

TAXATION, CUSTOMS AND RESEARCH NOTES

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TAXATION NOTES

TAX

This is a compulsory contribution to support government levied on person, properties, income, commodity and transactions

WEAKNESS OF DEFINITION

- i. Limit the purpose of taxation to the support of government revenue i.e., other purpose protection of industry and health
- ii. Irrelevant description of data bases i.e., tax is levied on persons, property and income
- iii. It gives undue emphasis on proportion Taxation exacted at progressive rates

CLASSIFICATION OF TAXES

1. INCOME TAX

Is a tax on the income of the taxpayers i.e., Tax on income of individual or corporation

2. WEALTH TAX

Is a tax on capital gain or tax on accumulated capital of taxpayers

3. COMMODITY TAX

Tax on consumption of commodity

4. TARIFF

Is a tax or duty usually imposed on imported goods to increase the price of such goods related to domestic goods

5. TRANSFER TAX

Is a tax on transfer of value of property from one owner to another owner

6. VALUE ADDED TAX

Is a tax on increase in value of commodity created by the tax payer in moving it from one stage of production to another.

7. USER TAX

Is a tax on the use of a facility or service such as Toll for bridge or road

OBJECTIVES OF TAXATION

1. Need for revenue in order to finance government spending on social, economic and political issues
2. Mobilization of capital for capital Formation
3. Allocation of Resources
4. Stabilization of the Economy
5. Distribution of wealth to ensure income equality
6. Protection of local industries and health of citizen

THEORIES OF TAX DISTRIBUTION

1. TAX UNIT
2. TAX BASE

TAX BASE

There are 3 competing tax bases

1. Income Tax base
2. Expenditure tax base
3. Wealth Base

ADAM SMITH CANON OF TAXATION

1. EQUITY
 - i. Horizontal Equity: Taxpayer in similar financial condition should pay similar amount of taxes
 - ii. Vertical Equity: Taxpayers who are better off should pay at least the same proportion of income
2. CERTAINTY

Scope of the tax should be clear. The time of payment, the manner of payment and amount to be paid
4. CONVENIENCY
5. ECONOMY

CHARACTERISTICS OF GOOD TAX SYSTEMS

1. **FAIRNESS/ EQUITY**

Means that everybody should pay Fair share of taxes i.e., Horizontal and vertical equity
2. **ADEQUACY**

Taxes must provide enough revenue to meet basic need of the society i.e., to meet demand for public

3. SIMPLICITY

Taxes must provide a simpler tax system helps a taxpayer better understand the system and reduce cost of compliance.

Taxpayer can avoid a maze of taxes, Forms and Filings requirement

4. TRANSPARENCY

Taxpayers and Leaders can easily Find information about tax systems and how tax money is used

We know who is being taxed, how much they are paying and what is being done with the money

5. ADMINISTRATIVE EASY

Tax systems is not too much complicated or costly for taxpayers or tax collection

INTERPRETATION OF TAX STATUS

SOURCE OF TAX LAW

1. STATUTE LAW.

Tax laws derived from acts of parliament which makes laws such as income Tax Act, Customs and Tariff Acts, Export Tax Act, Stamp Duty Act, Transfer Tax

2. CASE LAW

These are decision of judicial authority on matter concern taxation

3. DEPARTMENT PRACTICE

The day-to-day application of tax law often gives rise to difficulties and in the absence of case law authority on particular point

GENERAL GUIDELINES IN COSTRAING TAX STATUTES

1. Choice of the method of interpretation
2. Position of collateral Literature
3. Comparison with Foreign Laws i.e., common wealth
4. Administrative practices

THE BASIC PRINCIPLES IN COSTRUING TAX STATUES

1. No tax can be imposed on a subject without words in act showing clearly the intention to impose tax
2. In tax cases the court may ignore the legal position and regard the substance of the matter of the equivalent financial result

THE RULE FOR CONSTRUING TAXING STATUES

1. The strict construction rules
2. Considering the statutes as whole
3. Worlds of the statutes must be read in their context
4. Misconception of existing Law
5. Provision dealing with tax machinery
6. Two statutes dealing with same matter
7. Consolidating statutes
8. Tax act as whole

EFFECT OF TAXATION

1. Working Ability
2. Saving Ability
3. Desire to work
4. Inflation
5. Diversion of economic Resources

TAX AVOIDANCE

Is the lawfully attempt by taxpayer to avoid payment of tax. Taxpayer use tax loupes to avoid payment tax

TAX AVOIDANCE IS A TRANSACTION WHICH

1. Avoid tax
2. Is entered into for the purpose of avoiding taxes
3. Is carried out lawfully
4. Is not a transaction which the legislature has entered to courage

CAUSES OF TAX EVASION AND AVOIDANCE

1. High Marginal Tax Rate
2. Multiplicity of taxes i.e., Too many taxes
3. Inadequate training and experience of Tax administration
4. Low prospect of detection and punishment
5. Deficiency on tax Laws
6. Wasteful Manner in which revenue is spends

HOW TO MINIMIZE TAX EVASION AND AVOIDANCE

1. Keep Marginal tax rates Low
2. Avoid Multiplicity of taxes
3. Train staff in tax laws
4. Serious punishment to tax evader

TAX EVASION

Is the willful attempt by a taxpayer to suppress or not to disclose income and hence not to pay tax

ORDINARY TAX EVASION

- i. Not filling an Income return at all
- ii. Filling income tax return but willful omitting income earned by taxpayer during relevant Year of Income
- iii. Filling income tax return containing a willful mis presentation of nature of nature or amount of income earned
- iv. Characterizing a transaction both in tax books of account of taxpayers and tax return

METHODS OF TAX EVASION

- I. Transfer Pricing
- II. The capitalization
- III. Income capitalization
- IV. Income splitting
- V. Sheltering of Income i.e., tax havens

TAXPAYERS OBLIGATIONS

- I.** Registration
- II.** Filling Return
- III.** Timely payment of taxes
- IV.** Issues and demand of Fiscal receipt
- V.** Cooperate with TRA officers

GENERAL SCHEMES OF INCOME TAXATION

These are alternative bases for taxation

1. CITIZENSHIP OR NATIONALITY

The tax base may be expressed in term of income of the traditional obligation of every citizen or national to help support the state through taxation whether living within or outside.

2. DOMICILE

Used as the basis for income and inheritance or estate taxation with respect of dealt Taxes. Domicile of choice involve two elements

- i. Presence within the jurisdiction
- ii. To maintain permanent home within the jurisdiction.

3. COUNTRY OF SOURCE AND COUNTRY OF DESTINATION

Most taxing system use combination of citizenship, domicile and residence to levy tax and use the concept of taxation by source. This is imposed because income comes from the country of source through working, investing or carrying on business.

RESIDENCE

Residence is the main basis of income taxation in Tanzania. Income of taxpayers who are resident in Tanzania which accrued worldwide is subject to taxation for the year of income. Non – resident liable to income tax on their income which accrued in or was derived from the source situated in Tanzania.

RESIDENCE INDIVIDUAL

- i. Person having permanent home
- ii. Person not having permanent home.

RESIDENCE OF CORPORATION

- i. If it was incorporated under a law of United Republic
- ii. If management and control of its affairs where centralised in Tanzania during any period in that year of income.

IMPORTANCE OF DETERMINE RESIDENCE

1. Personal relief are restricted to residence only
2. Determining income of non- resident, the law impose certain restriction in relation to deduction of expenses.
3. Restricts the double taxation relief it offers to residence.

WITHHOLDING TAX

Is a tax charged at the source of income. The employer must withhold tax at source from employment income.

TESTS USED IN THE CHARACTERIZATION OF INCOME

1. THE CONTROL TEST
2. THE INTERGRATION TEST
3. THE ECONOMIC REALITY TEST
4. THE SPECIFIC REALITY TEST

EMPLOYMENT INCOME INCLUDES

1. Gains or profit from employment.
2. Gift, gratuities, prizes and awards.
3. Benefits
4. Compensation payment for loss office

PROCEDURES FOR CONDUCTING TAX AUDIT

1. Notification

notifying taxpayer by letter to inform about upcoming audit, date to schedule the audit.

2. The ground tours.

Tax audit takes place at taxpayer's premises

3. Document all income

Review organization financial records done to ensure all income are properly reported.

SOURCE DOCUMENTS FOR AUDITING

1. Bank statement
2. Sales day book i.e. sales order
3. Purchase day book i.e. supplier invoices
4. Tax invoices
5. Cash invoice i.e. daily cash expenses and income.

RESEARCH METHODOLOGY

Research: the systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions.

STEPS OF THE RESEARCH PROCESS

1. Identify the problem
2. Review the literature
3. Clarify the problem.
4. Clearly define terms and concepts.
5. Define the population.
6. Develop the instrumentation plan.
7. Collect Data
8. Analyse the Data

HOW CAN YOU FORMULATE A POWERFUL RESEARCH PROBLEM?

CONSIDER 5 WAYS TO FORMULATE THE RESEARCH PROBLEM

1. Specify your research objectives.
2. Review its content and environment
3. Explore its nature.
4. Determine variable relationships.
5. Anticipate the possible consequences of alternative approach.

METHODS OF DATA COLLECTION

1. Observation.
2. Surveys.
3. Interviews.
4. Experiments.
5. Secondary data analysis.
6. Questionnaires and survey.
7. Documents and records.

PRIMARY DATA

Is information collected directly from first hand experience. This is the information that you gather for the purpose of particular research project.

SOURCES OF PRIMARY DATA

1. Interview (personal interview, telephone, email)
2. Self administered and questionnaires
3. Field observation.
4. Experiments
5. Life histories.
6. Case studies.
7. Action research.
8. Diary entries, letters and other correspondence.

ADVANTAGES OF PRIMARY DATA

- i. Resolve specific research issue.
- ii. Better accuracy i.e. directed collected from given population.
- iii. A higher level of control i.e. research design and method
- iv. Up to date information.
- v. You are the owner of the information.

DIS ADVANTAGES OF PRIMARY DATA

- i. More expensive i.e. research team has to start from the beginning.
- ii. Time consuming i.e. time needed to conduct.
- iii. Can have a lot of limits. Limited to specific time, place or number of participants.
- iv. Not always possible.

SECONDARY DATA

Is the data that has already been collected for another purpose but has some relevant to research needs.

Is second hand information. It is not used for the first time.

SOURCES OF SECONDARY DATA

1. Preview's research.
2. Mass media product.
3. Government reports.
4. Official's statistics.
5. Letters.
6. Diaries.
7. Web information.
8. Historical Data.
9. Monographs.
10. Biography.
11. Research analysis.

ADVANTAGES OF SECONDARY DTA

1. Ease to access e.g. internet
2. Low costs or free i.e. it save money and efforts.
3. Time saving.
4. Generating new insight and understanding from previous analysis.
5. Larger sample size.
6. Longitudinal analysis i.e. studies are performed spanning over a large period of time.
7. Anyone can collect the data.

DISADVANTGES OF SECONDARY DATA

1. Not specific to your needs.
2. Lack of control over the quality.
3. Biasness.
4. Not timely i.e. out of date.
5. Not proprietary information.

STEPS TO FORMULATE TESTS HYPOTHESIS

1. Define your problem.
2. Find out the reason behind the numbers.
3. Talk to your visitors.
4. Use segmentation to get actionable data.
5. Articulate a hypothesis for your test.
6. Test substantial variations based on your hypothesis.

QUALITATIVE AND QUANTITATIVE DATA COLLECTING METHODS

Quantitative: dealing with something that can be counted.

Qualitative: consider factors other than numerical values in general questionnaires, surveys, document and records.

CUSTOMS

the official department that administers and collects the duties levied by a government on imported goods.

SINGLE CUSTOMS TERRITORY

Refers to the full attainment of the customs union. Achieved by removal of trade restrictions including minimization of internal boarder control.

FEATURES OF SCT

1. Goods are cleared at the first point of entry.
2. Customs declaration are made once at the destination country.
3. Taxes and duties are paid at the point of destination.
4. Goods are moved under a single bond from the point of destination.
5. Goods are monitored by electronic cargo system.
6. Interconnected customs system.
7. Minimize internal control.

BENEFITS OF SINGLE CUSTOMS TERRITORY

1. Reduce cost of doing business.
2. Reduce administration and regulatory requirements.
3. Facilitate free movement of goods, labor service and capital under common market.
4. Promote relationships between private and public sector.
5. Prevention of smuggling goods.
6. Reduce the risk associated with non compliance on the transit goods.
7. Efficient mechanism of revenue management.

FUNCTIONS OF THE DIRECTORATE OF CUSTOMS

- i. Collection of taxes and revenue.
- ii. Facilitation of international trade.
- iii. Administration of external tariff and rules of origin.
- iv. Prevention of smuggling and promote voluntary tax compliance.
- v. Enforcement of import and export restriction and prohibition.
- vi. Compilation, production and dissemination of trade statistics.

PRINCIPLE LEGISLATIVE GOVERNED BY CUSTOMS

Airport Service Act.

Tax Revenue Apples Act 2000

Foreign Commercial Vehicle (transit charges)

Value Added Tax (VAT) Act

Port and Departure Service Act

EACCMA 2014

Customs Tariff Act 2014

TYPES OF GOODS WHICH STORED IN CUSTOMS WAREHOUSE

1. Un manifested goods.
2. Un examined goods.
3. Un entered goods.
4. Seized goods.
5. Goods transferred from bonded warehousing.

TYPES OF GOODS WHICH ARE NOT ALLOWED TO BE STORED IN CUSTOMS BONDED WAREHOUSE

1. Ammunition for trade and business.
2. Acid for trade and business.
3. Perishable goods.
4. Arms for trade and business.
5. Goods whose duty has already been paid.
6. Duty free goods.

FIVE CUSTOMS AREA

1. Boarding station.
2. Customs area.
3. Sufferance wharves.
4. Place for examining goods.
5. Transit shed.
6. Internal container deport.

TYPES OF GOODS THAT CAN BE REMOVED FROM CUSTOMS CONTROL WITHOUT AN ENTRY

- i. Personal baggage for passengers and crew members.
- ii. Mails bags and postal articles.
- iii. Human remains.
- iv. Diplomatic bags.
- v. Bullions, currency, note and perishable goods.

TANCIS

Tanzania Customs Integrated Systems

Purpose: to simplify the process of declaration and clearance of goods.

IMPORTANCE OF TANCIS

1. To simplify process of declaration and clearance of goods.
2. To facilitate the process of collection of duties and taxes.
3. To control the smuggling goods.

OBJECTIVES OF WTO

1. To enlarge the trade production of goods and services.
2. To increase the trade of services.
3. To ensure full employment.
4. To protect environment.
5. To ensure full utilization of world resources.
6. To assist international organization i.e., IMF and IBRD

PROBLEMS ASSOCIATED WITH SMUGGLING

1. Loss of revenue.
2. Distortion of market place.
3. Collapse of local industries.
4. Unemployment.

REGULATORY AUTHORITY IN CUSTOMS CLEARANCE

1. Tanzania Bureau of Standards (TBS)
2. Tanzania Plant Health Service (TPHS)
3. Tanzania Atomic Energy Commission.
4. Government Chemistry Laboratory Agency (GCLA)
5. Ministry of Natural Resources and Tourism.
6. Migration.
7. Tanzania Medicine & Medical Devices Authority (TMDA)

IMPORTATION PROCEDURES

1. Entry i.e., home consumption, warehousing, transit.
2. Examination.
3. Valuation.
4. Clearance and release.

EXPORTATION CATEGORIES

OUTRIGHT: exported outside to be consumed permanently.

TEMPORARY

RE- EXPORTATION

PROCEDURES FOR EXPORTATION

1. Entry
2. Examination
3. Value
4. Loading for exportation.

Prohibition; Means any goods the importation, exportation and carriage coastwise of which is prohibited.

Restriction: Means any goods the importation, exportation and carriage coastwise of which is prohibited

Restricted Import

- i. Horn of rhinoceros un-worked or simply prepared but not cut to shape
- ii. Ivory powder and waste
- iii. Tortoise and shell.
- iv. Worked ivory and articles of ivory
- v. Ozone depleting substance
- vi. Endangered species of World Flora and Fauna
- vii. Commercial casing
- viii. Worked ivory and article of ivory

REASONS FOR IMPOSING PROHIBITED AND RESTRICTION

- i. Security reasons: Arms and Ammunition.
- ii. Health reasons: drugs and second-hand clothes.
- iii. Social reasons: pornographic materials.
- iv. Environmental reasons: importation of DDT
- v. Economic reasons: to protect local industries.

IMPORT DOCUMENTS INCLUDE

1. Final invoice: sales invoice, commercial, purchases invoice and performer invoices
2. Agent authorization letter
3. Import permits i.e., TBS
4. Exemption document
5. Transport document i.e., bill of lading, airway bill and consignment note
6. Letter of credit
7. Insurance certificate

IMPORTANT OF CUSTOMS VALUATION

1. Assessment of customs duties
2. Means of encouraging and protecting domestic industry
3. One of the significant elements of international trade i.e., statistics and quota and licensing arrangements
4. Customs duties are instruments of Fiscal and trade policy

INTERVIEW QUESTIONS

FIRST INTERVIEW

1. Economists believe that any broad-based tax should possess characteristics. Explain them
2. The ultimate burden of the corporate tax depends on different factor. Define them clearly.
3. Objectives of every tax system.
4. Explain three competing tax bases.
5. Explain two basic principles in constructing taxing statutes.

SECOND INTERVIEW

- 1.Characteristics of good tax system
- 2.Objectives of every tax system
- 3.Adam smith canon of taxation
- 4.Procedures for conducting research
- 5.Procedures for conducting tax audit

POSSIBLE QUESTIONS

1. Advantages and disadvantages of primary and secondary data
2. Things to be considered when preparing inspection report
3. Way to determine transfer pricing
4. Agency cooperating with customs
5. Goods to be entered without entry.