

ILLEGALITY OF INCOME TAX EVASION IN EDO STATE: ADOPTING AN AUTOMATED INCOME TAX SYSTEM AS A PANACEA

Paul Atagamen Aidonojie^{1*}, Joseph Nwazi², Ugiomo Eruteya³

¹ Faculty of Law, Igbinedion University Okada, Edo State, Nigeria. Email : paul.aidonijie@iuokada.edu.ng

² Faculty of Law, Igbinedion University Okada, Edo State, Nigeria. Email : barrmazi@yahoo.com

³ Faculty of Law, Igbinedion University Okada, Edo State, Nigeria. Email : eruteya.ugiomo@iuokada.edu.ng

Abstract: In Nigeria, the governments are mandated to collect income tax from companies and individuals respectively. However, in Edo State, it has been observed that taxpayers often tend to evade their tax liability. Although, there are several provisions of the Personal Income Tax Act and judicial pronouncement prohibiting income tax evasion, however, income tax evasion in Edo State seem to be on the increase. It is in this regard, that this study tends to embark on a hybrid method of study concerning the causes of the current increase of income tax evasion in Edo State and proposing an automated income tax as a panacea. In this regard, 304 questionnaires were distributed to respondents resident in Edo State. Descriptive and analytical methods were adopted in analyzing the data obtained. The study, therefore, found that there are several causes of income tax evasion which include; inefficient and ineffective tax administration systems, corruption and inadequate information on the assets and income of the taxpayer. Furthermore, the study also found that the adoption of an automated income tax system could serve as a major solution to rectify the above identified challenges given its relevance and prospect, although, there are some challenges concerning an automated income tax system. It is, therefore, concluded and recommended that for there to be a level playing ground in further curtailing the incidence of income tax evasion in Edo State, there is a need to intensify the automated income tax system in curing some of the defects inherent in the system.

Keywords: Automated Tax; Edo State; Income Tax; Legal; Tax Evasion.

1. Introduction

Tax is a function of law. In this regard, “it is a settled constitutional provision by section 24(f) of the Constitution of Nigeria,”¹ that it is the obligation of every citizen of Nigeria to pay tax. It is in this regard, “that various level of government in Nigeria is mandated to collect taxes.”² However, it suffices to state that in Nigeria, “tax is a major source of revenue generation relied on by the government in

¹ Constitution of the Federal Republic of Nigeria (as amended 2010)

² *Independent Television and Radio V. Edo State Board of Internal Revenue (2014) Vol. 40 WRN*

financing various public projects.”³ In this regard, “both the Federal and State Governments are statutorily empowered to collect income tax from companies and individuals respectively.”⁴ It must be noted that although it is required by companies and individuals to pay tax, however, “the issue of tax evasion has become a major challenge that affects revenue generation in Nigeria.”⁵ Tax evasion is said “to be a deliberate and illegal refusal of a taxpayer to clear their tax liability.”⁶ Tax evasion is further said to include the following; Refusal to account for tax deducted by tax officials and taxpayers, “entering into a Fraudulent Contract to reduce tax liability, fraudulently adding expenditure expenses not incurred in the process of income generation, and permutation of a statement of account or record-keeping could constitute tax evasion.”⁷

However, “the issue of personal income tax evasion is not peculiar to any state in Nigeria, this is concerning the fact that the Edo state government also has its fair share.”⁸ This is concerning the fact that “it has been observed that taxpayer often tends to reduce or evade their tax liability, which in essence affect revenue generation in Edo State.”⁹ It must be noted that “despite legislation and judicial pronouncement tend to condemn the monster of tax evasion, there is still a severe incidence of tax evasion in Edo State.”¹⁰ However, “to curb the issues of tax evasion, the Edo State Government sort to introduce an automated personal income tax known Edo Revenue Automate System (ERAS).”¹¹ The introduction of an automated or a digitalise personal income tax in Edo State is said “to have several prospects that include a seamless process of personal income tax administration that could aid in curbing the incidence of tax evasion.”¹²

It is concerning the above that this study tends to employ the use of a doctrinal method of study in ascertaining the causes and the actions that constitute tax evasion. The nature and concept of an automated personal income tax in curbing tax evasion and its challenges therein. Furthermore, the study will further suggest some possible solutions that could aid in intensifying the automated personal income tax in Edo State.

³ Kennedy Prince Modugu and Alade Sule Omoye, “An Appraisal of Personal Income Tax Evasion in Nigeria,” *Asian Economic and Financial Review* 4, no. 1 (2014): 33–40.

⁴ Agbonika A. Josephine, ed. *Problem of Personal Income Tax in Nigeria*, (Ababa Press Ltd, Ibadan Nigeria, 2012) p. 1

⁵ Onyeka, Virginia Nnenna, “Effect of Tax Evasion and Avoidance on Nigeria Economic Growth”, *European Journal of Business and Management*, 8 no. 24 (2016): 13-34

⁶ Greg Ekpung Edame, “The Effects of tax Revenue on Economic Growth in Nigeria (1970-2011)”, *International Journal of Humanities and Social Science Invention*, 2 no. 6 (2013): pages 13-34

⁷ Okoye C. Pius and Ezejiofor Ruth, “The Impact of E-Taxation on Revenue Generation in Enugu, Nigeria”, *International Journal of Advanced Research*, 2 no. 2 (2014): 449-458

⁸ Olabisi John, “An Assessment of Tax Evasion and Tax Avoidance in Lagos State”, *Journal of Research in National Development* 8 no. 1 (2010): 3-19

⁹ Fatoki O. Joseph “An Empirical study of Tax Evasion and Tax Avoidance: A critical issue in Nigeria Economy”, *Journal of Economics and Sustainable Development*, 15 no. 3 (2014): 16-41

¹⁰ Bojuwan Mustapha and Siti Normala Obid, “Tax Service Quality: The Mediating Effect of Perceived Ease of Use of the Online Tax System”, *Procedia - Social and Behavioral Sciences*, 172 (2015): 2 – 9.

¹¹ Abdulrazaq T. Mohammed ed., *Nigerian revenue law*, (Malthouse Press, Lagos, Nigeria, 2005) p. 2

¹² Okoye C. Pius and Ezejiofor Ruth, “The Impact of E-Taxation on Revenue Generation in Enugu, Nigeria”, *International Journal of Advanced Research*, 2 no. 2, (2014): 449-458.

2. Method

The researchers in this study adopted the use of a hybrid method (doctrinal and Non-doctrinal method) of research in ascertaining reasons for tax evasion in Edo State and to what extent an automated income tax could aid in curtailing the incidence of tax evasion in Edo State. It suffices to state that the doctrinal method of study is aimed at theorizing the legal issues of income tax evasion in Edo State and examines various scholarly research concerning automated income tax. In this regard, the researchers review various legal frameworks and scholarly research (such as journal articles, textbooks, and online articles) as they relate to an income tax and an automated income tax.

Concerning, the use of a non-doctrinal method of study, it is aimed at ascertaining from the respondent if there are incidences of tax evasion, their causes and if the current legal framework can curtail incidences of tax evasion in Edo State. Furthermore, it is aimed at ascertaining the extent an automated income tax could aid in curtailing incidences of tax evasion in Edo State. In this regard, questionnaires were distributed to various respondents residing in the three senatorial districts of Edo State.

3. Analysis or Discussion

3.1. Nature and Incidence or Act that constitute Personal Income Tax Evasion

The court in the case of *I.T.V/Radio V. Edo State Board of Internal* had stated that, “may the essence of the introduction of the tax by the government is that it serves as a major source of revenue for the government to finance their project and a chunk of their budget.”¹³ In this regard, it is apt to state that personal income tax evasion is said to be illegal, this is concerning the fact that, personal income tax evasion is said to be a deliberate or fraudulent attempt by a taxpayer who refuses to pay personal income tax. Constitutionally it is the duty of every Nigerian citizen and those residing in Nigeria to pay their income taxes from their income earned, to the Federal and State governments. In this regard, it suffices to state that any form of refusal or abdication of payment of personal income taxes is frowned upon and considered illegal.

However, in Edo state, there are several instances where some taxpayers often want to refuse to pay taxes deliberately without any cogent reason. Furthermore, there are other instances where an act of taxpayer is said to constitute tax evasion, although it wasn't a deliberate attempt or intentional. Irrespective of whether an act of a taxpayer that constitutes tax evasion is said to be deliberate or not deliberate, will not or cannot be used as an excuse. This is concerning the fact ignorant of the law is not an excuse that could shield wrongdoing.

However, for this study, an act that could constitute a refusal to pay personal income tax will be considered as follows;

¹³ Revenue (2014) ALL FWLR (Pt. 759) 1144

1. Refusal to account for tax deducted

The Personal Income Tax Act, “specifically provided that a taxpayer is required to file a return within the assessment year.”¹⁴ In this regard, “a such taxpayer has the option to carry out a self-assessment of the tax due.”¹⁵ deduct the tax and remit the same to the appropriate authority. However, “sections 54 (1) and (2) of the Personal Income Tax Act stipulate that the taxpayer can files a return without self-assessment as provided in section 41.”¹⁶ In this regard, the tax authority shall assess the taxpayer based on the return filed and collect the tax due from the taxpayer within the stipulated period.

Given the above, it suffices to state that where it is the taxpayer or the tax authority that executes the personal income tax assessment and deducts the tax due but fails to remit the tax, such an act constitutes tax evasion. In the case of *7up Bottling v. Lagos State Inland Revenue Board*¹⁷ the court held that according to Personal Income Tax where an individual is obligated to deduct tax from the payment made to such individual, the Personal Income Tax Act compels the taxpayer to remit the tax so deducted to the relevant tax authority as may be prescribed by the relevant tax authority. The court had also held in the case of *7up Bottling Co. Plc. V. LSIRB*¹⁸, that an employer who is in the area of income tax deducted from staff salary incurs liabilities by sections 68-77, 80, and 81 of the personal income tax.

Furthermore, in the case of *Edo State Board of Internal Revenue V. Accountant-General of the Federation*¹⁹, in this case, the Edo State Board of Internal Revenue brought an action via a mandamus compelling the accountant-general of the federation to remit unpaid area of tax deducted from worker’s salary (as income) from the federal establishment. Given the evidence before the court, it was held that the refusal of the accountant-general to remit tax deducted from the staff of the federal establishment as income tax offend the personal income tax Act.

Given the above, the act of the accountant-general of the federation's refusal to remit income tax deducted from the staff of the federal establishment can be termed as tax evasion, given the fact that it is a responsibility imposed on him by section 81 of the Personal Income Tax Act, but failed to comply with the directive of the law. Furthermore, by section 82 of the Personal Income Tax Act, “an employer is required to account to the relevant tax authority concerning the income tax deducted from staff monthly salary in the manner specified by the relevant tax authority.”²⁰ Failure to comply with section 81 of the Personal Income Tax Act²¹, section 82 of the Act²² provides that the employer shall be liable to 10% (per annum) of the said income tax deducted and an interest rate concerning the prevailing commercial rate, together with the income tax due to be remitted.

¹⁴ section 41(1) and (2) of the Personal Income Tax Act

¹⁵ Ibid section 44

¹⁶Ibid

¹⁷ (2013) 2 NRLR

¹⁸ (2000) 3 NWLR (Pt. 650) 565 at 606

¹⁹ (an unreported case with suit no. B/RC/24/2013)

²⁰ Mustapha Bashiru, “Factor Influencing Income Taxpayers Reaction towards E-Tax System Adoption in Nigeria”, *Fountain Journal of Management and Social Sciences*, 4 no. 2, (2015): 32 – 43.

²¹ Personal Income Tax Act

²² Ibid

However, it must be noted that, unlike direct assessment where a taxpayer is required to be given notice of the tax assessed, the case is the reverse under P.A.Y.E where an employer is required to deduct and remit the same to the relevant tax authority. In *7up Bottling Company V. Lagos State Inland Revenue Board*²³ the respondent instituted an action in court against the appellant for failure and refusal to remit income tax to the relevant tax authority. However, the appellant contended that they are entitled to notice of tax assessment, in this regard since they were not issued a notice of tax assessment they cannot be held liable. The court in its judgment held thus;

“Under section 56 of the Decree, the relevant tax authority shall cause to be served on or sent by registered post to each taxable person a notice stating the amount of any assessable total or chargeable income tax charged and place at which payment should be made and setting out the rights of that person as contained in section 57 and 58 of the Decree. The notice is not by any stretch of the imagination for the employer nor does the section apply to an employee under the PAYE system. In the instant case, therefore, it is a misconception on the part of the Appellant, to insist on being served a notice of assessment by the tax authority before it could be held liable for failure to remit or account for tax deducted under the PAYE system”

The purport of the provision of section 81-82 of the Personal Income Tax Act and *7up Bottling Company V. Lagos State Inland Revenue Board* is to the effect that an employer who fails to remit income tax deducted from staff salary and withheld same is guilty of tax evasion and cannot hide or rely on non-service of the tax assessment notice.

Furthermore, note that whether or not an institution is a government institution does not affect the institution for being held guilty of tax evasion, in the case of *Federal Board of Internal Revenue V. Integrated Data Services Ltd.*²⁴, in this case, the respondent contended that since they were government agency and the tax is also meant for government, they ought not to pay any penalty or interest for failure to remit tax, however, the court held that, tax is supposed to be used for the benefit of all Nigerians as it is extracted from companies and individual Nigerians. In this regard, an institution whether a private or government agency mandated to deduct tax and remit same in accordance by law must comply and it is not to be illegally kept for months on end without giving same over as at when due for the use of the common good. The fact that the respondent is claiming to be a federal Government agent is not a good reason to cheat the Nigerian.

2. Entering into a Fraudulent Contract

In computing, the personal income tax due there are certain allowable deductible expenses or contracts entered into in boosting the business of a taxpayer generating the income, “which the taxpayer is given the leverage to deduct his expenses before the personal income tax due is computed.”²⁵ However,

²³ (2013) 2 NRLR 105

²⁴ (2009) ALL FWLR (Pt. 490) 788

²⁵ Section 20(1)(e) of the Personal Income Tax Act

some taxpayers often time do forge or present a fraudulent contractual document concerning their business to reduce their liability due or evade tax payment. However, such an act of fraudulently entering into a contract to reduce or abdicate payment of tax is considered tax evasion and condemned by law. In the case of *Adenuga V. Abdul Raheem*,²⁶ the court vehemently stated that it is against public policy, tax laws, and policies for a taxpayer to fraudulently enter into a contract bearing a false name to evade payment of taxes. The court further stated that such a fraudulent act is not tenable in law and it is strictly frowned upon in law, as such an act constitutes tax evasion.

3. Fraudulently adding expenditure expenses not incurred in the process of income generation

Section 20(1) of the Personal Income Tax Act²⁷ provide that to ascertain the income of an individual that can be subjected to taxing, there are certain allowable deductible expenses incurred by the taxpayer in the process of conducting his/her business. However, the law required that those expenses must be exclusively, wholly, necessarily, and reasonably incurred during the generation of the income. Some of those allowable deductible expenses include the following;

- i. Interest on money borrowed in acquiring the income
- ii. Money used for developing owners of business residential home
- iii. Rent for that period of generating the income
- iv. Expenses in repairing machinery or renovating the building of the business premises
- v. Bad debt incurred during business or trade at the period the income was earned
- vi. Contribution or pension deducted from public officer salary under the Pension Scheme Act or any other approved scheme
- vii. Any other expenses incurred that are satisfactory to the tax authority as necessary for the actualizing of the income subjected to taxing

Given the above, it suffices to state that, most taxpayers often fraudulently increase their expenses to reduce their tax due. In this regard, a taxpayer indulging in such a fraudulent act to reduce his/her tax liability is said to be guilty of tax evasion. The court in the case of *A V. Commr SARS*²⁸, the court relying on the case of *Port Elizabeth Electric Tammy Co. Ltd. V. C, 8 SATC*, stated thus; “Now, as pointed out above, income is produced by the performance of a series of acts, and attendant upon them are expenses. Such expenses are deductible expenses, provided they are so closely linked to such acts as to be regarded as part of the cost of performing them”

Given the above, it suffices to opine that before a court will hold that an act constitutes an expenditure forming an expense to be deducted before an income is subjected to tax, the following condition as to whether the act or such expenditure

²⁶ (1978) NCLR 245

²⁷ Personal Income Tax Act

²⁸ (2012) 8 TLRN 66, 80-82

was in the process of generating the income must be fulfilled by the law. Failure of the taxpayer to show to the court how such expenditure incurred relates to income generation will amount to tax evasion.

4. Permutation of a statement of Account or record keeping

There are instances where taxpayers often operate on a double standard of record keeping or statement of account reporting, in this regard, the correct booking keeping or statement of account reflecting their actual income is often kept or hidden. In most cases, the statement of account often presented for tax assessment is not their actual statement of account but a permuted statement of account or record keeping in evading payment of personal income tax. However, the court in the case of *Unipetrol (Nig.) Plc. V. Edo State Board of Internal Revenue*²⁹ held thus;

“By the provision of section 51 of the Income Tax Law, Cap 71, Vol. III, Laws of Bendel State, 1976 applicable in Edo State, any person guilty of an offence against that law, where the such offence is the failure arising from the provisions of part 4 of the law to furnish a return, statement or information or to keep records required will be held liable”

The said section 51 of the Income Tax Law, Cap 71, Vol. III, Laws of Bendel State, 1976 has been repealed, however, it has a similar provision as provided for in section 41(4) of the Personal Income Tax Act. Furthermore, where statements of account reveal that there is inconsistency in the documentation it could be inferred that there is a ploy to evade payment of tax. In the case of *Best V. FBIR*,³⁰ the body of appeal commissioners in entertaining tax case of appeal found that there was inconsistency in the appellant's statement or account for the years 1993 and 1994 after being audited, it was on this basis that the body of appeal commissioner concluded the inconsistency that there was an incidence of tax evasion. On appeal by the appellant, the court held that the conclusion drawn by the body of appeal of commissioner concerning the inconsistency of the 1993 and 1994 statement of account to ascertain an incidence of tax evasion is not unreasonable. Given the above, it is apt to state that, despite the legislative and judicial pronouncement condemning tax evasion. There is still a very high rate or incidence of tax evasion in Edo State. In this regard, to checkmate and curb the current increasing incidence of tax evasion affecting revenue generation. The Edo State Government 2019 introduce the automated personal income taxing system known as Edo State Revenue Automated System (ERAS).

3.1 Causes and Dangers of Personal Income Tax Evasion in Edo State

It is the statutory duty of every individual residing and working in government or a private individual in Edo state to pay taxes. In this regard, the Edo State Government likewise other states of the federal republic of Nigeria are “mandated to collect personal income tax from an individual residing within its territory.”³¹ However, it has been observed that in Edo state, “taxpayers often try to reduce

²⁹ (2006) 8 NWLR (pt. 983) 624 at 637-639

³⁰ (2013) 1 NRLR 161

³¹ Ibid

their tax liabilities or refuse to pay taxes.”³² “They try to achieve this by illegal means of evading tax.”³³ It suffices to state that tax evasion often affects the Edo State government in generating revenue to provide adequate service in addressing the needs of the state.

However, “it suffices to state tax evasion is a result arising from certain consequential socioeconomic and administrative issues.”³⁴ In this regard, it suffices to state that there are several causes of tax evasion and these causes are peculiar to the various states in Nigeria, including Edo State. However, some of the causes of tax evasion in the various states in Nigeria which is also peculiar to Edo State are as follows;

1. “Inefficient and ineffectiveness of tax administration;
2. Inadequate information on the assets and income of the taxpayer, in this regard there is no database of taxpayer;
3. The mechanism put in place for the assessment and collection of taxes are not enough;
4. Corruption among tax officers and taxpayer;
5. The lackadaisical and non-charlatan attitude of the taxpayer to remit tax.”

However, irrespective of the above causes being identified, it suffices to state that, in Nigeria, revenue generated from taxes had little or no contribution to Nigeria's development and taxpayer often lament dilapidated infrastructure irrespective of their tax compliance. Chigbu E. E. and Njoku C. O, “emphasize the fact that revenue generated from tax ought to contribute greatly to improving a country's economy, reduce the rate of inflation, and unemployment, and provides for the basic needs of the citizens.”³⁵ However, their study revealed that the case of Nigeria is quite the opposite; that tax had little effect on Nigeria's economy. They further recommended that the Nigerian tax system should be restructured to encourage taxpayers to voluntarily pay tax.

Given the above, “it suffices to state that the challenges of tax evasion are not novel or peculiar to the Edo State taxing system.”³⁶ “This is concerning the fact that the Federal and other states in the federation also have similar challenges of tax evasion.”³⁷ “In search of how to put an end to or minimize non-compliance of tax payments by taxpayers and increase the tax base in Nigeria.”³⁸ An automated tax system has been “adopted in Nigeria (specifically in states like Lagos and Ogun) as a major solution to rectify the challenges inherent in Nigeria's tax system.”³⁹ Given

³² Egun Idowu Adeniyi and Babalola Rapheal Adesunloro Adeniyi S. I. and Adesunloro B. R., “Electronic Taxation and Tax Evasion in Nigeria: A Study of Lagos State”. *Journal of Academic Research in Economics*, 9 no. 1, (2017): 31-53

³³ Umenweke M Nnamdi & Ifediora E Syvester, “The Law and Practice of Electronic Taxation in Nigeria: The Gains and Challenges”, *Nnamdi University Journal of International Law and Jurisprudence*, 4 no. 2, (2016): 101-112

³⁴ Adedeji Titilayo Olaseyitan, “An Empirical Analysis of Tax Leakages and Economic Growth in Nigeria”, *European Journal of Economics, Finance and Administrative Sciences*, 48, (2012): 42-61

³⁵ Ibid

³⁶ Ibid

³⁷ Ibid

³⁸ Ibid

³⁹ Ibid

the viability of the adopted automated taxing system in some states in Nigeria, the Edo State government in 2019 sort to adopt an automated personal income taxing system to curb the incidence of tax evasion, increase in tax base and revenue generation

3.2 Conceptual Framework of Edo State Automated PIT System: a Panacea to Tax Evasion

The personal income tax is regulated by the Personal Income Tax Act, which is “a primary legal framework that provides for the imposition, assessment, and collection of income tax from individual and corporate bodies in Nigeria.”⁴⁰ It must be noted that the process provided for the regulation of personal income tax involved a manual process which includes the following;

- i. Filing of taxpayer return in person (a manual process)
- ii. Manual computation of tax assessment
- iii. Services of notice of tax assessment personally by a tax authority which further require the endorsement of notice of tax assessment by a taxpayer
- iv. Service of demand notice personally on the taxpayer
- v. Payment of tax
- vi. Recovery of tax due

The above is as provided for by section 41- 81 of the Personal Income Tax Act, and the procedure contemplated by the Act is a manual process. The process provided above is said to be easily manipulated by a taxpayer who deliberately intends to evade the payment of tax. This is concerning the fact that the manual process of tax assessment can easily be compromised given the human input involved.

However, it suffices to state that the world is a global village that is swiftly and rapidly developing into a digital system. “This is concerning the fact that technology has advanced to salvage the challenges in virtually all sectors of the global terrain.”⁴¹ In this regard, it suffices to state that digital technology has been adopted by several countries in regulating their taxing system, thereby reforming the usual manual system tax into a digital taxing system. A digital tax system is a platform that enables a taxpayer to perform the following;

- i. E-registration of an eligible taxpayer
- ii. E-filing of a taxpayer return
- iii. E-tax assessment
- iv. E-payment of the tax assessed and generating of tax receipt

However, given the challenges of tax evasion inherent in the taxing system of Edo State, in the year 2019, the Edo State Government introduced and adopted an automated personal income tax system also known as the Edo State Revenue Automated System (ERAS). Although, the major aim is to curb tax evasion, however, the digital taxing system has also aid improve in transparency,

⁴⁰ Section 1, 2 and 3 of the Personal Income Tax Act, cap. LFN 2004

⁴¹ Adkomolede I. Thomas, “Contemporary Legal Issues in Electronic Commerce in Nigeria”, *Pechor Stone Law Journal*, 11 no. 3 (2008): 33-52

accountability, and increased revenue drive. The Edo State automated (ERAS) PIT system provides for the following which is briefly discussed below;

a. Electronic Taxpayer Data Capture

This involved the process of collecting taxpayer bio-data such as; “the full name of a taxpayer, nature of the business, address (which could be a business address or home address of the taxpayer), and mobile number.”⁴² This information is often obtained manually by a contract staff (they are called STEET officers) employed by the management of Edo State's internal revenue. Although, this process is executed manually, however, “this first step is sacrosanct to ensure a successful feeding of the taxpayer details into the technological system for processing of the other process.”⁴³

b. Profiling and E-Registration of Taxpayer

In profiling and registration of a taxpayer, it involves the process of interviewing a taxpayer in obtaining some vital information before registering or feeding the taxpayer information into the Edo State revenue automated system⁴⁴. Furthermore, some of this information that may be required or sourced from the taxpayer during the interview includes;

- i. Detail information as regard the taxpayer bio-data
- ii. Expenditure of taxpayer
- iii. Structure of business

The information required under the taxpayer structure of business are;

- i. Nature of the business
- ii. Size of the business
- iii. Level of turnover/sales volume
- iv. Bank statement

In the circumstances where the taxpayer is an owner of a school, the taxpayer will be required to supply the following information; “the total number of students in each class, the amount paid as fees, the number of staff, the salary structure of staff, and bank statement of account.”⁴⁵

The above information having been obtained from the taxpayer will be uploaded to Edo State Revenue Automated System (ERAS), and he will be deemed to be registered. “A text message will be sent to his mobile phone, notifying him of his registration, and a unique taxpayer Revenue Identification Number (RIN) will be created for them.”⁴⁶ The taxpayer's revenue identification number (RIN) is a unique detail that he or the tax authority can use to access tax details or information on ERAS. However, in the circumstances where a taxpayer who has been registered cannot produce his RIN number, the phone number used in the registration on ERAS will serve as an alternative. Furthermore, “the Edo State

⁴² Igbinidu Inneh ‘The Overview, Edo State Automated Framework’, <<https://eirs.gov.ng/edo-state-automation-framework/>> accessed 16th of March, 2022

⁴³ Ibid

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ Ibid

automated tax system also provides an avenue for a legible taxpayer who has not been captured into the tax net to register themselves through the automated platform.”⁴⁷

c. E-computation and Notification of tax Assessment on Taxpayer Income

As provided by the Personal Income Tax Act⁴⁸, computation of assessment on taxpayer income can be done either by the taxpayer⁴⁹ or by the relevant tax authority. However, the Edo State Revenue Automated System does not provide for an avenue of self-assessment by a taxpayer. The computations of an assessment *via* the ESRAS are controlled and monitored by the relevant tax authority where a taxpayer had filed a return. The assessment of the taxpayer’s income is often computed with the formula provided in the schedule of the Personal Income Tax Act⁵⁰. Where the taxpayer fails to file a return within the stipulated time⁵¹, the tax on his income will be computed based on the best judgment of the tax officer. Immediately the computation of the assessment is completed via the automated tax system (ERAS). The taxpayer will be notified through text message (SMS) of his tax that is due.

d. E-Payment of Tax.

Upon receipt of the notice of assessment, the taxpayer is required to make payment via Bank deposit or electronic means. Payment of tax due must be made within two months of receipt of notice of assessment.

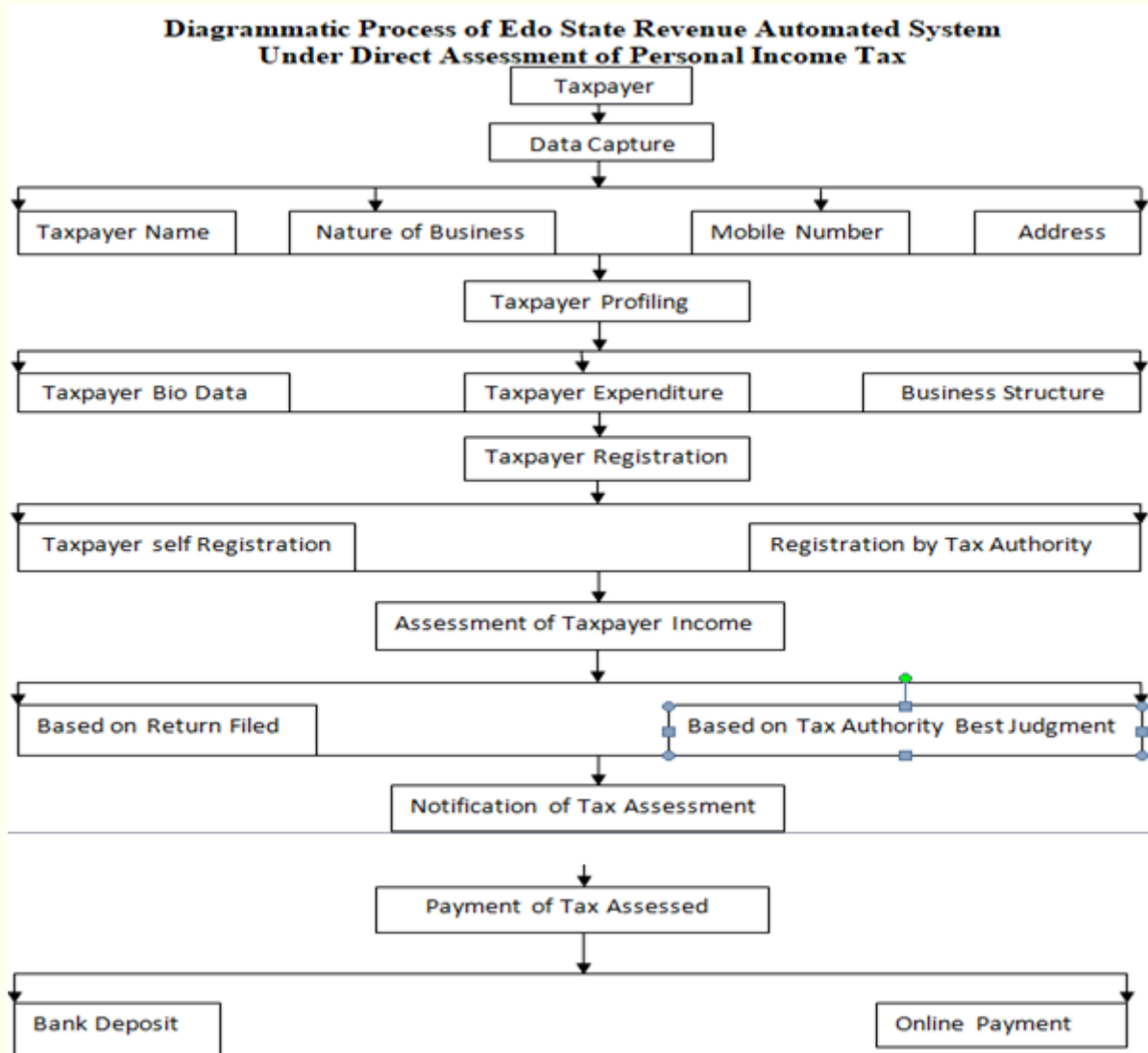
⁴⁷ Ibid

⁴⁸Section 41, 81 and 44

⁴⁹Ibid

⁵⁰ Personal Income Tax Act, 2004

⁵¹Ibid



Concerning the above, “it suffices to state that it characterizes the procedure involved in an automated personal income tax in Edo State.”⁵² The above digital procedure involved in the Edo State personal income taxing system is said to aid in curbing tax evasion. This is concerning the fact that it provides for the following futures that aid in savaging tax evasion as follows;

- i. It enables well storage of taxpayer information digitally
- ii. It enables tax officials to track new taxpayers into the tax net thereby increasing the tax base
- iii. It enables the tax authority to keep track of the record of a taxpayer who has complied with the payment of tax
- iv. A taxpayer who has failed to pay their tax assessed is easily tracked from the Edo State digital taxing system
- v. It enables tax officials to easily determine the current tax due that has been paid by the taxpayer
- vi. It provides a seamless process for taxpayers and tax officials in the tax administration process

⁵² Ibid

However, despite the relevance and beautiful futures of Edo State's automated personal income taxing system in curbing tax evasion. Several challenges tend to negatively affect the viability of an automated income tax in Edo State.

3.3 Challenges of Edo State Automated Personal Income Tax System

An automated PIT system is gradually taking over the manual process of tax administration; given the numerous advantages and relevance e-personal income taxing systems tend to provide which range from electronic filing, assessment of tax, serving of tax assessment, and payment of taxes. However, it is apt to state that irrespective of the positive effect that the Edo State Revenue Automated System tends to provide, some challenges may hinder the process involved in an automated tax system.

One of such potent challenges that may pose difficulty in the seamless adoption of an automated system is concerns about the legal implication of non-compliance with the enabling law regulating personal income tax. This is concerning the fact that the procedure contemplated by section 41-81 of the Personal Income Act as it concerns income tax administration is a manual process. In this regard, "any other process (such as an automated process) adopted in the administration of income tax is considered illegal and not by the extant legal framework."⁵³ In *Nig. Breweries PLC v. LSIRB*⁵⁴ the Nigerian court held that for a taxpayer to be liable for defaulting in tax payment, the income tax assessment must be signed by the tax authority and a demand notice delivered to the taxpayer. Also in the case of *Azikiwe v. Federal Electoral Comm*,⁵⁵ the court opined that a tax is said to have fallen due and can be enforced against a taxpayer if the tax authority has complied with the relevant provision of the Personal Income Tax Act as it concerns income tax administration.

Given the above, it suffices to state that in a circumstance where a taxpayer default in complying with the current automated taxing system, it could be fatal to the prosecution case. This is concerning the fact that automated income tax is not provided for and regulated by the current Personal Income Tax Act. The Nigerian court in the case of *Governor of Ekiti State v. Chief Akinyemi*⁵⁶ Abba Aji JCA opined that it is a trite principle of law that where law in Nigeria provides for a specific procedure for doing a particular thing and the provision of the law unequivocally unambiguous, departing from that procedure render all efforts in futility.

However, other challenges that could affect the adoption of an automated personal income tax are as follows;

- i. The of cyber-crime incidence in Nigeria
- ii. Poor ICT knowledge of tax officers and taxpayers concerning an automated income tax system
- iii. Poor or Inadequate internet services,
- iv. Irregular or poor power supply

⁵³*I.T/R v. ESBIR (2014) 40 W.R.N Pp 111-112, Governor, Ekiti State v. Chief Akinyemi (2011) NWLR (PT. 1276) 373 at 413, FBN PLC v. Atunrase Carpets and Underlay LTD (2012) 24 W.R.N pg 68 lines 20-25*

⁵⁴ (2002) NWLR (PT. 759) 1 at 18-19

⁵⁵ (1979) 3 NCLR 276

⁵⁶ (2011) NWLR (PT. 1276) 373 at 413

4. Presentation and Analysis of Data

The result of the data obtained or derived from the survey questionnaire in this study is hereby analysed and discussed as follows;

4.1 Sample Size and Techniques

Concerning sampling techniques used in identifying or selecting the audience in responding to the questionnaire, the study adopts a simple random method of sampling techniques. "This is concerning the fact that a simple random method of sampling has been adjudged in several studies in Aidonojie et al."⁵⁷ Majekudmi et al.⁵⁸, and Oladele et al.⁵⁹, to be more relevant and possessing numerous advantages in a legal non-doctrinal method of research. Furthermore, they also opined that a simple random method of sampling possesses the following advantage;

⁵⁷ Aidonojie Paul Atagamen and Idemudia O. Edetalehn, "A Facile Study of the Statutory Challenges Concerning Customary Practice of Intestate Succession in Nigeria", *Jurnal Hukum Replik*, 11 n0. 1 (2023): 1-11; Aidonojie Paul Atagamen, "Voluntary Assets and Income Declaration Scheme a Panacea to Tax Evasion in Edo State, Nigeria", *Administrative And Environmental Law Review*, 4 no 1 (2023): 1-20, <https://doi.org/10.25041/aclr.v4i1.2822>; Aidonojie Paul Atagamen "Environmental Hazard: The Legal Issues Concerning Environmental Justice in Nigeria", *Journal of Human Rights, Culture and Legal System*, 3 no. (2023): 17-32, <https://doi.org/10.53955/jhcls.v3i1.60>; Aidonojie Paul Atagamen "The Legal Impact and Relevance of using the Concept of Plea Bargain in Resolving Tax Dispute in Nigeria" *Brawijaya Law Journal : Journal of Legal Studies*, 9 no. 2 (2023) <https://lawjournal.ub.ac.id/index.php/law/article/view/508>; Aidonojie Paul Aatagamen and Anne Oyenmwosa Odojor, "Impact and Relevance of Modern Technological Legal Education Facilities amidst the Covid-19 Pandemic: A Case Study of Law Students of Edo University Iyamho", *KIU Journal of Humanities*, 5, 4, (2021):7-19; Aidonojie Paul Aatagamen, Joseph Nwazi and Ugiomo Eruteya, "The Legality, Prospect, and Challenges of adopting Automated Personal Income Tax by States in Nigeria: A Facile Study of Edo State", *Cogito Multidisciplinary Journal*, 14, no. 2, (2022):149 – 170; Aidonojie Paul Aatagamen, Oaihimore Idemudia Edetalehn and Omohoste Patience Agbale, "The Legal and Ethical Issues concerning Diagnosing and Treatment of Patients by Pharmacists in Nigeria", *Euromentor Journal*, 13, no. 2, (2022): 113-138; Aidonojie Paul Aatagamen and Esther Chetachukwu Francis, "Legal Issues Concerning Food Poisoning in Nigeria: The need for Judicial and Statutory Response", *Jurnal Media Hukum*, 29, no. 1, (2011): 65-78 <https://doi.org/10.18196/jmh.v29i1.12595>; Aidonojie Paul Aatagamen, Oluwaseye Oluwayomi Ikubbanni and Nosa Okoughae, "The Prospect, challenges and Legal Issues of Digital Banking in Nigeria", *Cogito Multidisciplinary Journal*, 14 no. 3, (2022): 186 – 209

⁵⁸ Toyin Afolabi Majekodunmi, Aidonojie Paul Aatagamen, Ikubbanni, O. Oluwaseye and Oyebade A. Adeniyi, "Legal Issues in Combating the Scourge of Terrorism;Its Impact on International Trade and Investment: Nigeria as a Case Study", *KIU Journal of Humanities*, 7 no. 3, (2022): 129-139; Toyin Afolabi Majekodunmi, Oluwaseun, J. A., Idahosa, M. E., Ikubbanni, O. O. and Aidonojie Paul Aatagamen, "The causes of the Rising incidence of Terrorism occasioning Deprivation of the Right to Life in Nigeria", *KIU Journal of Humanities*, 7, no. 2, (2022): 5-19

⁵⁹Odetokun Olukayode Oladele, Aidonojie Paul Aatagamen, Uzualu James, Ikubanni, O. Oluwaseye and Oyedeji Adefisayo, "An Empirical Study of Criminalizing Minor Infractions of Tax Laws in Nigeria: The Need for Negotiated Punishments", *KIU Journal of Humanities*, 7 no. 2, (2022): 23-35; Aidonojie Paul Atagamen, The Societal and Legal Missing Link in Protecting a Girl Child against abuse before and Amidst the Covid-19 Pandemic in Nigeria, *Jurnal Hukum UNISSULA*, 38 no. 1, (2022): 61-80

- i. "Their study revealed that random method of sampling techniques are more reliable in selecting respondents from a country (like Nigeria) that is a heterogeneous population;
- ii. That a random method of sampling is free and devoid of difficulties in selecting respondents;
- iii. That the chances of a random sampling method being biased could be minimal or none."⁶⁰

Furthermore, the researchers adopt a sample size of 304 respondents that residents within the senatorial districts of Edo State.

4.2 Data Analysis

Concerning the analysis of the result obtained from the survey questionnaire, the data obtained are therefore presented in the figure and table below:

⁶⁰ Idahosa Milicent, Agbale O Patience, and Aidonojie Paul Atagamen, "The Causes and Legal Implications concerning Assault against Healthcare Providers by Patients or their Relatives in Nigeria". *KIU Journal Of Humanities*, 7 no. 4 (2023):79-88. <https://doi.org/10.58709/kiuju.v7i4.1558.79-88>; Aidonojie Paul Atagamen, Okuonghae Nosa and Ukhurebor E. Kingsley, "The Legal Rights and Challenges of COVID-19 Patients Accessing Private Healthcare in Nigeria", *BESTUUR*, 10 no. 2 (2022):183-197, <https://doi.org/10.20961/bestuur.v10i2.68118>; Aidonojie Paul Atagamen, Aidonojie Esther Chetachukwu, Edetalehn O. Idemudia, Ikubanni O. Oluwaseye and Oyebade A. Adeniyi, "A Facile Study concerning the Legal Issues and Challenges of Herbal Medicine in Nigeria", *The Indonesian Journal of International Clinical Legal Education*, 4 no, 4 (2022), <https://doi.org/10.15294/ijicle.v4i4.61641>; Aidonojie Paul Atagamen Ikubanni O. O., Okoughae N. and Ayoedeji A. O., "The challenges and relevance of technology in administration of justice and human security in Nigeria: Amidst the Covid-19 pandemic", *Cogito Multidisciplinary Journal*, 13, no. 3, (2021): 149 – 170; Aidonojie Paul Atagamen, Anne Oyenmwosa Odojor, and Odetokun Olukayode Oladele, "An Empirical Study of the Relevance and Legal Challenges of an E-contract of Agreement in Nigeria", *Cogito Multidisciplinary Research Journal*, 12, no. 3, (2020): 181; Aidonojie Paul Atagamen Odojor, A. O., Ikubanni, O. Oluwaseye, Oyebade A. Adeniyi Oyedeji I Adefisayo and Okuoghae Nosa, The Challenges and Impact of Technological Advancement to the Legal Profession in Nigeria given the Covid-19 Pandemic, *KIU Journal of Humanities*, Vol. 6 No. 4, (2022), 5-19; Aidonojie Paul Atagamen, Okuoghae Nosa, Agbale, O. Patience, Idahosa Milicent, "Supervisor and Supervisee Relationship: The Legal and Ethical Issues Concerning Academic Theft in Nigeria Tertiary Institution", *Euromentor Journal* 13 no. 1 (2022): 113-138; Aidonojie Paul Atagamen, Anne Oyenmwosa Odojor and Patience Omohoste Agbale, "The Legal Impact of Plea Bargain in Settlement of High Profile Financial Criminal Cases in Nigeria", *Sriwijaya Law Review* 5 no. 2 (2021): 161-174 <https://doi.org/10.28946/slrev.Vol5.Iss2.852>; Aidonojie Paul Atagamen, Oluwaseye Oluwayomi Ikubanni and Alade A. Oyebade, Legality of EndSARS Protest: A Quest for Democracy in Nigeria, *Journal of Human Rights, Culture and Legal System*, 2 no. 3, (2022): 209-224, <https://doi.org/10.53955/jhcls.v2i3.40>; Aidonojie Paul Atagamen, Simon E. Imoisi and Idemudia E. Oaihimore, A Facile Study concerning the Prospect and Challenges of Conducting a Hybrid Method of Legal Research in Nigeria, *Euromentor Journal*, 13 no.3 (2022): 113-138

Research Question One

Which of the senatorial district do you reside in Edo State?

304 responses

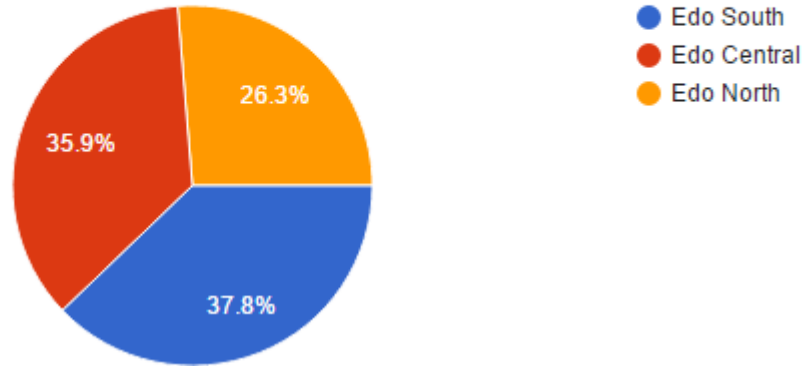


Figure 1: Respondent identification of the senatorial district they reside in Edo States

S/N	Senatoria Distric in Edo States	Responses of Respondents	Percent
1	Edo South	115	37.8%
2	Edo Central	109	35.9%
3	Edo North	80	26.3%
	TOTAL	304	100%

Table 1: Identification of respondent residents in Edo States senatorial district

Figure 1 and Table 1 are identification of respondents' residential areas within the Edo State senatorial district.

Research Question Two

Do you agree that there are incidences of personal income tax evasion in Edo State?

303 responses

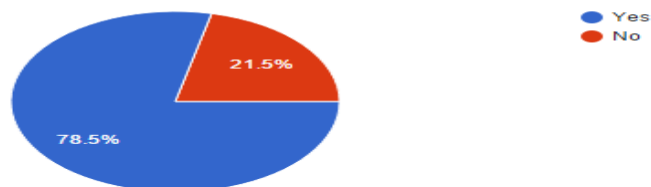


Figure 2: responses of respondents identifying if there are incidences of tax evasion in Edo Stated

	Response	Percent
Valid Yes	238	78.5%
Valid No	65	21.5%
Total	303	100%

Table 2: Valid respondents' identification of the level of legal degree they have attained

Figure 2 and Table 2 are confirmations of incidences of tax evasion in Edo State by the respondent.

Research Question Three

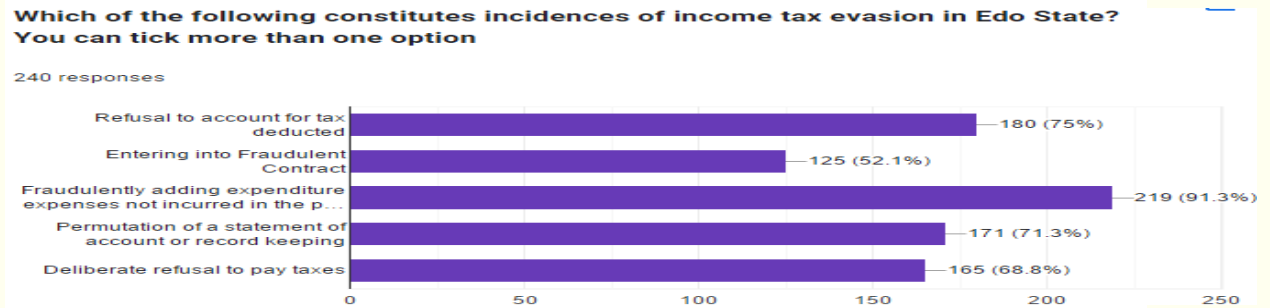


Figure 3: Cluster of identification of acts that constitute tax evasion in Edo State

Act constituting tax evasion in Edo State	Cluster of Response	Percentage
Refusal to account for tax deducted	180	75%
Entering into a Fraudulent Contract	125	52.1%
Fraudulently adding expenditure expenses not incurred in the process of income generation	219	91.3%
Permutation of a statement of account or record keeping	171	71.3%
Deliberate refusal to pay taxes	165	68.8%

Table 3: Valid cluster of identification of acts that constitute tax evasion in Edo State

Figure 3 and Table 3 are the identification of various acts that constitute the incidence of tax evasion in Edo State.

Research Question Four

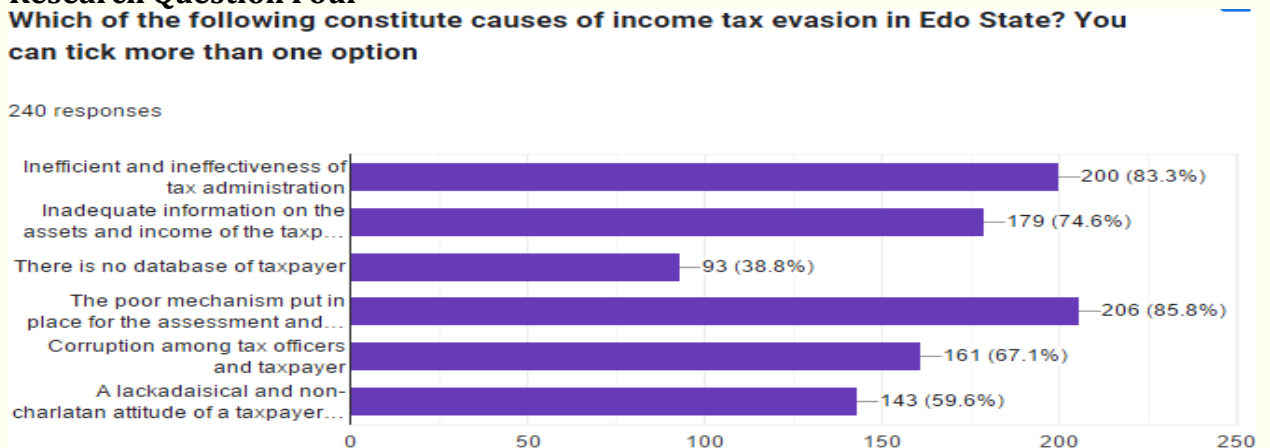


Figure 4: Cluster of identification of the causes of tax evasion in Edo State

Causes of tax evasion in Edo State	Responses of respondents	Percentage
Inefficient and ineffectiveness of tax administration	200	83.3%
Inadequate information on the assets and income of the taxpayer	179	74.6%
There is no database of taxpayer	93	38.8%
The poor mechanism put in place for the assessment and collection of taxes	206	85.8%
Corruption among tax officers and taxpayer	161	67.1%
A lackadaisical and non-charlatan attitude of a taxpayer to remit tax	143	59.6%

Table 4: Valid identification of the causes of tax evasion in Edo State

Figure 4 and Table 4 are valid clusters of identification of the various causes of tax evasion in Edo State.

Research Question Five

Does the current legal framework on income tax sufficient in curtailing income tax evasion in Edo State?

303 responses

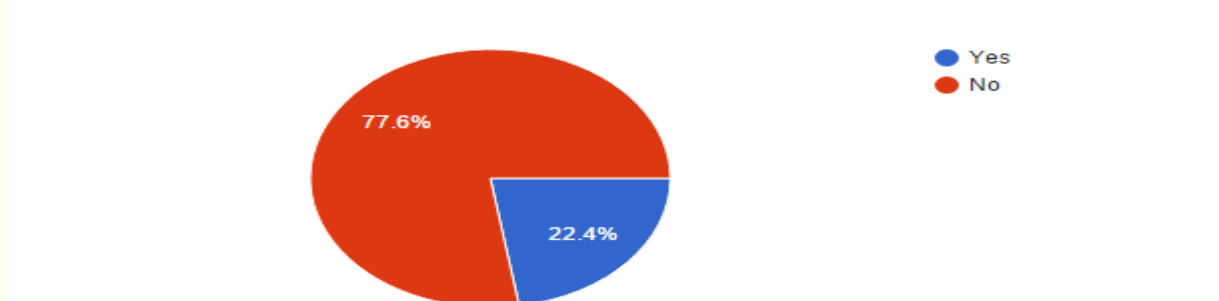


Figure 5: Respondents identifying if the current legal framework is sufficient to curtail the incidence of tax evasion Edo State

	Response	Percent
Valid Yes	68	22.4%
Valid No	235	77.6%
Total	303	100%

Table 5: Valid respondents' identifying if the current legal framework is sufficient to curtail the incidence of tax evasion Edo

Figure 5 and Table 5 are identification of the various causes of tax evasion in Edo State by the respondents.

Research Question Six

Do you agree that the adoption of an automated income tax system will aid in curtailing income tax evasion in Edo State?

304 responses

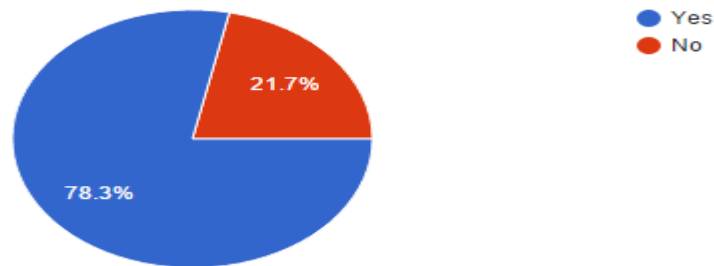


Figure 6: Respondents identifying if an automated income tax could curtail incidences of tax evasion in Edo State

	Response	Percent
Valid Yes	238	78.3%
Valid No	66	21.7%
Total	304	100%

Table 6: Valid identification of if an automated income tax could curtail incidences of tax evasion in Edo State

Figure 6 and Table 6 identified by the respondents if an automated income tax could aid in curtailing incidences of tax evasion in Edo State.

Research Question Seven

Which of the following features of an automated income tax could aid in curtailing income tax evasion in Edo State? You can tick more than one option

240 responses

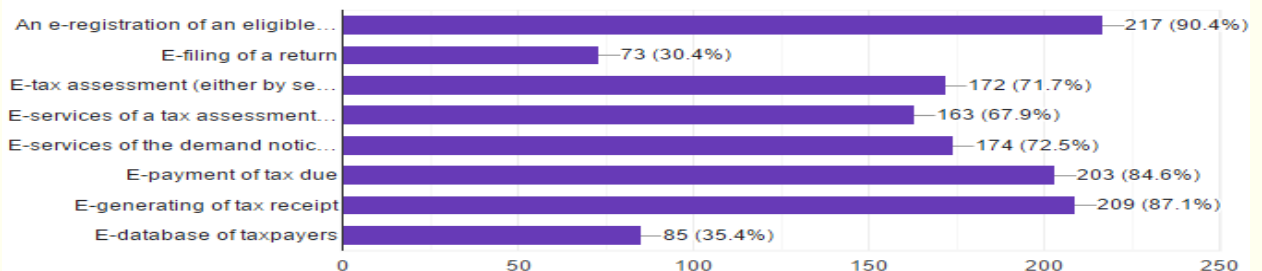


Figure 7: identification of salient features of an automated income tax that could aid curtail tax evasion

Features of automated income tax that could curtail tax evasion	Responses of respondents	Percentage
An e-registration of an eligible taxpayer	217	90.4%
E-filing of a return	73	30.4%
E-tax assessment (either by self-assessment or assessment by a tax authority)	172	71.7%
E-services of a tax assessment notice	163	67.9%

E-services of the demand notice on taxpayers	174	72.5%
E-payment of tax due	203	84.6%
E-generating of tax receipt	209	87.1%
E-database of taxpayers	85	35.4%

Table 7: Valid respondents' identification of salient features of an automated income tax that could aid curtail tax evasion

Figure 7 and Table 7 are a cluster of identification of some salient features of an automated income tax that could aid in curtailing incidences of tax evasion in Edo State.

5. Discussion of Findings

Given the statistical data obtained through the questionnaire survey as presented in the figures and tables above, the outcome of the result is hereby discussed as follows. Table 1 and figure represent the fact that the 304 of the respondents are residents in Edo State. In this regard, it suffices to state that the respondents residing in Edo State confirm, the fact that they possess the knowledge and are well-informed concerning the incidence of income tax evasion in Edo State and the concept of an automated income tax.

Concerning the above, in figure 2 and table 2 78.5% of the respondents were able to identify that there is an incidence of income tax evasion in Edo State. However, in figure 3 and table 3 the respondents identified some of the major acts that constituted income tax evasion often perpetuated by both small and large business operators in Edo State as follows;

- i. 75% of the respondent identifies that taxpayer and official often refuse to account for tax deducted
- ii. 52.1% stated taxpayers often present force documents of entering into Fraudulent Contract
- iii. 91.3% identify fraudulently adding expenditure expenses not incurred in the process of income generation is one of the methods of evading income tax
- iv. 71.3% of the respondent confirmed that most taxpayers often indulge in the permutation of a statement of account or record keeping
- v. Furthermore, 68.8% stated that most taxpayers often deliberately refuse to pay income taxes

However, suffices to state that most often refusing to pay income tax is intentional, in this regard, there are root causes often necessitating committing income tax evasion. In this regard, in figure 4 and table 4, the respondents identified some of the major root causes of income tax evasion in Edo State as follows;

- i. 83.3% of the respondents identify inefficiently and ineffectiveness of income tax administration as a cause of income tax evasion in Edo State
- ii. 74.6% stated that inadequate information on the assets and income of the taxpayer is a cause of income tax evasion
- iii. 38.8% identify that no database of a taxpayer in Edo State often aid taxpayer to evade income tax payment

- iv. 85.8% confirmed that the poor mechanism put in place for the assessment and collection of taxes also results in income tax evasion in Edo State
- v. 67.1% agreed that corruption among tax officers and taxpayers necessitated income tax evasion in Edo state
- vi. 59.6% further identify the lackadaisical and non-charlatan attitude of a taxpayer to remit income tax

Concerning the above, it is apt to state that income tax evasion is illegal and condemnable by income tax laws in Edo state. However, given the incidences of income tax evasion in Edo State, in figure 5 and table 5, 77.6% of the respondents (representing the majority of respondents) were able to identify that though their laws that condemn issues of income tax evasion, however, these laws are effective to curtail income tax evasion in Edo State. In this regard, in figure 6 and table 6, 78.3% of the respondents recommended that an automated income tax could aid in curtailing incidences of income tax evasion in Edo State. In figure 7 and table 7, the respondents further identified some of the salient features of an automated income tax that could aid in curtailing income tax evasion as follows;

- i. 90.4% of respondents stated that automated income tax provides for an e-registration of an eligible taxpayer
- ii. 30.4% stated that there is an e-filing of a return
- iii. 71.7% identify e-tax assessment as one of the features of an automated income tax
- iv. 67.9% and 72.5% identify e-services of a tax assessment notice and e-services of the demand notice on taxpayers as features of an automated income tax
- v. 84.6% and 87.1% of the respondent identifies e-payment of tax due and e-generating of tax receipt respectively
- vi. Furthermore, 35.4% of the respondents stated e-database of taxpayers is one of the features of income tax

6. Conclusion

In this study, it has been observed that tax is a major revenue that the government of virtually or given society tends to finance the public project. In this regard, it was also observed in this study that in Nigeria, both the federal and state government are constitutionally and statutorily empowered to collect tax from individuals, companies, and small and large-scale businesses. However, the study further observed that in Edo state, both small and large-scale businesses are often evading the payment of tax. Although several causes have been attributed to the reason taxpayers evade tax payments in Edo State, some of the major causes include; inefficient and ineffectiveness of the tax administration system, deliberate refusal to pay tax, corruption among tax officers, and taxpayers, inadequate information on the assets and income of the taxpayer.

Concerning the above, the study also observed that in 2019, the Edo State government introduce digital technology in automated the personal income tax administrative system to be further known as Edo State Automated Tax System (ERAS). The essence of ERAS is major aimed at curtailing the incidence of tax

evasion, increasing the tax base, and generating more revenue. Although, the adoption of an automated personal income tax seems to be a yielding positive result in curtailing tax evasion, however, there are challenges mitigating its effective use.

It is concerning the above that this study further recommends that for effective adoption and use of digital technology in automating personal income tax in Edo State in curtailing incidence of tax evasion;

- i. Enact laws or sponsor bills within the National Assembly in enacting laws that incorporate an automated tax system
- ii. Train tax officers and taxpayers concerning an automated income tax system
- iii. Public sensitization concerning the benefits and seamless process involve in the automated personal income tax system
- iv. Strict prosecution of anyone involved in internet fraud related to an automated personal income tax

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