THE LAW, COMPLIANCE AND JUSTICE IN THE TAX SYSTEM OF TANZANIA

Written By ***Prof Handley Mafwenga***

Ph.D (finance), Ph.D (Juris). MSc (finance), MBA (Managerial economics & Policy), LL.M (Tax), LL.M (Procedural law& international legal practice), LL.B (Hons), PGDip (Tax), ADDip (Tax)

ABSTRACT

The only goal of taxation, according to the conservative and comprehensive views of the Classical economists, is to increase government revenue. Although taxes affect consumption, production, and distribution with a view to assuring the availability of social welfare through the realised economic development of a country, their original purpose has altered due to changes in circumstances, philosophies, and ideologies. This calls for the use of legal language to uphold justice in accordance with the letter of the law and the spirit of the law, which is likely to alter taxpayer behaviour and enable voluntary tax compliance. On the other side, the government must make sure that taxation canons are upheld within the tax community. As a result, this paper investigates, among other things, the relationship between the letter of the law, voluntary compliance, and tax justice as components of Tanzania's stable and predictable tax system.

INTRODUCTION

Any acknowledged code, rule, regulation, or concept that must be obeyed in accordance with the tax government's tax objectives or tax-related policies is known as the "letter of the law." In a nutshell, it is the written law. Examples of such letters in Tanzania include those that enforce voluntary compliance, such as section 91 of the Income Tax Act and other laws.

All tax laws are in place to support, uphold, and safeguard tax justice, taxpayer behaviour, and the money that the government should be able to generate in a variety of ways. The precision of the legal language and the clarity of the lawmakers' goals are the least of the benefits that the use of technical phrases unquestionably brings about. Because each area of tax law has its own technical jargon, it can be difficult to understand tax rules when they are spoken in other languages. For any incorrect misinterpretation may result in lost revenue due to a lack of willing compliance. Law is not an exact science, and the polysemy that characterises the social sciences causes its vocabulary to suffer. The very term that denotes it, law as a system or law equals rights, denotes something that depends on the objective or subjective situation.

Voluntary compliance refers to a taxpayer's intention or readiness to behave in conformity with the tax law (i.e., both the text and spirit of the law), as well as the voluntary effort they put out to pay their tax burden on schedule. The willingness of the taxpayer shall be subject to the deprival from paying taxes or, as the case may be, tax evasion, if the degree of the law's superfluity is not well known. Taxpayers are required by law to follow all tax laws, as well as any other rules that have the same legal weight as tax laws. However, as determined in the Insiginia Limited Case, tax equality is crucial in this context.

"In tax matters, the onus of proof has frequently been placed on the taxpayer. This demonstrates how crucial the burden rule is and reflects several opposing justifications, including the government's critical interest in collecting revenues, the ease with which tax payers can access the pertinent information, and the significance of encouraging voluntary compliance by providing incentives to taxpayers to self-report and to maintain adequate records in case of disputes. [Italics added]

The amount of taxpayers' voluntary compliance is influenced by a number of variables, and any tax system should be built on the basis that these variables should be recognised and addressed as such in order to maintain voluntary compliance levels that are satisfactory. But the tax laws and regulations need to accurately take these aspects into account. Tax compliance is what the government believes people are legally required to pay, but the government and taxpayers do not always view it in the same way. We can point to the Commissioner General and the MacArthur & Baker International Case as a corrective action.

"Tax provisions must be read properly and in accordance with their plain meaning. According to this methodology, we are inclined to believe that the word registered, as defined in Sections 2(1) and 2(b)(i) of the Act, must be accorded its natural meaning. We are unable to think of any circumstances that would allow us to diverge from this rule. We reject Mr. Songoro's argument that the words "incorporated" and "established" should be substituted for "registered" in subsection 2(b)(i).

Payment compliance, filing compliance, and reporting compliance are the three main categories of compliance. In this sense, effective tax administration necessitates that taxpayer behaviour be in line with the application of a tax law that incorporates both the language of the law and the spirit of the law. The tax laws' enforcement provisions, such as penalties, audits, and tax rates, have a significant impact on tax compliance practises. The interpretation of the letter of the law that takes into account social and moral consensus is known as the "spirit of the law," and social standards typically reflect this consensus. In this sense, social norms are "the common behaviours that bind human groupings together, the language a society speaks, the embodiment of its ideals and collective desires, the safe guide in the uncertain places we all traverse."

The "tax gap," or the difference between the actual revenue collected and the amount that would be collected if there were 100% compliance, can be used to quantify the level of noncompliance. The deceptive clauses in the tax laws and regulations may have caused this. Accordingly, there are two ways to define the term "tax gap": gross tax gap and net tax gap. The net tax gap is the difference between the gross tax gap, which is the amount of "actual" tax due that is paid "voluntarily and timely," and the amount of late payments or amounts recouped by the Revenue Authority through enforcement actions. The non-filing gap, the under-reporting gap, and the underpayment gap are the three main categories into which the gross and net tax gaps can be divided. Three factors contribute to the underreporting gap: underreported income, inflated offsets, and net arithmetical errors. All of these situations result in tax justice for the government and the taxpayers.

Tax revenue and how it is effectively used

The four basic motivations for taxation are as follows: (1) to fund government operations; (2) to influence the macroeconomic performance of the economy, whereby the government's strategy is generally referred to as its fiscal policy; (3) to pay for national security and defence; and (4) to redistribute resources among individuals or classes in the population.

"To pay for the cost of administration, upholding national law and order, and for defence."

Today, however, the government is in a position to bring back social justice in the economy and society by offering a variety of social services such housing, sanitation, public health, education, and the development of the underprivileged. As a result, the government needs more money than should previously be raised. In doing so, the government imposes taxes in countless yet quantifiable categories.

The Ministry of Works and Transport changed numerous laws, including the Railway Act No., Civil Aviation Act, TAZARA Act, and National Law, to ensure that the provision of economic infrastructure complies with this objective and that the letter and spirit of the law are related to the utilisation of resources. This coincides with the evaluation of the 2003 Transport Policy, the creation of the National Maritime Transport Policy (NMTP), and the Phase IV Investment Program for the Transport Sector (as of the date of this publications). The growth of the infrastructure at the Ministry of Transportation, Works, and PO-RALG is depicted as follows;

In addition, the government is currently building 487 health facilities, 101 hospitals, airports, and 1,143 water projects as of the date of this publication.

Historically, the main purpose of a tax was to pay for the products and services that the government supplied. The main problem with taxes as a means of funding is that they have a significant impact on how effectively scarce resources are used since they take resources away from other uses. Taxes, on the other hand, are a cause of allocative inefficiency in an economic sense and tax injustice in a legal sense if they direct resources away from their optimal alternative use. Benefits from government expenditure must be at least as valuable as the alternative uses for these resources in the private sector of the economy in order for the public sector to receive resources efficiently through taxation. On the other end of the legal spectrum, it indicates that citizens have received tax justice.

In the current day, the goal of public finance is not just to raise enough money to cover administrative costs, maintain law and order, and defend the nation from foreign attack. Right now, ensuring social welfare is the main objective. The government's revenue increases as tax collections rise. By raising tax revenue, the government may avoid borrowing money in a safer manner.

It is well known that taxes impede economic growth while government spending promotes it. However, some government-provided goods and services—such as a legal system, an infrastructure, the provision of national defence, public health, and, possibly, free or subsidised education—increase the productivity of inputs in the private sector.

Elimination of Income and Wealth Inequalities

Because resources are used more effectively in the private sector, taxes are purposefully diverted from the private sector for finance purposes. Non-neutral effects will result from inefficient resource allocation, and taxes can be used to alter resource allocation.

The effective placement of high taxes on luxury and non-essential goods discourages their manufacturers. The resources used to produce these commodities could instead be used to produce other necessities that qualify for a variety of tax breaks. "Beneficial diversion" is what this is known as. When taxes are imposed, resources are transferred from the taxed sector to the untaxed sector. In less developed locations where typical investors are hesitant to invest, tax money may be used. Through the doctrine of the Canon of Equality, the nation that plays a significant role in the preservation and promotion of the economic and social well-being of its residents seeks to eliminate income and wealth disparities.

Because taxes and tax rates can be chosen in a way that affects how income is apportioned among taxpayers, the redistribution function of taxes explains the best method of distributing taxes among taxpayers. Taxes have the ability to change the distribution of income, moving it from one income group to another. The government also raises people's standards of living by providing tax breaks on a few basic items. This is corroborated by the following Fran Lebowitz quotation:

Don't teach your youngster to subtract; instead, teach him to deduct, if you're really concerned about preparing him for the future.

ENSURE ECONOMIC STABILITY

Taxation has a constant impact on the overall level of output and consumption. As a result, it can be utilised as a powerful tool for achieving economic stability because taxes allows for the management of inflation and deflation's impacts. The surplus purchasing power in people's hands during a boom or inflation period causes an increase in the price level. Such surplus purchasing power can be gradually reduced by raising the current tax rates or enacting new taxes. After that, the abnormal demand will decline and economic stability will be possible.

Taxes are viewed by those who advocate for their stabilisation as a variable that can be changed to steer the economy toward full employment and stable prices. Tax increases typically result in lower private savings and consumption, which in turn results in lower private spending. Tax cuts have the opposite effect on private spending because they promote private consumption and saving. As a result, taxes have a big influence on how much private demand changes. This is only achievable if tax laws include clear language addressing the allocation and distribution of income and resources.

In order to ensure flexibility with respect to changes in the "worth of money" and "income levels," it is imperative that emerging countries use tax mechanisms to significantly strengthen economic stability.

REPARATION OF REGIONAL IMPAREMENTS

Most governments are very concerned in reducing regional disparities. Large regional disparities pose substantial risks to the economic and political stability of a nation, and in extreme circumstances they may prompt calls for separation from wealthy regions seeking to avoid significant wealth redistribution or from poorer regions hoping to prosper under a different system. Therefore, redistributive transfers from richer to poorer regions are inevitable.

Tax policies might declare various tax exemptions and concessions to those specific backward regions in order to promote and expedite their economic activity, thereby eradicating these imbalances. By putting high tariffs on competing imports, it promotes the growth of domestic businesses and defends them against foreign competition in order to create jobs and conserve foreign currency. In a same vein, it promotes exports by lowering or eliminating taxes on exports to make them more competitive globally. Figure shows the overall tax exemptions for domestic taxes (VAT exemption and Duty-Free Shops) and international trade taxes by broad categories of significant beneficiaries from 1998–1999 to 2007–2008, including the government and its agencies, NGOs, private firms and people, TIC, and others. …… About 50% of domestic VAT collections are VAT exemptions, while about 40% of the entire turnover achieved from registered traders is exempt or zero rated. About 29% of the overall net customs collections are lost due to exemptions, according to the Excise and Customs Department.

ACCUMULATION OF CAPITAL

Tax breaks or exemptions provided for savings or investments in social security and pension plans, life insurance, unit trusts, housing banks, post office banks, shares and debentures of specific companies, etc., lead to significant capital accumulation that is crucially necessary for the noteworthy promotion of industrial development. Due to the mixed economies of developing nations, caution must be taken to encourage capital formation and investment in both the private and governmental sectors. Therefore, tax policy should be focused on increasing the ratio of savings to national income in a way that sustainably raises the level of savings and capital formation in the private sector, partly to increase investment capacity in the private sector for economic growth and partly to enable borrowing by the government.

CREATION OF OPPORTUNITIES FOR WORK

By giving small business owners and industries that use labor-intensive methods tax breaks or exemptions, more employment possibilities can be created. This is an imaginative way to partially tackle the unemployment problem. In this regard, introducing or increasing workcontingent tax credits aimed at low-income workers can increase work incentives for low-income workers; meanwhile, lowering employer social security contributions or payroll taxes for young people with low skill levels, long-term unemployed individuals, and older individuals will lower the cost of hiring them to employers, increasing labour demand.

The tax wedge, or the difference between the cost of labour to the employer and the corresponding net take-home pay of the employee, is a helpful indicator of the tax burden on labour at the microeconomic level.

AVOIDING HARMFUL CONSUMER CONSUMPTION

By enticingly placing high excise rates on goods like whisky, cigars, etc. since their use is significantly reduced, taxation safeguards society from undesirable and destructive consumption. Due to taxes, certain unwanted products, such as alcohol, cigarettes, and other similar products, are substantially charged, resulting in restrictions on their consumption, which in turn promotes social welfare. In order to increase social welfare and social order in society, a portion of tax income is used for social development initiatives.

The advantages of a tax on pollution (carbon emissions) are considerably greater. It motivates businesses to invest in carbon-reducing technologies and to retrofit their operations to account for the full costs of the pollution they produce. The following quotation from Thomas S. Foley supports the claim that externalities can generate revenue:

"You're a tax evader if you don't drink, smoke, or drive a car."

Consumption taxes are frequently used to motivate people to cut back on or stop engaging in harmful types of consumption. Consumption tax appears to discriminate against the financially disadvantaged. Consequently, from an egalitarian standpoint, income tax and other tax bases that can be made progressive may be superior to consumption tax.

CONFIDENCE IN EXPORTS

Currently, many exemptions or incentives, such as 100% accelerated deduction on capital expenditure from income tax, incentives on Special Processing Zones, etc., are reviving export-oriented sectors, resulting in the substantial earnings of foreign currency.

In this sense, taxes promote exporters while limiting imports. Generally speaking, neither developed nor emerging nations tax goods that are exported. Tanzania, for example, exempts exports from excise duty and has zero-rated VAT, customs duty, and other charges. On imported items, there is a customs duty, though. Cost of tax Figure 2 displays exemptions for all tax categories provided by the TRA.