



APPRAISAL OF THE PROSPECTS FOR TAXATION OF DIGITAL ECONOMY IN NIGERIA*

Abstract

Taxation of digital economy is the imposition of monetary charge by a sovereign state on all economic transactions that occur on the Internet. So many Nigerians engage in digital activities on daily basis, a lot connect to digital sources of news and information on Google, Facebook, Twitter including those who trend online. There are gains inherent in the taxation of digital economy in Nigeria which among other things include achievement of tax-based economy in Nigeria. Nigeria's economy is dwindling every day as a result of over dependency on oil as the basic and only reliable source of revenue to the economy of government of Nigeria thereby making it imperative for government to fashion out ways of embracing the prospects inherent in the taxation of digital economy so as to achieve a tax-based economy in Nigeria. The aim of this research is to appraise the prospects inherent in the taxation of digital economy in Nigeria. The researcher adopted doctrinal research methodology with use of statutes, case law, textbooks, journal articles as well as internet materials. This paper concluded that taxation of digital economy no doubt is imperative for a tax-based economy for the Nigerian government. The paper recommended *inter alia* the need for a clear-cut legislation for the provision of a digital services tax and need for a synergy between the Federal Inland Revenue Service (FIRS), Corporate Affairs Commission and the banks to ensure effective implementation of the proposed digital services tax legislation.

Keywords: Taxation, Finance Act, Digital Economy, E-Commerce, Tax-Based Economy, Prospects and Nigeria.

1. Introduction

Tax is a legal civil responsibility imposed by the government on her citizens, either individuals or corporate bodies with a view to raising funds to finance its responsibilities economically, socially and politically.¹ To have a complete definition of tax, one must have the following characteristics: It is an imposition by Government, it is compulsory, it must have legislative backing and it must be for the support of Government.² Digital economy on the other hand is a term for all those economic transactions, interactions and activities that are based on digital technologies. As the name suggests, digital economy refers to an economy based on computing and digital technologies, but is often perceived as conducting business through the Internet. It essentially covers all businesses, economic, social and cultural activities that are supported by the web and other digital communication technologies.³ Digital economy is a term for all economic activities that are done through the Internet. Taxation of digital economy is the monetary charges imposed by the government on digital economic activities.

The global economy has seen rapid growth in digital business transactions, especially in the provision of goods and services through the Internet. This rapid growth can be attributed to the fast rate of technological advancement which has changed how business transactions are conducted globally. The Nigerian government depends so much on oil as the only source of revenue, making it imperative for the government to move from an oil-based economy to a tax-based economy through

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¹ OC Nwachukwu and C J Okongwu, An Expository Review of checking Incidence of Tax Evasion and Tax Avoidance: Nigerian experience', *Chukwuemeka Odumegwu Ojukwu University Law Journal (COOUU)* [2019] 5 (1) 230.

² IU Ibe, 'An Extermination of the Legal Regime for Taxation under the Nigeria Jurisprudence', *Chukwuemeka Odumegwu Ojukwu University, Journal of Private and public law (COOU JPPL)* [2019] 2 (1) 268.

³ *Ibid.*



taxing the income from digital transactions. There is no aspect of our lives in Nigeria that is not affected by the wave of online buying and selling of goods and services and digital activities. These online economic activities enjoy some essential government amenities without contributing to the purse of the government by way of taxation. The law prior to the enactment of the Finance Act⁴ made it mandatory for every non-resident company doing business in Nigeria to have a fixed base in Nigeria. Meaning that these non-resident companies must have a permanent establishment before they can be liable to pay companies income tax and other taxes payable by them in Nigeria. What it means is that non-resident companies carrying on businesses to persons resident in Nigeria through digital platforms were not liable to pay income taxes in Nigeria. However, by the intervention of the Finance Act,⁵ the Act⁶ widened the scope of tax by providing that,⁷ where a non-resident company engage in digital activities that transmits, emits, or receives signals, sounds, messages, images, or data of any kind of cable, radio, electromagnetic system, or any other electronic or wireless apparatus to Nigeria in respect of any activity, including electronic commerce, application store, high frequency trading, electronic data storage, online adverts, such non-resident company has significant economic presence in Nigeria and such profit will be chargeable to tax⁸ in Nigeria. The above provision shows that the issue of significant economic presence for purpose of taxation of income of digital non-resident companies has been settled to a very reasonable extent by the Finance Act⁹. The Companies Income Tax Act amended by the Finance Act 2021 further expanded the scope to include non-resident companies that provides digital services, or technical, management consulting or professional services through digital platforms to have established significant economic presence in Nigeria through the provision of these digital services. This means that these non-resident companies do not need to have a fixed base or a permanent establishment in Nigeria before carrying out digital activities to persons resident in Nigeria.

More so, a company, other than a Nigerian company, shall have a significant economic presence in Nigeria where it derives gross turnover or income of more than #25million Naira or its equivalent in other currencies, from any or combination of the following digital activities like streaming or downloading services of digital contents, including movies, videos, music, applications, games, e-books or any other digital activities.

Taxation of digital economy will no doubt move Nigeria from oil-based economy to a tax-based economy. There is need therefore to remove the legal and institutional challenges inhibiting the prospects inherent in taxation of digital economy in Nigeria. Furthermore, given the exponential growth of the global digital economy and its immense potentials, it becomes imperative for the government and the Nigerian tax authority to explore more creative approaches to ensure effective taxation of the digital economy in Nigeria.

2. Meaning of Digital Economy

Digital Economy is the term for all economic activities that are done through the internet. Digital economy is the worldwide network of economic activities, commercial transactions and professional interactions that are enabled by information and communications technologies (ICT).¹⁰ Digital economy is the economic activity that results from billions of everyday online connections among

⁴ Finance Act 2019 s. 4 (a)(i) Finance Act 2021 s. 4.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid* s. 4 (a)(i) Finance Act 2021 s. 4.

⁸ Finance Act 2019 s. 4 (a)(ii).

⁹ *Ibid* s. 4 (a) (i) Finance Act 2021 s. 4.

¹⁰ M K Pratt, Definition of Digital Economy, available at <http://www.techtarget.com> assessed on the 1st of April 2023 at 03:26pm.



people, businesses, devices, data, and processes. It is one collective term for all economic transactions that occur on the internet economy. It is also known as the Web Economy or the internet economy. With the advent of technology and the process of globalization, the digital and traditional economies are merging into one. Organization for Economic Co-operation and Development (OECD) refers to the digital economy as an economy that incorporates all economic activity reliant on, or significantly enhanced by the use of digital inputs, including digital technologies, digital infrastructure, digital services and data. It refers to all producers and consumers, including government, that are utilizing these digital inputs in their economic activities¹¹. They are economic business activities that are done through the Internet. Simply put, the digital economy is one collective term for all economic transactions that occur on the internet. Hence, it is safe to say that multinational enterprises like Amazon, Twitter, Alibaba, Spotify, Facebook, Google, Netflix, YouTube, etc. are operating in the digital space without necessarily having a physical presence in all the countries where they generate their revenues. Also, the digital economy is taking shape, and undermining conventional transaction notions about how businesses are structured; how firms interact; and how consumers obtain services, information and goods¹². Taxation of digital economy is the monetary charges imposed by the government on economic digital activities.

3. Prospect of Taxation of Digital Economy in Nigeria

3.1. Taxation the Digital Economy will create more Revenue for the Government.

Taxation of digital economy will create more revenue for the government. Most of these digital non-resident companies and persons carry out trade, businesses and other forms of economic activities online and they make a lot of profits or gains from such digital economic activities. These profits or gains made by these digital non-resident companies or persons are not adequately taxed.

In some cases, these digital non-resident companies or persons evade payment of taxes in Nigeria or they pay little or pay not tax in Nigeria. However, through taxation of digital economy a lot of these non-resident companies and persons will be captured to pay taxes to the Nigerian government and when this is achieved it will generate more revenue for the government and also save our country from debt servicing. According to the Nigerian Investment Promotion Commission, the Nigerian digital economy is expected to generate \$88 billion Dollars and create 3 million new jobs by the end of the year 2021-2022 from the above it is apparent to note that the digital economy is a major economy given its immense revenue potentials to the government. This is because when these revenues are generated it will boost the economic growth of our country Nigeria.

3.2. Taxation of Digital Economy will Expand the Tax Net.

Taxation of non-resident taxpayers under the digital economy will widen the Nigerian tax net.

The Federal Government through the Federal Inland Revenue Service (FIRS) has put measures in place in order to widen the tax net which in turn will increase the revenue of Nigeria and ease the burden on the Nation's economy. Beyond the technicalities around the assessment of taxes, rates of taxes to be paid and computation of taxes, the Federal Inland Revenue Service (FIRS) should ensure the creation of an enabling tax environment where the tax system will be fair, equitable and efficient to make payment of taxes easier for these digital non-resident companies and persons who carry out

¹¹ A Osuji et al, Taxation of Digital Economy and the Introduction of Global Minimum Tax, available at <http://www.mondaq.com> assessed on the 1st of April 2023 at 04:48 pm.

¹² Deloitte, What is Digital Economy, available at <http://www.deloitte.com> assessed on the 1st of April 2023 at 03:38pm.



digital economic activities with persons resident in Nigeria.¹³ The Federal Inland Revenue Service (FIRS) also putting measures in place to widen the tax net in order to capture more digital non-resident companies and persons who are liable to pay tax in Nigeria by mandating them to register with the FIRS for purposes of payment of tax and to obtain their Tax Identification Number (TIN). This is because when these digital non-resident tax payers are captured in the Nigerian tax net, it will no doubt widen the Nigerian tax net. Looking at the Nigerian debt stock, a chunk of the Federal Government Revenue in 2021 was spent on debt servicing.¹⁴ The Federal Government spent ₦2.89 trillion Naira on debt servicing between January and August 2021. Then between January and March 2022, Nigeria spent ₦668.69 billion Naira on domestic debt servicing while it spent ₦227.87 billion on external debt servicing giving a total of ₦896.56 billion.¹⁵ The Minister of Finance, Budget and National Planning Zainab Ahmed, expressed concern that Nigeria's borrowing has increased significantly and that the government is struggling with being able to service debts because the expenditure keeps increasing at a much higher rate makes it very difficult for the Nigerian Government.¹⁶

3.3. Taxation the Digital Economy will Move Nigeria from an Oil Based Economy to a Tax-Based Economy

Globalization has brought about digital trade which has increased growth in major sectors of the economy such as trade, commerce, taxation and other digital activities.¹⁷ Digitalization has significantly contributed to the creation of a new borderless global economy. Technology is fully becoming part and parcel of the world's economy, it goes to say that it has also digitalized, essentially services that are at the core of any nations' development. With digitalization, a lot of online economic activities like e-commerce, application stores, online advertising, online payment services, cloud computing, participative networked platforms and the likes are carried out without the need for physical presence.¹⁸

The Nigerian government has so much relied on oil as its major source of revenue but the decline in the prices of oil in recent times and COVID 19 pandemic have no doubt led to a huge decrease in the revenue generated by the government to run its affairs. The emergence of COVID 19 pandemic which resulted in lockdown of economic activities all over the world forced people to move from physical trading activities to digital online activities. This pandemic revolutionized online trading activities all over the world.¹⁹ More so, because of this revolution, the Nigerian government through the Federal Inland Revenue Service (FIRS) are putting measures in place in order to achieve effective taxation of the non-resident companies and persons engaging in digital activities with persons or companies' resident in Nigeria. The Nigerian government has so much relied on oil as the major source of revenue in Nigeria, there is need for the government to explore the opportunities that abound through taxation of digital economy. As a matter of extreme urgency and importance, there is need for the government to start generating revenue from non-oil-based revenue through payment of tax.

¹³ A Odotola, Experts call for Tax Net to be Widened to Boost Revenue, NMEJ (2022) 1 (1) <http://nairametrics.com> accessed 20th August 2022.

¹⁴ Dept management office Nigeria, 'Dept Servicing doubles hits ₦89 billion in three months – Demo Reports'. The Punch (Abuja, 20th June 2022) 11.

¹⁵ *ibid.*

¹⁶ *ibid.*

¹⁷ T Olowoyo, Taxation of Digital Economy in Nigeria: Gaps and Realities, Law Pavillion (2022) 1 (1) <http://www.lawpavillion.com> accessed 25th August 2022.

¹⁸ *ibid.*

¹⁹ PB Ibijoke, Educational Barriers and Inaccessibility to Digital Tools during the COVID -19 Pandemic in Nigeria, Obafemi Awolowo University Law Journal OAUJ [2020] 1(4) 154



That Federal Inland Revenue Service (FIRS) is making effort to ensure that the service will prioritize tax collection from its digital economy from 2022 and focus on non-resident companies with significant economic presence that generates turnover up to ₦25million naira or its equivalent. Such non-resident companies will be charged 6% tax rate on the income turnover of these digital non-resident companies. This reform was pronounced by the Minister of Finance, Mrs. Zainab Ahmed. This fiscal reform no doubt will boost revenues and diversify the oil dependent economy to a tax-based economy.²⁰

3.4. Taxation of Digital Economy will Reduce Incidence of Borrowing by the Nigerian Government

Nigeria has so much relied on oil revenue as its major source of revenue generation. There is need to diversify Nigerian economy through taxation of digital economy in order to stall problems created by fluctuations in the prices of oil globally,²¹ this will no doubt reduce the incidence of borrowing by the Nigerian government. When more taxpayers are captured into the Nigerian tax net, it will increase the inflow of revenue and when this is achieved, it will reduce the incidence of excessive borrowing by the Nigerian government. According to the Director General of Debt Management Office (DMO) Patience Oniha, diversification of Nigerian economy and its source of revenue will reduce Nigeria's reliance on borrowings to fund budget deficits. Nigerian has so much depended on foreign and local loans to augment its annual budgets due to deficit.²² And because of this, the Federal Government is faced with challenges of increasing its revenue base to ease the debt burden.²³ The major reason for the increase in borrowings is because over the years, Nigeria has had consecutive budget deficits. The Debt-to-Revenue Ratio as at 2021 was 71percent and Nigeria's debt profile as at March 2022 stood at 41.60 trillion Naira²⁴. It is high because the government have been borrowing for a long time and for every debt, there is an interest. Nigeria has borrowed excessively from the World Bank between February 2020 till October 2022, the World Bank had approved a total of \$9.2 billion for Nigeria, the largest any country ever got within such a short period.

3.5. Taxation of Digital Economy will Reduces Public Debt Servicing

Taxation of digital economy will reduce debt servicing by the government. The Federal Government spends much from our revenue to service debt, what it means is that there will be very little resources to finance other activities of the government like infrastructure development. Each year the debt stock keeps growing since 2010 and Nigeria has been running a budget deficit.²⁵

Nigeria spends up to 60% of its revenue on debt servicing. Nigeria's debt service to revenue ratio is reported as 80.7% according to the information contained in the 2023 Budget presentation made by the Minister of Finance. The World Bank has warned that Nigeria's debt service cost to revenue ratio could hit 160 per cent in five years, except broad-based reforms are implemented to 'unfreeze' the fiscal space.²⁶ Also, the International Monetary Fund (IMF) had said that Nigeria may spend almost 100 percent of its revenue on debt servicing by 2026. Meaning that there is

²⁰ Rulers, Nigeria to prioritize taxes from digital non-resident firms in 2022, Reuters (2022) 1 (1) <http://www.reuters.com/> accessed on 25th August 2022.

²¹ F Alion, Why we're Diversifying Nigeria's Economy, The Vanguard (Lagos, 18 February 2022) 7.

²² P Imouokhome, Nigeria Need More Than Taxes to Fix its Insufficient Funds Problem, Business Day (Lagos, 4 January 2022) 4.

²³ P Oniha, 'Economic Diversification, Improved Government Revenue will Reduce Debt Burden (Lagos, 01, April 2022) 17.

²⁴ G Iyatse, Stop Borrowing, Experts Warn FG as Debt Profile Hits 41.60 trillion Naira, The Guardian (Lagos, 02 September 2022) 12.

²⁵ *Ibid.*

²⁶ G Iyatse, Nigeria to Spend 160% of Revenue on Debt Service in 2027, World Bank Warns, The Guardian Newspaper 7th December 2022 p 42.



infrastructure deficit which needs to be fixed to enable the government create jobs and also attract private sector to invest in Nigeria this will help Nigeria's Gross Domestic Product (GDP) to grow.²⁷

However, despite the efforts made by government to grow its revenue base so as to reduce the dependence on borrowing and this can be achieved through taxation of the digital economy. It is important to know that we have a low revenue base, which is worsened by the fact that most of the country's revenue comes from crude oil. This means that Nigeria has a revenue problem. There is need for the government to grow its revenue through taxing the digital economy because it will encourage the private sector to invest in Nigeria and discourage excessive borrowing done by the Federal Government. The Federal Government has also said it will increase its revenue to 15percent of Gross Domestic Product (GDP) by 2025. The government disclosed this in its National Development Plan 2021-2025 saying it will increase revenue in other to reduce the deficit-to-GDP ratio. The target is to increase Government revenue up to 15percent of its GDP and to reduce the deficit-GDP ratio with the implementation of the recently launched "Strategy for Revenue Growth Initiatives."²⁸

3.6. Taxation of Digital Economy will promote the Practice of Electronic Tax Administration.

Taxation of digital economy will promote the practice of electronic tax administration. The concept of digital economy includes different aspects of digital economic activities that are carried out through the Internet ranging from Electronic commerce, Application stores, Online advertising, Computerization in the cloud, Network participative platforms, High frequency negotiation, Online payment service , Electronic money, Crypto coins and games, among others.²⁹ While tax administration on the other hand is the process of assessing, collecting and administering of taxation process via an electronic media.³⁰

The Federal Inland Revenue Service (FIRS) in a bid to keep up with and adapt to the constant changes brought about by the digitalization of the economy, has introduced various electronic services to ease tax administration and tax compliance by tax payers. These are: E-tax Registration, e-tax Filling, e- tax Payment, e- tax Receipt, e-tax Clearance certificate, e-stamping and e-Vat collect. E-tax registration is the process by which a tax payer registers for tax online. The Federal Inland Revenue Service in a bid to take advantage and adapt to electronic tax administration to enable it tax the economic activities carried out in the digital economy has introduced the electronic tax registration platform. It is a platform for registration of new tax payers including the non-resident tax payers. It enables the taxpayers to have access to all FIRS electronic services (e-service)³¹ . For the digitalization of non-resident companies and persons, the FIRS also provided a simple online registration procedure for foreign suppliers to avoid the need to be physically present in Nigeria for tax registration and it is only necessary business details would be required for e-tax registration. Moreso, since the digital non- resident companies do their transactions online, filing of annual tax returns, tax assessment and payment of tax will also be done online.

4. Conclusion

Globalization has seen a rapid growth in digital business transactions, especially in the provision and sale of goods and services through the Internet. These economic digital activities are done by digital

²⁷ *Ibid.*

²⁸ T Jaiyeola, Federal government Seeks to increase Revenue to 15% of GDP, *The Punch* (Lagos, 08 January 2022) 12.

²⁹ Inter-American Centre of Tax Administration, *Tax Administration and control of Digital Economy*, CIATJ <http://www.Ciat.org/tax-administration-and-control-of-digital-economy/> assessed on the 23th August 2022.

³⁰ EE Onuiri & Ors, *Design and Development of an E-taxation system*, *European Scientific Journal* [2015] 1 (11) 55.

³¹ Federal Inland Revenue Service, 'Effective Tax Collection in a Digital Economy', FIRS Publications (Abuja, 13th August 2021) 8.



resident and non-resident companies and persons with person and companies that are resident in Nigeria and these digital resident and non-resident companies and person make a lot of profits without remitting the appropriate tax due to the government.

There are also a lot prospects in taxing the digital economy in Nigeria such as taxing the digital economy will create more revenue for the government, taxing the digital economy will widen the tax net, it will promote the practice of electronic tax administration, taxing the digital will move Nigeria from an oil based economy to a tax based economy, taxing the digital economy will reduce debt servicing by the government and, taxing the digital economy will reduce the incidence of borrowing by the Nigeria government. Be that as it may, considering the exponential growth of the global digital economy and its immense potential, it becomes imperative for the government and the Nigerian tax authorities to explore more creative approach to ensure effective taxation of the digital economy in Nigeria. When this is achieved, it will create more revenue for the government and also boost the economy of Nigeria thereby moving Nigeria's economy from oil-based to tax-based.

5. Recommendations

5.1. Need for a Clear-Cut Legislation for the Provision of a Digital Services Tax.

There is need for enactment of a clear-cut legislation for provision of a digital service tax for digital resident and non-resident companies and persons who engage in digital activities with persons resident in Nigeria.

5.2. There is need for a Legal Framework for creation of a Synergy between the Federal Inland Revenue Service (FIRS), Corporate Affairs Commission (CAC) and the Banks.

There is need for a legal framework for the tax authority which is the Federal Inland Revenue Service (FIRS) to create a synergy between the Corporate Affairs Commission (CAC) and the banks in the sense that when these digital resident and non-resident companies seek for registration and incorporation of their companies the CAC will notify the FIRS. And also making it mandatory that for registration of these companies with CAC, they will be required to obtain a Tax Identification Number (TIN) with the Federal Inland Revenue Service. These legal frameworks will also help the Federal Inland Revenue Service to work with the banks in order to identify resident and non-resident companies and persons and their customers in Nigeria carry on digital transactions. This will help in taxing this income from these digital activities under the digital economy.

5.3. The Use of Digital Technology Tools to Increase Tax Compliance.

There is need for the Federal Inland Revenue Service (FIRS) to make adequate use of technology to increase tax compliance. The revenue authorities should use different ranges of technology tools, data source and analytics to increase tax compliance. This is because economic activities carried on under the digital economy are basically done through the Internet. These digital non-resident companies do not need a physical establishment in Nigeria before carrying on these digital economic activities, for that reason the revenue authority needs an advanced technology tool in order to ensure tax compliance in Nigeria.

5.4. Adequate Training of Tax Personnel on the Use of Technology.

One of the reasons tax officials are usually insistent on paper documentation is that some of them lack knowledge of the information technology systems, hence their preference for manual procedures. Equipping tax officials with sufficient knowledge on the use of technology will drastically reduce their tendencies for manual processes. If they are properly trained, they will become inclined to the ease that is obtainable from using technology to carry out their processes of tax enforcement and administration. They will also be more open to the use of advanced



technological tools such as video conferencing for tax audits and other meetings thereby reducing time and promote cost-efficiency.

5.5. Mandatory Use of Electronic Tax Identification Number (TIN) for Digital Resident and Non- Resident Companies and Persons.

There is need to mandate these digital non-resident companies and persons to obtain their Tax Identification Number (TIN) with the Federal Inland Revenue Service (FIRS). This is because for the revenue authority (FIRS) to effectively tax these digital taxpayers under the digital economy, every taxable digital resident and non-resident companies and person must be identified by the Federal Inland Revenue Service. In order to achieve this, every taxable digital resident and non-resident companies and persons must be given a Tax Identification Number (TIN) for tax purposes. The Tax Identification Number should be made to appear on every official document of the resident and non-resident companies and persons. Also, before any bank transaction is processed, the Bank should demand for the Tax Identification Number of these digital resident and non-resident taxpayers. This will also help the Federal Inland Revenue Service to track these digital resident and non-resident taxpayers for tax purposes.

5.6. Proper Identification of Digital Non-resident Taxpayer's Income and Resources.

There is need to identify the income and resources of these taxable digital non-resident companies and persons in Nigeria. In order to achieve an effective tax administration and enforcement under the digital economy, proper identification of these digital taxpayers' income and resources must be done by the Federal Inland Revenue Service. The Tax Identification Number of these digital non-resident taxpayers should be made to reveal the income and financial status of these digital non-resident taxpayers. This will help in achieving effective taxation of the digital economy in Nigeria.