



Curbing Tax Evasion and Avoidance by the Instrumentality of Tax Laws in Nigeria: The UK Example

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Abstract

That taxation is a very reliable means of raising revenue is not so debatable, especially where the tax system is meticulously arranged to take care of tax dissentives. This is indeed a great relief since nations of the world from time immemorial have realized the indispensability of revenue generation in meeting governmental goals. However, greater is the fact that taxation has moved beyond its traditional source of revenue to more encompassing and beneficial status of monetary/economic instrument of overall sustainable development. And so, every nation seeks to attain optimal tax system. But the more the state struggles in this direction (because of its positive spillover effect on the administration of the state), the more the citizens struggle as much as possible to reduce incidence of tax in their daily life and chosen endeavors (because tax reduces available cash and liquidity with profound effect on their purchasing power). Major means of doing this are through tax evasion and avoidance. This paper held the view that apart from the presence of tax dissentives that encouraged tax evasion and avoidance in the Nigerian tax system, even steps at combating these were far from being optimal. It gave useful hints on curbing tax evasion and avoidance in United Kingdom tax system. It adopted a doctrinal method of gathering research materials, relying on primary and secondary sources.

Keywords: *Tax Evasion; Tax Avoidance; Tax Dissentives*

1.0. Introduction: General Background

From time immemorial arose the need for organized society. The anarchy of the Hobbesian ‘State of Nature’ which was said to be “Solitary, Shortish and Brutish” added to that need. Civilization promoted orderliness, regarded as a panacea to survival of the fittest of the era. Through what political philosophers generally term a social contract, citizens surrendered part of their freedoms to the sovereign for beneficial mutual protection and the attendant orderliness.

But surrendering freedoms was just an aspect of the social contract. The then emerging state required the necessary impetus to operate. This was in the area of certain needs geared towards the fundamental obligations embedded in the social contract.

Just as it was then in the social contract era, so also it is today with the modern states, even with added complexity. States should maintain its security forces to protect lives and property, maintain land, water and air spaces, meet their social obligations to the citizens. All these are financed through resources provided by the citizens especially in the modern day of Zero tolerance to state aggression. Taxation then becomes one of the most viable options.

It is also worthy of note that taxation has moved from its limited traditional views of a mere source of revenue to a more encompassing role of a fiscal strategy to shape the whole gamut of a nation's economy for the overall well-being of the nation. The modern goal is achieving optimal economy through the right blend, sophistication and dynamism in the tax system.

Considering the above, the reality is that taxation is today a universal policy. Whenever there is an organized society, there is bond to be taxes even when not directly referred to as such. The common feature of whatever named called is that tax is neither a voluntary payment nor a donation. It is an obligation imposed by a sovereign and so loses its identity as a tax whenever it loses its obligatory nature.

Since the time of social contract, it has been adopted by different ages of civilization. In this vein, conquered territories under the ancient empires paid tributes to the conquerors by levying their (conquered territories) subjects; rulers of coastal states received royalties from users of the states' natural resources. Tax may even be regarded as part of religious doctrine in some religions. For example, most Muslims regard tax as consistent with the Tenety of Allah. It was this perception that encouraged the early introduction of direct tax in Northern Nigeria by the British overlord (Lord Lugard) in 1904 which was referred to as commodity tax. It was this Commodity Tax that heralded the native Revenue Ordinance of 1917. Apart from the Muslims, the saying that you should give to Caesar the things that are Caesar's is a popular statement in the Christendom.

Again, the structure and form of taxes may differ. For example, taxes in Nigeria pre- colonial era were commonly paid in kind such as rendering obligatory community services in forms of clearing bushes, construction of public facilities, and so on. Even in modern taxation, there is no mandatory uniformity among states. For example, structure and rate of Value Added Tax in Nigeria is different from that of USA as many goods that are vatable in Nigeria are not vatable in America. In the same United States, municipalities (our equivalent of local governments) have taxable power in respect of sale tax while local governments in Nigeria generally do not have power under VAT. Even the power of federating states in this regard is a subject of controversy in Nigeria. Same in the structure of Personal Income Tax. In Nigeria, the Federal Government through the National Assembly has the exclusive power to impose personal income tax subject to power of collection ceded to the states to collect the tax from some individuals resident in the respective states. States in United State are not so restricted. Taxable persons in USA file Federal and States tax returns.

Away from the issue of differences in operation, form, structure and the like. All these have not in any way created any departure from the position emphasized above that apart from its traditional role as veritable tool to raise revenue for the government, its role and importance have become more and more elastic in modern public affairs. Thus, there is no gainsaying that it has been variously used by nations of the world as a Fiscal Policy for the overall performance of the economy as well as maintaining socio/ political stability and status of a nation. Take America for example. Whenever there is any perceived threat from any nation to its international standing in the comity of nations, it (America) often reacts through the imposition/ increment of tariffs. In June 2018 for example, America raised new tariffs of 25 percent on 50 billion dollars Chinese import and further ordered its official in the charge of the foreign trade to consider the possibility of another 200 billion dollars' worth of imports for a ten percent

imposition. All these were more of attempts to wipe China into line rather than the need for more tariffs to increase the revenue. Nations have also used taxes to redistribute income, to mop up excess liquidity in circulation, control harmful habits, encourage/discourage foreign investment, and so on.

This paper has extensively provided the above background to emphasis on the centrality of taxation to public affairs and its indispensability in our common existence and well-being. It is also to give the background knowledge as to why a nation may want to confront or should confront headlong any behaviour that tends to negatively impact taxation. For, as we shall see in due course, notwithstanding the fact that taxation may be the mainstay of an economy, it is not insulated from negativities that have in the main stunted its effectiveness or sometimes rendered it nugatory. There are lot of such negativities. Non observance of tax cannons, corruption and unscrupulous application of rules, inadequate tax experts, poor remuneration and not so friendly working environment, apathy towards taxation resulting into tax evasion and / or tax avoidance. There are many more. This paper intends to consider the last above mentioned i.e. tax evasion and tax avoidance particularly how these maladies can be curbed in Nigeria drawing inspiration from United Kingdom.

2.0. Tax Evasion and Tax Avoidance: Concepts and Impacts

Tax Evasion is fraudulent act of deliberately concealing information about incomes, wealth, property or business activities with the aim to avoid payment of tax or with a view to paying inaccurate tax. This is to say that when we talk of tax evasion, we are talking of fraudulent activities leading to outright non-payment of tax or to underpayment of the actual tax. It could as well involve giving pieces of information that are half true or outrightly false on tax related matters leading to short changing the relevant tax authority. It is a deliberate and dishonest act through which a tax payer resolves to deceive the state as to his exact taxable income and gains thereby reducing his/her tax liability.

There are various forms of tax evasion. Prominent forms include:

- i. Refusal to file tax returns;
- ii. False statements regarding tax reliefs;
- iii. Under-declaration of gains and incomes;
- iv. Failure to withhold and / or to remit withholding tax such as PAYE;
- v. Evasion of customs and excise duties by smuggling goods
- vi. Importing non-vatable goods but selling the goods with Value Added Charge and yet fails or refuses to remit the VAT rate to the relevant tax authority;
- vii. Stealing identity, for example by trading under a fictitious name or confused identity of another person which makes it difficult or impracticable for the tax authority to locate the real identity; and so on.

What the above portrays is that every illegal activity through which a person (natural or artificial) seeks to deliberately alter his/her true tax liability to the detriment of the state amounts to tax evasion.

Tax evasion is a tax fraud and so it is illegal. In most cases, it deals with falsity or concealment of information done in pursuance of identifiable goal: not to pay tax or reduce the tax payable. It is this illegality that differentiates tax evasion from tax avoidance. In tax avoidance, while the tax payer is seen to have technically fulfils the tax laws, he exploits the loopholes or opportunity in the tax legislation/tax system by arranging his activities in such a way that he pays a very minimum tax or sometimes not paying tax at all in respect of certain transactions e.g. consuming non-vatable goods. A tax avoider acts within the sphere of the law since what he does is to find legal means to reduce his tax obligations. He (The Avoider) relies on available tax shelter to minimize or decrease his tax liabilities.

Perhaps for this reason, a tax avoider is generally not portrayed in bad light. He is seen by Cambridge Dictionary, as a person who undertakes the reduction, by legal methods, of the amount of tax

he/she pays. Oxford Advanced Learner's Dictionary sees tax avoidance as nothing more than ways of paying only the smallest amount of tax that you legally have to

Tax Avoidance also comes in many forms, which includes:

- i. Reducing vatable goods in favor of non-vatable goods¹.
- ii. Investing as a pioneer industry and/or investing in pioneer goods to enjoy tax free holiday²;
- iii. By investing in export-oriented industries to enjoy incentives provided in such industries³;
- iv. By investing in export free zones e.g. oil and gas export free zones to enjoy tax incentives⁴;
- v. Keeping an accurate record of allowable expenses in producing the income and submitting same to the appropriate tax authority to claim tax allowance thereby reducing the tax burden;
- vi. Arranging one's life in a way that enables one to claim the maximum reliefs allowed under the personal income tax legislation such as taking a life insurance contract; and so on.

All these are within the ambit of legality. This is because every tax payer is entitled to be astute enough to prevent as honestly as he can the depletion of his income by the state. As much as the state may want to take every available advantage open to it in the tax system to maximize revenue, a tax payer is not under any obligation to arrange his taxable transactions to enable the government deplete his income to the fullest. The summary of this is that though both tax evasion and avoidance are disincentives to the state in the quest for optimal tax system, the distinction between the two lies in the legality of one (tax avoidance) and the illegality of the other (tax evasion). In the former, the taxable individual or entity structures his business and affairs in a way that precludes him from paying the full amount of tax' while the latter` is the unlawful means of concealing taxable income from the tax authorities, so as not to pay taxes'. The only snag here is that a tax payer engaging in tax avoidance is advised to thread with caution. This is because when overdone it may lead to tax evasion and expose the tax payer to the illegality of evasion. One of the factors that encourage a tax evader is the conviction within himself that he is doing no wrong and so may want to do more, and may indiscriminately do so as to land himself in trouble.

Many factors have been identified as influencing tax evasion and avoidance in Nigeria. Some of the factors have been listed as follows:

1. Complexity in tax system couple with inadequate tax education and enlightenment.
2. High tax rate and inequitable tax system.
3. Lack of trust resulting from mismanagement of tax funds and inadequate compensation to the citizens majority of whom are the tax payers
4. Reduction in the citizen's purchasing power occasioned by inflation which renders little or nothing left to be expended on tax obligations.
5. Self justification especially in respect of tax avoidance as explained above. ETC.⁵

Now, what are the impacts of tax evasion and avoidance on a nation? As pointed out earlier on, tax evasion and avoidance are both negativities to a virile tax system. They both prevent a nation from

1 Sally Wehmeir (ed.), Oxford Advanced Learner's Dictionary of Current English (7th Edition, Oxford University Press 2005) 15/6

2 For example, in pursuance of Industrial Development (Income Tax Relief Act) Cap I 7 Laws of Federation of Nigeria (LFN), 2010.

3 For example, in pursuance of Export (Incentives and Miscellaneous Provisions) Act Cap E19 Laws of Federation of Nigeria, 2010.

4 For example, in pursuance of Oil and Gas (Export Free Zone) Act Cap 05 Laws of Federation of Nigeria, 2010.

5 See Bako PM, 'Factors Influencing Tax Avoidance and Tax Evasion in Nigeria: A Case Study of Wukari, Taraba State'. [2021] (4) (2), *Journal of Accounting Research* 114-126.

attaining optimal level in tax revenue. This then means that the most noticeable impact of tax evasion and avoidance is the significant reduction in the volume of tax revenue. This has the tendency to impact negatively on the government activities and the general administration. Since tax is ‘money that you have to pay to the government so that it can pay for public services’⁶, tax evasion and avoidance reduce the government’s ability to pay for public services. One can imagine what that means. It means inadequacy in infrastructure. It means unbalanced national budget since expectation from tax revenue cannot be met. It means inadequate funding of education, security, health and what have we. It is due to this reality that most nations of the world, especially in third world countries are in anguish of debt which they usually employ to address revenue shortfall. Taking loan is a negation of one of the basic canons of taxation, the canon of productivity. This canon preaches that a viable tax system must serve as alternative to borrowing. The implication of this is that tax evasion and avoidance render a nation’s tax system unviable tax system.

Not only the above. It is to be noted that it has been argued that taxation has moved above its traditional role of source of government revenue to a more encompassing status of fiscal strategy on which the general well being of a nation is erected. Thus, it can be used to achieve social / political ends. Tax evasion and avoidance may as well be a distortion of this role. For, of what use, for example, can be American tariff wars with China if American citizens boycott goods which are the subject matter of the tariffs or result into smuggling those goods?

It is for the above reasons that nations of the world have devised means to curb incidents of tax evasion and tax avoidance, although with different degree and propensity

3.0.Steps at Curbing Tax Evasion and Avoidance in Nigeria

One of the first noticeable step is making tax duty a constitutional duty Section 24 (f) of the Nigerian 1999 Constitution (as amended) provides that it shall be the duty of every citizen to declare his income honestly to appropriate and lawful agencies and pay his tax promptly. This puts a duty on every citizen to declare and pay the true and appropriate tax on time. It has also been found that failure in this regard may be a basis for derogation of certain constitutional protections to the citizens e.g. derogation of right to property under section 44 of the Constitution. While the right to property is guaranteed under section 44(1), the same section 40 provides in its sub-section 2 that:

44(2) Nothing in sub section 1 of this section shall be construed

as affecting any general law

- (a) for the imposition or enforcement of any tax, rate or duty
- (b)for the imposition of penalties or forfeiture for breach of any law whether under civil process or after conviction for an offence.
- (c).....ETC

This is capable of discouraging tax evasion as well as putting a check on tax avoidance.

Another major effort is by criminalizing tax evasion in Nigeria. Tax evasion is a criminal act attracting sanctions ranging from fine to imprisonment. Here, section 40 of the Federal Inland Revenue Service (Establishment) Act, 2007 is instructive. Due to its centrality to the issue at hand, perhaps it is apposite to produce the section verbatim here.

40Any person who being obliged to deduct any tax under this Act or the laws listed in the First Schedule to this Act, but fails to deduct, or having deducted, fails to pay to the service within 30 days

⁶ Foot note 1

from the date the amount was deducted or the time the duty to deduct arose, commits an offence and shall, upon conviction, be liable to pay the tax withheld or not remitted in addition to a penalty of 10 percent of the tax withheld or not remitted per annum and interest at the prevailing Central Bank of Nigeria minimum re-discount rate and imprisonment for period of not more than three years.

The laws in the first schedule to the Act include Company Income Tax Act, Capital Gains Tax Act, Value Added Tax Act, Stamp Duties Act, Taxes and Levies Approved List of Collection, and so on. This makes the application of section 40 of the Federal Inland Revenue Service (Establishment) Act very elastic. It is also important to note that the prescribed three years imprisonment in addition to the fines imposed by the section is in addition and not an alternative.

Criminalizing non-deduction/non-remittance of tax is a disincentive to tax evasion, more so with the kind of strict punishment prescribed by the section. Apart from the above, there are some other statutory provisions too numerous to mention that impose criminal sanctions on tax dishonesty. Perhaps we may make mention of the amended section 8 of the Value Added Tax Act⁷. The section mandates all taxable persons to register for VAT upon commencement of business. Failure to register attracts a penalty of N50,000 for the first month of default and N20,000 for every subsequent month in which the default continues. Commencement of business is as defined under section 46 of the Act. Where a taxable person permanently ceases to carry on business or trade, he is required to notify the commission within 90 days of cessation failure which penalties for failure to file returns will continue to apply. These are amendment brought to the Value Added Tax Act by the Finance Act of 2019 to discourage further incidence of tax evasion.⁸

These are in addition to some non-tax legislations making tax evasion injurious to the evader. For example, the Economic and Financial Crime Commission (Establishment etc.) Act⁹ contains specific provisions making tax evasion economic and financial crime that attracts sanction upon conviction.¹⁰

It is equally important to note that apart from direct penalties, some of the provisions of the tax statutes have been amended to take care of the problem of tax evasion and avoidance. For example, the Personal Income Tax Act has been amended to make Tax Identification Number (TIN) a condition for opening a business bank account.¹¹ Provision of tax clearance has also become a condition for many of the transactions with the Cooperate Affairs Commission under the Company and Allied Matters Act, 2020. Politicians too are also required to produce tax clearance for prescribed number of years before they can contest in elections. Provisions as to minimum tax in Company Income Tax Act^{11a} is also a serious challenge to tax avoidance. It provides that in the year of assessment where the assessment or total assessable profits from all sources of a company results in a loss, or where a company ascertained profit results in no tax payable or tax payable which is less than the minimum tax, a minimum tax shall be levied on and paid by the company.^{11b}

Approach at combating tax evasion and avoidance is multi-dimensional. There have been judicial interventions on many occasions. These have been from the regular courts and tax tribunals. Often cited was the case between the Independent Television, Radio and the government of Edo State through Edo State Board of Internal Revenue. Failure of the company to remit pay as you earn tax deducted for a period of six years (2005-2010) to the appropriate authority was condemned by the court which subsequently ordered the payment of tax liability of N12.8 million to the treasury of Edo State Government. More important in this regard is the strive to be fair to both parties by the court, for it is not

⁷ Value Added Tax Cap V Laws of Federation of Nigeria, 2010.

⁸ See other sanctions provided in the various tax legislations such as Company Income Tax Act, Petroleum Profit Act, Personal Income Tax Act, and so on.

⁹ Cap E1 Laws of Federation of Nigeria, 2010.

¹⁰ See for examples sections 18 and 46 of the Act.

¹¹ Section 49(1) of the Act.

a case of sanction at all cost in the quest for increased revenue. Courts have been able to rein in the overzealousness of tax authorities whenever the facts of the case so dictate. In the case of *Polaris Bank v Abia State Board of Internal Revenue*¹², the court was able to take the sail off the feet of the Board by confronting it with the fact that tax audits conducted by a tax authority which violate prescribed statutory procedures are not binding on the taxable person. It has also been judicially made known to tax authorities sometimes inconclusiveness of their decisions as regards assessment, payment of penalty and interest on assessed tax whereby it was held that these will abate once there is appeal against the assessed tax liability until such an appeal is determined.¹³

Now, notwithstanding the above efforts, tax evasion and avoidance are still obstacle to a robust tax system in Nigeria. Despite various efforts at combating the scourge, some believe it is on the rise. Tales of tax evasion and avoidance now occupy major discourse in economic space. Experts and government officials provide instances (especially from corporate bodies) in their daily engagements/interaction with the public. In a media briefing on the activities of his panel in Abuja, the then Chairman of the Special Presidential Panel for the Recovery of Public Property, Okoi Obana Obala, on Monday 17 December, 2018 gave details of how some multinationals have been contributing to the national economic woes through breach of tax duty. He identified one of such multi nationals to include Adaz petroleum Nigeria which allegedly refused to pay company income tax of over N700 million for six years. Grievous as this might appear, this is just a tip of the iceberg. The MTN/CBN imbroglio was equally frightening. Though agreement was eventually reached for the payment of 53 million dollars by the MTN as settlement, not few considered the agreement to pay by MTN as admission that something has gone wrong in the first place. Apart from the admission issue, the 53 million dollars at least represented an amount that would have been denied Nigerian economy.

What can we say is responsible for this state of affairs? Do we talk of a weak anti-evasion legal regime? No. The reality is that tax evasion is a hydra headed monster plaguing the economies of the nations of the world, including those of acclaimed developed Nations. For example, there are very strict penalties for tax evasion which include imprisonment that will be up to 5 years, and fine that could be up to \$250,000 for individuals or \$500,000 for corporation in USA. It could as well be both fine and imprisonment along with cost of prosecution. Yet, tax evasion remains the major concern in that country. However, while this paper believes that there are virile legal instruments in Nigeria to check mate incidents of tax evasion, it is its opinion that the nation can still do more. Perhaps, drawing inspiration from other civilized nations of the world may be helpful. We may for this have a short look at anti-evasion measures in the United Kingdom, another common law country like Nigeria and the head of the Commonwealth to which Nigeria belongs.

4.0. Curbing Tax Evasion and Avoidance in UK

Generally, Her Majesty's Revenue and Customs (HMRC) investigates tax evasion in United Kingdom by checking the affairs of United Kingdom's citizens from time to time to ensure that the citizens (corporate and individuals) pay the right amount of tax.

Investigation is usually an inquiry to recover undercharged taxes triggered on suspicion of fraud and so, criminal conviction is not the main aim except in the most serious cases involving manifest criminality.

11a Cap C21 Laws of Federation of Nigeria (LFN), 2010

11b Section 33(1) of the Act.

¹² Unreported Judgment of the Tax Appeal Tribunal delivered August 20, 2019 in Appeal no TAT/SE2/001/17.

¹³ See the case of *Nigeria Breweries Plc V Abia State Board of Internal Revenue* (Unreported Judgment of the Tax Appeal Tribunal delivered June 20, 2019 in Appeal no TAT/SE2/002/17).

HMRC is required to open a tax investigation within 12 months from the date of returns and such investigation, though usually four years, can be extended to 20 years if there is indication of dishonesty.

In such investigation five stages are involved starting from opening tax investigation (usually without notice), tax investigation notification, submission of relevant document, interview and then the verdict.

In carrying out its investigation, HMRC is clothed with very wide power to investigate HMRC related offenses. In addition to requesting for information and documents, it can apply for and implement search warrant, apply for and issue orders, make arrest, seizure of cash/passport, searching business premises of close associates and family members, and so on. Also, it's (HMRC) data gathering abilities are very enormous. It's fraud department uses database known as 'connect' and gathers information from apps such as Amazon and Apple. It also collaborates with international enforcement agencies to investigate offshore tax evasion.

As said earlier, the emphasis is usually on retrieving unpaid taxes from the tax offender. However, civil tax enquiries do disclose manifest criminal cases such as making materially false statements or tendering materially false documents, willful and deliberate concealment, etc.

HMRC may then result to prosecution option to serve as a deterrent to others if it feels that is the most appropriate in the circumstance. Where a local tax inspector detects evidence of tax fraud, the next step is to send the document to the Fraud Investigation Service (FIS) of HMRC to decide on the option to adopt, that is whether civil or criminal approach.

If the option is criminal approach, the case is transferred to HMRC Criminal Taxes Unit (CTU).

Criminal offenses relating to tax evasion in UK are both statutory¹⁴ and common law oriented.¹⁵ While the evader remains principally liable, third party who deliberately facilitates the evasion can as well be held liable for the facilitation or for aiding and abetting the evasion.

Tax evasion carries serious penalties in UK. In summary conviction, the evader can be liable to as much as £20,000 fine or imprisonment up to 6 months. In the Crown Court, the liability can be up to 7 years in prison or unlimited fine. Under the common law, the offense of cheating the public revenue is considered so serious and can attract up to imprisonment for life.

Note that a person being investigated has many options to challenge HMRC decision. He can request for a Statutory Review (SR) which is carried out by HMRC Solicitor's Office and Legal Services (SOLJ). Such request must be made within 30 days of the decision of HMRC. If unsatisfied with SOLJ decision, he can opt for alternative dispute resolution failure of which he can approach a tax tribunal.

The summation of the above is that of a more sophisticated system of confronting problems of tax evasion and avoidance in UK than Nigeria. This can be seen in the area of access to information by the former. Data gathering abilities in Nigeria are frequently hampered and complicated by lack of functional and up to date equipment and facilities. The Joint Tax Board has of recent embarked on positive step at confronting an aspect of the problem by partnering with Nigeria Data Protection Commission (NDPC) to ensure adequate protection and security of taxable persons' data. This demonstrates the fact that data gathering and protection is bedeviled with serious challenges in Nigeria. One hopes that the recent cooperation between JTB and the NDPC as well as some other efforts at resolving information gap in respect of taxable persons yield the desired output. Curbing tax evasion and avoidance without accurate

¹⁴ See for example Criminal Finances ACT of 2017 which criminalizes failure of business to prevent facilitation of tax evasion.

¹⁵ For example, cheating the Public Revenue.

data on taxable persons may amount to nothing but the most crooked and archaic system of combating a sophisticated phenomenon.

Apart from the sophistication of the UK system, the elasticity of its approach is worthy of mention. The emphasis is to retrieve unpaid taxes from the evaders except where there is manifest criminality. Major Nigerian legislations against tax evasion tilts more in favour of criminal prosecution than civil tax disobedience.¹⁶ It is conceded that criminalizing tax evasion may discourage such act, but it may be counterproductive to turn every act of tax evasion to strict liability offence with grievous penalties such as huge terms of imprisonment particularly as some of the legislations against tax evasion¹⁷ does not contain such phrases like "who knowingly" or "who with intent to defraud" to establish manifest criminality. This may deny the approach¹⁸ the often-needed cooperation required of an alleged party in adjudication. He may choose to go to the whole hog of full trial realizing his cooperation may earn him no merit: The trauma of jail terms hanging on his neck, apart from vomiting the proceeds of tax evasion, is strong enough to frighten him away even from a mild cooperation. He will hang on to his trial, and who knows, he may escape through the instrumentality of technicality in our judiciary with astonishing legerity for technicality mentality.

Summary of Findings, Conclusion and Recommendations

In the course of this research, this paper finds that the challenge of tax evasion and avoidance is an international phenomenon afflicting nations of the world developed, under developed or developing.

It is also its finding, as can be seen in the case of Nigeria and United Kingdom, that nations have taken steps at curbing tax evasion and avoidance through the instrumentality of tax laws in particular as well as certain incidental non-tax laws. But it observes that UK approach has been more sophisticated and elastic than that of Nigeria and thereby concludes that it has the capacity of being more result oriented than Nigerian approach. It is in line with these findings, conclusion and other observations earlier made in this paper that this research recommends as follows:

- i. A careful consideration of the United Kingdom tax system especially in the area of tax evasion and avoidance with a view to incorporating useful hints therein in our tax system. This has been highlighted above.
- ii. This paper holds the view that the best option to tackle tax evasion and avoidance is to consider the root causes of tax evasion and avoidance and therefore recommends concerted efforts at addressing the root causes of tax evasion and avoidance highlighted in the course of this paper even as the nation makes use of the hints that may be considered useful to it in relation to the first recommendation above in tackling the cases.

This paper believes strongly that the combination of the above recommendations in the midst of virile tax administration, strong/focus and independent legislature/judiciary will go a long way in confronting headlong the two monsters, that is tax evasion and avoidance.

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1. Sally Wehmeir (ed.), Oxford Advanced Learner's Dictionary of Current English (7th end, Oxford University Press 2005)1516

¹⁶ See for examples sections 40 of the FIRS Act and 18, 20 of the EFCC Act.

¹⁷ Such as section 40 of the FIRS Act.

¹⁸ At combating tax evasion.

2. For example, in pursuance of Industrial Development (Income Tax Relief) Act Cap I 7 Laws of Federation of Nigeria (LFN), 2010.
3. For example, in pursuance of Export (Incentives and Miscellaneous Provisions) Act Cap. E 19 Laws of Federation of Nigeria (LFN), 2010.
4. For example, in pursuance of Oil and Gas (Export Free Zone) Act Cap. 05 LFN, 2010
5. See PM Bako, 'Factors Influencing Tax Avoidance and Evasion in Nigeria: A Case Study of Wukari, Taraba State' Journal of Accounting Research [2021] (4) (2) 114 - 126
- 6 Foot note 1
7. Value Added Tax Act Cap.VI LFN, 2010
8. See other sanctions provided in the various tax legislations such as Company Income Tax Act, Petroleum Profit Tax Act, Personal Income Tax Act, and so on.
9. Cap. E1 LFN, 2010
10. See for examples sections 18 and 46 of the Act.
11. Section 49 (1) of the Act
 - 11a. Cap. C 21 LFN, 2010
 - 11b. Section 33 (1) of the Act
12. Unreported Judgement of the Tax Appeal Tribunal delivered August 20, 2019 in Appeal No TAT/SE 2/001/17
13. See the case of Nigerian Breweries plc v Abia State Board of Internal Revenue (unreported Judgement of the Tax Appeal Tribunal delivered June 20, 2019 in Appeal No. TAT/SE 2/002/17
14. See for example Criminal Finances Act, 2017 which criminalises failure of business to prevent facilitation of tax evasion.
15. For example, cheating the Public Revenue
16. See for example section 40 of the Federal Inland Revenue Service Act and 18, 20 of the Economic and Financial Crime Commission Act.
17. Such as section 40 of the Federal Inland Revenue Service Act
18. At combating tax evasion

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