

DIGITAL TAXATION IN NIGERIA: ISSUES, CHALLENGES AND THE WAY FORWARD

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ABSTRACT

The paper examines the concept of digital taxation globally and in the Nigerian context where Digital Taxation in Nigeria was discussed. The regulations discussed covered; Digital Permanent Establishment Rules (Finance Act 2020); Companies Income Tax (CIT) and E-commerce; Personal Income Tax and E-commerce and Value Added Tax (VAT) on Electronic Commerce. Having reviewed various theoretical frameworks, the Optimal Taxation theory was reviewed as it relates to the concept of digital taxation. The challenges and potentials of taxing digital transactions in Nigeria and globally were also discussed. These factors include: digital infrastructure, digital platform, digital financial services, digital entrepreneurship, and digital skills. The paper argues that the Finance Act, 2020 tends to provide an avenue for better taxation in Nigeria. That means the previously non-existent tax leakages in the Nigerian digital economy would be eliminated due to the new tax rate. A newly created tax rate should reduce the already unheard of tax leakages in the Nigerian digital economy. However, extant laws in place did not cover transactions involving individuals, thus some tax avoidance is possible. While Nigeria has great potentials for entrepreneurship, it has a minor footprint in the global digital economy in terms of digital goods and services exports.

Keywords: Digital Taxation, Digital Infrastructure, Taxation

JEL Classification: H27, H20: O55

1.0. INTRODUCTION

It is impossible to overstate the importance of taxation. It is primarily utilized by governments around the world as a fiscal policy instrument to generate revenue for government expenditure on public services. The Nigerian tax system has undergone a number of significant improvements aimed at improving revenue collection and administration while lowering enforcement costs (Joe et al., 2013). Recent reforms include the introduction of the Taxpayer Identification Number - TIN (a unique number that has been in effect since February 2008), an automated tax system that allows individual taxpayers to track their tax positions and issues, an e-payment system that improves tax collection and an enforcement scheme (Special Purpose Tax Officers). The tax authority, the Federal Inland Revenue Service, now has complete autonomy over the assessment, collection, and recording of taxes. This enabling environment, which was created under (Section 8(q) of the FIRS Establishment Act 2007), has improved the country's tax administration (Arinze et al., 2021).

Arinze et al. (2021) noted that the rapid growth and adoption of internet technology and the emergence of the world wide web transformed the world into a global village where people can easily interact, and exchange information in multimedia format including goods and services electronically, in real time, from any point of the globe to another. This important technological development which has far-reaching implications on the way business and tax administration is conducted has created virtual business portals known as e-commerce sites as a novel business model that has replaced the traditional brick-and-mortar shops. The last decade has seen tremendous growth in the World Wide Web (WWW) and e-commerce, which now offers organizations and consumers a unique channel to deliver and purchase goods and services (Yahaya, 2021). The ubiquity of the WWW has also enabled changes in several aspects of traditional commerce. The barriers to entry for setting up a virtual business are considerably lower than for setting up a typical “brick-and-mortar” establishment; geographical barriers are considerably reduced, providing sellers access to a larger customer base; unique pricing mechanisms such as “name your own price,” (e.g., priceline.com) and asynchronous auctions are now possible; aggregation of demand by several individual buyers is now possible, leading to better negotiation of prices on behalf of these buyers; search engines and rating sites provided aggregated information to the buyer about the different sellers of a particular goods or service. It is widely accepted that all of these changes have enabled efficiencies and the creation of wealth (Adebanjo, 2021). Today, the internet has been able to facilitate research, e-mail, facsimile, e-bulletin boards, databases, file transfer, e-learning and e-commerce just to mention a few (Odumosu, 2021). This innovative business model poses a lot of questions to administrators, politicians, policy analysts, internet investors, IT experts, venture capitalists and tax administrators.

Nigeria has joined the rest of the world in adopting a cashless society policy, where payments can be made simply by crediting the seller's account while debiting the buyer's account as soon as the buyer indicates consent electronically through the use of e-payment channels such as debit and credit cards, Point of Sale (POS) terminals at major retail outlets, and expanding financial inclusion through bank accounts (Yahaya, 2021). The goal of this paper is to provide

an intellectual perspective (e-commerce digital taxation) on the critical issues involved in the debate over e-commerce and digital taxation in Nigeria, with the objective of identifying critical milestones. The effective deployment of the GSM network in 2001, which resulted in the digitization of the country's communications services and the introduction of mobile telephony, was a major milestone in Nigeria's democratic administration. According to the Nigerian Communications Commission (NCC), there were over 143 million telephone subscribers in Nigeria by May 2019 which accounts for the largest mobile phone market on the African continent as a result of this (Okah-Avae & Mukoro, 2020).

The Nigerian telecommunications industry's rapid growth has resulted in network congestion and poor service quality, causing the telecommunications authority to levy penalties and sanctions. To meet the ever-increasing demand for bandwidth, network operators invest billions of dollars in base stations and fiber optic transmission infrastructure. Because land lines are unavailable, communication between the POS and other composite systems of the POS payment system is transmitted over the mobile telecommunication network. As a result, when POS is utilized for payment, the transmission is generally afflicted by the constraints of mobile telecommunications networks, making it difficult for the smooth transmission of transactions (NIBSS, 2015; Ogunsuyi & Tejumade, 2021). Nigeria, on the other hand, is motivated to tackle the challenges that are stifling her technical progress. Despite its infrastructural shortcomings, the country has the fastest-expanding Information and Communication Technology (ICT) sector on the African continent, with 97 million Internet users (Adebanjo, 2021).

2.0. TAXATION

According to Nwadiolor and Agbo (2020), different scholars have defined tax in various ways. Tax, according to Okafor, (2012a) is a mandatory contribution placed on citizens by governments in order to provide social services and ensure residents' social and economic welfare. A tax is a financial charge or levy imposed by the government on an individual or legal body, with failure to pay, avoidance, or resistance to collection punished by law (Pibowei, 2021). Tax is described as a monetary charge on a person's or entity's income, property, or transaction that is normally collected by a defined authority at the federal, state, or municipal level (Okah-Avae & Mukoro, 2020). Others (Arinze et al., 2021; Odumosu, 2021; Ogunbela et al., 2021) define it as an obligatory levy imposed by the government or any recognized authority of the state on the property, goods, services, and people living in a given area in order to generate revenue to offset the expenses incurred by the government or authority on behalf of the citizens; a fiscal policy tool used to redistribute wealth or achieve other macroeconomic objectives. Nwadiolor and Agbo (2020) noted that no matter how different the definitions above and other comparable definitions are, they all have some basic components. For example, they all regard taxation as a mandatory levy imposed by the government on residents and businesses to raise funds for government activities. Tax revenues are made up of monies collected through income taxes, social security contributions, VAT, payroll taxes, and other sources. It frequently excludes social security payments, fines, and penalties from its estimates (Nwadiolor & Agbo, 2020).

2.1. The Digital Economy: Transactions and Taxation

An online economy powered by digital technologies is referred to as the digital economy. It is also known as the Web Economy, the New Economy, or the Internet Economy. According to Bunn et al. (2020), Tapscot, (1995) was the first to introduce the notion. It was one of the first publications to demonstrate how the Internet would alter our business practices. Since its inception, the term "digital economy" has evolved to reflect the ever-changing nature of information technology development and how it is used by consumers and organizations (Barefoot et al., 2018). During the 1990s, for example, the attention was mostly on internet adoption and its economic impact on businesses and the economy. This period was dubbed the "Internet economy" (Agyapong, 2021). As the Internet's use grew in popularity in the 2000s, the focus switched to the enabling conditions that allow the Internet economy to thrive. On the one hand, it continues to evolve to encompass evaluations of various policies and digital technologies, and on the other, the expansion of Information and Communication Technology (ICT) and digitally oriented firms as major actors (OECD, 2015/2017). The digital economy is defined as the use of information and communication technology (ICT) to perform economic transactions as a means of increasing production efficiency and structural optimization (G20 DETF, 2016). The ever-increasing interconnection of people, organizations, and machines that arises from the Internet, mobile technology, and the internet of things (IoT), as well as the volume of data involved in the process, is the backbone of the digital economy (Ahmad & Ribarsky, 2018). The rapid proliferation of innovative technologies is fueling the digital economy's expansion. Seven significant trends in the digital economy were highlighted in the 2019 United Nations digital economy report.

Blockchain, Artificial Intelligence (AI), and Data Analytics, three-dimensional printing (3D printing), Internet of Things (IoT), Fifth Generation mobile broadband (5G), Automation & Robotics, and Cloud computing are the new technologies that have fueled the digital economy's expansion (Ahmad et al., 2021). The digital economy has the potential to provide significant benefits to emerging economies. Because access to digital products and services can help optimize processes and production, provide employment, reduce transaction costs, transform supply chains, and increase revenue that can be used to accelerate development, it can have significant competitiveness and productivity-boosting opportunities. Businesses can now transact online thanks to the digital economy (Triwibowo, 2020). Business transactions that take place through the internet are referred to as digital transactions. Traditional businesses that offer online service options to their consumers, as well as government services provided to citizens via this electronic medium, fall into this category. Existing and startup firms can benefit from the digital economy's increased potential for digital transactions. Many entrepreneurs took advantage of these opportunities to launch new enterprises and business models that could not have existed before to the digital economy, or at least not at the magnitude and scope that they do now (Mirolyubova et al., 2020). This includes content-on-demand services such as Netflix, Spotify, and Arewa on Demand; home rental platforms such as Airbnb, Flatfy, Expedia Group, and Tripadvisor; ride-sharing services such as Uber, Lyft, Taxify, Opay, Carma, BlaBlaCar, Relay Rides, Sidecar, Ridejoy, Getaround, Opay; and e-commerce companies such as Aliexpress, Jumia, and Konga.

According to Meltzer (2019), multinational corporations must pay corporate income tax primarily at the production site rather than when the goods reach the final consumer or at the level of digital sector users in particular (Meltzer, 2019). To address this, the Organization for Economic Cooperation and Development (OECD, 2017) has been working with over 130 countries to adjust the worldwide tax system. Despite all of these ongoing worldwide discussions, many nations, such as France and Italy, have decided to use unilateral measures to tax their digital economies (Triwibowo, 2020). Almost half of the European OECD nations have announced, proposed, and even implemented a digital service tax (DST). This DST is a tax on a subset of significant digital enterprises' gross revenue streams. In an attempt to tax digital transactions, several countries have taken unilateral measures. India has enacted a 6% equalization charge on non-resident corporations that provide advertising services (Mirolyubova et al., 2020). Similarly, the governments of Austria, France, and Italy have implemented DST. South Africa and Kenya, respectively, adopted the destination principle for the collection of VAT on services and intangibles provided by a foreign corporation to a consumer in each country in 2014 and 2015. Nigeria pioneered the concept of NRC's Digital Permanent Establishment (Ahmad et al., 2021).

2.2. Global Digital Taxation

There is no worldwide agreement on the definition of digital economy taxation, and the Organization for Economic Cooperation and Development (OECD), of which Nigeria is a member, has yet to come up with a proposal that all of its countries can agree on. As a result of the lack of a global agreement, countries are now at conflict over how to tax revenue generated by digital businesses (Abendin & Duan, 2021). The conflict between the United States (US) and the European Union (EU) is an example of this, with the US claiming that digital taxes unfairly discriminate against US enterprises and threatening tariffs in retaliation. As a result of the sensitive nature of the digital economy, which disregards jurisdictional boundaries, worldwide agreement on its taxes is critical for a functioning tax system (Bunn et al., 2020). Despite the lack of an international agreement, numerous governments have taken comparable unilateral actions to address the digital economy's tax difficulties.

The importance of the relationship between the electronic and physical worlds for tax policy creation was highlighted by Zulma and Hizazi (2020) who stated, "The greatest challenge to a tax regime's ability to adjust and adapt to a changing world is its ability to adjust and adapt to a changing world." The emergence of Internet commerce, with its higher mobility for businesses and better flexibility for transaction and communication methods, is possibly the most demanding of these challenges." In response, the Organization for Economic Cooperation and Development (OECD) sponsored a conference on electronic taxation in 1998, which was the first of its type in this field. In October 1998, the OECD conference in Ottawa presented a natural break in the evolution of global thinking in this area (Jones, 2021). According to Jones (2021) the discussion centered on the most appropriate tax system for dealing with the internet environment. Asen (2020) stated that the opportunities presented by new technology, according

to an OECD assessment by the committee on fiscal affairs include raising service standards, lowering business compliance costs, and increasing voluntary compliance.

According to Ahmad et al., (2021), Information technology companies have surpassed petrochemical companies in terms of profitability and market capitalization in major world markets. The relevance and volume of digital transactions taking place around the world demonstrates this. Furthermore, the internet has evolved into a critical component of successful service delivery and improved client interactions. As a result, information technology-based enterprises are fast expanding in line with the growth of the internet. It creates a new kind of economy, requiring not just firms but also countries to adopt and adapt to the new system of e-commerce and digital taxation (Ahmad et al., 2021). The digital economy is expanding at a rapid pace globally. In 2016, it was predicted to be worth US\$11.5 trillion, or 15.5 percent of world GDP (World Bank, 2019). Nigeria's internet-connected population increased from 23.7 percent to 46.6 percent between 2015 and 2020 (OECD, 2017). This demonstrates how Nigerians can utilize the internet to transact or earn money through digital transactions. Many developing countries, including Nigeria, have been losing out on billions of dollars in tax revenue that could have been generated through digital transactions (Adebanjo, 2021).

Over 130 nations are considering drastic reforms to build a mechanism to collect and tax digital transactions, as stated above, under the current leadership of the Organization for Economic Cooperation and Development (OECD) and the Group of 20 (G20) (ICTD, 2020). The first big milestone in Nigeria was the passage of the Finance Act in 2019, which established the legal framework for taxing digital transactions, which had previously been untaxed (Adebayo et al., 2021). Other initiatives, such as the partnership between the Nigeria Interbank Settlement System (NIBSS) and System Specs Nigeria Limited with the Federal Inland Revenue Services, would help trace digital transactions for tax purposes (FIRS). These provisions and attempts by the Nigerian government, however, have fallen short of the customary expectation of detecting and taxing incomes, profits, and other advantages arising from digital transactions within Nigerian tax jurisdictions (Ogunbela et al., 2021). In essence, digital transactions are on the increase around the world and are on their way to supplanting traditional physical transactions. As a result, a digital taxation system is required to increase government revenue and thereby accelerate development (Adebayo et al., 2021).

2.3. Digital Taxation in Nigeria

Prior to the introduction of e-taxation, Nigeria's tax systems were manually administered, which resulted in tax evasion and avoidance, improper segregation of duties, and other corruption practices, all of which resulted in high financial losses for the government and, as a result, low revenue generation. Electronic taxation is intended to assist alleviate all of these issues, provide convenience, save time and money for both the tax administrator and the taxpayer, be transparent, and, most importantly, increase revenue generation (Okafor, 2012b). In 2011, the CBN announced its Cashless Policy for Nigeria, and in April 2012, it formally inaugurated a test program in Lagos State. Cash transactions accounted for approximately 99 percent of client activity in banks prior to the implementation of the Cashless Policy. In-branch

bank cash withdrawals were worth less than ₦100,000 in almost 86 percent of cases. Only about ten percent of transactions exceeded ₦100,000. According to the CBN, only 10% of in-branch transactions were over ₦150,000 (Ndajiwo, 2020).

The CBN's Cashless Policy aimed to reduce, rather than eliminate, the amount of paper currency in circulation. The policy's main goal was to encourage the use of other electronic payment platforms while discouraging the use of cash. Failure to comply with the new regulation would result in heavy penalties (Okah-Avae & Mukoro, 2020). Banks were given permission to deduct 3% for every ₦1,000 over ₦500,000 conducted by individual customers, and 5% for every ₦1,000 over ₦3 million handled by corporate clients. If the bank violates this provision for the first time, the bank will be fined five times the amount waived, and if the bank violates this provision again, the bank will be fined ten times the charges waived. It is important to keep in mind that the limit was established to apply to the account regardless of how the money was withdrawn or deposited. The cumulative limit is made up of withdrawals or deposits made over the counter, ATM withdrawals, and 3rd party checks cashed over the counter. The limit also applies to cash brought through Cash-in-Transit (CIT) firms, as CIT companies just provide transportation, according to the CBN (2011). Third-party cheques in excess of ₦150,000 are not eligible for encashment over the counter under the policy. Rather, the clearing house will get the value of such checks. As a result, any cheque sent to a third party with a value greater than ₦150,000 can only be deposited into an account; cheques cannot be cashed. If a bank enables third-party cheque encashment, it will face a penalty of 10% of the cheque's face value or ₦100,000, whichever is larger.

This set-in motion initiatives to boost the use of electronic platforms for payment in Nigeria. Banks in Nigeria responded by introducing a variety of electronic payment platforms in large numbers, aided by the larger capital base generated by the consolidation. However, financial records in Nigeria suggest that there is a mixed response to and use of these platforms (Ogunbela et al., 2021). According to a report published by KPMG (2019), Nigeria had a POS adoption rate of 27% in 2017, up by 12% in 2012. The survey also discovered that 91% of Nigerians have used ATMs, up from 86 percent in 2017 and 82 percent in 2012. This demonstrates that, while many customers have adopted the ATM, they are still hesitant to utilize the POS. Similar patterns were also observed in the NIBSS (2019) report. According to NIBSS (2019), while POS is the most popular non-cash payment channel, with 93.6 percent of retailers preferring it over other non-cash payment alternatives, just 35.8% of customers use it. Only 3.1 percent of consumers say Card/POS is their preferred payment method, indicating that POS is underutilized. The issue of connectivity is one of the major issues that have been highlighted as impeding POS utilization. The report recommended that technical features that are connectivity-based be improved, that a focus be placed on deploying POS terminals to informal/open-air or unstructured markets where adoption and use are extremely low, and that the timeframe for resolving POS complaints be shortened. According to (Alao & Sorinola, 2015), Nigeria is a heavily cash-oriented economy partly due to lack of basic infrastructure to support a cashless economy, with the majority of retail and commercial payments made in cash. In Nigeria's predominantly informal economy, money is a powerful motivator. As a result, Nigeria is moving slowly toward alternate payment methods. The failure to sustain a significant

increase in the use of electronic payment cards for financial transactions in Nigeria is due not only to the risk of insecurity, but also to Nigerians' cultural penchant for carrying and displaying cash (Joe et al., 2013). This has resulted in the country becoming a cash-based economy, in contrast to the United Kingdom and the United States, where only 4% and 9% of the money in their respective economies is held outside of banks, respectively (Adebanjo, 2021).

The Nigerian Federal Inland Revenue Service (FIRS) announced the introduction of an automated bank collection system on July 26th, 2006. As part of this reform strategy, the Federal Inland Revenue Service (FIRS) announced the introduction of an automated bank collection system, which will provide convenience, save time, and reduce costs for the tax payer (Okafor, 2012b). Following the announcement, the automated system known as the "FACT" solution was gradually deployed throughout the country's Integrated Tax Offices (ITOs), Large Tax Offices (LTOs), and Stamp Duties Offices (SDOs). According to the agency, tax payers must receive stamped deposited slips and electronic tickets from banks as proof of payment into a FIRS account in the bank under this plan. FIRS will no longer accept manual manifests from collecting banks under this arrangement (Odumosu, 2021).

The Akwa Ibom State Internal Revenue Services was one of the first state Internal Revenue Services to launch its E-STARS (Electronic Strategic Tax Administration and Revenue Accounting System) on September 12, 2006, with the goal of alleviating the state's tax payment problems. E-taxation is not without its drawbacks as changing the tax legislation governing internet commerce is equally challenging (Umenweke, & Onyenukporo, 2020). One important component raised by Umenweke and Onyenukporo (2020) was who collects the revenues? Should taxes on things purchased online be collected by state and local governments, as they do presently in traditional brick-and-mortar commerce, or by a determined unified federal effort?

Nonetheless, the implementation of an online tax system has aided in the creation of revenue in Nigeria to some extent; however, the new system can only be effective if all taxable persons, properties, enterprises, and other entities are included in the system for tax payment (Ogunbela et al., 2021). Despite the partial implementation of e-taxation in some places, the Nigerian tax system has not been adequately built to meet its ultimate goal, and the country's revenue has not improved. Nigerians have a long history of evading taxes. The issue is mostly due to the inability to capture all taxable persons in Nigeria who are required to pay tax to the government, resulting in a situation where only registered businesses and civil servants are required to pay tax (Panle & Okpara, 2021). Taxing the digital economy before 2020 was problematic due to the requirement for non-resident businesses (NRC) to establish a "permanent establishment" in Nigeria, as well as the lack of a global agreement on how to tax the digital industry. Despite the lack of international consensus on digital economy taxation, the Nigerian government signed the Finance Bill into law, recognizing the importance of the digital economy (now Act). The Act made numerous revisions to Nigeria's tax laws, notably the Company Income Tax Act (CITA) and the Value Added Tax Act (VATA) (Yahaya, 2021).

2.3.1. Digital Permanent Establishment Rules (Finance Act 2020)

The Company Income Tax Act (CITA) in Nigeria, prior to the Finance Act of 2020, limited the taxation of income of corporate bodies that are not completely established in Nigeria (i.e. non-resident companies NRCs) to situations where such NRCs have a permanent base in Nigeria. That is, before its income is taxed in Nigeria, NRC must have a permanent base in the country, or conclude contracts through a dependent agent in Nigeria, or engage in turn-key projects in Nigeria, or carry on trade or business with persons who have controlling interests in the NRC, and the conditions made or imposed between the NRC and such persons in their commercial or financial dealings with the NRC (Ogunbela et al., 2021). The Finance Act, 2020 now serves as the primary enactment in the Nigerian tax regime, as it has brought together all other tax-related legislations along the path of acceptable taxation of digital transactions in Nigeria. This was achieved due to the necessary changes and substitutions of outmoded tax laws.

The Finance Act, which takes effect on January 13, 2020 amends the Companies Income Tax Act, Cap. C21, the Value Added Tax Act, Cap. VI, and the Stamp Duties Act, Cap. S8 Laws of the Federation of Nigeria, 2004, as well as other tax laws (Adebayo et al., 2021). Section 4 of the Finance Act explains how to establish a "Digital Permanent Establishment," stating that the non-resident company is assumed to be operating in Nigeria's digital economy if it engages in any of the acts listed in the section. Second, the activity that manifests the non-resident Company's operation in the Nigerian digital economy must be of the type that can be linked to profit. Third, the list of activities includes all technical, professional, and management services provided in Nigeria via any of the listed activities. Fourth, the activity's conduct must have a considerable economic footprint in Nigeria (Adebanjo, 2021).

2.3.2. Companies Income Tax (CIT) and E-commerce

Income or profit derived from, accumulated in, received in, or brought into Nigeria is subject to taxation. These terms are used in the CITA's charging clause to describe the tax that companies in Nigeria must pay. Many common wealth countries' tax legislation includes the phrase "accruing in," which has historically been interpreted to indicate "becoming due and payable" (Adebanjo, 2021). Unless they are exempt, each income due and payable in Nigeria is subject to taxation. Companies that want to stay current with global trends have gone online. Some companies have launched new products to their clients that were not planned at the time of their formation. Internet banking is an example of e-commerce, and these businesses are taxed on their profits cumulatively, whether they were earned through an e-commerce transaction or not (Akintoye et al., 2019).

The extent to which e-commerce taxation will be relevant to enterprises already paying company tax is for the purpose of determining the profits they generated from e-commerce particularly. Companies formed purely for the purpose of conducting e-commerce face a greater hurdle, as the majority of them lack a physical address that the taxation authority can use to locate them for the purpose of remitting company income tax. Only through partnership between the taxing authorities and NITDA can this latter category be brought into the tax net.

Section 13 (1) states that earnings generated by a Nigerian company are presumed to accrue in Nigeria regardless of where they were earned or whether they were transported into or received in Nigeria (Odumosu, 2021). Prior to the passage of the Finance Act, a non-Nigerian company's profit was only subject to taxation in Nigeria if it had a fixed base in Nigeria. Given the virtual character of e-commerce, the requirement of a fixed basis automatically precludes earnings produced through it. To address this, Section 4 of the Finance Act added a new paragraph (c) to Section 13 of the CITA, which brings a non-Nigerian company's profit into the Nigerian tax net if it transmits, emits, or receives signals, sounds, messages, images, or data of any kind to Nigeria via cable, radio, electromagnetic systems, or any other wireless apparatus in respect of any activity including electroplating (Okesola, 2020).

In Nigeria, e-commerce between Nigerians, Nigerian firms, and non-Nigerian companies is taxable. Profits from such businesses, as mentioned above, are liable to taxation as long as they have a significant economic presence. Although the Act does not define significant economic presence, the Minister of Finance is empowered under the Act to establish guidelines for what constitutes significant economic presence, which will almost certainly involve a large number of transactions that provide some economic benefit or profit (Ogunbela et al., 2021).

Challenges: The uncertainty of how the FIRS will enforce the order, as well as how to determine the amount of profit that is taxable is a major challenge. According to the Organization for Economic Cooperation and Development (OCED) consultation document on tax challenges of the digitalization of the economy, only a portion of profit should be taxed in jurisdictions where the NRC has significant economic presence. There are also rising worries about the interaction between the Nigerian double taxation treaties (DTT) and the Minister of Finance's Order, because the DTT transcend the Order and should not apply to nations have DTT with Nigeria, according to international standards (Yahaya, 2021).

2.3.3. Personal Income Tax and E-commerce

Personal Income Tax is governed by the Personal Income Tax Act, which taxes the income of all taxable persons, including individuals, communities, and income arising or due to a trustee or estate, as determined by and subject to the Act's provisions (Yahaya, 2021). The Act's charging provision is found in Section 3 and reads as follows: 3(1) Subject to the provisions of this Act, tax shall be payable for each year of assessment on the aggregate amounts each of which is the income of every taxable person for the year, from a source inside or outside Nigeria, including, without limiting the generality of the foregoing, gain or profit from any trade, business, profession or vocation, for whatever period of time such trade, business, profession or vocation is carried on (Umenweke, & Onyenukporo, 2020). PITA's charging provision made no mention of profits or gains derived from e-commerce, and the wording of the provision was clear. Since the Act was enacted before e-commerce, it can be argued that any gain or profit derived from a trade or business that is not covered by the Act should not be taxed. Despite the fact that the Finance Act made changes to PITA, none of them pertain to e-commerce revenue generated by individuals (Yahaya, 2021). Regardless, gains or profits made by an individual in trade or business, whether through traditional trade methods or through e-commerce, are still subject to personal income tax (Agbo & Nwadiolor, 2015).

2.3.4. Value Added Tax (VAT) on Electronic Commerce

The Finance Act is well known for raising the VAT rate in Nigeria to 7.5 percent, but it also broadened the definition of VATable commodities to include intangible things, which include digital activities. Prior to the enactment of the Finance Act, the Nigerian government faced the question of whether it could tax cross-border supplies delivered to a customer in Nigeria by a supplier with no physical presence in Nigeria (Yahaya, 2021). This was due to a conflict between provisions of the VATA, which did not allow for the taxing of cross-border supplies by a supplier with no physical presence in Nigeria. The VATA was amended in the Finance Act to reflect the destination concept, which eliminated the problem. As a result, if an NRC sells digital goods to Nigerians, the commodities are now subject to VAT (Umenweke & Onyenukporo, 2020).

VAT is a consumption tax that is levied on all goods and services consumed by anyone, whether government agencies, businesses, or individuals, with the exception of those exempted under the VAT Act. Section 2 of the VAT Act did not mention the mode in which the provision of goods and services should be carried out prior to the introduction of the Finance Act, and so there was no duty for e-commerce enterprises to charge and pay VAT, at least not by the structure of the VAT Act. As a result, Nigerian businesses that received products and services from non-resident businesses always claimed that no VAT should be charged on those transactions (Etim et al., 2020). These problems were argued in *FIRS v Gazprom*, in which Gazprom got ongoing consultancy and advisory services from non-resident firms regarding its economic interests in various African countries, for which they paid the non-resident corporations. Gazprom failed to remit VAT on the transactions to FIRS, and when FIRS asserted VAT liabilities, Gazprom claimed it was not liable to pay VAT on the transaction because the non-resident companies were not conducting business in Nigeria, and thus they could not be held liable for VAT on their transactions with non-resident companies. The Tax Appeal Tribunal agreed with them and granted them a favorable decision (Odubunmi, 2017). The FIRS appealed the Tribunal's decision to the Federal High Court, which upheld the Tribunal's decision, ruling that the parties did not contest that the services were provided to a Nigerian company and that, because Section 12 of the VAT Act imposes VAT on the final consumer, the company, Gazprom, should bear the VAT liability. Similarly, in *Vodacom v FIRS*, a Netherlands-based company provided bandwidth capacities to Vodacom, and Vodacom claimed that it was not responsible to pay VAT on the service since it was received through its transponders, which sent bandwidth from orbit without any physical presence (Odumosu, 2021).

The Court disagreed with them, holding that "provided in Nigeria" under Sections 2 and 10 of the VAT Act does not have to indicate physical presence and can include situations where a supply is made in Nigeria without physical presence. It is worth noting that the courts were taking the initiative in these cases because the VAT Act didn't specify the type of supply that should be subject to VAT. Section 2 of the VAT Act was amended by section 33 of the Finance Act, which filled in the gap (Adebanjo, 2021). Nigeria, like several other countries, has made provisions in the Finance Act for the taxation of e-commerce within their borders, based on the

place of supply principle and has successfully overcome the challenge of taxation where e-commerce is conducted between Nigerian residents and non-residents. As a result, when a service is provided and enjoyed by a consumer in Nigeria, it is subject to VAT (Ogunbela et al., 2021). However, there is a case to be made for situations where services begin in Nigeria and end outside of Nigeria, or if a service is wholly performed outside of Nigeria. In any event, once business activities cross into another country, they are subject to that jurisdiction's taxes. If Nigerian VAT is applied to services provided outside of the country, it could result in double taxation and the expansion of the Nigerian VAT Act. The author believes that the Nigerian VAT should place a greater emphasis on capturing services provided in Nigeria, whether such services are provided physically in Nigeria or virtually within Nigerian space or cyberspace (Okah-Avae & Mukoro, 2020).

2.3.5. Challenges of Value Added Tax (VAT) on Electronic Commerce

The VATA's considerable improvement has not been without its difficulties. A key concern is the potential of double taxation, as well as the necessity that all NRCs doing business in Nigeria register for VAT, which is both inefficient and unnecessary (Yahaya, 2021).

3.0. DIGITAL TAXATION AND REVENUE GENERATION

According to Okafor (2012a), the manual taxation system which operates in a physical setting is inefficient and yields poor revenue. This is due to tax payer non-compliance, as well as abuse of authority and corruption among tax officials. To address these issues, Okafor (2012a) advises using electronic taxation. The problem of low revenue collection from states with a high incidence of tax evasion and avoidance will persist until efforts are taken to replace the manual system of tax administration with an electronic system. The following recommendations were made based on the findings made throughout the study:

State governments should make every effort to launch their computerized tax administration so that they may begin to reap the benefits; state governments should make computer literacy a requirement for working in all government enterprises, particularly tax and revenue offices, as soon as possible. The government should guarantee that vital information is available and accessible to rural residents by encouraging the adaption of information into formulas and languages that are understandable to them. Supporting technological innovation in rural connectivity, such as WIFI, wide-band connections, and solar-powered systems. It is also vital for the government to allow the construction of searchable websites revealing state spending in order to boost revenue production through e-taxation. Finally, computerized record keeping of births, employments, new businesses, residency, and deaths will provide the essential data foundation for better revenue through electronic taxation (Okafor, 2012a).

The rise of e-commerce as a result of the development of the internet has resulted in a slew of legal, budgetary, and socioeconomic difficulties. Odubunmi (2017) stated that new types of contracts, goods, and services are being established as a result of the growth of information technologies as alternatives to paper-based enterprises, such as virtual goods, digital contracts,

and online transactions. As businesses and customers participate in an increasingly virtual or electronic market, new types of economic relationships are emerging, aided by technology. New technology has made it feasible to pay for goods and services over the internet, removing the need for real cash in many cases. As a result, several basic aspects in the traditional way of doing business, such as the transaction medium or the parties' geographical location, have become obsolete (Odubunmi, 2017). The rise of electronic trade (e-commerce) poses a significant challenge to tax administrators' traditional direct and indirect taxing procedures. Unlike traditional commercial activities, where transaction details such as the amount involved, parties to the transaction, and the location in which the transaction was carried out can be easily established, e-commerce takes place primarily in the virtual and borderless world of the Internet, using a network of computers to carry on untraceable trade from obscurity to obscenity.

According to Umenweke and Onyenukporo (2020), electronic commerce, is the marketing, selling, and buying of items and services over the internet. The Nigerian tax law and system did not anticipate the growth of electronic commerce and online commercial activities prior to the enactment of the Finance Act 2019. The reality is that information and communication technology (ICT) has advanced around the world, making the world a global village. The number of taxable transactions carried out virtually is growing by the day, and because there is no legislative structure for their taxation, they are not taxed by the Nigerian government, resulting in a revenue loss. Umenweke and Onyenukporo (2020) looked at how e-commerce was taxed before the Finance Act 2020 was passed, and how the Act has brought e-commerce into the Nigerian tax net, whether it's between Nigerians or non-Nigerian residents and a Nigerian resident. The report looked at how internet commerce is taxed under four important tax laws: the Personal Income Tax Act, the Companies Income Tax Act, the Value Added Tax Act, and the Finance Act. The passage of the Finance Act 2019, which includes explicit measures for the taxation of the digital economy among other things, is a step in the right direction, and its implementation has enormous revenue-generating potential in Nigeria. The study recommended that it is in the best interests of the Federal Inland Revenue Service to ensure that its tax administration and enforcement policies are strengthened. Companies engaged in e-commerce that are not resident in the United States should be compelled to register and file tax returns under Section 55 of the Companies Income Tax Act. The Nigerian recipient of a VATable service has an obligation to withhold VAT and account for it to the taxation authority if the Nonresident Company fails to include VAT in their invoice. As required by the Finance Act 2020, the Minister of Finance should establish guidance on what constitutes a Strong Economic Presence criterion. This will help determine the tax liability of non-resident companies in Nigeria. It is also suggested that the Federal and State Inland Revenue Services collaborate with governmental and non-governmental organizations such as the National Information Technology Development Agency (NITDA), the Nigerian Internet Association (NIRA), the Economic and Financial Crimes Commission (EFCC), banks, e-payments companies like Interswitch and Quickteller, all Internet Service Providers (ISPs), and Telecommunications companies (Umenweke, & Onyenukporo, 2020).

3.0. THEORETICAL FRAMEWORK

This study is anchor on optimal taxation theory. This idea holds that taxes should be set up in such a way that they produce optimal results in terms of social welfare. Loukianova (2021) stated that the Ramsey Rule and the Laffer Curve Model are two of the models included in this theory. According to the Ramsey Rule, the excess burden of taxation can be reduced by setting the taxation ratio in inverse proportion to the price elasticity of demand for tangible and intangible electronic goods. This model assumes that, given a set of revenue demands, government officials will try to reduce the excess burden (efficiency loss) of taxing. The optimal taxation hypothesis, according to the Ramsey rule, is the rate that minimizes the extra burden of taxing while also producing the necessary revenue from tangible and intangible electronic business (Loukianova, 2021). The Laffer curve model, on the other hand, is based on the assumption that the government will make every effort to produce as much revenue as possible, regardless of the efficiency losses that may arise from taxation, according to Emenyi (2013). Only constitutional limits and other laws, according to this model, can limit physical and intangible electronic products, as well as the impact these relationships will have on tax collections. According to Sokolovskyi (2021), a higher tax rate is not always the most revenue-maximizing rate, because in electronic commerce transactions, a lower tax rate may raise more money than a higher one.

4.0. CHALLENGES AND POTENTIALS OF TAXING DIGITAL TRANSACTIONS

According to Ahmad et al., (2021), the digital economy accounted for more than 11.5 trillion US dollars in 2018, accounting for roughly 15.5 percent of the global GDP. In less than a decade, the digital economy is expected to account for 25% of the global GDP (World Bank, 2020). Countries with populations of more than 200 million people, such as Nigeria, are currently capturing only a fraction of this increase and must strategically invest in the core aspects of their digital economy to keep up. Given the growing statistics on the digital economy and its enormous potential, Nigeria must consider a more innovative method to ensure that the digital industry is taxed effectively.

Nigeria has a big opportunity to raise significantly more domestic financial resources and to finance its growth through the digital economy. Solid outcomes are within reach, even in a short period of time, if the right innovations and assistance are implemented. The digital economy poses two types of challenges to developing countries' tax bases (Jinyan Li, 2014). According to Ogunbela et al. (2021), the passage of the Finance Act 2019 and the issuance of the Order are laudable steps in the right direction for Nigeria, with the potential for increased money that can be utilized for infrastructure development.

Due to the fact that most digital transactions are conducted with foreign corporations, it may be impossible to track such transactions or the parties involved, making compliance with Nigerian law problematic (Etim et al., 2020). Traditional identification issues are present in global company structures in the digital economy, but these challenges are compounded in the digital economy. For example, when overseas businesses sell remotely to customers in the jurisdiction, the market jurisdiction may not require registration or other identification, or may

have difficulty enforcing registration requirements, as it is often difficult for tax authorities to know that activities are taking place, to identify remote sellers, and to ensure compliance with domestic rules (Ogunbela et al., 2021). Difficulties identifying remote merchants may make tax collection more challenging in the long run. Even if the parties' identities and roles can be established, determining the scope of sales or other activities without information from the offshore seller may be impossible, as there may be no sales or other accounting records kept in the local jurisdiction or otherwise accessible to the local revenue authority. It may be possible to collect this information from third parties such as consumers or payment intermediaries, but privacy and financial regulation rules may prevent this. Other issues include a lack of digital infrastructure, such as fibre optic connectivity, mobile network infrastructure, and digital literacy, as well as the high cost of using digital services (Panle & Okpara, 2021). This could be solved by deploying technology to ensure a proper database of diverse online suppliers of goods and services, as well as enacting legislation that allow tax authorities to collaborate with banks and other institutions to detect payments related to digital transactions. However, such safeguards should take into account financial restrictions as well as international privacy legislation. Without the necessary information from the relevant company, determining the scope or scale of transactions, as well as the portion of the NRC's global income obtained from Nigeria, may be challenging (Adebanjo, 2021; Odumosu, 2021; Okah-Avae & Mukoro, 2020; Yahaya, 2021).

4.1. Critical Success Factors

Crucial to the proper taxing and capture of digital transactions is a Digital Economy that is robust and accessible to everybody. The World Bank (2020) identifies five important synergistic aspects needed to construct a digital economy. Digital tools and services included digital infrastructure, digital platform, digital financial services, digital entrepreneurship, and digital skills.

4.1.1. Digital Infrastructure

A crucial component of the digital economy is digital infrastructure. A worldwide digital service such as this requires investment in all the equipment, hardware, and software that connects and links people, enterprises, government, and local and global businesses. It helps drive revenues and advance the social and economic growth of a region. Internet connectivity increases the odds of earning more money, therefore the more people connected, the better. The World Bank's (2020) study shows that developing nations will enjoy a 1.4 percent increase in GDP for every 10 percent rise in broadband. A thriving digital entrepreneurial environment may be found in Nigeria, the biggest digital market in sub-Saharan Africa. Nevertheless, digital infrastructure is highly concentrated in cities, because of the huge disparity between the country's urban and rural parts (Ahmad et al., 2021).

4.1.2. Digital Platforms

These are the channels via which digital items and services can be accessible. These platforms are used by both the government and private organizations to provide services to users. These platforms, for example, allow producers to transfer value to and communicate with consumers. Similarly, the government uses these channels to provide citizens with social services. As a result, more investment in this platform will increase the number of users as well as money for the government. This is crucial to the success of the digital economy, in which Nigeria is a major participant. Nigeria's online payment market was valued at N167 billion in 2016. As a result, massive foreign investment has poured in. The subsector will see significant development, more jobs, and tax revenues if more money is invested in digital infrastructure, platforms, and the proper skills (Ahmad et al., 2021; Ogunbela et al., 2021).

4.1.3. Digital Financial Services

Digital financial services (DFS) are services that enable individuals and businesses to execute transactions electronically or online through banks or non-bank financial entities. Pazarbasioglu et al. (2020) defined DFS, as financial services whose delivery is reliant on digital technologies. They provide access to a variety of digital financial services, including credit, savings, and insurance, in addition to digital payments. Access to inexpensive and adequate digital financial services is crucial for the growth and survival of the digital economy. Individuals and corporations will be more likely to participate as a result of this. Digital financial services are currently growing rapidly in Nigeria, making it harder for the government to monitor and regulate their activities. Furthermore, despite increased availability to digital financial services, digital financial service utilization is extremely low in comparison to other nations in the region (Adebanjo, 2021; Ahmad et al., 2021; Odumosu, 2021; Umenweke, & Onyenukporo, 2020; Yahaya, 2021).

4.1.4. Digital Entrepreneurship

Digital entrepreneurship, according to the European Commission (2015), is described as "developing new enterprises and reforming existing ones using information technology as the medium of delivery." Digital entrepreneurship and innovation build an ecosystem that helps bring the digital economy to life with new, growth-oriented initiatives and the transformation of existing businesses, all of which contribute to net job growth and improve the economy's competitiveness and productivity. Despite its entrepreneurial potential, Nigeria continues to be a minor player in the global digital economy in terms of digital goods and services exports. As a result, the government must encourage indigenous digital startups and other developing enterprises in the industry in order to fully realise the digital economy's potential (Adebayo et al., 2021; Ahmad et al., 2021; Panle & Okpara, 2021; Yahaya, 2021).

4.1.5. Digital Skills

To establish healthy digital economies and competitive marketplaces, economies require a technologically savvy workforce. Technology skills, as well as business skills for starting or running a firm, are referred to as digital skills. Digital literacy improves the adoption and use of digital products and services among the general public. Despite government and non-governmental organizations' efforts to close the digital literacy gap, the Nigerian education system is characterized by low basic education enrollment, a gender disparity in education and labor, and a curriculum with insufficient digital skills. As a result, the digital economy has a relatively low employment rate (Ahmad et al., 2021; Panle & Okpara, 2021; Yahaya, 2021).

5.0. CONCLUSION

The presentation of the Nigerian Finance Act 2020 is a significant step forward in the taxation of digital activities, but there is still a long way to go for an effective system of online activity taxation, due to a lack of international consensus on the subject, a lack of enforcement procedures due to the lack of physical presence, which makes effective tracking difficult, and the looming fear of cybercrime. As a result, the government must act quickly to address the current challenges by issuing appropriate guidelines for taxing online activities, collaborating with national and international organizations to develop a framework for taxing online activities, and, most importantly, educating the general public on the importance of taxing the digital economy.

The Finance Act, 2020 will provide an avenue for better taxation. That means the previously non-existent tax leakages in the Nigerian digital economy would be eliminated due to the new tax rate. But existing legislation does not apply to digital transactions involving persons, which has allowed for some tax avoidance. As a result, most of the digital transactions are done with non-resident corporations, which make tracking them tricky, as a suitable database is missing to keep track of these transactions. While Nigeria has tremendous opportunities for entrepreneurship, the country is a negligible presence in the global digital economy in terms of exports of digital goods and services.

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