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An assessment of the prospects of property tax administration in Nigeria: a case study of Bauchi state board of internal revenue

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ABSTRACT

Property tax is generally a tax imposed by municipalities upon owners of real property within their jurisdiction based on the value of such property. This form of tax is reported to be one of the most stable sources of revenue to governments however most state and local governments in Nigeria are yet to tap revenue from this form of tax. Revenue generated from this tax is used to provide basic amenities to the people. The paper examined the prospects of property tax administration in Bauchi state and the factors militating against its implementation. The data for the study was collected from the Bauchi State Board of Internal Revenue and the Bauchi State Ministry of Lands and Housing using the interview method. The study revealed that some of the property taxes were administered in Bauchi state such as stamp duty. The main problems identified that militate against the successful implementation of the taxes are lack of political will and inadequate records on properties. The study concluded that property taxation is not being fully enforced in Bauchi state and very few of the taxes are charged. It was recommended that more professionals (Estate surveyors and Valuers) should be employed in Bauchi State Board of Internal Revenue and the Ministry of Lands and Housing, and laws/edicts supporting the enforcement of the tax be introduced.

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Introduction

Taxes are known to be levies paid by citizens of a community for the services provided such as town halls, markets, roads, electricity e.t.c. Taxes have existed since in the ancient communities where people pay either tribute or sweat tax to the local chiefs. Since the discovery of crude oil in the early 1960's in Nigeria, the government has depended on it as the main source of revenue thus over looking other sources such as agriculture and taxation. Of recent the Nigerian government has turned its attention towards intensive revenue generation through taxation; which in other nations proves to be a major source of revenue, and this includes property taxation which is said to be one of the most stable forms of taxation.

Property tax which is a form of tax chargeable by government was defined as "a tax imposed by municipalities upon owners of real property within their jurisdiction based on the value of such property" (Wikipedia, 2008). The Food and Agriculture Organisation (FAO) (2002) defines property tax as an annual tax imposed on real property usually by reference to an advalorem tax base (i.e., the tax is calculated according to the value of the property). Such taxes have been in existence for millennia and their benefits are well known. They are transparent, cheap to administer, efficient to collect and well understood by the taxpaying public. They are administratively feasible in virtually any circumstances and, being locationally fixed, are particularly suitable as a source of locally generated revenue for local governments. Although the very transparency of a property tax can make it unpopular, well administered property taxes have the potential to generate significant revenue and reduce opportunities for corruption. Tomori (n.d) however reports that at present, yields of urban property taxes in developing countries are extremely low. Its contribution to total public sector tax revenues is negligible, and its share of municipal revenues is typically less than 30 percent.

In Nigeria, property taxation has limited revenue potential firstly because the nation places higher priority on oil revenue and secondly because in many cases it has proven difficult to administer. To ensure effective utilisation of property tax policies in Nigeria, the government needs to adopt a vibrant legal and administrative structure that will hasten documentation of land transactions so as to assist the government in implementation towards sound revenue mobilisation for municipal development. The only fully appropriate tax base for local government would appear to be property tax. Since proper and effective administration of property taxation is perceived to contain the potentials of poverty eradication, the proper authority must take more than a casual stride to ensure its success (Aliyu, 2008).

The rationale for administering property tax is to stop the degeneration of immediate local environments. The environments where people live should be habitable, comfortable, neat, serviceable, sustainable, and conducive to their survival. It should be free from disease attracting or death causing situations. All services needed for the survival of life and properties should be made available, and such facilities provided should be made present on a regular or predictable basis. The equipment for sustaining or maintaining the facilities should also be made available. The basic services/facilities to be provided include road networks, market places, motor parks, abattoirs, street lights and drainage lines (Oyegbile, 1996).

In most urban centres of Nigeria facilities are either lacking or have deteriorated beyond repair and the governments are yet

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to correct these anomalies. Over the years, facilities in Bauchi town have degenerated to a great extent. Road networks in some parts of the town have developed potholes and in some areas access roads are lacking. Some quarters of the town lack pipe borne water, insufficient health care centres, and poor drainages among others. With a source of revenue such as this at the disposal of the state and local government a lot of these problems facing the town can be taken care of if the tax is implemented and properly administered. In this paper the prospects of administering property tax in Bauchi is examined.

2.0 Objectives and Principles of Property Taxation

Tomori (n.d) reports that the decision makers in government are often confused as to whether to raise money by sales taxes, which have a regressive effect, or by income taxes, which usually have progressive effect. Unavoidably, their judgments will be influenced by a variety of considerations, one of which is *Fairness*. One standard is taxation based on the benefit received, for example when a special district is created to supply water to users and the charge is made on the basis of the amount of water used. Oyegbile (1996) went further to say that returns received from resources tapped from earth (being free gifts of nature) should be beneficial to the public at large.

The second consideration is the *redistribution of income* in the taxing and spending policies of government. In this situation, some people pay more while others pay less than the cost of their benefits, indicating a tendency toward taxation according to ability to pay. This can help bridge the gap between the rich and the poor (Tomori, n.d).

The third consideration is *adequacy of government revenues*. Government at all levels must be supported and one test of a good tax is whether it will produce the needed money without producing intolerable burdens on particular groups of people (Tomori, n.d).

The forth factor is whether the tax can be *efficiently administered*. The costs of collection and the opportunities for evasion or unequal treatment become tests of the appropriateness of a tax (Tomori, n.d).

A final consideration is the *effect of a tax on the economy*. Decision makers at both State and Local levels may be especially interested in avoiding taxes which deter location of industry in their areas. Those at the national level may be interested in whether the tax contains a built-in flexibility so that it bears in prosperous times (Tomori, n.d).

3.0 Forms of Property – Based Taxes

(a) Transfer Taxes:

Tomori (n.d.) reported that there are three main components of transfer taxes or fees, which are based on declared property value, stamp duty, assignment fees and title registration.

(i) Stamp Duty:

Stamp duty is a levy charged on any document presented to Stamp Duty Office by individuals or corporate bodies. It is used to signify government's seal or any contractual agreement or deed and the rate chargeable varies according to Document. This is collectable by both Federal and State Governments. The Federal Board of Internal Revenue is charged with the collection of stamp duty on transactions between corporate bodies while transactions involving individuals are performed by the state.

(i) Consent Fees:

These are charges imposed on Assignor by virtue of the provision of the Land Use act of 1978 which vested land in the State Governor. The charges vary from 10% to 15% of the open market value of the property or the total consideration.

(ii) Title Registration Fees:

The Land title Registry collects a fee of between 2% to 5% of the reported price on record the new ownership title into land registry book. This tax is chargeable by both state and local governments, and also at the federal government level (Ogbuefi, 2004)

(b) Capital Gain Tax/Profit Tax:

Capital Gains Tax (CGT) is presently chargeable at 10% on Capital gains arising from disposal of assets. The Act defines chargeable assets as meaning all forms of property whether situated in Nigeria or not and including:

- (a) options, debts and incorporeal property generally;
- (b) any currency other than Nigerian currency; and
- (c) any form of property created by the person disposing of it, or otherwise coming to be owned without being acquired. In respect of assets outside Nigeria and
- (i) disposed by non resident individual or
- (ii) trustee of any trust or settlement, or
- (iii) a company whose activities are managed and controlled outside Nigeria.

CGT is chargeable on that part of the gains (if any) received or brought into Nigeria when they are dealt with "Capital loss on disposal of any asset is not deductible from capital gains on disposal of any other asset even if both are of the same type (Tomori, n.d.).

According to Ogbuefi (2004) the Capital Gains Tax Decree of 1967 is the major legislation on CGT. The law applied at first to the FCT of Lagos. By the Finance (miscellaneous) Taxation Provision Decree of 1967, the CGT Tax Decree became retrospectively applicable throughout Nigeria in 1975.

(c) Withholding Tax on Rent:

This tax is chargeable on rental income of individuals or corporate Bodies. The tax is collectable by both the Federal and State Governments. The Federal Government collects the tax due on properties rented by corporate Bodies and residents of federal Capital territory, Abuja. State Governments collect tax due on rents of individuals resident in their states. The enabling law is section 68 of Personal Income Law Decree No. 104 of 1993 as amended by Finance (Miscellaneous taxation Provision) Decree No. 39 of 1996. It states thus: "Where a rent becomes due or payable to a person, the payer of rent shall at the date when the tax is paid or credited, which ever first occurs, deduct there from tax at the rate of 10 percent of gross rent and shall forthwith pay over to the relevant tax authority, the amount so deducted" (Tomori, n.d.).

(d) Inheritance and Gift Taxes:

The amount of inheritance and gift taxes varies according to numerous factors, including the tax group to which the taxpayer belongs, the relationship to the person making the request or gift, the value of real property being inherited or received, and the exempt threshold amounts. The closer the blood relationship, the lower the tax. The higher the value of the subject property, the higher the tax (Tomori, n.d.).

(e) Betterment Tax:

A betterment levy is a tax that the state collects on a plot of land that its actions have in some way made 'better'. For instance, if building roads, metros or airports with public money leads to an appreciation in land prices in the vicinity of these projects, then landowners enjoy a windfall gain (Gupta, 2007). The charge payable according to section 4(3) of Lagos Town Planning Ordinance, Cap.95 of the laws of Federation of Nigeria, 1958, is 50% of the actual value gained. The tax is

based on the value gained by the property by determining the value of the property before and after the development works and charging 50% of the enhanced value (Ogbuefi, 2004).

(f) Planning Rates:

According to Ogbuefi (2004), it's a type of land taxation imposed on developers of landed property by various town planning authorities in their respective planning areas. It is usually collected from applicants intending to develop land or layout parcels of land, or change uses of existing buildings to new ones (e.g. a residential building being converted to commercial use).

(g) Tenement Rates:

It is a tax charge on a real property and is payable at local level for raising the required revenue to carry out specific developmental projects. The tax is aimed at promoting the total well-being of inhabitants of the local community (Oyegbile, 1996). Franzsen (2002) also reports that property tax is an annual tax on the ownership (or occupation) of immovable property (i.e. land and/or buildings) and serves as an important source of local government revenue in many countries in the world.

(h) Land Use Charge:

Land Use Charge is payable annually on the value of all real properties situated in Lagos (Lagos state is presently the only state administering this tax in Nigeria). The Law makes each local government the collecting authority within its territory. However, section 1(3) provides that each local government may by written agreement delegate the collection of rates and assessment of privately owned houses or tenement to the State (Sanni, 2010). As reported by Olawande (2010) the payment of the Land Use Charge (which is to be based on the annual capital sum) is to be paid by the owner.

In Nigeria, like in most nations under the Common Wealth of Nations, there exists in the statute books of legislations the following property (land) taxation: Transfer Taxes, Capital Gains Tax, Inheritance and Gift Taxes and Withholding Taxes, Property Rating, Development Tax, Land Use Charge, Betterment Tax and Planning Charges (Ogbuefi, 2004; and Tomori, n.d). Sanni (2010) however identified Tenement rate Land Rates, Neighborhood Improvement Charge and Land Use Charge as the land based taxes in Nigeria.

Ogbuefi (2004) stated that while some of these taxes are imposed at the state levels, most are imposed at the local government or municipal levels. In practice, some of these taxes appear to overlap and at times results in double or multiple taxation.

4.0 Uses of Property Taxes

The FAO (2002) outlined the uses of property taxation as:

• A source of local revenues: Throughout the world property taxes are commonly employed as the main source of locally generated revenue for the good reason that there is no other major source of taxation revenue that is exactly geographically defined. It is possible to use local income taxes and/or local sales taxes for generating local government revenue but both have difficult administrative problems. Local revenue may be generated from other sources, particularly rents from local government owned properties. In some cases, local income taxes are an important source of revenue. In many cases, however, property tax is the main source of revenue (and even when local income taxes exist, it may be easier for a local government to modify the property tax rate than to adjust the income tax rate).

- As a primary source of revenue, property tax plays an important role in decentralisation and the autonomy of local government. Full decentralisation of government incorporates the power to raise revenue independently in addition to powers allowing local governments to use the funds as they see fit (in accordance with the limits of their legal powers). In practice, local government autonomy is always limited. The duties of local governments are almost invariably such that it is impossible to discharge them without central government grants which detract to a greater or lesser extent from their independence. Increasing independent powers of raising revenues through property taxes thus becomes important.
- Support for other functions: Valuation lists' compiled for local government may be used by other bodies, particularly those that can be termed "single function authorities" such as Water Boards. Water charges are commonly based on the assessed value in the valuation lists. Such procedures are very cost effective and may have a reasonable correlation with water usage in many circumstances (although cases do exist where commercial and industrial properties have low water consumption but have relatively high values). Drainage boards can also be funded by charges related to the valuation list, which has advantages over charges related only to the surface area of the property.
- Valuation lists may be used in transitional economies for other purposes such as to establish lease rates on government owned land. Where land markets are not yet developed, mass valuation results can also be used as a basis for establishing market values for properties. In addition, local bodies may have to take over functions previously controlled and administered centrally (such functions include local drainage boards, common grazing facilities, and consolidation bodies). They are not able to rely on central government funding and have to raise their own revenue. Depending on the tax rates and cost of collection, valuation lists may provide a fair and cost effective basis for doing so.

5.0 Challenges in Property Taxation

In the words of Nuhu (2008), no perfect policy exists due to challenges in human endeavours. Thus, the following problems should be avoided and if possible eradicated to ensure a good tax system that ensures the attainment of public goods.

- Assessment and valuation inconsistencies: determining the appropriate rate of tax most times requires expert opinion and usually this is not available. Very skilled personnel are needed to carry out this activity. This greatly affects the accuracy of collected data. According to Olusegun (2003), lack of skilled manpower leads to under-valuation thus reducing government's revenue, while over-assessment results into disputes which may delay payment of property taxes.
- Illiteracy and ignorance: this has over time been seen as a major hindrance to the collection of property taxes. To a great extent, affected individuals either do not see a need/importance of it or they do not know anything about it.
- Legal documents: the statutory nature of property taxation makes it necessary to be provided with appropriate legal documents or aiding laws to back up its activities. Most times these documents either are not in existence in the region or they fall short of some provisions. To ensure successful property taxation in the state, tax laws need to be either created or modified to fit present day activities.
- Attitude of the tax payer and taxing authority: no one wants to pay tax to the government on the protest that they do not know what the tax is used for. However they still need public facilities

to be supplied to them. Tax needs to be taken more seriously in terms of accountability and transparency at both collection point and how it is used.

- Defective policies: most times especially in developing countries, governments operate on policies inherited from the western world which to a great extent are not workable in these environments. All proposed policies should go through a thorough scanning to detect loopholes. Most importantly the stakeholders should be carried along from the formation stage up to the implementation level.
- Another challenge identified is the absence of appropriate appeal machinery which hinders the performance of any tax policy. Olusegun (2003) also stated that this often denies the tax payers of their right to seek redress. Where the tribunal is set-up, they have been found to be ineffective.
- Political Will: Despite the potential of property tax as the most lucrative local tax for urban local government, it is extremely prone to political interference and corruption. The reason is that, the tax would tend to fall most heavily on wealthier property owners (given progressive rates) who normally are more politically active. Therefore, strong political commitment and capacity building for key political functionary are essential if the property tax is going to have public credibility (Tomori,n.d).

Prospects of Property Taxation

The choice for a good tax for local governments is limited compared to both the choices of federal and even state governments in Nigeria. This is because the higher levels of government are larger, cover jurisdictions having larger populations and have a greater capacity for tax administration if effectively managed. A number of conditions should be met for a tax to be a good tax that meets the challenges of the 21st century (Nuhu, 2008).

- The revenue of a good tax at all levels should increase over time in order to match the natural growth in costs and to fulfil the growing needs of public services.
- Taxes should not be too sensitive to cyclical fluctuations.
- A good local/state tax should be distributed relatively equally among local governments. Equalisation of the revenue between local governments may be required to enhance differences in access to tax base.
- There should be a close relationship between the citizens who pay and the citizens who benefit.
- The tax administration should be inexpensive to administer, i.e. the tax yield should be much higher than the administrative costs. A realistic target is that the cost of administering a property tax should be significantly less than five percent of the revenue generated. Bahl and Martinez-Vazquez (2006) reports that administrative cost is arguably the biggest constraint to the growth of the property tax. It is just too expensive, and too hard to properly levy and enforce. So, countries are turning increasingly to "shortcuts" to address this problem. The introduction of the notional valuation based on location and area, self-assessment, indexing between valuation periods, and the exemption of the hard to tax properties are all examples of such shortcuts.

6.0 Property Tax Administration in Nigeria

Nigeria tax administration was moved after the British model of tax administration. Tax administration involves interpretation and application of tax law into practice. This is the function of tax officials and tax consultants who assist tax payers in computing their taxes. The organs of government responsible for tax administration are called Federal Board of

Internal Revenue (FBIR), State Board of Internal Revenue (SBIR) and Joint Tax Board (JTB). They all have operational arms saddled with the day to day operation of tax administration (Idibe, 2008). Tax administration basically involves the following activities:

- Making of returns or information gathering
- Assessment,
- Objection and appeals
- Collection and recovery of taxes

Ajayi (2008) reports that the major form of property taxation that has been in the country is the property rate or community known as tenement rates and this is specified in the chapters 15 and 16 of the Laws of the Federation of Nigeria and Lagos 1968 in which attempt was made to introduce modern scientific and comprehensive rating in Nigeria. While the application of chapter 15 was limited to Lagos, chapter 16 applied to the method to be used in assessing tenement belonging to public utilities namely NEPA, NPA, and NRC, thus spread the rating of these later types of properties to the whole country. Gradually, rating under the two laws spread to some of the big towns, like Kaduna, Kano, Enugu and Warri.

He went further to state that in practice almost all the states of the federation are operating one form of property tax ranging from capital transfer tax, stamp duty and withholding tax, while there is selection in the implementation of tenement rates. However, states such as Lagos, Oyo, Kaduna, Niger, Ogun, and Plateau have local governments that have implemented tenement rate with a supporting edict. Most of the southern states had their own separate laws or property rating as provided in the Nigerian constitution as at 1998.

Similarly, Olowu (2002) reports that a few local governments especially all of Lagos state and some others in the South-West, successfully introduced property taxes with strong support from the state government and in most cases, the World Bank. For instance, property rate was only 0.3% in Port Harcourt (a large oil-city) but 44% in Ikeja (Lagos) in 1989, rising to 58.3% of the city's revenue in 1994 in the latter city. The reason as reported by the author was that Lagos city was in a state that had a strong pro-property tax policy. Also the property rates tended to boost overall municipal finances.

In another report by Nwachukwu and Emoh (2010), revenue from property rating in Owerri municipal council tends to be a major source of revenue compared to other sources of local government finance. The revenue from property rating was said to account for about 15% of the total internal finance of the local government, and the revenue thus realised was used to defray the cost of projects in the council.

Babatunde and Sunday (2008) in a study conducted in Minna, Niger state observed that the only land based tax levied in the state are stamp duty and business premises registration. They also reported that the problems of property tax in Minna are lack of political will on the part of government to support the authorities for assessment and collection of property taxes, the high level of poverty in the metropolis hinders the implementation of property taxation and lack of funds/logistics for the collection of the taxes by the State Inland Revenue Office. In another report by Babatunde (2010) it was revealed that among the two property based taxes applicable in the state during the period under study, only withholding tax generated 0.07% of the internally generated revenue while nothing was received for stamp duty. He attributed this to the government's

inability to realise property based taxes as a reliable and dependable source of revenue.

7.0 Research Method and the Study Area

The respondents for the study were the Bauchi State Board of Internal Revenue and the Bauchi State Ministry of Lands and Housing; these bodies were chosen through convenience sampling. The data collected for the study were gathered using interview, principal officers in the two government bodies were interviewed to collect data relevant for the study.

8.0 Applicability issues in Bauchi State

Property taxation is recognised by the Bauchi State Board of Internal Revenue via the supporting laws such as the Personal Income Tax Act and the Taxes and Levies (approved list for collection) Decree No. 21 of 1998 as gathered from the board, however the taxes are not being fully enforced.

The discussions revealed that few individuals and corporate bodies pay property taxes when they intend to perfect the titles of their properties, such taxes as reported is the Capital Gains Tax. Also at the time of assignment, devolution and mortgage, the party disposing off property pays stamp duty before perfecting the transaction, and any other similar charges.

In the State Ministry of Lands and Housing it was further gathered that in the late 1980's a proposal was made for the government by a firm of Estate Surveyors and Valuers for the introduction of tenement rating. Recently in 2011, efforts had again been made by the government but these have both proved abortive due to a number of factors such as lack of political will on the part of the government. The study reveals that tenement rating has at no time in the history of Bauchi State been administered. It was gathered however that stamp duty, consent fees, planning rates and registration fees are charged in the state. The taxes charged are shown in the following table:

Table 1. Types of Property Taxes Administered in Bauchi

S/N	Types of Property Taxes	Administered
1	Stamp Duty	Yes
2	Consent Fees	Yes
3	Title Registration Fees	Yes
4	Capital Gains Tax	Yes
5	Withholding Tax	No
6	Inheritance & Gift Tax	No
7	Betterment Tax	No
8	Planning Rates	Yes
9	Tenement Rates	No
10	Land Use Charge	No

Field survey, 2012

Among the problems reported by the two bodies were lack of political will, inadequate records of properties/identification of taxable properties, unpopularity of the tax, inadequacy /lack of skilled personnel and corrupt practices of officials. One major observation made by both bodies was that most properties that are taxable are owned by the ruling class which further militates against the implementation and realisation of such taxes.

9.0 Concluding remarks

Property taxation has been reported and proven to be the most stable source of revenue to all tiers of government; this has been attributed to the permanent and fixed nature of land and landed property. Olusegun (2003) stated that the ability of land to appreciate in value makes it a most reliable and dependable source of income to individuals and government. Several governments, the world over, have been reported to have derived numerous benefits from this tax. Aliyu (2008) reports that Mongolia, a third world country in Asia depends on property tax as one of its most vibrant sources of revenue and as such

maintains a sound property tax administration structure. However, very few states in Nigeria were found to have exploited the tax as a source of internally generated revenue.

The study undertaken in Bauchi has evidenced that there exists very little proof of the administration most of these taxes, and quite a few problems were also discovered mainly the lack of will on the part of government.

Property taxes especially the tenement rates, which are mainly charged at the local government level provides the platform for the provision of the much needed infrastructure by the people such as roads, hospitals, water and electricity supply, drainages, abattoirs e.t.c. although attempts were reported to have been made towards introducing the tenement rates in Bauchi, these were said to be futile. This tax and similar ones if enforced and judiciously implemented will go a long way in providing the two tiers of government in Bauchi, and Nigeria at large, with funds needed for the betterment of its people and sustainable development.

10.0 Recommendations

- A comprehensive study should be made, by the Bauchi State Government and its relevant authority, in the states reported to having administered one form of property tax or another to see how these taxes were brought into law, how they are administered, the revenue/ benefits derived and what challenges are faced.
- More professional staff both estate surveyors and valuers, and tax administrators should be employed by the government in both the Ministry of Lands and Housing and Bauchi State Board of Internal Revenue as this will bring in people with professional knowledge and skills with regards to this tax, who will bring about the realisation of these taxes in the state.
- Detailed and up-to-date records should be kept of properties in the state as this will enable the government in assessing taxable properties when finally the collection of such taxes is fully enforced. This is necessary if a successful property tax administration is to be achieved. According to Aliyu (2008) the success of determining property tax largely depends on proper land registration and adequate documentation. These are however the major low-points hindering effective land management in Nigeria.
- Laws/edicts should be introduced which will back the introduction and administration of these taxes in Bauchi State. It was reported that in some states like Niger and Lagos laws/edicts were introduced to enforce the collection of these taxes like the Property and Tenement Rates Edict CAP. 104 Laws of Niger state 1988 and the Tenement Rate Law CAP 186 of Lagos state 1994 (Usman, 2008).
- Appeal machinery also needs to be put in place to enforce and prosecute defaulters i.e. both the tax payers and officials alike when the tax is finally being implemented.

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