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# Analysis of Nigerian Tax Regime in Internationalization and Profit Swapping: Challenges and Prospect

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***Abstract***
*The concept of internationalization shows cases autonomous tax jurisdictions with prospects as well as challenges. This study examines the Nigerian tax regime in the context of internationalization effect and the occurrence of profit swap through the use of systematic conceptualization and the use of relevant connected theory to bring out the key rudiments of the study. It further evaluates the objectives and the statutory role of the governmental agency that is responsible for the administering and enforcement of tax in Nigeria and the Relevant tax Regulations in Nigeria with respect to their mode of operations. It went ahead to discuss the weaknesses and prospects faced by the Nigerian tax regime in the stir of internationalization, connecting internationalization to technology and how it aids the profit swap sensation. It further indorses that the Nigerian tax regime should engage in a critical assessment of information technology infrastructure and policy infrastructure to find areas of challenges and enhance on those challenges.*

***Key Words:*** *Tax, Tax Haven, Internationalization, Profit swap, Technology*

## INTRODUCTION

The desire to uplift one's society is the first desire of every patriotic citizen. Tax payment is a demonstration of such a desire. The payment of tax is a civic duty and an imposed contribution by government on her subjects and companies to enable her finance or run public utilities and perform other social responsibilities. Taxes, thus, constitutes the principal source of government revenue.
Taxes, and tax systems, are fundamental components of government revenue generation. Thus, taxes build capacity to provide security, meet basic needs or foster economic development and they build legitimacy and consent helping to create consensual, accountable and representative government. A key component of any tax system is the manner in which it is administered[1].
Bahi and Bird (2008) states that no tax is better than its administration, so tax regime matters a lot, and an essential objective of tax regime is to ensure the maximum possible compliance by taxpayers of all types with their taxation obligations. In Nigeria the agency that is responsible to administer Company income tax is the Federal Inland Revenue Services (FIRS)[2]. Its objectives is to administer different taxes and laws specified in the First Schedule or other laws made by the National Assembly from time to time[3]

Following from the above, the policies of the tax regime of FIRS shall also promote and encourage healthy competition amongst tax and revenue authorities in Nigeria at the Federal and State level and to facilitate rapid development of the tax sector in Nigeria. The focus of the competition shall be to maximize tax revenue within the jurisdiction of each Government in line with Constitutional and statutory provisions. It is expected that there would be increased collaboration as a result of the need to grow tax revenues by each level of Government and that improved collaboration would enhance tax yield between and among Federal and State government.

### Concept of Taxation

Taxation is defined as a process by which a public authority such as the Federal, State or Local Government imposes a levy on individuals, sole traders, partnerships, limited liability companies and public corporations limited by shares or limited by guarantee for the purpose of generating revenue to accomplish public sector projects.Anyanwu,defined Tax as a[4]

> *"compulsory payment or levy imposed on income, profit, property, wealth, estate, goods and services of individuals and corporate bodies by the government for the sustenance of its expenditure on numerous activities and tor which there is no guarantee direct benefit from the government to the tax payers".*

Chigbu (2012) maintained that the economic history of both developed and developing countries, reveals that taxation is an important instrument of government that generates revenue, which also creates fiscal goals that influence the direction of investment and taming the consumption and

[1]Naiyeju J. K (2010): Nigerian Speaks on Taxation: A tool for Social Change Administration in Nigeria and the Issue of Tax Refund. A paper presented as part of Nigerian 50th Anniversary Celebration at Aso Hall Oct 1, 2010
[2] S. 25 of FIRS Act 2007
[3] S. 2 of FIRS Act 2007
[4]J. C. Anyanwu, Nigeria Public Finance, Onitsha: Joanne Educational Publishers. (2011).

production of certain goods and services. He went further to state that taxes are imposed to regulate the production of certain goods and services, protection of infant industries, control business and commerce, curb inflation, reduce income inequalities and these in turn result to economic growth. Taxation is a compulsory but non-penal levy by the government through its agent on the profits, income, or consumption of its subjects or citizens. It is also viewed as a compulsory and obligatory contribution made by individuals and organization towards defraying the expenditure of government. Tax is a charge levied by the government on the income or wealth of a person or corporate organization for the common benefit of all. Similarly, Ogundele (1999) defines taxation as the transfer of real economic resources from private sector to the public sector to finance public sector activities. It may be inferred from the foregoing that taxation is the transfer of financial resources from private economic agents like households and corporate bodies, to the public sector to finance the development of the society. Ihendinihu, Jones and Ibanichuka[5] noted that taxes are major source of revenue to many governments, a fiscal instrument for regulating and resolving economic and social policies and a mechanism for enhancing economic growth. It is also a fiscal tool for reducing private consumption and transferring resources to the government for economic development.

The level of revenue generation through taxes to provide critical infrastructural development in an economy is depended on the country's existing tax structure and how robust it is to effectively and efficiently assess, collect and account for the collections. Ogbonna and Appah[6] posit thus

> *"one means of generating the amount of government revenue to provide the needed infrastructural development is through the means of a structured tax system".*

The above provides the need for consistent actions by government to enhance the existing tax system with a view to boosting revenue generation so as to impact on economic growth. National Tax Policy, (2013) defined Tax as a financial charge or levy imposed upon an individual or legal entity by a State or a legal entity of a State; it is a pecuniary burden laid upon individuals or property to support government expenditure. It also defined tax as „a monetary charge imposed by the Government on persons, entities, transactions or properties to yield revenue. It went further to state that tax is „the enforced proportional contributions from persons and property, levied by the State by virtue of its sovereignty for the support of Government and the public needs. The Chartered Institute of Taxation, Nigeria (2002) defined tax as an enforced contribution of money to government pursuant to a defined authorized legislation.

### 2.1.2 Concept of Tax in Nigeria

Historically, according to Ola (1981) income tax in Nigeria was first introduced in 1904 by the late Lord Lugard of Britain. Community tax became operative in Northern Nigeria under Fulani administration and also because the Muslim religion adhered to it, the people approved of taxation

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[5]C. J Ihenyen,.& E. G Mieseigha,. Taxation as an instrument of economic growth (The Nigeria perspective), Information and Knowledge Management, (2014) 4(12) page, 49 – 53 .

[6]G. N. Ogbonna, & E. Appah, Impact of tax reforms and economic growth of Nigeria, *Current Research Journal of Social Sciences*, (2012) 4(1), page 62 – 68.

as being consistent with the tenants of Islam. Taxation laws passed by the British commissioner during the colonial era include: Land and revenue proclamation of 1904; Native revenue proclamation of 1906; Direct taxation ordinance of 1940; Native revenue ordinance of 1917.This taxation was in operation in northern and western regions of Nigeria. It was later introduced in the eastern Nigeria in 1928. The administration and discrimination of these laws lead to the evolution of 1950 tax policies. It was at this time that the Raisman Fiscal commission recommended the introduction of uniform basic principle for taxing income in 1958. This pass for our present day Income Tax Management Act (ITMA) of 1961.Two main types of taxes are in operation. They are the direct and indirect tax systems. Both tax systems are also common ways of assessing tax in most developing countries. The first phases 1900 – 1945 marked the domination of Nigeria citizenry by colonial masters. Then, the policy on taxation and control was in the hands of the colonial masters. They controlled the tax system. During this period, direct tax dominated the tax structure. At the beginning, the system was centralized within a unitary finance pattern of fiscal policy system. A few years within this period, the Nigerian tax system witnessed a traumatic change from direct tax dominance to indirect tax dominance occasioned by increase in foreign trade which accounted for about 90% of government total revenue for the nation then. The prominence of indirect rule was more observed in the northern protectorate as the indirect rule policy did not find its feet successfully on the southern soil. For instance, there was 1916 Isayen riot, 1928 Abeokuta riot and 1929 Aba riot. With the colonial policy in place, more revenue was expected from workers in form of direct tax and hence, the resentment of indirect rule in the south reduced the amount of revenue generated in the south.In the north, so much direct tax was received because all the local authorities and employees were directly responsible for the collection of the direct tax mainly in the form of general tax levied on settled farmers, and gangly tax was levied on cattle rearers. The proceeds from direct tax in this regards were retained by the local authority for the maintenance of law and order and the provision of other local services such as water supply, road construction and so on.

The second phase was between 1946 and 1965: This period witnessed a dramatic upturn in the direct tax, starting with the review of rules and regulations by direct taxation ordinance of 1948. The newly created region of the Mid-western Region metamorphosed into Bendel State and later split into Edo and Delta States in August 27th 1991. More personnel were now required to carry out the government activities, and so the level of direct taxation increased. Following the constitutional changes introduced into the country after the Second World War, the Native tax administration became the responsibility of the regional Government. This resulted in the increased levying of another direct tax, company direct tax which was strictly under the control of the Federal Government.

The personal income tax was revitalized alongside to constitute an important part of the country’s tax structure with export and import constituting about 2/3 of all government revenues. Within this period, foreign demand was stimulated due to the face of the Post World War and the Korenean War boom. There was an upsurge demand, which was unleashed after the war, which resulted in a rapid increase in imported goods and services and export of goods and services. Consequently, import and export term became productive; excise duties emerged and led to a process of industrial

growth (Brown and Jackson, 1992). Consequently, soon after the 1958 2discoveries of petroleum in Olobori Rivers State, Taxation of petroleum profit started in 1959 with the enactment of the Petroleum Profit Tax Act 1959 which was meant to have a retrospective effective date of 1st January, 1958.This Act serves as a foundation for the present Petroleum Profit Tax Act, 2004; which was further amended in 2007.

**Nigerian Tax Regime**

The Nigeria tax system is basically structured as a tool for revenue generation. This is a legacy from the pre-independence government based on 1948 British tax laws and have been mainly static since enhancement. The need to tax personal incomes throughout the country prompted the income tax management act (ITMA) of 1961. In Nigeria, personal income tax (PIT) for salaried employment is based on a pay as you earn (PAYE) system, several amendments have been to the 1961 ITIMA Act. For instance, in 1985 PIT was increased from N600 or 10 percent of earned income to N2000 plus 12.5 percent of income exceeding N6000. In 1989, a 15 percent withholding tax was applied to savings deposits valued at N50000 or more while tax on rental income was extended to cover charted vessels, ships or air craft. In additions, tax on the fees of directors was fixed at 15 percent, these policies were geared to achieving effective protection for local industrial, greater use of raw materials, generating increased government revenue among others. Consequently, an attention has been focused on promoting exports for manufactures and reducing the tax burned of individual and companies. In line with this change in policy focus, many measures were undertaken. These involved, among others, reviewing custom exemption and rebate, introduction of capital allowanced, expending the duty drawback scheme and manufacturing-in-blood scheme, abolishing excise duty. Implementation VAT, monetizing firings benefits and increased tax relief to low income earners.

**Relevant tax Regulations in Nigeria**

Taxation in Nigeria is enforced by the three (3) tiers of government, i.e. federal, state, and local government with each having its sphere clearly spelt out in the levies (approved list to investors both foreign and local). The federal high courts have jurisdiction over company income tax, petroleum profit tax, custom and excise duties as well as stamp duties and corporate capital gains tax, and education tax. Personal income tax (PIT) and capital gains tax and stamp duties payable by individuals are legislated by the federal government, but collected by state authorities.

1.**Companies Income Taxes (CIT):** CIT is one of the major types of taxes collected by FIRS. It is a 30% tax charged on profits made by companies registered in Nigeria[7]. This include all sources of income of the company.Nevertheless, profits made from business activities outside Nigeria is exempted from CIT.According to the Act, CIT must be paid to FIRS not later than three months from the beginning of each year of assessment.New companies are expected to file returns within eighteen (18) months from the date of incorporation or not later than six(6) months after the end of its accounting period, whichever is earlier. In like fashion, existing companies must file returns

- [7]CIT is governed by Companies Income Tax Act (CITA), Cap C21, LFN 2004 (as amended)

within six(6) months from the end of the accounting year.A company is charged minimum tax when they make loss, have no tax payable or the tax payable is less than minimum tax.

2. **Value Added Taxes (VAT):** Value Added Tax (VAT) is a consumption tax paid on purchased products or rendered services. Actually, the burden of VAT is borne by the final consumer. Unlike CIT, VAT is chargeable on goods produced both within and outside Nigeria. However, there are goods that are specifically exempted from VAT payment by the VAT Act, e.g non-oil exports. Usually, the standard rate for VAT is 7.5%[8].Every taxable business owner is expected to file for their VAT monthly returns not later than 21st day following the month of transaction.

3**. Withholding Taxes (WHT):** A withholding tax is an income tax paid to the government by the payer of the income rather than by the receiver of the income. WHT deductions are most times referred to as advance income payment. The rate for WHT ranges from 5% to 10% depending on the transaction.WHT returns must be filed on the 21st day of every subsequent month. Failure to file on the due date attracts N25,000 for the first month of default and N5,000 for every other month the failure continues.

4. **Petroleum Profits Taxes (PPT):** It is levied on the income of companies involved in upstream petroleum operations[9]. Another thing to note is that, companies that pays petroleum income tax are exempted from paying Companies Income Tax on the same income.
The rate is 65.75% for joint ventures in the first five years of operation. But, joint ventures in operation for more than five years is liable to 85% of chargeable profit. Also, companies under production sharing contract is liable to 50% of chargeable profit.The returns for each accounting period are to be submitted not later than two months after the commencement of the accounting period. Furthermore, final returns for each accounting period are expected to be filed within five months after the expiration of the accounting period.Equally important, failure to submit the returns as at when due attracts N10,000 for the first month and N2,000 for every day the failure continues.

**5. Personal Income Taxes (PIT):[10]**. It is levied on the income of individuals, sole proprietors, families, trustees and communities. The rate ranges from 7% to 24% depending on the amount of chargeable income.
In a situation where an individual's income is less than N300,000 per annum, such individual is subject to minimum tax of 1% gross income.In addition, Personal Income Tax returns must be filed on 31st March of every year while PAYE (Pay As You Earn) should be remitted every 10th day of subsequent month.For employers, taxes deducted from employees income in the preceding year must be remitted not later than 31st January of every year.For an individual, failure to file

[8]Section 4 of the VAT Act is amended by changing the VAT rate from 5% to 7.5%. VAT rate was changed to 7.5% with effect from the 1st of February, 2020.
[9]PPT is governed by Petroleum Profit Tax Act, Cap P13 LFN 2004 (as amended).
[10]PIT is governed by the Personal Income Tax Act Cap P8 LFN 2004 (as amended)

PIT as at when due attracts a fine of N5,000 and a sum of N100 for every day the default continues or six(6) months imprisonment or both. In like manner, a corporate body that fails to file a return on the due date is liable to a fine of N500,000.

**6. Stamp Duties (SD):** [11]It is administered by both FIRS, FCT and State Internal Revenue Service. Also note that stamp duty is administered on written documents only.Forms of Stamp Duties are:
**Ad-Valorem:** This is charged in proportion to the value of the consideration, e.g. deed of assignment, duties on shared capital, debenture, bills of exchange etc.
**Fixed Duties:** This applies to duties that do not vary with consideration, e.g. duties on proxy forms, payment receipt, guarantor forms, etc.

**7. Capital Gains Taxes (CGT)**[12]:It's a levy charged on the positive difference between the sales price of an asset and the original purchase price. Capital Gains Tax is charged on any chargeable assets excluding those specifically exempted by the act and it has a flat rate of 10% of chargeable gains.The payment and filing process is the same as that of Companies Income Tax.

8. **National Information Technology Development Levy (NITDL):** Companies that are liable to pay NITDL includes: GSM Service Providers, Telecommunication Companies, Internet Providers, Banks, and other companies with turnover of N100million and above[13]. It is 1% of profit before tax.The filing procedure for NITDL is the same as that of Companies Income Tax. Failure to pay as at when due attract a 10% penalty.

**5. Tertiary Education Taxes (EDT)[14]:**All companies registered in Nigeria are liable to pay the tax. It is 2% of assessable profit. The funds garnered are used for rehabilitation, restoration and consolidation of tertiary institution in Nigeria by the Tertiary Education Trust Fund (TETFUND). The first recorded offence against EDT attracts a fine of N1,000,000 or 6months jail time or both. The second and subsequent offence attracts a fine of N2,000,000 or 12months jail term or both.

## Internalization

**Internalization** defines the process which results in the strengthening of international social relations that connect distant jurisdictions in such a way that local events are impacted by events occurring thousands of miles away and vice versa[15]This provides a situation of cross border interaction which leads to the active movement of labour, people, and capital. The concept of internationalization deconstructs large independent countries and jurisdictions into smaller interdependent units that conduct business and interact seamlessly with one another which is

[11]SD is governed by Stamp Duties Act, Cap S8, LFN 2004 (as amended).
[12]CGT is governed by Capital Gains Tax Act, Cap C1 LFN 2004 (as amended).
[13]NITDL is governed by National Information Technology Development Agency Act, CAP N156 LFN 2004 (as amended).
[14]EDT is governed by Tertiary Education Trust Fund Act, 2011.
[15]Aliyu, A.O., Kumai, N.S. and Mustapha, L.O. (2022) A Conceptual Review of Nigerian Tax Administration in Globalisation and Profit Shifting Challenges. *Open Access Library Journal*, **9**, 1-10. doi: 10.4236/oalib.1109030.

further aided by the growth of technology and the need to rapidly expand the frontiers of commercial influence beyond their immediate environment. It is important to understand that internationalization as a concept is multidisciplinary and is subject to different interpretations based on perception, but for the purpose of this paper, internationalization will be addressed in the context of profit swapping and tax regime.

Internationalization is defined as the process by which firms move their money, factories, and products around the world at faster rates in search of cheaper labour, and raw materials, governments are willing to ignore or forsake consumer, labour, and environmental protection regulations[16]. The IMF [17] referred to Internationalization as the increasing economic interdependencies of countries around the world because of the volume and variety of cross border transactions in goods and services, as well as international capital flows, and rapid widespread diffusion of technology. From the definitions outlined one thing is certain,Internationalization can be said to be the growth of interdependency of national economies on one another. However, the growth of interdependency does not stop the competitive nature of national economies as independent economies strife to maximize the generation of wealth through the use of taxation and other mechanisms available to them. The huge gap between the ability of different countries to generate this wealth results in some countries setting lower tax rates to attract more investment into their countries[18]. This disparity in tax rates because of competition throughinternationalization gives rise to the challenge of profit swapping by individual firms that seek to reduce their tax liability. The ease of mobility of capital and profit because of internationalization allows individual firms to take advantage of the resources in one country and transfer the profit generated in that country to another for the sole purpose of reducing tax liability, usually, this transfer takes place between a high tax rate countries to a low tax rate country. This act is further enhanced by the rapid digitalisation of world economies as the transfer of profit from one country to another can be initiated by just the click of a button, making it difficult and sometimes impossible for tax authorities to trace the movement of profits for tax purposes. The continuous nefarious act of swapping profits erodes the tax base of the host country (country of permanent establishment) thereby causing heavy losses in potential internally generated revenue and funds to cater for capital expenditure in their country, especially in developing countries [19]

1nternationalizationin its purest form fosters the development of individual countries assuming each individual nation has the adequate infrastructure in place to utilize the product of this development and administrative capability to monitor and prevent the destructive trends associated with aspects of development. In a situation where administrative and infrastructural paraphernalia is unavailable to individual countries for the purpose of absorbing new developmental trends, it

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[16]Harris, R.L. (2002) Introduction: Globalization and Globalism in Latin America: Contending Perspectives. Latin American Perspectives, 29, 5-23. https://doi.org/10.1177/0094582X0202900601

[17]IMF. Research Dept. (1997) World Economic Outlook, Mays 1997: Globalization: Opportunities and Challenges. International Monetary Fund, Washington DC. https://doi.org/10.5089/9781557756480.081

[18]Andika, L.R. and Amandari, L.T. (2020) Reforming Controlled Foreign Corporations in Indonesia: Lessons Learned from BEPS Action Plan and Germany. JurnalMasyarakatMandiri, 4, 467-4

[19]Rosario, S. and Chavali, K. (2020) Digitization of Taxation in the Changing Business Environment & Base Erosion & Profit Shifting (Beps) Special Reference to India. European Scientific Journal, 16, 61-74. https://doi.org/10.19044/esj.2020.v16n1p61

creates a rather unfavourable situation where countries or entities (individual firms) take advantage of this unavailability to carry out aggressive and smart financial planning activities like profit swapping, which erode the tax base of these countries and reduces their income from tax generation.

## 2.2. Profit Swap

Profit swapping s a tactic used by multinational organizations to pay less tax than they should. It entails a multinational corporation relocating profits made in the country (country of permanent establishment) where it manufactures items or sells goods and services to a tax haven.[20] This is done by relocating profits to a tax haven, a multinational corporation underreports the value of its profits in the countries where it manufactures or sells goods and services, resulting in lower or no taxation in those nations. Profits transferred to a tax haven are subsequently taxed at a very low rate or not at all, depending on whether the tax haven has a very low corporation tax rate or no corporate tax rate[21]. The most typical form of profit swapping is for a multinational firm to employ a subsidiary in a tax haven to charge costs to companies in other countries[22]. For example, in the Paradise Papers affair, journalists revealed that Nike was transferring large portions of its revenues to Bermuda (a zero-tax jurisdiction) by registering their intellectual property (i.e., logo, branding, shoe designs) there[23]. The Bermudian firm then charged exorbitant royalty payments to Nike companies across the world for using the intellectual property. This allowed Nike to pay less tax in the nations where it sold shoes while amassing billions of dollars in untaxed profits abroad. Every year, multinational firms are estimated to move $1.38 trillion in earnings to tax havens, costing countries $245 billion in missed corporate tax [24]

## 2.3. Tax Havens

Tax havens are defined by OECD [25] as any country, jurisdiction, or territory that applies no or low nominal tax rates to non-residents (individuals or corporations) and whose laws or administration practices prevent the effective exchange of relevant information with other governments on taxpayers benefiting from low or no tax jurisdiction. In the tax haven jurisdiction, there is a lack

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[20]Aliyu, A.O., Kumai, N.S. and Mustapha, L.O. (2022) A Conceptual Review of Nigerian Tax Administration in Globalisation and Profit Shifting Challenges. *Open Access Library Journal*, **9**, 1-10. doi: 10.4236/oalib.1109030.

[21]Rosario, S. and Chavali, K. (2020) Digitization of Taxation in the Changing Business Environment & Base Erosion & Profit Shifting (Beps) Special Reference to India. European Scientific Journal, 16, 61-74. https://doi.org/10.19044/esj.2020.v16n1p61

[22]TJN (2022) What Is Profit Shifting? Tax Justice Network, London. https://taxjustice.net/faq/what-is-profit-shifting.

[23]Mohanty, K. (2022) Explained: Why Countries Are Betting on Global Minimum Tax to Get MNEs to Pay up Their Fair Dues. News18. https://www.news18.com/news/india/explained-why-countries-are-betting-on-global-minimum-tax-to-get-mnes-to-pay-up-their-fair-dues-4304231.html

[24]OECD (2022) Glossary of Tax Terms. https://www.oecd.org/ctp/glossaryoftaxterms.htm

[25]Zoromé, A. (2007) Concept of Offshore Financial Centers: In Search of an Operational Definition. IMF Working Papers, 7, 1. https://doi.org/10.5089/9781451866513.001

of transparency and no requirement for substantive activity. Zoromé[26]went ahead to describe tax havens based on 3 distinct characteristics which are, Primary orientation towards non-residents, favourable regulatory environment (low supervisory requirement) and low/zero taxation scheme. All 3 characteristics collectively assessed, explains the approach tax havens use their sovereign legislative powers to maintain the secrecy of corporate financial activities, provide light regulation, and impose little or no tax on corporate income or profit to entice enterprises wanting to establish shell corporations to swap income from a high-tax jurisdiction to a tax haven to decrease the incidence tax on their business.

The tax justice network [27]further defines tax havens as countries that enact legislation to aid people, whether actual or legal, in avoiding regulatory obligations imposed on them in their principal location, i.e., their origin country, jurisdiction or place of permanent establishment (the substance of economic transactions). The TJN highlighted that on principle the effect of secrecy was the telling factor in the establishment of a jurisdiction as a tax haven and therefore argued that established definitions of tax havens did not adequately address the fundamental issue of tax havens vis-a-vis profit shifting, as a whole which in this paper we agree and therefore, derive our definition of tax havens as a location that intentionally creates regulation for the primary benefit and use of those not resident in their geographical domain, with the intent of undermining the legislation or regulation of another jurisdiction, and that also creates a deliberate, legally backed veil of secrecy to ensure that those from outside the jurisdiction using its regulation cannot be identified as doing so. This definition aggregates both tax havens and offshore financial centres under one umbrella to give a holistic identification of the problem. Some examples of popular tax havens as listed by OECD [28] include Bermuda, Netherlands Luxembourg, Cayman Island, Singapore, Channel Island, Isle of Man, Ireland, Mauritius, Monaco Switzerland, and the Bahamas.

The occurrence of profit shifting has been recognised amongst international bodies like the OECD, UN and IMF as a critical issue affecting both developed and developing countries' tax administration with more emphasis on the developing countries, as rapid digitalisation, and competition for wealth due to globalization increases the complexity of profit shifting thus providing a huge conundrum for both local and international tax administration
.

It is important to note that tax havens aren't the only mechanism available to an entity for the purpose of moving profit out of a country, as the incidence of aggressive abuse of transfer pricing and financial structure cost reallocation can also be identified as a profit shifting mechanism. However, it is not discussed in this paper as they both are components of base erosion which is not treated in this paper.

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[26]Zoromé, A. (2007) Concept of Offshore Financial Centers: In Search of an Operational Definition. IMF Working Papers, 7, 1. https://doi.org/10.5089/9781451866513.001
[27]Nzotta, S.M. (2007) Tax Evasion Problems in Nigeria: A Critique. The Nigerian Accountant, 40, 40-43.
[28]TJN (2008) Tax Havens Creating Turmoil.

## 3. Theoretical Perspective

John Maynard Keynes during the Great Depression in his 1936 book propounded the theories of economic growth. Interest in growth issues has led to development of various theories of growth. Keynes asserted that a key factor that could account for an economy's stagnation and unemployment was the deficiency of aggregate effective demand. Keynes view was that the solution to the problem of economic stagnation rested on expansion of aggregate demand through massive increase in government expenditure. Policy makers use Keynesian analysis to argue that higher or lower levels of Institutional spending which is a function of revenue accrued to government from taxation will stimulate or dampen economic growth.Businesses' principal strategy of achieving economic goals is to avoid paying taxes by shifting their income or profit from high tax jurisdictions/countries to low or no tax jurisdictions/countries, as explained by the theory of economic growth. Furthermore, profit swapping challenges are born out of the stratification and distinct gap created between those countries that consider themselves first world countries (developed) and third world countries (developing), which is a product of internalization; this assertion conforms to the belief of the sceptical approach theory of globalisation. The sceptic's point of view is that as countries' interdependence grows because of globalization, there will be more rivalry for investment[29]], thus small countries that lack economic might are compelled to engage in actions of making themselves appealing to foreign organizations and investment, thereby creating a scenario conducive to profit shifting by transforming themselves into tax havens.

## 4. Internationalization, Profit Swapping and Nigeria Tax Administration: Challenges and Prospects

One certain thing is that internationalization cannot be halted or stopped, as it is a phenomenon that transcends human control due to the fact that modern society and economic landscape are built on the interconnectedness and seamless interaction between different economies. This assertion also means that challenges associated with internationalization will exist alongside its benefits. The OECD recognised this issue and as such sorted out a system which will cater for the advent of such challenges, this led to the birth and formulation of the OECD action plan against base erosion and profit swapping. The action intended to guide against the rapid rise of digitalisation which made monitoring of movement of profit and capital ever more difficult. However, one can say the real intention was to ensure that capital and profit are kept within the European Union, therefore, protecting their tax base (Europe keeping the money within Europe).

The action plan recognised the need for international communities to come together and adopt a universal approach to reducing the incidence of profit swapping aided by digitalisation, but the action plan failed to consider operationality in the context of developing nations. Thus, the argument arises, of what benefit would it be to developing nations? This question is born out of the fact that developing countries would have a different outlook than developed countries as their need in terms of economic growth are different and thus a common-sense approach would require

[29]Aliyu, A.O., Kumai, N.S. and Mustapha, L.O. (2022) A Conceptual Review of Nigerian Tax Administration in Globalisation and Profit Shifting Challenges. *Open Access Library Journal*, **9**, 1-10. doi: 10.4236/oalib.1109030

developing countries to adopt policies that would promote foreign investment i.e., making themselves attractive through incentive (tax incentives) and adoption of the low tax regime. This was clearly stated by the UN chief of international tax cooperation, Michael Lennard in 2013, who identified that the OECD action plan was never designed to deal with issues faced by developing countries as developing countries would be more concerned with the need to attract foreign investment and taxation of the informal economy.

Nevertheless, Nigeria, a developing nation, joined the OECD action plan showing its readiness to face the challenges of profit swapping and digitalisation, but an investigation has shown that the Nigerian tax administration system is still inadequate in terms of infrastructure and policy implementation ability[30]. Some of the challenges faced by the Nigerian tax administration include: Identification/Capturing taxable persons: The issue of a lack of a trustworthy, complete, and integrated suite of data to increase the rate of capture of prospective taxpayers outside the tax net or to follow persons within the tax net who have noticeably failed to comply. One feature that advanced tax administration systems share is the availability of a robust database management system that manages the details of all persons (companies or individuals, dead or alive), including date of birth, health profile, work profile, educational profile, and so on, regardless of whether he is a citizen, a resident, or anyone who has interacted with that country[31]

Tracking of hidden income: Tax officials have discovered instances of unidentified money earned by taxable individuals. Even though financial institutions are required to submit information, the reality is that the interface for information transmission between financial institutions and tax authorities might be significantly improved. With Nigeria's cashless policy fully implemented and the resulting integration of more taxpayers into the financial system, tax authorities have a tangible opportunity to track unidentifiable income by linking their systems with banking institutions; however, this remains a challenge for tax authorities in Nigeria[32]

Lack of clarity of tax jurisdiction: Even though there has been clarification constitutionally on the powers of each taxing unit there are instances of conflict amongst tax units which result in double taxation issues when different tax units tax the same taxable entity [[33]On the other hand, there is a need to recognise the effort made by the Nigerian tax administration system to keep up with global tax trends, this includes: Changes to the OECD Guidelines can be implemented immediately because Regulation 11 of the Nigerian transfer pricing regulations allows changes to the OECD Guidelines to be implemented automatically. Potential legislative and regulatory changes to

[30]Aliyu, A.O., Kumai, N.S. and Mustapha, L.O. (2022) A Conceptual Review of Nigerian Tax Administration in Globalisation and Profit Shifting Challenges. *Open Access Library Journal*, **9**, 1-10. doi: 10.4236/oalib.1109030.

[31]Aliyu, A.O., Kumai, N.S. and Mustapha, L.O. (2022) A Conceptual Review of Nigerian Tax Administration in Globalisation and Profit Shifting Challenges. *Open Access Library Journal*, **9**, 1-10. doi: 10.4236/oalib.1109030.

[32]Aliyu, A.O., Kumai, N.S. and Mustapha, L.O. (2022) A Conceptual Review of Nigerian Tax Administration in Globalisation and Profit Shifting Challenges. *Open Access Library Journal*, **9**, 1-10. doi: 10.4236/oalib.1109030.

[33]Audu, S. (2021) Digital Economy and Tax Administration in Nigeria.

incorporate additional ideas not included in the OECD Guidelines enhanced criticism of preferential tax regimes and tax incentives made available to Nigerian businesses to identify instances where they have been granted unlawful preferential tax regimes and tax incentives. This could include requests made to the local subsidiary (e.g., master file information) as well as demands made to the tax authorities at the Head Office (e.g., CbC reports) or non-resident affiliate via the Convention on Mutual Administrative Assistance in Tax Matters processes [34]

## 5. Conclusion

In conclusion, internationalization is a facet of modern society and cannot be overemphasised as it brings with it benefits and challenges, two of which are identified here as digitalisation which has a direct bearing on internationalization and profit swapping and it is onerous on the Nigerian tax administration to identify weaknesses in their system and rectify it in order to be able to profit from the opportunities available from internationalization and mitigate the risk associated with profit swapping.

## 6. Recommendation

It is recommended that Nigerian tax administrators should engage in a critical assessment of the Nigerian tax information technology and policy infrastructures put in place to assess the reliability and strength of these infrastructures and whether they can provide the necessary shock absorber to withstand global trends in international taxation.

[34] Pwc (2015) Impacts of the OECD BEPS Project on Companies Operating in Nigeria. https://www.pwc.com