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**Effects of Business Tax Differentials on Government Tax Revenue Ability: A Study of Private Sector Organizations in Ilorin**

By

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**Abstract**

*Revenue through taxation, which is one of the most stable sources of financing government projects, is insignificant in Nigeria. It is often avoided and even evaded through variety of means. One way of avoiding taxes is in the area of forms of business ownership, in which an investor establishes business in a way that tax liability is reduced to the minimum. This consequently affects the revenue base of government. This study examines the effect of the differential taxation on the revenue ability of government. Tax clearance certificates of businesses were sampled for analysis. 'T' distribution for a one-tail test was used for data analysis and the result of analysis was the bases for hypothesis testing. The study reveals that tax differential that currently exists among business firms reduces government revenue. The kind of differential that already existed between small and big companies under Companies-Income Tax Act (CTA) was recommended for business firms.*

**Key words: Government Revenue, Government Project, Tax Clearance Certificate, Tax Differential**

**INTRODUCTION**

Tax is one of the most important and durable sources of financing the expenditures of all governments. As set forth by Ola (1997:350), "it is a compulsory levy imposed on a subject or upon his properties by the government .... to meet government expenditures". Taxes have been classified into direct and indirect taxes. Direct taxes are those which both the impact and the final burden is borne by the payer while the indirect taxes, on the other hand, are those which burden are expected to be shifted further down to third parties.

Nigerian governments' potential in business tax revenue generation cannot be over emphasized. Out of the population of over a hundred and Forty (140) million, half could be said to be in the working bracket. Few takes on salaried employment while the majority are doing businesses ranging from small scale trading, farming and other crafts, partnership business and even small and large scale Companies. "Taxation could positively influence and increase revenue generation

capacity in Nigeria, if it is properly administered and the system is made more efficient" (Balogun, 2003:40).

Most often than not, businesses, regardless of their form are seen to be enjoying equally most of the benefits in government amenities, patronize same labour and capital markets and enjoys equivalent customer-ship. Consequent upon these, it becomes normal to expect them to receive similar treatments to tax, with variation between them being only related to level of Income.

The system of business taxation as currently practiced in Nigeria is deficient. The problem identified with business taxation in Nigeria is that registered companies are assessed to tax on profit (that actually belong to owners) at a rate (currently 30%) before dividends are distributed to owners. Dividend being an income in the hand of recipients is then assessed to tax, accordingly, as provided for under Personal Income Tax Act (PITA). Similar investor, but this time around, of partnership or sole trade firms, takes his

income straight as personal income and it is taxed as such. This will mean that two businesses with similar investment, sales and profit potentials may, only because they are not of the same ownership form, pay widely different income taxes. At the end of the day a big and strong business will end up paying a small tax because it is not incorporated, which will seriously deny the governments of essential finances needed for projects and programs. In the first instance, investor(s) who are conscious of above facts may from the threshold (even with all the capabilities of floating a Company) choose a partnership or sole trade; even if it is glaring that it is not appropriate, because of tax advantage. A second possibility is the fact that existing investor(s) in Company that has gained reasonable ground may deliberately liquidate and raise partnership business to avoid high taxes.

Many studies have been carried out by Misrab (1979), Baiyewu (2001) and Kasum, Akinniyi and Ibrahim (2005) on personal and company taxation and also, the effects of differential taxation on so many other variables. It should be mentioned here that this study particularly emphasis, empirically, the tax object "business" and integrate it backward to various forms of it and the taxes that affects each of their profits. These translate into an evaluation of both personal and company income tax laws as they affect businesses and the consequences of their differential rates on government revenue

Specifically, the study set out to achieve the following objectives: (i) to examine the current system for assessing businesses to income tax based on relevant tax laws; (ii) to evaluate the effects of differential business taxation on revenue generation ability of governments at state level; and (iii) to proffer recommendations, based on findings towards equitable business tax that would in turn improve government revenue.

## THEORETICAL AND CONCEPTUAL FRAMEWORKS

### *Theory of Optimal Taxation*

Theory of optimal taxation is based on an approach that demand for a system of taxation which minimizes excess burden of taxation. It has been on the integration of both efficiency and equity criteria. A review of the development of this theory, which is said to be an off shoot or normative tax theory could be started from Edgeworths' utilitarian approach of 1879 which assumes the following: that the objective of a society is to maximize its utility; that the objective is achieved by maximizing the utility of individuals; that utility is cardinal measurable; and that inter personal comparison of utility is possible. (Altay, 2000).

The old optimal tax theorists extended their utilitarian approach to include both efficiency and equity arguments in the welfare function. As part of contributions to this theory, Sandmo (1976) identified three criteria for optimality of the tax system. They are that:

- A good tax system is the one that maximizes the resources cost involved in assessing, collecting and paying the taxes.
- Alternative tax system can be evaluation in terms of "justice and fairness".
- Tax systems should be lined on the criteria of economic efficiency (Sandmo, 1976).

Other contributors to the theory view optimality in the leviathan approach, that is about government revenue maximising. Consequently, they criticized normative tax theorist on the ground that they do not include institutional matters in optimal theory analysis (Bernnan and Buchanan, 1977:255-273).

Sterns (1976) contribution was on the specification of models of optimum income taxation. He calculated optimal linear income tax rates and used simulation analysis, in which potential efficiency loss is implied by the shape of the indifference map, between

income and labour captured in the elasticity distribution. The conclusion was that:

We should emphasize that the study of optimum income taxation is in its infancy, there is much work, empirical, conceptual as well as theoretical to do, and therefore all our estimates and calculation must be viewed with circumspection and as attempt to understand the best model currently available rather than the proscription of policy (Stern, 1976).

Harnessing all these contributions, one may conclude that optimal taxation theory is one which seek to ensure equity, fairness, efficiency and also economy. A tax system would be said to be optimal if it is fair on subjects, provide the required revenue for government activities and reduces excess burden on the two sides in term of payment and cost of collection respectively.

#### **Forms of Business Ownership**

The form of business ownership is the legal relationship that exists between the business and the owner(s). It defines the number of contributors to funding the business, the extent of liability of the owners on the business and control, average size and fields to which it is best suited (Rachman & Mescon, 1985:28).

Business ownership traditionally exists in five different forms. They include: sole proprietorship, partnership, Joint stock company, cooperative society and public corporation. The first three out of the above listed are profit-oriented and are the focus of this study.

#### **Sole Proprietorship Business**

This is the simplest form of business organisation. It is said not to exist apart from the owner who bears "the risk of the business to the extent of his personal properties". It is, according to Rachman and Mescon (1985:20), "associated closely with the idea of individual initiative, self reliance and hard work". Most

small businesses begin with this form, as it is cheap to form (Ward, 2002).

**Tax advantage:** Sole proprietorship business is subjected to lesser tax in the form of personal income tax only. Also, self employed individuals are permitted to transfer into a personal pension account that is not subjected to tax until drawing is begun from the savings as income (Rachman and Mescon 1985:29). Their tax rate is also smaller.

#### **Partnership Business**

Partnership Act of 1895 put partnership as a relationship that subsist between two or more persons carrying on business in common with the aim of making profit. It is a legal association of two or more persons in business, as co-owners of that business. It combines the skills of several people each of who has a direct interest in the success of the business (Rachman and Mescon, (1985: 30-31).

**Tax advantages:** They are, as given by Pfau (2003:14), as follows:

- there exists wide latitude for allocation of tax attributable to the partnership to each partner, and
- the venture is not a separate entity for tax purpose but income are shared and assessed to tax in the hands of individual partners as personal income.

#### **Joint Stock Company**

A Company is an entity that is authorized by law to act as a private person... and legally endowed with various rights and duties' among them to receive, own and transfer property, to make contracts and to sue and be sued (Rachman and Mescon, 1985:33)

The legal responsibility of shareholders of a corporation for damages or debt is the extent of their investments (Rachman and mescon 1985:33). This is what is referred to as limited liability. Further to this are the facts that its life is separate from that of the owners and has its own rights and duties (corporation



maker, 2002:3). Company could raise larger capital, transfer ownership and exist perpetually (Adebo Lawal, 1982). In line with perpetuity concept it has been stated that:

Ownership and management are separate; so, in theory at least, If the owners wish to get rid of the managers, the organisation will still survive. (Rachman and Mescon, 1985:34)

On the other hand, if an investor decides to sell his/her share, that is, ceasing to be an owner, other investor(s) will take up the shares and the company continues.

#### **Taxation of Business Income**

Two types of taxes affect business income in Nigeria. They include personal income tax and companies' income tax.

The personal income tax act of 1993 is the law governing the administration of personal income tax. It provides in Section One that:

There is hereby imposed a tax on the income of individuals, communities and families, and arising to any trustee or executor under any settlement trust or estate, which shall be determined under and subject to all provisions of this Act (PITA, 1993)

This provision takes care of sole trade income and also partnership income, because... 'a partnership cannot be directly assessed to tax in respect of partnership profit but the share of partnership profits and other incomes of an individual partner shall be assessed' (Ola, 1997:313).

The current progressive rates of personal income tax in Nigeria are:

First N30,000 at 5% of every N  
Next N30,000 at 10% of every N  
Next N50,000 at 15% if every N  
Next N50,000 at 20% of every N  
Above N160,000 at 25% of every N.

Companies Income tax Act LFN of 1990 regulates company's income tax in Nigeria. Section one of the Act established the Federal Board of Inland Revenue services that "...."is charged with the duty of administering the taxation of companies in regard to income tax, to make assessment, collect tax and account to

the government" (Abdulrasaq, 2002:120). The current rate of company's income tax is 30% of chargeable income for big companies and 20% for those classified as small companies.

According to Naiyeju (1992), sole proprietors in small trade and businesses are assessed to tax as resident individual under personal income tax Act. Baiyewu (2002) stated that because partners shares the partnership net incomes, the personal income tax act of 1993 makes it mandatory for each partner to be liable to tax. For a company, Abdurasaq (2002) stated that taxation is based on classical model effect, which is on the basis of incidence of incorporation. A complete separation between the company and its owners, so that tax is levied on the profit of the company in the company's hand. If a company further chooses to distribute dividend to shareholders, the income is further assessed to personal income tax like is the case for a sole trader or a partner.

#### **EMPIRICAL STUDIES**

Mirshab (1979) explores whether or not a proportional Federal personal income tax can be a good tax alternative to progressive one, concluding that proportional income tax is able to serve both equity and growth objectives, and produce less undesirable economic consequences.

Luttman (1988) based on tax objective of broadening tax base and reducing tax rate, examined the effect of the revisions on the distribution of income tax burden. The results indicated that income increased synonymously with difference between current tax liability and calculated alternative tax liabilities. Also that the income effect dominates and tax payers will decreased number of hours worked in response to decrease in marginal tax rates.

In year 2001, Feld and Kirchgassner studied the effects of income tax competition at state and local level in Switzerland. The country, which have twenty six cantons (like states) and about 3,000 communities (like local governments) give it a three levels structure

with each level financing their expenditures essentially by their taxes and fees. Also the cantons and communal governments have income tax revenue accounting for 60% and 84% of their total revenues. They carried out a regression analysis of the share of various income classes in the cantons and main cities of different income tax rates. The result of the regression was that a strong negative relationship exists between the tax rates and the share of rich household. The meaning of this is that higher tax rate is associated with lower income earnings. Kasum et. al. (2005) studied the impact of differential business taxation on choice of business ownership form in Nigeria based on a sample of 120 inventors. The conclusion of the study was that tax advantage influence the preference of sole trader and partnership for the forms of business.

## METHODOLOGY

### Study Design

Only secondary data are used here. They relate to profit and tax paid in the year 2002, which were extracted from tax clearance certificates submitted to MDAs in Kwara state. This is to say that the secondary data are of non-survey type, because they were not gotten from source. It has to do with gathering of data that relate to profit and tax paid as filled on tax clearance certificates submitted to ministries and agencies of government.

The population of our study is made up of all private businesses whose incomes are taxable under Nigerian Laws in Kwara state. A total of eight hundred and twenty businesses are officially registered in Kwara State. Based on this, sample of 20 organizations has been drawn out of about 40 made available to the researcher at the ministry, for the overall study. They cut across the three forms of businesses. The 20 are selected in such a way that equal profit base is gotten for each of the two (personal and company income) categories.

### Hypothesis of the Study

**The following hypothesis is tested in this study. The hypothesis is stated in the null and alternate form.**

- $H_0$  - There is no statistically significant difference between the means through which Companies Income Tax Act generate tax revenue and the Personal Income Tax Act generate tax revenue.
- $H_1$  - The mean through which Companies Income Tax Act generate tax revenue is significantly greater than the means through which Personal Income Tax Act generated tax revenue.

The study was carried out in Ilorin, the capital city of Kwara State. The data used relate to income and corresponding tax liability of organizations. They were collected from a ministry in the city. It is a cross sectional studies that analysed data of a period, but for many organizations.

### Method of Data Analysis

To test the hypothesis, student T for a one-tail test was used. It helped us to compare the mean of tax paid under each of the two categories. It is defined by:

$$t = \frac{\bar{X}_1 - \bar{X}_2}{E}$$

Degree of freedom =  $n_1 + n_2 - 2$

Where:

t = student t statistics

$\bar{X}$  = mean of samples

E = standard error estimate

n = number of elements in sample

### Decision Rule

The rule is to accept null hypotheses if calculated value of 't' is less than the table value

and to accept the alternative if the calculated value is greater than the table value. Apart from deciding based on test of hypothesis, descriptive analyses, through the use of percentages also assisted in communicating the findings of the study.

## RESULT AND DISCUSSION

### Data Analysis

The data generated are profits and corresponding tax paid by businesses under two categories for 40 businesses. Taxes paid under personal income tax Act (i.e. by sole traders and partnerships) are separated from those paid under Companies Income Tax Act (by companies). Profits ranged between

N34,000 and N218,000, while taxes paid ranged between N1,025 and N14,235 under personal income Tax Act. Companies' profits ranged between N6,500 and N812,900, while taxes paid ranged between N2,000 and N143,000. Data are presented as appendix to the work.

Table 1: Sampled tax paid by businesses under CITA and PITA

CITA IN N	PITA IN N
6,000	8,890
7,000	9,540
10,000	1,642
2,000.2	8,411.2
3,000.2	14,235.25
143,000.2	4,690
80,115	11,455
25,000	12,300
35,000	12,800
50,000	14,633
Total relevant profit	1,873,510
Total tax paid	361,815.6
Mean tax paid	36,181.56
STD. Deviation	45,128.35
Number of sample	10

Source: Field Study 2004.

The tax paid figures used above are sampled from the list of profits and taxes paid under personal and companies income tax Acts.

### Calculation of 't' value

#### Computation of pooled standard deviation

$$S = \sqrt{\frac{(n_1 - 1)s_1^2 + (n_2 - 1)s_2^2}{n_1 + n_2 - 2}}$$

$$= \sqrt{\frac{(10 - 1)(45,128.35)^2 + (10 - 1)(41,963.6)^2}{10 + 10 - 2}}$$

$$= 32,046.48$$

Our 'S' which is pooled standard deviation is equal to 32,046.48.

#### Computation of standard error

$$SE = S \cdot \sqrt{\frac{1}{n_1} + \frac{1}{n_2}}$$

$$= 32,046.48 \cdot \sqrt{\frac{1}{10} + \frac{1}{10}}$$

$$= 14,339.6$$

Therefore:- Our 'SE' standard error is equal to 14,339.6.

### Calculation of 't'

$$t = \frac{\bar{X}_1 - \bar{X}_2}{SE}$$

$$= \frac{36,181.54 - 9,859.65}{14,339.67}$$

$$= 1.836$$

Our 't' is equal to 1.836.

### Table value of 't'

$$\text{Degree of freedom} = n_1 + n_2 - 2$$

$$= 10 + 10 - 2$$

$$= 18$$

At 95% confidence limit with degree of freedom of 18, the table value of 't' is equal to 1.734

### Result

Figures, '1' to '3' are based on table '1' and relates to the hypothesis. The calculated 't' gives a result of '1.836' which is higher than the critical table value of 1.734 at 95%



confidence limit and a degree of freedom of '18'. This supports the acceptance of our alternative hypothesis that states that the means through which of Company Income Tax Act generate tax revenue is significantly greater than the means through which Personal Income Tax Act generate tax revenue. A close look at table 1 presents a clearer picture of what is suggested here. Sample under CITA generated an average profit of about N187,351 with the relevant average tax paid of N36,181.54. This represents 19.4%. Sample under PITA also generated an average profit of N188,796 but with a corresponding average tax paid of N9,859.65, representing 5.2%. These clearly describe the insufficiency of tax generated through PITA due to tax differential.

#### Discussion of Finding

Misrab (1979)'s work revealed that proportional tax is able to generate effective progressive tax rate while also serving equity and growth objectives with less undesirable economic consequences. In Luttman (1988), it was shown that disposable income increases synonymously with difference between current tax liabilities and alternative tax liabilities calculated. Feld and Kirchgassner (2001) study showed that strong negative correlation exists between tax rates and share of rich households. All the situations above shows that tax differential affects other variables which include revenue, tax liabilities and others. In line with this, our study showed that tax differentials have effects on government revenue and in most cases the effects are negative.

#### CONCLUSION

It is the belief of the researcher that taxation of businesses needs re-evaluation. The differential rates of personal and companies' income tax is the area of concern. The study evaluates the effect of the differentiation on government revenue using computed tax paid figures under the two categories. Based on the findings, this study concludes as regards the present system of assessing the income of businesses to tax that personal income tax

system is one that brings together employment and some businesses under one umbrella as against companies' income tax system.

The study also concludes that current system of taxation for companies is more efficient than for other two forms of business ownership. Efficiency, as it is said, is about tax system generating, with minimal cost, what is enough to pay for the government expenditure. A higher income tax yielding system is seen as being more efficient than a low yielding one. The same income/profit level sampled from the two categories showed that more tax revenue could be generated from company's income.

The following recommendations on the subject matter of study are proffered, based on our conclusions:

- The kind of tax differential that currently exists between small companies and big companies should be linked clearly to the three forms of business ownership. Accordingly, big companies pay a certain percentage of profit as tax, small companies follows with a bit smaller percentage, partnership follows and then sole-trade to pay the smallest percentage. All the rates may be between 10 and the current 30%, limiting the progressive rate to only non-trading incomes.
- The fixed rate based on adjusted profit system (rather than incremental) used in company taxation that has been seen to be more efficient, is recommended for taxation of all businesses.
- A comprehensive registration that will accommodate all trades and businesses (big or small) should be put in-place for tax purposes with a view to enhancing the revenue base of government.

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Personal Income Tax Act (I.F.N) of 1993

## APPENDIX

### PRESENTATION OF DATA

Profits and taxes paid by some businesses in year 2002

Sole proprietorships and Partnerships		Companies	
Profit in ₦	Tax Paid in ₦	Profits in ₦	Tax Paid in ₦
100,000	6490	20000	6000
120000	8890	63333	7000
125000	9540	33333	10000
34000	1025	6500	2000.2
44000	1642	12000	3700.2
52000	1926	812960.9	143000.2
161076.40	8411.20	500383.33	80115
218006.40	14235.25	100000	25000
78750	3228	150000	35000
97100	3884	175000	50000
120520	4690		
63000	2665		
82500	3330		
90120	3592		
68500	4325		
84,000	7,345		
103,500	11,455		
84,000	1,642		
69,000	2,492		
84,000.	3,294.80		
300,500	12,300		
320,150	12,800		
375,205	14,633		
Total 1,887,957.8	143,832.25	Total 1873510.23	361815.4

Source: Field Study 2004.