

Appraisal of the Implications of the Administration and Collection of VAT by States Governments on the Economy of Nigeria*

Abstract

The taxing system of a State has a direct impact on her economy. On the other hand economic activities are indices for national development and growth. Taxation therefore is a means by which a state guarantees her sustainable revenue for sustainable development. The aim of this paper is to appraise the implications of administration and collection of Value Added Tax (VAT) by the States governments of Nigeria on the national economy. The study will review the historical context of VAT and the contemporary contentions between some States of the Federation and the federal government on the administration, collection, and sharing of VAT revenue funds. The research methodology applicable in this study is doctrinal method of research. The work discovered the constitutional lacunae over the jurisdiction on VAT administration and collection and further observed the negative impacts and implications on the economy of Nigeria in the case that States' governments are bequeathed with jurisdiction over VAT administration. It therefore recommended among others; an explicit vesting of VAT administration on the Federal Government in her Constitution with a proviso aimed at addressing the present inequality in sharing VAT generated funds among the federating states as a way of dousing the present contest between the federal government and some states of the federation over the jurisdiction on VAT administration and collection.

Keywords: Tax Administration, Value Added Tax, Nigeria Economy, VAT Administration and Collection, VAT Revenue

1. Introduction

Across the globe, governments are concerned about the wellbeing of their economy. It has been observed¹ that amongst the developed States of the world, governments are more concerned about their States' economic prosperity than they do about their political well-being. This is premised on the truism that a country's economic well-being determines the stability and strength of the country's polity.² Thus notwithstanding the presence of natural resources in a State; the government is always in search of, and evaluation and implementation of credible economic policies that will aid in the generation of funds or revenue. In devising other means of generating funds for the State, governments rely on time tested and effective fiscal policies.³ Taxing system is a fiscal policy by State through which it sources revenue to enable her carry out its constitutional duties of providing amenities, security and development for her citizens. A State employs different and combination of taxing systems in other to realized her financial needs. Value Added Tax is one of those forms of taxation by which taxes are imposed on consumable goods and services in such a manner that the consumer of goods and services are hardly aware that he pays tax as he pays for these goods and services.

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¹ F Philip, *Income Tax Incentives for Investment: Tax Design and Drafting* (London University Press 2011).

² *ibid.*

³ F Wilson, *Investigation of the Effective Factors in the Tax Efficiency; Unpublished Master's thesis* (Governmental Management Training Center Tehran 2010).

Value Added Tax (also known as “VAT”) is “a broad based business tax imposed at each stage of production and distribution process typically designed to tax final household consumption”.⁴ It is an indirect tax imposed on consumption of some specified goods and services which contributes to the economic development of a country by influencing the rate of revenue accruable and consumption rate.⁵ Due to the ideal benefits and importance of revenues generated in the form of tax, it has become imperative for developing economies to enhance the mobilization of her internal resources for the enhancement of her economic growth, and also to minimize the rates of her fiscal deficits by ensuring effective implementation of an appropriate tax policy.⁶

The Value Added Tax (VAT) Act was enacted in 1993, pursuant to the Value Added Tax Decree 102 of 24th August, 1993.⁷ Since its promulgation, diverse provisions of the Act have undergone series of amendments. For example, the VAT Decree No 102 of 1993 repealed the Sales Act of 1986⁸ and it became effective on 1st January 1994. Recent amendments to the VAT Act were in 2007⁹ and 2012¹⁰ respectively. By the year 2020, the VAT Act was repealed and reenacted under the uniform law referred to as the “Finance Act”¹¹. The Finance Act was primarily motivated by the quest by government to raise revenues to finance her budgets, and to block loopholes that aid tax evasion. Its purposes were further to correct some of the ambiguous provisions of the VAT Act.¹² However, conflicts have trailed the issues relating to whether it is the federal government or the component states of Nigerian federation that has the powers to administer and collect VAT.¹³ It is on the basis of the forgoing that this essay raises

⁴ A Tait, Value Added Tax, *In the Encyclopedia of Taxation and Tax Policy* (The Urban Institute Press Washington 2005) 461.

⁵ A A Onalapo and H T Fasina, ‘An Investigation of the Effect of VAT on Revenue Profiles of South-Western Nigeria’ [2013] (5) (23) *European Journal of Business and Management*, 110-119.

⁶ N H W Wawire, Determinants of Tax Revenues in Kenya, *Unpublished Ph.D. Thesis*, Kenyatta University, (2006).

⁷ O A James and B Z Zaimah and M I Kamil, ‘Determinants of Tax Compliance Behavior: A proposed Model for Nigeria’ [2011] (78) *International Journal of Finance and Economics* 1-13.

⁸ Preamble, VAT Decree 102, 1993.

⁹ Value Added Tax (Amendment) Act, Cap V1 Laws of the Federation of Nigeria (LFN) 2004.

¹⁰ Value Added Tax (Amendment Act), *ibid.*

¹¹ Finance Act, 2020.

¹² Business AM Live, ‘Experts highlights profit possibilities amidst Finance Act disincentives to oil and gas industry’ 2021 Available from: <https://www.businessamlive.com/experts-highlight-profit-possibilities-amidst-finance-act-investment-disincentives-to-oil-and-gas-industry/amp/&ved=2ahUKEwiV64Hr6a> [Accessed 22 April, 2022]

¹³ This conflicts and disagreements can be seen in the following conflicting courts judgments; In *AG of Lagos State v Eko Hotels and other* (36) TLRN 1 the SC held that the VAT Act being a law made by the Federal Legislature (the National Assembly) had covered the field on the issues of Sales Tax and thus States legislatures are precluded from enacting law on sales tax. In *E. C. Ukala v FIRS and other* (2021) 56 TLRN 1 the Federal High Court held that Value Added tax among others are within the legislative competence of the states government and not the federal government. Also in *A.G. River state and other v FIRS and other* Suit No CS 149/2020; the court held that there is no constitutional basis for the FIRS to demand for and collect VAT, Education Tax, Withholding Tax and Technology Levy in Rivers State or any other state of the federation being that the legislative powers of the federal government on taxation is limited to incomes, profits and capital gains tax which does not include VAT or any other form of sales tax or levy except those specified under item 58 and 59 of the Exclusive legislative list of the constitution. However, the Federal High Court in the earlier case of *Incorporate Trustees of Kogi State Hoteliers Association v Kogi State Board of Internal Revenue* suit no. FHC/LKJ/CS/58/2018, held that section 4 of the 1999 Constitution empowered the National Assembly to make laws for the collection of taxes and since the VAT Act is an existing law by virtue of section 7 of the VAT Act, it is only the FIRS that can manage VAT collection and administration and further held invalid the Kogi State (Hotel and Restaurant, etc.,) Law 2015 which imposes tax on consumable goods and services as void for being inconsistent to the Constitution.

the questions as to the impacts and implications which the medium of VAT collection and administration will have on the economy of Nigeria. Thus, this study will be appraising the implications of VAT administration and collection by State governments on the Nigerian economy.

1.1 What is VAT?

As already stated in this paper, VAT stands for Value Added Tax. VAT is a form of tax which is payable on the supply of goods and services at various stages of supply and delivery of goods and service through the value chain. The VAT Act requires manufacturers, wholesalers, importers, and suppliers of VATable goods and services¹⁴ to be registered within six months of commencement of business. Such a registered VAT payer is expected to charge and collect VAT on supplied goods and services. The amount so collected constitutes the VAT output. On the other hand a purchaser of VATable goods and services is also expected to pay VAT on the goods and services supplied to him. This constitutes the VAT input. The amount accruable to the FIRS then is the difference between the VAT output and input where the output exceeds the input tax.¹⁵ It is evident that the burden of VAT wholly lies on the final consumer or end user of goods or services.

1.2 VAT; Origin and Development

VAT as a system of tax is traceable to a German economist named Wilhelm von Siemens who championed this system of taxation in 1918.¹⁶ However, VAT was not adopted by any country or government until 1954 when France applied it.¹⁷ VAT as a system of tax is relatively a contemporary form of taxation when compared to other forms of taxes like the Income Tax which originated in the ancient city of Egypt as far back as 10 AD¹⁸ as well as the Stamp Duty Tax which originated in Spain by 1637.¹⁹

There are handfuls of States practising Federal system of government across the globe; these different States have different structures and administrative frameworks for VAT administration in their respective jurisdictions. For instance, Brazil operates a federal VAT concurrently with administration of sales tax by the components States of the Brazilian Federation.²⁰ In Canada, the provincial sales taxes are administered at the Provincial level whereas the federal Goods and Service Tax; an equivalent of the VAT is administered by the government of the Federation.²¹ Also, in the United States of America, Sales Tax is administered at the States level while at the federal level the federal government administers Sales Tax on inter-state and international trade.²² Over the years, VAT has been adopted in

¹⁴ VAT Act, Section 8. However, Finance Act, 2020, Section 35, has amended the provision by providing that the registration should be done immediately upon commencement of business.

¹⁵ Banwo and Ighodalo 'FIRS clarifies changes introduced to Nigerian VAT Regime by the Finance Act' 2020 Available from: <https://www.banwo-ighodalo.com/grey-matter/firs-clarifies-changes-introduced-to-nigerian-vat-regime-by-the-finance-act-2019> [Accessed 22 April, 2022].

¹⁶ Value-added tax- Wikipedia <https://en.m.wikipedia.org/wiki/Value-added_tax> (accessed 08/06/2022).

¹⁷ Taiwo Oyedele, 'How to Fix Nigeria's Broken VAT System' PWC (Lagos, Nigeria: 11 September, 2021). <https://www.pwc-nigeria.tpepad.com/tax_matters_nigeria/2021/09/how-to-fix-nigeria-broken-vat-system.html> accessed 21 September, 2021.

¹⁸ *ibid.*

¹⁹ *ibid.*

²⁰ Taiwo Oyedele (n17); O A Usman and A T Adejare, 'Value Added Tax and Economic Growth: The Nigeria Experience (1994 -2010)' [2013] 3(3) *International Journal of Research in Commerce, IT & Management; see Dominion Stores Ltd v The Queen [1980]1 SCR 844; Manitoba v Air Canada [1980]2 SCR 303, 304-05.*

²¹ *ibid, also, Wardair Canada Inc. v Florida Department of Revenue 477 US 1.*

²² *ibid.*

more than 150 countries across the globe.²³ However, VAT is known and referred to with different names in different countries; for example, it is known as Goods and Services Tax (GST) in some countries like Canada.²⁴

2. VAT Regime and Administration in Nigeria

As stated earlier, VAT was introduced in Nigeria following the promulgation of Decree 102 of 1993, whereas its implementation began in 1994. The said Decree 102 repealed and replaced the Sales Tax Act introduced by Decree 7 of 1986. In 1998 the VAT Act underwent its first amendment.²⁵

Since introduction of VAT, it has risen as the fastest growing tax revenue in Nigeria.²⁶ In 2020, it was reported that VAT generated the highest tax returns at a rate of ₦1.53 trillion, followed closely by Petroleum Profit Tax at ₦1.52 trillion and then Company Income Tax at ₦1.41 trillion.²⁷ It has been argued that an item like VAT which is important to the economy of a nation like Nigeria ought to be clearly provided for under the Constitution; that where such is not provided for it may be interpreted that the legislatures intended that such an item be left under jurisdiction of the States government as a residual matter.²⁸

The 1999 Constitution contains distinct powers allotted to the Federal and States governments respectively. While the Federal government has the power to the exclusion of any other person or body to legislate and oversee matters under the Exclusive Legislative Lists, both the Federal and the States government are empowered to exercise power and oversee matters under the concurrent legislative list. The implication of this constitutional arrangement is that matters which can be found neither under the exclusive list nor in the concurrent legislative list are considered as residual matters and are vested on the legislative jurisdiction of the components states government.²⁹ Consequently, since VAT whether specifically or in any other nomenclature or *ejusdem generis* like Sales or Consumption Tax was neither listed in the Exclusive nor in the Concurrent Lists of the 1999 Constitution of the Federal Republic of Nigeria, the implication therefore is that VAT is to be considered as a residual matter or item which falls exclusively within the powers and jurisdictions of States to legislate.³⁰

However, VAT has continually been legislated and administered by the Federal government to the exclusion of the States. The argument canvassed by pro-federal government writers is that the VAT law predates the 1999 Constitution. This contention is however controvertible by virtue of the supremacy clause enshrined in the 1999 Constitution. Section 1(3)³¹ provides that

²³ *ibid.*

²⁴ *ibid.*

²⁵ S Ojo, *Fundamental Principles of Nigerian Tax* (Lagos, Sagibra Tax Publications, 2003).

²⁶ A A Onaolapo and R J Aworemi and O A Ajala, 'Assessment of Value-Added Tax and Effect on Revenue Generation in Nigeria' [2013] 10(1) *Pakistan J. Soc. Sci.* 22-26.

²⁷ S Oyekanmi, 'Nigeria generates ₦1.53 trillion VAT in 2020, grows by 29%' 2021 Available from <https://www.nairametrics.com/2021/01/27/nigeria-generates-n1-53-trillion-vat-in-2020-grows-by-29/%3famp=1> [Accessed 23 April, 2022].

²⁸ Taiwo Oyedele (n17); L O Yusuf and S A F Udeorah 'Dynamic Impact of Value Added Tax on Economic Growth in Nigeria' [2021] 9 (5) *Journal of Research in Humanities and Social Science*, 24-28.

²⁹ E I Amah, 'Federalism, Nigerian Federal Constitution and the Practice of Federalism: An Appraisal' (2017) 8 (3) *Beijing Law Review*, 287-310.

³⁰ E I Amah, 'A Critical Analysis of the Federal and States Taxing Powers In Nigeria' (2011)1 *Journal of Commercial and Contemporary Law (JCCL) of the Department of Commercial Law, Faculty of Law, Imo State University*, 61-66. See also the following cases; *Ukala v FIRS and other* (2021) 56 TLRN 1 Also A.G. River State and other v FIRS and other Suit No. CS.149/2020, Taiwo Oyedele (n17); See Section 4(7) 1999 CFRN.

³¹ 1999 CFRN.

the provisions of the Constitution shall be supreme and any other law inconsistent with the provisions of the Constitution shall to the extent of the inconsistency be void.³²

Over the years, different amendments have been made in respect to the VAT Act. Such amendments have to do with such issues on the clearer definitions and specification of items exempted under VAT. Others include the exemption threshold for small businesses having an annual turnover below ₦25m, mandate on foreign suppliers to impose VAT, self-charging of VAT, and the exclusions of rent, land and building from the scope of VAT charges.³³

The 1993 VAT Decree, provided for a value added tax on taxable goods.³⁴ By virtue of its interpretation section, taxable goods mean tangible goods.³⁵ However, the amended provisions expanded the meaning of taxable goods to include incorporeal properties.³⁶ Further, with the provision of the Finance Act, VAT is now at the rate of 7.5%; as against the old provisions of 5%.³⁷ It is opined that the new provisions on VAT has the high tendency of adversely increasing the costs for investment and since some companies are struggling to raise funds for the acquisition of assets; the increase in taxation will adversely affect their investment prospects.³⁸ The provision as to the deduction of VAT at source was retained in the Finance Act.³⁹ From the directives of the Federal Inland Revenue Services and the provisions of the VAT Act, companies are to withhold the VAT due on any form of VATable transaction with any of their contractors and thereafter, remit same to the FIRS.⁴⁰

For the financial year ending in 2020, VAT revenue generation in Nigeria was at a peak of ₦1.53 trillion.⁴¹ VAT on Importation and International services represents over 50% of the VAT revenue generated.⁴² Other sectors with significant contribution to the amount of VAT revenue generated include:⁴³ Professional services & telecoms (10.6%), Manufacturing (10.07%), Commercial and trading (5.06%), Breweries, bottling and beverages (3.90%), and Transport and haulage (2.84%). Notwithstanding, the fact that alcoholic drinks are prohibited in certain states of Nigeria,⁴⁴ it contributed more than 50% of the total VAT generated from the breweries, bottling and beverages industries.⁴⁵

Revenue generated as VAT is shared in accordance with specified formula; thus while 15% is accruable to the Federal Government, 50% goes to States and the Federal Capital Territory

³² Taiwo Oyedele (n17).

³³ M.A, Ugochukwu and J U B Azubike, 'Value Added Tax and Economic Development in Nigeria' [2016] 4(3), *International Journal of Development and Economic Sustainability*, 1-10; Yusuf and Udeorah (n28).

³⁴ VAT Decree 1993.

³⁵ *ibid.*

³⁶ Andersen Tax, 'VAT Considerations for Oil and Gas Companies in Finance Act' *Andersen Tax*, (2020) <<https://www.andersentax.ng/vat-considerations-for-oil-and-gas-companies-in-finance-act-2019>> accessed 20 September, 2021.

³⁷ Finance Act, 2020; Banwo and Ighodalo (n15).

³⁸ Andersen Tax (n48).

³⁹ Banwo and Ighodalo (n15).

⁴⁰ Anderson Tax (n48).

⁴¹ Oyekanmi (n27).

⁴² Taiwo Oyedele (n17).

⁴³ *ibid.*

⁴⁴ Vanguard News, 'Hisbah board destroys 3.8 million bottles of beer in Kano'; (9 February, 2022) Available from <https://www.vanguardngr.com/2022/02/hisbah-board-destroys-3-8-million-bottles-of-beer-in-kano/> [Accessed 23 April, 2022].

⁴⁵ Oyekanmi (n27).

(FCT), and the remaining 35% is accruable to the Local Governments councils.⁴⁶ In addition, there is a reflection of the principle of derivation of not below 20% in the distribution to States and Local Government councils.⁴⁷ Further, the Federal Inland Revenue Services (FIRS) is entitled to 4% as administration cost while 2% is accruable to Nigeria Custom Service in the case of VAT generated from imported VATable goods and services.⁴⁸

From the 2020 VAT reports and statistics,⁴⁹ Lagos State had the highest VAT revenue generation at 50.5%, closely followed by FCT at 13.2%. The States of Oyo, Rivers, and Kano are on third, fourth, and fifth rankings respectively. The States ranking the least from bottom are Zamfara, Osun and Abia with a cumulative contribution less than 0.1% of the overall amounts of VATs revenue generated for the year, 2020.⁵⁰ In respect to sharing formula, the State of Lagos tops the list amongst the recipient's States with 14.7% shares, followed by Kano at 3.8%, Oyo gets 3.2%, Rivers is allotted 2.7% and FCT is ranked 5th at 2.5%; whereas the 3 least States of Osun, Abia, and Zamfara States are allotted 2%, 1.6% and 1.6% respectively.⁵¹ There is a big difference in the percentage revenue generated when compared to the percentage shared among the States and the federal government. It is clear that some States with less than 0.1% VAT revenue generation are allocated over 1% to 2% VAT shares. This in particular is the root cause of the controversy between the Federal government and some States governments over the control of the administration, collection and distribution of the funds generated as VAT revenue.⁵²

2.1.VAT Administration and Collection and the attendant Controversies

Over the years, there have been contentions on the validity of VAT as administered by the Federal government and the Consumption/Sales Tax equivalent to VAT which are imposed by some States of the Federation. There have been litigations relating to the appropriate authority to administer such taxes in the form of VAT. However, the decisions of the courts have not been one without conflicts. In order to show the inconsistencies in decisions of the court, some judicial precedents are highlighted below.

In October 2019, the Federal High Court in Lagos ruled in favour of Lagos State government by upholding the powers of the States to “charge and collect Consumption Tax (Sales Tax) from hotels, restaurants and event centres within the state.”⁵³ The Court held that based on the provisions of the 1999 Constitution and the Taxes and Levies (Approved List for Collection) Act,⁵⁴ the power to impose consumption tax was a residual power within the exclusive competence of the states and therefore the Federal Inland Revenue Service (FIRS) is restrained from imposing VAT on goods and services consumed in hotels, restaurants and event centres as this was already covered by the Lagos State Law.⁵⁵ In another case,⁵⁶ the Federal High Court

⁴⁶ Oyekanmi (n27); Banwo & Ighodalo (n15).

⁴⁷ Yusuf and Udeorah (n29); Taiwo Oyedele (n17).

⁴⁸ *ibid.*

⁴⁹ Oyekanmi (n27); Taiwo Oyedele (n17).

⁵⁰ *ibid.*

⁵¹ *ibid.*

⁵² Banwo and Ighodalo (n15); Taiwo Oyedele (n17).

⁵³ *The Registered Trustees of Hotel Owners and Managers Association of Lagos v AG of the Federation and others* Unreported judgment delivered by Hon. Justice R. M. Aikawa of the FHC in Suit No: FHC/L/ CS/360/201

⁵⁴ Taxes and Levies (Approved List for Collection) Act, 2015.

⁵⁵ *The Registered Trustees of Hotel Owners and Managers Association of Lagos v AG of the Federation and Others* Unreported judgment delivered by Hon. Justice R. M. Aikawa of the FHC in Suit No: FHC/L/ CS/360/201.

⁵⁶ *Nigeria Employers Consultative Association (NECA) & Anor v Attorney General of the Federation and Others* (2018) (36) TLRN 1.

in Kano nullified the Kano State Consumption Tax Law on the basis that it imposed consumption tax at 5% on goods and services which were already subject to the VAT Act.⁵⁷ Further, on 11 December 2020, the Federal High Court (FHC) Port Harcourt Judicial Division held that the powers of the Federal government to make laws relating to imposition and administration of taxes is limited to the Personal Income Tax, Companies Income Tax, Capital Gains Tax, Petroleum Profit Tax and Stamp Duties and does not extend to VAT.⁵⁸ In order to justify the decision of the FHC in favor of the States, it is contended that the fact that the Constitution expressly listed taxation of Companies, Personal Incomes Tax, Profits, Capital Gains and Stamp Duties under the inherent powers of the National Assembly with no listing of other forms of taxes, levies, rates and fees, including VAT/sales tax, is an indication that the Constitution intended that the non-enumerated matters be left under the inherent legislative powers of the States government.⁵⁹ Now the Federal government has appealed this decision, let us wait to see the end of this controversy.

2.2 VAT Administration and Collection by States; Impacts and Implications on Nigerian Economy

Since it has been shown that some states generate more VAT revenue than others, it is imperative to consider the circumstances which have given rise to such state of affairs. Initially, VAT's filing and payments were made based on specific locations or branches of businesses across the country. However, there were complications regarding the offset of inputs against output VAT and the issue of double taxation. To surmount these challenges, the Federal government introduced centralised system of filing and remittance. By such arrangement, VAT was to be filed and remitted by taxpayers based on the location of the headquarters of the business.⁶⁰ For instance, most of the Telecommunication companies (MTN, GLO, and other Television channels), Financial Institutions (banks in Nigeria), manufacturing companies as well as high profile professional firms operating in different States of Nigeria do have their headquarters in Lagos; as a result, they remit their VAT through the Lagos State FIRS offices. This practice favors Lagos State since it means higher VAT revenue generation to it. This practice however limited the VAT revenue which would have accrued to other States where the businesses branches of these companies and firms are located. For instance, the PH Electricity Distribution Company with headquarters in Rivers state generates funds from other States such as Bayelsa State, Delta State and Akwa Ibom State but files and remits VAT revenue through FIRS office in Rivers State.⁶¹ The implication is that many States where VAT is generated are shortchanged since these remittances are made to FIRS offices in other States where the headquarters of these businesses are situated and not necessarily where the revenue were generated.

VAT contributes significantly to the total revenue generated by the government, accounting for over 16.2% of the Gross Domestic Product (GDP) in 2019.⁶² This shows how important VAT is to Nigeria as a developing economy. Where the collection of VAT is overseen by the

⁵⁷ *Nigeria Employers Consultative Association (NECA) and other v Attorney General of the Federation and others* (2018) (36) TLRN 1.

⁵⁸ *Emmanuel Chukwuka Ukala v FIRS* (2021) 56 TLRN 1.

⁵⁹ M Ango and E Omolu, Nigeria: An analysis of Federal High Court decision invalidating the VAT Act- Implications for VAT administration and compliance', 2021, *Mondaq*. Available from: <https://www.mondaq.com/nigeria/sales-taxes-vat-gst/1077894/an-analysis-of-federal-high-court-decision-invalidating-the-vat-act-implications-for-vat-administration-and-compliance> [Accessed 23 April, 2022].

⁶⁰ Yusuf and Udeorah (n29); Taiwo Oyedele (n17).

⁶¹ *ibid*.

⁶² Yusuf and Udeorah (n29); Taiwo Oyedele (n17); Ango and Omolu (n59).

States, it simply means that the Federal government of Nigeria will not enjoy VAT proceeds from the States of the federation except those accruable from the FCT Abuja; although, the federal government can still have recourse to import VAT revenue and VAT revenue from other international transactions. Further surrendering the administration and collection of VAT to the States of the federation may lead to unequal development across States since there would be unequal VAT revenue generation by the individual States of the Federation.⁶³ States administration of VAT may led to low VAT revenue generation owing to lack of capacity to collect, complexities in auditing and verifying compliance, and high cost of administration which perhaps will hit about or over 15% especially in States without existing and effective structures for such collections. Next is the problem of double taxations on businesses as well as imposition of VAT on small businesses with less than N25m turnover which are ordinarily exempted under the centralized VAT administration. The incidence of double taxation may arise as a result of conflicts between origination and destination of goods and services across the States. Consequently, such will dissuade investments and business operations in the country leading to some businesses shutting down. It may also create employment redundancy and generally occasion poor GDP for the country.⁶⁴

It is worthy to note that some large companies maintain branches in some States for the purpose of inclusiveness and company brands and not because their business is thriving in those States. there are cases where companies sustain the operations of its facilities in some States with funds generated outside these States; if States were to be allowed to administer and collect VAT revenue generated in their respective States, these companies will be forced to shut down operations and concentrate in States where funds are generated; a practice that will negatively affect human empowerment and economic development in the affected States. Since, VAT will be decentralised and businesses are expected to collect VAT from source and remit to the state where the transaction took place, there are chances that there will be higher cost of goods and services as a result of input VAT claim and refund complications. While a country is interested in generating revenues, ease of doing business must be considered as well; as there will be lesser revenues generated if the ease of doing business is complicated owing to complex tax regimes.⁶⁵

3. Conclusion and Recommendations

In this article, we have examined the controversy over the administration and collection of VAT between the States governments and the Federal government of Nigeria as well as the implications of VAT administration and collections by States governments on the economy of Nigeria. There are seven major forms of taxes in Nigeria, three are accruable to the States and their local governments⁶⁶ whereas the other forms of taxies⁶⁷ are shared amongst the Federal Government, States and Local Governments.⁶⁸ The major concern of the States clamouring for states administration and collection of VAT revenue is based on perceived inequality in the current VAT revenue sharing formula. Where the VAT revenue distribution to be shared based on derivative principle such that States receive VAT proceeds based on VAT revenue generated within its territory, these clamouring and contentions are most likely to be assuaged.

⁶³ *ibid*, see however O. W. Ofishe, 'The Impact of Value Added Tax on Economic Growth in Nigeria (1994 - 2012)', [2015] (23) *Research Journal of Finance and Accounting*, 3.

⁶⁴ MA Ugochukwu, and JUB Azubike, 'Value Added Tax and Economic Development in Nigeria'. [2016] 4(3), *International Journal of Development and Economic Sustainability*, 1

⁶⁵ Yusuf and Udeorah (n29); Taiwo Oyedele (n17).

⁶⁶ They are personal income tax, stamp duties generated in the states and property taxes within the States.

⁶⁷ Companies Income Tax, Petroleum Profits Tax, VAT and the Import and Excise Duties.

⁶⁸ Yusuf and Udeorah (n29); Taiwo Oyedele (n17).

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We therefore opined that instead of States being bequeathed with the jurisdiction or power over the administration and collection of VAT the inequality in the sharing formula should be addressed such that individual States should be entitled to a share of funds equivalent to the percentage of VAT revenue generated from its territory. VAT revenue collected on imports and export duties, inter-states and international services should be paid into a common VAT pool to be shared on an agreed formula amongst the different tiers of government.

It is further recommended that the National Assembly should amend the Constitution so as to include the jurisdiction or power to administer and collect VAT in the Exclusive Legislative List. This will address the constitutional loophole over the jurisdiction on VAT administration between the federal government and the federating states. Therefore, much ado should not be given to fuelling the ambers of controversy in an economy that needs swift advancement.