TRANSFER PRICING AND TAX BASE EROSION: A LITERATURE REVIEW

IBADIN O. Peter
Department of Accounting, University of Benin, Benin City, Nigeria
Email: okoeguale.ibadin@uniben.edu

ODIA E. Isaac
Department of Entrepreneurship, University of Benin, Benin City, Nigeria

ABSTRACT

The paper examined transfer pricing and tax base erosion. To achieve this objective, a library-based approach was employed with a deep review of prior investigations on transfer pricing practices and their outcomes and how they were used to achieve tax base erosion. To this end, multinational companies (MNCs) are mainly the key players which adapt, set and adopt transfer prices that enable them to shift profit from high tax regions to low-tax jurisdictions. However, domestic group transfer pricing practices may also reflect sharp practices that allow them to minimize their aggregate tax liability. Common objects of transfer pricing abuse are found to be in transaction types in the form of intangibles, contracts, intra-company sales and purchases, management services, trade, cost sharing, amongst others. Therefore, price setting in the context of artificial price management is found to be entrenched in these objects. Given that such artificial price management, for all intents and purposes, are not based on arm's length principles, it is deemed as tax evasion or scam which amounts to illegality. To this extent, transfer pricing is extensively used to erode the much-needed tax revenue of countries, Nigeria inclusive, where these MNCs operate. It is against this background that it is suggested that the government of every nation should ensure that adequate sanctions are institutionalized against erring companies through a regular review of transfer pricing regulations. It is also expected that local content laws should be updated and adequate in order to prevent unnecessary importation of inputs.

Keywords: Transfer Pricing, Tax Base Erosion, Legal Framework, Nigeria

JEL Classification: H27, H30

1.0 INTRODUCTION

The coming of multinational firms, divisionalised firms and their spread across the globe has brought about many benefits and challenges. It has affected tax revenue in diverse ways. Tax revenue of some countries has been positively affected while others have been adversely affected. Some countries such as African nations have in many ways failed to recognize taxation as a veritable tool for growth and development which makes it often to be referred to as low tax jurisdiction and tax havens (Taiwo, et al, 2013). Western nations, such as Switzerland, UK, Germany, USA, amongst others, are well aware of the relevance of taxation in economic growth and development. Globalization which has come to render the world more borderless and the physical siting of business have become less crucial in the determination of business success. In line with the above, governments around the globe are now heavily placed on their toes to ensure that traditional tax base is kept with active eyes on cut-throat tax competition among countries of the world.

The advancement in technology and the creation of the ease in transportation and communication tactics, have achieved greatly in almost eliminating the gap between distant parts of the world (Zech, 2020). National boundaries are now rapidly giving way in favour of easy flow of capital, labour, goods, and services. As a consequence, goods and services produced by firms of a group in one location can effortlessly be moved to entities of the same group located in another part of the world. Price setting, therefore the resulting transfer constitutes a fertile ground for discord among the tax institutions of the originating and receiving nations (Wang et al., 2016).

Aware that related firms in a group of companies within and outside the country, sometimes, carry out transactions within and across the borders, the relevant tax authorities are bothered because any transfer pricing abuse can effectively lead to lost revenue to the host country (Oyodele et al., 2013) as a result of a shift of tax base from one nation to another or lead to evasion of tax. In line with the above, and given the preponderance of such transactions across the border, many nations now see transfer pricing as a suspicious practice among connected persons. Many of the companies involved in transfer pricing practices are multinational companies (MNCs). As multinational companies evolve, various strategies are crafted to minimize tax liabilities. At the same time, various governments, through tax authorities, yearn to maximize tax revenue from tax payers. Attempts at minimization of tax payment have made many firms particularly the MNCs to embark on schemes which are tax -evasive, and which therefore connotes breaking of local and international tax laws.

Transfer pricing practices, particularly among the MNCs allow profits to be moved offshore, leaving behind little tax base in their host nations (Omoye & Okafor, 2004). This is achieved by selling products to related companies in low-tax areas at reduced prices, leading to low revenue for high tax area companies and high revenue in the low tax countries (Wang et al., 2016). Nigeria as a host to many MNCs in the world has continued to experience a huge loss in revenue through transfer pricing practices. As an example, MTN in 2013 set aside N11.398 billion and paid to MTN Dubai. In similar manner, MTN confirmed it made unauthorized payments of N37.6 to MTN Dubai between 2010 and 2013 (Zech, 2020). Transfer pricing abuse is an off-shoot of transfer pricing practices; this has caused huge financial losses to many nations. This has made nations of the world to incur between one hundred billion and two hundred and forty billion dollars each year, which is 4% to 10% of the worldwide corporate income tax collections (OECD, 2023). Worried by this development, the Nigerian government rolled out group transfer pricing policy and local transfer pricing policy to serve as guidelines for transfer pricing practices.

Given that transfer pricing/mispricing cannot happen in a vacuum, there are related parties or connected persons for it to exist. Multinational companies which are parents to the subsidiaries and associates, are good examples of connected persons that can easily embark on transfer pricing practices (Ebighan et al., 2021). In transfer pricing, a transfer price is set for products, intellectual property rights and loans which are exchanged between related entities or responsibility centres within a given entity (Sikka & Willmott, 2010). In the process, and given the susceptibility to abuse, transfer mispricing can occur where transfer prices are biased or set arbitrarily without due consideration of the contributions of assets employed, and risk borne by the affected parties to the transactions. In transfer mispricing, entities set transfer prices in violation to arm's length principles which demand that the basis of controlled transactions should not be different from that of a comparable transaction between independent persons in comparable circumstances. Arm's length principles are said to be at play where the existing relationship between or among parties to an economic transaction does not impact the price of the transaction (Morse & William, 2008).

It is against this backdrop that we embark on this review to evaluate transfer pricing practices amongst players with a view to examining the content and extent of tax base erosion and to throw up suggestions that will likely improve the possibilities for countries as hosts to have a tax base that is taxed fairly and equitably.

2.0 REVIEW OF PRIOR INVESTIGATIONS

Transfer pricing and tax base erosion is a subject of discourse among tax jurisdictions and nations because of the impact various methods of transfer pricing could have when nations or the relevant tax jurisdictions fail to deploy the appropriate fiscal policy to avoid cross-border profit shifting and tax base erosion.

Tax Base Erosion: Meaning and Contexts

Tax base can ordinarily in itself be the basis for the determination of tax liability (Aroh, 2020). It can be understood as the extent to which taxable resources of the taxpayers are subjected to tax. Tax base helps to determine the level of tax revenue to be generated by a nation. On this basis, the higher the tax base of a nation, mutatis mutandis, the more tax revenue to be generated from taxpayers. Further simply defined, tax base is a portion of the income or property of the taxpayers that is expected to suffer tax (Ishola, 2020).

Therefore, for any nation to get the right amount of tax revenue from taxpayers the tax base of a nation must be protected. Tax base erosion is the process of reducing the tax base to ensure that an incorrect or low amount of tax is paid by the taxpayers (Wang et al., 2016). In another context, tax base erosion is the application of a financial measure and tax planning to reduce the amount of an organization's taxable resources in a nation (Ernst & Young, 2014). In the context of MNCs, tax base erosion is mostly attained by arranging financial information to pay less tax than what would otherwise be expected to pay. In this wise, tax base erosion can hardly be achieved without profit shifting, a practice which entails making payments by MNCs to members within the same group in order to move profit from high-tax jurisdiction to lower-tax jurisdiction (Akinyele et al., 2018). This seeming practice increases the overall profit of the group. This so-called shift of profit is usually achieved through payment of royalties, interests, intra-group lending and intra group buying and selling. Ultimately, tax base erosion and profit shifting (BEPS) are offshoots of corporate tax planning strategies applied by international firms (multinationals) to lower their tax liabilities by eroding the tax base of higher-tax regimes in favour of tax havens or lower-tax jurisdiction (Michael, 2021). Multinational group of companies are in a vantage position to take advantage of tax avoidance strategies (Jude & Atu, 2010).

Tax base erosion and profit shifting (BEPS) is fueled by complexity and sophistication, a condition that constitutes a fertile ground for transfer pricing and its abuses (Oyedele, 2013). Besides, tax legislation is becoming almost static in the face of changing tax evasion strategies adopted by taxpayers. In the latter context, the taxpayers are seriously harnessing the loopholes in tax laws to pay less tax. The business environment is becoming more characterized by swift information and communication technologies. The fluidity of intellectual assets intertwined with the ease of portability of risk and digital product delivery indicates that tax arbitrage is not only simple, but economically viable (Zech, 2020). These reasons account for transfer mis-pricing activities. This notwithstanding, transfer pricing operates with some set of rules:

Transfer Pricing:

According to Omolehinwa (2008), transfer pricing is the act of setting a price at which goods and services are transferred from one part of an organization to another. Transfer price, accordingly, is the value gained by the selling department as a result of transferring its products to a buying department of the same firm. Transfer price is the monetary value of products realized by the selling department or division or branch as a result of transferring its products to another section of the same organization. Transfer pricing results in a price within the internal pricing mechanisms in a divisionalised group; and such a price is tied to the product(s) moved from one section of a firm to another as an input for the buying department (Adeniyi, 2010).

In line with the Chartered Institute of Management Accountants (CIMA, 1991) official terminology, transfer price means the value gained or received by transferring products from one department to another member of the same organization. Transfer pricing is a mechanism utilized by MNCs to move products between their connected companies internationally. It is the consideration at which products, intangibles, intellectual property rights, loans, amongst others, are exchanged between connected persons or responsibility centres in the same entity. Transfer pricing can mean the structuring and determining price of transactions between members of the same group (Obasi, 2015). Transfer pricing does not only take place internationally, it is also practised domestically by firms with branches and divisions in different parts of the same state or country (Soyode & Kajola, 2015). Even in departmentalized firms, where process costing takes place, transfer pricing is practised (Oni, 2008).

Transfer Pricing Determination and Methods:

Transfer price is usually determined on the basis of external market price, cost incurred, and negotiation and it can be by imposition (Adeniyi, 2020). Market based transfer price occurs when products are transferred in an open market price for similar transactions or when market price is the determinant of transfer price (Arogundade,2005). Cost based transfer price occurs when cost incurred, forms the determining factor in setting transfer price. Lastly, negotiated transfer price is the transfer price set through the application of bargaining power of buying and selling parties. However, the central authority of the firms can decide to determine transfer price for the selling and buying organizations or divisions especially to end the disagreements between them. Based on the cost incurred, the transfer price can be based on relevant cost, total cost, and standard cost. In setting the transfer price on the basis of cost, cost can be marked-up or the transfer price can equate to the cost incurred (Omolehinwa, 2008). It is important to note that any of these prices can be set to align with the arm's length principle

Consistent with the arm's length principle, OECD (2022) specified the methods to be applied; these include the comparable uncontrolled price (CUP) method, the resale price method, the cost plus method, the transactional net margin method, the transactional profit split method and other methods acceptable to the service from time to time. Ishola (2021) classified the first three methods as traditional transactional methods while the last two methods are classified as transactional profit methods. It is not however mandatory that the taxpayers use any of the recommended methods where another method outside the one ones classified is more appropriate and in line with the arm's length principle (Morse & Williams, 2008). In trying to apply any of the recommended methods, adequate considerations are given to the strengths and weaknesses of the method in the circumstance; the nature of the controlled transaction determined; the availability of reliable data, amongst others (OECD, 2022).

In general terms, and in line with the OECD (2022), the Comparable Uncontrolled Price Method (CUPM) compares the price charged for transactions between connected persons with price for similar transactions in uncontrolled transactions in a comparable condition. In the event of any gap difference between the charges, it is a prema facie (an indication) that the price for controlled transaction does not obey the arm's length principle. However, it is not out of step if there is a difference between the prices because the product may not be sold under similar terms and conditions in the markets. It is therefore crucial to reasonably compare the prices and adjust accordingly.

In a Resale Price Method (RPM), this simply occurs when an unconnected person of an item buys from a related party and a gross margin is removed from the resale price. This contrasted from Cost-Plus Method (CPM), where the cost incurred on production of the products being transferred to related persons is determined and marked-up. Best of this can be attained observing similar uncontrolled transactions.

In addition, another transfer pricing method of interest is the Profit Split Method (PSM) which allows the total profit of the related parties ascertained and then shared among the related parties with conscious eyes on the arm's length principles. This is supported by sharing the profit among the associated persons on the basis of their contribution to the total profit made. Additionally, the Transactional Net Margin Method (TNMM) compares the net profit margin realized from controlled transactions with net profit margins from uncontrolled transactions.

This method is operationally similar to cost-plus method and the resale price method. It is however different as it concentrates on examining the net profits in relation to cost, sales, assets and not gross profit margin on sales or mark-on costs.

Legal Framework for Transfer Pricing

Some bits of legal 'caps' on transfer pricing are documented in the laws in Nigeria in an attempt to tame tax BEPS. For instance, section 61 of the Federal Inland Revenue (Establishment) Act of 2007 empowers the Board of FIRS, with the approval of the Minister of Finance, to make rules and regulations as it deems fit, prescribing the forms for returns and other information required under the Act or any other enactment or law; and procedure for obtaining any information required under this Act or any other enactment or law. To this end, section 22 of the Companies Income Tax Act CAP C21 LFN 2004 (as amended) addresses artificial transactions and empowers the FIRS to disregard any artificial transaction that will lead to tax evasion, with additional powers to direct that necessary adjustments be made as it considers appropriate to realize the right tax revenue. Any transactions between connected persons are deemed artificial or fictitious if the FIRS are of the opinion that such transactions are not made in line with the arm's length principle. However, the affected taxpayers have the right to legally contest the position of FIRS. Similarly, section 74(4) of the Personal Income Tax Act of 2004 as amended in 2011 Amendment Act, holds that any excess payment of tax should be refunded by the relevant tax authority within 90 days except it is a final tax after the assessment has been fully filed, with the option of setting off against future tax payment by the tax payer.

In a similar context, section 15 of the Petroleum Profit Tax Act CAP P13 LFN 2004 (as amended) on artificial transactions between connected persons, empowers the FIRS to call for adjustment of any disposition that will not yield the right tax revenue. The position of the FIRS can however be legally challenged if the taxpayers have the belief that the Service (FIRS) has not acted appropriately.

Based on the susceptibility of transfer pricing too many forms of manipulations, the governments of various nations have been put under pressure to ensure that transfer pricing is rightly regulated. In the light of this, governments through various international and national organizations have come out with various regulations on transfer pricing. Countries, such as USA, France, Canada, Ghana, Netherlands, Australia, Japan, South Africa, Kenya, China and Germany have frowned seriously on transfer pricing abuses in form of thin capitalization by setting acceptable debt/equity limits for businesses (Seiyaibo & Ebiaghan, 2022). In an effort to find out whether controlled transactions are in line with the arm's length principle, OECD (2022) recommends that MNCs and other groups of companies can appropriately charge transfer prices using any of: Comparable Uncontrolled Price (CUP) method; The Resale Price Method; Cost Plus Method; Transactional Net Margin Method (TNMM); Transactional Profit Split Method (TPSM) or and any other method to be prescribed from time to time. The relevance of these recommended methods of transfer pricing by OECD is to ensure that controlled transactions are priced like uncontrolled transactions by independent parties in an arm's length principle.

In Nigeria, the Income tax (Transfer Pricing) Regulation Act of 2018 is one of the efforts by the Nigerian government to alleviate or eliminate improper transfer pricing. The Income Tax (transfer pricing) Regulation Act of 2018 was enacted to serve some major objectives, amongst which are to ensure that Nigeria is able to tax on an appropriate basis, considering the economic activities deployed by tax payers as well as their related parties transactions; provide Nigerian authorities with relevant machineries to curb criminal tax avoidance by connected persons; provide level playing ground between connected persons and unconnected persons doing business in Nigeria; provide taxable persons with certainty of transfer pricing treatment in Nigeria. The Income tax (Transfer Pricing) Regulation Act of 2018 aligns with the OECD model in terms of methods and their uses. The Nigeria's transfer pricing of 2018 regulation provides that tax payer files transfer pricing. Tax payers, as MNCs, are required to disclose the transfer pricing policy in relation to transfer pricing and controlled transactions. They are also expected to show relevant information about the treatment of transactions of permanent establishment (PE) and dispute settlement. The income tax (transfer pricing) regulation Act brings together under one umbrella the bits of provisions in section 17 of the Personal Income Tax Act, CAP 18, Laws of the Federation of Nigeria 2004 (as amended and the Companies income Tax (Amended) Act 2007; and section 15 of the Petroleum Profit Tax Act, CAP 13, Laws of the Federation of Nigeria 2004 (as amended by the Petroleum Profit Tax (amendment) Act, 2007.

Transfer pricing impacts on, and erode, tax base, with consequential and negative effects on the tax revenues of nations (Oni, 2008).

3.0 CHALLENGES OF TRANSFER PRICING PRACTICES IN TAX BASE EROSION

Transfer pricing practices tend to face challenges for the host countries but benefit the divisionalised groups of companies or MNCs because of the potential for tax base erosion and profit shifting (Seiyaibo & Ebiaghan, 2022). To this end, and besides, some pricing methods, such as the Profit Split Method (PSM) and its variants, are susceptible to trade mis-invoicing. A fraudulent intent of illegal base erosion can occur when an MNC, in an attempt to shift profit from the shores of a host country or jurisdiction, can manipulate or massage the price, quantity, or quality of products on an invoice to illicitly move capital or profit from one jurisdiction to another (Offiong, 2013). These illicit flows can be of two classes of illicit flow of resources or illicit financial flows identified (Gbonjubola, 2013); they are illicit financial inflows (import under-invoicing and export over-invoicing) and financial outflows (import over-invoicing and export under-invoicing). Simply put, import under-invoicing is devised to evade VATs or custom duties, and to avoid regulatory benchmarks for imports over certain values. On the other hand, export over-invoicing exploits both subsidies for and drawbacks (rebates) on exported exported products. Furthermore, import over-invoicing occurs when imported goods are overpriced in order to shift profit abroad- a case of capital flight, tax evasion, and shift of wealth outside the shores of the host country. Over-invoicing also connotes overstating the cost of imported goods inputs to reduce income tax liability and to avoid anti-dumping levies (Akinyele et at., 2018). Similarly, export under-invoicing occurs when products are underpriced in order to shift taxable resources abroad- a classic case of tax evasion by the company or MNC involved. An MNC can abuse these terminologies to either erode a host nation tax base and consequently shift profit outside.

Beyond the aforementioned negative strategies to erode tax and shift profit to other shores is the use of transfer pricing when the established guidelines of particularly host country are not observed in pricing the intra-company transfer of goods and services (Morse & Williams). A MNC can choose to exercise this where the intent is to erode the tax base of the host country; and where the transferred products are priced arbitrarily without recourse to the inputs of assets applied and risk suffered by the respective participants to the transactions (Obasi, 2015). A fraudulent intent by an MNC or fraudulent divisionalized group of companies and other connected persons may be heavily tempted not to observe the arm's length principles in internal price setting; they may also throw caution of morality to the wind by unduly "scavenging" the loopholes in the tax laws of a host country. This they can do to take advantage of differences in corporate tax rates particularly where tax incentives apply in some tax regions (Low tax jurisdictions, tax havens); to minimize the impact of high import or and export duties and other indirect taxes in order to circumvent titles to resources and profit repatriation constraints

(Ebighan et al.,2021). It can be inferred from the above that transfer abuse is a manipulation of transfer prices at the expense of the government and in favour of the tax payers.

In all of this, prices are not market-imposed. These practices create room for profit shifting to take place. Profits are shifted from countries in which they originated to tax regions that are more suitable to the participants (Ernst & Young, 2014). MNCs are mainly the key players that adapt, set, and adopt transfer prices that enable them to shift profit from high tax regions to low-tax jurisdictions, thereby minimizing their aggregate tax liability (Seiyaibo & Ebiaghan, 2022). It has been largely argued that transfer pricing is associated with transfer pricing abuses which appear in the forms of tax fraud or tax evasion (Aroh, 2020). It is further argued (Ebiaghan et al., 2021) that when the price setting is within the tenets of tax laws, it is classified as tax avoidance but when it is laced with any artificial price management, it is deemed a tax evasion or scam which amounts to illegality. It is however postulated that transfer pricing leads to abusive tax avoidance when subsidiaries manipulate the monetary value of products they transact with their related parties (Osei, 2010). The point, however, to note in tax evasion and tax avoidance, is that the taxpayers' ultimate aim is to minimize tax liability which rub-off adversely on tax revenue, thereby hindering economic growth and development (Omolehinwa, 2008). Ordinarily, transfer pricing can be a veritable tool for eroding the tax base and shifting of profit from one nation to another (Jude & Atu, 2010).

In like manner, transfer pricing also enhances the capital drain of some countries, thereby becoming very toxic to the drained economy. Transfer pricing permits multinationals to transfer profit from host nations to tax havens (Christian, 2011). This may be achieved through funding projects of related parties with loans advanced from affiliated foreign companies as debt in lieu of equity financing (Dike, 2003). Many parent companies based in developed nations with subsidiaries in developing nations, as in the case of Nigeria, sell to their subsidiaries at high prices and buy from them at low prices in order to erode tax base and shift profit to their jurisdictions or developed nations.

Transfer pricing abuse is very common in all transaction types which can be in form of intangibles, contracts, intra-company sales and purchases, management services, trade, cost sharing, amongst others (Monwuba, 1995). Member companies of the same group usually lend to their members at high interest rate and at low interest rate. This is done in order to reduce taxable income and to increase taxable income in their desired direction. Transfer pricing as a mechanism for tax avoidance and evasion is a structure that is not linear or stand alone but an integral part of an overall strategy for erosion of tax base that leads to capital flight. Transfer pricing connotes a situation where loan with interest payment deductible in one jurisdiction but which is recorded by other entity as a dividend payment (Seiyaibo & Ebiaghan, 2022).

Transfer pricing abuse also expressed in income shifting and base erosion are highly related in terms of purpose as all are majorly designed to manipulate financial transactions in MNCs with a view to reducing the corporate tax payments by these firms . Though some of the transfer pricing abuses may not be illegal, they are unethical and they have been heavily criticized as irresponsible practices by corporate bodies (Gbonjubola, 2013.). They are viewed as irresponsible and unethical behaviours because they seem to relegate the relevance of tax revenue to the progress of the host nations. In all of these, financial statements are biased and self-serving. This makes it very difficult for users of financial information to assess. Some of these financial documents that can be accessed are believably undependable. Many firms in a bid to erode tax base and shift profit, report false profits or losses which culminate in complex and over-layered information coupled with misleading explanations of their performance. The essence of this complex presentation is to conceal the practice of tax dodging (Aroh, 2020).

Transfer pricing abuse in setting transfer prices for goods and services has posed a lot of threat to effective redistribution of wealth which is one of the uses of taxation. Taxation as an integral element of fiscal policy generates revenue as well as being used to redistribute wealth. This function of taxation is becoming less visible because of the activities of transfer pricing manipulations. Economically well-endowed unit usually provides much of the tax revenue needed to develop the economically less endowed sector. In like manner, high income earning taxable persons, through progressive tax system pays higher taxes which enhance tax revenue for provision of essential amenities for the citizenry. According to Adam Smith's principle of taxation, tax system should be equitable, based on income and services provided by the states. This was buttressed by John Stuart Mill by saying that since the burden of taxation impacts differently on the poor and the rich which is disadvantageous to the poor, taxation should be progressive. Sadly, transfer pricing abuse usually expressed in various tax dodging activities have impeded the above principle. When MNCs with ability to derive the benefits of economies of scale in cost reduction, rather present losses with no resources to tax (Earnst & Young, 2014).

The MNCs may have no choice to shift tax profits to the low tax regimes as a result of inappropriate taxation activities by tax authorities. The true taxable income of some MNCs may not be traceable as a result of designed accounting system adopted by MNCs which leads to entrenchment of vicious poverty and denial of economic rights of the populace of the host nations due to poor tax revenue (Christian, 2011).

Transfer pricing abuses do pose a lot of threat to entrepreneurial development and optimal allocation of resources. The entrepreneurs require the fair information for them to succeed. Entrepreneurial ingeniousness heavily depends on clear understanding of environment for identification of business opportunities and for possible investment. Where there is high level of investments, the tax base is increased. Unfortunately, transfer pricing manipulation is one of the major factors hampering the availability of credible information. In the absence of credible information, misallocation of capital is bound to arise which may lead to tax base erosion. Fraudulent transfer pricing impairs optimal use of resources through the illegal means of making profits. Where there is competition with its attendant low profit margin (though not always), innovative cost leadership, efficient technology and marketing of the right products are usually the major strategy for survival. Where corners can be cut with activities such as transfer pricing, there may be no commitment to harness competitive strategies (Emuwa, 2002).

Worse still, firms such as MNCs have the ability to dodge taxes and embark on tax arbitrage to report large amount of profits in their facilities located in tax havens. This possible way of making illicit profits do not in any way place firms on their toes or under pressure to be innovative and creative in cost leadership to enhance profit. Some of these tax dodgers invest heavily on phantom arrangement to orchestrate tax evasion and avoidance of taxes. They pay reasonable amount of money to professionals such as accountants and lawyers to help them study loopholes in tax laws to enable them prey on the loopholes (Taiwo et al., 2013). Other logistics are employed to conceal illicit flow of financial resources. All these illicit investments are not without opportunity costs as they could be channeled to more profit generating ventures for the benefit of all. Tax dodging is infectious and should be stopped as it cost a lot of resources to investigate and unravel these illicit activities. When they are identified, it will obviously require material legal battles or tussles between the tax authorities and these tax evaders who will never admit the offences until they are proven guilty (Michael, 2021.).

According to Ishola (2020), tax base of a nation is also being eroded through thin capitalization. Thin capitalization is a financing strategy where company is financed more by debt than equity. This is because the capital structure of the company is more of debt than equity. Thin capitalization connotes a situation where companies employ more debt than equity in the financing of business activities. This is also referred to as highly geared company (Oye, 2022). Most parent companies apply transfer pricing in form of thin capitalization in financing their subsidiaries and other connected persons because of its impacts on taxation (Emuwa, 2002). Enterprises that are heavily geared enjoy tax relief as interest on debt finance is tax deductible and usually paid before profit of the geared firm is measured. This is the reason that makes debt financing less costly than equity (Omolehinwa, 2008). This is one of the major loopholes in company's income tax laws that have been tapped or harnessed by parent companies in abusive manner in order to avoid taxes. Interests on loans (debt) are legally paid even if the company suffers losses, whereas dividends are only paid at the instance of the board of directors. In this manner, investors prefer to invest in fixed income capital to equity (Oye, 2022). Consequently, parent companies have the opportunity of repatriating huge chunk of subsidiaries profit and, in consequence, erode the tax base of the host countries of the subsidiaries. Therefore, there is profit shifting from the subsidiaries' countries to the parent company countries. Debt finance by parent firms can lead to stripping of income (Arogundade, 2005). In like manner, transfer pricing has at various times been used to constitute a lot of tax fraud by companies within the same group though located in various tax jurisdictions, may decide to over price or underprice inter-group transactions (Controlled transactions) in their desired direction of purpose (Pfeiffer et al.,(2011).

Controlled transactions are transactions between related parties which are in most times, affected by their relatedness (Monwuba, 1995). Controlled transactions oppose uncontrolled transactions conducted in line with arm's length principle. Most related persons usually abuse transfer pricing in transactions that relate to sales and purchases of goods and services; acquisition of intangible assets and tangible assets; lease of assets; licensing, provision of services, lending and/or borrowing; manufacturing arrangements, importation and exportation of goods and services (Deloitte, 2012).

The governments of many African nations have overlooked this for many years which have hindered the economic growth and development of African nations (Zech, 2020). Until 2012, Nigeria government never really seemed to bother about this tax evasion tactics. The worries of many concerned tax authorities worldwide is the possibility for loss of tax revenue owing to present borderless world, global spread of businesses and the likelihood that international firms will engage transfer pricing malpractices (Akinyele et al., 2018).

4.0 SUGGESTIONS TO IMPROVE TRANSFER PRICING PRACTICES TO TAME TAX BASE EROSION

1. The government of every nation should ensure that adequate sanctions are institutionalized against erring group of companies. The various penalties in the relevant Acts should be reviewed upwards to make infractions 'heavy and deterrent'. As a quick fix, the Finance Act should be amended to reflect desired changes.
2. The local content laws should be updated and adequately practised in order to prevent unnecessary importation of inputs.
3. There should be adequate cooperation between and among relevant tax authorities both locally and internationally in terms of provision of needed information.
4. Principle-based control measures should be put in place in order prevents or discourages easy circumvention of specific anti - tax evasion regulations.
5. The governments of various nations should ensure that organizations embrace full disclosures in their business reports.
6. Acceptable debt/equity ratio limit should be put in place by the governments for companies to observe in their capital structure construction.

5.0 CONCLUSION

The study examined transfer pricing and tax base erosion through reviews. This was carried out by reviewing prior investigations on transfer pricing and tax base erosion. The reviews further reveal the legal constraints and the transfer pricing abuses that tray transfer pricing practices. On the basis of literature review, we conclude that less than what is required to curb the ills of transfer pricing has been done by the government of various nations and international organizations; the tax base of a host country is susceptible to erosion, and profit shifted to countries of parent countries. This is achieved when some MNCs, with intents to so do, under-report their business activities. These companies manipulate their market prices and costs of production in order to erode the tax base of their host countries. On the basis of these practices and the weak regulations, it is suggested that the government should ensure that adequate sanctions are institutionalized against erring companies. The various penalties in the relevant Acts should be reviewed upwards to make infractions 'heavy and deterrent'. Besides, as a quick fix against the bottle necks of legislative procedures, the Finance Act or its equivalents in any other worried jurisdiction be amended. In addition, the local content laws should be updated and adequately practiced in order to prevent unnecessary importation of inputs; while there should sustained, sincere and adequate cooperation between and among relevant tax authorities and jurisdictions, both locally and internationally, in terms of provision of needed information on transfer pricing in each of these jurisdictions. It is also suggested that governments should put in place principle-based control measures to prevent easy circumvention of specific anti - tax evasion regulations as well ensure that organizations embrace full disclosures in their business reports, among others. It is however recommended that an empirical field work be carried out to enable a full comparison to be made with the reviews and suggestions made in this paper

REFERENCES

Adeniyi, A.A. (2020). Performance management. EL-TODA Ventures Publishers.

Akinyele, G.T., Olaoye, O.C. , & Fayoryagbe, S.B. (2018). Effects of transfer pricing regulations and compliance on tax administration in Nigeria, Acta Universitatis Donubius oeconomica, 14(5), 86-97.

Arogundade, J.A. (2005). Nigerian income tax and its international dimension. Spectrum books.

Aroh, J.C. (2020). Advanced taxation. Baset Publishers.

Christian, A. (2011). Tax haven secrecy – keeping the poor .https://www.christianaid.

CIMA (1991). Management accounting Official terminology.https//www.studypool.com

Deloitte. (2012). Arm's length standard. http://www.deloitte.com.

Dike, M. (2003). Tax practice series, international taxation. CITN.

Earnst & Young (2014). Worldwide transfer pricing reference guide .https//assets.ey.com>guides

Ebiaghan, O.F., Jeroh, E., & Ideh, A.O. (2021). Causality of non-oil tax component of government revenue, companies income and transaction taxes: Evidence from third world developing economy. Universal Journal of Accounting and Finance, 9(6), 1355-1362

Gbonjubola, M.O. (2013). Transfer pricing and thin capitalization. 15th annual tax conference.CITN.

Emuwa, T. (2002). International dimension. Nigerian tax guide and statutes. CITN.

Ishola, K.A. (2020). Taxation principles and fiscal policy in Nigeria. Kastas Publishers Nigeria Ltd.

Jude, A.A. & Atu, O.E.K. (2010). Multinational transfer pricing: issues and effects on the Nigerian economy. The Nigerian Academic Forum, 19 (1).1-5

Monwuba, A.O. (1995). Management accounting. Adson educational publishers.

Morse, G., & Williams, D. (2008). Davis principles of tax laws. Sweet and Maxwell Ltd.

Obasi, N.N. (2015). The impact of transfer pricing on economic growth in Nigeria. International Journal of Academic in Business and Social Sciences, 5(12).127-138 . DOI:10.6007/IJARBSS/v5-i12/1939.

Organization of Economic Cooperation and Development (2022). Transfer pricing guidelines for multinational enterprises and tax administration .https//www.oecd.org.>tax>owed-t…

Organization of Economic Cooperation and Development (2023). Transfer pricing guidelines for multinational enterprises .https//www.oecd.org.>tax>oecd-t…

Offiong, U. B. (2013). Company taxation in Nigeria. CIBN press Ltd .

Michael, L. B. (2021). Now more than ever: Intercompany loan and financial guarantee pricing considerations. Willamette management associates, 8600, West Bryn Mawr Avenue Suite 950N.

Omolehinwa, A. (2008). Performance management. Cleo International Publishers.

Omoye, S.A., & Okafor, C. (2004). Multinational corporations transfer pricing: A conceptual approach. BIU Journal of Social Management Sciences, 1(1).68-74

Oni, I.O. (2008). Nigeria companies income tax law and practice. Spectrum books Ltd.

Seiyaibo, C.M., & Ebiaghan, O.F. (2022). An empirical analysis of adoption and execution of transfer pricing regulations in Nigerian. Journal of Academic research in economics, 14(3).562-577.

Osei, E.K. (2010). Transfer pricing in comparative perspective and the need for reforms in Ghana. Transnational law and Contemporary Problems, 19(10), 599-2010.

Oye, A. (2022). Strategic Financial Management. EI – TODA.

Oyedele, T., Anthony, C. Elizabeth, S., & Robert, S. (2013). The impacts of Nigerian pricing rules on multinational enterprises. LexisNexis, http://lexis.com/ research/ xlink? go =tax.

Pfeiffer, T., & Schiller, U., & Wagner, J. (2011). Cost-based transfer pricing. Review of Accounting Studies, 16(2), 219.

Sikka, P., & willmontt, H. (2010). The dark side of transfer pricing: Its role in tax avoidance and wealth retentiveness. Critical Perspective on Accounting, 21(4), 342-356.

Soyode, I., & Kajola, S.O. (2015). Taxation principles and practice in Nigeria. Leksilicon publishing company Ltd.

Taiwo.O. (2013). Transfer pricing - tax base erosion and profit shifting. www.pwc.com/ng.

Wang, Z., Gao, W., Mukhopadhyay, S.K (2016). Impact of taxation on international transfer pricing and offshoring decisions. Annals of Operations Research, 240(2), 683-707.

Zech, A. (2020). Corporate practice of transfer pricing and tax evasion. Emerging problems and existing solutions. International Journal of Academic Research and Reflection, 8(5).11-16. www.idpublications.org.