TAXATION OF DIGITAL ACTIVITIES: AN EVALUATION OF THE NIGERIAN APPROACH IN A GLOBAL CONTEXT

https://doi.org/10.47743/jopafl-2022-23-09

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Abstract: *It is no longer a major news item that economic transactions are being conducted effortlessly online across the globe without any serious hindrance that was hitherto occasioned by geographical location across the globe. This development cuts across almost sector of the world economy: aviation, energy, shipping, commercial retailing, commodities, fashion etc. One of the notable consequence of this development is that both transacting parties and their host governments stand to make more income as a result of the likely increase in volume of expected transactions on the part of the transacting parties and the possibility of more revenue from taxation accruable to the government. Thus this surge in online business has led to a significant development digital economy in many countries. An effective digital economy presents many benefits for developing countries, especially Nigeria with a large population. This article examines the potentials of the Nigerian digital economy vis-à-vis its potential to contribute to generation of income via taxation. It then concludes that Nigeria stands to gain a lot from its growing digital economy but it requires establishment and maintenance appropriate structure and policy in order to maximize the potential benefits derivable from its digital economy.*

Introduction

In a functional and ideal society, taxation is the price citizens pay for government services whereby a government takes or keeps from its citizens an amount of property (money), calculated by various formulae, each year. At the same time or within that year the government provides or performs certain things for its citizens which services has a cost per citizen. Further, axes are computed on the basis of income, wealth, purchases, and other measures which do not apply to everyone on a uniform basis. On the surface, taxation is seen mainly as a great weapon of gathering revenues by governments across the globe apart from its other sundries functions. However, this is not the whole truth. Rather tax is the most pervasive and privilege exercise of [police power by most states irrespective of their ideological foundations (Tiley 2005). and also a means of Taxation is a partway to developing a countries economy, this is due to the huge percentage of revenue generated from taxation. Unfortunately, the Nigerian government still lacks the ability to harness taxation as a medium for substantial revenue generation. Being that the failure of taxation in Nigeria is diverse, this paper will be evaluating the Nigerian approach of taxation and how it can be maximized in a global context.

Definition of tax

Taxation has been given different definition solely to underscore its importance and thereby justify its various consequences. The Oxford English Dictionary defines a tax as ‘a compulsory contribution to the support of government levied on persons, property, income, commodities, transactions etc, now at a fixed rate mostly proportionate to the amount to which on which the contribution is levied’.

According to Prof. Adams, tax was comprehensively defined as: *“A tax is a source of derivative revenue, from the angle of the citizen a tax is a coerced payment, from the administrative point of view it is a demand for money by state in conformity to established rules from the point of view of theory a tax is a contribution from individuals for common expenditure”* (Moheeth n.d.).

According to Prof. Seligman, tax was defined as:*“A compulsory contribution from the person to the government, to defray the expenses incurred in the common interest of all without reference to special benefit conferred”* (Moheeth n.d.).

Thus, tax is defined as:*“A charge usually monetary imposed by the government on persons, entities, transactions, or property to yield public revenue”*(Gamer 2004, 1594).

Features of Tax

Technically, there are mainly three features of tax, there include:

- It is imposed by government,
- It is for public purposes,
- It is compulsory, (Unanaowo 2018).

Objectives of Tax

The number one classical function of the tax system is to generate revenue to meet government diverse expenditure. This is readily seen as an alternative to other means of raising revenue by the government. For instance, the government might commandeer resources, or print money or borrow money from international lending agencies, taxation is considered more efficient and or more just than these than taxation (Tiley 2005). According to Adams taxation is the most important source of revenue for modern governments, typically accounting for ninety percent or more of their income. More often in Nigeria since he past thirty years, taxation has been accepted a compulsory levy by government through its various agencies across all tiers of government. Essentially it is used to raise revenue whereby the government imposes various source of revenue such as the payment and collection of tax to render various economic and social activities (Unanaowo 2018).

In the not too distant past, tax advocates were fixated on wealth distribution. This objective has two large offerings. The first was the doctrine that taxation should primarily be based on the ability to pay which is hinged on the effectiveness of the operation of market forces. The second offering is hinged on the assumption or theory that the existing distribution was unjust or unfair and therefore should be discarded or reformed so as to conform to contemporary standards. However, it is now conventional wisdom that wealth redistribution via taxation is not only for increasing the rate of taxation or levying of new taxes rather it could be used to either reduce the rate of taxation or abolish tax allowances.

This situation is much more prevalent in western countries with established social benefits system (Thompson 1994).

Another objective of taxation is to ensure economic stability. Taxation can be seen and used as a tool for achieving economic stability, due to the fact that taxation affects consumption and production. The federal government can imbibe the use of taxation to control inflation and deflation of the economy (Hahu Zone n.d.). Furthermore, It aids the creation of job opportunities. In this case the government gives tax concessions or exemptions to small entrepreneurs and labor intensive industries that might lead to the minimization of the countries unemployment statutes (Hahu Zone n.d.). Moreover, taxation is also a powerful tool often used to change behavior or for social transformation. It is not just a matter of economics or finance. Rather it could be used for specific goals or objectives. For example, government could use to control consumption of certain products seen to be harmful to the consumer and invariably on the economy because of their public health cost implications. For instance, large and continual consumption of cigarettes and alcohol is regarded as a big drain on national resources. A study in Canada in 1999 says 'misuse of alcohol, tobacco and illicit drugs cost more than $18.4 billion in Canada in 1992, representing $649 per capita or 2.7% of GDP (Single E, et al. 1998).One way the government can reduce the consumption of harmful substances or products is to imposed or levy heavy excise tax on the harmful products for example cigarettes, alcohol and other products that are detrimental to people's health (Single E, et al. 1998).

In addition, it enhances the standard of living. The government could increase the standard of living of the public by distributing tax concessions to certain essential goods (Single E, et al. 1998). Part of revenues generated from taxes are often used for provision of public goods. A notable example on this point is the establishment of the Education Trust Fund in 1993 to provide supplementary support to all levels of all level of public tertiary institutions with the main objective of using funding alongside project management for the rehabilitation, restoration and consolidation of Tertiary Education in Nigeria Act No 7 of 1993 as amended by Act No 40 of 1998 (now repealed and replaced with Tertiary Education Trust Fund Act 2011). The principal source of income available to the Fund is the two percent education tax paid from the assessable profit of companies registered in Nigeria. The corporate objective of the fund is as follows: "Provide funding for educational facilities and infrastructural development Promote creative and innovative approach to educational learning and service .Stimulate, support and enhance improvement activities in the educational foundation areas, like Teacher Education, Teaching Practice, Library Development and Special Education Programmes Champion new literacy enhancing programmes.'' Further, the focus and administration of the Fund has continued to be subjected to criticisms. Its major criticism is that the Fund is not accessible by private tertiary institutions (The Nation 2020).

Furthermore, taxation is also an efficient regulatory tool employed by governments to steer private sector activity in the directions desired by governments. In this instance, it equally serve both short term and long term purposes (Avi-Yonah 2006). For instance in order to discourage and equally attract domestic production of certain goods in a country, the government can increase the importation taxes on such goes and also provide specific tax incentives, allowances or holiday taxes for any business intending to undertake production of such goods locally. For example, the Companies Income Tax Act Cap C21, LFN 2004 ("CITA"), permits deduction, from taxable income, of expenses incurred wholly exclusively and necessary in the promotion of a business venture, provides for capital allowances for qualifying capital expenditure incurred in the course of doing business (as provided for under the Second Schedule to the CITA) and further grants tax exemption for interest payable in relation to foreign and agricultural loans invested in Nigeria under certain circumstances, as provided for under the Third Schedule (pursuant to Section 11) to the CITA, amongst other incentives.

While it is not in doubt that taxation has impacted significantly on Nigeria's economy in general, it is equally not in doubt that the tax system could be improved for better accountability and impact on the economy (Afuberoh and Okoye 2014).

Tax system in Nigeria

The Nigerian tax system consist of tax laws, policy and administration (Unanaowo 2018). The focal aim of the (Unanaowo 2018)Nigerian tax system is to directly contribute to the wellbeing of Nigerians through improved policy formation and indirectly through appropriately utilizing tax revenues generated for the public (Unanaowo 2018). For a country to enjoy a good tax system, it must have good laws which will birth good tax policies, and when implemented by skilled tax administrators; will result in the increase of tax revenues (Unanaowo 2018). Some features of a good tax system include; its flexibility, fairness, economic effectiveness, simplicity, less cost of administration and etc.

Types of Tax

In Nigeria, taxes are classified into two categories, to wit: methods and by incidence.

The *methods* include but not limited to the following:

Regressive tax: This is applicable in cases where the tax payable decrease or reduces as the taxpayer's income increases (Unanaowo 2018). Thus, this is seen as reducing inequalities in income distribution (McLure, Neumark and Cox 2020).

Proportional tax: Here, the same relative burden of tax is imposed on all taxpayers. This happen in instances where the tax liability of an individual is in equal proportion to his or her income (McLure, Neumark and Cox 2020).

Progressive tax: This is applicable to cases where an increase in income results to the increase in the tax payable (McLure, Neumark and Cox 2020).

While by *Incidence*; include but not limited to:

Direct Tax: This are simply tax that are imposed on people, which is based on the taxpayer's ability to pay as measured by income, consumption, or net wealth (McLure, Neumark and Cox 2020). There are various types of direct tax, they include but are not limited to the following:

Personal income tax: This type of tax are usually imposed or levied on the total personal net income of the taxpayer's (which can either be an individual, a family or couple) in excess of some stipulated minimum (McLure, Neumark and Cox 2020). Thus, circumstances that influence the ability to pay such tax is taken into account (such as finance issues resulting from illness, family status and so on) (McLure, Neumark and Cox 2020). However, in cases where there is an increase in income, it also results to the increase in the tax payable.

Taxes on net worth: Here, tax is imposed on the total net worth of the taxpayer, that is, the value of his or her assets minus his liabilities (McLure, Neumark and Cox 2020). In relation

to the taxpayer's income, his personal circumstance can be taking into account (McLure, Neumark and Cox 2020).
Indirect Tax: This are taxes imposed or levied on goods and services. In other words, they are taxes levied on the manufacturing, production or the consumption of goods and services or on transactions, inclusive of importation and exportation (McLure, Neumark and Cox 2020). Examples of indirect tax include but are not limited to the following; value added taxes (vat), stamp duties, excise duties, custom duties and so on (Unanaowo 2018).

What is digital taxation

Digital tax is: "*A tax applied to digital business activities, this includes both digital-only brans which deal with virtual commodities and the services traditional market players use while transforming their businesses with digital technologies* (Payspacemagazine 2019)."

What is Digital Economy

The Base Erosion and Profit Shifting (BEPS) Action 1 defines digital economy as: "*one characterized by an unparalleled reliance on intangible assets, the massive use of data (notably personal data), the widespread adoption of multisided business models capturing value from externalities generated by free products, and the difficulty of determining the jurisdiction in which value creation occurs* (OECD 2014)."

Classification of digital economy

Digitally ordered services: involves transactions that are digitally ordered, which includes the transactions of good and services, that reflect e-commerce (OECD 2014). Platform enabled services: involves peer to peer services that aids the transacting of goods and services (OECD 2014). Digitally delivered transactions: involves the capturing of services and data flows which are then delivered either as web streaming products or digital downloads (OECD 2014).

Features of digital economy

Mobility of intangibles which is relied upon by the digital economy, users and business functions.

- Reliance on data, especially "big data."
- Network effects.
- Usage of multisided business models.
- Tendency in relation to monopoly or oligopoly in certain businesses who rely solely on network effects.
- Volatility as a result of rapid entry of evolving technologies (OECD 2014).

Challenges faced by digital economy in Nigeria

The spread of digital economy has introduced benefits, such as employment, and human wellbeing etc. At the same time, it has made room for more challenges for policy makers. The major challenge policy makers are facing is the possible risk for Multinational enterprises (MNEs) to move their profits from the jurisdiction (country) where the economic activity took place. This erodes the values created in such jurisdiction. The global scope of digital businesses raises the question on how taxing right on income gotten from cross-border trade, should be allocated among participating jurisdiction to address under/over taxation (Obayomi, Idowu and Adegite 2019).

At the mandate of G20, the organization for economic co-operation and development (OECD) published an Action Plan on base erosion and profit shifting (BEPS) in July. The Action Pan identifies fifteen (15) actions to address BEPS and sets deadlines for those actions (OECD 2014, 24). It is worthy of note that the challenges faced by digital economy is not peculiar to Nigeria. However, several countries have taken steps to fix the challenges facing digital economy:

Israel introduced a significant economic presence (SEP) test that is only applicable to foreign companies which reside in countries that have no double tax agreements with Israel (Obayomi, Idowu and Adegite 2019). United Kingdom introduced 25 percent Diverted Profits Tax on profits that are said to be diverted away from the UK (Obayomi, Idowu and Adegite 2019). An estimation of 1.5 billion pounds will be generated from taxation in the UK (Imosemi and Okwu 2019).

Way forward

The Nigerian government needs to ensure the effectiveness of digital economy for the purpose of income tax. This can be achieved if the scope of fixed base is expanded in section 13 of the corporate income tax act (CITA). When done, the Nigerian government revenue will be increased (Isiadinso and Omoju Emmanuel, 2019).

- Adopting the best practices internationally in relation to taxing the digital economy (Imosemi and Okwu 2019).
- The inclusion for the taxability of players in the existing laws of the Nigerian economy (Imosemi and Okwu 2019).
- Introducing a simplified registration process for companies in the digital economy (Imosemi and Okwu 2019).

Conclusion

With an evolving digital economy, it is apparent that taxing the digital economy has a huge impact on revenue. Nigeria has so much to gain in taxing the digital economy due to its huge populace. However, it is important, that the Nigerian tax authorities find innovative ways to ensure that the digital economy is taxed aptly. Thus, cutting-edge ideas are to be introduced toward ensuring the effectiveness of our tax laws and compliance with BEPS measures with regards to the Nigerian economy.

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