessary measures to then be employed. This study address this limitation by conducting unit root testing for the data to address the stationarity issues and thereby avoiding the case of spurious regression. Secondly, knowing fully well that VAT only come into motion in 1994, most prior studies often begin their time period from 1981 and this leaves a lot of empty data for VAT variable and this may affect the estimation result. Hence this study avoids such potential weakness by beginning the study period from 1994. Thirdly, the study employs the relatively recent auto-regressive distributive lag (ARDL) approach in the estimation of the data unlike prior studies that have simply utilized the Ordinary least squares (OLS) regression and non The main advantage of this procedure is that it can be applied regardless of the stationarity properties of the variables in the sample and allows for inferences on long-run estimates which are not possible under alternative co-integration procedures. In other words, this strategy may be applied irrespective of whether the series are stationary at levels I (0) or at first order I (1). Based on the limitations and gaps identified in prior studies, the study re-visits the relationship between VAT and infrastructural development in Nigeria.

Objective of the study
The specific objective of the study is to examine the impact of VAT on infrastructural development in Nigeria

Hypothesis of the study
$\mathbf{H}_{01:}$ VAT has no positive significant impact on infrastructural development in Nigeria

Literature Review

Concept of Infrastructural development
No better time in the history of economic thought than now has the idea been deeply enshrined that investment in infrastructural development is germane to any attempt at achieving growth in a sustainable manner in developed and developing countries alike. However, what is often the case for many developing economies is both a deterioration in the existing stock of infrastructure and lowered or poorly accounted public funding for

infrastructural development. Hence closing the 'infrastructure gap' will require both a deliberate attempt to maintain quality of already existing infrastructural capital and also accountability in the financing and execution of current infrastructural development projects and initiatives. What matters for growth is the sustained flow of productive capital services that the public capital stock provides to private factors of production, which in turn requires that the capital stock is efficiently operated and maintained.

Infrastructure are usually the main components in a nation's public sector capital stock and studies on public capital mainly focus on infrastructure impacts on growth and productivity. Thus we can conclude that infrastructural investment and development provides the enabling environment that drives economic growth and progress (Isaksson, 2009). The World Bank (1994) has strongly pushed for countries to focus on infrastructural development as they hinted that that countries that spend more of their budget on public investment tend to grow faster in comparison with countries that invest less (UNCTAD, 2006).

Fourie (2006) looked at the definition of infrastructure from two perspectives. Firstly is by using the features and this defining it in the light of the characteristics and the second perspective involves identifying all infrastructural elements rendering services to the public such as transport, communications, education, energy and water supply. Going by the first perspective, Fourie (2006) defines infrastructure as capital goods that produce public services and this is because in essence infrastructure exhibits the main features of public good such as non-excludability and positive externalities (Fedderke and Garlick, 2008). Though strictly, infrastructures do not necessarily reflect these features in the same degree and thus in some cases, infrastructure could also be public goods that are not necessarily infrastructure and for example, we have military equipment. There may also be private owned infrastructure which may not necessarily be subjected to such features of infrastructure such as non-excludability (Fourie, 2006).

Srinivasu and Srinivasa-Rao (2013), defined infrastructure as the stock of all basic facilities including capital equipment that are critical for the sustenance of productive activity and for the proper functioning of a country. It is an "umbrella" term for several elements both social and economic covering "Social Overhead Capital", "Economic Overheads", "Overhead Capital" and "Basic Economic Facilities" (Srinivasu and Srinivasa-Rao, 2013). Hirschman (2008) is of the view that an activity can be seen as being a component of infrastructure if it aids the continuity and sustenance of other social and economic processes, if it is such that the provision is by public agencies, or where its ownership is private, it is under public control and if it is technically indivisible (Srinivasu and Srinivasa-Rao, 2013). Although there is yet no universally accepted definition of infrastructure, a common thread going across almost all of the definitions is the idea that infrastructure refers to capital goods provided with a long-term perspective, facilitated by either government or the private sector (Baldwin and Dixon, 2008; Snieska and Simkunaite, 2009).

Snieska and Simkunaite, (2009) in their perspective distinguished between two components of infrastructure, namely, economic and social infrastructure. Economic infrastructure is depicted as the type of infrastructure that is responsible for driving and stimulating economic activity, such as, roads, telecommunications, electrical lines, highways, railroads, airports, seaports, supply and sanitation (Fourie, 2006). On the other hand, social infrastructure refers those types of infrastructure that related to the improvement of human welfare and living standards. It is believed that such social infrastructure promotes health, educational and cultural standards of the population. They include; hospitals, schools, universities, libraries, clinics, hospitals, parks and statues.

According to the Economic policy Institute (2012), infrastructural development deals with the improvement of the country's capital stock by financing investment in core basic physical infrastructure such as rail lines, roads, airports, bridges and water distribution, and human capacity development. On the overall, these investments drives economic performance positively for the country, encourages the inflow of foreign direct investment, stimulates local entrepreneurship and small scale businesses which results in economic growth and the improvement of the country's productive capacity and welfare.

IMF (2015),defines infrastructural investment as the overall public gross fixed capital formation (GFCF) and covers the "total net value of general government acquisitions of fixed assets during the accounting period, plus variations in the valuation of non-produced assets (e.g., subsoil assets)". Furthermore, the IMF also conceptualizes public capital stock as the accumulated value of public investment covering both social and economic investment over a time period and then not forgetting to adjust for depreciation. The IMF (2015) notes further that following three decades of steady decline, infrastructural investment as a share of GDP has begun to recover in some parts of the world. In advanced economies (AEs), average public investment has steadily decreased from a high of just under 5 percent of GDP in the late 1960s to a historic low of just over 3 percent of GDP in 2012. In contrast, in emerging markets (EMs) and low-income developing countries (LIDCs), public investment rates peaked at over 8 percent of GDP in the late 1970s/early 1980s, declined to around 4-5 percent of GDP in the mid-2000s, but have since recovered to 6-7 percent of GDP. Hence, public investment rates in AEs remain at historic lows, but have partially recovered in EMs and LIDCs over the last decade

Anderson, de Renzio and Levy (2006) defines *infrastructural investment* using an expenditure paradigm. The authors opine that infrastructural investments are in themselves public or budget expenditure which may be done annually to develop infrastructure in certain areas and hence increase the already existing public physical capital stock. This includes building of roads, ports, schools, hospitals etc. This view is similar to the definition of public investment in national accounts data, namely, capital expenditure. The authors are of the view that one of the factors that have put more focus on the need for countries to accelerate their infrastructural drives is the renewed emphasis on achieving the MDGs through "big push" strategies built around increasing the levels of investment.

Truger (2015) using the lens of the "golden rule of public investment" referred to infrastructural investment as government expenditures channelled into developing infrastructures that will generate positive impacts on the economy by fostering economic growth. However, Välilä and Mehrotra (2005) tries to conceptually distinguish between "infrastructure investments" and "public investment" as these two terms are often quite misunderstood and misplaced. The authors note that while it is true that a large chunk of public investment is infrastructure investment, however, it may be wrong to say that all infrastructural investments are public investment and this is logically so because there is a whole lot of infrastructure investment that is undertaken by commercial entities and in most cases it mistakenly believed to be public investment. In the author's view, the categorization of infrastructural development should be limited to only the investment whose financing is done directly from the government.

Value Added Tax (VAT)

A very notable tax policy in Nigeria was the introduction of the value-added tax (VAT) in January through the VAT Act No. 102 of 1993 though the proper administration of the tax started in January 1994 to replace the Sales Tax. Taxable persons are obliged to register under VAT Act. The tax is at a single rate of 5 percent of taxable goods and services. Supply of all goods and services except those specifically exempted are subject to VAT. Non-resident companies, which transact business in Nigeria, are also required to register for VAT and render VAT returns using the address of the company in Nigeria with whom they have subsisting contract. From the beginning of the tax, 15 of the 42 sections of the Act have gone through amendment stages and though historically VAT was originally imposed on 17 categories of goods and 24 service categories. The revenue coming from VAT was to be divided on the 20:80 principle between the federal and state government though now the sharing pattern is 15:50:35 among the federal/state/local levels. Some scholars such as Owolabi and Okwu (2011), Okoye and Gbegi (2013) and Umeora (2013) submit that VAT acts as a means for promoting infrastructural development which can lead to economic growth as a result of its contributions to sectoral performance, government tax revenue and wealth creation in Nigerian. They realized a positive correlation between VAT, total tax revenue and gross domestic product. However, Van-Beek (2007) claims that imposing of VAT could possibly lead to loss of economic efficiency and a decrease in economic activity because of its influence on production and consumption of goods and services.

The behaviour of collectible taxes to developments has also been examined by scholars. Owolabi and Okwu (2011) assess the involvement of Value Added Tax in the development of Lagos State economy. The findings point out that revenue arising from VAT was positively contributory to the improvement of the economic sector but with greater significance in the agricultural sector. Its influence on infrastructural development was not statistically significant. Again, in studying value added tax (VAT) effect on economic developments of budding Nations from 2001 to 2009, Unegbu and Irefin (2011) discovered that during the study period the effects of VAT allocations was significant to expenditure pattern of the states studied. A study of company income tax and Nigeria's economic development shows a significant association between company income tax and economic development of Nigeria (Adegbie & Fakile, 2011). This view was supported by Adereti et al. (2011) who reveal that even with a positive association between VAT revenue and gross domestic product, there remains no evidence of causality between both variables.

Empirical Review

Ayanduba and Aronwman (2015) sought to examine the effect of federally collected tax revenues Nigeria's infrastructural development. As already indicated the study examined just taxes collected by the federal government and excludes that of the states or local government. The methodological approach used in the study involves the use of a longitudinal research design was because of the time series nature of the variables. The Error Correction Model was used in the estimation of the specified models. Looking at the findings, it is proven empirically that CIT exerts a significant impact infrastructural development in Nigeria though same could not be said for VAT as a non-significant effect was observed. The major recommendation of the study is that there is need for proper restructuring in the way VAT is administered putting into perspective the need to ensure that collection and remittance is done in the most efficient manner possible. However, the study period stopped at 2014 and thus there is the need to also consider the more recent periods.

Oladipupo and Ibadin (2016) conducted a study to investigate how non-oil taxes impacts on the level of Nigeria's infrastructural development. The scope of the study was for the time frame; 1981-2011 and the amongst other explanatory variables examined, VAT was also examined. The methodological approach adopted by the study involves the use of the OLS multiple regression analysis in the estimation of the relationships between the major components of tax revenue and infrastructural development in Nigeria. The findings of the study revealed that amongst other variables, VAT has a positive and significant effect on the level of infrastructural development in Nigeria and this gives credence to the conclusion that increases in VAT revenue can improve infrastructural development in Nigeria. However, one weakness of the study failed is that it failed to test the data for stationarity and this is important because unstationary data will yield spurious regression results.

Oliver, Edeh and Chukwuani (2017) study looked critically into the effect of tax revenue on infrastructural development of Nigeria. Particularly, the study looked at revenue from Value Added Tax (VAT) and company income tax (CIT). The methodological approach used in the study includes the adoption of the ex-post facto research design, use of secondary data covering the period 2006-2015. The Data were sourced from the Central Bank of Nigeria Statistical Bulletin and the Federal Statistical Bureau. The analysis of the data was done using the multiple linear regression technique. The outcome of the study reveals that no significant relationship was found between Value added tax and Infrastructural Development in Nigeria. Again just like in the case of Oladipupo and Ibadin (2016), the study failed to test the data for stationarity and this is important because unstationary data will yield spurious regression results.

Ofoegbu, Akwu and Oliver (2016) investigate the impact that tax revenue has on the economic development in Nigeria and to also see if using the human development index (HDI) and using GDP as measures of development will yield significantly different results. The methodological approach of the study involves the adoption of the annual time series design with a data coverage for the period 2005 -2014. The method of data analysis used for the estimation is ordinary least square (OLS) regression technique and two separate estimations were done to reflect the HDI and GDP measures. Findings show a positively and significantly relationship between tax revenue and economic development. The result also reveals that measuring the effect of tax revenue on economic development using HDI gives lower relationship than measuring the relationship with GDP. However, the study failed to test the data for stationarity and this is important because unstationary data will yield spurious regression results.

Looking at the state level, Owolabi and Okwu (2011) sought to empirically identify the impact of Value Added Tax to the infrastructural development of Lagos State. Lagos state is arguably Nigeria's economic capital due to the level of trade and economic activities in the state. The methodological approach used in the study includes the use of a time series research design for the study and the use of the simple regression models for the estimation of the data gathered. In terms of the measures of infrastructural development examined in the study, a number of areas were examined ranging from, agricultural sector development, environmental management, education sector development, youth and social development, health sector development and transportation sector development. The results supports the view that VAT revenue has a significant positive impact on infrastructural development in the respective sectors although this effect was only observed in agricultural sector development. However, a limitation of the study is the focus on just one State and the failure to employ standard econometric approaches in the data analysis.

Still on State analysis, Unegbu and Irefin (2011) conducted a study to examine the impact of value added tax (VAT) on economic and human development. The methodological approach used in the study incorporates the use of secondary data covering the period from 2001 to 2009. The analysis method used includes regression, discriminant analysis and ANOVA. The findings of the study shows that VAT revenue goes a long way to affect the expenditure pattern of the states and thus determined the investments made on infrastructural development.

Nwosu and Okafor (20l4) investigated if a significant relationship exist between tax revenue and the government expenditure profile in Nigeria. The study used a times series data ranging from (1970- 2011). The analysis of the data was conducted using the Variance autoregressive model and the findings show that total expenditure by government on infrastructures exhibit a long run unidirectional relationships with tax revenue. Basila (2010) also tried to examine the effect of VAT on the economy using data for the period 1994-2008. The outcome of the study was that between VAT and gross domestic product, there is the presence of a significant relationship. Adereti et al (2011) investigate the link among VAT revenue, total tax revenue and gross domestic product using both simple regression analysis and descriptive statistical method for the 1994-2008 sample period. The findings from their study support a positive and significant correlation between VAT revenue and gross domestic product, though VAT revenue as a proportion of total revenue was relatively low. Okoye and Gbegi (2013) in their own study sought to examine the existence of a statistically significant impact of VAT on wealth creation in Nigeria with results confirming the view that a statistically significant relationship exist.

Umeora, (2013) investigated the relationship between VAT and economic growth through infrastructural development. The methodological structure for the work involved the use of secondary data for the period covering 1994-2010. The OLS was employed in the estimation of the results and the findings appear not to support the view point that there is a pass through mechanism from infrastructural development to growth resulting from tax revenue.

Theoretical Framework

Political Economy Theory of Fiscal Policy

The theoretical underpinning for this study builds on the political economy theory of fiscal policy. The theory develops the perspective that governments raise tax revenues and then use the collected resources for the financing of infrastructural investment to improve the availability of public goods and services and pursue the provision of specific quality public infrastructure. The theory outlines quite clearly, that the reason for the collection of tax revenues is chiefly to improve the "fiscal capacity" of the state to undertake infrastructural development spending and investment that can then go a long way to stimulate growth and economic performance. Empirical evidence have shown that it is often the case that in periods of low tax revenues, one area that is worst hit is that of public spending on infrastructure (Palley, 2006; Schade, 2005; Kumar et al. 2007; Gupta et al. 2014). A plausible reason for this may be because the positive gains from investment in infrastructure may not be immediate and comes with a long lag as compared to other direct spending by government such as transfers and wage raises which tends to have immediate gains and benefits that affects the generality of the people. However, it suffices to note that the level of the effect of revenue generation on public investment spending may differ, given differences in macroeconomic structure and conditions of the economy and level of development (Drether, et al. 2006; Kumar, et al. 2008). Therefore, within the context of the political theory of fiscal policy, the challenge now especially for developing economies like Nigeria is regarding policy decisions made by the government, which decides on how best to allocate the collected limited resources into alternative competing sectors (Battaglini and Coate, 2008).

Methodology

This study adopts an ex-post facto research design was adopted for this study. In this study, secondary data retrieved from the CBN statistical bulletin, Federal Inland Revenue Service (FIRS) and National Bureau of Statistics for various years will be used for the study. The data will cover the period between 1985-2017. The data analysis methods deals with the various statistical analysis involved in the description of the collected data and consequently, making decisions and possible inferences about the phenomena represented by the data. For the estimation of the models, the method of data analysis that will be employed in this study is the co-integrated regression. It is well-known that if the series are cointegrated, ordinary least squares estimation (static OLS) of the cointegrating vector is consistent, converging at a faster rate than is standard (Hamilton 1994). One important shortcoming of static OLS (SOLS) is that the estimates have an asymptotic distribution that is generally non-Gaussian, exhibit asymptotic bias, asymmetry, and are a function of non-scalar nuisance parameters. Since conventional testing procedures are not valid unless modified substantially. In this regards, the dynamic OLS has been developed as one of the methods for estimating cointegrating vectors.

Model Specification

The Model for the study examines the impact of custom and excise duties on infrastructural development in Nigeria. The model adapts Ayanduba and Aronwman (2015) and the model for the study is presented below;

$$INFDEV_t = ë_0 + ë_1 VAT_t + ë_2\ DEBT_t + ì \text{ -------------- } (1)$$

Where:

INFDEV= Infrastructural development measured using Capital expenditure
VAT= Value added tax
DEBT= Total federal government Debt
FDI= Foreign direct investment
$ë_0 - ë_2$ = slope coefficients
ì = error term
t= time

Diagnostic Tests

The following diagnostic tests was conducted to ensure robustness of the estimations;

i. **Testing for Normality:** The regression variables were tested for normality, that is, a condition in which the regression variables followed a standard normal distribution. The Jarque-Bera statistics was used to test and check normality of the data series. Where the residuals were said to be normally distributed, the histogram should be bell-shaped. If the variables were normally distributed, the probability of the Jarque-Bera statistics should be less than 0.05.

ii. **Testing for Stationarity:** The Augmented Dickey-Fuller (ADF) unit roots test are used to test for stationarity. A variable is said to be stationary when the calculated test statistic is greater than the critical value in absolute terms, and the critical value is read at a certain level of significance. However, where the variables are non-stationary, they would have to be differenced. The use of a non-stationary variable in regression analysis results in a spurious relationship. This would lead to poor forecasts. For the purpose of this study, the ADF test was used.

iii. **Testing for Multicollinearity:** Multicollinearity is a situation in which an exact or almost exact linear relationship exists between some or all the explanatory variables, that is, that they are perfectly correlated (Iyoha, 2004). If this relationship exists, the parameter co-efficient will be indeterminate, and there will be large standard errors of the estimated coefficients. However, the study used the variance inflation factor test to examine multicollinearity status of the variables.

iv. **Serial Correlation Test:** Serial correlation occurs when there is a model misspecification or where the static error term correlates with itself overtime. When this happens, the estimators are no longer referred to as Best Linear Unbiased Estimators (BLUE). The R^2 may be overestimated standard errors, underestimated and t-statistics overestimated. The Breusch-Godfrey Lagrange Multiplier test of serial correlation was adopted in this study. The LM test is generally used to test the null hypothesis that the errors are serially independent.

v. **Co-integration Tests:** Once the stationarity properties of the individual series are established, linear combinations of the integrated series are tested for co-integration. Should a linear combination of individual non-stationary series produce a stationary data series, then the variables are co-integrated and hence they describe equilibrium relationships. If a linear combination of variables is stationary, then the relationship between a dependent variable and a linear combination of these variables can be assumed to be co-integrated. The test for a long run relationship between the dependent variable and each of the independent variables is the co-integration test.

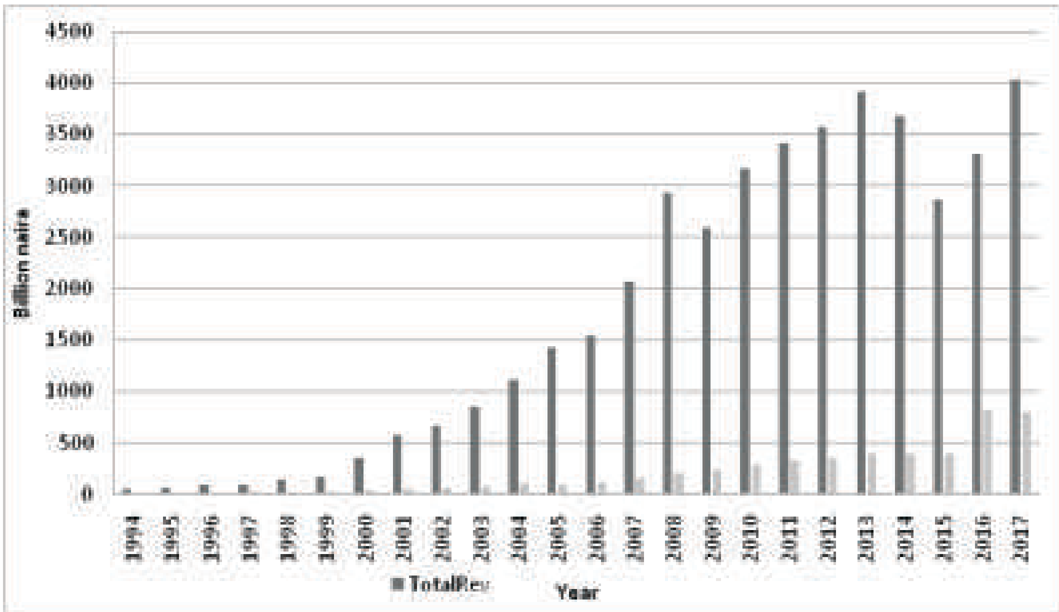
Table 4.1: Definition and Measurement of Variables

Variable	Measurement	Source	Aprori sign
Dependent variable			
Infrastructural development (INFDEV)	Annual budget on Capital expenditure	Oladipupo and Ibadin (2016), Oliver, Edeh and Chukwuani (2017)	
Independent variable			
VAT	VAT Revenue	Ayanduba and Aronwman (2015)	+
Control Variables			
FDI	FDI inflows	Easson, (2004)	+
DEBT	Total domestic and foreign debt	Nzotta, 2004).	+

Source: Researchers compilation (2018).

PRESENTATION AND ANALYSIS OF RESULT

Figure 1: Total Revenue and VAT Distribution.



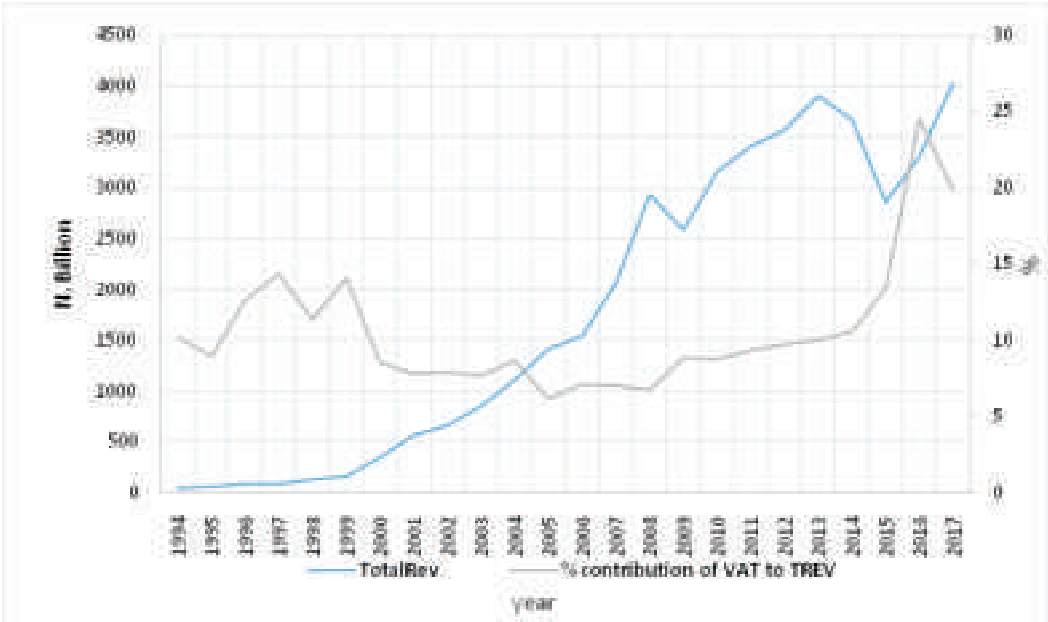
Source: CBN, FIRS (2018)

Figure 1 shows total revenue performance and also VAT revenue profile from 1994 to 2017. As observed, statistics shows that total revenue has been on a steady rise from the beginning of the study period driven largely by rising oil prices which has also been complemented with improvement in non-oil revenue performance. In 2009 a down turn in total revenue was observed which was quite short-lived as revenue bounced back increasing in 2010 in a sustained manner until 2015 when the global fall in crude oil prices set in hurting oil revenue. Nigeria’s economy has been growing except at an average of 6% than the 5 per cent continental average except for 2015 when crash in oil prices hampered revenue from oil related sectors and mainly the petroleum profit tax and thus affecting total tax revenue for 2015 (Guardian, 2015).A revenue rebound was observed in 2016 coming on the heels of Non-OPEC production and relentless demand growth moving up more than a million barrels per day each year and which have remained largely so amidst benign oscillations into 2017.

Figure 2 shows the total revenue profile and the percentage contributions of VAT to total revenue over the study period. As observed, the % contributions of VAT have been quite unimpressive. In 1995, VAT contributed 10.15% to total revenue, declining to 8.9% in 1996 and improved slightly to 12.61% in 1997 and then again to 14.11% in 1998. In 1999, VAT contributed just 11.32% to revenue and then 14.054% in 2000. The period following from 2000-2013, the contribution of VAT was abysmally low at less than 10% with the highest being 9.14% in 2013. Some slight improvement followed in 2015 when VAT contributed 13.3% and then 24.519% in 2016 but declining to 19.799% in 2017.

The dismal performance of VAT is indeed an unfortunate situation for Nigeria as the potentials of VAT-type revenue has been identified globally as countries are now moving away from income based taxes to consumption based taxes.

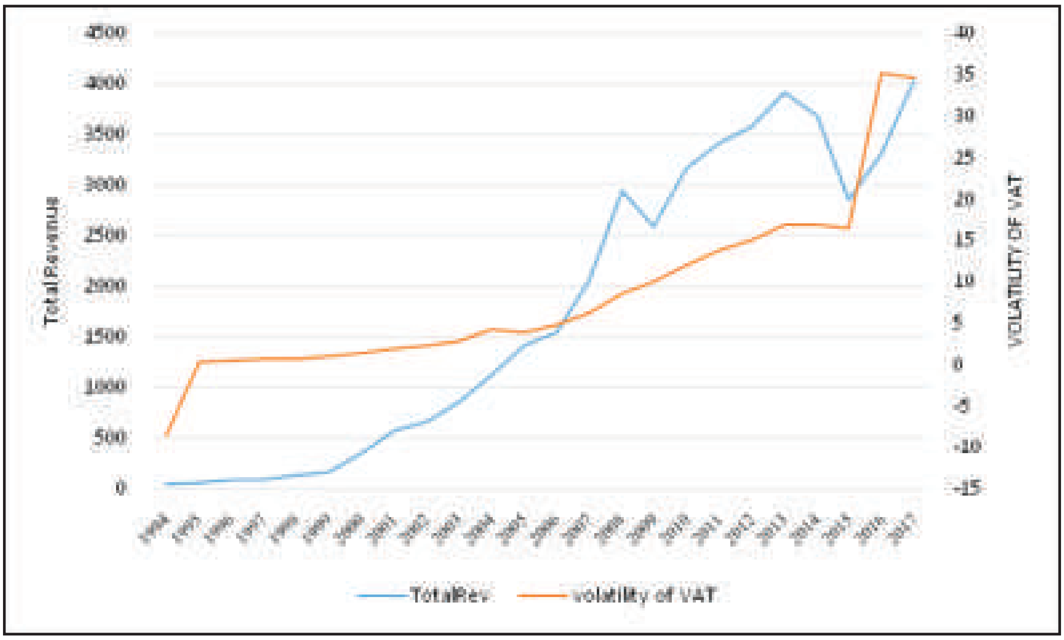
Figure 2: Total Revenue and VAT percentage Contribution



Source: CBN, FIRS (2018)

Figure 3 examines the volatility of VAT revenue in Nigeria. The considerations of volatility is important for tax planning and fiscal policy. A very volatile tax revenue may pose challenge for budgeting and fiscal coordination. As shown in the figure 3, VAT exhibits no threatening volatility as the trend shows very stable behaviour with less unprecedented shocks. Though there are sharp spikes in 2010 and 2015 deviations, the trend of VAT is generally not characterized with threatening oscillations year-on-year over the period. This is a good sign for policy makers as it implies that over the business cycle, VAT revenue will still maintain some considerable stability and hence it can be depended upon in the forecasting, budget planning and fiscal coordination. It has been empirically shown that VAT are less susceptible to shocks because it is consumption-base

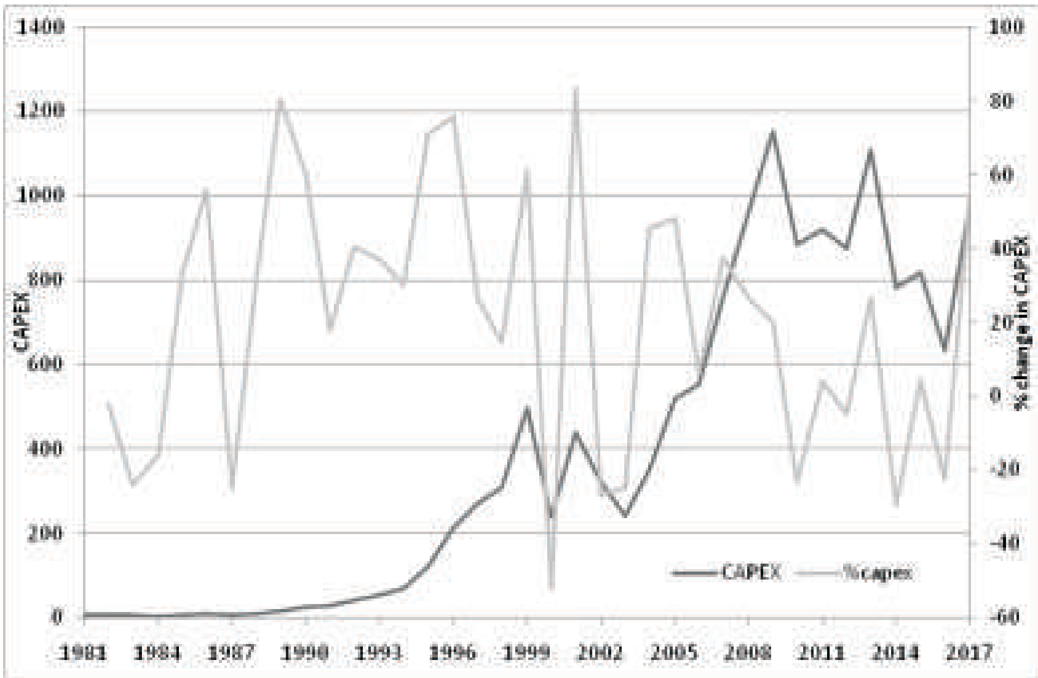
Figure 3: Total Revenue and Volatility of VAT Revenue.



Source: CBN, FIRS (2019)

Figure 4 examines the Capital expenditure (CAPEX) data and the growth levels of capital expenditure. As observed from the trend below, a steady growth in capital expenditure can be observed from the beginning of the study period 1981-1999. In 2000, we observed that the trend steeped downward as capital expenditure dropped from 498.0276 billion in 1999 to 239.4509 billion in 2000. A major reason for this is the shortfall in revenue especially resulting from the fall in oil prices. In 2001, CAPEX increased to 438.6965 billion but again dropped to 321.3781 billion in 2002 and also declined further to 241.6883 billion in 20003. In 2004, we observed an increase to 351.3billion and this further rose to 519.5 billion in 2005. In 2006, we observed a further rise in CAPEX to 552.3858 billion and then to 759.323 in 2007. Consistent rise in CAPEX is observed up until 2012 where it dropped to 874.834 billion from 918.5489billion in 2011. A rebound in CAPEX is observed in 2013 moving up to 1108.386 billion and then falling again to 783.1224 billion in 2014. 2015, 2016 and 2017 CAPEX stood at 818.365billion, 634.8036 billion and 979.5billion respectively. From the graph below, the change in CAPEX depicts a trend characterized by several spikes and oscillations indicating the high vulnerability of CAPEX to shocks especially those coming from oil prices.

Figure 4: Capital Expenditure (CAPEX) and % change in CAPEX



Source: CBN, FIRS (2019)

Table 1: Descriptive Statistics

	CAPEX	VAT	DEBT
Mean	584.1884	7661845	5467.677
Median	535.9429	199850	4207.125
Maximum	1152.797	65635352	18366.31
Minimum	70.9183	7261	1037.296
Std. Dev.	329.2679	20213869	4392.475
Skewness	0.130126	2.371507	1.390597
Kurtosis	1.713083	6.791944	4.605522
Jarque-Bera	1.723886	36.87502	10.31274
Probability	0.000	0.000	0.0057

Source: Researchers compilation (2019).

The summary/ descriptive statistics is presented for the variables as shown in the table above. As observed, VAT has a mean value of 7661845(nm) with standard deviation value of 20213869 indicating significantly high volatility in VAT revenue within the period under review. Maximum and minimum values are 65635352(nm) and 7261.00(nm) respectively. CAPEX has a mean value of 584.1884 (BN) with standard deviation of 329.2679 also indicating significantly high volatility in CAPEX within the period under review. The Maximum and minimum values are 1152.797(bn) and 70.9183(bn) respectively. DEBT has mean value of 5467.677 (bn) with maximum and minimum values of 18366.31(bn) and 1037.296(bn) respectively The Jacque-bera statistic and the p-value indicate that the series are normally distributed and the presence of outliers are unlikely in the series and their residuals.

Table 2. Unit root test Results

Unit root test at levels			
	ADF-Test Statistic	95% Critical ADF Value	Remark
VAT	1.7881	-2.96	Non-stationary
CAPEX	1.9573	‘ ’	‘ ’
DEBT	1.8372		
Unit root test at 1st difference			
	ADF-Test Statistic	95% Critical ADF Value	Remark
VAT	3.1688	2.96	Stationary
CAPEX	6.4613	‘ ’	‘ ’
DEBT	6.9632		

Source: Researchers compilation (2019).

The Augmented -Dickey Fuller (ADF) test is employed in order to analyse the unit roots. The results are presented in levels and first difference. This enables us determine in comparative terms, the unit root among the time series and also to obtain more robust results. The result indicates that all of the variables have ADF values that are less than the 95% critical ADF value of 2.96. The implication of this is that the time series for these variables are stationary in their levels. Moving forward, we take the first differences of the respective variables and perform the unit root test on each of the resultant time series. The rationale behind this procedure is that Box and Jenkins (1976) have argued that differencing non-stationary time series will make it attain stationarity. The result of the unit root test on these variables in first differencing shows that the ADF values in absolute terms is greater than the 95% critical ADF values. With these result, all variables are adjudged to be stationary. Thus we accept the hypothesis that the variables possess unit roots. Indeed the variables are integrated of order one i.e. I(1)

Table 3. Co-integration Test (Trace Statistics)

Hypothesized No. of CE(s)	Eigenvalue	Trace Statistic	5% Critical Value	Prob.**
r = 0*	0.926747	90.13013	47.85613	0.000
r = 1*	0.70763	37.85351	29.79707	0.0048
r = 2*	0.476187	13.25878	15.49471	0.1057

Source: Researchers compilation (2019).

Table 4: Co-integration Rank Test (Maximum Eigenvalue)

Hypothesized		Max-Eigen	0.05	
No. of CE(s)	Eigenvalue	Statistic	Critical Value	Prob.**
r = 0*	0.926747	52.27662	27.58434	0.000
r = 1*	0.70763	24.59473	21.13162	0.0156
r = 2*	0.476187	12.93241	14.2646	0.0803

Source: Researchers compilation (2019).

Following the unit root test results shown in table 2 which indicate that the time series variables are integrated of order one I(1), the next step is to examine whether or not there is at least one linear combination of the variables that is integrated of order zero, I(0), and hence, if there exists a stable and non-spurious cointegrated relationship in the long run between time series variables (Miguel, 2000). The Johansen approach determines the number of cointegrated vectors for any given number of non-stationary variables of the same order. The study utilizes the Johansen co-integration methodology in conducting the co-integrating properties of the data. Using the trace and maximum Eigen-value statistics, the results for the test rejects the null hypothesis that there is no co-integrated vector and hence the variables are co-integrated. With this result, we proceeds to specify the long run equation.

Table 5: Multicollinearity Test using Variance Inflation Factor (VIF) Test

Variable	Centered VIF
VAT	3.407754
DEBT	4.441037

Source: Researchers compilation (2018).

Multicollinearity among the independent variables implies that they are perfectly correlated. If there exists perfect correlation between the independent variables, the parameter coefficients will be indeterminate. In the presence of multicollinearity, there will be large standard errors of the estimated coefficients. This violation is not a problem of the model or the disturbance term and therefore does not affect the BLUE properties of the OLS estimates. Various statistical methods that can be used to test the degree of multicollinearity have been advanced. In this study, the variance inflation factor (VIF) test is used. Basically, VIFs above 10 are seen as a cause of concern (Landau and Everitt, 2003)

Table 6. OLS Result

Variable	*Aprori Sign*	*Beta, standard error p-values*
C		4.76188* {0.6409} (0.0000)
VAT	+	0.5232* {0.1572} (0.0088)
DEBT	+	-0.6643* {0.1851} (0.0059)
R^2 = 0.574, Adj R^2 = 0.506, S.E of regression = 0.2846, F-stat = 35.966, p(f) Stat=0.000, Durbin Watson =2.033		

Source: Researchers compilation (2019).

The regression result reveals the structural coefficients of the variables and their relationship with Infrastructural development. The R2 of the regression stood at 0.574 which suggest that the model explains about 57.4% of systematic variations in the dependent variables with an Adjusted R2 of 50.6%.The variables are estimated in their log forms and hence the interpretations are done in terms of percentage changes. The coefficient and p-values for VAT; 0.5232 {0.000}, reveals that VAT has a positive and statistically significant impact on at 5% level. The result suggests that an increase in VAT has a positive impact on Infrastructural development and with a 1% rise in VAT resulting in a 5.232% increase in Infrastructural development. The coefficient and p-values of DEBT, -0.6643 {0.000} reveals that DEBT has a negative and statistically significant impact on Infrastructural development at 5% level. Specifically, the estimate suggests that a 1% increase in DEBT will cause a decline in Infrastructural development by about 6.643%.

Table 7. Post -Estimation diagnostics

Breusch-Godfrey Serial Correlation LM Test:	F-statistic = 1.581	Prob (f) = 0.9210
Heteroskedasticity Test: Breusch-Pagan-Godfrey	F-statistic= 2.227	Prob (f) =0.2378
Ramsey Reset Test	F-statistic= 2.603	Prob (f) =0.1103

Source: Researchers compilation (2018).

The Breusch-Pagan test for heteroskedasticity, Breusch-Godfrey Serial Correlation LM Test an Ramsey Reset test were performed as diagnostics for the estimation and the result confirms the absence of heteroskedasticity, serial correlation and omitted variables bias in the estimation and hence the post estimation diagnostics suggest that the estimation results are valid and satisfies the necessary statistical conditions.

Discussion of Result and Test of Hypothesis

The regression results reveals the structural coefficients of the variables and their relationship with Infrastructural development. The coefficient and p-values for VAT; 0.5232 {0.000}, reveals that VAT has a positive and statistically significant impact on at 5% level. The result suggest that an increase in VAT has a positive impact on Infrastructural development and with a 1% rise in VAT resulting in a 5.232% increase in Infrastructural development. Therefore, we reject the null hypothesis that VAT has no positive and significant impact on Infrastructural development in Nigeria. The finding of the study is in tandem with Oladipupo and Ibadin (2016) which examine the impact of non-oil taxation on the infrastructural development in Nigeria. The positive and significant relationships between the infrastructural development and some tax revenue components indicate that policy measures to expand tax revenue through more effective tax administration will impact positively the infrastructural development in Nigeria. The finding is also supported by that of Owolabi and Okwu (2011) which showed that VAT revenue contributed positively to the development of the respective sectors. Though the finding is at variance with Ayanduba and Aronwman (2015) which investigated the impact of tax revenues collected by the government on infrastructural development in Nigeria. The findings show that VAT have non-significant impact. In the same vein, Oliver, Edeh and Chukwuani (2017) study examines the effect of Federal Government of Nigeria's Tax resources on infrastructural development of Nigeria. The result reveals that VAT had positive and insignificant effect on Infrastructural Development in Nigeria.

Conclusion and Recommendation

VAT is an indirect tax that is imposed on goods and services, and the ultimate burden rests on the final consumer. It is imposed only on the value added at every level in the chain of production. It was introduced in 1994 in Nigeria as a replacement for sales tax with the aim of increasing the revenue base of the government and making funds available for developmental purposes. The aim of the study is to examine empirically, the impact of VAT on infrastructural development in Nigeria. This study adopts a time-series research design. In this study, secondary data retrieved from the CBN statistical bulletin, Federal Inland Revenue Service (FIRS) and National Bureau of Statistics for various years will be used for the study. The data will cover the period between 1994-2017. The study found that VAT is generally not characterized with threatening oscillations year-on-year over the period. This is a good sign for policy makers as it implies that over the business cycle, VAT revenue will still maintain some considerable stability and hence it can be depended upon in the forecasting, budget planning and fiscal coordination. Though VAT growth rates have been meshed with a lot of oscillations and this may be expected due to the efficiency and monitoring levels of tax management authorities and the several loop-holes associated with the remittance of VAT revenue.

The regression results reveal the structural coefficients of the variables and their relationship with Infrastructural development. The coefficient and p-values for VAT; 0.5232 {0.000}, reveals that VAT has a positive and statistically significant impact on at 5% level. The result suggest that an increase in VAT has a positive impact on Infrastructural development and with a 1% rise in VAT resulting in a 5.232% increase in Infrastructural development. The study recommends that that the government and tax authorities look critically at the VAT- consumption based models in ensuring revenue stability. Also, there are enormous inefficiencies with regards to the way and manner infrastructural development is carried out in Nigeria. The issues of late and slow budget implementation must be addressed alongside effective budget monitoring and evaluation.

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APPENDIX

Appendix 1: DATA

	VAT	DEBT	CAPEX
1994	7261	1056.396	70.9183
1995	20761	1194.6	121.1383
1996	31000	1037.296	212.9263
1997	34000	1097.683	269.6517
1998	36000	1193.847	309.0156
1999	47100	3372.181	498.0276
2000	57500	3995.634	239.4509
2001	91800	4193.271	438.6965
2002	108600	5098.886	321.3781
2003	136400	5808.009	241.6883
2004	159500	6260.595	351.3
2005	178100	4220.979	519.5
2006	221600	2204.721	552.3858
2007	289600	2608.519	759.323
2008	401700	2843.564	960.8901
2009	481400	3818.467	1152.797
2010	564890	5241.657	883.8745
2011	659153.7	6519.69	918.5489
2012	710555.1	7564.431	874.834
2013	802683.5	8506.311	1108.386
2014	802964.6	9535.542	783.1224
2015	65635352	10948.53	818.365
2016	65635352	14537.12	634.8036
2017	46771000	18366.31	979.5

Dependent Variable: CAPEX
Method: Least Squares
Date: 04/12/19 Time: 14:20
Sample (adjusted): 1994 2017
Cointegrating equation deterministics: C
Fixed leads and lags specification (lead=1, lag=1)
Long-run variance estimate (Bartlett kernel, Newey-West fixed bandwidth = 4.0000)

Variable	Coefficient	Std. Error	t-Statistic	Prob.
VAT	0.523207	0.157251	2.71031	0.0088
DEBT	-0.66430	0.185114	2.303815	0.0059
C	4.76188	0.640901	5.48341	0.0000
R-squared	0.5741397	Mean dependent var		381.9878
Adjusted R-squared	0.506585	S.D. dependent var		375.5437
S.E. of regression	286.1229	Sum squared resid		430106.1
Long-run variance	38065.08			

	CAPEX	VAT	DEBT
Mean	584.1884	7661845	5467.677
Median	535.9429	199850	4207.125
Maximum	1152.797	65635352	18366.31
Minimum	70.9183	7261	1037.296
Std. Dev.	329.2679	20213869	4392.475
Skewness	0.130126	2.371507	1.390597
Kurtosis	1.713083	6.791944	4.605522
Jarque-Bera	1.723886	36.87502	10.31274
Probability	0.000	0.000	0.0057

BOND/EQUITY INVESTMENT AND FUTURE SUSTAINABILITY OF POTENTIAL RETIREES AMONG NIGERIAN ACADEMICS IN SELECTED TERTIARY INSTITUTIONS

Oguntodu, J. A, and Ogbebor, P. I
Babcock University,
Department of Banking and Finance
oguntoduj@babcock.edu.ng, ogbeborp@babcock.edu.ng,

Olayinka, I. M
Department of Accounting
Ilisan-Remo, Ogun State, Nigeria.
olayinkai@babcock.edu.ng,

Abstract
The well-being of the future is of utmost importance to every retiree. Every retiree is expected to rely on compensation from government after active service but unfortunately government as failed senior citizens most often and hence the need to determine alternative investment that can enhance the sustainability of potential retiree lecturers. The present study focused on potential retirees specifically lecturers in Nigeria tertiary institutions and not just workers with an indefinite scope. The study sets out to examine the impact of bond/equity investment on the retirement investment goals of steady income stream of potential retiree lecturers in Nigeria academia. The study made use of survey research design. The population of the study was 5,805 lecturers for both public and private tertiary institutions that were Universities and Polytechnics. A sample of 487 was determined using Taro Yamane formula. Validated questionnaire were used in collecting primary data with Cronbach's alpha reliability coefficients ranged from 0.70 to 0.75. The study recorded retrieval rate of 83.4%. The study adopted descriptive and inferential statistics for data analysis. It was found that equity investment had significant effect on future sustainability of potential retiree lecturers ($\beta_1 = 0.353$, $R^2 = 19.3\%$, $p < 0.00$).The study concluded that bond/equity investment lead to future sustainability of potential retiree lecturers and equally recommended that government *should encourage every individual to plan means to invest in financial asset in addition to the pension scheme to aid sustainability of every employee especially lecturers.*

Keywords: Alternative Investment, Government Compensation, Retiree Lecturers, Senior Citizens and Workers

Introduction
Suitable condition after active service is what every individual admires, unfortunately research has shown that although, people may long for suitable and sustained future but are not adequately working to perfect the financial sustainability of the future (Wade & Wade, 2015). This corroborate the study of Garland, Hadfield, Howarth and Middleton (2009) which revealed that defining the basic idea of sustainability is straight-forward but the real problem is about the identification of what can be sustained, what should be

sustained, and for how long. In other words, the agitation is all about the type of investment needed and time horizon of the investment.

Meanwhile, the study of Clark, d'Amboise, McDermott and Sawant (2006) had revealed that there is need for financial education to advance the level of financial literacy of individuals. They opined that financial literacy would go a long way to expose individual to the basic reason on how and when to think towards making plan to save in order to have enough for investment reasons. This will assist potential retirees to plan for the future and hence guarantee the expected future financial sustainability.

However, Amune, Aidenojie and Obinyan (2015)disclosed that the idea of retirement is perceived differently by different people. That is, some persons vision it positively and expect it with pleasure while others have negative attitude towards retirement as they relate that phase of life with dullness, economic distress, ill health and death. By implication, Amune, et al., (2015) substantiated that adequate planning for retirement is necessary to avert state of dejection and demoralization. This study support the work of Baily, Bernard, Campbell, Cochrane, Diamond, Duffie, French, Kashyap, Mishkin, Rajan, Scharfstein, Shiller, Shin, Slaughter and Stulz (2009) that justified the mistakes in retirement planning on the inability of workers to save enough which made the standard of living fall substantially on retirement.

The study of Baily, et al.,(2009) disclosed that lack of adequate savings will reduce the strength to invest which will hinder proper planning for future sustainability. Meanwhile, Circella, Poff and Mokhtarian (2012) were of the opinion that corresponding degree of preference for doing multiple activities simultaneously will be needed to enhance multiple stream of income to be tailored towards adequate investment. Although, Munnell, Orlova and Webb(2012) substantiated further that people evidently need less than their full pre-retirement earnings to maintain their standard of living once they stop working. Munnell, *et al.,*(2012) opined that what is important is the need to determine how sufficient fund can be generated to foster adequate investment which can be enabled through sufficient and relevant information.
The study wanted to investigate investments that can help enhance future financial sustainability of potential retirees in the academics. Hence, the main objective of the study was to determine the impact of bond/equity investment on the retirement investment goals of steady income stream of potential retirees in Nigeria academia.
The remainder of the paper is divided as follows; section 2 is the review of extant literature, section 3 deals with the methodology, section 4 shows the analysis of empirical results and its interpretations, and section 5 gives the conclusion and recommendation.

Literature Review
Bhalla (2009) viewed investment as the sacrifice of certain present value for uncertain future benefits. The study opines that choices of investment are factors of three verdicts, such as; informational or factual premise which is all about the information related to investment. By implications, one only ventures into investment based on the information

at one's disposal. Also, expectation premise; this relates to the result of alternative as a guide in the choice of one investment against the other, and finally, valuation premise which relates to the value of the investment from time to time which serves as the determinant of its demand.

Also, Elan (2010) described investment as the set of organised activities that involve the making of assumption towards predictable profit on set of events. The study supported further by disclosing some common mistakes in investment as; active trading, that is the act of making speculations which does not achieve so much in the market, disposition effect which involve erroneous dumping of good and viable shares, familiarity bias which is referred to as the act of having preference in local companies over international, manias and panics which result from the act rapid rise in the price of an asset due to ordinary love shifted to the asset which is usually not enduring and hence results to loss of investment.

Meanwhile, Akintoye (2016) opined that investment is the obligation of available economic resources with the belief of having a measurable rewarding output or benefit with a higher magnitude to the commitment in a future period that is full of uncertainty. The study added further that investment can be described as the use of limited or scarce resources at a particular time to enhance the generation of future economic benefits.

Warren (2014) defined investment from the perspective of the investing environment which the study believed to be a motivator that can actually bring about increase in the investment horizon. The environments considered are structure, performance evaluation and remuneration practice and financial market structure and financial liberation. The study opined that these structures are determinant of what investments are likely to be. That is, ability to manage those structure guarantees efficient performance of the investments.

On the other hand, retirement can be defined as the voluntary/compulsory stoppage of active service due to age or duration of service that guarantees the retiree access to compensation for the job well done. Amune, Aidenojie and Obinyan (2015) viewed *r*etirement as a situation where an individual is formally or officially stopped from active work role and it is often perceived as the realisation of a life goal. The study opined that it represents one of the happiest time of one's life because it is a mark of honour and appreciation from one's employer which is usually complemented with financial appreciation referred to as gratuity and pension fund. Additionally, Bur (2001) stated that retirement is the act of leaving service either voluntarily or compulsorily where such an employee has completed a specified period of service years or is removed from office by way of compulsory retirement, lay-off, dismissal (for acts of insubordination or misconduct), death, illness, or by voluntary withdrawal from service.

This study is anchored on life-cycle income theory which was developed by Franco Modigliani and his student Richard Brumberg (1957) under the assumption that individuals plan their consumption, savings and investments behaviour over their lifecycle. The theory opined that an individual intends to even out consumption in the best possible manner over entire lifetime by accumulating when he/she earns and discontinues savings when he/she retires. The key assumption is that every individual chooses to maintain stable lifestyles. This implies that people usually save up a lot in one period to spend judiciously at another time, keeping their consumption levels approximately the same at all times. (C&S=f (Income, Needs, Taste (Value & Alternatives), Economic Environment). This theory expects that the lifestyle should remain same over time which can only be sustained through the availability of the factors listed above. This theory supports this study basically because every retiree will prefer to earn more than enough today in order to save the excess with the view to still have access to fund in the usual manner in future. The theory creates opportunities for individual to plan on the creation of regular stream of inflow to sustain the financial stability of retirees in future.

Empirical Review of Related Studies

Armada, Kryzanowski and Pereira (2011) extended the literature dealing with the option to invest in a duopoly market for a leader-follower setting. The study opined that the restrictive assumption embodied in the models in the current literature is that investment opportunities are semi-proprietary because the two identified or positioned firms are guaranteed to hold at least the follower's position. Armada et al (2011) captured more competition realistically in the model by introducing the concept of hidden rivals so that the places in the market can be taken not only by positioned firm but also by the hidden competitors. The study disclosed that the value functions and the optimal triggers for the positioned firms differ materially in settings with or without the presence of hidden rivals. Armadaet al., (2011) stated that unlike existing models, the model allows for a symmetric market shares and investment costs for the leader and the follower.

Skåtun and Theodossiou (2011) implemented an investment model where firms mitigate adverse hold-up effects using hiring and personnel policies. The model was theoretically investigated and empirically scrutinised. The study discovered no evidence for the prediction of differing worker characteristics, other than gender across firms was found and demand (firm) side factors were evident in the hiring process. Skåtun and Theodossiou (2011) stated that evidence on other personnel policies is consistent with theory, which predicted firms with high investment expenditures that resist unions, utilised more temporary and shift-time workers and conduct more multitask training. The study disclosed that wages in high-investment firms are higher, more sensitive to unemployment and experience variables that exhibit greater effects than in low-investment firms.

Wehinger (2011) disclosed that member countries are existing from the biggest post-war financial and economic crisis and are trying to put their economies back onto strong, sustainable footing. The study added that this is fundamental to why financial reforms should provide for a better, more sustainable balance between stability and growth, measures to strengthen the savings-investment channel that can foster sustainable growth and development. Wehinger (2011) substantiated that the issues were explored at a high level OECD financial roundtable and the study summarised it to cover topics of financial reforms to foster stability and long-term growth, the contribution of institutional investors to long-term growth, and creating better environment for the financing of business innovation and green growth. With strained public sector finances, private capital needs to fill the funding gap for infrastructure and other long-term projects. Wehinger (2011) thereby proposed the introduction of appropriate regulatory incentives to overcome short-termism, as well as risk-sharing arrangement e,g. via public-private partnerships, in order to encourage market based, long-term investment and risk capital financing which will foster better transparency, information and investor education and motivate the enhancement of long term savings and investment.

Spahr, Huseynov and Jain (2012) extended the work of Myers' (1974) by using adjusted present value method to modify Modigliani and Miller's (1958 & 1963) capital structure propositions through the addition of government as the firms ' third major financial stakeholder. The study opined that government is a major stakeholder because it collects income taxes, she is instrumental in establishing the business environment, and provides business infrastructure to corporations. Moreover, the study assumed that government's stake is an implicit form of capital and consequently, any return or benefit derived by the firm from this implicit capital will affect firm value. As a result, tax structure significantly impacts relative stakeholder values, capital investment decisions, and capital formation. The study affirmed that it is only in the special case when the firm receives explicit benefits and when the return on government's implicit capital is equal to the firm's cost of equity capital that corporate taxes will not impact firm value and capital investment decisions. Spahr et al., (2012) disclosed that although tax irrelevance and the conservation of value principle may hold true within a domestic economy with a homogenous tax structure, and that the three-stakeholder model demonstrated that corporate income taxes become relevant for investment decisions in a globally competitive economy with heterogeneous tax structures. Thus, the model addressed the apparent inconsistencies between existing theory, which characterises corporate taxes as non-discretionary since empirical findings demonstrated that taxes reduce investments, growth, and valuation ratios.

Bao and Hou (2013) studied heterogeneity in the comovement of corporate bonds and equities, both at the bond level and at the firm level. Using an extended merton model, the study illustrated that corporate bonds that mature late relative to the rest of the bonds in its issuer's maturity structure should have stronger co-movement with equities. In contrast, endogenous default models suggest that a bond's position in its issuer's maturity structure has little relation with the strength of the co-movement between bonds and equities. The empirical results was consistent with the prediction of the extended merton model. The study added that the co-movement between bonds and equities is stronger for firms with higher credit risk as proxied by the book-to-market ratio and distance-to-default even after controlling for ratings. Bao and Hou (2013) disclosed that market participants are able to assess credit quality at a more rough level than ratings.

Warren (2014) reviewed literature on investment horizon in order to enhance the understanding of potential influences on long-term investing by institutional investors. The study revealed that investment horizon reflects an interconnected web of influences related to an investor's circumstances, the design of the investing environment, and the choices that are made by key decision makers. Twelve of such influences were identified and discussed. A characterisation of investment horizon was offered based on two indicators, that is; discretion over trading and how investment decisions are made. Specifically, the extent to which they are based on expected near term price changes versus drivers of long-term value and returns were based on the overview of the debate over short-term versus long-term investing.

Ghosh and He (2015) examined the impact of improved investor protection due to cross-listing on foreign firms' investment decisions and firm value. The study exposed that cross-listing increases firms' capital expenditures and mergers and acquisitions activities and that cross-listed firms also invest more in research and development, make better acquisition decisions and have higher profitability compared to non-cross-listed firms. Ghosh and He(2015) added that, cross-listing is associated with better cash utilisation by foreign firms for investments and substantiated that the improvements in investments and cash utilisation are more pronounced for firms cross-listed on United States (US) exchanges and for firms from countries with weak investor protection laws.

Griffin and Tippins (2016) disclosed that the finances of blue-collar workers were the most acutely impacted as the workers lost their jobs during the Great Recession of 2007 through 2009. The study revealed a minimal understanding of how blue-collar workers allocated funds for their retirement, and what their investments might be when they invested. To address the problem, Griffin and Tippins (2016) addressed how blue-collar workers chose to invest or not invest for retirement and diversified their portfolio if they chose to invest. The study utilised regret theory and prospect theory. A non-random purposeful sample of 10 blue-collar worker participants answered 19 open-ended questions which unfolded that as participants reached the age of 30, they started to consider investing for their retirement and discover that participants under the age of 30 were not as likely to invest. Moreover, the study disclosed that only one person over the age of 30 did not invest for retirement, and that, the factors contributing to these blue-collar workers' investment decisions for retirement were based on an employer-provided retirement accounts which was coupled with the fear of running out of money later in life during retirement together with the view of the addition of new family members. Griffin and Tippins (2016) affirmed that one of the most popular retirement investment products for the participant group, such as; mechanics, labourers, and material movers, was the U.S. Treasury bonds or other popular investments like; mutual funds, 401(k)s, and IRAs.

Ojibara (2017) revealed that Nigeria followed the footstep of most states with abundant resource (particularly oil) in establishing its own Sovereign Wealth Funds. The study described Sovereign wealth funds as large pools of a state owned or controlled investment fund composed of financial assets such as stocks, bonds, property, precious metals or other financial instruments that are invested in whole or in part outside their home countries. The study substantiated that since, 2004 “Special funds” in which SWFs is one have become issues of serious contention among the tiers of government in

Nigeria. The study added that on May 22, 2011, the 36 state government were to withdraw $1 billion from the Excess Crude Account. Ojibara (2017) stated that the major concern revolved around the question of legality and desirability of such account. The study examined how the SWF is paradoxical to the provision of Nigeria 1999 constitution (as amended). The study added that the best possible way to strike a balance in economically and politically feasible solutions to the controversies that ensued between the federal government and states government on "Special Funds" were also examined. The study disclosed that major disagreements surrounding the fund both locally and universally are that of distrust and political suspicion.

Dangl and Weissensteiner (2017) studied the implications of predictability on the optimal asset allocation of ambiguity averse long-term investors by analysing the term structure of the multivariate risk-return trade-off in a VAR model under full consideration of parameter uncertainty and decomposed the predictive covariance along different sources of risk/uncertainty. The study adjusted the model to real returns of US stocks, US long-term government bonds, cash, real-estate and gold using the term spread and the dividend-price ratio as additional predictive variables. However, over short periods the model-implied conditional covariance structure of asset-class returns determines the optimal allocation, but over longer horizons the optimal asset allocation is significantly influenced by the covariance structure induced by estimation errors. As a result, the vagueness averse long-term investor redirected her portfolio not simply toward the global minimum-variance portfolio but shrinks portfolio weights toward a seemingly inefficient portfolio which shows maximum robustness against estimation errors. Interestingly, Dangl and Weissensteiner (2017) discovered that even though time diversification of stock returns vanishes after consideration of estimation errors, real long-term bond returns are even more affected, making stocks an important asset class for the ambiguity averse long-term investor

Methodology

Survey design was adopted for the study due to the nature of the study and type of data needed. The study evaluated the impact of bond/equity investment on the future financial sustainability of potential lecturers in tertiary educational institutions within Southwestern Nigeria. This is supported by the work of Masinde and Olukuru (2014) in Kenya. This study focused on 5,805 lecturers in the selected tertiary educational institutions. Stratified and purposive random sampling method were used to select the sample of 484 for the study by applying Taro Yamane formula. Stratified sampling was adopted because the study chose to select only lecturers among academia and purposive sampling in the selection of public and private institutions in southwestern Nigeria because they are assumed to be good representative of others because they have homogenous features.

Functional Equation and Model

The study apply the functional relationship and model as follow;

RITSUS= Retirees sustainability

IBE= Investment in Bond/Equity Shares

Functional Relationship

RITSUS = f(INVBONDEQT)

Model

RITSUS= ?o + ?$_1$INVBONDEQT +ì $_1$

1. Result and Discussion of Findings

The study on Bond/Equity investment and future financial sustainability of potential retirees in academics was carried out using primary data with the aim to establish the relationship between Bond/Equity Investment and potential retirees' financial future sustainability in academics.

Table 4.1: Regression Estimate for Main Objective

Variables	Regression Result			
	Coefficient	**Standard Error**	**T-Stat**	**Probability**
C	2.393	.141	17.010	.000
AVBEINV	.353	.036	9.825	.000*
R^2		.193		
R		.439[a]		
Adjusted R^2		.191		

Dependent Variable: RITSUS *significance at 5%

Source: Researcher's Field Survey 2018

Objective with related question.

This is an aspect of the research work that validates the objective, research question and hypothesis of the study.

Objective

To examine the effect of bond/equity investment on the retirement investment goals of steady income stream of potential retirees in Nigeria academia.

Research Question

At what combination of bond/equity investment can guarantee the retirement investment goals of steady income stream of potential retirees in Nigeria academia?

Research Hypothesis

Combination of bond/equity investment has no significant effect on retirement investment goals of steady income stream of potential retirees in Nigeria academia.

Result Interpretation

RITSUS = ?o + ?$_1$ INVBONDEQT + ì $_1$

RITSUS = 2.393 + 0.353 INVBONDEQT + ì $_1$

According to table 1, AVBEINV has statistical significant impact on the retirement investment goal of steady income stream of potential retirees in Nigeria academia (â=0.353, t =9.825, p < 0.00. Hence, the combination Bond/Equity investment by retirees will have a positive and significant effect on their retirement investment goal. This suggests that increase in bond/equity investment will increase the sustainability of potential retirees in the academics that are lecturers. Also, the R^2 of 0.193 shows that combination of bond/equity investment can predict financial sustainability to the level of 19.3%. Therefore, the null hypothesis was rejected and it was concluded that combination of bond/equity investment can guarantee the retirement investment goal of steady income stream of potential retirees in the Nigerian academia.

Discussion of Findings

The R^2 of 19.3% and the t-test of 9.825 which shows that there is a positive relationship between the bond/equity investment and sustainability of potential retirees in the academics that are lecturers. The study shows that the higher the investment the higher the chance of sustainability accrued to potential retirees in academics. This study corroborate the study of Ocheni, Atakpa, and Nwankwo (2013) that revealed that many retirees died out of shock, heart attack and stress on regular calls for verification of pensioners. By implication, if there are adequate preparation for retirement other than reliance on government pension scheme only, such individuals would be better sustained. Yes, government pension scheme is good but it should have complementary scheme from individuals to eliminate undue pressure.

Moreover, in the study of Iyortsuun and Akpusugh (2013) that focused on the issues of mismanagement of pension fund is a signal to every individual to focus on alternative means of sustainability in other to ameliorate future stress. This study equally supports the work of Ocheni, *et al.,*(2013). This is a reaffirmation of the fact that every potential retirees requires adequate planning to sustain the future. This study is equally in line with the study of Dulebohn and Murray (2008) which opined that well-known agreement should exist among scholars and public policy makers that future retirees would need to be more dependent on personal involvement in retirement plan such as depending on personal savings rather than on social security. From the findings of this study which has made it explicit that individual must have alternative plans of investment tailored at sustainability.

Implication to Research and Practice

This study has been able to increase knowledge forward by projecting the benefit in the investment in bond/equity and its influence on future sustainability, which has been able to redirect the attitude of potential retirees on the best approach to manage future by investing adequately to avert the loss of present benefit out rightly for future expected comfort. The positive relationship that existed between bond/equity investment and future sustainability of potential retirees in academics had brought to the attention of academics that are lecturers to think about complementary sources of income to enhance sustainability. This study has been able to create further consciousness about why potential retirees should think more about future than now.

Conclusion and Recommendation

The positive significant relationship that existed between bond/equity and future sustainability of potential retirees in academics made it explicit for individual potential retiree in the academics to focus more on the investment that can enhance future sustainability which is bond/equity in this case. This is supported by the study of Urwin and Woods (2009) that advocated a sustainable investing model that involves investment that have regard to a broader mission. Urwin and Woods (2009) opined that sustainable investing is mostly about investment beliefs that trust in values. This study thereby recommended that the following must be put in place to enhance future sustainability;

i) Government should be involve in giving orientation to encourage individual to think towards future sustainability during active service.

ii) Educative and convincing seminal should be organised to direct people on how, when and where to invest towards future sustainability.

iii) It should be made known to potential retirees the importance of bond/equity investment.

Future Research

During the course of the research, some respondents suggested that as academia, investment in grant writing oriented papers can enhance transitory income and hence create opportunity to invest. Moreover, some predicted investment in real estate. We hereby recommended that future research can look into this areas to confirm the relevance and their effect on sustainability of the potential retirees that are lecturers.

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CREATING TAX ADMINISTRATION CAPACITIES THROUGH STRATEGIC HUMAN CAPITAL DEVELOPMENT: EVIDENCE FROM KWARA IRS

Muritala Awodun
Kwara State Internal Revenue Service

HabibahKike KamaluddeenAiyelabegan
Kwara State Internal Revenue Service
hechkaykay@yahoo.co.uk

Abstract
This paper is a Tax Administrator's experience sharing on the modalities for creating tax *administration capacities using strategic human capital development. It is based on the three years' experience of the particular tax administrator at a State Internal Revenue Service (SIRS) in the North Central Region of Nigeria. The paper examined the strategic human capital development (SHCD) methodology of the SIRS in the creation of the tax administration capacities required at all levels of management (low, middle and top) of the SIRS under focus. The SIRS identified the need for human capital development from its inception and built into its process the SHCD methodology of five layers, namely; entry training programme (of 3 months) for all staff, the monthly field feedback and training (of a day monthly) for all staff, directorates' regular technical training, professional trainings, and leadership and management trainings (both local and international). These schedule trainings have become a closely knitted SHCD that has improved the skills and capacities of the employees of the SIRS. To ascertain the extent to which the above have impacted on the employees in terms of readiness for change and service excelelnce, the study appraises the set of staff employed in the first two years of operations with a set of questionnaires applied to 642 staff of KW-IRS present at a particular month field feedback/training session. The findings revealed that the SHCD, as adopted by the SIRS, is instrumental to the successful start-up of the SIRS after its establishment by law in 2015, and the improved performance of the Service that has become a basis for several studies and commendations/accolades received. This paper is therefore significant given that it examined the impact of the strategic human capital development methodology in creating tax administration capacities in the SIRS.*

Keywords: Strategic Human Capital Development, Employee Development, Revenue Service, Tax Administration

Introduction
Strategic Human Capital Development (SHCD) represents the alignment of various aspects of managing an organization's human capital including policies, strategies, and programmes with the vision, mission, and goals of the organization through proper design, planning and analysis. SHCD is a beginning to end process given that it covers all processes from hiring, training, development, management, and retention of employees. Investing in SHCD within organizations is a recent trend given that in the past, there was no formal approach to training and developing employees. The general order was that employees developed on-the-job as they learnt, go through the ranks and/or as they

gathered experience moving from one organization to another. This loss of human capital as well as the evolving complexity of organization structures across the past few decades has led to increasing demand for sustainability of skilled workforce and hence, the appeal of human capital development as a long-term investment for organizations. Beyond this, another problem found is that most studies on SHCD have focused on its effect with motivation and staff performance while aspects such as change readiness which is inevitable in today's environment as well as service delivery have been neglected.

The benefits of adopting SHCD have been found to include clarity in goals and direction; defining of policies and strategies to achieve them; designing the necessary implementation plans which would lead to providing the commensurate resources; recruiting the best-fit employees for the jobs; having career development plans for the employees; training, coaching, mentoring, and motivating staff so as to enable them operate at optimal capacity and encourage retention; adopting suitable performance management measures to check and ensure effectiveness, efficiency, accountability, and customer satisfaction; as well as using results to review and revise methods appropriately.

Literature Review

Strategic Management is a combination of science and arts which increases an organization's chances of success as it involves detailed planning of each and every variable of the organization that can help in the achievement of organizational goals and objectives (Afsar, 2011). In today's modern world, the original pure rational strategic management is no longer adaptable because of the complexity of the ever-changing environment. Thus, there is a plethora of irrationality creeping into the strategic management theory that is positively shaping the concept (Liu & Tan, 2008). In line with the above, a framework for understanding strategic management has been put forward to consist of three elements, namely; formulation of the organization's future mission in the light of changing external factors, development of a competitive strategy to achieve the mission created, and an organizational structure capable of deploying resources to successfully carry out its competitive strategy. Therefore, strategic management is seen as adaptive and capable of keeping an organization relevant irrespective of the environmental circumstance (Child & McGrath, 2001).

Drawing from the above is the strategic human capital development that places the people (human capital) as the fulcrum of the attainment of whatever objectives set for the organization. Even the setting of the objectives and the understanding of the processes of accomplishing them revolves around the human capital potentials of the organization, thus the place of training otherwise referred to as human capital development (Awodun & Edu, 2018). This concept of human capital development has been viewed differently by different scholars, and these views are worth considering for better understanding (Robins, 2004; Sila, 2014; and Zhao, 2008).

While some scholars have viewed training or human capital development as a process of providing employees with specific skills required to correct observed deficiencies in their job execution capacities, (Vasudevan, 2014), others have viewed it as human resource management intervention that alters employee behaviors in a direction that enables organizations to achieve their goals and objectives (Dabale et al., 2014). Whichever of the above views that we may hold, both have become acceptable to the extent that organizations have pursued growth through training for skills and capacity building, and ultimately organizational performance improvement (Awodun, 2018).

The SIRS under study therefore took these views into consideration by providing its employees with adequate continuous training under its strategic human capital development that was targeted towards creating capacities and developing the employees to perform to the utmost expectations of the organization in the drive to achieve the revenue mobilization targets. This is so because of the established fact that training plays a key role in the growth and development of organizations, as it is about the people. SHCD has been said to have direct or indirect effect on employee commitment in organizations as posited by Allen and Meyer (1991). Based on the importance of human capital development in organizations, Humphrey et al. (2013) argued that the current expansion of the global economy, and the fast-changing technology and innovation necessitate organizations to constantly train their employees. The above view is supported by an earlier study conducted by Awodun & Edu (2018) on the effects of continuous training on employee commitment, retention andemployee performance in the State Internal Revenue Service where it was found that training impacts positively and significantly on employee commitment. In other words, training and employee commitment are positively related, as demonstrated by Muma, Iravo and Omondi (2014); Pasaoglu (2015); and Ijigu (2015). Previous studies have established that human capital development builds employee commitment. Some of such studies are Benson, (2006); and Jehanzeb et al., (2013). The above therefore form the basis of the strategic human capital development adopted by the Kwara State Internal Revenue Service and the basis of this paper.

The Kwara State Internal Revenue Service (KW-IRS) was established by the Kwara State Revenue Administration Law No.6 of 22nd June 2015 as an autonomous agency for domestic revenue mobilization in the State. KW-IRS commenced operations in January 2016 as a fully autonomous State Government Agency that reports directly to the Executive Governor of the State unlike the old arrangement where the Board of Internal Revenue was a department in the State Ministry of Finance.

The mandates of the Service included maintaining the integrity of tax laws in the revenue processes, eliminating instances of multiple taxation, ensuring convenient payment methods are available, ensuring efficiency of processes and quality service delivery to all customers, and improving the Internally Generated Revenue so as to assist the State Government attain specific economic and social policies for the strategic development of the State.

Faced with the need for a transformation, the Service adopted a reform model of change in people, process and technology (PPT Model). For a start-up organization as the case was for KW-IRS, the strategy employed for human capital development – the people, was through corporate training at various levels, right from entry level. Like other organizations KW-IRS embarked on developing human capital to ensure the capacity of employees are built so that they are able to carry out their functions effectively and efficiently, attain customer satisfaction and retention and ultimately, achieve the goals of the organization.

The SHCD adopted by KW-IRS focuses on various aspects including organization-specific, functional general management and leadership development training prorgammes. It is noteworthy that employee and career development at the Service have been entrenched in the human resource policies and thereby sourced from there as well as the situation and challenges of the organization.

- **Entry Training Programme**

This represents the orientation training programme given to new employees for a duration of 3 weeks. This SHCD training level is designed to provide customized training to new employees to introduce them to the corporate vision, mission, values, strategic direction, and organizational culture of the Service, while addressing the specific needs, challenges and solutions as specific for the organization and the environment in which it operates.

The entry training consists of one week each of Vision-Sharing to introduce the new staff to the organizational vision, mission, core values and corporate culture; Professional Training to educate them on tax laws and tax administration processes; and Field Training where employees go out to interact with taxpayers and/or are posted to directorates/departments within the Service for practical experience.

- **Monthly Field Feedback and Training**

This is a mandatory monthly session where all KW-IRS staff, regardless of duty station, in-State or out-of-State attend. This level is designed as a platform where all the members can bond as a team, provide feedback on experience from the field and bring information from taxpayers in line with the mandate of the Service, as well as receive training on general skills and information required by all staff e.g. communication skills, customer service skills, policy awareness, etc.

This SHCD level is also an opportunity for management to recognise and encourage performance, brainstorm, be honest and transparent with the whole team; while providing employees an opportunity to contribute through airing their views, making suggestions and having a sense of belonging.

- **Directorates' Regular Technical Training**

At KW-IRS, training is also carried out at Directorate/Departmental level, facilitated by in-house or external people depending on the topic and expertise required. This level allows the acquisition of professional, specific, in-depth knowledge and capacities as it relates to the functions of each directorate/department and the promotion of organization learning. This training is also a platform to breakdown strategic direction from Top Management into actionable results to be carried out by lower management staff. It is also an opportunity for team members to contribute ideas which can be escalated to Management where necessary.

- **Professional Training**

This training represents specific training where professional skills are acquired. This training exposes staff to global best practice including learning the use of advanced tools where appropriate. This includes in-house and external training and is usually very specific to the job function of employees. This is where staff are sent for a wide variety of training including and beyond tax administration to accounting, law, logistics, human resource, IT, etc. professional courses.

- **Leadership and Management Training (Local and International)**

In recent times, organizations have also realized that beyond the need to build capacities for the activities of the organization, there is also the need to develop leadership capacity within the organization for improved service delivery. More so, the Service has adopted this as part of its succession and business continuity management plans. This level training allows the organization to build capacity such that responsibility could be delegated without losing authority.

At KW-IRS, leadership and management training usually occurs in two phases, first with top-management and other selected staff where policy and strategies are defined at the end of the training. After this, the training is stepped-down for the entire staff as the second phase. This presents opportunity to give rewards to top performers to benefit from the first phase of the training and a sense of ownership to all staff who are able to be trained and contribute to the implementation plan.

Methodology

Having emphasized on the demand for change at the conception and start-up of KW-IRS, the effects of the SHCD adopted by KW-IRS is therefore subjected to a study to examine the performance of the Service and measure the perception of the employees on their level of change readiness and its impact on the organization's attainment of Service Excellence. The study adopted survey method through questionnaire administered to KW-IRS staff during a Field Feedback/Training session in May 2018 i.e. over 2 years of implementing the SHCD plan adopted by the Service. Responses were received from 642 staff in attendance. The Questionnaire featured questions on attainment of service excellence by the organization and the level of change readiness of the employees. The staff were requested to rate themselves on a scale of 1 to 5 with 5 being the highest state of agreement and 1 being the lowest. Responses 1 and 2 were coded as negative while 3, 4 and 5 were taken as positive in the measure of change readiness.

Results and Discussion

The results of the study as shown in Figure 1 below indicates that 87% of respondents perceived themselves as ready for change for service excellence; 80% indicated that they were thinking change for service excellence; 74% stated that they were not resistant to the desired state of excellence of the organization, 73% specified that they were not resistant to going through the change process; and 77% indicated that they were not resistant to leaving the current state for desired state of excellence of the organization.

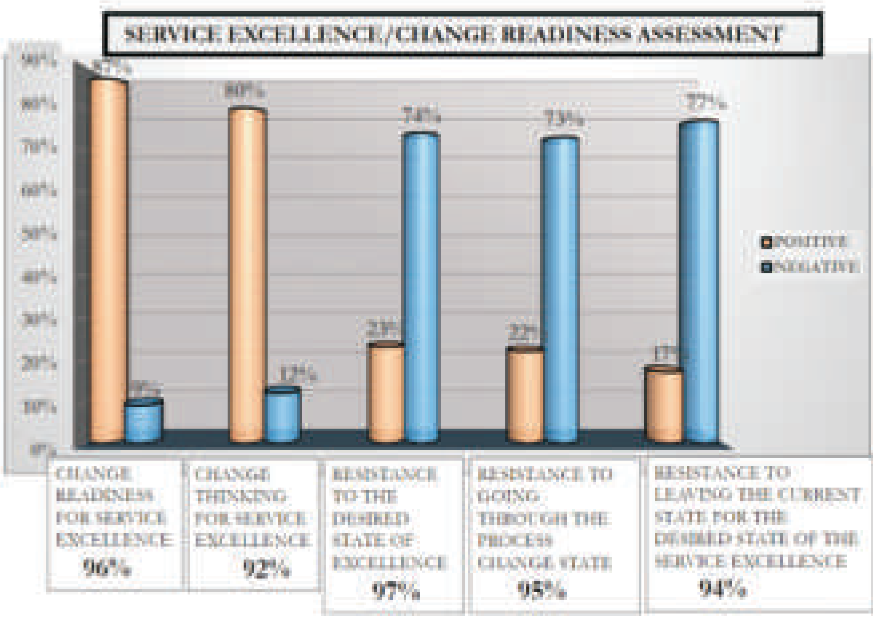
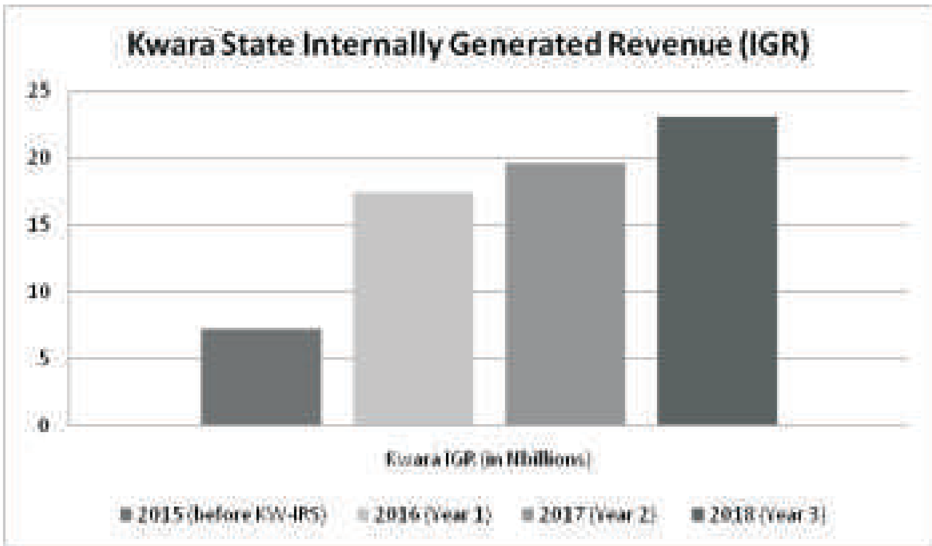


Figure 1
Source: Authors' Fieldwork Computation

From the findings, it is evident that the Strategic Human Capital Development (SHCD) adopted by the Service has successfully prepared the employees for change towards delivery of excellent service which are in line with the mandates of the Service as entrenched in the Law.

As shown in figure 2 below, it is evident that the Service has been able to increase the Internally Generated Revenue from the N7.2 billion annual total collection in 2015 to N17.4 billion in 2016 (the first full year after the implementation of the change), N19.6 billion in 2017 (the second full year of operations after the change), and N23.1 billion in 2018 (the third year of operations after the change).



The fact that a significant percentage of the staff of the organization were change ready and not resisting the change made the implementation of the strategic human capital development model very impactful to bring about the service excellence attained not only in IGR but improved taxpayer service delivery.

It could also be argued that the SHCD employed in this case beyond training and employee development incorporated other variables such as motivation. This is given that training, inclusiveness, recognition and reward, as well as benefits such as travel which is obtainable at the various levels of the SHCD adopted are a source of motivation for performance of staff.

The SHCD adopted by the Service has also been the basis for studies including the Impact Assessment conducted by the Centre for African Entrepreneurship and Leadership (CAEL), University of Wolverhampton, UK, and several awards by various bodies in academia and the industry including awards from professional bodies such as the award for the Most Improved IRS by the Chartered Institute of Taxation of Nigeria (CITN) and from taxpayers such as the Service Innovation Award presented by the Kwara Chamber of Commerce, Industry, Mines and Agriculture (KWACCIMA).

Conclusion

Ultimately, SHCD is recommended for any organization for excellent service delivery through its strategic human capital development. It is evident that despite process improvements, technology advancement and other trends such as the growth of social media, all these emanate from ideas from the people who make up the organization. In the end, knowledge, experience, creativity and innovation which are all key ingredients for the success of an organization lie within employees and as such, conscious efforts must be made to train, develop and retain the best performing employees.

It is obvious that the development of human capital has to be a strategically organized and delivered as a methodology for attaining the set objectives of any organization. The systematic process of accomplishing or raising the required manpower for attaining the level of success of any organization is dependent on the human capital development strategy of the organization.

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Journal of Taxation and Economic Development ISSN 1118-6017 Vol. 18, (2), Sept. 2019

DISTILLING THE CONTOUR OF ADR APPLICABILITY TO TAX DISPUTES IN NIGERIA

Amadi Nnaemeka Boniface
Senior Partner, DENOVEM Solicitors, New Haven, Enugu, Nigeria
amadinb@gmail.com

Abstract

Alternative Dispute Resolution (ADR) Mechanism is a nascent adjudicative mechanism to adversary legal jurisprudence though an integral part of African adjudicatory system. Its preference to litigation is premised on lots of advantages which the cardinal ones include saving time, cost effectiveness and saving mutual relationship of disputants. Notwithstanding the seeming advantages and preference of ADR to litigation, there is a growing concern as to whether ADR can be used in the resolution of tax dispute, it has been argued that matters of public concern cannot be referred to arbitration and that the Court retains exclusive jurisdiction in disputes of public policies. The issue is whether ADR can legitimately resolve tax dispute in Nigeria. The controversy forms the crux of this dissertation. The aim and objective of the study was to establish that there is limit to which ADR, including arbitration, could be applied in Nigeria for the efficient and effective settlement or resolution of tax disputes . Both theoretical and empirical research methodology were employed in the course of the research. Accordingly, reliance was placed on the study of both primary and secondary sources of law like the Constitution, Federal and State enactments, text books, journals, newspapers and internet base materials respectively. It was found that application of ADR processes to tax disputes is efficient and to tax administration. If this is sustained, it would enhance and promote voluntary tax compliance thereby maximising revenue generation. The work however is not a general study of ADR or tax law. The main focus is to distil the contour of ADR applicability to tax dispute. It is Nigerian based; however, comparative recourse is made to foreign jurisdiction for the purpose of sustaining a persuasive argument.

Introduction

Taxation is the primary and the ancient source of government revenue. It plays an important and established role in any economy. There is hardly any government that does not rely on taxation to provide the much needed revenue for socio-economic development and also to reduce the inequality of wealth in the society.[1] Tax system is one of the most powerful levers available to government to stimulate and strengthen its economic and social development. The consequence therefore, is that every government is desirous of maximizing tax revenue by institutionalising a healthy sector of tax compliance. Unfortunately, the Nigerian citizens are averse to tax payment. Statistics has it that in Nigeria, less than 6% of the population pay tax and the rest do not pay tax.[2]

*AmadiNnaemekaBoniface, LL.B, LL.M, BL, ACTI ,AICMC, FIMC, CMC,Senior Partner, DENOVEMSolicitors, 79 Chime Avenue, New Haven, Enugu, amadinb@gmail.com, 08032666969.

[1] A. I Ayua, Nigerian Tax Law (Ibadan: spectrum Law Series)1996, p.9.

[2] See Kemi Adeosun, speech at the 9th Colloquium to mark the 65th birthday of Asiwaju Bola Tinubu, available at www.Pmnewsnigeria.com (accessed on 18 April, 2018).

The reason has been attributed to lots of factors ranging from low per capital income, lack of tax awareness, none accountability of tax fund to obvious intention to evade tax. The government on the other hand is not giving up on tax collection. This has brought unending dispute between tax payers and tax authorities in the course of tax administration. There is also dispute between tax authorities as to the jurisdictional power of each tier of government to impose tax.

The tax dispute, like every other dispute has been resolved through litigation which has been a conventional method of dispute resolution. There is nevertheless a paradigm shift from the conventional litigation to Alternative Dispute Resolution (ADR) process. Application of ADR in the resolution of disputes has become a global trend. Tax dispute is one of the areas that have witnessed this global shift to ADR. It has been submitted that it is high time Nigeria joined her counterpart in the application of ADR to the resolution of tax disputes as there is no law mandating tax authorities to explore ADR in the resolution of tax disputes. [3] The recent adoption of ADR in tax dispute is premised on lots of advantages which ranges from saving cost, saving time and building tax payers and tax authorities friendliness which enhances voluntary tax compliance.[4]

There is however a controversy as to the propriety of ADR applicability to every tax dispute. Tax dispute is very dynamic; it could be a jurisdictional dispute- a dispute between two tiers of government on one hand; or administrative dispute- a dispute between the tax authorities and taxpayers on the other hand. These types of disputes require different categories of dispute resolution processes.

ADR could be very effective and efficient in the resolution of Administrative Tax Dispute and may not be efficient in the resolution of Jurisdictional Tax Dispute as no ADR process can usurp the power of the court in the interpretation of the Constitution and other tax enactments with regards to the power of the government to impose tax. ADR can be efficient in the resolution of tax dispute between tax authorities and tax payers. The process in this context can be adopted as an in-house administrative mechanism of tax authorities to resolve tax dispute with taxpayers without allowing such to result in litigation.

The Nature of Alternative Dispute Resolution Mechanism (ADR) And the Developmental Process

Nature and Types of ADR

Negotiation

According to *Chambers English Dictionary*, Negotiation means "to bargain, to confer for the purpose of mutual agreement or to arrange for by agreement"'.[5] Negotiation is one of the most common ADR processes in the world. It is a process whereby parties to a

[3] See Odinkonigbo & Ezeuko, "Does Nigeria Follow the Contemporary Global Trend in Tax Dispute Resolution Strategy?" Nigerian Juridical Review, Volume 12 (2014) p.164.

[4] See S.O.Tonia, "Evaluating Alternative Dispute Resolution (ADR) in Dispute About Taxation." Available at www.law.monash.edu.au/countries/acji/projects, (accessed on 20, April,2018).

[5] Chambers English Dictionary, 7th ed., (Edinbur, W8R Chambers,1990, p. 961.

dispute attempt to settle that dispute on their own and without the assistance or intervention of a third party. Parties may either be represented by professional negotiators or conduct the negotiation themselves.

Negotiation can be informal when two or more persons initiate and work through their own negotiation privately and in an unstructured manner. The parties exchange useful information, give and take concessions and finally agree at some terms of settlement acceptable and satisfactory to both of them.

Mediation

Mediation is a process whereby parties are assisted in their negotiations by a neutral third party (mediator) to identify the issues in dispute, generate options around these issues, and consider alternatives and to attempt to reach agreement that will meet the underlying needs and interests of both or all parties to the dispute.

A neutral person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the case, but helps the parties communicate so they can try to settle the dispute themselves. Mediation may be particularly useful when family members, neighbours, or business partners have a dispute. Mediation may be inappropriate if a party has a significant advantage in power or control over the other.

Mediators do not make decisions about who is right or wrong or what the best outcome should be. A key advantage to mediation is that the parties have significant control over the end result. Decision-making power stays in the parties' hands, and is not passed on to a judge or arbitrator. Instead, a mediator helps bring the parties together by establishing a framework for the negotiation within which all parties agree to participate.

Conciliation

Conciliators are usually recognized experts in the field of the dispute and are empowered to suggest or give advice on likely settlement terms. It is not uncommon for the third party conciliator to be very persuasive and to recommend strongly certain outcomes that they believe are suitable. Conciliation is less formal than arbitration. This process does not require an existence of any prior agreement. Any party can request the other party to appoint a conciliator. One conciliator is preferred but two or three are also allowed.

Conciliation as a type of ADR in Nigeria is governed by law. It derives its force from Sections 37 – 42 and section 55 of the Arbitration and Conciliation Act .[6]

Arbitration

Arbitration is the process of referring a dispute to an impartial intermediary chosen by the parties who agree in advance to abide by the arbitrator's award that is issued after a hearing at which all parties have the opportunity to be heard. Arbitration resembles traditional civil litigation in that a neutral intermediary hears the disputants' arguments

[6]Cap A 18, LFN, 2004.

and imposes a final and binding decision that is enforceable by the courts. One difference is that in arbitration the disputants elect to settle any future disputes by arbitration before a dispute actually arises, whereas with civil litigation the judicial system is generally chosen by disgruntled party after a dispute has materialized.

In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." *Binding arbitration* means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision. *Nonbinding* arbitration means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Cases for which Arbitration May be Appropriate

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Dispute that can be referred to arbitration must be justiciable issues which can be tried as civil matters.[7] It must be dispute that can be compromised by way of accord and satisfaction.[8] The dispute includes all matters about any real or personal property.[9] Terms of a deed of separation between a husband and wife has been settled by arbitration.[10]

Matters of public concern are not arbitral. It has been held that reference of an indictment for conspiracy and perjury to arbitration is illegal.[11] Obi Okoye[12] has identified matters that cannot be settled by arbitration to include dispute involving crime and dispute involving interpretation of the Constitution and other statues. Supreme Court of Nigeria had in the case of *Kano State Urban Development Board VS. Fanz Construction Company Limited,*[13] given a guideline on the categories of matters which cannot be the subject of an arbitration agreement and therefore cannot be referred to arbitration to wit: an indictment for an offence of a public nature; disputes arising out of an illegal contract; disputes arising under agreements void as being by way of gaming or wagering; disputes leading to a change of status, such as divorce petitions; any agreement to give the arbitrator the right to give judgment *in rem.*

Development and Practice of ADR

Alternative Dispute Resolution is an ancient set of dispute resolution mechanism. The traditional societies across the globe have featured varieties of ADR process like Negotiation, Mediation and Arbitration. ADR therefore is not an imported concept to

[7]Gauis Ezejiofor, The Law of Arbitration in Nigeria (Nigeria: Longman, 2005)p.3.
[8]See Blake's case (1606) 610 p.436.
[9]Baker v Town Shend (1817) 7 Townt 422.
[10]De Riki v De Riki (1891) Q. 378.
[11]Queen v Hard (1850) 14 Q. B 82.
[12]Obi Okoye, Law in Practice,op cit at p. 325.
[13](1990) 4 NWLR Part 172 P.1.

African Jurisprudence. It has existed in our indigenous societies and rudimentary to our customary jurisprudence.

Traditional African Dispute Resolution and Alternative Dispute Resolution are like six and half a dozen. Before the advent of colonialism, when existing African judicial systems were replaced with Western systems, there existed a well-developed mechanism for settling disputes in Africa. This mechanism was very conciliatory in nature and was able to maintain a communal spirit and good neighbourliness. But with the advent of colonialism, the mechanism was replaced with the western favourite – litigation, which is non-conciliatory. Some scholars are of the opinion that the name Alternative Dispute Resolution should be replaced with African Dispute Resolution so that the system can assume its proper position as the Continent's contribution to world peace and progress.[14]

The Legal Framework for the Practice of ADRin Nigeria

The practice of Alternative Dispute Resolution in Nigeria has been enshrined in the Nigerian constitution. Section 19(d) of the 1999 Constitution states:

> *...Respect for international law and treaty obligation as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication".*

Section 254C (3)[15] also states that:

> *"The National Industrial court may establish an Alternative Dispute Resolution Centre within the court premises on matters which jurisdiction is conferred on the court by this Constitution or any Act or Law"*

ADR also has the blessings of The Arbitration and Conciliation Act.[16]

The Act provides that:

> *Every arbitration agreement shall be in writing contained (a) in a document signed by the parties; or (b) in an exchange of letters, telex, telegrams or other means of communication which provide a record of the arbitration agreement; or (c) in an exchange of points of claim an of defence in which the existence of an arbitration agreement is alleged by one party and denied by another.*[17]

[14] See generally J.K Gazama, " Development and Practice of ADR and Arbitration in Nigeria" available at http://ww.nigerialawguru.com. (accessed on 12 March, 2017) See also B.E Onimim , "Using ADR Process in Resolution of Marine Dispute: A Nigerian Perspective,"Rivers State University Law Journal Vol. 1 No. 3 (2005). See also Chukwunonso Okafor, "African Jurisprudence and Restorative Justice: The need to Re-Think the Philosophical Foundation of Nigerian Criminal Law and Criminal Justice Administration," in G.C Nnona (ed) Law, Security and Development: Commemorative Essays of the University Law Faculty (Enugu: Snap Press, 2013) pp. 247-286, particularly at 260-264. See also C. Okafor, S.U Ortuanya & C.A Ogbuabor , "Fighting on the Side of Law and Justice: Legal Essays in Honour of Professor G.O.S Amadi (Enugu: Snap Press ltd, 2016) pp.75-112.

[15] The 1999 Constitution (Amended).

[16] Cap A. 18 LFN, 2004.The preamble of the Act provides thus: An Act to provide a unified legal frame work for the fair and efficient settlement of commercial disputes by arbitration and conciliation; and to make applicable the Convention on the Recognition and Enforcement of Arbitral Awards (New York Convention) to any award made in Nigeria or in any contracting State arising out of international commercial arbitration.

[17] See section 1(1) supra.

The Act also provides for Conciliation. It states that:

> *Notwithstanding the other provisions of this Act, the parties to any agreement may seek amicable settlement of any dispute in relation to the agreement by conciliation under the provisions of this part of this Act.*

Order 19 of Federal High Court (civil procedure) Rules of Nigeria is also supportive of interventions in arbitral proceedings.[18] The Government of Nigeria has also entered into an international agreement and treaty in respect of ADR. These includes:

- New York Convention (Recognition and Enforcement of Foreign Arbitral Award) 1958
- International Centre for Settlement of Investment Dispute (ICSID) (Washington Convention) 1966

There have also been court decisions as regard arbitration awards. In the case of *Kano State Urban Development Board V. Fanz Construction Co*.[19] the Court held that the respondent is bound to pay the award made by an arbitration panel. Similar decision was made in *LSDPC V. Adold/Stan Ltd*.[20] Furthermore, Supreme Court, in the case of *Ohiaeri vs. Akabueze,*[21] held as follows: *Parties that voluntary submit themselves to the decision of the arbitrators who are either the chiefs or elders of their community are bound by such decision.*[22]

Incidences of Tax Dispute and the Resolution Mechanism

Meaning and Nature of Tax Dispute

Tax Dispute is any dispute that arises in any circumstance relating to tax legislation and administration. It could be dispute between taxpayer and tax collector as well as dispute between different tax authorities with regards to power of imposition. The Supreme Court Justices in the case of *Attorney General of Ogun State V Attorney General* of the Federation[23] defined tax dispute as:

> Any argument, disagreement or controversy between two or more people regarding the payment and/ or discharge of tax liability owed government, or collection of same from taxpayers by tax authorities.[24]

[18]The Lagos State judiciary has taken a giant stride towards curbing the menace of long delays associated with litigation. This has been achieved by the issuance of Lagos State (Civil Procedure) Rule, 2012. This provides that before a matter is accepted for filing , Counsel must indicate, through a prescribed form, that attempts have been made to settle the dispute through ADR process. See Order 3 Rule 2 & 8. The Rule further provide that process shall upon acceptance for filing by the registry be screened for suitability of ADR and referred to the Lagos Multi Door Court House or other appropriate ADR institutions or Practitioners. See Order 3 Rule 3.

[19](1990) 4 NWLR (Pt N7) P.1.

[20](1994) 7 NWLR (Pt 358) P. 545.

[21](1992) 2NWLR (Pt221) P.1 at 7 Paras 12.

[22]See also Eke vs. Okwaranyia (2001) 12 NWLR (PT 726) P.181 at 184. For where arbitration was used to settle disputes relating to land, see Larbi v Kwasi (1952) 13 WACA 76, see alsoOkpuruwu v Okpokam (1988) 4 NWLR (pt 90) where the Court has held that arbitration is not alien to customary jurisprudence.

[23](1960-2010) 2 N.T.L.R 902.

[24]This definition is faulted on the ground that it relate only to parties involve in the dispute without considering the subject matter of the dispute. There can be tax dispute between two tax entities other than taxpayer and tax entity. See generally Odinkonigbo & Ezeuko, "Does Nigeria Follow the Contemporary Global Trend In Tax Dispute Resolution Strategy?" Nigerian Juridical Review, Volume 12 (2014), pg 154 .

In *Attorney General of Ogun State & 4 Ors V Eko Hotel* and another,[25] it is also stated that tax dispute *may be any argument, disagreement or controversy between two or among more people regarding the payment and/or discharge of tax liabilities owed government, or the collection of same from taxpayers by tax authorities. The dispute, most of the time, is generally between taxpayer(s) and tax authorities who are authorized under the law to collect taxes in a particular jurisdiction. Sometimes, it could be between tax authorities on which of them is authorized under the law to collect a particular kind of tax.*

While elucidating on the meaning of tax dispute, Odinkonigbo & Ezeuko submitted that tax dispute could arise from disagreement or dispute over the right amount of tax payable to tax authorities, and/or when such tax becomes due and payable by taxpayers; or dispute between or amongst tax authorities over who collects what tax from taxpayers. That is, the dispute (regardless of the parties involved) may revolve round a misunderstanding or misinterpretation of facts, law and/or both facts and law relating to tax issues.[26]

From the foregoing, it is seen that tax dispute is not limited only to dispute between taxpayer and tax collecting agent; it also includes the dispute between different tiers of government regarding the power of very tier to impose a particular kind of tax. It is therefore submitted that the nature of tax dispute can be classified into two categories.

One is the dispute between tax payer and tax collecting agents, while the other is the dispute between two or more tiers of government regarding the power to impose a particular tax. The first usually occur at the administrative level. Considerably, any dispute between FIRS, State Boards of Inland Revenue and tax payers in the course of tax administration and collection, be it issues of tax assessment, notice of objection and other ancillary issues of tax administration is referred to as administrative tax dispute.

On the other hand, any tax dispute with regards to power to collect, impose or legislate on tax matter between Federal Government and State Government; Sate Government and Local Government is regarded as jurisdictional tax dispute.[27]

Administrative Tax Dispute

Administrative tax dispute arises as a result of applicability of tax administrative apparatus to the income of taxpayer . This is usually apparent when a taxpayer fails to agree with the findings of tax authority, refuses to comply with request for information from tax authorities.[28] It can begin during audit process. A taxpayer may be audited if his return is suspected to have been compromised or it could be as a result of routine exercise. If the audit is not followed by an agreement between the tax payer and tax authority concerning the amount, the tax payer could file a protest letter.[29]

[25] (1960)2 N.T.L.R 809.
[26] odinkonigbo & Ezeuko op cit .
[27] This distinction becomes very imperative as it would help in determining which category of tax dispute is suitable for ADR. It perhaps determines the contour of ADR applicability to tax dispute.
[28] P.M Gregory, " Using Negotiation, Mediation, and Arbitration to Resolve IRS-Taxpayer Disputes", available at https://kb.osu.edu/dspace/bitstream/handle/1811/77168/OSJDR_V19N2_0709.pdf (accessed on April 25, 2018).
[29] See Keith Gercken et all, "A comparative Discussion of Negotiation with Revenue Authorities'', 16 Tax Note, 136, 1998.

In the jurisdiction where self-assessment is required,[30] a taxpayer will first examine himself/herself and then files a return to Federal Inland Revenue Service (FIRS) after which FIRS assesses the return filed by the taxpayer and issues demand notice. Where a taxpayer is aggrieved with FIRS assessment or demand notice, he or she can, within 30 days from the issuance of the assessment file a Notice of objection demanding that the assessment be reviewed.

Jurisdictional Tax Dispute

With dwindling oil revenue, every tier of government has accorded attention to taxation in order to boost internally generated revenue. The result is multiplicity of taxes from tiers of government, all in quest to maximise revenue generation. This became apparent as one tier of government enacts various types of laws that is not within the ambit of their jurisdictional powers; while others in exercise of their legitimate tax power act excessively that leads to tax proliferation, leaving tax payer with burden of paying too many taxes.

Jurisdictional Tax Dispute is the type of tax dispute that roots to the taxing powers of various tiers of government. It is usually a constitutional issue between one arm of government and another: the taxing power of every government in Nigeria is rooted in the Constitution.

It could also arise from the interpretation of any law or enactment which the bearing is on the imposition and collection of tax from the government. There are different cases that borders on jurisdictional tax dispute such as the Sales Tax Law of Lagos State.[31] In the recent case of *Lagos State Board of Internal Revenue V Nigerian Bottling Company,*[32] the court while inquiring into the validity of the law, held that, Lagos State Board of Internal Revenue does not have the power to impose Sales Tax in view of the extant provisions of Value Added Tax.

Tax Dispute Adjudicative Mechanism

Tax Appeal Tribunal (TAT)

Tax Appeal Tribunal is a very important and critical administrative body in the enforcement of tax in Nigeria. The Tribunal was established by section 59 of the Federal Inland Revenue Service (FIRS) Act, 2007 which provides that Tax Appeal Tribunal shall have power to settle disputes arising from the operation of this Act and under first schedule. The Tax Appeal Tribunal therefore has jurisdiction over disputes arising from the Companies Income Tax, Petroleum Profit Taxes, Personal Income Tax, Capital Gains Tax, Value Added Tax, Stamp Duties, Taxes and Levies.[33]

[30] Tax assessment is required in Nigeria, see section 41 and 44 of Personal Income Tax Act, 1993 (as amended) and section 53 and 55 of the Companies Income Tax Act, 2007 (as amended).

[31] Cap. S3, Laws of Lagos State, 2003,

[32] Unreported suit No/D/454/2002, www.aelex.com/files/LSBIR%20v%20NBC%20judgement.pdf. See also Lagos State Government & 4 Or's V Registered Trustees of ALTON & 6 Or's Appeal No CA /L/769/2007 Unreported, Attorney General of Lagos State V Eko Hotel, [2008] All FWLR (Pt. 398) 235.

[33] First Schedule to the FIRS Act 2007.

It was established in 2010 in eight different locations namely Bauchi, Kaduna, Jos, Ibadan, Enugu, Benin, Lagos and Abuja,[34] and vested with powers to settle dispute arising from the operations of the FIRS Act and other tax laws as spelt out in the First schedule to the Act. Its scope also covers any other law for the assessment, collection and enforcement of revenue accruable to the Government of the Federation as made by the National assembly from time to time or regulations incidental to those laws, conferring any power, duty and obligation on the Service. Other laws include laws imposing taxes and levies within the Federal Capital Territory; laws imposing collection of taxes, fees and levies collected by government agencies and companies, including signature bonuses, pipeline fees, penalty for gas flared, depot levies and licence fees for Oil Exploration Licence (OEL), Oil Mining Lease (OML), Production Licence, royalties, rents (productive and non -productive), fees for licence to operate drilling rigs, fees for oil pipeline licenses, haulage fees and all other fees prevalent in the oil and gas industry.

The Federal High Court

The Constitution provides for the jurisdiction of the Federal High Court (FHC) to the exclusion of any court, on matters relating to revenue of the nation.

Section 251 (1) (a) & (b) provides that the Federal High Court shall have exclusive jurisdiction on matters:

(a) Relating to the revenue of the Government of the Federation in which the said Government or any organ thereof suing or being sued on behalf of the said Government is a party.

(b) Connected with or pertaining to the taxation of companies and other bodies established or carrying on business in Nigeria and all other persons subject to Federal taxation.

In relation to this provision of the Constitution, all issues pertaining to the revenue of the Federal Government and taxation of companies are vested exclusively on the Federal High Court.[35]

ADR and Tax Dispute Resolution

Comparative *Review of ADR Procedures in Selected Tax Jurisdictions*

United States

In United States, the establishment of the Appeals Office in 1927, the Inland Revenue Service (IRS) first embraced the value of resolving taxpayer disputes without litigation.[36]

[34] Tax Appeal Tribunal Establishment order 2009, Supplement to Gazette No. 77.

[35] There have been controversies on the jurisdiction of TAT vis a viz the exclusive jurisdiction of Federal High Court until the Court of Appeal has upheld the jurisdiction of the Tax Appeal Tribunal (TAT) to determine tax disputes. The Court delivered the judgment in the case of CNOOC Exploration & Production Nigeria Ltd. & Another v. Nigerian National Petroleum Corporation & Another, appeal numbers CA/L/1144/2015 and CA/L/1145/2015 available at http://tat.gov.ng/content/appealcourt upholds-tax-tribunal%E2%80%99s-jurisdiction,bringing to rest the conflicting decisions of the Federal High Courts in TSKJ II Construces Internationals Sociadade LDA v FIRS, Suit No. FHC/ABJ/TA/11/12 and NigerianNational Petroleum Corporation (NNPC) V Tax Appeal Tribunal & 3Ors(2014) 4 CLRN. The controversy however does not seem to have ended as we await the decision of the Supreme Court. For more on the controversy, see also Umenweke & Ezeibe, "Nigerian National Petroleum Corporation (Nnpc) V Tax Appeal Tribunal & 3 Others – The Constitutionality of The Jurisdiction of The Tax Appeal Tribunal Revisited" International Journal of Business & Law Research 3(2):73-81, April-June 2015 and Odinkonigbo & Ezeuko, "Does Nigeria Follow the Contemporary Global Trend In Tax Dispute Resolution Strategy?" Nigerian Juridical Review.

[36] See William Taggart, Corporation Argues Payment for Consulting Services Is Deductible, Tax Notes Today (June 18, 2002), Lexis 2002 TNT 117-37;26 U.S.C. § 7430 (b)(1) (2000).

The Appeals Office operates independently from the local IRS office with which the taxpayer has interacted; however, a case that goes to Appeals remains under the jurisdiction of the IRS. [37]

A taxpayer can initiate the Appeals process by filing a protest letter. An Appeals conference is then scheduled so that the Appeals officer and the taxpayer can attempt to negotiate a mutually acceptable settlement. The Appeals process is designed to be neutral and has the purpose of effecting decisions regarding the settlement of taxpayer disputes. After reviewing the facts and evidence, and upon considering the hazards of litigation, the Appeals officer determines a fair position for the IRS.[38]

In fact, between eighty-five and ninety percent of the cases that reaches Appeals result in settlement.[39] Consequently, in 1996, Congress mandated that all government agencies to begin implementation of ADR into their administrative dispute resolution processes.[40] Additionally, the IRS Restructuring and Reform Act of 1998 have led the IRS to develop more formal ADR policies and procedures.[41]

This congressional action, along with a desire for greater efficiency, has brought about the development of mediation and arbitration programs designed to supplement the existing Appeals process. In response to this, the US Internal Revenue Service ("IRS") has initiated several ADR processes designed to encourage effective resolution of dispute between the IRS and taxpayers. Mediation is the preferred choice of IRS' ADR programme designed to assist it realise its goal of reducing time, cost, and taxpayer burden often incurred at a greater percentage when settlement of tax dispute is carried out through litigation. Specific IRS' ADR programmes, which utilises mediation, for resolving tax disputes are Fast Track Settlement ("FTS"), Fast Track Mediation ("FTM"), and Post-Appeals Mediation.

Canada

A Canadian taxpayer who disagrees with the amount of tax assessed has two ADR procedures at his disposal, which may be used to bring about a satisfactory change in the tax authorities' position:[42]

- The Settlement Process for Appeals is a form of negotiations. After receiving information about the amount of tax assessed the taxpayer may raise his objections.

[37]Internal Revenue Service, Department of The Treasury, Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund (1999 Publication, 556], available at http://www.irs.gov/pub/irs-pdf/p556.pdf (accessed on Sept. 23, 2003).

[38]See Internal Revenue Manual § 8.6.1.2.3, available at http://www.irs.gov/ irm/index.html (last visited Sept. 23, 2003).

[39]Ibid.

[40]See Administrative Dispute Resolution Act, 5 U.S.C. §§ 571-84 (1998) see also Scherer, supra note 2, at 215 (noting how the ADR"has enhanced the recent trend toward the implementation of ADR procedures"); see also Wei, supra note 6, at 552 (noting that the purpose of the ADRA is "to encourage federal agencies to 'reap the benefits of ADR processes'") (citing Robin J. Evans, Note, TheAdministrative Dispute Resolution Act of 1996: Improving Federal Agency Use of Alternative Dispute Resolution Processes, 50 ADMIN. L. REV. 217, 233 (1998).

[41]See IRS Publication . No. 105-206, 112 Stat. 685.

[42]Revenue Canada, Taxation Operation Manuals (Ottawa: The Department) (looseleaf), s. 7011.8(1), cited in Janice A. McCart, "The Art of the Deal, Pt. 2: Audit and Appeals" (1994) Can. Tax Found. 31:1 at 31:14.

Once his objections have been considered, the Appeals Branch within the Canada Revenue Agency (CRA) is authorized to confirm, revoke or change the amount of tax assessed. The taxpayer may begin negotiations with the CRA. Should a solution be reached which is satisfactory for both parties, an agreement is signed under which the taxpayer renounces the right to appeal to the Tax Court of Canada.

- The Mediation Process for Appeals is more formalized than the settlement process. The taxpayer files a request with the Appeals Branch for the commencement of mediation. Next, a written agreement is concluded, specifying the issues subject to mediation.[43] An independent third party is the mediator. The process is not binding. Should it lead to an agreement, it is written up in contractual form, and if not, the CRA has the power to change or sustain the original tax assessment against which an appeal may be filed with the court. Neither of the above procedures has any grounds in the applicable rules of procedure but has been worked out through the CRA's practice. The authority encourages taxpayers to share their doubts before filing a request for instituting either procedure.

South Africa

On 11 July 2014, the South African Revenue Service (SARS") published new rules which now regulate the procedure for filing objections, appeals against assessment. It also covers the procedure for conducting alternative dispute resolution, the conduct and hearing of appeals, and application on notice before a Tax Court.[44] It also covers the procedure for conducting alternative dispute resolution, the conduct and hearing of appeals, and application on notice before a Tax Court.[45] The new tax rules is relevant any time a taxpayer disagrees with an assessment or decision of the SARS.

Under the South African tax rules, a discontent taxpayer has limited period within which he/she is expected to lodge an objection against an assessment or decision relating to his/her returns. Once the objection is delivered, SARS explores ADR mechanism, especially mediation, in resolving the dispute between it (SARS) and a discontent taxpayer.

Nigeria

Nigeria is yet to join the counterpart in the use of ADR in tax dispute resolution. Both the FIRS and different States' Board of Internal Revenue in Nigeria are not statutorily mandated to explore the use of ADR in the settlement of tax disputes. It is evident that no form of ADR is formally explored by Nigerian Tax authorities in resolving tax dispute.

[43] See Chris Jaglowitz, "Mediation in Federal Income Tax Disputes," online: Canadian Forum on Civil Justice < http://cfcj-fcjc.org/> (accessed on 9 July 2014).

[44] See, Nicole Paulsen and Gigi Nyanin, "New Tax Dispute Resolution Rules - the Wait is FinallyOver", online: Tax Students in Administration available <http://taxstudents.co.za/new-tax-dispute-resolution-rules-wait-finally/> (accessed on 9 July 2014); and Price water house Coopers South Africa, "Synopsis Tax Today, July 2914", online: PricewaterhouseCoopers, South Africa available at <https://www.pwc.co.za/en/assets/pdf/synopsis-july-2014.pdf> (accessed on 9 July 2017) .

[45] See, Nicole Paulsen and Gigi Nyanin, "New Tax Dispute Resolution Rules - the Wait is FinallyOver", online: Tax Students in Administration available <http://taxstudents.co.za/new-tax-dispute-resolution-rules-wait-finally/> (accessed on 9 July 2014); and PricewaterhouseCoopers South Africa, "Synopsis Tax Today, July 2914", online: Price water house Coopers, South Africa available at <https://www.pwc.co.za/en/assets/pdf/synopsis-july-2014.pdf>(accessed on 9 July 2017) .

In Nigeria, a taxpayer (individual or corporate) that is aggrieved by the assessment by a Relevant Tax Authority ("RTA") may file an *objection* to the assessment issued by the RTA. The RTA will then amend or refuse to amend the assessment. Where the RTA refuses to amend the assessment, the RTA will then issue a Notice or Refusal to Amend ("NORA"). Upon receiving the NORA, and within 30 days, the taxpayer may file an appeal with the Nigerian Tax Appeal Tribunal ("NTAT").[46]

The identified common practices amongst the countries examined represent the global trend in the settlement of tax dispute. Unfortunately, Nigeria is yet comply with the global trend of settling tax dispute.[47]

Though there is serious need for Nigeria to join the counterparts in applicability of ADR to tax dispute, it should be bore in mind that such applicability, notwithstanding the numerous benefit, is not encompassing in the resolution of all manners of tax dispute. There are kinds of tax dispute that cannot be efficiently resolved under the purview of ADR. There is therefore need to understand the contour of ADR applicability to tax dispute.

Understanding the Contour of ADR Applicability to Tax Dispute

There is an argument for Nigeria to follow the trend as there is no room for the use of ADR in the settlement of tax dispute in Nigeria.[48] Both the FIRS and different States' Board of Internal Revenue are not statutorily bound to explore the use of ADR.[49] In canvassing the importance of the applicability of ADR to tax dispute resolution, there is need to delineate the contour of the applicability. No matter how persuasive and pervasive the argument for the ADR incursion into tax dispute maybe, it cannot detract from the fact that the approach is not suitable to all kinds of tax dispute. It has been submitted that the nature of tax dispute is classified into different categories. Each category is characterised by distinct kind of tax dispute and as such would require a different distinct approach in the resolution of the dispute.[50]

Administrative tax dispute usual arise from the administrative process of taxation embroiled in the problem of tax assessment. Matter of this kind is suitable for ADR. ADR can be adopted as an in house mechanism by tax authorities in resolving tax dispute without necessarily resulting to litigation.

Matters of jurisdictional tax dispute are certainly unsuitable for ADR. It has been emphasized that this kind of dispute is rooted in the legitimacy of the imposition of any kind of tax; an inquiry into the legality or otherwise of every tax organ of government to impose tax. The controversy most times results in constitutional interpretation of the

[46] See Section 59 the Nigerian Federal Inland Revenue Establishment Act (FIRSEA) No. 13 of 2007, Section 11 of the Fifth Schedule to the FIRSEA and Paragraph 5 of the Tax Appeal Tribunals (Establishment) Order of November 25th, 2009 (TAT Order).

[47] Odinkonigbo & Ezeuko, "Does Nigeria Follow the Contemporary Global Trend In Tax Dispute Resolution Strategy?" op citp. 173.

[48] Ibib. see also SPA Ajibade, "Recent Developments on the Arbitrability of Tax Dispute in Nigeria" available at www.spaajibade.com/resources/recent-developments-on-the... (accessed on 18 March, 2018).

[49] Odinkonigbo & Ezeuko, "Does Nigeria Follow the Contemporary Global Trend In Tax Dispute Resolution Strategy?" op cit.

[50] See page 8-9 above.

taxing powers of government and or the interpretation of any law of act imposing tax. This type of matter is not suitable for ADR, no arbitral panel, conciliator or mediation would have jurisdiction to interpret the Constitution or an Act of Parliament with regards to the taxing powers of government; such is an inherent power of the court which cannot be usurped by the palatability of any ADR process. There will always be litigation on points of principles, policies and technical uncertainty.

Another limitation to ADR applicability to tax dispute is the issue of agreement to arbitrate. Who is the appropriate party to arbitrate when there is tax arbitration clause in a contract agreement? This issue was the bone of contention in the case of *Shell (Nig.) Exploration and Production Ltd & 3 others v. Federal Inland Revenue Service*[51] where parties entered into production sharing contract (PSC) with tax arbitration clause. It was held that under section 8(1)(a) and (b) of the Federal Inland Revenue Service Act[52] FIRS shall have exclusive powers of assessing, collecting, and enforcing payment of tax due to the Government of Nigeria or any of its agencies. Accordingly, tax authorities are saddled with the responsibility to arbitrate tax dispute where the need arises. The court further held that matters pertaining to taxation of companies can only be adjudicated upon by the Federal High Court and no tribunal has jurisdiction to pronounced upon them as they are not arbitrable.

Similarly, in *Statoil (Nigeria) Limited & Anor v FIRS & Anor,*[53] the Court of Appeal held that the FIRS had standing to interfere with arbitration proceedings when it constituted an infringement of the Constitution or other Nigerian laws or impede FIRS' statutory functions or powers.

It is our respectful view, on the plethora of cases decided above, that tax dispute is only arbitrable if there is an agreement between the tax authorities and the taxpayer to arbitrate before the emergence of a tax dispute;[54] If there is any law mandating the tax collecting body to refer a tax dispute to arbitration, persons, organisations that are not authorized under the law to administer tax cannot arbitrate or negotiate tax dispute for the existing authorities.[55] Such person lacks the *locus standi*. It is only FIRS and SBIR of states that have the power to administer or collect tax and any contravention of the power is null and void.

Another striking point on the contour of ADR in tax dispute is the criminal element of tax offence. It has also been submitted that there is limitation to the applicability of ADR to the resolution of public matters; matter of public concern is not suitable for arbitration.[56]

[51] Unreported Appeal No. CA/A/208/2012; handed down by the Court of Appeal, Abuja on 31st August, 2016.
[52] Federal Income Revenue Services (Establishment Act) supra.
[53] (2014) LPELR-23144(CA)
[54] In the absence of any agreement to arbitrate, arbitration will not be invoked. However the provisions of various High Courts have provided for the reference of matter to ADR by the judge. Thus, where there is non pre-agreement to arbitrate, there can be post agreement to arbitrate even when the matter is already in the court. It can be on the advise of the judge or both parties may agree.
[55] Unfortunately, there is no such law.
[56] See Gauis Ezejiofor, The Law of Arbitration in Nigeria op cit , p.3. See also Chineze Obi-Okoye "The Question of Arbitrability in Nigeria" in O.D Amuchezi (eds) Thematics Issues in Nigeria Aritration Law and Practice (Onitsha: Varsity Press,2008) pp117-153.

Taxation is a matter of public concern. There is limit to the use of ADR in this kind of matter. ADR is mostly suitable as an in-house administrative mechanism before it comes out to the full glare of the public and become a public concern as a result of litigation. According to Ogbuabor et al, the use of alternative dispute resolution (ADR) in the civil justice context is a common and accepted phenomenon, however, the same cannot be said of ADR within the criminal justice context especially in common law jurisdictions based on accusatorial or adversarial criminal procedures such as Nigeria.[57]

In *BJ Exports & Chemical Processing Co v Kaduna Refining and Petrochemical Ltd*,[58] it was held by the Court of Appeal that arbitration and other forms of ADR are so far restrictive to civil matters. According to the Court of Appeal, per Mohammed JCA:

> It is trite that disputes which are the subject of an arbitration agreement must be arbitrable. In other words, the agreement must not cover matters which by the law of the state are not allowed to be settled privately or by arbitration usually because this will be contrary to the public policy. Thus a criminal matter, like the allegation of fraud raised by the respondent in this case, does not admit of settlement by arbitration as was clearly stated by the Supreme Court in the case of *Kano State Urban Development Board v Fanz Construction Ltd.*[59]

Notwithstanding the above position, it is submitted that the sphere of ADR cover criminal tax offences. It is opined that ADR is now an entrenched part of the Nigerian Criminal Justice System, primarily because it is indigenous to the various peoples of the Nigerian State.[60] The law has also encouraged the use of ADR in resolution of criminal matter. For instance, section 25 of the High Court Law of Enugu State of Nigeria provides that *in criminal cases, the court may promote reconciliation and encourage and facilitate the settlement in an amicable way, of proceedings for common assault or for any other offence not amounting to a felony and not aggravated in degree, on terms of payment of compensation or other terms approved by the court, and may thereupon order the proceedings to be stayed.*[61]

Criminal matters have been resolved through plea bargain. In *FRN v Cecilia Ibru*,[62] the EFCC was able to recover 199 assets and N190 billion naira through the plea bargaining process.[63] It is therefore suggested that where a criminal matter emanating from taxation includes tax evasion and non remittance of appropriate tax fund, it maybe administrative

[57]Ogbuabor , Obi-Ochiabutor Okichel, " Using Alternative Dispute Resolution (ADR) in the Criminal Justice System: Comparative Perspective"International Journal of Research in Arts and Social Sciences, Vol.7, No. 2, (2004)pp.306-324.

[58]2003, FWLR (Pt.165) 445 at 465; 2003, 24 WRN 74.

[59]1990, 4 NWLR (Pt.142) 1 at 32-33.

[60]See Ogbuabor , Obi-Ochiabutor, E.L Okiche, " Using Alternative Dispute Resolution (ADR) in the Criminal Justice System: Comparative Perspective" op cit.

[61]Cap 92, Revised Laws of Enugu State, 2004. The same is reproduced in section 45 of the Magistrate Court Law, Cap 113, Revised Laws of Enugu State, 2004. See also sections 127 – 130 of the Criminal Code.

[62]FHC/L/297C/2009.

[63]Plea bargain gained notoriety in Nigeria when it was first used by EFCC in 2005 to resolve the corruption case against former Inspector-General of Police, Tafa Balogun. See K Oladele, "Plea Bargain and the Criminal Justice System in Nigeria?" Available at www.vanguard.com/2010/10 (visited 04/7/2017).

efficient to employ plea bargain and negotiate the payment or remittance of such tax fund while the matter is withdrawn from court. In this regard, ADR is very appropriate in the resolution of the criminal nature of tax dispute. But where it is a dispute arsing from obstructing a tax officer from carrying out his lawful duty, where there is no collection of tax fund and the law has imposed a sanction as a deterrent to ensuring tax compliance, plea bargain could be very inappropriate.

It has however been argued that the position of plea bargain is anchored more on moral justification other than legal basis as there is no provision of the law supporting it.[64] This view however has been taking care of by the Administration of Criminal Justice Act, 2015**.** Section 270(1) of the Act provides that notwithstanding anything in this Act or in any other law, the Prosecutor may:

a) Receive and consider a plea bargain from a defendant charged with an offence either from that defendant or on his behalf;
b) Offer a plea bargain to a defendant charged with an offence.

Conclusions

Applicability of ADR to the resolution of tax dispute is very efficient and effective to Nigerian tax administrative system. There is need to review the laws relating to tax collection and administration in order to accommodate this reality. There is need to thinker with the provision of the Constitution, especially with section 251, to allow other efficient administrative mechanisms in the resolution of tax dispute. Arbitration and Conciliation Act should either be reviewed to recognise other ADR processes like Mediation and Negotiation or a new law should be legislated to give mediation, negotiation and other informal forms of ADR a statutory recognition.

It has been canvassed that people are averse to tax payment which gives rise to tax dispute. One of the reasons is the fact that there is no visible dividend of tax payment. Tax should be a price for social goods. The absence of social amenities is disincentive to payment. There should be aggregate utilization and accountability of tax fund in order to ameliorate incidences of tax dispute.

There is need for a clear legislation that will determine the powers and functions of every tier of government with regards to tax collection. This will help to ensure certainty in the number of taxes collectible amongst every tier of government and reduces jurisdictional tax dispute

[54]The statutory provisions which seems to justify the use of plea bargain include section 180(1) Criminal Procedure Act, Cap C41 LFN, 2004, Section 14(2) of Economic and Financial Crime Commission Act, Cap E1 LFN, 2004. These provisions are submitted to be construed in an implied manner which borders on disingenuousness. See Chris Wigwe, "The Law and Morality of Plea Bargaining,"Rivers State University Law Journal, 2, 7.

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