

**DIGITAL TAXATION AND TAX REVENUE IN NIGERIA**

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**ABSTRACT**

*Internet technology and the digital space continues to create various sources of income across the globe. Cross-border businesses that are transacted over the web created new streams of income. These are electronic businesses or simply e-businesses and include online shopping, advert placements, digital/affiliate marketing, subscription for online services, etc. This is a distortion to known and conventional income avenues and has attracted the attention of national governments, who have been seeking new revenue sources to enable it meet up with its responsibilities. This paper therefore examined the impact of digital taxation on tax revenue in Nigeria. The methodology employed is systematic review which is descriptive and explanatory following review of secondary data and then making inferences. The paper focused on the gazetted Finance Act of 2020, SEP Order and continuous government responses in highlighting the inclusion of taxing the digital economy as a revenue source and identifying what key areas are in need of policy recommendations, which the paper then offered. Although several professional publications, academic journals and articles and electronic media publications have addressed some of the challenges of taxing the digital economy, there has been little systematic description on policy recommendations, unknown methodology for the computation of the assessable tax and scarcity of reliable statistical/numerical data due to the novelty of the digital tax. The paper concluded that the various tax authorities should continue to review and strength tax laws, educate the populace on the new digital tax and engage internet giants such as Amazon, Google, Yahoo, Facebook, etc and international organisations such as Organization of Economic Cooperation and Development (OECD) and United Nations to work together on enable it build capacity on global trends and ensure effective collection of the digital tax.*

**Keywords: Taxation, digital economy, digital taxation, digital businesses, significant economic presence (SEP), non-resident companies (NRC).**

**INTRODUCTION**

National governments desire to widen their revenue base to enable them meet up with the demands of their various jurisdictions. There has been surge in government expenditure in terms of security, economic stabilization, and infrastructural developments, etc. Providing these and more gulp huge capital outlay, and have therefore necessitated the quest for more funds. As a result of this, taxation, will always be employed as an explorable tool towards revenue generation.

Technology is being explored to redefine conventional businesses chat new paths for buyers and sellers to interact and transaction both trans-nationally. Technology is being harnessed to redefine traditional business models and provide new ways for buyers and sellers to interact both locally and globally. The result has been the emergence of a handful of firms— the so- called tech giants— that are capitalizing on first mover advantages and network externalities to boost profitability, capture market share, and turn themselves into the world’s most highly valued companies (Aqib & Alpa, 2020). This has resulted in the emergence of few technologies giants (e.g. Amazon, Google, etc) that are raking in huge income and recording massive profits. Recent advancements in technology have, however, created more sophisticated ways of deploying technologies to do business. This has given rise to a digital economy that has opened up avenues for rapid economic growth, innovation, enormous employment opportunities and access to a variety of services (Mustapha et. al., 2022).

The rise of the digital economy is largely due to the decreasing Information and Communication Technology (ICT) prices and a constant drive for innovation. The spread of ICT tools such as laptops, smart mobile phones and tablets as well as telecommunications networks such as the World Wide Web (WWW) indicates that the digital products are becoming increasingly part of our daily lives (Lyla, 2019).

There is no doubt that digital transactions, e.g. e-commerce, generate significant revenues for entities (companies and individuals) that transact and do businesses within the digital space. It however, appears that the huge movement of funds from these businesses have not resulted in a corresponding tax revenue increase as one would expect, within the jurisdictions of these transactions. They have inevitably captured the attention of policymakers, and in the realm of international taxation, the debate has coalesced around a number of issues that are driving the debate over whether and how countries should be able to tax the returns to highly digitalized multinational businesses (IMF 2014 & 2019 as cited in Aqib & Alpa, 2020).

Taxation of the digital economy is an emerging issue within the purview of international taxation as there is no universally acceptable practice on the way and manner upon which income derived from digital economic activities should be taxed. Hence, every tax jurisdiction designs and implements its own model. Consequently, the concept of SEP is ultimately used as a major determinant of digital economic activities in a host nation (Lyla, 2021 as cited in Mustapha et al., 2022).

## **Review of Related Literature**

### **Conceptual Review**

#### **Taxation**

Taxation entails the entire processes, procedures and mechanisms involved in administering or collecting taxes. Taxes are compulsory payments made by citizens and non-national residents of a given geographical space as a source of revenue to the sovereign authority or government of that jurisdiction. They are paid on income, assets and qualifying transactions as defined by the government.

In a functional and ideal society, taxation is the price citizens pay for government services whereby a government takes or keeps from its citizens an amount of property (money), calculated by various formulae, each year. Furthermore, taxes are computed on the basis of income, wealth, purchases, and other measures which do not apply to everyone on a uniform basis. On the surface, taxation is seen mainly as a great weapon of gathering revenues by governments across the globe apart from its other sundries functions (Oluwafunmilayo & David, 2022).

Taxation, is the imposition of compulsory levies on individuals or entities by governments. Taxes are levied in almost every country of the world, primarily to raise revenue for government expenditures, although they serve other purposes as well (Britannica). A tax is a compulsory financial charge or some other type of levy imposed on a taxpayer (an individual or legal entity) by a governmental organization in order to collectively fund government spending, public expenditures, or as a way to regulate and reduce negative influences.

The theory and practice of taxation of new sources of income and wealth lags far behind the pace of development of the digital economy. On the one hand, traditional and well developed rent taxation instruments (here we mean digital rent) are quite applicable in the context of digitalization. On the other hand, the specific object of taxation – revenue from the use of big data and a wide range of possible taxpayers engaged in the processing of personal data and content – require special tax structures that help assess objectively, as well as remove fairly and effectively part of the digital rent, without slowing down the pace of economic development (Lyudmila, 2019).

### **Digital economy**

Digital economy is global connectivity that links economic activities and commercial transactions that are carried out over the web with the aid of information and communications technologies. The digital economy in its broader perspective refers to any economic activity involving a business model that comprises one or more digital elements such as digital content, digital automation, digital communication, digital distribution, digital payment or other electronic business that is classified as digital economic activity (Lucas-Mas & Junquera-Varela, 2021 as cited in Mustapha et. al., 2022). The digital economy is defined as the global network of economic and social activities that are enabled by platforms such as the Internet, mobile and sensor networks (Lyla, 2019).

Digital economy encompasses digital infrastructure which provides the way for people, businesses, and governments to get online and link with local and global digital services, thus connecting them to the global digital economy. Digital economy refers to an economy that is based on digital technologies. The digital economy is also sometimes called the internet economy, the new economy, or web economy. Increasingly, the "digital economy" is intertwined with the traditional economy making a clear delineation harder (ICAN, 2021).

For a digital economy, good and affordable Internet connectivity is a critical foundation. It also provides platforms to offer products and services, accessible through digital channels, such as mobile devices, computers, and Internet, for all aspects of life (Malik 2020). The digital economy is essentially any economic activity that occurs online. It's really a data-driven economy informed by the ability to collect, use, and analyze massive amounts of machine-readable information to deliver more personalized and meaningful experiences (Adobe Communications Team, 2020).

The digital economy primarily relies on the non-resident company (NRC) harnessing technology for its customers and clients to interact globally without physical existence but have a significant economic presence (digital presence) or permanent establishment within the host nation (Aslam & Shah, 2020 as cited in Mustapha et. al., 2022)). The digital economy enhances the market concentration, monopoly power and revenues (among other things through government subsidies and tax incentives) of IT companies and companies in other industries in which digitalization becomes a competitive advantage. The digital economy is changing the structure of capital as a factor of production, and the sources of wealth accumulation are changing along with it (Lyudmila, 2019). The digital economy is the result of a transformative process brought by information and communication technology (ICT), which has made technologies cheaper, more powerful, and widely standardised, improving business processes and bolstering innovation across all sectors of the economy (OECD, 2015).

### **Key Features of the Digital Economy**

- i. The digital economy is emerging, especially in Nigeria, and is expanding at a tremendous pace while the entire economy is being digitalised.
- ii. As digital goods are highly mobile or intangible, the physical presence of a company in the market country is often not needed in the digital sector, rendering it substantially different from traditional brick-and mortar businesses (Lyla, 2019).
- iii. Value is created by subscription fees paid by users, advertisement fees generated by users and access fees paid by third parties to take hold of user's data in digital business models.
- iv. Digital businesses are easily contestable and barriers of entry are low, which makes companies innovate seamlessly in order to stop disruptive innovators. Digital companies have

a tendency towards monopoly due to 'network effects, scale effects, restrictions of use, potential to differentiate and possibility for users to use several platforms (European Parliament, 2016).

- v. Reliance on data, especially "big data." (Oluwafunmilayo & David, 2022).
- vi. Laptops, smart mobile phones, and tablets are the transaction mediums.

### **Digital Business**

Digital business is a term that refers to businesses that rely on electronic technologies to conduct their day-to-day operations. This can include using social media to advertise their products and services, completing transactions, and managing their finances online (Simplilearn, 2023). Digital businesses, which exist within the digital economy, are on-line transactions of commercial activities between two or more entities over a network and often done through electronic channels such as internet-based platforms. Digitization has undermined traditional tax structure. Because e-commerce enables goods and services to be sold around the world, businesses are no longer required to have a permanent establishment, or a physical presence, which means that revenue generated by businesses may not enter a jurisdiction's financial system. A lack of physical presence thereby removes a connection that would otherwise allow monitoring of transactions and enforcement (Bloomberg, 2023).

Value creation online can be referred to as virtual or digital labour. There are 'blurred boundaries' between production and consumption in the digital age. This is represented by the amalgam 'prosumer', highlighting the weak distinction between consumer and producer. The transactions in the digital economy can be categorised as follows: 'electronic services, supply over the Internet of services other than electronic services and supply of goods ordered online.' The digital economy is driven by 'content production, consumption and indexation' (Lyla, 2019).

### **Digital Tax**

Digital Tax is that compulsory payment to the government from revenues made by entities that are involved in digital businesses and as defined by extant laws of a given jurisdiction. It is a tax applied to digital business activities or simply put, it is the taxation of digital goods and/or services. Those include both digital-only brands which deal with virtual commodities and the services traditional market players use while transforming their businesses with digital technologies. Some examples are social media companies, collaborative platforms, and online content providers. Digital goods include downloaded software, website applications, and digital assets (ebooks, image files, audio clips/audio files, movies or digital video) (Payspacemagazine 2021). Digital taxes include policies that specifically target businesses which provide products or services through digital means using a special tax rate or tax base (Daniel et al., 2020). According to Mustapha et. al., (2022), the taxation of the digital economy means the application of conventional tax principles to the digitalised business model (foreign enterprises with digital presence).

In the EU, two objectives of the tax are officially declared. The first one is to impose a fair tax burden on digital business giants that use legitimate ways of tax optimizing within the EU. The second objective is to avoid the concentration of wealth in the hands of digital giants, which embed into value chains as subjects of infrastructure and eventually implement the so-called disruptive scenario of digital transformation of the market, involving the capture of the chain by displacing small and medium-sized players.

**Background Analysis of Digital Taxation**

According to Lyla (2019), Digital Taxation International efforts on digital taxation began in 2013 with the OECD'S Base Erosion and Profit Shifting (BEPS) project. One of BEPS actions deals specifically with the digital economy and one of its outcomes has been the March 2018 interim report on 'Tax challenges arising from digitalization. The document shows that there is no consensus among countries on how to adapt international tax framework permanently to the digital era, but that the intention is to arrive at a new global consensus by 2020. The report also discussed the topic of interim measure turnover taxes, which has polarised countries depending on the expected benefits or losses to their tax jurisdictions. Those in favour consider that there is a sound imperative to act so that the tax paid by digital businesses corresponds to value generated in their jurisdictions. These countries consider that the current situation challenges the fairness, sustainability and public acceptability of the system. Considering the length of time it will take to achieve a global consensus on taxing the digital economy, they believe that more immediate action is needed.

Base erosion and profit shifting (BEPS) refers to tax planning strategies used by multinational enterprises that exploit gaps and mismatches in tax rules to avoid paying tax. Developing countries' higher reliance on corporate income tax means they suffer from BEPS disproportionately (Organisation for Economic Cooperation and Development [OECD], 2023).

Base erosion and profit shifting (BEPS) refers to corporate tax planning strategies used by multinationals to "shift" profits from higher-tax jurisdictions to lower-tax jurisdictions or no-tax locations where there is little or no economic activity, thus "eroding" the "tax-base" of the higher-tax jurisdictions using deductible payments such as interest or royalties. (Wikipedia, 2023). While some of these practices are illegal, most are not. But the use of these practices can mean that countries – including developing countries, which rely more on corporate taxes – do not receive support they would have received otherwise. In fact, BEPS actions cost countries between \$100 billion to \$240 billion in tax revenue each year, according to the Organisation for Economic Cooperation and Development (OECD) (Bloomberg, 2023).

Oluwafunmilayo & David (2022) citing OECD (2014) stated that the Base Erosion and Profit Shifting (BEPS) Action 1 defines digital economy as: "one characterized by an unparalleled reliance on intangible assets, the massive use of data (notably personal data), the widespread adoption of multisided business models capturing value from externalities generated by free products, and the difficulty of determining the jurisdiction in which value creation occurs."

Further, the OECD has identified three major impediments to taxing digital businesses, including: ease of selling goods in foreign markets with little or no physical presence; reliance on intangible assets like brand names and trade secrets, and derivation of significant value from the participation of users via user value and network effects. The foregoing factors work together to create a system where highly digitalised businesses create value by activities closely linked with a jurisdiction without needing to establish a physical presence.

Worthy of note is the fact that the work being done by the OECD, in partnership with G20 countries include developing countries in the development of anti-BEPS is in a bid to establish a modern international tax framework to ensure profits are taxed where economic activity and value creation occur. The OECD aims to produce a consensus-based, long-term solution for delivery to the G20 in 2020 (Okesola, 2020).

**Legal Framework for Digital Tax**

The Finance Act, 2019 ("the Finance Act") introduced the concept of significant economic presence (SEP) to expand the scope of Nigerian tax on foreign companies deriving income from their activities

in Nigeria which were hitherto not captured in the tax net. Consequently, the Companies Income Tax (Significant Economic Presence) Order, 2020 ("the Order") was issued by the Federal Government of Nigeria. This order was signed by the Honourable Minister of Finance (HMoF), Budget and National Planning. The Order provides clarification on what constitute a SEP for foreign companies doing business, or providing services to customers, in Nigeria, in line with Section 13(2)(c) and (e) of CITA (ICAN, 2021).

Both Nigeria's Finance Act 2019 ('2019 Act') and Finance Act 2021 ('2021 Act') addressed the tax consequences of the digital economy. The 2019 Act addresses the key issues of nexus and allocation of profit, which are global tax consequences of the digital economy. The 2019 Act adopts a 'Significant Economic Presence' (SEP) test to determine nexus of non-resident digital companies operating in Nigeria. The SEP approach is not substantially different from the recommended options in the OECD's 2015 Final Report on the same subject, and this idea of SEP might have been borrowed from the OECD (Opeyemi, 2023). The 2019 Act generally treats digital platforms as non-resident companies and deems their profit to be derived in Nigeria if they meet the SEP requirements. The 2019 Act only amends S. 13(2) Companies Income Tax Act (CITA), which applies to non-resident companies. The 2019 Act's approach to specifically target foreign digital platforms is of great utility and interest, as these entities are equipped by intricacies of the digital economy to operate and earn income in Nigeria without having a physical nexus. By the 2019 Act and the subsequent Ministerial Order, a digital platform has SEP where it derives N25,000,000 (approximately \$60,000) annual gross turnover; uses a Nigerian domain name (i.e., .ng) or registers a website address in Nigeria; or has a purposeful and sustained interaction with persons in Nigeria by customizing its digital page or platform to target persons in Nigeria.

It appears that the challenge in the 2019 Act was noted by the tax authority, and the subsequent amendment was used to correct it. The 2021 Act introduces a turnover assessment instead of the problematic profit attribution of the 2019 Act. Foreign digital platforms are now assessable and taxable on 'such fair and reasonable percentage of that part of the turnover attributable to that presence'. What constitutes fair and reasonable percentage is neither defined nor explicitly stated in the law – not in the 2021 Act or any other tax law. Nigeria's Minister of Finance has, however, confirmed that the fair and reasonable percentage is 6%. The principle of fair and reasonable percentage is not novel in the Nigerian taxation regime. The origin of this doctrine is traced to the Nigeria's budget press briefing in 1996, which stated the government's position to tax non-resident companies on their turnover at 6% rate. Since then, the Nigerian tax authority has been using the 6% tax rate for turnover assessment (Opeyemi, 2023).

### **Significant Economic Presence (SEP)**

Significant Economic Presence is the criteria that an entity which offers digital products will attain for them to be taxable by the government of a given jurisdiction in which they transaction and make profit. Mustapha (2020), it is the basis that determines the eligibility upon which digital corporations are liable to pay digital tax in a host nation.

According to Significant Economic Presence [SEP] Order, 2020, a company, other than a Nigerian company, shall have a significant economic presence in Nigeria in any accounting year where it –

- a) Derives N25 million annual gross turnover or its equivalent in other currencies from any or combination of the following
  - i. Streaming or downloading services of digital contents, including but not limited to movies, videos, music, applications, games and e-books to any person in Nigeria;
  - ii. Transmission of data collected about Nigerian users which has been generated from such users' activities on a digital interface including website or mobile applications;

- iii. Provision of goods or services other than those under sub-paragraph 5 of the Order, directly or indirectly through a digital platform to Nigeria; or
- iv. Provision of intermediation services through a digital platform, website or other online applications that link suppliers and customers in Nigeria.
- b) Uses a Nigerian domain name (i.e., .ng) or registers a website address in Nigeria; or
- c) Has a purposeful and sustained interaction with persons in Nigeria by customizing its digital page or platform to target persons in Nigeria, including reflecting the prices of its products or services in Nigerian currency or providing options for billing or payment in Nigerian currency.

### **Benefits of Digital Tax to the Nigerian Economy**

- i. Additional source of revenue to the government: Digital tax, prior to now, was non-existent leaving nation governments to the conventional taxes. The emergence of this tax, has created both a new nomenclature and revenue path for virtually all jurisdictional governments. Widening the tax net has therefore ensured that these entities that were earlier not taxed have been captured. 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 (Unizik, 2023).
- ii. Huge Source of Tax Revenue: Not only is the digital tax a new revenue source, the accruable tax is quite huge. It is no doubt that digital companies raking huge profits, consequently this translates that the government will also see herself collecting substantial revenue as tax, which will go a long way to reduce the paucity of funds amidst growing government responsibilities. For instance, Google, Netflix, Facebook and other foreign companies operating in Nigeria have paid over N1.98tn in taxes to the account of the Federal Government in 15 months (*The Punch*, 2023).
- iii. Cushioning the effects foreign exchange depletion. For instance, the big 4 digital firms, GAFA (Google, Apple, Facebook, Amazon) are foreign entities, implying that the digital tax expected to be remitted by these big 4 and other digital entities will come in as foreign currencies (USD, GBP, EUR, etc). This will help solve significantly our foreign exchange challenges.
- iv. Diversification of tax sources as a non-oil revenue source: As technology continues to grow and develop, and as price of crude in the international market continue to fluctuate with high volatility, oil revenue continues to dwindle and as such the digital tax will lessen the reliance of the Nigerian government on oil revenue.

Moving from oil economy to digital economy has massive potential for the country. According to Nairametrics (2023) Data from the Nigerian Communications Commission (NCC) has revealed that more Nigerians got connected to the internet in January 2023, bringing, the country's total active internet connections to 156.2 million. As of December 2022, active internet subscriptions across the country stood at 154.8 million. This shows that a total of 1.2 million new internet connections were activated in January this year.

**Challenges Harnessing Digital Tax**

Many countries, including Nigeria, that are beginning to embrace digital tax still have certain challenges facing it, in as much as the mileage covered has been commendable. Some of these challenges, NRCs are aware, and will want to exploit. These include,

- i. **Inaccurate Data on Digital Taxpayers:** The lack of accurate data on digital non-resident companies is a major setback to harnessing the full benefits of digital tax. One of the prerequisites of CAMA 2020 for non-resident companies is that the register in Nigeria for the purpose of digital tax assessment. However, there is the possibility of some of these entities to continue to do their digital businesses without being registered with the CAC or filing returns with the relevant tax authority (FIRS). Given this, the accuracy of information on qualifying digital taxpayer is in doubt.
- ii. **Difficulty arriving at assessable profit:** Non-resident companies that are in digital business do not physically need to be in Nigeria, so the modalities of arriving at the stipulated threshold of N25m as stipulated by relevant regulations may not capture all the revenue that should be assessed. It, therefore, follows that non-resident companies do not need to establish a permanent establishment in Nigeria before doing business in Nigeria. Digital economic activities need not be accompanied by a physical presence. This is because these online activities and businesses are done with intangible assets and these intangible assets are easily moved around the world through digital technologies including the satellite. This no doubt makes it increasingly difficult for the tax authority (FIRS) to identify income generated through these intangible assets (Lawpavilion, 2023).
- i. **Lack of a permanent establishment in jurisdictions where they operate.** Lack of a permanent establishment is a major challenge for revenue authorities as regards taxation of digital entities operating in the country. These entities also had the perfect strategy enhanced by the adoption of business models that ensure they do not have physical assets in the jurisdictions in which they operate or where they can be subject to any form of taxation. Therefore, when there are no offices or physical establishments within the jurisdiction to which these entities can be attached to, it becomes difficult and almost impossible to tax such companies. . Given that digital transactions are concluded with foreign companies, it may be difficult to track such transactions or the parties involved, thus making it difficult to ensure compliance with Nigerian law (ICAN, 2021).

**Digital Business Models**

According to European Parliament (2016), Digital business models can be categorised as follows:

- i. the subscription model, in which users pay a subscription fee to have access to a service or content on a website such as Amazon or Netflix;
- ii. the advertisement model, in which the end-users generate revenue by being exposed to advertising in platforms provided by companies such as YouTube or Yahoo; and
- iii. the access model, in which content and app developers (Internet Service Providers, data brokers and data analysts) pay to have access to end-users' data such as App store

**Theoretical Review****The Benefits-Received Theory of Taxation**

This is also known as Benefit Theory or Benefit-based Theory. The benefits-received principle of taxation is a theory of income tax that posits that citizens who receives benefits from a given government (goods and services) should pay taxes on them. Conversely, those who do not benefit not pay any tax arising from such goods or service. This theory is on the assumption that there is basically an exchange or contractual relationship between tax-payers and the state. The state

provides certain infrastructures and enabling environment to the members of the society and they contribute to the cost of these supplies in proportion to the benefits received. This theory overlooks the possible use of the tax policy for bringing about economic growth or economic stabilization in the country. These theories are considered relevant to the current study because they help to corroborate the view that many on-line transactions are going on electronically with enormous revenue accruing to such businesses transactions without paying tax due to government (Malik, 2020).

Benefit-based taxation – the idea of basing tax liabilities on how much an individual benefits from the activities of the state – has appealed to tax theorists for centuries, perhaps most prominently as a normative principle in Smith (1776) and as a positive prediction in Lindahl (1919). And recent research has shown that it is also popular among the public.<sup>2</sup> It is not surprising, therefore, that benefit-based (Robert and Matthew, 2019). Knowledgegate (2023), Benefit Theory of Taxation: This theory explains that every citizen should be called upon to pay taxes in proportion to the benefits derived by him from services provided by the Government. It is implied that the state provides certain facilities to its civilians who should, therefore, contribute to the cost or value of these facilities in proportion to benefits received by them. The more the benefit a citizen derives, the more taxes he should bear, is the main assumption of the theory. The Benefit Theory of Taxation justifies the payment of taxes. It also measures benefits received by the individuals in the case of certain special taxes such as petrol tax, betterment tax etc.

### **Empirical Review**

Mustapha et. al., (2023) in their Taxation of Digital Economy, they inferred from their systematic review of secondary sources of data, provided insights into the Nigeria Finance Act 2020 and clarified the concept of SEP in relation to NRCs on the taxation of digital business models. The study also developed a framework for the taxation of the digital economy in the Nigerian context and further advocates for a revenue base tax which is more beneficial for improved tax revenue in Nigeria than the profit base tax especially looking at the antecedent and peculiarities surrounding the phenomena. They recommended that government should strengthen to foster collaboration with other tax jurisdictions in database management and should reconsider the option of taxing digital economic activities on revenue base tax instead of profit base tax to avoid tax evasion strategies. In addition, sustaining and encouraging the use of digital platforms through the creation of an enabling environment among the industry players could also be imperative.

Ogochukwu & Emmanuel (2019), examined the legal frame work as an emerging issue surrounding taxation of the digital income. In their study, Taxation of Nigeria's Digital Economy: Challenges and Prospects, they cited that the Nigerian Investment Promotion Council explained that the Nigerian digital economy is expected to generate \$88 billion and create three million new jobs amidst a population of about 180 million by the end of 2021. They stated that the Nigerian government may find that it is unable to tax the huge income that the digital economy would generate unless it amends its laws to adapt to changing technological advancement and that while ensuring digitization of the tax collection processes, the digitalization has not been extended to cover effective monitoring and collection of taxes from digital transactions. Consequently, they recommended that the Nigerian government should enact a legislation to address the issues inherent in taxation of the digital economy rather than seeking to extend the interpretation of existing laws that are not sufficient to bring cross-border digital transaction into the tax net.

Lyla (2019) recommended that African countries should consider introducing a digital presence tax. This tax should be subjected to bilateral and multilateral agreements between the state in which the foreign company has a digital presence and the state in which the foreign company is incorporated and is a tax payer. These agreements must allow for automatic exchange of tax

information; also, that African states should, at the African Union level as well as within their regional blocs, recognise digital presence of companies as permanent establishment for tax purposes.

Etim, Jeremiah, and Dan (2020) examine the effect of the digitalization of the economy on tax compliance in Nigeria. Data was obtained from primary sources and questionnaires issued and analyzed using descriptive and inferential analyses. The finding suggested that the digitalization of the economy had a negative effect on tax compliance in Nigeria due to the lack of modern technology in curbing tax evasion as well as the absence of a legal framework to checkmate non-compliance, especially the NRCs.

Ntiamoah and Asare (2020) found that the main challenges facing the taxation of the digital economy, especially in developing nations originate from the world's superpower whose cross-border trade and commerce resulted to double taxation treaties. The world trade organization (WTO) believes that digital business transmissions should not be considered importations. In contrast, the general agreement on trade and tariffs (GATT) Article II suggests that electronic transmissions could supposedly be considered importations and subject to tax. These contradictory views suggest that there is a lack of synergy between the WTO and GATT as to whether digital business transactions fall under the importation of goods or not. Additionally, Sweet (2020) affirms that the United States of America (USA) opposed digital taxation due to several risks and adverse consequences that would negatively impact trade and investment, innovation, growth as well as the proliferation of digital businesses. Anderson (2019) affirms that some tax jurisdictions such as India recently established new digital economy law tagged India Finance Act, 2019 aimed at addressing the issue of SEP in its tax law. Thus, businesses that have a SEP would be subjected to a tax levy of 6%. This is in tandem with the European Commission ruling out a 3% flat rate on the gross revenue of business derived from online advertisement and associated transactions. The proposal seeks to establish a virtual taxable presence with a thread hold of over £750 million and an annual total revenue of over £50 million from digital activities in the region.

Further, Brummer and Gorfine (2014) reported that countries such as China, Singapore and Malaysia have also aligned their tax regulations to promote FinTech and eliminate artificial barriers to entry therefrom to foster the development of FinTech with the aim of increasing market competition and ultimately financial inclusion.

### **Research Methodology**

The study used systematic review done on secondary research publications such as journals, reports from international organisations, relevant scholarly articles, newspapers, SEP Order, gazetted Finance Act 2020, and reports from professional and academic write up to enable us make inferences. This is also due to the novelty of the digital tax in the Nigerian tax climate coupled with paucity of data and empirical studies.

### **Findings, Conclusion and Recommendation**

Information and telecommunication technology (ICT) has continued to shape our world and cause significant disruptions to traditional way of doing things. New sources of income, new business practices, new nomenclatures and new devices/hardware continue to flood the digital space and this continues to challenge to users, netizens, policymakers, governments, etc. While conventional taxes and known revenue lines are thinning and global governments desperately looking for new sources of inflow, they must swiftly, effectively and efficiently tap into the huge potentials of the ICT market. The revenue accrual from the digital economy is massive given the amount of income being reported by tech firms globally; for Nigeria with a population of about 200 million, adequately responding to the digital economy in terms of taxation, will be an immeasurable goldmine.

While the Nigeria government has responded in this direction by the enactments of the Finance Acts of 2019 and 2020 and is appropriate, this study is timely in examining the digital economy, highlighting gaps and inadequacies, and then making recommendations for an improved revenue to the government.

The federal government responded to the need to incorporate digital tax or taxation of the digital economy through the Finance Acts of 2019 amended in 2020 and about two (2) years the last enactment, digital tax is yet to be known

Findings from this study showed that,

- i. The legal framework to ensure efficient and effect taxation of the digital economy is inadequate.
- ii. Digital/online transactions are internet-dependent and so rely wholly on efficient internet connectivity. This is a key challenging infrastructure that is suboptimal in Nigeria.
- iii. Because the big tech companies, which majority of them are foreign entities and do not have physical presence in Nigeria rather economic presence, monitoring and controlling the revenue accruing to them from Nigeria for correct tax assessment is challenging. This has the tendency of making way for tax evasion by these foreign enterprises.
- iv. There is no globally acceptable or recognized modality for accurate determination of the revenue accruable to these fintech giants from different jurisdiction that envy their services.
- v. Digital economy, digital transactions/business and then digital tax are novel in Nigeria, which leaves so much dearth of technical knowhow in the administration of the tax.
- vi. There is almost nonexistent statistical data regarding digital tax in Nigeria, about three (3) years after the Finance Act of 2020 which provided for digital tax, came into force.

## **RECOMMENDATIONS**

1. The Nigerian government should review the current tax laws and ensure that there is a comprehensive database for non-resident companies (NRC) with significant economic presence (SEP) to be in place and to show their sources of revenue. This will aid near-accurate tax assessment.
2. The government through a synergy between the Federal Inland Revenue Service (FIRS) and the Central Bank of Nigeria (CBN) should pass necessary laws authorizing financial institutions in the country to deduct value added tax (VAT) for goods and services purchased and paid for online and through various payment applications.
3. The government should continue to liaise with tax authorities of other jurisdictions for a universally acceptable and proper assessment, collection and remittance of digital tax for NRC with SEP in Nigeria. This will reduce the incidences of tax evasion and also ensure that incidences of double taxation on the NRCs are avoided.
4. The government should setup training and capacity-building programs for tax authorities to enable them have a full grasp of the workings, functionalities, dynamics and machinations of the digital economy and digital businesses/transactions. For tax administration and enforcement, tax officials should be tech savvy and do less of manual processes. Information technology is

driving businesses so they should also be technologically competent and updated with emerging trends and developments.

5. The government should collaborate with relevant national and international stakeholders to ensure that requisite legal frameworks and infrastructure, physical and otherwise, are put in place to encourage and enhance investments and online transactions.
6. The government should educate, sensitize the populace about the concept of digital tax as it remains novel and alien to many. Campaigns should be intensified via social, electronic and print media, highlighting the meaning, operations and importance for all to be digitally patriotic in paying digital tax. In the same vein, proceeds and milestones achieved via the digital tax should be declared to show that the government is responsible and again to motivate more compliance to the tax.

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