

ELIMINATING MULTIPLE TAXATION IN THE CAPITAL MARKET - THE CAPITAL MARKET PERSPECTIVE.

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ORIGIN OF MULTIPLE TAXATION

The precise origin of multiple tax practice in Nigeria is a little bit elusive. However multiple taxation practice became more pronounced and prevalent in the late 1980's.

This period however coincided with the period when revenues accruable to the state and local governments in the federation and disbursable from the central federal authority began to witness an increasing decline or dip. According to Foluso (2007) this situation led some state governments and many local governments in the country to seek for alternative sources of internally generated revenue. This then made a lot of them gravitate into multiplicity of taxes.

MEANING OF MULTIPLE TAXATION

Multiple taxation is said to occur when the same income is subjected to more than one tax treatment. Double taxation, triple taxation etc are common examples of multiple taxation.. The main issue here is that the same income or money is taxed more than once. If it taxed twice then we have double taxation phenomenon. When it is taxed thrice we have triple taxation.

DOUBLE TAXATION

The most common forms of multiple taxation involves a situation where a company's profit is subject to CITA at corporate level and at the same time opened to withholding tax and PAYE as income tax in the hands of the investor as dividend income receivers.

SOME ARGUMENTS ON DOUBLE TAXATION

Experts and writers do not agree completely on the issue of double taxation. A school of thought sees the equity individual investor as being cheated or punished twice. After all the corporate profit belongs to the investors. The

reason is that it is this investment, which he ceded willingly to the company in the first case as investment. Thus if the investments were lost he would also lose everything, Thus taxing the income twice is regarded as unhealthy and a punishment to the taxpayer.

Another school of thought equally has a very strong, interesting and convincing position. We summarize this below

1. That a company is a separate legal entity from the dividend income receiving investors.
2. In legal theory and legal facts a company is not the same as an individual investor or the dividend income receiver.
3. A company can and do shield itself from taxes through alternative deductions such as executive perks and deductible allowances.
4. It is only corporate income residue that are subject to CITA. Thus in a way taxation at the corporate level of corporate profits followed by taxation at the individual level of individual dividend income can be seen as a fee escaping liability of the corporation.
5. Not many atomistic shareholders who receive dividend income truly pay tax as they should.
6. Only high profile investors may suffer high double taxation and that many of individual investor generally prefer stock dividends

TRIPLE TAXATION

Many people are familiar with double taxation but very few know about triple taxation. Let me explain it below.

In U.S.A taxpayers are quite sensitive. In Nigeria multiple taxation takes place in several forms. Only a careful observer and professional Accountant/Tax practitioner will notice this. This ignorance on the path of the consumers have led to continuity of multiple taxation.

USA TRIPLE TAXATION

Multiple taxing of workers income and wages have been questioned by experts like professor Richard L. Kaplan, an expert at the university of Illionis is at Urbana-Champaign. For instance a worker who earn say \$50,000.00 (US Dollar) a year.

That worker's income is subject to 7.65% in social security and Medicare tax in the first instance.

That same income is then exposed to Federal/State tax. In Nigeria this could be in the form of P.A.Y.E

The third tax could come in the form of tax in social security income after some years.

GERMANY EXPERIENCE

Felix Klinger & Gunther Manaske (2006) in their joint paper captioned "Impact of German Tax Reforms Act 2004 on Taxation of Investment funds" observed as follows:

1. That under the Germany's full imputation system, a German resident (Corporate or non-corporate tax credit on dividends received from German corporations. Thus German corporation tax levied on German corporation are treated as a similar way to a prepayment of tax by the investors, provided the income is distributed by the corporation.

Dividends from domestic or foreign corporate investments received by a corporate investor is said to be 100% tax exempt (participation exempt). And without such a participation exemption, the abolition of the imputation system would result in double or multiple taxation of dividends in the corporation.

OUR CASE IN NIGERIA

Your earning is first taxes in form of P.A.Y.E

This income will be subject to VAT if you purchase vatable items.

If your buy fuel, air tickets, imported goods, alcohol, tobacco, sleep in hotel etc that same income in your hand will be subjected to various forms of taxes or levies. Not many people are aware of this.

MULTIPLE TAXATION IN USA

Multiple taxation is also a subject of worry not only in Nigeria but in USA and other highly industrialized countries.

For instance, a recurrent theme in USA Tax Reform proposal is to eliminate the double taxation of corporate profits and individual dividends. The argument is that the profits of a corporation are also really dividends of the investors, and therefore should not be taxed at the corporate level and at the same time at the individual investors level. We have already, referred to typical instance of triple taxation.

Even in Virginia, USA there is an imposition of extra territorial taxes by state upon the transfer of securities owned by a decedent issued by corporation created by another state in U.S. This is another peculiar form of multiplicity of taxes.

MULTIPLE TAXATION EXPERIENCE IN NIGERIA

1. As at today, researchers have shun that over 500 different taxes and levies are being imposed by various tiers of government in Nigeria as against the only 39 approved by Taxes and Levies (Approved list of Collection) Act (See Fasoto Foluso, 2007).
2. The more taxpayer transports his goods and services across many local governments in the country, the more he is confronted with incidents of multiple taxes, legally and illegally imposed.
3. Multiple taxes confront the manufacturing sector in different shapes and shades viz:
 - Import duties
 - Export & excise duties
 - Sales and VAT
 - Withholdings and income taxes
 - Mobile advertising & billboard levies
 - Education levies
 - Social responsibility charges etc.

Experience has shun that these taxes & levies far exceed the prescribed existing provision of CITA

4. The landmark judgement by justice Ibrahim Auta which declared null and void the various fees paid by operators in the telecom sector in Lagos State by the Lagos State infrastructure maintenance & Regulatory Agency (IMRA) particularly brought such collection by State or Local government to the realm of illegality of such multiple tax practices no matter in what disguise.
5. Most of the multiple taxes by some state or local government run counter with the provisions of the Constitution of the Federal Republic of Nigeria.

According to Justice Auta no state government could legislate on telecoms in that sector is under the Executive LEGISLATIVE LIST of National Assembly. Multiple tax practices in the country have infringe on the provisions of the Constitution. There is the need to re-examine those sectors we are taxing at a multiple level in our Local Governments or States.

6. By virtue of 1999 constitutional provision the taxes and levies imposed by any arm apart from the one authorized to do so should be regarded as illegal, unconstitutional, null and void. Consequently the pursuit of additional revenue or any other ulterior motive should not be an excuse by any arm of government or its agents to flout the constitution.

Lagos State Govt. Experience.

7. In Lagos State alone companies pay taxes on more than 100 items imposed by both the state and its various Local Governments. This has pitied the Local Governments under the watchful eyes of EFCC over illegal collection of levies and taxes from Manufacturing companies and Companies in other sectors in Exclusive list of National Assembly in Nigeria.
8. During his campaign, Obanikoro did promise to stop such multiple taxation phenomenon in Lagos State. According to Obanikoro (2007) multiple taxation was clearly one of the factors killing businesses in the State.

EFFECTS & CAUSES OF MULTIPLE TAXATION.

(1) Multiple Taxation is economically

- (a) Counter Productive.
- (b) It Destroys investor confidence.
- (c) It raises cost of doing business.
- (d) It is one of the major threats to the manufacturing sector in Nigeria.

(2) Causes of multiple taxation include.

- (a) Unfair revenue formula
- (b) Dwindling State income from the central fund.
- (c) Unhealthy State rivalries.
- (d) Political patronage.
- (e) Source of reimbursing so called political god-fathers
- (f) Lack of political will to stop multiple taxation by some State & local governments
- (g) Poor equipping & training of revenue agencies staff.
- (h) Inefficient manpower at the revenue agencies.
- (i) Greed on the part of tax officials.

LESSENING OR REDUCING MULTIPLE TAXATION.

(1) Those to eliminate multiple taxation include Local and State Governments. They are the worst culprits. They should ensure that Constitutional provisions are not violated. The need to come up with effective tax administration.

- There is also the need for uniformity.
- Society needs to be sensitized.
- Issue of residency must be looked into and clearly defined.

(2) There is an urgent need to review Nigerian Tax Laws to

- Streamline Compliance.
- Make the Tax system more efficient and investor (Local & Foreign) friendly.

(2) EFCC and our law enforcement agencies to play a vital and more active role in bringing to book errant tax officials and tax evaders.

(3) At the International level the following methods have been advocated to lessen or eliminate multiple taxation. We can adopt or adapt some of such methods in this Country.

- (a) Tax exemption.
- (b) Foreign tax credit.
- (c) Expense deduction.
- (d) Separation tax.
- (e) Tax forgiveness.

CASE STUDY.