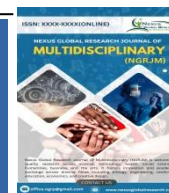




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Review Article

AN APPRAISAL OF THE LEGAL FRAMEWORK FOR TAX ADMINISTRATION AT LOCAL GOVERNMENT AREAS IN NIGERIA

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ABSTRACT

The system of government in Nigeria is such that the governmental powers are shared between the Central government and two other components: that is the states and the local government areas. The local government was not recognized under the political arrangement of the country until in 1976 when the military government carried out local government reforms which resulted in the inclusion of local government as a third tier of government under the 1979 constitution. By so doing, the Local government in Nigeria became entitled to statutory allocation from both the federal and state governments. Section 7 (1) of the 1999 Constitution (as amended) empowers state governments, to enact legislations with regards to the establishment, structure, compositions, finance and functions of democratically elected local government councils. PART II of the second schedule to the 1999 constitution under the Concurrent Legislative List, State Houses of Assembly are mandated to make provisions for the collection of taxes, fees or rates for the administration of the law, providing for such collection by the local government councils (as agencies of state government). With this development, local government councils cannot impose taxes or levies on anybody or corporation without recourse to the provisions of the law enacted by the federal or state legislature. All the local government taxes, levies or fees are usually imposed or charged in pursuant to federal or state laws, while the administrative functions of the collection is delegated to the local government councils. Sequel to these, we hereby critically appraise the legal framework under which local government councils collect taxes in Nigeria. To examine the ways in which Local Government Areas collect taxes under the laws made by State Houses of Assembly, the statutory rights of the taxpayers and explore the way in which tax collection could be improved. Federal and State Government legislative powers should be amended to include/accommodate the Local Government Councils in the legislative process which would enhance their tax collection, concluding that any tax imposed by the Local Government Areas outside the armed bit of laws made by the federal or states legislature will amount to ultra vires, null and void.

Keywords: Local Government Taxation, Tax Administration, Constitutional Framework, Legislative Competence, Ultra Vires

1. Introduction:

Local Government Areas or Councils in Nigeria are the third tier of government created by the constitution in order to facilitate development at the grassroots. It is an appendage of the state and federal governments. Before the advent of the colonial administration in Nigeria, various communities and kingdoms had their unique forms and patterns of local administrations which were able to meet the views and aspirations of the people

including forms of collection of taxes. With the coming of the British and introduction of their system of government, these communities and kingdoms were merged to become Native Authorities later renamed Local government areas after independence in 1960. As a result of this, in 1976 an attempt was made by the Federal Military Government to reform local government areas in order to create an efficient and vibrant local government administration in

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Nigeria. There had also been subsequent local government decrees of 1989, 1990 and 1992 to operationalize and grant them a high level of autonomy as well as increase their revenue allocation

Under the 1999 Constitution of the Federal Republic of Nigeria (as amended), taxing powers are vested in both the federal and State governments. The local government which is the third tier of government and closest to the people in the rural areas, is left out. In other words, no legislative powers are directly vested in the local government areas. They are made to look up to the federal and state governments for their sustenance.

On the administration of taxes, paragraph 9 of the Second Schedule of the 1999 Constitution provides that:

A House of Assembly, subject to such condition as it may prescribe shall make provisions for the collection of any tax, fee or rate or for the administration of the law providing for such collection by a local government councils.

The implication of the above assertion is that local government councils or areas cannot on their own impose any tax on any subject matter; rather the state government must first and foremost enact the appropriate enabling laws, which will determine the taxable persons, assessment procedure and method of collection, recovery and penalty for such tax delinquency. Where such a law has been enacted, a local government area must exercise its power to collect tax due under the law or within the limits prescribed by the law. Any exercise of the power beyond the limits allowed by the constitution or the enabling laws made by the State House of Assembly, will be ultra vires, and void. This was the decision of the court in

Cornerstone Insurance plc V. Surulere Local Government Area and Muslim Local Government Area Lagos State, where the court held that “the defendants lack the taxing powers to impose and collect Mobile Advertisement Tax Rates on the plaintiff’s car which had been registered and licensed to play all routes in the Federal Republic of Nigeria.

The decision of the court here shows that the legal framework which the local Government areas in Nigeria use in their operation is dependent upon the laws made or enacted by the various State Houses of Assembly.

This scholar therefore aims at examining the legal framework under which this Local Government Areas operate in order to collect taxes from individuals and companies; with a view to enhancing the efficiency of tax administration and enforcement machinery in their jurisdictions.

Nigerian federalism is a partnership between the federal government, states and local governments areas. The division of the legislative power under Section 4 of the 1999 constitution involves only the federal and state governments, which means that the Local Government Councils cannot make laws but can only make bylaws which must be based on the laws made by the state Houses of Assembly. In this case, a state government first enacts laws and the local government derives their powers from them. In the case of tax administration, the state government enacts laws which determine the taxable person, methods of collection and punishments for defaulters.

Consequently, there have been several problems associated with the imposition and collection of taxes by the local government councils, such as arbitrariness,

mode of operations, excessiveness and abuse of taxing powers in the exercise of the powers granted to them. In a bid to collect taxes, tax consultants and tax agents to the local government councils are seen blocking the roads with heavy woods, stones and at times breaking the windscreen of vehicles that refuse to comply with their directives.

2. Legal and Institutional Framework of Tax Administration in Local Government Areas in Nigeria

2.1 Brief History of Tax Administration in Nigeria Showing How Local Government Areas were Left out on Taxation

2.1.1 Pre-Colonial Period

Nigeria as one of the colonies of the United Kingdom borrowed some of her tax system from the colonial masters. In tracing the history of tax system, Ola submitted that the first form of taxation emanated from the United Kingdom introduced by William Pitt the Younger in his budget of 1798 as a source of revenue for the payment of weapons and equipments which he used in the execution of Napoleonic wars. In 1842, Sir Robert Peel reintroduced the income tax system as a result of the growing budget deficit during the Peace of Amiens.

In Nigeria, before the coming of colonial masters, there were diverse systems of taxation among the various ethnic groups. At this period, they did not have coined money and therefore each community had to pay taxes in kind. For instance, there was an organized form of political administration established by Usman Dan Fodio in his conquered territories through his Holy War known as the “Jihad”, which made the most part of the present Northern Nigeria to come under the Sokoto Islamic

Caliphate with the introduction of Islam as a religion. Based on this religion, some taxes were imposed on the people in accordance with the Sharia Law. These taxes include:

- (a) Zakat: This tax is referred to as a charitable tax by the Muslims and it can be in form of donation of clothes, food, etc. if this tax is contributed by the non-Muslims, it is called “KudinKasa” which is an agricultural tax. Here a portion of the agricultural produce is given out.
- (b) Jangali (Cattle or livestock tax) and
- (c) Shukka-Shukka: Tax paid from farm products.

Collaborating with the above assertion, Ayua noted that there were various forms of taxation in Northern Nigeria such as Zakat, a tax levied on Muslims for charitable, religious and educational purposes, Shukka-Shukka, another tax paid on all crops not liable to Zakat. There was another called Jangali - a cattle tax levied on livestock.

In his own submission, Smith averred that “the learned Islamic Scholar called Usman Dan Fodio conquered the Pagan Hausa States known as BanzaBakwaivire a Holy War (Jihad) and set up an Islamic Caliphate which was ruled strictly according to Islamic tenets.” Accordingly, a Sharia system of taxation was introduced in these areas under his control. The taxes in existence then were categorized into:

- i. HarajiTax: This was a general levy on the farming community;
- ii. Zakat: This was a form of tax imposed on Muslims for charitable, religious purposes. When this is paid by a non-Muslim, it is known as “kudinkasa”;

- iii. Shukka-shukka: Is a tax on crops not liable to zakat;
- iv. Jangali: Is cattle tax on any member of the Muslim community that rears cattle;
- v. There were taxes on certain crafts and trades such as dyers, leather workers, weavers, butchers, blacksmiths, hunters, etc
- vi. Taxes on Caravan tolls were also recognized throughout black Africa.

It should be noted that in the Northern part of Nigeria, there were communities that majority of them were pagans who refused to embrace Islam and all attempts to introduce the tax were resisted by them.

In the western part of Nigeria which the people are mostly Yorubas, before the colonization, they were governed under empires. For instance, they had Oyo Empire, Benin Empire, etc and each had their form of revenue mobilization.

Ishakole was a prominent form of taxation levied on land used by local communities because it was believed that the land belongs to the Oba. This was in form of tribute to the Obas; which could be paid in cash or kind, such as cash crops or food crops. From the foregoing, Ishakole was a form of levy or tax that the community pays to the traditional ruler or the Oba.

There was another form of tax known as Owo-ori. This tax was paid by individuals within a community and anyone who fails to pay the levy would have his personal properties confiscated by the agents of the King or Oba.

The system of tax payment in the Eastern part of the country which is predominantly Igbos was different from that of the Northern and Western parts of the country. The Igbos had no centralized system of government, nor centralized centre of

authority which can command power for the payment of tax.

However, the Igbos' system of government was through the council of elders and by extension through the entire village assembly. Whenever the village/community needed money for a particular purpose, a time frame would be fixed when the entire village will be expected to stop harvesting their individual palm trees and thereafter each family would pay a fixed amount of money to the village head before the palm fruits would be harvested. A day would be fixed when the entire village would gather and the palm fruits would be cut-down and shared to each family. This exercise is called "EgbuNkwu" because it is believed that the palm trees belong to the entire village. But when the country was invaded by the whiteman, there were certain reforms which they introduced. In the light of the above, we shall look at the administration of taxes under the following periods.

2.1.2 Colonial Period

During the colonial period in Nigeria by the Great Britain, Frederick Lugard who assumed the position of High Commissioner of the Northern Protectorate in 1900 found an organized system of taxation in the area under the control of the Fulani Emirs of Sokoto Caliphate in Northern Nigeria. His objective was to conquer the entire region and obtain recognition of the British protectorate by its indigenous rulers. When his diplomatic measures failed, he used armed forces and subdued the local resistance and introduced an indirect rule through the rulers who were defeated by his army. Here, the Emirs who accepted the British authority retained their caliphate title and accountable to the British district officers, who had firm

authority. In this dispensation, the British high commission deposed some emirs who opposed their conquest and reduced sharply the number of titled holders in the emirates and thereby weakening the rulers' patronage, and used indirect rule.

Under this indirect rule, caliphate officials were placed on salaries and later became agents of the British authorities responsible for tax collection and peace keeping. One of the major challenges faced by the British colonialists was how to consolidate the multiplicity of the taxes into a single uniform tax, and how to realize enough fund for the administration of the colonial administration. In order to generate enough funds, the British Government under Lord Lugard introduced direct taxes in Northern Nigeria called the Land Revenue Proclamation of 1904. This law operated only in the Northern Nigeria until the amalgamation of the Northern and Southern Nigeria in 1914. This Land Revenue proclamation made the Northern Nigeria the first part of the country that had a codified legislation on taxation.

After the amalgamation of the Northern and Southern Nigeria in 1914, the law was amended and it became the Native Revenue Ordinance of 1917 which was extended to Western Nigeria such as Abeokuta and Benin City. In 1928, the law was extended to the Eastern Nigeria and it became the first personal tax law to be introduced into the regions. This tax did not go down well with the people as it was meant to be paid by both men and women. In 1929, this led to what was/is called Aba women's riot which led to loss of lives and property. The riot was carried out by women who felt that women should be excluded from payment of tax.

As a result of various complaints brought by different regions due to the tax laws, in 1940, the various tax ordinances that regulated taxation in the regions were unified under two major tax legislations which repealed all the previous ones.

- a. The Income Tax Ordinance No. 3 of 1940 which applied to expatriates and Nigerians living in the township of Lagos, and
- b. The Direct Taxation Ordinance No. 4 of 1940. This applied to all Nigerians except those living in the township of Lagos.

These were the first legislations that covered the entire country thereby consolidating the previous tax legislations. In 1943 another tax legislation known as the Income Tax Ordinance (ITD) No. 29 of 1943 was enacted. This legislation was more comprehensive when compared with that of Income Tax Ordinance No. 4 of 1940 because it extended the tax to the Europeans all over the country in addition to the natives living within Lagos township. The tax legislation assessed any income accrued and derived from trade, businesses, profession or vocations; even income from employment such as allowances, pensions, annuities, dividends, discounts, rents and taxes from property. This legislation was remarkable because the tax was extended to foreigners living in other places across the country.

In 1946, Nigeria was divided into three regions - East, West and North under the Richards' Constitution for proper administrative convenience; while the central government maintained her exclusive power over taxation.

When Nigeria became a federation in 1954 the issue of how to share the taxation powers among the federating units became a national discuss. The matter was referred

to the 1957 Constitutional Conference headed by Mrs Raisman holding in Lancaster House London. After their deliberation on the matter, the commission among others recommended that the Federal Government should have exclusive jurisdiction on corporations and companies taxes as well as taxation of non-resident persons and to enter double taxation agreements with other countries. The regions were to have exclusive powers to impose personal income tax on individuals, sole traders, clubs, trusts, and other unincorporated associations.

The Commission also recommended the application of personal income tax in all areas of the federation which the essence was to guard against the issue of double taxation.

It was based on these recommendations that the Regional Governments enacted the following laws:

- i) The Eastern Nigerian Finance Law No. 4 of 1958
- ii) The Western Region Income Tax Law of 1957; and
- iii) The Northern Region Personal Tax Law of 1962.

All these laws are contained in the Pay As You Earn (PAYE) exercise. The regionalization of these tax laws have their flaws which was principally centered on double taxation. For instance, that the federal government should have exclusive jurisdiction on corporations and companies taxes as well as on taxation of non-resident persons and to enter double taxation agreements with other countries. The regions were to have exclusive powers to impose Personal Income Tax on individuals, sole traders, clubs, trusts and other unincorporated associations. The commission also recommended the application of personal income tax in all

the areas of the federation whose essence was to guide against the issue of double taxation.

These recommendations were accepted and subsequently became part of the Nigerian Constitution of 1960. The constitution gave concurrent powers to both the federal and regional governments on matters that relate to Personal Income Tax.

2.1.3 Post Colonial Period

The Raisman Commission's recommendations were used as the basis for the enactment of the Income Tax Management Act (I.T.M.A) of 1961. Apart from the fact that this Act governs the taxation of personal income of individuals, it also addressed such vital issues like:

- a. Definition of taxable income and the basis of charge
- b. Period of assessment
- c. Taxation of income remitted to and accruing in Nigeria
- d. Treatment of individuals
- e. Allowable deductions.

However, in order to bring the regional tax laws in conformity with the Income Tax Management Act of 1961, each of the regions amended their tax laws; for instance:

- i) The Eastern Region Finance Law, 1956 was amended and it became Eastern Region Finance Law, 1962
- ii) The Western Region Income Tax Law, 1957 was amended and it became Income Tax Development Contribution Law (ITDCL), 1961; while
- iii) The Northern Region enacted Northern Nigeria Personal Tax law, 1962.

This development led to multiple rates reliefs and differences in allowable deductions which had serious

consequences in mobility of labour across the federation.

Despite the recommendations made by the Raisman's Commission on the need to have uniformity of Personal Income Tax Legislation, it was criticized for giving concurrent powers to the federal and Regional governments to legislate on personal Income Tax. This is because, no matter how fastidious the law may be, where both the federal and regional governments legislate on a particular matter there must be a conflict. Secondly the Commission was also criticized for giving too much autonomy to the regions.

In 1963 when Nigeria became a republic, a new region known as the Mid-Western Region was created and carved out from the western region of the country, it adopted the tax laws of the western region and thereby bringing the number of tax legislations in Nigeria to four. This became an unhealthy system to the nation because each region applied different rates of tax, reliefs and allowances.

In 1966 the military took over the government and dissolved the regions into twelve states and each of these states adopted the tax laws of its parent region except Lagos state which adopted the federal government Personal Income Tax Law. It should be noted that the military personnel all these while were not subjected to the jurisdiction of any tax authority and in order to cure this defect, the federal government enacted Personal Income Tax (Armed Forces and Other Persons) Special Provisions Act 1972. In accordance with the provisions of the Act, the federal government was statutorily empowered to tax the income of persons employed in the Nigerian Army, Navy or Air force, officers of the Nigeria Foreign Services, Persons in receipt of Nigerian

pension whose such pensions are payable overseas and persons resident outside Nigeria who are shareholders of Nigeria companies.

Under the 1979 constitution, the federal government had the exclusive jurisdiction to legislate on the following taxes:

- a. Item 15: Customs and Exercise Duties
- b. Item 22: Export Duties
- c. Item 37; Mining Rent and Royalties
- d. Item 57: Stamp Duties
- e. Item 58: Taxation of incomes, profits and capital gains.

From the fore-going, under, these items, the federal government has exclusive powers to legislate on the taxation of individuals and companies throughout the federation. The states had the power to legislate on items on residual matters. Residual matters are those that are not included in the exclusive legislative list. Therefore, the matters which the states can impose taxes include lands and buildings, entry of goods into the states for consumption (use or sale), goods and passengers earned by the road or inland waterways, etc.

In 1993, two major tax laws were enacted by the federal government. These are;

- i. The Value Added Tax Decree No. 12 1993. This is a tax added to the value of any product at the point of sale. The VAT Decree was signed into law on 23rd August, 1993 but came into force on 1st January, 1994
- ii. The Personal Income Tax Decree No. 104, 1993. This is another tax that was enacted by the federal military government in 1993. This can be found in section 68 to 72 of the Personal Income Tax Decree

No. 104 of 1993. It is an Act to impose income tax on individuals, communities and families and on executors and trustees; and to provide for the assessment and collection and administration of the tax. This Personal Income Tax Decree 1993 repealed the existing federal enactment on personal income tax. These are:

- a. The Income Tax Management Act 1961 (as amended), and
- b. The Income Tax (Armed Forces and Other Persons) (Special Provisions) Act.

It should be noted that when the Personal Income Tax Decree (PITD) of 1993 was promulgated, the 1979 constitution was still in operation; even though Decree 107 of 1993 suspended and modified some sections of the constitution. The said Decree 107 still left the exclusive and concurrent legislative list the way they were by virtue of section 1 (2) and the First Schedule of the decree. Under item D, part II of 1st schedule of the 1979 constitution, the state governments were mere delegates of tax administration. But section 2(5)(a) of the 1993 Decree empowered the state governments to impose charges on public funds, revenue and assets in that state for any purpose, notwithstanding whether it relates to matters included in the exclusive legislative list. This Decree invariably vested on the states the power to make laws regulating the administration of personal income tax.

Under the 1999 Constitution, the 36 states and the federal capital territory (FCT) Abuja are recognized and there are no significant changes because most of the provisions in the 1979 Constitution are replicated in the 1999 Constitution. For

instance, the position of the 1979 Constitution on Personal Income Tax as provided under Section 4 and Part 1 and II of the 1st schedule is repeated under Section 4 and Parts 1 and II of the 2nd schedule of the 1999 Constitution. In this case, the Federal Government still retains strong hold on the legislation and administration of tax laws. This position attracted a lot of reactions from the states and the general public. For instances; in the suit, AG Lagos v. AG Federation and 35 Ors., the Lagos State Government challenged the powers of the Federal Government to VAT in the 36 states of the Federation.

This action was repeated in Attorney General of Rivers State v. FIRS & Attorney General of the Federation; where the Federal High Court declared that the Rivers State Government and not the Federal Inland Revenue Service (FIRS) should collect Value Added Tax (VAT) and Personal Income Tax (PIT) in the state.

From the 1999 Constitution, the Federal Government has the exclusive powers to legislate on the following:

1. Item 16: Custom and Exercise Duties.
2. Item 25: Export Duties.
3. Item 39: Mining Rents and Royalties.
4. Item 58: Stamp Duties.
5. Item 59: Taxation of Incomes, Profits and Capital Gains.

With the recently enacted Nigeria Tax Act No. 7 of 2025 Value Added Tax (VAT) has now been brought under federal government's power to administer.

The states are meant to impose taxes on lands, buildings, entry of goods into state, road taxes on goods, vehicle licenses, and registration fees, tools, entertainment tax,

betting and gambling in addition to taxes administered by the Federal Government Personal Income Tax, withholding tax, capital gains taxes and stamp duties. The local governments are vested with the powers to administer and collect taxes on the following: On & off liquor fees, slaughter slab fees, shops & kiosk rate, tenement rates, etc.

By the provisions of Paragraph 7 of Item D, Part II of the 2nd Schedule, the National Assembly can delegate the administration of taxes in terms of the imposition, collection and penalties for non-payment of taxes, to the states government.

The danger here is that different criteria would be used by different states in the assessment of rates, allowances and several other indices in the administration of Personal Income Tax. This no doubt, would amount to unanimity in the rates of taxes, reliefs, allowances, assessment of tax, etc and moreover, there is a possibility of internal double taxation.

In 2002, the Federal Government in her bid to strengthen the administration of taxes set up a Tax Reform Committee headed by Prof. Dotun Philip that recommended an autonomous Federal Inland Revenue Service. Hence in April 2007, the Federal Inland Revenue Service (Establishment) Act was promulgated. Under this Federal Inland Revenue Services Act, the body is empowered to control and administer different taxes specified in the 1st Schedule of the Act, namely;

- i. Petroleum Profit Tax
- ii. Companies Income Tax
- iii. Personal Income Tax
- iv. Capital Gains Tax
- v. Value Added Tax
- vi. Stamp Duties Act

vii. Taxes and Levies (Approved List of Collection) Act; 1998.

It should be noted that the Approved List of Collection seems to limit the initiative, discretion and exercise of the powers of the states government to impose any form of taxes, no matter the social, economic and fiscal realities of the state at any given time.

This FIRS Act attracted some criticisms from some state governments who challenge the propriety of the FIRS under Federal Inland Revenue Establishment Act, 2007 to control and administer Personal Income Tax in flagrant disregard of the provisions of the 1999 Constitution, which empowers the states to legislate and collect Personal Income Tax of residents with their states. To remedy this situation, Agbonika suggested that the Federal Government should remove item 59 from the exclusive legislative list and enact a law empowering the states to have exclusive power over personal income tax as it was before the commencement of the 1979 Constitution.

It should be noted that Nigeria has been having proliferation of tax laws and this is a worrisome situation because it has led to litigations between the states and the Federal Government. There must be a clear and cut demarcation on the functions of the federal and state governments in the collection of the Personal Income Tax.

And all the above shown how local Government Area were left out on taxation.

3. Reasons for Establishing Local Governments

As a result of the roles of local governments in the affairs of the country, the following are the reasons for creating them.

- a. Local government provides the platform for people to conduct their own affairs in line with the local needs, aspiration, resources and customs which they alone understand better than an outsider.
- b. It provides framework for mobilizing people and sustaining popular zeal and initiative in development.
- c. It serves as a hedge against over-concentration of power at the centre which often leads to tyranny.
- d. Local government area acts as a two-way channel of testing new proposals for government organizations and sound economic policies.
- e. It serves as a training ground for leadership positions at the National level.
- f. Through Local Government development easily gets to the grass root people.

4. **Legal Framework for Local Government Tax Administration**

Legal framework are written rules, laws or regulations that serve as guide to the operators of the law. It is a real or conceptual structure intended to serve as a support or guide for the building of something that expands the structure into something useful.

In the same manner, the Black's Law Dictionary says that Law is a body of rules of action or conduct prescribes by controlling authority and having binding Legal force.

From the fore-going, legal framework of taxation can be described as the rules, policies and laws that oversee the tax process, which involves charges on estates, transactions, property, income, licenses and more by the government.

In the light of these descriptions, legal framework helps individuals to understand what is expected of them and what will happen if they violate the rules. These rules and regulations do not work in a vacuum but through institutions that are established and designated under the law to implement them. Under the local government, the operators of these laws are the local government tax authority. According to Agbonika, prior to 1996 when an amendment to the Personal Income Tax Decree (now Act) was made by the then military government, the Local government had no statutory recognized tax authorities. Their respective revenue departments were the only bodies responsible for collection of taxes, rates and levies. Thereafter, Local Government Revenue Committee was created under the Personal Income Tax Act to assist in the collection of the taxes and levies.

5. **Local Government Revenue Committee**

The Local Government Revenue Committee was set up by an Act. Section 90(1) of Act provides:

There shall be established for each Local government area of a state a committee to be known as the Local Government Revenue Committee (in this Act referred to as "the Revenue Committee).

The Revenue Committee shall comprise:

- a. Supervisor for Finance as Chairman;
- b. Three Local government councilors as members and;
- c. Two other persons experienced in revenue matter to be nominated by the chairman of the local government on their personal merits.

5.1 Functions of Local Revenue Committee

There are two major functions of this committee as established by the Act.

1. The Revenue Committee shall be responsible for the assessment and collection of all taxes, fines and rates under its jurisdiction and shall account for all amounts so collected in a manner to be prescribed by the chairman of the local government.
2. The Revenue Committee shall be autonomous of the Local government treasury and shall be responsible for the day-to-day administration of the Department which forms its operational arm.

From the above functions particular (b), there is no independence of the committee because the two persons that are experienced in revenue matters are the local government chairman's nominees and there is a tendency that through them, the Local government chairman would be monitoring the affairs of the committee. In my opinion, every member of the committee shall be there on his own merit.

5.2 Taxing Power of Local Government Areas in Nigeria

Taxing power in a strict sense is the power of a tier of government to impose a tax by its own law and prescribes the conditions for the administration of the tax, either by its own agency or by the agency of another level of government.

In his own submission, Unanaowodescribed taxing power of a sovereign authority to boost its revenue through taxes within the limit of its jurisdiction.

Again Justice Latham of the United States' Supreme Court in the case of **Nichols v. Ames**, said that; "taxing power has always

been the sensitive nerve of any government". This means that every level of government would like to have an independent control over its tax administration. In the case of local government areas in Nigeria, they are under the influence of their various state governments as enshrined in the constitution.

Globally, allocation of taxing powers between different tiers of government is a complex problem and the most important factor that determines the division of taxing powers in a county is whether the country is operating a unitary or federal system of government. In other words, the type of government in a country determines the level of taxing powers of each tier of government.

In a unitary system of government, all powers are concentrated in the hands of a single authority or central government. The central government has all the constitutional powers, assumes supremacy over all other subordinate units and makes laws for the entire state. Some countries like China and United Kingdom are operating unitary system of government because they are small in terms of territory. They are relatively homogenous and have common historical and political background. Their taxing power is concentrated on the central government. They can impose any form of tax for any purpose and at any rate. Such government is not subject to any constitutional limitation.

But in a federal system of government, there is a division of powers between the federal and subsidiary governments. It is a system of government where powers are shared between the national (federal) government and state and local governments. Under this system of

government, each level of government has sovereignty in some areas and shares powers in some areas. The constitution of such countries established the federal system known as Federalism. Examples of such countries operating federal system of government are the United States of America, Nigeria, Ghana and even South Africa. Nigeria like some other federating nations of the world has a multi-tax system which is rooted from the constitution.

Nigeria as a federation has three tiers or levels of government - the Federal, State and Local government. It is the constitution that laid down the taxing powers of the federating units. Under the 1999 constitution of Nigeria (as amended), taxing powers are divided between the federal and state government. For instance Section 2(2) of the constitution states; "Nigeria shall be a federation consisting of states and a Federal Capital Territory". The local government which is the third tier of government and closer to the people is left out. This is because they are not given any direct legislative powers under the constitution but are made to depend on the federal and state governments for their sustenance through statutory allocations as stated in Section 7(6)(a) & (b) and Section 162(5) & (8) of the Constitution of the Federal Republic of Nigeria. Section 162 (5) & (8) provide that;

Subject to the provisions of this constitution:

(5) The amount standing to the credit of local government councils in the federation account shall also be allocated to the states for the benefit of their local government councils on such terms and in such manner as may be prescribed by the National Assembly.

(8) The amount standing to the credit of local government councils of a state shall be distributed among the local government councils of that state on such terms and in such manner as may be prescribed by the House of Assembly of the state.

In addition to these provisions in the constitution, in order to boost its economic conditions, the local government councils usually conduct its economic planning.

"It shall be the duty of a local government council within the state to participate in economic planning and development of the area referred to in subsection (2) of this section and to this end, an economic planning board shall be established by a law enacted by the House of Assembly of the state".

While looking at economic planning, Prof Dickinson described it as "a time-bound programme to achieve certain objectives with the help of available resources by the planning authority. Such decisions include what and how much to produce, how, when and where it is to be produced and to whom it is to be allocated. From the foregoing, economic planning is a conscious and deliberate choice of economic priorities by some public authorities. It involves in deciding the best way of using money, labour and other resources in order to make a business or industry successful.

5.3 Function of Local Government on Collection of Taxes.

As stated above the Federal military Government made local government reforms where some taxing powers were allocated to the local government councils.

Consequently the Section 1(1) of the Decree states as follows:

Notwithstanding anything contained in the constitution of the Federal Republic of Nigeria 1979, as amended, or in any other enactment or law, the Federal government, State and Local government shall be responsible for collecting the taxes and levies listed in Part I, Part II and Part III of the schedule of this Act, respectively.

In the schedule (Section 1) Part III, the taxes and levies to be collected by the local governments include:

1. Shops and kiosks rates.
2. Tenement rates.
3. On and off Liquor license fees.
4. Slaughter slab fees.
5. Marriage, birth and death registration fees.
6. Naming of street registration fee, excluding any street in the state capital.
7. Right of occupancy fees pandsin rural areas, excluding those collectable by the federal and state governments.
8. Market taxes and levies excluding any market where state finance is involved.
9. Motor park levies.
10. Domestic animal license fees.
11. Bicycle, truck, canoe, wheelbarrow and cart fees, other than a mechanically propelled truck.
12. Cattle tax payable by cattle farmers only.
13. Merriment and road closure levy.
14. Radio and television license fees (other than radio and television transmitter).
15. Vehicle radio license fees (to be imposed by the local government

of the state in which the car is registered).

16. Wrong parking charges.
17. Public convenience, sewage and reuse disposal fees.
18. Customary burial ground permit fees.
19. Religious places establishment permit fees.
20. Signboard and advertisement permit fees.

This Decree is now an Act of the National Assembly by virtue of statutory adoption and therefore has binding effect. After the military regime, local government areas emerged from the status of administrative units into constitutional establishment. Section 7(1) of the constitution states as follows:

The system of Local government by democratically elected local government councils is under this constitution guaranteed; and accordingly, the government of every state shall subject to Section 8 of this constitution ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils.

From the above provision, it is the state governments that confer functions on the local government councils. These functions are through the state legislations and must be matters within the residual list which the states have power to legislate on. Section 7(5) of the constitution states inter alia;

“The functions to be conferred by law upon local government councils shall include those set out

in the fourth schedule to this constitution”.

1. The main functions of a local government council set out in the Fourth Schedule are as follows :
 - a. The consideration and the making of recommendations to a state commission on economic planning or any similar body on -
 - b. The economic development of the state, particularly in so far as the areas of authority of council and of the state are affected, and
 - c. Proposals made by the said commission or body; collection of rates, radio and television licenses; establishment and maintenance of cemeteries, burial grounds and homes for the destitute or infirm;
 - d. Licensing of bicycles, trucks (other than mechanically propelled trucks), canoes, wheel barrows and carts;
 - e. Establishment, maintenance and regulation of slaughter houses, slaughter slabs markets, motor parks and public conveniences;
 - f. Construction and maintenance of roads, streets, street lightings, drains and other public highways, parks, gardens, open spaces, or such public facilities as may be prescribed from time to time by the House of Assembly of a state,
 - g. Naming of roads and streets and numbering of houses;
 - h. Provision and maintenance of public convenience, sewage and refuse disposal;
 1. Registration of all births, deaths and marriages;
 - j. Assessment of privately owned houses or tenements for the

- purpose of levying such rates as may be prescribed by the House of Assembly of a state; and
- k. Control and regulation of -
 - i. Out-door advertising and hoarding,
 - ii. Movement and keeping of pets of all description,
 - iii. Shops and kiosks,
 - iv. Restaurants, bakeries and other places for sale of food to the public,
 - v. Laundries, and
 - vi. Licensing, regulation and control of the sale of liquor.
2. The functions of a local government council shall include participation of such council in the government of a state in respect of the following matters:
 - a. The provision and maintenance of primary, adult and vocational education;
 - b. The development of agriculture and natural resources, other than the exploitation of minerals;
 - c. The provision and maintenance of health services; and
 - d. Such other functions as may be conferred on a local government council by the House of Assembly of the state.

It should be noted that items 9 and 10 of the concurrent legislative list do not directly vest the local government councils with the power to collect taxes. Rather a state government first and foremost enact appropriate enabling laws which will determine the taxable persons, assessment procedure and method of collection, recovery and penalty for tax delinquency after which the local government councils can exercise their powers within the limits so prescribed by the state enabling laws.

Item D9 of the concurrent legislative list states as follows:

A House of Assembly may subject to such conditions as it may prescribe, make provisions for the collection of any tax, fee or rate or for the administration of the law providing for such collection by a local government council.

This means that the Local Governments have no power to impose any tax whatsoever by their own by-law. Their powers under section 7 and the fourth schedule of the 1999 Constitution are limited to mere collection and administration of taxes and rates as may be prescribed by the enabling state law. Any exercise of power by a Local Government council in excess of the enabling state's law or the constitution is ultra-vires and null and void.

In **Eti-Osa Local Government v. Jegede the Appellant (Eti-Osa Local Government Area, Lagos State)** served demand notices on two shops owned by the respondents (Jegede) at the Ikota Shopping Complex, for the payment of Corporate Outfit Levy under the Corporate Outfit Bye-law of the Appellant. The respondents instituted an action at the Lagos High Court praying the court to set aside the Demand Notices on the basis that the Appellant lacked jurisdiction to impose and collect the levy. Four issues were placed by the trial court for determination:

- a. Whether the Appellant (Eti-Osa Local Government Area) can collect taxes and levies outside the area specified in Part III taxes and levies to be collected by the Local Government Taxes and Levies (Approved List for Collection) Decree No. 21, 1988.
- b. Whether the respondent's (now Appellant) Demand Notice dated 3rd July, 2001 served on the Applicant (now Respondent) on shops B-106 and B-107, Ikota Shopping Complex, Lagos is not in conflict with the provisions of Part III taxes and levies to be collected by the Local Government Taxes and Levies (Approved list for collection) Decree No. 21, 1998;
- c. Whether Eti-Osa Local Government Area has the power and capacity to legislate, determine and demand whatever taxes and levies it deems fit from time to time outside the provisions of Part III taxes and levies to be collected by the Local Government Taxes and Levies (Approved list for collection) Decree No. 21, 1988;
- d. Whether Eti-Osa Local Government Bye-laws No. 10, 1988 (Corporate Outfit Bye-laws) is consistent with the provisions of Part III Taxes and Levies to be collected by the Local Government Taxes and Levies (Approved list for collection Decree No. 21, 1988.

In the considered ruling, the trial judge granted all the reliefs sought by the Respondents. Being dissatisfied with the decision of the trial court, the Appellant appealed to the Court of Appeal.

The Court of Appeal upheld the decision of the trial court that the Appellant has no power to impose taxes outside the provisions of the Taxes and Levies Act and of the Fourth Schedule of the 1999 constitution.

From the above judgments, all local government taxes and levies in Nigeria are imposed or charged pursuant to both the federal and state laws; while the

administrative functions of the collection is delegated to the Local government councils. This is the position of the Court in **Basco v. Pageor**, where it was held that Local governments do not have the inherent powers to tax except such powers as may be delegated to them by Law.

In the case of **S.D.V. Nigeria Limited and others v. Apapa Local Government Council**, the Respondent vide the Apapa Local Government Vehicle Mobile Advertisement Bye Law No, 1 1999, imposed a mobile advertisement tax on companies for the display of their corporate names on their vehicles. This was successfully challenged by eight companies and the Applicants were granted injunction restraining the Apapa Local Government Council from implementing the Bye Law. According to the trial judge, the mere display of the Applicants names on their vehicles for the purpose of identification without advertising any product, does not amount to advertisement or sign board advertisement.

Therefore, the Respondent does not have the taxing powers to impose and collect mobile advertisement tax rates on the Applicants.

Similarly, in **Shell Petroleum Development Company of Nigeria Limited v. Burutu Local Government Council**, the Respondent is the rating authority for Burutu Local Government Area, where the Appellants restaurants, waiting rooms, caravan, lawn tennis, petroleum oil and gas pipelines, tank farms, storage tanks among others are located.

The Respondent raised an assessment of over N30m on the Appellant as tenement rates for the periods of 1981-1993. The Appellant refused to pay as assessed and

paid only N32, 998.30 which it considered to be amount due. The Respondent sued to recover the balance. At the trial it was contended that the properties that form the basis of the ratings were jointly owned by the Appellant and the Nigerian National Petroleum Corporation (NNPC) and therefore not subject to the tenement rates. A copy of the joint venture agreement between the Appellant and the NNPC which showed an ownership ratio of 20% to 80% shareholding in favour of the Federal Government was tendered and admitted in evidence.

It was held that the Respondent was wrong in levying rates on the oil storage tanks or tank farms and oil pipelines, which are not privately owned. According to the learned justice of the Court of Appeal:

“Paragraph 1(j) of the 4th schedule of the 1979 constitution specifically limits the functions of a local government council with respect to tenement to assessment of privately owned houses or tenements. Any provision in a law made by a state legislature providing for the assessment of any property not coming within privately owned houses or tenements is ultra vires, null and void”.

It should be noted that at times some states government encroach or takeover the functions of the Local Government Councils without regards to the Constitutional provisions. For instance in 2001, the Lagos State Government promulgated the land use charges law whereby the local governments delegated their powers to collect tenements to the state via a memorandum of understanding. Section 1(2) and (3) provides:

(2) *"for the purpose of this law, each local government in the state shall be the collecting authority and it shall be the only body empowered to levy and collect Land Use charges for its area of jurisdiction;*

(3) *Each collecting authority may delegate to the state by written agreement, its functions with respect to the collection of rates and the assessment of privately owned houses or tenement for the purpose of levying such rates as may be prescribed under this law*

By this action of the Lagos state government, the local governments have been persuaded to surrender their constitutional rites/powers, perhaps based on the assurances that far more revenue would accrue to them under the new arrangement. This procedure used by the Lagos state government is questionable and it would take any of the local government areas time to upset the arrangement under the memorandum of understanding. The state government should have assisted the local government areas by establishing a firm legal framework for the tax administration instead of hijacking the tax which is their main source of revenue.

In a similar development, in the case of **Knight, Frank and Ridley (Nigeria) Limited v. Attorney-General of Kano State**, the relevant constitutional issues here was whether it was proper for Kano State government to enter into Contract with the Appellant for the valuation of ratable properties in the state. In answering the question, Mohammed, J.C.A (as he then was) said, "I believe that once the state passes a legislation assigning the functions of valuation of tenement rates to

the local government area; as the constitution has directed, only the local government areas will have the powers to deal with the subject matter. The state has no power to deal with the matter and local government councils cannot divest itself of the powers".

Based on this judgment, there is no doubt that the courts will always protect the jurisdiction of the local government councils whenever the need arises. This was made known by the Court of Appeal in **Bamidele and Others v. Commissioner for Local Government and Community Development**. In this case, a declaration was made that the defendants were destitute of powers under the constitution of the Federal Republic of Nigeria to establish, maintain and regulate markets and interfere with the day-to-day running of the Alayabiagba market in Lagos Island Local Government. Uwaifo, J.C.A (as he then was) delivering the judgement said:

By the local government edict No. 16 of 1976 of Lagos State, section 63(a) thereof, Local government were given exclusive responsibilities and powers to make bye-laws for markets and motor vehicle parks. Incidentally section 7(5) of the 1979 Constitution provides for the functions of the local government councils in the 4th schedule of the constitution, among which as stated in paragraph 1(e) thereof is the establishment, maintenance and regulation of markets, motor parks and public toilets. It will be unconstitutional for any person or authority to purport to exercise that function on the state of the law. The function has been given to the local government councils. That

usurpation of function was done by an elected state government to an elected local government tells a lot about our respect for the democratic principles.

This is in line with the popular latin saying “Nemo Dat Quod Habet” which translates to, “One cannot give what he does not have.” This adage has remained true for centuries since it was first used in the year 1600. The Latin Maxim which has its root in jurisprudential concept of possession and ownership has also been used to denote the fact that human action is a product of character possession.

Since the state government through the constitution has been stripped of this responsibility, it cannot go back and be performing the responsibilities bestowed upon the Local Government Council.

From the fore-going, once a state law has defined the structure and function of the local government councils, the state government cannot validly take over those functions unless the law is amended.

As we have seen local government councils do not have taxing powers but implement the taxing laws passed by the State House Assembly.

Unless the legislature makes a law on the payment of a particular tax, such tax cannot be due for payment by the taxpayer or even be demanded by the government, whether the state or local government areas.

In the light of the above assertion, the local government councils cannot hurriedly start implementing or carrying out these functions. They must lay down some procedures that would enable them achieve the set goals through certain regulations that are based on the laws enacted by the state legislature.

Describing what regulations are, the Chambers Dictionary states that they are rules made by a government or its authorities in order to control the way things are done or the way people behave. They are the means by which a regulatory agency implements laws enacted by the legislature.

Through their regulations, local government councils can encourage or discourage certain activities within their jurisdictions. These regulations can be in form of:

- i. Issuing and managing licenses, certifications and permits;
- ii. Taking allegations of rule of violations, investigating claims and rendering a decision on their merit;
- iii. Sanctioning entities found to be in non-compliance with the order given by the authority.
- iv. Establishing minimum standards
- v. Collecting and publishing statistics and data relative to their jurisdictions and authority.

The main purpose of regulations is to ensure that necessary actions are taken to enforce the law created through legislations. Such regulations must be made in such a manner that the tax in question is not outside the provisions of the taxes and levies Act and the fourth schedule of the 1999 constitution.

4.4 Local Government Tax Collection Machinery

We have seen that the Federal Inland Revenue (Establishment) Act, 2007 vests the power to do all such things as may be deemed necessary and expedient for the assessment and collection of taxes due to the Federal government on the Federal Inland Revenue Service (FIRS).

Similarly, the State Board of Internal Revenue (SBIR) of each State of the

Federation is the relevant tax authority for the assessment and collection of taxes due to the state government.

Under the Local Government Councils, the Local Government Revenue Committee (LGRC) of each Local Government Council in Nigeria is saddled with the responsibilities of collecting all taxes, rates, fines, of their respective Local Government Areas. In other words, the personal Income Tax (as amended) establishes the Local Government Revenue Committee for each Local Government Council in the country. This Revenue Committee carries out its responsibilities through the Revenue department of the Local Government area. The Joint Tax Board (JTB) ensures that there is uniformity in the application of personal Income Tax Act throughout the federation to avoid double taxation.

It should be noted that it was under the regime of General SanniAbacha that the Local Government Revenue Committee for each local government of the Federation was created. The Act provides thus:

- (1) There shall be established for each Local Government Area of a state a committee to be known as the Local Government Revenue Committee (in this Decree referred to as "Revenue Committee").
- (2) The Revenue Committee shall comprise -
 - (a) The supervisor of finance as the chairman;
 - (b) The Local Government councilors as members; and
 - (c) Two other persons experienced in revenue matters to be nominated by the chairman of the Local government on their personal merits.

The Revenue Committee shall be responsible for the assessment and collection of all taxes, fines and rates under its jurisdiction and shall account for all amounts so collected in a manner to be prescribed by the chairman of the Local Government.

(3) The Revenue Committee shall be autonomous of the Local Government treasury and shall be responsible for the day to day administration of the Department which forms its operational arm.

The Taxes and levies (Approved list of Collection Decree NO. 102, 1993 (as amended) specifically spelt out the taxes to be collected by Local governments. The Constitution of the Federal Republic of Nigeria 1999 (as amended) also states the types of internally generated revenue that are exclusive to the Local government councils.

A House of Assembly may subject to such conditions as it may prescribe, make provisions for the collection of any tax, fee or rate or for the administration of the law providing for such collection by a local government council.

It has been observed that most states of the federation have failed to establish legal frame work (as it is enshrined in the constitution) for the administration of taxes and levies at the local government levels. This has created opportunities for most of the Local governments to introduce all sorts of taxes and levies that are unknown to law and some measures of crudity in their revenue generation drive.

5.5 Challenges Facing Tax Collection at Local Government Areas in Nigeria

The problems or challenging issues affecting enforcement of tax payment at the

local government levels. As we have seen, local governments are the third tier of government and any issues relating to tax payment at this level, depend solely on the laws promulgated by the state government. Therefore, in enforcing payment of tax, the local government tax authorities must put into consideration the enabling laws as we have earlier discussed.

From the fore-going, some of the problems associated with the enforcement of tax payments include:

(a) Lack of power to prosecute tax defaulters: the constitution made it a duty or obligation for every citizen to pay tax. Tax authorities are usually faced with the challenges of exercising great caution in prosecuting tax defaulters in order not to violate their human right. As a result of this, various terms of imprisonment and fines prescribed by the enforcement provisions are hardly melted against tax defaulters even in the face of pervasive tax evasion.

Other factors that have caused this want of prosecution are cost of prosecution on the part of tax authorities, slow pace in our judicial system and corruption among the prosecutors.

(b) Corruption by tax officials: this is dishonest or fraudulent conduct by those in power. Their activities include compromise, bribery, extortion and connivance with tax defaulters to evade tax. By so doing, the enforcement of tax payment has reduced.

But in order to minimize the corruption, some state government have introduced some measures, such as the motivation of the tax officials by allowing them to retain some percentages of the tax they recovered from tax defaulters. Other ways the corruption has been reduced include the

computerization of some of the state's tax systems and systematic electronic data management. For instance, both the Lagos and Delta state Governments have launched the e-tax payment system.

(c) Technical Nature of Tax Cases: technicality is a point of law or detail of a set of rules contrasted with the intent or purpose of the rules. There are always frictions between taxpayers and tax authorities which eventually go to the Court for settlement. At the Court each party seeks to change the essence of the dispute by pleading technical deficiency of their opponent's case. This stems from procedural corrections, substance of tax matters and issue of proper venue for instituting the tax cases. For instance, in the case of **Wilbros Nig. Ltd V. AG A'kwabom&Amor**, the court of Appeal held that the Federal High Court is not the proper venue to entertain suits pertaining to personal Income Tax of an individual. By so doing, the enforcement of the tax payment by the defaulters is hampered. But it should be submitted here that the Federal High Court has the exclusive jurisdiction in respect of revenue of government. Thus, prosecution of offences under the Federal Inland Revenue Service (Establishment) Act and tax recovery cases being revenue in nature should be at the Federal High Court.

(d) Limitations of Tax Authorities to arrest tax offenders: The tax authorities do not have the power to arrest tax offenders. That is why the law permits them to engage the services of law enforcement agencies whenever they want to enforce the tax payment. But in most cases, these law enforcement agencies do not give the tax authorities the maximum support they needed. At times they engage in providing logistics to these law enforcement

agencies. As a result of these, the tax authorities are seen as toothless bull dogs that can only bark and not bite.

(e) Tracking Tax Defaulters: this is one of the challenges facing tax authorities in their bid to enforce tax payment. Many tax defaulters employ all manner of antics in order to evade tax. Some of them have their business in hide outs or conceal their signposts so that the authorities could not trace them.

In another development, some individuals maintain more than one resident to avoid being traced or tracked by the tax authorities. These eventually lead to lack of payment of tax and by extension reduction in the enforcement exercise.

(f) Lack of motivation of Tax Officers: like in most government organizations in the country, tax officers particularly those in the field are not motivated by their authorities. Their welfare is not adequately taken care of. There is no official vehicles designated to them and as a result they use their private fund to transport themselves to the areas they want to carry out their functions. When they are harassed by tax defaulters or even bitten, and taken to the hospital, they pay their bills.

At times they are not allowed to embark on their annual leave nor compensated for that. They would be told that they are essential workers. In the same vein, they are not permitted to go to school to update their knowledge. These demoralize them and encourage them to engage in corruption.

(g) Political Interference: the persistent interference of government into the affairs of tax administration equally retards the enforcement of the tax payment. It is a well-known fact that each government that comes will appoint their political supporters to head the tax administration

and these individuals do not know anything pertaining to tax administration. At times the appointment is based on religion or ethnicity and thereby forcing a round peg into a square one. This action has collapsed most systems in Nigeria. But where a seasoned and professional individual is appointed to head such an organization, the resultant effect is largely felt.

(h) Insignificant sums as fines: tax defaulters are no longer feeling threatened whenever they are summoned by the court because they are already aware of the meager amount they would be asked to pay as fines. They rather prefer to save their resources by evading tax for an insignificant fine or no risk at all. The sums prescribed by the PITA are so insignificant and with the persistent inflationary condition in the country, no amount of fine a tax defaulter will pay that will affect him or his business.

This is why many tax experts are calling for the amendment of the tax laws in order to meet the economic reality of the country.

(i) Prosecuting wealthy Tax Defaulters: like in other Legal proceedings in the country, prosecuting wealthy tax Defaulters is a hill task. This is because they are well connected with the mighty and low in the society. At time these wealthy tax payers engage the services of tax consultants that help them in filing fraudulent tax returns. When they are charged to court, the corrupt both the tax authorities and the judiciary and at the end of the prosecution, they are let loose.

6. Conclusion

This enunciates the legal framework under which local government councils which is the third tier/level of government in Nigeria carry out their taxation process.

It has shown that local government councils solely depend on the state government in the administration of their taxes. This is because the state government in accordance with the constitution promulgate laws for the collection of any tax, fee or rate or for the administration of the law providing for such collection by a local government council. In this case, the local governments do not have the legislative power but depend upon the state legislations. With this development, local government councils cannot impose taxes or levies on their own on anybody or

corporation without recourse to the provisions of the law enacted by the state legislation. In other words, all the local government taxes, levies or fees are usually imposed in pursuant to federal or state law while the administrative functions of the collection is delegated to the local government councils only.

It is therefore hereby suggested that since the Nigerian constitution is premised on the basis of federalism (federal, states and local governments), the federal taxes powers should be expanded give local government their direct taxing powers from the constitution.

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