JOSAS
ISSN: 2682-6224
Volume 5 No.1 (2021) 189 –197
www.wdujournals.com

RELEVANCE OF TAX AUDIT AND TAX INVESTIGATION IN NIGERIA

DOSUMU, CHRIS MICHAEL
Department of Accounting
Faculty of Management Sciences
University of Benin, Benin City
Dosumu_m@yahoo.com@yahoo.com

ABSTRACT: ***Compliance attitude of tax payers in Nigeria is not encouraging the relevant tax authorities. The reasons for non-compliance usually premised on tax injustice in Nigeria. An obligation to pay taxes is a constitutional issue and it is without a return for benefit or direct returns from the government. This study aimed at investigating the relevant of tax audit and tax investigation in revenue generation in Nigeria. Contents analysis was employed in discussion and concluding this study. The place of tax audit and tax investigation in tax revenue generation in Nigeria cannot be underestimated. The skills involve is a must learnt for the relevant staff of tax authorities.*** ***Keywords: Taxation, Tax Audit, Tax Investigation, Back Duty, Tax Revenue***

INTRODUCTION

No taxpayer is ready to open his/her books for examination by tax officers. Not minding the concept of quid pro quo (something for something), taxpayers still have to declare their tax affairs in line with the available tax laws. The audit is said to be an evaluation of a person, organization, system, process, enterprise, project, or product. Audits are prepared to ascertain the validity and reliability of information; also to provide an assessment of a system's internal control. The goal of an audit is to express an opinion of the person/organization/system etc. in question, under evaluation based on work done on a test basis (Zysman, 2004). An audit is a systematic approach that follows a structured, documented plan called an audit plan. In this, accounting records are examined by the auditors who use a variety of generally accepted techniques.

Financial audits are the thorough review of a company's financial records conducted by external auditors to verify that their financial statements are accurate and reliable. Audits are also customarily conducted to assess the effectiveness of internal controls or compliance with regulations (Bradford, 2013). According to Oremade (1988), Investigation is an inquiry commissioned by management for a specific purpose. It is an act of examining, searching, and inquiring into a matter with adequate care and accuracy, usually undertaken to obtain information of a particular or special nature. An investigating accountant may or may not be the auditor of the entity but it should be noted that any accountant/auditor undertaking an investigation assignment is seen as an expert and he must therefore exercise great care and skill in working towards achieving the defined purpose/objectives laid down in the client's instructions. It should be noted that investigation may start as an internal matter that could eventually end up in the law court. Thus, great care and proper documentation are very important.

This can no longer be termed ordinary Investigation but Forensic Investigation. In the word of Okonkwo (2014), a tax audit is an independent examination of accounts, tax returns, tax payments, and other records of a taxpayer to confirm compliance with tax laws, rules and regulations and accuracy and correctness of tax paid and adhering to generally relevant accounting principles and standards. While tax investigation and tax audit are often used interchangeably, however, in practice, tax investigation is a more detailed and painstaking examination of the taxpayer's records. It is usually triggered by suspicion of fraud, evasion, and related offenses (Okonkwo, 2014). Audit, investigation, tax audit, and tax investigation, will no doubt utilize "examination" as a major tool, however, they are not of the same scope.

Research Questions

i. What is the effect of desk audit on tax evasion?
ii. How does field audit affect tax evasion?
iii. What is the relevance of a back duty audit on tax evasion?
iv. How does tax investigation have any impact on tax evasion?

Objectives of the Study

The broad objective of this study was to assess the relevance of tax audit and investigation in increasing tax revenue generation in Nigeria. Specifically, the study was conducted to:

i. determine the effectiveness of desk audit on tax evasion;
ii. investigate the impact of field audit on tax evasion;
iii. evaluate the effect of back duty audit on tax evasion;
iv. ascertain the effect of tax investigation on tax evasion

Significance of the Study

By examining the relevance of tax audit and investigation in revenue generation in Nigeria, this study is expected to:

i. Reveal the differences between tax audit and tax investigation;
ii. Serve as a point of reference to tax professionals, (tax practitioners and tax administrators) accountants, auditors, forensic accounting practitioners, lecturers of institutions of higher learning;
iii. Suggest a better way of conducting tax audit to improve tax revenue generation in Nigeria; and
iv. Help to close the knowledge gap in improving the revenue generation of the Nigerian government.

Statement of Hypothesis

i. Desk audit has no significant relationship with tax evasion
ii. Field audit has no significant relationship with tax evasion
iii. Back duty audit has no significant relationship with tax evasion
iv. Tax investigation has no significant relationship with tax evasion

METHODOLOGY

This paper is put together, adopting contents analysis methodology. The source of data was secondary, where available literature on accounting, taxation, investigation, and audit was reviewed to arrive at the informed conclusion to increase the frontiers of knowledge in this important discourse.

LITERATURE REVIEW

Conceptual Review

Tax Audit is an inspection of a taxpayer's business records and financial affairs to ensure that is the amount of tax reported and paid is per tax laws and regulations. This is an additional audit to the statutory audit and is carried out by tax officials from a relevant tax authority. This is not the same as the statutory audit concerning the requirement of the Company and Allied Matter Act (CAMA) 1990 (as amended). It should also be noted that the criteria for selecting cases for tax audit include persistent losses, nil tax returns, refund cases, no submission of returns, low tax yield, suspicion of tax avoidance, fraud or evasion, transfer mispricing, thin capitalization, and most often when the taxpayers request for tax clearance certificate among others (Bitrus, 2014, Okonkwo 2014, Oyedokun 2014) . 4 Tax audit exercise as concluded by Okonkwo (2014) is a very important compliance tool in most tax jurisdictions all over the world. It has contributed immensely in creating awareness amongst stakeholders, strengthening the self-assessment tax system, bringing more taxpayers into the tax net, increased the generation of tax revenue, and checking various abuses in the tax system. The purpose of a tax audit is to determine a true and fair view of the business records for tax purposes.

The tax audit officer is responsible to ensure that the reported amount is correct and that the amount of tax paid is correct under tax laws and regulations. The other purpose of tax audit is to achieve voluntary compliance with the tax laws and regulations and to ensure that a higher tax compliance rate is achieved under the Self-Assessment System (eeVonn, 2009). The objectives of tax audit according to Bitrus (2014) are to enable the tax auditors to determine whether or not:

i. Adequate accounting books and records exist to determine the taxable profits or loss of the taxpayer and consequently the tax payable;

ii. The tax computations submitted to the authority by the taxpayer agree with the underlying records; iii. All applicable tax legislation have been complied with;

iv. Provision of an avenue to educate taxpayers on various provisions of the tax laws;

v. Discourage tax evasion;

vi. Detect and correct accounting and/or arithmetic errors in tax returns;

vii. Provide feedback to the (tax administrators) on various provisions of the law and recommend possible changes;

viii. Identify cases involving tax fraud and recommend them for investigation;

ix. Forestall a taxable person’s failure to render tax returns; and

x. Forestall a taxable person rendering incomplete or inaccurate returns in support of the self-assessment scheme. Okonkwo (2014) opined that the scope and type of audit steps to be executed would depend on the type of audit to be performed, the underlying trigger, and the objectives to be achieved. He further stated that Federal Inland Revenue Service (FIRS) is involved in the following types of audit: Registration Audit; Advisory Audits; and Record-Keeping 5 Bassey (2013), however, classified tax audit into two: Desk Audit; and Field Audit Desk Audit is said to be the tax audit or examination which takes place in the tax office where books and financial records of the taxpayers are examined.

While Field audit on the other hand is a tax audit conducted in the taxpayers' office. In the field tax office, tax auditors have the opportunity to examine the relevant documents, accounts, and other necessary schedules in taxpayers' business premises and this affords the auditors opportunity to obtain information and explanations directly from the staff of the company (Bassey, 2013). Okonkwo (2014) identified the followings as some of the challenges facing tax audit exercise among others viz:

i. Poor/lack of record keeping by Taxpayers;
ii. Lack of co-operation by taxpayers and Agents;
iii. Partial submission of books and records for inspection;
iv. Deliberate introduction of delays;
v. Aggression;
vi. Reconciliation meetings not taken seriously;
vii. Lack of audit skills by some Tax Auditors leading to prolonged reconciliation meetings;
viii. Influence peddling; and
ix. Inducement of tax auditors.

Tax Investigation is the act or process of investigating or the condition of being investigated. It is a searching inquiry for ascertaining facts; detailed or careful examination. The investigation is a vital part of the forensic accounting and auditing process but only applied when the event or transaction is beclouded. It is carried out when lapse has been established to ascertain who is responsible, the reason for the action including the extent of the damage if any. It could be referred to as a detailed verification and clarification of doubt about a transaction or event (Oyedokun, 2013). Tax investigation is a more detailed and painstaking examination of the taxpayer's records. It is usually triggered by suspicion of fraud, evasion, and related offenses.

It involves the detailed 6 examinations of taxpayers' financial statements and other books of accounts to determine whether the taxpayers have complied with the provisions of the relevant tax laws in addition to the applicable accounting principles and standards (Okonkwo 2014, Bassey 2013). According to Oyedokun (2015), a tax fraud investigation tries to determine whether tax fraud has taken place and tries to detect evidence of fraud that has occurred. Tax fraud is considered to involve misrepresentation with intent to deceive. If a company makes specific promises about a product, for example, to sell that product, they may be guilty of fraud if they are aware that the product does not work as advertised. So also tax fraud is very real and costly. The tax investigation process is activated when the tax authorities suspect with concrete evidence that tax fraud had been committed by the taxpayer. Bassey (2013) opined that a tax investigation "is an inquiry to ascertain the level of fraud or willful default or neglect perpetrated by the taxpayer and to obtain evidence for possible prosecution of the culprit". Tax investigators have greater power and authority than tax auditors as they have the power to visit and take possession of relevant books of accounts without notice. They may also seal up the taxpayer's premises and conduct in-depth examination as they may deem fit (Bassey, 2013).

Legal Basis of Tax Audit and Investigation Unlike the statutory audit that derived its power from the CAMA 1990 (as amended), the legal framework for tax audit and investigation is about various tax laws. The tax laws confer power on the tax authorities to carry out tax audits and investigations. Some of the provisions could be inferred. In the word of Okonkwo (2014), there was no specific provision in the Companies Income Tax Act

(CITA) for tax audit before the introduction of the self-assessment scheme. Subsection 4 of Section 43 was, however, introduced to empower FIRS to carry out tax audits. "Nothing in the foregoing provisions of this Section or any other provisions of the Act shall be construed as precluding the Revenue Service from verifying by tax audit any matter relating to entries in any books, documents, accounts or returns as the Service may from time to time specify in any guideline." An integral part of the self-assessment scheme is the need to periodically verify the tax returns filed by taxpayers through tax audit procedures. The tax audit exercise essentially is meant to enable the revenue authority to further satisfy itself that audited financial statements and the related tax computations submitted by the taxpayer agree with the underlying records. 7 Examples of specific legal provisions according to Okonkwo (2014) and Bassey (2013) include:

i) FIRS (Establishment) Act, 2007- S.8, S. 23, S 29 & S.35;
ii) Companies Income Tax Act Cap. C21, LFN 2004-S.60, S.66, S. 58 (Section 17, of the Companies Income Tax (Amendment) Act 2007;
iii) Personal Income Tax Act- S.46, S.47, S. 55, S.103;
iv) Petroleum Profit Tax Act Cap. P13, LFN 2004 S3(1), S.36;
v) Value Added Tax Cap. VI LFN 2004. S. 39;
vi) Stamp Duties Act Cap. S8, 2004 S 24; and
vii) Education Tax Act Cap E4, LFN 2004 S. 2(1) (b).

Back Duty Audit and Investigation According to Abdulrazaq (2013), "Back duty'' is a colloquial phrase that is not known to a statue. It covers the process of tax inquiries and statutory penalties. The practice is to require the taxpayer to furnish the tax inspectors with all the necessary information and explanations as may be required by them. A taxpayer must cooperate with the tax auditors as refusal may sometimes be interpreted as working against the law. The back duty assessment may be carried out for at most six years before the year when the tax audit is carried out. Experience has shown in practice that after the audit, no preliminary reconciliation is held with the taxpayers before they leave the premises. This often causes a lot of problems when the report of the tax audit is subsequently released as they are sometimes full of errors, mistakes, double counting, etc. According to Onoja and Iwarere (2015), a Back duty audit may be instituted when the following occurs: 1. Failure to disclose or include in full any income or earning in the return made available to the tax office. 2. Doubtful claim of capital allowance in respect of the current or previous year. 3. Reduction in the profit in the returns files in tax office 4. Where the tax charged or assessed is less than what it ought to be. 8 The institution of back duty audit on a taxpayer can either be a routine or as a result of the above reason. It is an exercise by the relevant tax authority to ensure that the amount due to the government is duly collected (Ariwodola, 2000).

Theoretical Review

Classical Theory of Tax Compliance This study is premised on the Classical Theory of Tax Compliance. This theory of tax compliance is also called the A-S model based on the deterrence theory. The theory states that the taxpayer is assumed to maximize the expected utilities of the tax evasion gamble, balancing the benefits of successful tax cheating against the risky prospect of being caught and punished by tax authorities (Sandmo, 2005). Alabede, Zainol-Affirm, and Idris, (2011) stated that the deterrence theory depends largely on tax audit and penalty. They further stressed that this theory of tax compliance makes taxpayers pay tax as a result of fear and sanctions. Trivedi and Shehata (2005) say that the deterrent theories suggest that taxpayers "play the audit lottery", that is they make calculations of the economic consequences of the different compliant alternative. Verboon and Dijke (2007) stated that the essence of the deterrence model of tax compliance is to chiefly examine the interaction between probabilities of detection and sanction severity that should affect non-compliance.

Brook (2001) says that classical theory is only based on economic analysis but social and psychological variables are equally important in understanding the issue of non-compliance to tax. Some of the important studies about the effects of deterrence on compliance include Hasseldine (2000), Torgler (2002), and Kirchler (2007). Elffers (2000) and Braithwaith (2003) argued that if deterrence (that is the probability of detection and sanction severity) would be the most significant variable in explaining compliance, rational individuals in most societies of the world would be non-compliant because the levels of deterrence are low.

Empirical Review

May scholars had conducted empirical studies on the need for taxation and how the proceeds would benefit the Nation at large, others premised theirs on tax compliance culture, tax audit, tax avoidance, and revenue generation in the country. These are reviewed below: 9 A study conducted in Nigeria by Samuel and Tyokoso (2014) on an empirical investigation of taxation and revenue generation in Nigeria; found that both tax avoidance and tax evasion have a significant effect on revenue generation in Nigeria. Regression analysis was used to analyze both primary and secondary data generated. The scope of this study was from 2001 to 2010, current issues left out. Similarly, Stanley (2014) conducted a study titled Effective Tax Administration and Institutionalization of Accounting Systems in Small and Medium Scale Enterprises; Evidence from Nigeria". He used the econometric e-view to analyze the data obtained and he found out that lack of effective tax administration undermines the collection of profit tax from the operators of those sectors. His study also revealed that several variables mitigate against the establishment of an effective tax administration in Nigeria.

The study concentrated more on the SMS than the Nigerian economy as a whole. Theoretical and empirical gaps also evident. In another study conducted by Machira and Irura (2009) on taxation and SMS's sector growth in Nigeria, they found that there is a significant correlation between taxation and SMS's sector growth. Data used for this study was collected using the questionnaire, interview, and observation. It was analyzed using a binary logistic regression empirical model. This study though concentrated only on the growth of SMEs in Nigeria. Edame and Okoi (2014) in their research effort examined the impact of taxation on investment and economic development in Nigeria. They used the ordinary least square (OLS) method to analyze the secondary data collected and it was revealed that taxation is negatively related to the level of investment and the output of goods and services (GDP) and it is positively related to government expenditure in Nigeria. Meanwhile, Usman and Bilyaminu (2013) examined taxation and societal development in Nigeria. Secondary data was used and the study found that more tax compliance is significantly associated with the adequate campaign and judicious utilization of tax funds. Matthew (2014) analyzed the impact of tax revenue on the Nigerian economy using the Federal Board of Inland Revenue as a case study.

He used chi-square and found that tax revenue significantly impacts Federal government budget implementation. He also concluded that tax policies significantly affect revenue generation. Chigbu, Akujuobi, and Ebimobowei (2011) conducted an empirical study on the casualty between economic growth and taxation in Nigeria 10 in 2014. They used econometrics models such as Augmented Dickey-Fuller and Johnsen Cointegration to analyze their data and they found out that taxation is a very important tool for the fiscal policy that can stimulate the economic growth of any country. Adereti, Adesina, and Sanni (2011) also studied the effect of value-added tax on Nigerian economic growth from 1994 to 2008. Secondary data were collected and analyzed using multiple regression. The study revealed a positive correlation between VAT and GDP. James and Moses (2012) in the United Kingdom examined the impact of tax administration on revenue generation in a developing economy with Nigeria as a case study. Primary data were collected via questionnaires and analyzed using simple percentages. They found that inadequate training of personnel, lack of modern information communication tools are some of the challenges facing effective administration of tax in Nigeria. Zakariya and Muzainah in 2015 looked into the problems and prospects of tax administration in Nigeria using Gombe as a case study. Secondary data and field surveys were used by the researchers. They found poor working conditions, insufficient public awareness, and poor remuneration among other things as problems facing Gombe state internal revenue service. Akintoye and Tashie (2013) examined the effect of Tax Compliance on economic growth and development in Nigeria. Tax compliance is proxied on willingness to pay tax. A comparative analysis of willingness to pay taxes in two (2) large states of Nigeria, Lagos and Oyo were presented. Primary data was collected through the administration of questionnaires to self-employed in each senatorial district in Oyo and Lagos states. Frequencies and percentages were used to measure the demographic variables of respondents while the chi-square technique was used to measure the difference between the willingness of citizens to pay tax and that of the willingness of citizens to pay tax in Lagos state. It was discovered that many Nigerians are complying with tax payment and the willingness to pay tax in Lagos is significantly higher than that of Oyo. It was suggested that government should pay attention to the factors that influence willingness to pay tax and improve on them. The trust of the study conducted by Abiola and Asiweh (2012) was the Nigerian Tax Administration and its capacity to reduce tax evasion and generate revenue for the development desire of the populace. The study made use of 121 online questionnaires containing 25 relevant questions. Descriptive statistics were used to analyze 93 usable responses.

The study found among other things that increase tax revenue is a function of effective enforcement strategy 11 which is the pure responsibility of tax administration. The study found out that Nigeria lacks enforcement machinery which includes adequate manpower, computers an effective postal and communication system. Ogbonna and Ebimobowei (2012) examined the impact of tax reforms on the economic growth of Nigeria from 1994 to 2009. Relevant secondary data were collected from the Central Bank of Nigeria (CBN) Statistical Bulletin, Federal Inland Revenue Service (FIRS), Office of Accountant General of the Federalism, and other relevant government agencies. The data collected were analyzed using relevant descriptive statistics and Econometric Models as a White test, Ramsey Resey test, Breusch Godfrey test, Jacque Berra test, Augment Dickey Fully test Johanson test, and Granger Causality test. The results from the various tests show that tax reforms are positively and significantly related to economic growth. It was recommended that sustainable economic growth cannot be attained except obsolete tax laws and rates are reviewed in line with macroeconomic objectives. Finally, Okafor (2012) explored the impact of income tax revenue on the economic growth of Nigeria as provided by the Gross Domestic Product (GDP). The ordinary least squares regression analysis was adopted to explore the relationship between the GDP (the dependent variable) and a set of federal income tax revenue heads over the period 1981-2007. A simple hypothesis was formulated in the null form which states that there is no significant relationship between federally collected tax revenue and GDP in Nigeria. The regression result indicated a very positive and significant relationship. Suggestions were made as to strategies to be adopted to improve the system of tax administration to increase tax revenue generation.

DISCUSSION

The tax system in sub-Saharan Africa with special emphasis on Nigeria was the interest of Akintoye and Dada (2013). Various causes of tax evasion and tax avoidance were considered with a view to finding solutions to evasion looking at the enormous importance of taxation in meaningful economic growth and development in all developing economies generally. In addition, a feeling of injustice in the application of taxation proceeds in terms of benefits to the public is another grouse against different tiers of government. The study recommended that policies should be progressive rather than regressive to make the rich bear more burden than the poor to the proportion of income. 12 Tax audits and tax investigations are considered to be complex and tasking processes and Bitrus (2014) asserts that tax authorities and their consultants must understand the 'rules of the game'. Taxpayers and their consultants, in the same manner, should understand their civic responsibility under the law and the need to declare their income appropriately. They should be ready for further inquiries by the taxman should there be a reasonable doubt as to the affairs of the taxpayers' vis-a-vis their tax returns.

The audit exercise aims at expressing an opinion as to the true and fair view of the financial statement examined. The audit is statutorily required while the investigation process would only be activated when the situation is beclouded. The investigation is tailored towards a particular cause of an event which could be financial or non-financial. There are both local and international standards on auditing; there is no convergence of standards on an investigation. In the same vein, tax audit is considered an additional statutory audit (Bitrus, 2014), though it is being carried out by the tax officials from relevant authorities and not from a firm of Chartered Accountants.

SUMMARY AND CONCLUSION

From the forging, it can be established that a tax investigation is an in-depth investigation processed by a tax authority to recover tax undercharged in previous years of assessment. It is carried out when a taxpayer is suspected of tax evasion, or just by random sampling (HMRC Codes of Practice). An investigation does not start without a prediction of wrongdoing. eeVonn (2009) in writework.com asserted that tax investigation must be separate from Tax Audit. Tax Investigation is an inspection of the taxpayer's business or individual books, records, or documents to ensure the taxpayer had reported the correct amount of income and tax that need to be paid under tax laws and provisions. Tax investigation will be carried on by surprise which was also known as the back duty case. Tax audit and tax investigation, in turn, serves a major purpose in improving the tax-generating effort of the government in Nigeria and the supposed revenue that would have been kept by the respective taxpayer would now get to the government coffer through this tax audit and tax investigation exercise. It is hereby recommended that all would be tax auditor and tax investigators should be well equipped with tax laws, tax accounting and techniques in audit and investigation which will aid 13 them in obtaining admissible evidence suitable raising additional tax liability. We also found the recommendation of Okonkwo (2014) relevant that "the tax authorities should raise to the occasion by building capacity of the tax inspectors [tax auditors] to tackle rising cases of tax avoidance and tax evasion. The low level of tax to the GDP of about 7% in Nigeria should give all tax administrators a reason to rejig their strategies".

CONTRIBUTION TO KNOWLEDGE

Many researchers and scholars have researched and written articles on the differences and similarities in tax audit and tax investigation, audit and investigation (Oremade, 1988; Adeniji, 2004; Okonkwo, 2014; Bassey, 2013; Abdulrazaq, 2013, 2014, 2015; Britus, 2013; Oyedokun, 2013, 2014, 2015). Many of these articles and researches were either on tax audit and investigation or differences between audit, investigation, and forensic accounting. This study closes the gap by connecting the skills in conventional audit, and investigation with a tax audit and tax investigation. The paper also contributes some fresh literature on the overview of tax audit and investigation. 14

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