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PAPER ASSIGNED: TAX PLANNING AND OPTIMISATION

DR IDEBI, ALESANMI ABRAHAM

1.1 INTRODUCTION- TAX AND TAXATION

Cicero called taxes “**the sinews of the state**” pointing to the crucial role they played in the Roman Empire. Government action requires economic resources and taxation has been the most common way to acquire them. As Cicero’s well-chosen image suggests, the body politic cannot flex its muscles without taxing the private sector (Paola, Stanley, & Walter, 2013) in *The Political Economy of Taxation*. The above statement means that taxes remain the primary way the society allocates the burden of government to her people. It therefore means that tax is a powerful tool for achieving economic and social policy objectives of the government and it is a means of transferring resources from the private sector to the public sector. As a matter of fact, of all the sources of revenue to government all over the world, taxation remains the only stable one. They are also a precondition for the state prosperity and a key component of government revenue.

1.2 Role of Tax Policy of a country

Tax policy of a country can be regarded as the necessary component of economic policies for the country to sustain and strengthen its economic growth and competitiveness globally. Tax policy provides countries with stable and predictable fiscal environment, thereby enabling them to generate funds to finance their social and physical infrastructural needs (Romer & Romer, 2010)

In the same manner, governments at all levels worldwide are saddled with enormous responsibilities of providing essential responsibilities to their citizens (Abiola & Asiwah, 2012). Some of the responsibilities, according to him include among others, income redistribution, adjustment and stabilisation of the economy, provision of public goods and services. All these are influenced greatly by the revenue generated by government from various sources, one of which taxation plays a prominent role. That is to finance its expenditure, government relies primarily on taxes which is paid by all taxable persons.

1.3 What is Tax and What is Taxation?

1.3.1 Tax

Tax is a compulsory contribution made by living beings and non-living beings to government being a superior authority either directly or indirectly to fund its numerous activities and any attempt to evade tax is meted with punishment under the relevant tax laws (Abomaye-Nibenibo, Mimi, & Chika, 2018).

He went further to say that tax is a payment made without conscious control or will by residents of a state in submission to levy imposed by a constituted authority of a sovereign state at a particular period of time and that taxation is the process put in place by government at all levels to exercise authority over the imposition and collection of taxes based on relevant tax laws which makes it possible for government to finance its numerous projects.

Chigbu & Njoku (2015), emphasised that tax is a major source of revenue for every economy and it is usually an instrument used in bridging the gap between the rich and the poor. Taxes are also regarded as compulsory levy by the government through her designated bodies on the taxpayers as described by (Abomaye et al., 2018).

Feng & Eko (2014), further defined tax as the compulsory calculative amount, requested by a legal authority from the productive activities of an individual or corporate organisations, for the provision of public goods and services.

In the opinion of Nightingale (1997), payment of tax is not necessary condition for the taxpayer to enjoy certain benefits. This is to say in the least, that taxation does not have “**quid pro quo**.” This was further clarified by Adegboyo, Ajoge, & Agu (2023), who suggested that tax payment does not imply that government must provide necessary facilities around the vicinity of the taxpayer and the revenue collected from tax depends on the ability and willingness of the people to comply with payment of taxes.

According to Ogbonna & Appah (2012), tax is “a major source of government revenue all over the world”. (Maiga, 2015), opines that the income generated from tax is utilized by governments in the area of providing public goods or services in addition to the sustenance of peace and order in the society. He stressed further that the tax is sometime used to regulate business activities in specific sectors of the economy.

- *In a nutshell, according to the revised National Tax Policy document of 1st February, 2017, “tax” “is any compulsory payment to government imposed by law without direct benefit or return of value or a service whether it is called a tax or not”.*
- It can also be described as a compulsory contribution to state revenue levied by the government on personal income and business profit or added to the cost of some goods, services and transactions that have no **quid-pro-quo**.
- Tax, according to World Bank (2000), are compulsory transfer of money to the government for public purposes.
- It can also be regarded as is an involuntary fee levied on individuals or corporations that is enforce by the government entity at the federal, states or local government

levels in order to finance the activities of government and does not have **Quid-Pro-Quo**.

1.3.2 Taxation

The terms “tax” and “taxation” are quit related, however they both have distinct meaning based on some features which are discussed below:

1.3.2.1 Definition

- **Tax:** is a mandatory financial charge or levy by the government on individuals on entities without **quid pro quo**. It refers to the specific amount that must be paid or paid. That is money levied and collected by government when imposing taxation is called “**Tax**”.
- **Taxation:** on the other hand refers to the process or system through which taxes are assessed, collected, accounted for and enforce by the government. It therefore encompasses all activities related to tax collection, including the legal processed, compliance, auditing, investigation, enforcement etc

1.3.2.2 Nature

- **Tax:** Taxes are individual and corporate financial obligations such as income tax, sales tax, property tax etc
- **Taxation:** Is a broader concepts that includes the principles, rules and policies governing how taxes are levied and collected.

1.3.2.3 Scope

- **Tax:** A tax is typically a fixed amount or percentage that applies to a specific transaction or income level.
- **Taxation:** Involves a wide range of activities, including tax policy formulation, compliance, auditing and enforcement.

1.3.2.4 Application

- **Tax:** Taxes are applied to specific bases, such as income earned, property owned, or goods purchased/services consumed.
- **Taxation:** Taxation includes the legal framework and administrative procedures that determine how and when taxes are applied and collected.

- **1.3.2.5 Temporal aspect**

- **Tax:** Taxes are often assessed and paid at specific intervals (e.g. annually, quarterly).
- **Taxation:** Taxation is an ongoing process that evolves with changes in government policy, economic conditions and societal needs.

In summary, while a “tax” is the specific amount owed, “Taxation” refers to the entire system and process surrounding the imposition and collection of those taxes.

1.3.3 Taxes and other payments

Taxes are considered different from other sources of government revenue because

- (i) It does not require consent and not directly tied to any service rendered. That is taxes do not have “quid pro quo”.
- (ii) Government compels tax payments through an implicit or explicit threat or force,
- (iii) The imposing institution is government and not a private sector,
- (iv) It is not a voluntary payment but compulsory payment and not always paid in kind.
- (v) Lastly, the formulation of tax policy is one of the most critical and contentious issues in modern politics. Tax policy refers to the guidelines and principles established by a government of a country for the imposition and collection of taxes

For instance, a brief look at the tax policy of Nigeria indicates that: Personal Income Tax (PIT) is calculated at graduated rates ranging between 7% to 24% of individual taxable income with effective tax rate falling between 20% for every category of individual liable to tax in Nigeria. Nigerian residents are taxed on their worldwide income, while non-residents are taxed only on their Nigeria source income

2.0 Objectives of a Tax

- (i) **To promote fiscal responsibility and accountability:** Taxation is regarded as the major way by which government can be held responsible and accountable. For instance, where a country relies on foreign aids and income from other resources, there is little bargaining power between governments and citizens and little incentive for governments to be accountable, responsive or efficient. This limited state dependence on taxes has been shown to lead to bad governance outcomes.
- (ii) **To facilitate economic growth and development:** When tax money is used to provide economic infrastructure which is infrastructure that promote economic activities such as (roads, highways, railroads, airport, seaports, water supply, sanitation, telecommunication etc) and social infrastructure which is a

combination of basic facilities which are necessary for human development such as (Education, health, housing etc

Economic growth on the other hand can be defined as the increase in the inflation adjusted market value of goods and services produced in an economy over a given period of time. Economic growth is generally measured as the percentage rate of increase in the Gross Domestic Product (GDP) or Real National Income/National output. The calculation of growth in question is in real terms i.e., it is adjusted for inflation in order to eliminate the effect of inflation which tends to distort the prices of goods and services produced in an economy. Economic Development in a nutshell means an improvement in the quality of life and living standards such as low level of illiteracy, increase in life expectancy, good health care etc.

(iii) To provide the government with stable resources for the provision of public goods and services,

(iv) To address inequalities in income distribution

This manifests where the high income earners are made to pay high amount of tax while the low income earners pay less amount in form of taxes.

(v) To provide economic stabilisation

Apart from providing a reliable source of revenue to government and helping to reduce dependence on oil in Nigeria for instance, it is discovered that tax revenue is a more predictable source of revenue than oil which is subject to the vagaries and vicissitude of the unpredictable world market prices. It will enable the government to plan with great certainty. Government can also use tax to stabilize the economy in a period of economic boom or economic recession which manifests in form of a sustained period of weak or negative growth in the real GDP, a significant rise in employment rate and of course, a widespread drop in spending.

In other words, Taxes should be used to minimise the negative impacts of **volatile boom and recessions in an economy** and also helps to complement the monetary policy so as to complement economic stability. During economic recession, government reduces tax in order to increase aggregate consumption. Reverse is the case when there is economic boom.

(vi) To correct market failures or imperfections

Market failure arises when there is a failure of a market to live up to the standards of perfect competition that leads to an efficient distribution of goods and services where the law of demand and supply fail to reach a state of equilibrium in a free market economy due to external forces. A major cause of market failure is a monopoly situation where one participant in the market has control over both the prices and the product. This will

lead to failure because of inefficiency. Government has to come in to correct the situation with the use of tax money.

Market failure can also arise when private sector is not able to provide the needed public goods or inefficiently provided because of free riders problem especially. Government comes in to produce such goods using revenue collected from taxes. An imperfect market is one in which individual buyers and sellers can influence prices and production, where there is no full disclosure of information about products and prices and where there are high barriers to entry or exit in the market, Prices set by price makers rather than by supply and demand, a small number of buyers and sellers etc. It's the opposite of a perfect market, which is characterised by perfect competition, market equilibrium, and an unlimited number of buyers and sellers. Taxes are imposed to reduce their excesses.

This means tax should be flexible enough as to enable adjustments as economic situations warrant in order to achieve government intentions.

(vii) To pursue fairness and equity

Fairness (*impartial, just treatment, treat people equally*) precedes ability to pay principle. Fairness therefore means equal treatment among different income categories and equal treatment of individuals in the same income bracket.

In case of consumption of public goods for instance, fairness does not mean that everybody gets what they want, rather, it means that everybody in the group has equal opportunity to benefit from public goods which is characterised by:

- **Non-rivalrous in consumption:** that is the supply of public goods does not decrease when more people are consuming it. Eg usage of public roads or bridges does not reduce the size or distance of the goods.
- **Non-excludability:** it is not possible or too expensive for one person to prevent others from consuming or using the goods.
- **Non-divisibility:** It is not possible for public goods to be divided by the users. E.g government roads, bridges, soldiers, street lightening, national security, law enforcement, Broadcast radio, flood control system etc.

On the other hand, Equity implies that taxpayer should pay in proportion to his income. That is taxpayer's ability to pay.

3.0 Guiding principles of the Nigerian tax system or a good tax Policy (Canon of Taxation/Characteristics of Taxation

Adams Smith (1776) in his famous book, "Wealth of Nations" propounded **four** cannons of taxation

- i. **Canon of equity-** Tax imposed on individuals should be in accordance with his ability to pay. The yield from the tax must be certain
- ii. **Canon of certainty-** A tax should not cause hardship to the taxpayer. Therefore, this canon requires that **the taxpayer should be certain about the amount, time and venue of payment of the tax.** In the same manner, the yield from the tax to government must be certain.
- iii. **Canon of convenience-** This maxim seems to ensure that the time and method of payment of the tax become most convenient to the taxpayer. CIT- six month after the end of the accounting period PIT- one month after the end of the month.
- iv. **Canon of economy-** This principle indicates that a good tax system will require the least possible expenditure on collection of taxes. If a large part of the tax revenues is spent in collecting it, it is undoubtedly an inefficient tax system. In other words, cost of collection must be minimum as possible compared to the tax revenue collected.

Other Modern Economists further propounded the following:

v. **Canon of Simplicity**

The tax system must be simple and intelligible and straightforward and non-technical to the people so that the taxpayer is able to calculate it without taking the help of tax consultants. A complex as well as a complicated tax is bound to yield undesirable side-effects. It may encourage taxpayers to evade taxes if the tax system is found to be complicated. A complicated tax system may also be expensive in the sense that even the most honest educated taxpayers will have to seek advice of the tax consultants. Ultimately, such a tax system has the potentiality of breeding corruption in the society.

- vi **Canon of Diversity:** A country's tax structure should be dynamic or diverse in nature rather than having a single or two taxes. Diversification in a tax structure will enable the majority of the sectors of the population to pay taxes. Introducing a single tax system pay will only force a particular sector to pay tax into the national purse, leaving a large number of population out of the tax net. The incidence of such a tax system will be greatest on certain taxpayers. As such, a diversified tax structure will result in the allocation of burden of taxes among the vast population resulting in a low degree of incidence of a tax in the aggregate.

vii. **Canon of Productivity**

It is argued in the above canon that it is better to have fewer taxes with large revenues, rather than more taxes with lesser amounts of revenue. It is always

considered better to impose the only taxes that are able to produce larger returns. More taxes also tend to create panic, chaos and confusion among the taxpayers and it is also against the canon of certainty and convenience to a reasonable extent.

viii. **Canon of Elasticity:**

A good tax should be elastic and not inelastic or perfectly inelastic. It should consist of those types of taxes that can easily be adjusted. Taxes which can be increased or decreased, according to the demand of the revenue are considered to be ideal.

ix. **Canon of flexibility:**

A tax system should be flexible and not too rigid in order to accommodate a change of the rate without rigorous processes when government is seriously in need of revenue. Again when there is recession in the economy, lowering the rate of tax should not be a challenge to the government. Prevailing circumstances should also be considered before introducing new taxes or review the existing ones

x. **Clarity.** Th tax system must be very clear to the taxpayer and not too ambiguous. This can be done through public education of the application of the relevant tax laws.

xi **Low Cost of compliance:**

Cost of compliance with relevant tax laws should not be too costly for the taxpayer. That is taxpayers should not find it too difficult to get to a tax offices to transact their businesses. Eg is E-transactions. The taxpayers should also be regarded as esteemed customers and be treated with the highest level of respect

xii **Low cost of administration**

Cost of administering tax should be as low as possible. Cost Benefit Analysis must be carried out before imposing any tax or even carrying out a tax audit or investigation. Entire machinery of tax administration should be efficient and cost effective.

xii **Equity & Fairness**

The treatments given to all categories of taxpayers must be equitable and fair. In view of the above, there must be an overwhelming reasons for granting tax incentives and concessions to some preferred sector over others within the economy.

xiii Economic growth and efficiency

Taxes should be imposed in such a way that it does not have negative impacts on the marginal propensity to save and investments with the resultant multiplier effect on the economy. It should not also pose competitive disadvantage to local firms.

xiv Transparency and Accountability

Tax administrators should be seen as transparent and accountable to taxpayers in the use of tax revenues. Taxpayers should also be aware of the existing taxes or new ones imposed on them.

4.0 Benefits of imposing tax by the government of Nigeria.

- (a) To fund public infrastructure such as transportation and services.
- (b) Taxes are used for social development and welfare programmes.
- (c) To fund free education and medicare
- (d) To secure a country's border in order to prevent external aggression
- (e) To provide government services-Fire services, medical services, other social security etc
- (g) To provide public goods, such as military, other law enforcement agencies
- (i) To provide for social security such as internal revolts-Boko Haram, Niger Delta Avengers etc
- (j) To fund salaries and pensions of government employees
- (k) To pay the principal and interest of government debts.
- (l) To provide public goods, such as military, other law enforcement agencies
- (m) To provide for social security such as internal revolts-Boko Haram, Niger Delta Avengers etc
- (n) To fund basic economic stability and social security scheme that are meant to help people who are unemployed or with very low income earners.
- (k) It is seen as social responsibility of individuals.

5.0 FUNDAMENTALS OF TAX PLANNING

5.1 Introduction

5.1.1 Tax planning: Is a proactive financial practice that helps individuals and businesses manage their taxes and make very smart financial decisions. It involves looking at the bigger picture of someone's financial situation and ensuring that everything is working together to make the most of their money.

It can also be said to refer to the process of arranging financial affairs in a way that maximises tax benefits and minimises tax liabilities. It involves analysing an individual's or an organisation's income, expenses, investments and other financial activities to identify potential tax-saving opportunities. Tax planning ensures that income is not overstated, expenses are not understated and all the incentives under the tax laws in form of waivers, concessions, tax holidays are strictly taken advantage of in order to enhance tax savings opportunities.

Thus, a tax plan that minimises how much you pay in taxes is referred to as Tax-efficient

5.2.2 General Principles of Tax Planning: The general principle of tax planning are:

- (i) Maximise non-taxable receipts;
- (ii) Minimise non-deductible expenses,
- (iii) Apply capital receipts in the acquisition of qualifying capital expenditure and
- (iv) Avoid outright default of tax provisions to eliminate payment of interest and penalties.

5.2.3 The tax planning process: Involves carefully evaluating factors like income sources, investments, expenses, and potential deductions. The goal is not only to reduce tax obligations or responsibilities but also to maximise the benefits and advantages available under the relevant tax laws of a nation. Tax planning allows individuals or organisations to make informed decisions that align with their long-term goals and improve their financial well-being. No matter what your objectives or aims are, having a tax strategy in place is important for achieving financial stability and success in both short and long run.

5.2.4 Importance of Tax Planning

Understanding tax planning strategies is important for anyone who wants to improve their financial situation. Without proper planning, you may end up:

- (i) **Minimising Tax Liability-**Paying more in taxes than necessary can have a significant impact on your overall income and investments and even cashflow.

- (ii) **Use of tax deductions** such as exemptions, waivers, tax holidays and credits under the tax laws, you can optimise your tax position and allocate any savings towards other important financial goals.
- (iii) **Achieving financial goals**
- (iv) **Legal avoidance of taxes**
- (v) **Improve cash flow**
- (vi). **Economic stability**
- (vii). **Minimal litigation**
- (viii) **Productive Investment**

5.2.5 The basics of tax planning

Whether you are an individual or a business owner, understanding how tax planning works is essential because it helps you manage your finances efficiently. The Nigeria tax system is a bit complex and has many laws, rules and processes for assessing, collecting and accounting for taxes. To understand tax planning, it's important to focus on three key areas:

5.2.5.1 Understanding the basic principles of tax planning

It is important to have a clear understanding of the fundamental principles that serve as the cornerstone of tax planning, after all, they are what tax planning is all about. These principles provide a helpful framework for effectively handling your taxes. Some of these principles are:

- **Tax compliance:** To effectively tax plan, you need to adhere strictly to the relevant tax laws of the country in order to guarantee that you are accurately paying your taxes and avoiding any penalties.
- **Maximising tax benefits:** Getting the most out of your tax planning means making sure you are leveraging allowances, deductions, exemptions, and reliefs to optimise your overall tax position.
- **Reducing tax burdens:** One of the main objectives of tax planning is minimising the amount of tax you owe using lawful tax-related methods.
- **Record-keeping:** An essential element of tax planning is maintaining accurate and thorough records to support your claims and ensure compliance.
- **Active (continuous) planning:** Tax planning is not a one time assignment, you have to regularly review your finances and strategically plan financial activities in

order to identify opportunities for tax savings and capitalise on the available opportunities.

5.2.5.2 Knowledge of the different types of taxes

To understand your financial obligations, it is important to know if you are responsible for paying certain kinds of taxes and how they will affect your finances, knowing well that different type of tax has its own rules and each one can have a significant impact on your funds. In Nigeria for instance, we have the following categories of taxes:

Companies Income Tax (CIT), Petroleum Profit Tax (PPT), Personal Income Tax (PIT), Withholding Tax (WHT), Education Tax (EDT), Stamp Duties (STD), Capital Gains Tax (CGT) National Information Technology Development Fund (NITDF) Levy, National Agency for science and engineering (NASENI), Value Added Tax, sales tax (as in Lagos State) etc. If you receive earnings from all these sources, each one will affect the amount of tax you need to pay. In view of these, understanding rules in each of these taxes will help you plan your taxes effectively.

5.2.5.3 Determining the best time to start tax planning

To mitigate your taxes effectively, it is imperative to consider timing. This means thinking about when you make financial decisions that can impact your tax bill. Timing plays a vital role and should be taken into account throughout the year, not just during tax season. Keep in mind that tax planning is an ongoing process that requires continuous monitoring and adjustments. By being forward-thinking and mindful of timing, you can have more control over your taxes. In this regard, the Key times for making tax planning decisions are:

- **Beginning of the financial year**

It is generally advised to start tax planning at the beginning of the financial year such as January of every financial year. Starting early gives you time to research and understand different ways to save on taxes. It also helps you align your financial goals with your tax-saving goals.

- **Middle of the year tax review**

Assessing your income, expenses, deductions, and credits in the middle of the year is an important part of your tax strategy. By carefully examining your financial situation, you can find opportunities to maximise your tax benefits, fix any challenges and take advantage of any missed chances before the year runs to an end.

- **End of the year planning**

As the tax year comes to a close, it is important to carefully think about your tax planning decisions. This time offers a valuable chance to take any last-minute actions that can help you reduce your tax burden for the current year. It is thus an opportunity to make use of strategies that can help lower the amount of taxes you owe.

5.2.5.4 Life events

As an individual businessman for instance, life events like getting married, having a child, buying a house, or starting a business can greatly influence your taxes. It is therefore important to think about the tax consequences of these milestones and make smart decisions to benefit from any available tax advantages.

5.2.6 Benefits of tax planning

Tax planning provides opportunities to reduce the amount of taxes you owe, enabling you to have more financial flexibility for the things you need or want. Whether it is purchasing a new car, putting money aside to purchase a home, or securing your future through savings, tax planning empowers you to make the most of your hard-earned money.

For businesses, tax planning is extremely important as it can help reduce tax bills. By doing so, businesses can unlock additional funds to invest in expanding their operations, hiring more people, and enhancing their products and services. Staying well-informed about tax regulations and implementing strategies can help businesses effectively maximise their profits and maintain a strong competitive edge in the market. Some of the benefits can manifest as follows:

- (a) **Increased savings:** By taking full advantage of relevant deductions and credits, you can hold onto a greater portion of your earnings and direct the additional funds towards achieving your financial goals.
- (b). **Minimising tax obligations:** The main advantage of tax planning is reducing your tax liabilities. By carefully examining your financial circumstances and using legitimate tax strategies, you can discover deductions, credits, and exemptions that will effectively reduce your overall tax burden.
- (c). **Business tax advantages:** Tax planning offers numerous benefits for businesses. It not only helps reduce the amount of taxes a company owes but it also boosts cash flow for day-to-day operations, among other benefits.
- (d). **Reduced risk of penalties and audits:** By implementing effective tax planning strategies early on, you can ensure full compliance with tax laws and regulations, lowering your chances of facing penalties and audits. Through organisation, maintaining records, and adhering to the rules, you can steer clear of expensive errors and potential legal complications.

5.2.7 Key strategies for effective tax planning

Tax planning helps you reduce the amount of taxes you owe by using different strategies to make the most of deductions, credits, exemptions, and incentives. It is important to customise your tax plan to fit your own financial situation and your needs as either an individual or business owner. It is always a good idea to get help from professionals who understand the complexities of a country's tax system, particularly if you need assistance

in any tax areas, the tax professionals can give you personalised advice to optimise your tax strategy.

Some of the common tax planning strategies include Expense Claims, Pension Contributions, Tax Reliefs, Capital Gains Allowances, tax-efficient Investments, capital allowances claim etc.

By **deducting business-related expenses**, you can mitigate the portion of your earnings that is subject to tax. When you claim eligible expenses, they are subtracted from your overall income, resulting in a reduced taxable income. These deductible expenses encompass a wide range of items, including office supplies, travel expenses, equipment costs etc.

5.2.8 Getting started with tax planning

Whether you are an individual, self-employed, or a business owner, getting started with tax planning might feel overwhelming. But with the right approach, it can be a simple and effective process that puts you in control of your financial future.

5.2.8.1 Some of the steps to get started with tax planning are:

(a). Evaluate your financial position

Take a close look at your current financial situation to get a clear understanding of where you stand. Dive into your earnings, expenses, investments, and any other financial factors that could impact your taxes. This analysis will help you identify potential opportunities for tax savings and give you a solid starting point.

(b). Gain knowledge of tax laws and regulations

Familiarise yourself with the tax laws and regulations that apply to your specific situation. Stay in the loop with any recent updates or changes to the tax laws that could impact your tax planning strategies. Having a solid understanding of the tax laws, rules, regulations and incentives available to you will empower you to make informed decisions.

(c). Set clear goals

Take the time to clearly define your objectives when it comes to tax planning. Determine what your ultimate goal is, whether it is reducing your tax burden, maximising eligible deductions, or utilising tax credits. By having well-defined goals, you will have a roadmap to guide your tax planning strategies.

(d). Get professional guidance/advice

It is always a great idea to seek the advice of a knowledgeable tax advisor or accountant who specialises in tax planning. These experts can provide personalised guidance based on your specific circumstances. They will navigate the complexities of tax laws, ensure compliance, and uncover opportunities for saving money. Feel free to consult with a tax professional to make the most of your tax planning strategies.

(e). **Streamline your paperwork or documents**

Gather all necessary documents, such as receipts and any other important financial records. By keeping these documents well-organised and easily accessible, you will simplify and enhance the tax planning process, making it more seamless and efficient.

(f). **Examine your spending**

Delve into your expenses and discover items that may be eligible for deductions. Keep track of costs related to your business, healthcare, education, and any other deductions you qualify for. This approach will help you maximise your deductions and reduce your taxable income.

(g). **Regular evaluation and update or adjust**

Tax planning is an ongoing and ever-evolving process, so it is important to regularly evaluate and adjust your strategies as needed. Stay informed about any changes in tax laws and regulations and take proactive steps to **optimise your tax position**.

(h). **Partnering with a tax professionals**

When it comes to navigating the intricacies of tax planning, hiring professionals tax advisors help is highly recommended. By working alongside a tax advisor or accountant who specialises in tax planning services, you gain access to expert guidance tailored specifically to your unique circumstances. These professionals have extensive knowledge of tax laws and regulations, enabling them to help you uncover the most effective strategies for minimising your tax liability.

5.3 **Frequently Asked Questions (FAQs) in Tax Planning**

(a) **What key factors should I consider when planning for taxes?**

When you are thinking about taxes, it is important to keep in mind a few key factors. First, make sure you have a good grasp of the current tax laws and regulations. It is also crucial to identify any deductions and credits you might be eligible for. Lastly, consider different investment strategies that can help maximise your tax efficiency.

(b) **What are some common tax planning mistakes?**

When it comes to tax planning, it is crucial to steer clear of common mistakes that can have a significant impact on your financial situation. These mistakes include failing to plan ahead, neglecting to stay updated on changes in tax laws, overlooking deductions and credits, disregarding long-term financial goals, and not seeking professional guidance. By avoiding these pitfalls, you can minimise the amount of taxes you owe and enhance your overall financial well-being.

(c) **What types of tax allowances and reliefs are available?**

Tax allowances and reliefs can vary depending on your individual circumstances, but they typically consist of personal allowances, deductions for specific expenses, tax credits for

certain activities, and exemptions for capital gains. To fully understand which allowances and reliefs are applicable to your situation, it is advisable to seek guidance from your accountant.

(d) What documents and information should I gather for tax planning?

When it comes to tax planning, it is important to gather the necessary documents and information to ensure accurate and effective tax management. Here are some key documents and information you should gather: personal information, income documents, expense records, investment statements, pension and retirement accounts and tax correspondences.

(e) What are some tax planning strategies for small business owners?

For self-employed or small business owners in Nigeria, specific tax planning strategies can greatly benefit you. These include maximising tax-deductible business expenses, contributing to pension schemes, and utilising tax reliefs and allowances designed for your business activities. Consult with a tax advisor or accountant for personalised guidance tailored to your circumstances and goals in navigating the complex world of taxes.

6.0 FUNDAMENTALS OF TAX OPTIMISATION

6.1 Introduction

What is Optimisation? Optimisation refers to the action of making the best or most effective use of a situation or resources. Or to make something as good as possible.

6.1.1 Tax optimisation therefore refers to a situation where an individual or an organisation reduces the tax liability to the barest minimum when complying with the tax obligations within the confines of the enabling tax laws in operation in a given country through the use of the provisions of the tax laws. In most cases the taxpayer hides under the lacuna of ambiguities in the tax laws to optimise his tax obligations. Tax optimisation is a long-term strategy since it considers the impact of tax actions over a lengthy period of time. It entails creating comprehensive tax plans that are in line with individuals' or companies long term financial goals and objectives.

6.1.2 Tax optimisation can also be described as the strategic process of reducing tax obligations and increasing tax efficiency for individuals and businesses within the legal framework of tax laws and regulations. It entails delving into the complexities of the tax system to develop and apply legal procedures and tactics that result in lower tax loads while complying with current tax legislation. It entails making tax-efficient decisions to reduce or eliminate tax liabilities.

Tax optimisation is essential to tax planning since it entails making tax-efficient decisions to reduce or eliminate tax liabilities. Financial advisors use a variety of ways to reduce taxes for their customers. Proper tax planning is required or a prerequisite for tax optimisation.

6.2 Types of Tax Optimisation

- (i). **Short-Range Tax Planning:** It is for minimisation of taxes for the present fiscal year and thus making proper decisions on time.
- (ii). **Long-Range Tax Planning:** It involves long-range strategies and considerations of future financial goals and obligations
- (iii). **Permissive Tax Planning:** This is one of the most common types of tax planning since it is made exactly **as per the provision of the Income Tax Act**.
- (iv). **Purposive Tax Planning:** When a taxpayer wants to plan taxes with a particular financial goal in mind, it is known as purposive tax planning. Purposive tax planning therefore aligns financial decisions with specific tax-saving objectives. It involves strategically structuring income, expenses, and investments to achieve desired financial outcomes rather than selecting as many tax benefits as possible

6.3 Objectives of Tax Optimisation

(i). Minimise Tax Liability:

The primary goal of tax optimisation is to reduce individuals' and enterprises' tax burden within the parameters of relevant tax legislation. Individuals and corporations try to lower the amount of taxes they owe by carefully using deductions, credits, exemptions, and other acceptable tax planning tactics, allowing them to keep more of their income or earnings.

(ii). Maximise Tax Savings:

Tax optimisation seeks to maximise tax savings by discovering and utilising all relevant tax advantages and incentives. This entails a comprehensive examination and comprehension of the tax laws to ensure that individuals and corporations maximise deductions, credits, exemptions, and other tax-saving options. The goal is to maximise financial resources while increasing overall profitability.

(iii) Ensure Tax Compliance:

Tax optimisation goals can involve adhering to tax regulations and legislation. Individuals and corporations must operate within the legal framework to preserve ethical practices and avoid penalties, fines, or legal consequences while attempting to minimise tax liability. Compliance is an integral part of tax optimisation since it ensures that plans and activities are in accordance with applicable tax rules.

(iv) Enhance Financial Planning:

Tax optimisation is inextricably linked with effective financial planning. Individuals and corporations may make educated decisions that match their long-term financial goals by examining the tax consequences of different financial actions. The goal is to include tax concerns in more extensive financial planning techniques, including retirement planning, investment decisions, business development, and asset management.

(v) Optimise Resource Allocation:

Another goal of tax optimisation is to optimise financial resource allocation. Individuals and firms with lower tax burdens have more cash available for investment, savings, or reinvestment in corporate growth. This goal is to improve capital efficiency, allowing people and corporations to spend resources more strategically and earn higher returns on investment.

6.4 Differences between Tax Planning and Tax Optimisation.

There is a very thin line between the two terms. The differences can therefore be seen from the following areas:

(i) **Definition and Scope:**

- **Tax Optimisation:** The comprehensive strategic approach and measures done to minimise tax obligations, maximise tax savings, and achieve efficient tax results are referred to as tax optimisation. It takes a broader view and includes a variety of ideas and approaches for optimising tax status while adhering to applicable tax legislations.
- **Tax planning:** Tax planning analyses an individual's or business's financial condition and makes strategic decisions to minimise tax payments within the confines of tax laws and regulations. It entails assessing various tax consequences and employing legal strategies to tax-efficiently manage financial activities and transactions.

(ii) **Time Horizon:**

- **Tax Optimisation:** Tax optimisation frequently takes a more long-term approach, examining the impact of tax decisions over time. It entails creating comprehensive tax plans that correspond to long-term financial goals and objectives:
- **Tax planning:** Tax planning has a shorter time horizon and focuses on immediate or near-term tax impacts. It entails making precise decisions and performing particular measures within a given tax year to optimise tax results based on current conditions and available deductions, credits, and exemptions.

(iii) **Approach:**

- **Tax optimisation:** Tax Optimisation takes a comprehensive approach, considering all elements of an individual's or business's financial condition, such as income, spending, investments, deductions, credits, and legal structures. Strategic planning and proactive methods are used to reduce total tax payments.
- **Tax planning:** Tax Planning analyses certain financial transactions, events, or scenarios and arranges them tax-efficiently. It focuses on discovering legal options to decrease tax responsibilities using applicable tax advantages, deductions, credits, exemptions, and timing techniques.

(iv) **Complexity and Expertise:**

- **Tax Optimisation:** Due to its greater reach, tax optimisation frequently necessitates higher complexity and knowledge. It may entail coordinating several tax plans while considering various tax laws, regulations, and anticipated future changes. For thorough tax optimisation, professional tax consultants or specialists may be contacted.
- **Tax Planning:** Depending on the individual's or business's financial status, tax planning can be simple or complex. It usually involves a thorough study of tax laws,

regulations, and applicable requirements, but it may not be as difficult as full tax optimisation

6.5 Why is Tax Optimisation a Long-Term Plan?

- Tax optimisation is a long-term strategy since it considers the impact of tax actions over a lengthy period of time. It entails creating comprehensive plans that are in line with individuals' or companies' long-term financial goals and objectives. Tax optimisation seeks to maximise tax savings and minimise tax obligations over time by taking a long-term view.
- Tax optimisation takes into account aspects including investment strategy, retirement planning, business expansion, and asset preservation. It entails evaluating the possible tax consequences of these acts and arranging them in a way that maximises tax efficiency while keeping in compliance with existing tax

regulations. Individuals and corporations may make educated decisions that have a long-term influence on their entire tax status by taking a proactive and strategic approach to tax optimisation.

- Furthermore, tax rules and regulations are subject to change. Individuals and enterprises may respond to probable future tax changes and alter their tactics by incorporating long-term planning into tax optimisation. This foresight guarantees that tax optimisation stays efficient and relevant in a developing tax context, giving long-term tax savings and financial benefits.

6.6 Frequently Asked Questions on Tax Optimisation

(i) What is Tax Optimisation?

Tax optimisation is the strategic planning and implementation of activities to reduce tax obligations and maximise tax savings within the scope of relevant tax rules. It entails recognising tax deductions, credits, exemptions, and other tax-saving options while adhering to tax laws.

(ii) Is tax optimisation a legal concept?

Yes, as long as you stay within the confines of tax rules and regulations, tax optimisation is lawful. It entails utilising acceptable tax tactics and incentives granted by the tax system to reduce tax liabilities. Illegal tax avoidance practices are not considered tax optimisation.

(iii). Who can benefit from tax optimisation?

Individuals and organisations of all sizes can benefit from tax optimisation. Individuals can reduce their personal income taxes, while corporations can reduce their corporate, and other relevant taxes.

(iv) **Can I engage in tax optimisation on my own, or do I need professional assistance?**

While some people and organisations may have the knowledge and experience to participate in basic tax optimisation, it is generally advantageous to seek professional help from trained tax consultants or specialists. They can offer tailored advice, handle complicated tax regulations and assure compliance while maximising tax benefits.

(v) **Does tax optimisation apply only to people with high-income or large businesses?**

No, tax optimisation applies to people and enterprises of all income levels and sizes. There are ways accessible to optimise taxes and minimise obligations regardless of income or business revenue. Tax optimisation is the process of maximising tax advantages within one's individual financial condition.

(vi) **Is there a need to review tax optimisation strategies regularly?**

Because of changes in tax regulations, personal or corporate situations, and financial goals, tax optimisation techniques should be reassessed on a regular basis.

7.0 TAX AVOIDANCE AND TAX EVASION IN NIGERIA

7.1 Introduction

Tax Avoidance and Tax Evasion are forms of tax noncompliance, the distinction between both terms lies in the legality of tax avoidance and the illegality of tax evasion.

7.1.1 Tax Avoidance is the reduction of taxable income or tax owed through legal means. The taxable individual or entity structures his businesses and affairs in a way that precludes him from paying the full amount of tax due.

7.1.2 Tax evasion is the unlawful means of concealing taxable income from the tax authorities, so as not to remit taxes.

The duty to pay tax has been in existence from time immemorial, it is as important to any Government as air is to man. This is why tax has been defined as 'a pecuniary burden laid upon individuals or property to support government expenditure'.

In *Matthew v. Chicory Marketing Board*, tax was said to be a compulsory extraction of money by a public authority for public purpose; or raising money for the purpose of administering government budget by means of contribution from individual persons i.e. citizens.

The payment of tax in Nigeria is backed up by section 24(f) of the 1999 Constitution. It provides that:

"It shall be the duty of every citizen to- Declare his income honestly to appropriate and lawful agencies and pay his tax promptly."

The Court in the case of Independent Television/Radio v. E.S.B.I.R. also relied on the above Constitutional provisions of the duty of a citizen to pay tax. It added that:

"Failure of the citizen to pay tax shall strip him of the protection afforded by section 44(1) of the Constitution."

Other laws governing taxation include, Companies Income Tax Act, Petroleum Profit Tax Act, Capital Gain Tax Act, Value Added Tax Act, Personal Income Tax Act and Stamp Duties Tax Act 2004.

7.2 Tax Avoidance in details.

Tax Avoidance is not illegal, it is often done by witty (clever) taxable persons or entities who minimise taxable incomes by taking advantage of the loopholes in the tax laws. It is the lawful means of altering a person's taxable income in order to reduce the amount of tax owed. It is usually achieved by claiming tax deductions and credits. Tax avoidance involves sound financial planning techniques that will eventually lead to maximum exemption from Tax, e.g. Capital Gain Tax. It has been defined as "a lawful trick towards the circumvention of tax payment."

Simply put, it means paying as little tax as possible while still staying on the right side of the law.

The English case of Ayrshire Pullman Motor Services and David M. Ritchie v. Commissioner of Inland Revenue explains the meaning of tax avoidance in the ruling of Lord President Lord Clyde when he held thus;

"No man in this country is under the smallest obligation moral or otherwise so to arrange his legal relations to his business or to his property as to enable the Inland Revenue to put the largest possible shovel into his stores. The Inland Revenue is not slow and quite rightly to take every advantage, which is open to it under the taxing statutes for the purpose of depleting the taxpayer's pocket and the taxpayer is in like manner entitled to be astute to prevent so far as he honestly can the depletion of his means by the Revenue."

The above ruling further justifies the legality of tax avoidance. It emphasises the fairness or justice in permitting a citizen to be clever in the depletion of his income or in taking advantage of the tax laws just as the tax administrative body is allowed to take advantage under the tax laws for the purpose of depleting the taxpayer's income.

In other parlance, tax avoidance is not illegal since it involves using the tax laws to reduce tax liability under the same laws. Examples of tax avoidance include:

- (a) Submitting claims for the expenses in earning the income, thereby reducing the income to be taxed

- (b) Increasing the number of one's children so as to enjoy tax deductions
- (c) Seeking professional advice to repackage tax obligation.
- (d) Taking the standard deduction or itemised deductions-Under the US tax laws, itemised deduction are eligible expenses that individual taxpayers can claim on Federal Income tax returns and which decreases their taxable income.
- (e) Contributing to a qualified retirement account-A qualified retirement plan or account is a retirement plan established by an employer that is designed to provide retirement income to the designated employees and their beneficiaries which meet certain requirements of the government.
- (f) Claiming tax credits-This is an incentive allowing the taxpayer to deduct the amount of the credit from the total tax owed.
- (g) Offshoring profits-The practice of relocating business processes or work function to another country in order to cut cost and increase efficiency or maximise production capabilities-E.g Michelin

7.3 Tax Evasion

This is the deliberate refusal to pay tax or the underpayment of tax. Tax evasion has been interpreted to mean an illegal practice where a person, organisation or corporation deliberately evades paying their authentic tax liability. Tax evasion can alternatively be defined as a wilful practice of not declaring full taxable income in order to pay tax at a reduced rate. It is an intentional violation of tax laws and is evident in instances where tax liability is fraudulently reduced. This is one of the problems plaguing the economic growth and development in Nigeria.

Tax evasion involves intentional misrepresentation of one's true financial status to the tax authorities so as to reduce his/her tax liability. Examples of tax evasion includes;

- (a). False declaration of income, profit or gains earned.
- (b) Deductions one is entitled to.
- (c) Failure to render tax returns to the Relevant Tax Authority.

This was the case in Independent Television/Radio v. E.S.B.I.R where the defaulter failed to render tax returns to the relevant tax authority. The Court held inter alia that,

"In this instant case, the tax being scuffled over was the tax of the appellant's employees from 2005-2010 which would have long time been deducted from the employees' salaries but which the appellant failed to remit to the appropriate authority. This is a despicable way for any taxpayer to act and it is seriously detrimental to the development of any nation."

The court in the above case referred to the case of Phoenix Motors Ltd v. N.P.F.M.B. It can be inferred from the above judgment that tax evasion, irrespective of how undeserving a country is to one's tax. It is a despicable practice condemned by the

judiciary and any rightful thinking person. A tax evader may be charged to court for evading tax. It is a criminal offence and one can be fined or imprisoned. Tax Evasion in Nigeria, is punishable under Section 40 of Federal Inland Revenue Service Act. In addition to this, it is also a criminal offence under Section 41 of the Act to hinder or assault any authorised tax officer in the performance of his duties. Anyone found guilty of this can be liable to a fine or three years imprisonment or both.

7.4 Reasons for Tax Avoidance and Tax Evasion in Nigeria

The reasons for tax avoidance and tax evasion in Nigeria have been discussed as follows;

(i). The absence of compensation from the government.

To an average Nigerian, the term tax brings a lot to mind. There is the memory of him forced into deducting a certain percentage of his frugal income to give to an underserving country, only for him not to enjoy uninterrupted power supply or drive his car on a port-hole free road. Basically, the taxpayer is not getting something of value in return from the Government for paying tax. Taxpayers argued that taxes should not be paid since the Government does not provide adequate basic amenities which commensurate with the taxes paid.

(ii). Mismanagement of funds realised from tax remittance:

There exists over 56,000 abandoned projects in Nigeria which amounts to over N12,000,000,000 (twelve trillion naira). The funds used in financing these projects are derived from tax. Some individuals siphon these funds for political or personal purposes and the purpose for which it was originally collected is not fulfilled. Taxpayers see this corruption or mismanagement of funds and will do whatever it takes to evade tax.

(iii). Lack of knowledge of civic responsibility:

Some citizens are unaware of the Constitutional obligation they have to pay tax. It is probably caused by little or no tax education. This ignorance is a major cause of tax evasion in Nigeria.

(iv). The legality of tax avoidance:

Tax avoidance as earlier stated is not illegal, it is the benefit derived from taking advantage of the loopholes in Tax Laws to minimise tax liabilities. This encourages the continuing practice of tax evasion since it is not punishable under any Law.

7.5 Effects of Tax Avoidance and Tax Evasion on the Nigerian Economy

Tax avoidance and evasion reduces the revenue that was calculated to be generated from a total number of persons, this in turn affects the economy. The country becomes cash strapped and restrained from carrying out what is expected of it for the benefits of its citizen. Then the need to borrow huge sums of money from other big nations to provide

amenities amongst other things will arise. The continuous generation of low revenue hinders the country from being able to pay back her debts and the consequences fall back on the poor who depend on the Government for everything.

It is said that Nigeria loses billions of dollars in tax revenues almost every year as a result of unreformed tax regimes and inefficacious tax legislations that have aided tax avoidance and tax evasion.

The following are the effects of tax avoidance and evasion in the economy;

(i). Inability of the Government to execute socio-economic programme.

The absence of funds in any country, naturally prevents the Government from carrying out its responsibilities for the benefits of the people. The basic amenities such as the creation of good roads, provision of water, building of public schools, maintenance of facilities, payment of salaries of civil servants etc. become very difficult to achieve.

(ii) The reduction in revenue:

Tax avoidance and evasion leads to a drastic reduction in revenue that would have been realised by the government through taxation. As earlier stated, it subjects the country to borrowing, prevents the country from investing in international trades that will boost the economy and the country might never be in the position to lend a helping hand to other countries who may be in need.

(iii). Stagnancy in economic growth and development:

All that has been discussed above centres around this point. The aim and objective of paying tax is to bring about growth and development in the economy. When individuals decide not to pay tax, this can hardly be achieved. It is through the payment of tax that the government is able to execute many projects that pertain to the well-being of its citizens and engage in international trade to form alliance with the countries that matter in the world.

7.6 Challenges militating against combating Tax Avoidance and Tax Evasion in Nigeria

Despite the provisions of the legal frameworks for tax avoidance and evasion provisions in Nigeria, they are often inadequate and ineffective. According to Adegbe & Fakile (2011) Nigeria's tax laws do not clearly define tax avoidance, leading to confusion and abuse. The existing legal frameworks in Nigeria have been criticized for being inadequate in combatting tax avoidance and evasion in several ways; They are:

- i. There is limited enforcement powers; under the existing Legal Framework.
- ii. Existence of Lacuna and Ambiguities in the Laws
- iii. Inadequate and insufficient Penalties: Penalties for tax evasion and avoidance are often insufficient to deter offenders from further commission of the offences.

- iv. **Limited Resources:** The Tax authorities especially at the state and local government levels, lack sufficient and adequate resources to effectively enforce tax laws.
- v. **Want of Transparency:** The checks in the tax laws are insufficient to track avoidance schemes.
- vi. **Inadequate Taxpayers' Education:** Taxpayers are not sufficiently educated on their tax duties, rights obligations and privileges and reliefs, leading to unintentional non-compliance.
- vii. **Inadequate International/Cross-Border Cooperation:** Nigeria's laws do not provide for sufficient cross border cum international cooperation to combat cross-border tax evasion. This is serious in cases of transfer pricing, base erosion and profit shifting, e-commerce etc.
- viii. **Complexity of the tax laws:** The complexities of tax laws have made it difficult for taxpayers to comply and for authorities to enforce.
- ix. **Corruption:** Corrupt tax administrators have made tax administration and enforcement very difficult to implement.
- x. **Outdated Laws:** The Nigerian tax laws are most often outdated and do not address modern tax avoidance schemes.

7.7 Recent Developments in Tackling Tax Avoidance and Evasion in Nigeria

Fortunately, the enactment of the new Finance Act will bring a lot of changes in the administration of tax. For instance:

(a) The amended section 49(1) of the Personal Income Tax Act compels everyone every person to provide a Tax Identification Number as a condition precedent in opening a business bank account or to have access to a continued operation of his bank account in relation to its business operations. The Tax Identification Number is a number issued to individuals and organisations to track tax obligations and payments they make to the Government. Providing a Tax Identification Number will enable the Federal Inland Revenue Service track taxable persons in the habit of evading tax. This is complemented by the pronouncement by EFCC that SCUML is a requirement for opening a new bank account.

(b). The provisions of Sections 34(4) (5) and (6) of the Personal Income Tax Act, granting children and dependent relatives allowance have been deleted under the Finance Act 2020. This is not favourable to persons who fraudulently increase the number of children they have or old parents under their care for the purpose of enjoying tax deductions.

(c). In addition, the new Section 8 of the Value Added Tax Act provides punitive penalties for non-compliance with the need to register with FIRS for the purpose of the

tax. Such defaulter will be liable to pay the sum of N 50, 000 in the first month and N 25, 000 in the subsequent months. Any taxpayer who plans to violate this law should consider the penalties before engaging in this illicit act.

(d). Section 28 of the Value Added Tax Act was completely substituted for a new one to include the fact that incorporeal properties such as rights, patents, trademarks, royalty, etc. are now subject to Value Added Tax. The old Value Added Tax Act did not define goods. Hence, taxpayers declared that incorporeal property was not subject to VAT on the grounds that such properties did not constitute 'goods & services' as provided by the erstwhile provisions of the VAT Act. Now that the provisions of the Law is clear, it will be difficult to try to avoid payment of tax.

In summary, Tax Avoidance and Tax Evasion are detrimental to the growth and development of any economy. Fortunately, the new 2020 Finance Act has sealed the loopholes dubious taxpayers are likely to take advantage of in trying to minimise tax liabilities. The Laws have been clearly spelt out and are no longer ambiguous, thereby curbing the practice of tax avoidance and evasion.

7.8 Conclusion of Tax planning and optimisation

Tax planning and tax optimisation are very important parts of entrepreneurial activity. These are legal measures that business takes to reduce tax burden: fees, duties, mandatory payments. Goal can be achieved through benefits, deductions, lower rates, right to return.

It is important to engage in optimisation and tax planning from moment business is founded, at every stage of enterprise's work. With competent approach, you can develop such organisation structure that will meet several requirements at once: efficiency in terms of making a profit, minimising tax payments and transparent management.

To reduce taxation, it is necessary to analyse current state of affairs of company, study current legislation and choose optimal and legal way to reduce fiscal burden. It is however very reasonable to hand over this task to specialists, because price of error may be too high for your business.

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