CRITICAL ANNALYSIS OF THE EFFECTIVENESS OF THE UGANDAN TAX SYSTEM TOWARDS NATIONAL DEVELOPMENT

BY

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DECLARATION

I **KUTOSI EMMANUEL** declare to the best of my knowledge that this dissertation has never been presented at any other University or Institution and where other author's piece of work has been applied, references have been provided and quotations made at times. It is upon this that I declare this work to be purely original and authored by me and it is hereby presented in partial fulfillment of the requirements of the award of the degree of Bachelor of Laws (LLB) of Kampala International University

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APPROVAL

This Dissertation has been done under my close supervision and is ready for submission to the faculty of laws in partial fulfillment of the requirements for the award of a Bachelor Degree of Laws of Kampala International University.

SUPERVISOR

SIGNATURE. .... **DATE:** 07TH SEPTEMBER-2017.

Mr. SOITA JESSE

DEDICATION

I dedicate this book to my dear parents Mr. Wakane Davis and Mrs. Wakane Aidah who tirelessly made it possible to reach this far in all ways whether financial, spiritual or moral and further wish to dedicate it to my lovely sisters Wataka Sarah, Nasaka Jenifer, Manashe Juliet,Mukhwana Esther and Namono Joy for always being there whenever.

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May the Almighty God fulfill all your earthly and heavenly wishes.

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I with due respect and great honor acknowledge all my lectures for having instilled in ne the required knowledge, skills and ethical values the legal profession stand for. I will lways live to promote and uphold the principles of justice, fairness, morality and rule f law.

t is upon this that I believe nothing is impossible with the will of God and elp of others.

LEGAL INSTRUMENTS / STATUTES.

Constitution of the Republic of Uganda, 1995 (as Amended).

The Income Tax Act, Cap 340.

Value Added Tax Act, Cap 349.

Tax Appeals Tribunal Act, Cap 345.

Uganda Revenue Authority Act, Cap 196.

LIST OF CASES

Compania De Tobacco V Collector 275 US 87.

Eisner V Macomber 252 US 189.

URA vs. Rabbo Enterprises Uganda Limited and Mt. Elgon Hardware Limited (Civil Appeal no. 12 of 2014).

Capital Finance Corporation Ltd V URA ((3 December 2001)).

Shell Malindi (U) Limited V URA 87.

Camad Investment Property Limited V Federal Commissioner of Tax Division.

LISTOF ABBREVIATIONS

BOU	Bank of Uganda
CFPED	Committee on Finance, Planning and Economic Development
COMESA	Common Markets for East and Southern Africa
CSO	Civil Society Organization
DTAs	Double Trade Agreements
EAC	East African community
IMF	International Monetary Fund
LCs	Local Councils
LTU	Large Taxpayer Unit
MFPED	Ministry Of Finance, Planning and Economic Development
NGO	Non-Governmental Organization
PAC	Public Accounts Committee
PSF	Public Sector Foundation
TAT	Tax Appeals Triburnal
UCBL	Uganda commercial bank limited
UIA	Uganda Investment Authority

UMA	Uganda Manufacturers Association
URA	Uganda Revenue Authority
VAT	Value Added Tax
WTO	World Trade Organizations

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ABSTRACT

The purpose of this study is to critically analyze the effectiveness of the Uganda tax system on the national development. The objectives of the study include assessing the relationship between the Ugandan tax system and national development, to establish the legal and institutional framework of the Ugandan tax system, to determine the effects of the Ugandan tax system on national development. It's majorly intended to discuss the Ugandan tax system in entirety which is made up of tax policies, tax laws and tax administration in Uganda.

The Ugandan system is made up of so many types of taxes which include income taxes, value added Tax and many others. It further discusses the effects of the tax systems towards national development.

CHAPTER ONE: INTRODUCTION

1.0 Introduction

This chapter is made up of the background to the study, the problem statement, purpose of the study, research design, research objectives, research questions, research hypothesis, significance of the study, justification of the study, scope of the study, the methodology , literature review and Chapterisation.

1.1 Background to the study

Generally it is a duty of every person or citizen of a country to pay tax. This is because a tax is the price we pay for civilization[1]. Civilization in this instance is intended to mean an organized society with a well-defined finance administrative structure.

In essence, taxation is a core pillar of a country's regulatory framework for investment and growth. It features prominently in investment decision making motivated by profit maximization while also spurring local enterprise development.

In the case of *Compania De Tobacco V Collector*[2], Justice Oliver Wendell Holmes stated inter alia that taxes are what we pay for a civilized society. It is in effect a contribution designed to reduce private expenditure to enable government obtains funds for the provision of social and merit goods.

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[1]Background of taxation, Pp.3.taxation is a mode of civilization which makes human beings unique
[2] Campania De Tobacco V Collector 275 US 87

A tax is a compulsory contribution to state revenue levied by government for public purpose (Davis 1967)[3]. It is also referred to as a leakage from the circular flow of income into the public sector excepting loan transactions and direct payments for publically produced goods and services up the cost of producing them(CM Allan)[4].

In the case of *Camad Investment Property Limited V Federal Commissioner of Tax Division*[5], *The* characteristics of a tax were highlighted where Dawson stated that a tax is a compulsory payment, where monies are raised for government purposes and payments are not penalties.

Taxation on the other hand is defined as the imposition of duties for the raising of revenue by the government[6]. It is therefore a method through which government extracts and collects money from its people through the use of the law[7].

In Uganda, it is a duty of every citizen to pay tax [8]and it is through this that revenue can be collected to further facilitate national development. Taxes are the enforced proportional contributions from persons and property levied by the State by virtue of its sovereignty for the support of government and for all public needs (Bird 1992)[9].

Accordingly, a tax derives its existence from a law for it to become legally binding and it's upon this that the supreme law of Uganda states that no tax shall be imposed

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[3] Davis, Principles of Tax Law
[4] CM Allan, The Theory of Taxation
[5]Camad Investment Property Limited V Federal Commissioner Of Tax Division.
[6]Osborn's Concise law dictionary, 8th Ed sweet & Maxwell,1993, pp.320
[7]Revenue law in Uganda, DJ Bakibinga, pp.1
[8]Article 17(1)(g) Constitution of Uganda as Amended, 1995 That it's a duty of every citizen to pay tax
[9] Richard M Bird, tax policy and economic development(Baltimore John Hopkins Press,1992)

except under the authority of an Act of parliament[10]. Thus a tax levied without reference to any Act of parliament is illegal. The parliament has a mandate to make laws on any matter for the peace, order, development and good governance of Uganda[11]. Therefore the parliament has all the powers to legislate and make laws sufficient to provide a basis for legal existence of a particular tax. Every tax is thus an establishment by the Act of parliament. The Ugandan tax system provides vast laws that provide for existence of different taxes. There exists the income tax laws under Income tax Act, the value added tax, excise tax, customs tax and other forms of taxes which are established by the Acts of parliament.

In pre-colonial Uganda, taxes were levied mainly in centralized societies which had formulated kingdoms and this was in form of tributes where clan members gave part of their harvest to clan leaders or engaged in forced labour on clan leader's farms. However in 1894, Buganda kingdom signed an agreement with the British in which it agreed to be a protectorate thus relinquishing its right to levy and collect taxes. The British then modernized the taxation through introduction of new taxes which included system compulsory public works road construction, building of administrative headquarters and schools, as well as forest clearance and other similar works (Kayaga 2007)[12]. The protectorate government introduced the hut and gun tax which was later replaced a flat rate poll tax that was imposed on all male adults.

[10] Article 152(2) Constitution of Uganda as Amended, 1995
[11] Article 79(1) Constitution of Uganda as amended which gives parliament a mandate to make laws
[12] Lisa Kayaga, Tax Policy Challenges Facing Developing Countries (2007)

The requirement to pay tax forced the indigenous Ugandans to enter the market sector of the economy through either selling their agricultural produce or hiring out their services. The tax burden was later increased by the introduction of an additional tax to finance local governments. This culminated into the first tax legislation in 1919 under
the Local Authorities' Ordinance. In 1953, graduated personal tax was introduced to finance local governments. Income tax was introduced in Uganda in 1940 by a Protectorate ordinance mainly payable by the Asians and Europeans but was later on extended to Africans. In 1952, the ordinances were replaced by the East African Income Tax Management Act, which laid down the basic legal provisions found in the current income tax law (Kakongoro 1996)[13].

After the breakup of the EAC, the tax departments were transferred to the Ministry of Finance with the transfer of the Income Tax Department in 1974; followed by the Customs Department in 1977. The first tax body, Uganda Revenue Authority a body corporate established by an Act of Parliament, was setup in 1991, as a central body for assessment and collection of specified tax revenue. It was to administer and enforce laws relating to tax revenue, account for the revenues, and to advise government on tax policy. The Uganda Revenue Authority administers the tax laws (Acts) on behalf of the Ministry of Finance, Planning and Economic Development under legislation regulating taxes including the Customs Tariff Act. Cap 337, East African Customs Management Act, Excise Tariff Act Cap 338, Income Tax Act Cap 340, Stamps Act Cap

[13]Kakongoro(1996) Responsiveness Of Tax Revenue To Economic Growth In Uganda (1987-1996)

342, Traffic and Road Safety Act Cap 361, Value Added Tax Act Cap 349, The Finance Acts, and all other taxes and non-tax revenue as the Minister responsible for Finance may prescribe (Musaga 2007)[14].

Hale (2002) describes tax systems as the political constitution that defines the powers and limits of governments and the rights of citizens. The principles of the tax system reflect a loose and evolving political consensus on social and economic priorities. The politics of taxation demand that governments strive for a system that seems fair to most people[15]. The tax system in Uganda is generally made up of tax policy, tax laws and tax administration and it is expected that they work together in order to achieve economic development[16].

Uganda's tax system is influenced by the national socio-economic status of the Country[17]. Tax policy refers to the choice of tax instruments, the rates at which taxes are set, the nature of exemptions and the assignment of taxes to different levels of government[18]. Taxation has four main purposes or effects: revenue, redistribution, reprising and representation. A good tax system should be defined so as to meet the requirements of equity in burden distribution, efficiency in resource use, the goal of macro policy and ease administration (Musgrave & Musgrave, 2004).

The structure of the Ugandan tax system is comprised of URA Board Administration which among other functions of the authority are provided under Uganda Revenue

[14]Musaga B(2007) Effects of taxation on economic growth: Uganda's experience (1978-2005)
[15]Uganda's taxation policy: implications poverty reduction and economic growth pp33
[16]Handbook Of Revenue, Uganda Revenue Authority
[17]Taxation state building and governance, baseline study- Uganda report, pp. 15
[18]Uganda's taxation policy : implications poverty reduction and economic growth, pp. v

Authority Act, administers and gives effect to the laws set out in the First Schedule of the URA Act Cap 196, advises the Minister on revenue implications, tax administration and aspects of policy changes relating to all the taxes, and performs such other functions in relation to revenue as the Minister may direct[19].

1.2 Statement of the problem.

Taxation is one of the ways through which the government raises revenue to facilitate its development goals[20]. However, it depends on the structure of the tax system before the goals can be achieved. The Ugandan tax system is completely immoral in that it's unfair considering the fact that it exempts the highly privileged persons who are worthy tax payment and especially the parliament and cabinet ministers who enjoy public service entitlements at the expense of the poor who earn little (Lubulwa William,2016)[21].

There are vast loopholes in the Ugandan tax system which needs to be addressed before national development can be achieved. This is because the tax administration under the control of Uganda Revenue Authority is not independent in a way that its decision can be easily manipulated and changed by the Minister of Finance. The issue of administration has largely made Ugandan tax system not to fully tap and maximize and its role in promoting national development (Voeller, 2010). Taxation is useful in raising revenue, controlling the consumption of certain commodities, controlling

[19] Section 4, Uganda Revenue Authority Act
[20]DJ Bakibinga, revenue law in Uganda, pp. 2)
[21]Lubulwa William, Isn't Uganda's Tax System Immoral, Tuesday January 5th 2016, Daily Monitor

monopoly, reducing income inequalities, improving the balance of payments as well as protecting infant industries (Reizman and Slemrod 1987)[22].

The other major problem is revenue mobilization because Uganda's economy is still highly dependent on subsistence agriculture and the informal sector thus making it had to collect enough revenue from the people. (Schneider et al 2010).

However there are other challenges that have continued to hinder Uganda's tax system for example tax avoidance, low tax morale, perhaps as a result of citizens' low level of trust in public officials, inefficient, underdeveloped or under-resourced institutions, alongside unreliable communications infrastructure impede tax policy, tax laws and tax administration (Zee 2013) [23].

1.3 Purpose of the study

The purpose of the study is to critically analyze the effectiveness of the Ugandan tax system on national development.

1.4 Objectives of the study

1. To assess the relationship between the Ugandan tax system and national development
2. To establish the legal and institutional framework of the Ugandan tax system.
3. To determine the effects of the Ugandan tax system on national development.

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[22]Slemrod,Joel(1990) Optimal Taxation And Optimal tax systems
[23]Tanzi and zee,2000 tax policy for emerging markets

1.5 Research questions

1. What is the relationship between the Ugandan tax system and national development
2. What is the legal and institutional framework of the Ugandan tax system
3. What are the effects of the Ugandan tax system on national development?

1.6 Research Hypothesis

1.6.1 The null hypothesis

H0: There is no relationship between tax system and economic development

1.6.2 The alternative hypothesis

H1: There is a relationship between tax system and economic development

1.7 Scope of the study

1.7.1 Geographical scope

The study was conducted on Uganda, a landlocked country striding across the equator and located in the East African region and the (River) Nile Basin. It is bordered by the Democratic Republic of Congo in the West, Kenya in the East, the new Republic of South Sudan in the North, and Tanzania and Rwanda in the South. The country's total surface area is 241,038 km2 of which about 17% is water and marshland and 31% forest cover.

1.7.2 Time scope

This study covered a five month period from January to May2017. Activities conducted by the researcher during that time included conceiving the research topic (idea), writing proposal, organizing, summarizing and analyzing the data collected and writing the report.

1.7.3 Content scope

The study critically analyzed the effectiveness of the Ugandan tax system on national development hence tax system is the independent variable comprised of tax policy, tax laws and tax administration. On the other hand, economic development will be the dependent variable consisting of standards of living, human capital development, and jobs and incomes, and public administration and service delivery in Uganda.

1.8 Significance of the study

The study is of great significance and value to those who may read it objectively and put into account. The findings of the study have an implication to all tax administrators, government, Ministry of Finance, Planning and Economic Development ,the private investors, NGOs, tax policy makers, academicians and other researchers in;

1. Giving insight to Ministry of Finance, Planning and Economic Development and tax policy makers on the effectiveness of tax system on economic development. The study will enrich Ministry of Finance, Planning and Economic Development with adequate and useful literatures for future reference.
2. It should identify the necessary resources, tools and equipment URA staff for organization's effective performance
3. It should also identify the loopholes and improve on the tax system in Uganda.

1.9 Methodology

The research qualitatively and heavily depended on prior published documents, secondary data, government documents and legislations, journals, newspapers, archives, NGO publications, text books, internet and other students Thesis and dissertation reports.

1.10 Literature review

Different countries possess and adopt different tax structures which are appropriate and can easily assist in raising of revenue. In Ugandan tax system, it broadly encompasses the income tax, taxes on services and transactions, taxes on local production, taxes on foreign trade and graduated personal tax[24] The Ugandan tax system thus is made up of vast taxes which may include Value Added Tax, Excise tax, customs tax, income tax and other types of taxes out which revenue is collected to facilitate national development.

Taxation can be viewed as an implicit contract between the citizens and their governmnet in which the amount and types of tax paid are related in some way to services delivered by public institutions(Moore, Moore & Rakner,2002)[25]

According to Kamulegeya [26] , the tax laws and tax policy of any country are only as good as the tax administration and that there is a correlation between successful tax policy and efficient tax administration. Thus regular URA changes are desirous so as to transform into a modern tax administration. This is because without proper tax

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[24]DJ Bakibinga pp10
[25] Moore, Moore & Ranker,2002
[26]Kamulegeya, Tuesday, July 22,2008,Daily Monitor

administration, the set goals of sufficient revenue collection can never be achieved without prior organisation of the tax administration system.

Jalia Kangave says that Uganda has definitely made improvements in tax policy over the years, but it still lacks sufficient administrative capacity. This has been attributed to numerous barriers to efficient tax administration. Thus to improve revenue performance, Uganda has to depend highly on improving tax administration. This is because good tax policy depends on effective tax administration to raise the revenue. The Uganda Revenue Agency has to formulate a way to address each of these problems. A major constraint in tax administration is the lack of adequate resources to sustain and facilitate the operation of tax authorities. (Kangave,2005)[27].

According to Kato Simon Kagambirwe, Uganda's tax structure has been greatly improved in recent years, and it appears to mirror the tax system in other terms of the types of taxes and rates. This structure follows systematic criteria that are legal hence addressing various governance dilemmas. The structural tax policy procedure begins with URA Board administration, it is then followed by the Ministry of finance and economic development, finance then proposals policies to parliament and then parliament approves or disapproves and then sends them to the executive for assessment by and signing of the president(Kagambirwe, 2014) [28].

The Uganda tax system is so much immoral to an extent that the rich are exempted from tax and those who are poor are made to pay. This has further hindered

[27]JaliaKangave, Imposing Tax Administrator, Kangave 2000
[28] Kato Simon Kagambirwe, Implementation Of Tax Policy Reform In Uganda, Case Study URA,2014

development in that the poor have been forced to remain poor while the rich have continued to be rich. This inequality has greatly influenced unfair income distribution. A tax system that exempts the financially mighty such as the cabinet ministers or members of parliament and rewards incompetence or corruption cannot be sensitive. It is unfair to for anyone to enjoy cash collected from the struggling poor under the guise of say public service entitlement (William Lubulwa)[29].

Taxes and taxation systems are present in the everyday life of all human beings and they affect our decisions concerning work and labor supply, savings, education, consumption, retirement etc. Also on the macroeconomic level taxes affect very broad spectrum of subjects from level and structure of investment to allocation of governmental resources into public goods and other services provided by the government (Voorhees, 2005).

The theories of taxation system evolved from long time ago and such theories have helped to adversely improve and modify the current Ugandan tax system. The ability to pay theory is the most recognized theory which declares that individuals should contribute to the system according to their means therefore helping to tackle the problem of equity and social justice. The cannons of taxation give credence to this theory, and stress the capacity of the contributor to the common pulse of the State to make such contribution at a time and in manner that it is most convenient. Taxes to the State are made without quid pro quo benefits (Chigbu et al, 2012). This means that people with higher income should pay more than people with lower income. Ones'

[29]Lubulwa William, Isn't Uganda's Tax System Immoral, Tuesday January 5th 2016, Daily Monitor.

ability to pay may suggest that as more and more expenditure is incurred by a person the same should pay more tax and vice versa.

The Expediency theory on the other hand argues that each individual should contribute to the state system in accordance with the benefits he derives from the state. Taxes therefore should reflect the demand of individuals for public services (e.g. the protection, health service etc.). The critiques of this theory claim that it requires to measure values which are hardly measurable and it is incompatible with social justice and fairness. Thus this theory could be applied solely to some specific taxes, such as the fuel tax (consumption tax on fuels). Therefore there is visible link; those who pay the tax also receive benefits from this taxation (Musgrave 1969)[30].

In my view, the Ugandan tax system which is made up of the tax policies, tax laws and tax administration is so is still wanting thus a lot has to be done before it can favor development. This is because little revenue in form of taxes is collected yet a lot is used to collect such taxes. The tax system favors more the more at the disadvantage of the poor in that the rich are in most cases are exempted from tax payment. The constitution states that every person is equal before and under the law in all spheres of political, economic, social and cultural life and in every other aspect and shall enjoy equal protection of the law[31]. This therefore calls for equality when it comes to tax payment which in the present tax system isn't the case thus makes it hard for Uganda to realize development out of the proceeds from the tax revenue.

[30] Musgrave, R.A (1969): Fiscal Systems. New Haven: Yale
[31] Article 21(1) Uganda Constitution as Amended,1995

The question what is needed to be done in terms of Ugandan tax system to increase revenue collection, the answer definitely will roll around improvement of tax administration mechanisms and tax laws. The Commissioner of Uganda Revenue Authority must at least be appointed or voted by the Ugandans so as to avoid manipulations by the powers who appoint him or her.

1.11 Chapterisation

Chapter one: This chapter is made up of the background to the study, the problem statement, purpose of the study, research design, research objectives, research questions, research hypothesis, significance of the study, justification of the study, scope of the study, the methodology , literature review and Chapterisation.

Chapter two: This chapter majorly contains the principles of the Ugandan tax system; the legal and institutional framework for tax system in Uganda which makes up the components of a tax system thus the tax laws and tax administration.

Chapter three: This chapter majorly discusses the positive and negative effects of the Ugandan tax system towards national development.

Chapter four: this chapter is made of the structures that ensure enforcement and compliance tax obligation in Uganda and the effectiveness of the enforcement mechanisms towards enforcement of tax compliance and tax payers' rights

Chapter five: This chapter contains the recommendations to problems and conclusions of the research study.

CHAPTER TWO: THE LEGAL AND INSTITUTIONAL FRAMEWORK OF UGANDAN TAX SYSTEM

2.0 Introduction

This chapter majorly contains the principles of the Ugandan tax system; the legal and institutional framework for tax system in Uganda which makes up the components of a tax system thus the tax laws and tax administration.

2.1 The principles of taxation in the Ugandan tax system

In order for government to effectively benefit from the imposition of any form or type of tax, it must ensure that the tax system is equitable and effective and it is upon this aspect that the canons of taxation were proposed by Adam smith (Bakibinga DJ)[32]. Principles of taxation are concepts that provide guidelines towards a good tax system. Economists over time have laid down the principles that policy makers should take into account in making tax laws; these are referred to as canons of taxation (Saimaet al. 2014).

2.1.1 Equity/Fairness

Tax should be levied fairly so that the same amount is paid by persons or entities that are equal in earnings or wealth (horizontal equity). The contribution in tax should increase as the taxable income increases (vertical equity). The principle behind vertical equity, which is most applicable in income taxes, is that the burden among taxpayers should be distributed fairly, taking into account individual income and personal

[32]Bakibinga David, Revenue Law In Uganda

circumstances. Vertical equity is to be taxed proportionate to the income one earns. The strongest shoulders should carry the heaviest burden[33]

2.1.2 Convenience

This entails for the easiness with which a tax payer is able to pay a tax. Under normal circumstances, a taxpayer should not undergo undue difficulty to pay tax. Therefore, the place, medium, mode, manner and time of payment should not be an extra burden to the taxpayer[34].

2.1.3 Certainty

A good tax system is one where the taxes are well understood by the payers and collectors. The time and reason of payment as well as the amount to be paid by an individual should be well documented and certain or known. The tax should be based on law passed by parliament.

2.1.4 Economical

The administrative cost of collecting taxes should be kept as low as possible to both the collecting agent and the taxpayer. The general principle is that the cost of collection and administration of taxes to the collecting agent should not exceed 5% of the tax revenue. Likewise, the cost of compliance to the taxpayer should be as low as possible and must not be seen to hinder voluntary compliance (Kappelet el, 2004)[35].

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[33] Income Tax In Uganda, Pius K Bahemba
[34] Income Tax In Uganda, Pius K Bahemba
[35] Kapel, R Jaun, L And Steiner(2004) The Missing Links- Uganda's Economic Reforms And Pro-Poor Growth

2.1.5 Simplicity

The type of tax and the method of assessment and collection must be simple enough to be understood by both the taxpayers and the collectors. Complicated taxes lead to disputes, delays, corruption, avoidance and high costs of collection in terms of time and resources[36].

2.1.6 Ability to Pay

The tax should not take away so much of the income being taxed as to discourage the performance or participation in the tax base. Therefore a tax must be appropriate and easy to pay by every tax payer by not necessarily making the tax payer uncomfortable in remittances because it can encourage retarded growth of the economy thus affecting national development. This therefore calls for leniency in tax introduction to fit every tax payer[37].

2.2 The legal framework of the Ugandan tax system

This discusses the available laws that establish the existence of a tax and the legal basis on which a particular tax derive its existence.

2.2.1 The Constitution of the Republic of Uganda, 1995(as Amended)

The Ugandan tax system derives its legal background and existence through the Constitution of the Republic of Uganda, 1995(as Amended). The Uganda constitution clearly brings out the payment of tax as a duty of every citizen in Uganda. Therefore for

[36]Income Tax In Uganda, Pius K Bahemba
[37]Income Tax In Uganda, Pius K Bahemba

any tax law to be in force, it must not be repugnant because it will be null and void. Accordingly, the constitution is the supreme law of Uganda and shall have binding force on all authorities and persons throughout Uganda [38].Thus any law that is repugnant to the constitution is null and void and meaning that every tax law must derive its legal existence from the constitution.

The constitution being the supreme law of Uganda provides for a legal basis through which a tax can be introduced. It thus states that no tax shall be levied unless that which is provided for by the Act of parliament[39]. Therefore, the constitution gives legislative powers to parliament to formulate any policy, adopt, present to parliament as a bill then be passed as a law any tax law in Uganda. It mandates Parliament of Uganda to impose taxes through legislations but this may be subject to a presidential veto. Parliament's powers are restricted in financial matters. The amendment power of Parliament on taxation policy depends on the effectiveness of the Committee of Finance, Planning and Economic Development which suggests amendments to the House. This Committee's oversight and scrutiny function on taxation is not well developed and in most cases it is performed on Ad-hoc basis.

2.2.2 The Uganda Revenue Authority Act, Cap 196

The Uganda Revenue Authority Act, Cap 196 was put in place to provide the administrative framework in which taxes under various Acts are collected. The Uganda

[38] Article 2(1) Uganda Constitution As Amended,1995
[39]Article 152(1) Uganda Constitution As Amended, 1995 no tax shall be levied unless that which is provided for by the Act of parliament

ue Authority administers the tax laws (Acts) on behalf of the Ministry of Finance, ng and Economic Development under the following legislation regulating taxes[40].

ganda Revenue Authority Act establishes the Uganda Revenue Authority as a body for the assessment and collection of specified revenue, to administer and the laws relating to such revenue and to provide for related matters.

anda Revenue Authority Act provides that there is an established authority to be as the Uganda Revenue Authority [41] and it is further stated that Uganda e Authority is a body corporate with perpetual succession and a common seal all be capable of suing or being sued in its corporate name and may subject to : borrow money, acquire and dispose of property and do all other things as a rporate may lawfully do[42].

nctions of the Uganda Revenue Authority among others are that to administer e effect to the laws or the specified provisions of the laws set out in the first e to this act, to advise the minister on revenue implications, tax administration ects of policy changes relating to all taxes referred to in the first schedule and rm such other functions in relation to revenue as the minister may direct[43].

he Income Tax Act, Cap 340 (as amended)

t consolidates and amends the law relating to income tax and for other ed services. The Ugandan government depended on the income tax decree

n hand book, a guide to taxation in Ugandan.
2(1) Uganda Revenue Authority Act establishes the Uganda Revenue Authority
2(2) Uganda Revenue Authority Act
23, Uganda Revenue Authority Act

er the introduction of income tax in Uganda. The history of income tax and income : laws is as vast as it has been a gradual process since its introduction in Uganda in 40 by ordinances which also covered Kenya and Tanganyika, present day Tanzania. ıhemuka)[44]

ıerally, the Income Tax Act, Cap 340 provides for a basis on which the incomes of ›ple can be charged for each year of income as long as the income is chargeable as the Act. There are majorly two distinct functions of income tax Act which include assessment of tax payable and collection of the tax due

ı stated that subject to and in accordance with this Act, a tax to be known as income shall be charged for each year of income and is imposed on every person who has ·geable income for the year of income[45]. Therefore basing on this, income tax is ' charged on incomes of people who have chargeable income for each year of me.

ıme is a problem of fiscal policy and states that personal income connotes broadly ɜxercise of control over the use of society's scarce resources (Henry Simmons).

Eisner V Macomber[46], internal revenue claimed tax in respect of certain stock lends received by Macomber. The tax payer argued that dividends were not income tax could not be raised in respect to them. The court accepted the plea. Pitney :d that it becomes essential to distinguish between what is and what is not income

s Bahemuka, Income Tax In Uganda
tion 4, Income Tax Act Cap 340
ıer V Macomber 252 US 189

as the term is used, and to apply the distinction as cases arise according to truth a substance and without regard to them.

The income tax act further provides ways through which income tax can be assessed and enforcement mechanisms. The issue of tax administration is under the hands of Uganda Revenue Authority which among others ensures that income tax is remitted to the authority.

It is stated in the Income Tax Act that among others for self-examination of tax liability for all tax payers who all tax payers who have been in specified in a notice published by the commissioner in the Gazette[47].

Part XI of the income tax act provides for enforcement mechanisms which among others provided under of the Income Tax Act gives powers to the commissioner to sue for unpaid tax[48]. Therefore the commissioner can recover any money owed by a tax payer in form of tax through a court process.

The income tax act further provides for the tax related offences under part XV of the Income Tax Act which among others states that a person who commits an offence where the person fails to furnish a return within 15 days of the return so being required under the Act and it attracts a penalty of not more than fifteen currency points[49].

[47] Section 96, Income Tax Act Cap 340
[48] Section 104, Income Tax Act Cap 340
[49] Section 137, Income Tax Act Cap 340

2.2.4 The Value Added Tax Act, Cap 349

This Act majorly provides for the charge of a tax on the value added on goods or products.

2.3 The institutional framework of the Ugandan tax system

The institutional frameworks that help the Ugandan tax system in fulfilling its duties and obligations in a way of legislation of tax laws, policies and administration as far as the tax system is concerned.

The broad legal framework as laid out in the Constitution of the Republic of Uganda 1995 mandates the Parliament of Uganda to impose taxes[50]. The power to grant tax exemptions however is not restricted to Parliament since in Article 152(2) it recognizes that a person or authority may have powers to grant such exemption but requires such person or authority to report to Parliament periodically on the exercise of such powers. This implies that other institutions with power to grant tax exemptions may grant such exemptions thereby eroding the tax base.

The laws that govern the administration of Uganda's tax system include: The Constitution of the Republic of Uganda; The Public Finance Act Cap 149; The Contingencies Fund Act Cap 150; The Budget Act, 2001; The Income Tax Act, 1997; The Stamp Duty Act, (Cap 172) as amended; The Finance Statute 1998 (Statute No. 4 of 1998) as amended; The Customs Tariff Act, 1970 (Act No. 17 of 1970) as amended;

[50]Article 152(1) of the Constitution provides that no tax shall be imposed except under the authority of an Act of Parliament

The East African Customs Management Act, 2004; The Value Added Tax Statute, 1996 as amended; The Traffic and Road Safety Act, 1998 (Act No. 15 of 1998) and Regulations; The Excise Tax Act (Cap 174) as amended ; and The East African Excise Management (EAC Cap. 26) as amended[51]

2.3.1 The Parliament

The constitution establishes the parliament and it thus states that "there shall be a parliament of Uganda"[52]. The parliament among others is an institutional established by the constitution of Uganda amended, 1995 with the major aim of legislation and its composition and functions are prescribed in the constitutions.

It is further stated in the constitution that subject to the provisions of this constitution, parliament shall have power to make laws on any matter for the peace, order, development and good governance of Uganda[53].

The parliament therefore helps in formulation and legislation of tax laws which are enacted to help and guide the Uganda Revenue Authority in its operations. The parliament among others approves policies that are intended for proper tax collection and increase in Uganda.

[51]Uganda's Taxation Policy: Implications For Poverty Reduction And Economic Growth, Pp. 45

[52] Article 77(1) Uganda Constitution As Amended, 1995
[53] Article 79(1) Uganda Constitution As Amended,1995

However, the president has powers to assent to such bills within 30 days after the bill is presented to him and thus the bill becomes a law after the president has assented to [54] incase he deems it necessary for the purposes of taxation in Uganda.

It is stated that parliament shall not, unless the bill or the motion is introduced on behalf of the Government – proceed upon a bill, including an amendment bill that makes provision of the – imposition of taxation or the alteration of taxation otherwise by reduction[55].

Article 91 (3) of the constitution of the Republic of Uganda, Parliament works through committees to allow for proper scrutiny, analysis and consultations on matters laid on table. In Uganda, the Parliamentary Committees responsible for tax-related issues are those responsible for: Budget, Finance, Planning and Economic Development, National Economy, Public Accounts and Local Government Public Accounts[56]

The CFPED over sees monitors and evaluates the performance of the MFPED and URA. The Bills mostly considered by the CFPED are revenue collection ones (like the Finance Bill, Income Tax bills) and any others related to the institutions and sectors under the Committees mandate. The amendment power of Parliament on taxation policy depends on the effective role of the CFPED which suggests amendments to the House. The Committee's oversight and scrutiny function on taxation is not well developed and in most cases has been performed on ad hoc basis. The Committees do not carry out

[54] Article 91 Uganda Constitution As Amended, 1995
[55] Article 93(A)(1)Uganda Constitution As Amended,1996
[56]Uganda's Taxation Policy: Implications for Poverty Reduction and Economic Growth pp. 47

detailed analysis of gender and equity concerns on the tax proposals. However, two other committees (LPAC and PAC) on accountability are rated highly in the oversight function (Kabakumba, 2007).

While Parliament does not come up directly with tax policy, it has a vital role of scrutinizing government policy and administration through; pre-legislative scrutiny of bills referred to parliamentary committees by Parliament, debating matters of topical interest such as proposed tax bills and consequently passing those bills into law before they are assented to by the president to become law.

Parliament analyses policies and programs that affect the economy and the annual budget and where necessary, makes recommendations to the MFPED on alternative approaches to policy or programs. It also ensures that public resources are held and utilized in a transparent, accountable, efficient, effective and sustainable manner.

Whilst all countries must have the right laws in place, it is equally important to have the capacity to implement them. Existing rules to identify the beneficial owners of assets and prevent the operations of shell companies and other opaque structures need to be enforced as the same is not captured adequately in Uganda's efforts and the Finance Act only expresses aspects of how to ensure revenue mobilization without adequately addressing revenue leakages[57]

[57]Assessing Uganda's legal and Institutional Framework in Curbing and Preventing Illicit Financial Flows and Tax Evasion PP.6

2.3.2 The Role of the Executive

Tax policy and proposals for amendments to tax laws invariably originate from the Ministry of Finance Planning and Economic Development while Uganda Revenue Authority which is charged with policy maintenance usually participates in tax policy formulation through proposals it forwards to the ministry. MFPED is responsible through its tax policy department to formulate tax and non-tax policies aimed at generating domestic revenues and promoting investment, consumption and savings.

The broad tax policy objectives contained in related tax laws like the Finance Management Act 2015 reveal MFPED's efforts at initiating, evolving and formulating tax policies to achieve economic policy goals and objectives and to raise domestic revenue to finance the government budget. The MFPED also makes annual and medium term revenue forecasts, participates in EAC negotiations, COMESA and WTO activities and handles negotiation of DTAs, investment promotions and protection agreements. These functions are achieved in coordination with organizations like BOU, UIA and PSF with support from donor agencies like the IMF[58].

On the other hand, the MFPED is responsible for the formulation of tax and non-tax policies aimed at generating domestic revenue and promoting investment, consumption and savings. The broad tax policy objectives are contained in the budget speeches, followed by the details in tax related laws like the Finance Act, 2003. It was established that Uganda's tax laws are structured in a manner that is not easy to understand. There

[58]Assessing Uganda's legal and Institutional Framework in Curbing and Preventing Illicit Financial Flows and Tax Evasion p.7

are several cross amendments, annual changes, description of items is too detailed, and the coding cannot be understood by non-tax experts.

Accordingly, the Ministry plays a pivotal role in the co-ordination of development planning, mobilization of public resources, and ensuring effective accountability for the use of such resources for the benefit of all Ugandans. Tax policy formulation is limited to a few technocrats without the involvement of other stakeholders. The broad tax policy objectives are contained in the budget speeches, followed by the details in tax-related legislations like the Finance Act, 2003 and Income Tax Act, 1997. The MFPED does report on the performance of incentives[59].

At the same time, the MFPED announces the figures of how much incentives and waivers but not how they have performed in terms of achieving the stated objectives. On participation, apart from UMA, CSOs have not been involved in tax policy issues especially at the legislative level. Civil society organizations could compliment both the URA in tax education and Parliamentary staff in providing technical information.

The MFPED among others represents the executive arm in tax administration, oversees the operations of Uganda Revenue Authority and ensures proper national budgeting, utilization and accountability.

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[59]Uganda's Taxation Policy: Implications For Poverty Reduction and Economic Growth Pp. 48

2.3.3 The Uganda Revenue Authority (URA) Board Administration.

In September 1991, the Uganda Revenue Agency was formed by URA Statute No. 6 of 1991 is a central body for the assessment and collection of specified tax revenue, administration and enforcing the laws relating to such revenue and accounting for all the revenue to which those laws apply. The URA is required to advise the Government on matters of policy relating to all revenue. Uganda Revenue Authority is managed and administered by a Board of Directors, which is the policy-making body and has general oversight power. The management of URA is headed by the Commissioner General. More typical was the creation of an independent revenue agency with considerable autonomy[60]. URA as a semi-autonomous authority responsible for collecting tax revenue to take over from the Ministry of Finance. It was hoped that an independent revenue authority would limit political interference in the tax assessment and collection process. It was also expected that the URA's semi-autonomy would allow it to offer better remuneration to its employees, enabling it to attract competent staff and reduce the corruption that has been associated with URA officials.

The URA is the central body for the assessment and collection of specified tax revenue, administering and enforcing the laws that is established under the Uganda Revenue Authority Act that there is an established authority to be known as the Uganda Revenue Authority [61] and it is further provided that it is a body corporate with perpetual

[60]Uganda's Taxation Policy: Implications For Poverty Reduction And Economic Growth Pp. 49

[61]Section 2(1) Uganda Revenue Authority Act

succession and a c common seal and shall be capable of suing or being sued in its corporate name and may subject to this Act borrow money, acquire and dispose of property and do all other things as a body corporate may lawfully do[62].

In 1998, a LTU was established within the tax administration to monitor the activities of 100 taxpayers and their subsidiaries that pay a significant share of total taxes to ensure compliance among the largest taxpayers. Tax disputes that arise between URA and the taxpayers are handled by the TAT. The tax disputes are large and are projected to increase which is a reflection of the problems in tax management. The creation of an LTU may help the tax administration target its resources effectively and demonstrate its commitment to ensuring compliance among the largest taxpayers.

Uganda Revenue Authority identifies, informs and assesses tax payers with regard to those taxes relevant to them. It also collects and accounts for the taxes collected and enforces collection where default has occurred. Disputes between URA and taxpayers are handled by the TAT. The tribunal was set up by an Act of Parliament (Cap 345) as a specialized court to provide the taxpayer with easily accessible, efficient and independent arbitration. The tax disputes are large and are projected to increase which is a reflection of the problems in tax management

[62] Section 2(2) Uganda Revenue Authority Act

CHAPTER THREE: EFFECTIVENESS OF THE UGANDAN TAX SYSTEM TOWARDS NATIONAL DEVELOPEMNT

3.0 Introduction.

This chapter majorly discusses the positive and negative effects of the Ugandan tax system towards national development.

3.1 Positive effects of Ugandan tax system towards national development.

Taxation plays a crucial role in promoting economic and social growth and development. It is a core pillar for a country's regulatory framework for investment and growth but this can only take place when taxation and its administration are properly designed and channeled to its purpose and objectives. This will bring about the much desired economic and social development in Uganda.

An effective state is able to mobilize revenue and spend it on infrastructure, services and public goods that enhance human capital and the well-being of communities, as well as stimulating investment and employment creation by the private sector. It was reported that output is determined by the economy's resources that include the size and skills of the workforce and the size and productivity of the capital stock[63].

Taxation plays a crucial role in promoting economic and social activities and growth. Though taxation, government ensures that resources are channeled towards important projects in the society while giving support to the weak. Accordingly,

[63]Engen & Skinner (1996)

taxation is useful in raising revenue, controlling the consumption of certain commodities, controlling monopoly, reducing income inequalities, improving the balance of payments as well as protecting infant[64].

Objective IX of the Uganda constitution as amended, 1995 provides for a right to development. It thus states, "*in order to facilitate rapid and equitable development, the state shall encourage private initiative and self-reliance*[65]."

Taxation is among others the major sources of government revenue for public expenditure which therefore amounts to development of the country (Bird, 2004)[66]. A tax system is used to reduce inequalities through a policy of redistribution of income and wealth. Higher rates of income taxes, capital transfer taxes and wealth taxes are some means adopted for achieving these ends (Musgrave and Musgrave 2004)[67]. Whether the taxes collected are enough to finance the development of the country will depend on the needs of the country and, countries can seek alternative sources of revenue to finance national development (Irefin, 2011).

The government through its tax policies and laws has allowed tax holidays and exemptions to the investors and other business entities to encourage investment in Uganda which is a good sign of development because such investments tend to provide employment to its nationals and encourage infrastructural development.

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[64]Orjih (2001:153)
[65]Objective IX Of The Uganda Constitution As Amended, 1995
[66] Bird Richard (2004) Administrative Dimensions of Tax Reform. Asia- Pacific Tax Bulletin
[67] Musgrave, Fiscal Systems

The tax system is designed for social purposes such as discouraging certain activities which are considered undesirable. The excise taxes on liquor and tobacco, the special excise duties on luxury goods, betting and Gaming Levy are examples of such taxes, which apart from being lucrative revenue sources have also goals (Bhartia, 2009).

The tax system ensures economic development through the ability to influence the allocation of resources. This includes; transferring resources from the private sector to the government to finance the public investment program; the direction of private investment into desired channels through such measures as regulation of tax rates and the grant of tax incentives etc. (Waidyasekera 2008). The tax system is also set to protect local industries from foreign competition through the use of import duties urnover taxes/VAT and excises. This has the effect of transferring a certain amount of lemand from imported goods to domestically produced goods (Kotlán, 2011).

he tax system has positively influenced the improvement of the people's standards of ving. This is because the government has priotised development through of revenue ollections and other external sources such as grants, loans and donations .The 2014 ational Population and Housing results show that the share of Uganda's population ith access to basic necessities required living in dignity increased. The results show a astic improvement in the standards of living in terms of access for meals, access for ectricity, Access to safe water increased through use of piped water.

e United Nations University (2006) urges states to ensure policy on public finance is ither too restrictive to discourage private investment and growth, nor too accommodative to create high inflation and crowd out private investment. Taxes create distortions in the choices made by producers and consumers. The component of income tax levied on wages distorts the choice between work and leisure and may affect labor supply (Stepanyan, 2003; Engen & Skinner, 1996). The component imposed on capital income received by individuals distorts their choice between consumption and saving, while the component imposed on enterprises affects investment decisions and may alter the allocation of capital among different sectors of the economy.

Lucas (1990) claims that a tax reform involving a fiscally neutral change eliminating capital taxes would increase growth rates negligibly. Jones, Manuelli & Rossi (1993) found eliminating all distortionary taxes would increase the growth rate by four percent to eight percent, while Engen & Skinner (1996) predicted that a balanced budget increase in government spending and taxation by 10 per cent would decrease long-term growth rates by 1.4 per cent.

3.2 Negative effects of Uganda tax system towards national development.

The controversial presidential handshake highlights the inefficiencies involved in this Ugandan tax system. The Minister in charge of Finance has powers to appoint a Commissioner as provided under the Uganda Revenue Authority Act[68] . It is upon this that the commissioner becomes answerable to the minister thus having control over taxes collected which leads to high levels of misuse. The 6 billion presidential hands

[68]Section 5 Uganda Revenue Authority Act

shake which was orchestrated by the commissioner Uganda Revenue Authority shows a great loophole in tax administration in Uganda[69].

The Ugandan tax system creates room for tax avoidance which is affects revenue collection. Tax avoidance refers to legal utilization of the tax regime to one's own advantage to reduce the amount of tax that is payable by means that are within the laws. This therefore allows people to dodge tax payment because the tax system in one way or the other protects them.

Tax evasion on the other hand is another short fall for the Ugandan tax system because it affects tax collection. Tax evasion refers to the general term for the efforts not to pay taxes by illegal means.

The tax system has elements of pro-poor and non-pro-poor growth. Low domestic revenue generation, high exemptions and imposing taxes on goods consumed by the poor do not support the notion of pro-poor growth. However, the introduction of broad-based taxes, zero rating of education and health services and taxes on consumption are a characteristic of a pro-poor tax system

The politics of taxation is generally limited to involve a few specialized interest groups, and tend to take place in non-public arenas. The peasants and elites are not represented in tax policy formulation but the elites have the alternative of airing views through the media. One such organized group is the UMA which has been very vocal in

[69] Daily Monitor

protecting local industries. The issue of participation could best be undertaken by the CSOs that in most cases are in close contact with the local communities.

There is also the problem of revenue fraud in the form of smuggling, undervaluation, under declaration of income and taxable goods, and misclassification of goods. There is also a problem of tax evasion and avoidance. There is also the problem of importation of second-hand commodities which is bound to adversely affect the environment, employment, local production, household incomes and investments which are important for revenue generation.

Uganda's tax system has not raised sufficient revenues to finance essential government expenditure and the level of donor support has been significant.

CHAPTER FOUR: EFFECTIVENESS OF THE UGANDAN SYSTEM IN TERMS OF ENFORCEMENT

4.0 Introduction

This chapter discusses the available structures that enforce or implement compliance with tax obligation in Uganda. There are vast modes of tax implementation which among others include the court structures provided.

4.1 Structures that ensure enforcement and compliance tax obligation in Uganda

:n Uganda, there are vast structures of tax implementation and include the following: - Tax Appeals Tribunal, High Court (Commercial Court Division), Court of Appeal and Supreme Court.

n case of any objections pertaining tax assessment, a tax payer must lodge an objection to the assessment with the commissioner within 45 days after the service of he notice of assessment[70]. The objection however must be in writing and must state he grounds upon which it is made. The commissioner may allow the objection in whole r in par and amend the assessment or disallow the objection and incase of issatisfaction of the decision made by the commissioner, the tax payer has other nodes he can challenge the tax assessment which among others are discussed below[71].

Section 100 of the ITA provides that within 45 days of the date of assessment a taxpayer may file with e Commissioner General notice of objection against the assessment
Income Tax in Uganda, Pius K. Bahemuka, P.54

4.1.1 Tax Appeals Triburnal

The establishment of the tax appeals tribunal Subject to any law in force in the Partner States with respect to the tax appeals each partner state shall establish a tax appeals tribunal for the purpose of hearing appeals against the decisions of the Commissioner[72].

The TATA was enacted because of the disagreements between taxpayers and tax collectors which among others include the interpretation of tax laws, the administration of taxes and the content of tax laws. While URA is obliged to enforce tax liabilities, it may misapply the law and at the same time the taxpayer may not appreciate their obligations.

The primary mission of the TAT is to provide the taxpayers with easily accessible, efficient, fair and independent means of tax arbitration. In case a tax payer is dissatisfied with the assessment by the Commissioner, he can apply for review[73].

This position was discussed in the case of *Uganda Commercial Limited (UCBL) Bank V URA.79*[74] where UCBL was supposed to have withheld tax on management fees paid out to the Westmont Land Asia. UCBL appealed against these actions of the URA to the TAT and one of the issues was for determination of whether the TAT was a proper forum to entertain the matter. UCBL was not the taxpayer but the withholding agent and, therefore, it was contended that an action for refund brought against URA was not

[2]Article 152(3) parliament shall make laws to establish tax laws to establish tax tribunals for the purposes of settling tax disputes
[3]Section 101 (1) of the Income Tax Act provides that "a tax payer dissatisfied with an objection decision may at his or her discretion apply for review of the decision to a tax tribunal established by Parliament.
[4]Uganda Commercial Limited Bank(UCBL) V URA.79

an application against a taxation decision and it did not fall under the jurisdiction of the TAT.

A tax payer has a right to apply for review to the Tax Appeals Tribunal in case he is dissatisfied with the decision of the Commissioner/ Commissioner General. This is because there are issues that tend to require more than the commissioner for interpretation.

The Objections and Appeals procedure is a procedure for challenging an assessment by the Commissioner / Commissioner General and is provided for under Sections 33A, 33B, 33C and 33D of the VAT Act, 1997 as amended Sections 99, 100 and 101 of the Income Tax Act as amended.

Under the VAT Act, a person dissatisfied with an Objection Decision may within 30 days fter being served with the notice of Objection Decision lodge an application with the 'AT for review of the decision. A person shall before an application with TAT pay to the ommissioner General 30% of the tax in dispute or that part of the tax assessed not in ispute whichever is greater and then serves a copy of the application to the ommissioner General. An appeal lodged shall be conducted in accordance with the \T Act 1997 and rules and regulations under it.

1.2 Appeal to High Court

taxpayer that is aggrieved by the decisions of the Tax Appeals Tribunal has a right to peal to the High Court. The income tax act clearly gives an opportunity to the tax payer to appeal for any decision made by the Tax Appeals Triburnal in case they feel cheated by the decisions[75].

This right was exercised in the case of *Shell Malindi (U) Limited V URA 87*[76] where the TAT held that the appellant was not entitled to tax exemptions under Section 162 of the Income Tax Act 1997 and Section 25 of the Investment Code of 1991 on withholding tax paid on dividends and interest paid on non-residential shareholders in respect of 1998 and 1999. Although this appeal failed, it demonstrated that a right of appeal exists in such circumstances.

The High Court has original jurisdiction to try all matters both in civil and criminal in nature[77].

A party dissatisfied with the TAT decision may within 45 days after being notified of the decision lodge a notice of appeal with the Registrar of the High Court and the party so appealing shall serve a copy of the notice of appeal on the other party to the proceedings before the Tribunal. An appeal to the High court shall be on the question of the law only and the notice of the appeal shall state the question or questions of law that are to be raised on the appeal.

[75]Section 101(1) of the Income Tax Act gives a taxpayer right of appeal if he or she is dissatisfied with an objection decision of the Tax Appeal Tribunal.
[76]Shell Malindi (U) Limited V URA 87
[77]Article 139(2) the High Court has unlimited original jurisdiction in all matters and such appellate and other jurisdiction as may be conferred on it by this constitution or other law

A person who has lodged a notice of appeal with the Registrar of the High Court shall, within 5working days of doing so, serve a copy of the notice of appeals on the Commissioner.

4.1.3 Appeal to Court of Appeal

A taxpayer is further given a right of appeal to the Court of Appeal. Thus a taxpayer who is a party to proceedings before the High Court and who is dissatisfied with the decision of the High Court may with the leave of the Court of Appeal, appeal against a decision of the High Court to the Court of Appeal.

n the case of *Capital Finance Corporation Ltd V URA*[78], where jurisdiction of the Court of Appeal was contested, the Court of Appeal held that it has jurisdiction to hear ppeals from the High Court as the appellant first challenged the taxation decision in ne Tax Appeals Tribunal.

.1.4 Appeal to the Supreme Court

taxpayer that is not satisfied with the decision of the Court of Appeal can, with leave court, further appeal to the Supreme Court. The Supreme Court is the final court of ppeal in Uganda. Thus an appeal from the decisions of the Court of Appeal lies to the upreme Court as a third appeal[79].

ne supreme court of the Republic of Uganda in the case of *Uganda Revenue uthority vs. Rabbo Enterprises Uganda Limited and Mt. Elgon Hard wares Limited*[80]

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apital Finance Corporation Ltd V URA((3 December 2001)0
rticle 132(2) the Supreme Court is the final court of appeal
ganda Revenue Authority vs. Rabbo Enterprises Uganda Limited and Mt. Elgon Hardware Limited

ruled that all tax disputes must first be filed with the TAT and only brought before the High Court on appeal from the TAT's ruling.

4.2 Effectiveness of the enforcement mechanisms towards enforcement of tax compliance and tax payers' rights

There are several problems associated with administration, assessment and collection of that affect the rights and obligations.

It is so difficult to assess tax because taxpayers do not keep accounts. This, therefore, means that there are no guidelines to determine one's income. This leads to under or over assessment of taxpayers. This therefore makes it difficult ensure proper determination of tax thus more tax related challenges in the enforcement mechanisms.

The assessment may be unfair and sometimes biased if the person is assessed is not present at the time of assessment in person or through a legal representative.
Favoritism, and not transparent process of appeal, encourages arbitrary assessment. Thus, in some cases there is discrimination and over or under assessment of taxpayers. The Commission of Inquiry of Iganga Tax Riots 147 revealed that there was favoritism and cheap popularity by the assessment team and that chiefs and LCs used arbitrary means in assessing tax.

CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSSIONS AND RECOMMENDATIONS

5.0 Introduction

This chapter summarizes all the findings, concludes the whole research and the recommendations thereof for the challenges and requirements which may need change or improvements.

5.1 Summary of findings

The Ugandan tax system has to a larger extent contributed to the development of Uganda through acting as a source of revenue. This has been realized in so many ways which includes ` infrastructural development, improvement of standards of living and improvement of literacy levels in Uganda. However, there are low tax collections due to the inadequacies in the Ugandan tax system whether administratively or poor laws. There are numerous explanations as to why the tax ratio remains low in developing countries:

Many still rely heavily on subsistence agriculture or the informal sector; according to the latest estimates from Schneider et al. (2010), the size of the average shadow economy in Sub-Saharan Africa was some 38.4 per cent of GDP, compared to an average of just 13.5 per cent in high-income OECD nations.[81]

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[81] The country in SSA with the largest informal sector in 2007 was Zimbabwe, at 62.7%, whilst the smallest in the OECD was Switzerland, at 8.1%.

Tax avoidance by high-earning individuals is also a problem. The IMF (2011) promotes the view that vast revenue improvements can be realized by tackling this.[82]

A further issue might arise where developing countries are locked in a 'race to the bottom' in order to attract investment from multinational corporations (OECD 2014).

Low tax morale, perhaps as a result of citizens' low level of trust in public officials or administrations, also impedes compliance (OECD 2013; OECD 2014); one must only look at responses to the relevant questions in, for example, the Afro barometer or World Values Survey, in order to see this illustrated.

Inefficient, underdeveloped or under-resourced institutions, alongside unreliable communications infrastructure (such as the internet), can hinder the efficiency of tax administration.

Widespread illiteracy and low population density (Reizman and Slemrod 1987).

Vulnerability to shocks in commodity prices.

Damage caused to the tax base and administrations by conflict (IMF 2011).

5.2 Recommendations

The tax system of any economy is used to achieve a wide range of aims which are not always consistent and which vary from time to time. A good tax system therefore should be efficient in that it does not distort economic decision-making. To initiate

[82] This might, for example, take the form of legal loopholes or the use of tax havens.

improvements in her tax systems that would lead to increased tax revenue, Uganda should particularly adopt the following recommendations:

First, it is important to develop a modest design into the tax system because countries that are able to mobilize tax resources through broad-based tax structures with efficient administration and enforcement will be likely to enjoy faster growth rates than countries with lower efficiency. Generally, an efficient tax system is one that reduces the disincentive effects of taxation to work, save and invest by using broad-based income tax structures.

Therefore, a broad base of corporate income tax in conjunction with lower administrative costs is often seen as fairer than a narrow-based system because of horizontal and vertical equity considerations. Hence, tax reform in Asia and Europe should thereby focus on enhancing tax enforcement and broadening their tax base by minimizing tax incentives, exemptions and allowances, which would reduce the administrative costs of taxation and lead to an increase in tax revenue. Increases in tax revenue would allow greater government benefits to achieve more equal distributions of wealth and income.

Since the personal tax rate does not have a significant impact on growth and on income inequality, the government should focus to reduce tax evasion, which is believed happen in the highest income group that could distort the horizontal and vertical equity in redistributing the income.

High earners or the highest income group should be subject to high and rising marginal tax rates, especially in the statutory top corporate tax rate. This paper suggests that increasing the highest statutory CIT rates above 40% could reduce the income gap between the poor and the rich, which is consistent with the study by Diamond and Saez (2011). Therefore, the government should focus on minimizing the tax avoidance activities such as re-timing or income shifting by broadening the corporate tax base and promoting tax enforcement.

Improve international tax cooperation and introduce systems for automatic information exchange with other tax authorities to combat harmful tax practices.

Make substantial cuts to corporate taxes as this provides the biggest incentive to invest, create wealth, attract and grow new businesses, and create quality jobs for the citizens. All this would lead to the expansion of direct tax base.

Improve transparency by reforming accounting systems for expenditures along functional lines, using international standards as a guide, so that amounts spent on public investment needs can be clearly determined and assessed.

All the above mentioned recommendations are futile if not implemented and monitored squarely. In this respect, efforts should be made for research advanced for the benefits of this country, Nigeria to be made available to government and their advisers and also to see to it that these research works do not end its journey in the library without achieving its main purpose.

5.3 Conclusions

The Uganda tax system is still wanting in that the department in charge of administration is too week which makes it difficult for Uganda to realize all the monies owed in form of taxes which are a source of revenue useful in ensuring national development in Uganda. It is thus upon this that it's advised that for development to be realized a good tax system must favor so through provision of sufficient revenue.

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