RECONCEPTUALIZING TAX ADMINISTRATION IN NIGERIA: THE IMPERATIVE OF A SPECIALIZED TAX ENFORCEMENT COMMISSION

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Abstract

In Nigeria, combination of tax legislations provides punitive measures for tax defaulters. However, enforcing these sanctions necessitates procedures like arrests, investigations, detentions, and prosecutions. A major hurdle lies in the fact that, while the responsibility for these processes falls on the shoulders of tax authorities, they aren't equipped with inherent police powers. As a result, their effectiveness often relies on collaborations with the Police and other law enforcement bodies. Unfortunately, these entities, already grappling with internal complexities, find themselves stretched thin amidst Nigeria's escalating insecurity challenges. This paper adopts the doctrinal research method and relies on the primary and secondary sources of Nigerian Laws. The aim of this paper is to delve deep into the intricacies of tax crime enforcement in Nigeria, analyzing the current collaboration dynamics. In light of the evident challenges and inefficiencies, it underscores the pivotal recommendation of establishing a new, sui generis police force, akin to the Economic and Financial Crimes Commission (EFCC), dedicated solely to tax enforcement. This dedicated entity would streamline tax law enforcement, ensuring rigorous oversight and more efficient prosecution of tax-related crimes.

Keywords: Tax Enforcement, Specialized Police Unit, EFCC, Law, Nigeria

1.0 Introduction

The concept of taxation, though universally understood, eludes a singular, universally accepted definition. Over time, numerous scholars and institutions have endeavored to define it, often presenting variations that highlight different aspects of taxation. For instance, the Oxford Dictionary delineates taxation 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 on which the contribution is levied.

[1]" Similarly, Omotosho perceives tax as a "compulsory charge imposed by a public authority on the income of individuals and companies as stipulated by the government decrees, acts or case laws, irrespective of the exact amount of services rendered to the payer in return.[2]"

Further expanding on this theme, the Australian Court in **Mathews vs. Chicory Marketing Board**[3] posited that tax represents a "compulsory exaction of money by a public authority for public purposes." Abdulrazaq offers a more streamlined definition, identifying tax as an "enforced contribution of money, extracted pursuant to legislative authority[4]." Even the Black's Law Dictionary delves into the essence of taxation, defining it as a "monetary charge imposed by the government on people, entities, or property to yield public revenue[5]."

Despite these varying definitions, certain consistent factors emerge: the obligatory nature of a tax, its role as a source of government revenue, its imposition on both natural persons and corporate entities, its application for the public good, and the necessity for its

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[1]A.S. Hornby, Oxford Advanced Learner's Dictionary, 7th edn (Oxford University Press, Oxford 2005) 1516.
[2]M.O. Omotoso, *Principles of Taxation*, 1st edn (First Shepherd Investment, Ibadan 2001) 3
[3](1838) 60 C.L.R. 260, P. 276
[4]A. Abdurrazaq, *Nigeria Tax Guides and Studies* (1st edn, Chartered Institute of Taxation of Nigeria, Lagos 2002)
[5]B.A. Garner, *Black's Law Dictionary*, 8th edn (2004) 1496.

imposition to be sanctioned by a legislative act. These criteria highlight the fundamentals of taxation. Furthermore, the renowned economist Adam Smith articulated that taxes should adhere to the principles of fairness, certainty, convenience, and efficiency[6]. The inherent compulsion associated with taxation suggests a latent coercive element, implying that the enforcement of tax often entails instilling a sense of apprehension and obligation among taxpayers.

2.0 Brief Overview of the Evolving Landscape of tax Legislation in Nigeria.

The narrative of taxation in Nigeria is rich and intertwined with the nation's socio-political history. Before the colonial epoch, Nigeria's approach to taxation was fundamentally different from contemporary models. In the absence of a structured taxation policy, traditional leaders assumed the role of tax collectors, directing the proceeds towards the development of their respective territories[7].Interestingly, the Northern regions of Nigeria exhibited a more centralized taxing mechanism. This inclination was perhaps influenced by the prevailing Islamic ethos in these regions. Islam mandates the collection of Zakat – a form of obligatory almsgiving, intended for religious, educational, and spiritual endeavors. This might have paved the way for a more organized tax system in the North[8].

Contrastingly, the South did not echo the North's organized taxing structure. The West, however, had customary practices like 'Ishakole' and 'Owo-Ori,' which obligated individuals to make contributions to community leaders or chiefs for communal objectives[9]. The weight of these traditional taxes was palpable, as defaulters faced dire repercussions, ranging from incarceration to potential exile. According to Femi Kehinde, the penalty for tax defaulters in the old western region is detention at the regional tax Office at Mapo in Ibadan. A detained tax defaulter usually found it difficult to get

[6]Olalekan Soyode and Godwin Emanuel Oyedokun, 'Relevance of Adam Smith Canons of Taxation to the Modern Tax System' (2019) 18(3) Journal of Taxation and Economic Development.
[7]O. Ogunba et al, 'An Appraisal of the Efficiency of Local Property Tax Administration in Nigeria (A Case Study of the Five Local Councils in Ibadan Metropolis)' (2006) 2:1:2 Journal of Land Use and Development Studies.
[8]Ibenegbu G, 'History of Taxation' (2017) <www.legit.ng/1119115-history-taxation-nigeria.html> (accessed 29 August 2019).
[9] Ibid.

someone to bail him out, because most adults were tax evaders, and an attempt by a tax evader, to bail a tax evader, would certainly land the rescuer in detention[10].

The turn of the 20th century marked the formal inception of the modern income tax system in Nigeria, courtesy of British colonial intervention. Introduced in 1904, the colonialists piloted an income tax paradigm termed "Community Tax." Subsequently, the Land Revenue Proclamation Law emerged in Northern Nigeria. This underwent several adaptations, eventually culminating in the “Native Revenue Ordinance” that was instrumental in the Western Region. These reforms were emblematic of the colonial intent to foster a unified tax system within the burgeoning Nigerian federation[11].

However, this transition was not without resistance. The introduction of Personal Income Tax in Eastern Nigeria catalyzed the Aba Women's Riot in 1929, underscoring the socio-political ramifications of taxation[12]. By 1939, a more encompassing tax ordinance was in effect across all regions, Lagos being the sole exception. This ordinance was further augmented in 1943, introducing elevated tax rates on income within or derived from Nigeria[13]. With the advent of constitutionalism, there arose an imperative to delineate tax responsibilities between the central and regional administrations. Before 1961, tax legislations, both direct and indirect, were region-specific. However, the establishment of the Raisman Commission in the same year was a game-changer. Its recommendations, which found their way into the constitution, streamlined and harmonized tax collection and administration across Nigeria. This heralded the enactment of the Income Management Act and the Companies Income Tax Act in 1961, both of which underwent

[10]Femi Kehinde, 'Agbekoya and the Yoruba Armoury' (2021) https://www.premiumtimesng.com/opinion/440884-agbekoya-and-the-yoruba-armoury-by-femi-kehinde.html?tztc=1 (accessed 30 September 2023)

[11] Ibid. (note 8)

[12] Newman Enyioko, ‘Aba Women’s Riots (November to December, 1929)’ (January 2021) SSRN Electronic Journal https://www.researchgate.net/publication/350695182_Aba_Women's_Riots_November_to_December_1929 (accessed 29 October 2025)

[13] Clement Ejiofor Okeke and Yinka Mashood Salaudeen, ‘Effect of Tax Reforms on the Tax Compliance Level of Companies in Nigeria’ (16 October 2023) Munich Personal RePEc Archive (MPRA) Paper No 124365 https://mpra.ub.uni-muenchen.de/124365/1/MPRA_paper_124365.pdf (accessed 29 October 2025)

several modifications, eventually resulting in the Personal Income Tax Act 2004 and the Company Income Tax Act 2004[14].

3.0 The Significance of Tax Compliance and its Broader Economic Implications.

Tax compliance, in essence, encompasses the act of abiding by tax obligations as defined by law, executed voluntarily and comprehensively[15]. In the Nigerian context, the significance of tax compliance cannot be understated, profoundly influencing the national economic trajectory and, by extension, the standard of living of its citizens[16]. The followings are some economic benefits of tax compliance

Revenues for Nation Building: At the very core, taxes represent the lifeline of governmental fiscal policies. They constitute the primary source of revenue, ensuring that the machinery of government remains operational. These revenues, amassed through diligent tax compliance, are pivotal in bankrolling an array of state-endorsed undertakings[17].

Economic Stability: Regular and predictable tax inflows, stemming from widespread compliance, provide a robust foundation for economic planning. A stable revenue stream equips governments with the confidence to make long-term commitments, investments, and initiatives that contribute to steady economic growth. This stability often reverberates, instilling consumer confidence and fostering a conducive environment for businesses to thrive[18].

Improvement of Public Services: Tax revenues, being the backbone of public financing, directly influence the quality and reach of public services. From health to education,

[14] Ibid. (note 8)
[15]L. O. Marti (2010) 'Taxpayers' Attitudes and Tax Compliance Behaviour in Kenya' African Journal of Business and Management, (1), 112-122
[16]Oladele Rotimi, 'Impact of Tax Compliance on Standard of Living in Nigeria' (2021) https://dj.univ-danubius.ro/index.php/JAM/article/view/933/1311 (accessed 30 September 2023)
[17]OlubunmiAdegbie&Tomomewo, 'Tax Revenue and Economic Growth in Nigeria: Achieving the 21st Century Agenda' (2023) https://www.researchgate.net/publication/368871406_Tax_Revenue_and_Economic_Growth_in_Nigeria_Achieving_the_21st_Century_Agenda (accessed 30 September 2023)
[18]Ihenyen&Mieseigha (2014) 'Taxation as an Instrument of Economic Growth (The Nigerian Perspective)' Information and Knowledge Management Vol. 4, No. 12, 2014.

transportation to security, the spectrum of services that benefit from tax funds is vast. Enhanced public services invariably lead to improved human capital, raising the nation's global competitiveness[19].

Strengthening of Social Contract: Beyond the tangible, tax compliance fortifies the implicit social contract between the government and the governed. In fulfilling their tax obligations, citizens anticipate, if not demand, improved governance, transparency, and accountability, thereby fostering a more engaged citizenry.

Attracting Foreign Investments: A compliant and transparent tax system signals economic stability and a well-regulated market, both of which are pivotal for foreign investors. An environment where tax compliance is the norm often translates to reduced investment risks, attracting foreign direct investments that can spur economic growth[20].

Enhancing National Reputation: In the interconnected global arena, nations are perpetually under scrutiny. A consistent record of tax compliance elevates Nigeria's stature, showcasing it as a country committed to responsible fiscal practices, potentially facilitating international collaborations and trade relations.

Diversification of Country’s Economy: While Nigeria historically has leaned heavily on its oil and gas sector, tax compliance offers avenues for diversification. Reliable tax revenues can be channeled into research, development, and the nurturing of emerging sectors, thereby reducing economic vulnerabilities associated with over-reliance on a single revenue source[21].

[19]Omodero&Dandago, 'Tax Revenue and Public Service Delivery: Evidence From Nigeria' (2019) https://www.researchgate.net/publication/332321918_Tax_Revenue_and_Public_Service_Delivery_Evidence_From_Nigeria (accessed 28 September 2023).

[20]Etim&Mfon, 'Attracting Foreign Direct Investment (FDI) in Nigeria through Effective Tax Policy Incentives' (2019) https://www.researchgate.net/publication/335912547_Attracting_Foreign_Direct_Investment_FDI_In_Nigeria_through_Effective_Tax_Policy_Incentives (accessed 28 September 2023)

[21]Aladesawe, 'Diversification of Nigerian's Economy Through Tax Revenue 1' (2019) https://www.academia.edu/30676487/DIVERSIFICATION_OF_NIGERIANS_ECONOMY_THROUGH_TAX_REVENUE_1 (accessed 28 September 2023)

4.0 Tax Evasion and Punitative Measures

Tax evasion stands as a collective term denoting the myriad of tactics employed by indivxiduals, corporations, trusts, and other entities to circumvent their tax obligations through illicit means. Muhammed describes tax evasion as the artful and disingenuous manipulation or obscuration of facts and figures, orchestrated with the sole intent of either skirting the payment entirely or lessening the due tax amount[22]. Drawing from Soyode and Kajola's perspective, tax evasion manifests as a calculated, willful disregard for disclosing the entirety of taxable income, thereby diminishing the tax payable[23]. This act isn't merely an oversight; it's a conscious breach of tax regulations, evident when there's a fraudulent reduction in tax liability or when deceptive claims dot revenue tax forms.

The mechanics of tax evasion often hinge on deliberate actions, either of omission or commission, both of which are flagged as criminal offenses under the prevailing tax regulations. Illustrative examples include, but are not limited to: neglecting to remit taxes such as withholding tax, bypassing the submission of returns, omitting certain items from returns, making spurious relief claims like fictitious dependents in Personal Income Tax calculations, underreporting incomes, fabricating transactions, inflating expenses, or sidestepping official inquiries[24].

Extrapolating from these definitions, tax evasion crystallizes around three primary tenets:

i. Deceptive recalibration of figures to avoid or minimize tax payments.
ii. A steadfast, deliberate denial to disclose, driven by a motive to evade payment.
iii. A brazen non-payment, devoid of any valid justification.

[22] Tanko Mohammed et al, 'The Correlation between Multiple-Taxations and Tax Evasion, Tax Avoidance and Tax Payers' Obligation in Lagos State, Nigeria' (2013) 7(2) International Journal of Business, Accounting and Finance 138

[23] L. Soyode and S.O. Kajola, Taxation: *Principles and Practice in Nigeria,* 1st ed. (Ibadan: Silicon, 2006) P.156

[24] Meshach Nnama Umenweke, 'Tax Avoidance and Evasion in Nigeria: A Critical Examination of the Legal Framework' (2024) 1(1) Nnamdi Azikiwe University Journal of Private Law 107

Contrastingly, tax avoidance, while sharing thematic parallels with tax evasion, veers towards the domain of legalities. It encompasses strategies meticulously devised to minimize tax liabilities, exploiting existent gaps or ambiguities in tax legislations. Tax avoidance is a choreographed dance around the edges of the tax code, with Fatoki quoting Professor Wheat Craft's apt characterization: "Tax avoidance is the skill of playing the game without overtly cheating, outmaneuvering both the internal revenue system and the government."[25]

However, the demarcation between tax avoidance and tax evasion is razor-thin yet profoundly significant. A tax avoider navigates within the legal boundaries, employing mechanisms like permissible deductions, property arbitrage, or deferring tax liabilities. In stark contrast, a tax evader operates outside the ambit of the law, resorting to misrepresentations, deceptive claims, or outright non-payment.[26] While tax avoidance, though within the legal framework, is often critiqued as unpatriotic and socially irresponsible, tax evasion is unequivocally illicit, reprehensible, and punishable, potentially leading to incarceration or financial penalties.[27]

The difference was established by the USA Supreme Court in Bullen V Wisconsin[28], the court held that;

> *When the law draws a line, a case is either on one side of it or the other. And if on the safe side, the tax payer should not worry about what any authority or person may say, provided it is within what the law permits. When an act is considered as an evasion what ismeant is that it is on the wrong side of the law*[29]

[25]J.O. Fatoki 'An Empirical Study of Tax Evasion and Tax Avoidance: A Critical Issue in Nigeria Economic Development' (2014) 5(18) Journal of Economics and Sustainable Development 22-26.

[26] D A Agbu and J O Onoja, 'Examination of the Legal Framework on Tax Avoidance and Evasion under the Personal Income Tax' (2023) 5(3) International Journal of Comparative Law and Legal Philosophy (IJOCLLEP) 137.

[27] MT AbdulRasaq, *Nigeria Tax Offences and Penalties* (2nd edn, Princeton & Associates Publishing Co Ltd 2014) 11

[28] (1916) 240 US 625

[29]B.D. Kiabel and G.N. Nwokah 'Boosting Revenue Generated by State Government in Nigeria: The Tax Consultant Option Revisited' (2009) 8(4) European Journal of Social Sciences 592

According to Sections 94 of the repealed Personal Income Tax (Amendment) Act[30], 2011 a person who contravenes or fails to comply with any of the provisions of the Act shall be liable on conviction to a fine of N 200 and where the offence is the failure to furnish a return, statement or information or to keep records required, a further sum of forty naira for every day during which the failure continues, and, in default of payment, to imprisonment for six months, and the liability to such further sum shall commence from the day following the conviction, or from such other day thereafter as the Court may order. In Addition, sub section 3 of the above provisions provides that, notwithstanding any of the provisions of the Criminal Procedure Act or the Criminal Procedure Law or Code of a State, a magistrate may dispense with the personal attendance of the defendant if he pleads guilty in writing or so pleads by a legal practitioner.

In the case of failure by a person to comply with the requirements of a notice given by the relevant tax authority under the provisions of section 41 of this Act may, in lieu of the institution of proceedings against the person under the provisions of subsection (2) of this section, impose a penalty on the defaulter an amount equal to the income tax chargeable on him for the preceding year of assessment. By Sections 95, a person who, without reasonable excuse- (a) makes an incorrect return by omitting or understating any income liable to tax under this Act; or (b) gives an incorrect information in relation to a matter or thing affecting the liability to tax of any taxable person, is guilty of an offence and liable on conviction to a fine of 10 per cent of the correct tax and double the amount of tax which has been undercharged in consequence of the incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct. However, no person shall be liable to a penalty under this section unless the complaint concerning the offence was made in the year of assessment in respect of or during which the offence was committed or within six years after the expiration thereof.

Furthermore under sections 96 of the act, a person who knowingly makes a false statement or false representation of their tax details is guilty of an offence and liable on conviction to a fine of N 5, 000 or imprisonment for five years or to both such fine and

[30] Cap. P8 Laws of the. Federation of Nigeria, 2004

imprisonment: Provided that where an offence under this section is committed by a person in relation to tax payable by, or repayable to him for a year of assessment, there shall be substituted for the amount of the fine as aforesaid, the amount of N 1,000 or treble the tax chargeable on the person for that year, whichever is the greater.

In addition, Section 51 and 52 of Petroleum Profit Tax Act provides that any person guilty of an offence against the Act shall be liable to a fine of NI 0,000, and where such offence is one under subsection (1) of section 24 of this Act, a further sum of N 2,000 for each and every day during which such offence or failure continues.

According to Section 45 of Federal Inland Revenue (Establishment) Act[31] any person who, in the commission of an offence under this Act, is armed with any offensive weapon commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 5 years. (2) A person who, while armed with an offensive weapon, causes injury to any officer or authorized officer of the Service in the performance of any function or duty under this Act, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 10 years.

Such activities are deemed illegal and can be prosecuted summarily in Magistrate Courts or in the High Courts[32]. Additionally, tax evasion like other criminal acts cannot be settled through arbitration.

5.0 Current Enforcement Mechanisms: Shortfalls and Challenges

Given the categorization of tax evasion as an illicit act, the enforcement of associated laws and regulations becomes indispensable. The essence of "enforcement" lies in ensuring adherence to specific laws or regulations, or compelling individuals to act in a particular manner[33]. Within the framework of Nigeria's tax system and administration, the

[31] Cap. C 15. LFN 2004
[32] *FIRS vs. N.N.P.C.* (2012) 6 TLRN 1
[33] A.M. Mohammed, 'An Appraisal of Income Tax Enforcement Procedures under the Nigerian Tax System' (LLM Thesis, Amadu Bello University Faculty of Law 2014) http://kubanni.abu.edu.ng/jspui/bitstream/123456789/5878/1/ASSESSMENT%20OF%20THE%20CONTRIBUTIONS%20OF%20THE%20NIGERIAN%20COPYRIGHT%20COMMISSSION%20TOWARDS%20CONTROLLING%20BOOK%20PIRACY%20IN%20NIGERIA.pdf (accessed 17 August 2023).

relevance of tax enforcement is accentuated, primarily due to the adeptness of taxpayers in withholding amounts rightfully owed to the government or circumventing full payment to the tax authority. Tax enforcement in Nigeria comprises two primary pillars: the tax authorities and the processes they employ for enforcement. The procedural aspects of this enforcement encompass:

5.1 Filing of Annual Returns

In the realm of tax compliance, the filing of annual returns stands paramount. As stipulated in Section 41 of the Personal Income Tax Act: Every taxpayer is obligated to submit an income return to the tax authority corresponding to the state where they reside. This return should encompass a comprehensive and accurate statement which includes:

(a) Income accrued from all sources in the previous assessment year, calculated in alignment with this Act's provisions and any accompanying rules or regulations.

(b) Specific details mandated by the return, relevant to income, allowances, reliefs, deductions, or other factors pivotal under this Act or the rules and regulations formed under it.

(c) As per Section 41(2), the return should encompass a declaration affirming the accuracy and veracity of the contents.

A taxpayer's failure to submit these return forms by the specified deadline infringes upon the Self-Assessment Regulations, rendering the taxpayer susceptible to predetermined fines, penalties, and interest charges as detailed in the pertinent tax laws[34]. As a timeline, the Personal Income Tax Act necessitates the filing of self-assessment returns by or before the 31st of March each year, whereas the Companies Income Tax Act mandates a deadline of six months post the end of the accounting year[35].

5.2 Assessment by Tax Authority

The scope of tax assessment encompasses the earnings of individuals or enterprises either resident in Nigeria or generated within Nigerian territory. Assessment is the meticulous process of evaluating a taxpayer's financial liability. Upon a taxpayer's return submission

[34]Regulations 27(1) & (2) Tax Administration (Self-Assessment) Regulations, 2011

[35]Regulations 12(1)& (2) Tax Administration (Self-Assessment) Regulations, 2011

to the tax office, an assessment officer scrutinizes the accounts to deduce tax liability, subsequently registering the determined account. The document, stamped with the officer's endorsement, is then dispatched to the taxpayer, enlightening them about their tax obligations[36]. Section 65 of the Companies Income Tax Act vests the Board with the authority to assess every tax-eligible company, especially when there's a delay in annual return submissions. It's imperative that an assessment notification be delivered to the taxpayer, as this stands as a preliminary condition for tax liability. As per the judgment in the **Okupe vs. FBIR**[37] case, neglecting to serve this statutory notice infringes upon the taxpayer's rights, offering a legitimate basis to contest the tax authority's assessment.

5.3 Objection and Appeal

The tax statutes grant any individual, perturbed by an assessment, the right to contest it within a span of 30 days, appealing to the designated Appeal Tribunal. An illustrative case, **Federal Board of Internal Revenue vs. Owena MOTELS Limited**[38], saw the Federal High Court in Akure rule that the unchallenged service of the notice of assessments spanning 1993-1998, implied its conclusive and final nature, necessitating payment within thirty days post the assessment notice's service. This verdict was unequivocally in favor of the Federal Inland Revenue Service, anchored upon the prevailing evidence before the Court.

6.0 Powers and Operational Challenges of tax Authorities Authority to Exercise Distrain

"Distrain" refers to the procedural act where an entity confiscates another's tangible property as recompense for an outstanding claim[39]. Tax authorities often deploy this tool to tackle defaulters who evade their tax obligations. In the case of **Sam Nig. Ltd. vs. Lagos State Internal Revenue Service**[40], the judiciary elucidated on the scope and application of this power:

[36] Ibid.
[37](2010) 2 TLRN
[38](2010) 2 TLRN
[39]Ibid. (Mohammed n 27)
[40](2011) 5 TLRN

> Where a taxable person fails and/or refuses to make the necessary tax payments, sanctions are prescribed in the relevant tax laws, which include, but are not limited to the power to distrain. There is no doubt that the claimant has the right to distrain for nonpayment of tax.... ***This section also empowers an officer authorized in writing by the relevant tax authority to break open any building or place in the day for the purpose of levying distress and he may call for the services of the Police to assist in that regard***. Things distrained may be kept at the cost of the taxable person for a period of fourteen days, and if all outstanding are not paid, the goods may be sold. (The Emphasis is ours)

This particular authority finds its genesis in Sections 34 of the Federal Inland Revenue Service Act and 104 of the PITA. Both these sections empower both the Federal and State Boards of Inland Revenue to initiate distress actions against assets owned by any taxpayer in default, ensuring they comply with their tax responsibilities. Notably, the purview of the distrain power is confined chiefly to Personal Income Tax, exempting Company Income Tax and Petroleum Profit Tax from its ambit. For a distrain action to hold water, a lawful warrant is obligatory. Such a warrant should meticulously detail the defaulter's identity, the tax amount in question, accrued tax arrears, the business address, and must bear the date and the endorsement of the authorized body. This power is only wielded when the tax assessment achieves definitive status. Notably, real estate assets remain insulated from distrain actions unless sanctioned by a High Court order.

In the landmark case of **Sam Nig. Ltd. vs. Lagos State Internal Revenue Service**[41], the court astutely commented on the taxing authority's power, particularly emphasizing the authority's right to distrain in cases of non-payment of tax. The judgment clearly notes that while tax officers have the mandate to ensure compliance, they are, perplexingly, reliant on the police force when it comes to breaking into a property to levy distress. This reliance is arguably a weak link in the chain of tax enforcement.

Such a stipulation in the legal framework raises immediate concerns. First, it causes inevitable delays in enforcing tax compliance. In a country where the police force is

[41] Supra

stretched thin with multiple challenges ranging from lack of manpower, technology modern equipment, etc[42], prioritizing tax default cases can become a logistical nightmare. This not only delays the process but can also potentially reduce the efficacy of the tax enforcement mechanisms.

Furthermore, the need to collaborate with the police paints tax authorities as entities lacking full autonomy in their operations. For an institution as crucial as the tax authority, this perceived lack of autonomy can undermine their perceived authority and effectiveness in the eyes of the public. Taxpayers, noting this gap, may feel emboldened to default, understanding the logistical hurdles involved in enforcement. The judiciary's emphasis (as highlighted in the statement "he may call for the services of the Police") underscores this undue dependency. This provision can be seen as an inadvertent acknowledgment of the inherent limitations within the system.

To remedy this situation, it is imperative to rethink the enforcement mechanism. Drawing parallels with bodies like the EFCC, which operates with a certain degree of policing powers, the tax authority too should be fortified with similar capabilities. By equipping tax officers with policing powers, the system can ensure a streamlined, efficient, and more authoritative process of enforcement. Such a move will not only enhance the effectiveness of tax collection but will also send a clear message about the government's commitment to ensuring fiscal compliance.

In conclusion, while the judgment in **Sam Nig. Ltd. vs. Lagos State Internal Revenue Service** offers clarity on the present state of affairs, it inadvertently shines a light on the systemic gaps that need addressing. Establishing police powers for tax authorities is not just a strategic move; it's an essential step toward fortifying the nation's fiscal framework.

It is also important to say that Section 35(1) of the Federal Inland Revenue Service (Establishment) Act established Special Enforcement Unit to adopt criminal tax investigation, as a method of tax enforcement. The Section provides that

[42]Edime& Usman (2022) 'Obstacles to Effective Policing in Nigeria' International Journal of Social Sciences and Humanities, 10(03), 310-326

> "The Service shall employ Special Purpose Tax Officers to assist any relevant law enforcement agency in the investigation of any offence under this Act."

The key word here is "assist." This implies a supplementary or supporting role in conjunction with other law enforcement agencies. It does not indicate full autonomy or authority in par with traditional law enforcement bodies like the Police.

While the SEU might possess certain enforcement capabilities specifically tailored for tax-related infractions, equating its powers to that of the broader scope and mandate of the Nigerian Police might be an overstretch. The Nigerian Police has a wider range of duties, powers, and responsibilities that encompass more than just tax-related offenses. Their jurisdiction spans across all criminal activities and maintaining public order, among other duties.

Furthermore, the very necessity for the SEU to "assist" points towards a reliance on other established law enforcement agencies for certain aspects of investigations, which again hints at a distinction in powers and functions. In conclusion, while the Special Enforcement Unit has a critical role in assisting with investigations related to tax offenses, it would be a mischaracterization to say they hold functions and powers fully equivalent to the Nigerian Police. Their domain, as per the Act, appears to be specialized and specific to tax-related infractions, rather than a comprehensive law enforcement mandate.

6.1 Power to Impose Fine and Penalty

Sections 44, 45, 46, 47, 48 and 49 of the FIRS Act aim to set out offences and corresponding penalties for violations committed by both authorized and unauthorized individuals. These provisions cover a spectrum of offences, from overcharging taxpayers to internal embezzlement by tax officials. While the Act's attempt to comprehensively capture potential malpractices is commendable, its real-world application, and the feasibility of enforcement, are matters of serious concern[43]. A core issue is the trust deficit that arises from the fact that the Act acknowledges potential malfeasance by

[43] *Nigerian Breweries Plc. vs. Lagos State Internal Revenue Services* (2009)1 QCCL vol. 2, p.155, 192

authorized tax officials. Such provisions, while necessary, inadvertently reflect on the integrity of the system and the individuals who operate within it. With episodes of unauthorized withholdings and the possibility of officials rendering false returns, the pressing question is: Who polices the police?

The ambiguity surrounding the enforcement mechanisms further muddies the waters. The requisite that the tax authority must conclusively prove the commission of an offence before levying penalties sounds rigorous on paper but poses pragmatic challenges. Such determinations often involve intricate investigations which can be long-winded and cumbersome.

But herein lies the crux of the matter: If the FIRS Act envisions and enumerates such diverse offences, shouldn't there be an equally specialized force to counteract and deter these potential malpractices? The Economic and Financial Crimes Commission (EFCC) stands as a testament to the effectiveness of specialized policing bodies in Nigeria. Drawing inspiration from the EFCC, it is high time to advocate for the establishment of a dedicated tax enforcement body, characterized by stringent recruitment processes, specialized training, and autonomous oversight mechanisms. Such an institution could focus not only on the enforcement of tax laws but also on safeguarding the integrity of tax collection processes, ensuring that both taxpayers and officials adhere to the letter and spirit of the law.

In its current form, the FIRS Act's provisions, though well-intentioned, fall short of ensuring effective compliance and deterrence. The establishment of a dedicated, specialized police force for tax matters is not just an advisable step; it's a critical necessity to restore public faith and ensure a robust, transparent, and efficient tax system.

7.0 Analysis of the Existing Mechanisms and their Limitations.

While Nigeria has a reasonably comprehensive legal framework for criminal sanctions, the prescribed fines are insufficient to serve as an effective deterrent. However, despite the existence of these laws and the enforcement mechanisms, how many of defaulters have been arrested, investigated, prosecuted and visited with the full weights of any of these laws? Unlike European countries where high profile individuals are often arrested, investigated, prosecuted, convicted and imprisoned for tax related offences[44]. The former minister for Finance Mrs. Kemi Adeosun in an event organized in University of Lagos in December 2017 submitted that only 13 % of Nigerians are active tax payers and they are taxes deducted under Pay As You Earn (PAYE) categories[45]. This implies that a vast majority of Nigerians do not pay taxes.

The success or failure of any tax system depends on the extent to which it is properly managed; the extent to which the tax law is properly interpreted and implemented. Adegbie and Fakile argued that Nigeria revenue derived from income taxes has been grossly understated due to improper tax administration, assessment and collection[46].The management of tax evasion is generally low because the tax defaulters often go unchecked most especially personal Income tax payers. Olokooba Et al. argued that tax compliance in Nigeria is at the rate of 12%, further argued that the tax authorities in Nigeria often a time don't use the criminal sanction in enforcing tax crimes because they are more interested in revenue than ensuring the punishment[47].This implies that, tax evasion exists in Nigeria by 88%.

This research was corroborated by the findings of Ogbonna in 2009. It was argued that taxation has no place in the Nigeria source of annual revenue, Oil and gas sector now contributes about 83% of Nigeria annual revenue[48]. Modugu and Omoye opined that the most common form of tax evasion in Nigeria is through failure to render tax returns to the

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[44] Attiya Waris and Dick Osala, 'Lionel Messi: Image Rights, International Financial Flows, Tax Havens and its Impact on Africa and Kenya' (Academia, 2018) https://www.academia.edu/36940278/Lionel_Messi_Image_Rights_International_Financial_Flows_Tax_Havens_and_its_Impact_on_Africa_and_Kenya accessed 30 October 2025
See also Robert W Wood, 'Lessons From Europe's Big Soccer Tax Evasion Cases' (Wood LLP) https://www.woodllp.com/Publications/Articles/pdf/Lessons_From_Europe.pdf accessed 30 October 2025

[45] O. Odimegwu, 'Millions of Dollars Lost in Nigeria to Tax Evasion Due to Incoherent Policies' (2019) <www.thenigeriavoice.com/news/275531/millions-of-dollars-lost-in-Nigeria-to-tax-evasion-due-to-in.html> (accessed 29 August 2023)

[46] F.F. Adegbie& A.S. Fakile (2000) 'Company Income Tax and Nigeria Economic Development' European Journal of Social Sciences, 22(2), 309-319`.

[47] Olokooba, Awodun, Akintoye& Adebowale (n 36)

[48] G.N. Ogbonna (2009) 'Burning Issues and Challenges of the Nigerian Tax System with Analytical Emphasis on Petroleum Profit Tax' International Journal of Accounting, Finance and Economic Perspective, 1, 85-87

relevant tax authority[49]. Further quoting Sosanya argued that tax evasion has become the favorite crime of the Nigerians; so popular that it makes armed robbery seem like minority interest[50]. It has become so widespread that there now exists a cash economy of vast proportions over which the taxman has no control and which is growing at several times the rate of the national economy. No doubt, tax evasion has robbed the Nigerian government of substantial tax revenue. Under direct personal taxation as practiced in Nigeria, the major problem lies in the collection of the taxes especially from the self-employed individuals such as the businessmen, contractors, professional practitioners like lawyers, doctors, accountants, architects and traders in shops among others.

Ayua argued that self-employed persons blatantly refuse to pay tax by reporting losses every year and many of them live a lifestyle inconsistent with reported incomes, which is usually unrealistically low for the nature of their businesses. Civil Servants and other salaried workers are the only class of people that actually pay tax in Nigeria[51]. Tax evasion is not limited to personal income tax alone; it runs through the whole taxing system in Nigeria. In 2009, Nigerian Stock Exchange disclosed that 85% of the corporate tax revenue generated in the country actually came from 196 listed companies as against the 30,000 companies registered in the country[52].

This challenge is applicable to the three government agencies responsible for tax collection in Nigeria. According to a survey carried out by Peat, Marwick, Ani, Ogundele and Co., Chattered Accountants revealed that each State Board of Internal Revenue was loosing between N12 million and N30 million annually to tax evasion[53].

This suggests that the enforcement mechanism in Nigeria is quite low. There has been age-long relationship between the Tax authorities and Nigeria Police. There have been

[49] Kennedy Prince Modugu and Alade Sule Omoye, 'An Appraisal of Personal Income Tax Evasion in Nigeria' (2014) 4 Asian Economic and Financial Review 32, 33
[50] Ibid.
[51]Ayua, I.A., 1999. *The Nigeria Tax Law*. Ibadan: Spectrum Law Publishing. 17
[52]Kiabel B.D &Nwokah. (n 29)
[53]S.O. Adum (2018) 'Burning Issues in the Nigerian Tax System and Tax Reforms on Revenue Generation: Evidence from Rivers State' International Journal of Finance & Accounting, 7:2, 36-48.

repeated calls for a strengthened partnership between the Tax Authorities and the Nigeria Police Force by the relevant authorities[54].

8.0 Jurisdictional Comparison with United Kingdom and Making Case for a Dedicated Tax Enforcement Body

The tax laws and administrations in the United Kingdom is quite similar to Nigeria, this is probably because Nigeria laws generally, tax laws inclusive gain their inspiration from UK laws. The administration of tax in UK is done by Her Majesty Revenue and Customs (HMRC) at the central level and District Tax revenue services at the local level. Virtually all the taxes applicable in Nigeria are also applicable in the UK. However, tax compliance in UK is better than Nigeria[55]. Tax evasion is a global menace and UK is not excluded, in 2016 HMRC announced that tax evasion has cost the government the sum of E5.3 Billion. However, the crime of tax evasion is better managed in the UK compare to its Nigeria counterpart. In 2013, UK government created a new criminal offence in relation to tax evasion; "aiding tax evasion" is now an offence. Tax offences are now strict liability offences, that is, intention to evade tax will no longer be a requirement to secure conviction of the tax offender. Also, in 2014/2015, 1,258 people were prosecuted for tax offences in the UK[56]. According to a research by Slemrod, it was revealed that tax evasion exists in the UK by 8% to 9% of the GDP[57]. This implies that tax evasion is reduced to the minimum in the UK.

The HMRC has power like that of a conventional police and other UK law enforcement agencies but their power is limited to tax related power. They have power to tackle tax crimes like conventional crimes. In fact, tax evasion and avoidance is being tackled aggressively, HMRC has power to arrest, power to enter, search and seize properties from any premises with warrant, interview and interrogate offenders, use handcuffs, use

[54]Federal Inland Revenue Service, 'FIRS, Nigeria Police Partner to Raise Revenue' (FIRS, 25 September 2023) https://www.firs.gov.ng/firs-nigeria-police-partner-to-raise-revenue/ accessed 1 October 2024.
[55] Lovette Osavie Patrick, Taiwo Ademola and Bankole Sodipo, 'A Comparative Analysis of the Tax System in the United Kingdom and Nigeria' (2023) 2(3) International Tax Law Review 47
[56]www.wikipedia.org/wiki/tax_evasion> (accessed 1 September 2023)
[57]J. Slemrod (2007) 'Cheating Ourselves: The Economics of Tax Evasion' The Journal of Economic Perspectives, 21(1), 25-48.

intrusive surveillance, and exercise their powers all over the UK[58]. The agencies investigate all sorts of individuals including famous and rich individuals. HMRC has recovered E332m from professional footballers since 2015. Over 90 footballers, 38 clubs and 13 agents have been investigated[59]. HMRC officials maintain the rank and file of conventional police officers. It is also on record that HMRC has approximately 1,500 officers with the power to arrest only on tax related matters. The fact that a tax offender is under facing a civil litigation does not stop officers of HMRC to investigate as well. However, prosecution is not done by HMRC; they would rather liaise with Crown Prosecution Service for prosecution[60].

The difference between tax evasion in UK and Nigeria is not the law, the laws are basically the same. The difference is not in the body responsible for collection; HMRC collects in UK while FIRS collects in Nigeria. The basic difference is in the enforcement of the tax evasion as a crime. The figure reveals that tax prosecution is done in thousands while Nigeria can hardly boost of one. Further, the HMRC does not have to wait or depend on another police agency to discharge their duties; they have trained officers that tackle tax evasion on daily basis while Nigeria will have to wait on the police to assist them. Indeed, assisting the FIRS is not the primary duty of the police; they will always take it as a secondary issue, and little wonder tax evasion flourishes at 88% in Nigeria.

Tax Laws in Nigeria criminalize tax evasion but fail to set up enforcement mechanism to ensure that the laws are executed to the letters. Despite the fact that the law criminalizes non-payment of tax, payment remains at the discretion of respective tax payers, poor level of compliance mars our tax administration and government remains helpless because there is a weak enforcement mechanism. This paper recommends that Nigeria establish a dedicated policing system, akin to that of the United Kingdom, with the mandate to protect, prevent, and combat tax evasion. The specialized police, like United Kingdom HMRC should have men in thousands who will be available in each locality to

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[58] <www.gov.uk/government/publications/criminal-investigation/criminal-investigation> (accessed 1 September 2019).

[59] www.bbc.com/sport/football/4594868> (accessed 1 September 2019).

[60] Ibid.

ensure compliance with the provisions of tax laws that incriminated manipulation and nonpayment of tax particularly Personal Income tax among people that are subjected to PAY-AS-YOU-EARN (PAYE) system and people that are in Small and Medium Enterprise (SME).

The specialized police unit should be one that has access to ammunitions, power to arrest, summon, and investigate and all other powers of a conventional police staff. However, their power should be limited to tax offences and caution must be taken, so, that in the exercise of their power, they don't breach the fundamental rights of innocent citizens. The police should have headquarters in each local government in Nigeria and each local station should have officers in charge of each district, villages and street. The proposed police should maintain data base of the people under their jurisdiction which should comprise their names, source of livelihood, number of dependants, assets, liabilities and some other relevant information that will aid in the computation of tax. This system can only work where the payment of tax or penalty is done by electronic platforms. This is important to minimize corruption, ineffectiveness, favoritism and nepotism. The police should be agents of Federal Government and their remuneration should be taken from the government budget. The police should adequately work with State Board of Inland Revenue and Local Government Committee of their different jurisdictions, with the aim of ensuring that taxes are paid and proof or certificate of payment are generated electronically to the tax payers. The police should also collaborate with other security agencies like Nigeria Custom Service, Seaports, Manufacturer Association of Nigeria, Standard Organization of Nigeria and other professional associations in the country to ensure that tax are paid on each goods and services rendered.

The implementation of a specialized policing system will facilitate the following outcomes:

a. Resolve the challenge of different tax authorities waiting on Nigeria Police Force (NPF) in the fulfillment of its statutory duties.
b. Boost tax compliance in Nigeria and eradicate or reduce to minimal level; the tax evasion menace.

c. The presence of the specialized police will serve as sensitization and publicity for tax compliance in Nigeria.
d. The arrest, investigation and arraignment of tax offenders will serve as deterrence to others and will as well serve as encouragement to the regular tax payers.
e. It will also assist in keeping of comprehensive data base of tax payers in Nigeria.

The establishment of specialized policing units presents a dual-edged proposition for economic governance. On one hand, their potential benefits for both the state's fiscal health and the operational environment for individual businesses are significant. Such units can enhance revenue assurance, foster a more stable and predictable business climate, and directly combat economic crimes that undermine market integrity. However, the implementation of such a system is fraught with considerable challenges that must be strategically addressed. Primary among these are the financial challenges associated with funding a new, technically proficient agency. Furthermore, the success of any policing initiative is contingent upon societal acceptance and public trust, which cannot be assumed. The perennial issues of bribery and corruption pose a direct threat to the unit's integrity and effectiveness, potentially eroding its very purpose. Finally, in a federal context like Nigeria's, the initiative must navigate the complex constitutional and political debate surrounding the state policing challenge, which questions the very structure of law enforcement authority

9.0 Conclusion

Taxation remains an indispensable financial instrument through which governments generate revenue to fulfill their civic obligations. In Nigeria, while there are established statutes aimed at ensuring tax compliance, the practical enforcement of these laws raises intricate challenges. The relationship between tax authorities, exemplified by the Special Enforcement Unit, and the Nigerian Police force is emblematic of these complexities.The legal framework grants the SEU specific powers to assist in investigations pertaining to tax-related offenses. Yet, the word "assist" underscores the SEU's supplementary role, indicating a reliance on established law enforcement entities, notably the Nigerian Police. This collaboration, while designed to bolster tax compliance, has inherent limitations.

The SEU's specialized focus on tax matters contrasts with the Police's broader mandate, which might lead to overlapping priorities or diluted efficiency in joint operations.

Public trust and perception are pivotal for successful tax enforcement. Therefore, any perceived inefficiencies or operational challenges in the collaboration could jeopardize public confidence in the system. Furthermore, the success of tax compliance efforts isn't solely dependent on enforcement but also on public awareness, simplification of tax processes, and ensuring taxpayers see tangible benefits from their contributions. Given the nuanced challenges faced, there's a pertinent need to reassess and fortify the collaborative framework between tax authorities and law enforcement agencies. One potential approach is the establishment of a specialized police unit dedicated to tax enforcement, akin to the EFCC's role in financial crimes. Such a unit would harmonize the enforcement objectives and might circumvent some of the challenges inherent in the existing inter-agency cooperation. In sum, while Nigeria has made commendable strides in tax legislation and enforcement, the dynamic nature of the economy, combined with evolving challenges, necessitates continual introspection and adaptive strategies to ensure maximal tax compliance and thereby fortify the nation's financial foundation.