

X-RAY OF THE LAW ON CORPORATE TAXATION AND INVESTMENT PROMOTION IN NIGERIA

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Abstract

The Companies Income Tax Act (CITA) is the principal legislation that governs the taxation of corporations and all other corporate entities in Nigeria. About N12.374 Trillion Naira was generated by the Federal Inland Revenue Service in 2023 which is the highest so far in the history of our country's tax collection. Consequently, government needs to promote investment and advertise for the available investment opportunities in the country. However, there are many factors that are considered by prospective investors before deciding on where to invest their capitals. This work focuses on ascertaining the efficacy of as well as the imperfection in the present corporate tax law in the promotion of investment in Nigeria. Doctrinal method of data collection is adopted. Statutes, books, journal articles and many other documents are used. Constant increase in the number of companies and the amount of investment in the country shows a positive impact of the law on investment promotion in Nigeria. However, the law is not absolutely perfect. It is plagued by several problems that have negative impact on the promotion of investment in the country. These inter alia include the rate of corporate tax, multiple taxation and non-compliance with the corporate tax law. Others are penalties for violation of the law perpetrated by some dubious companies and mismanagement of fund generated from taxation. To enhance the effectiveness of the law in stimulating more investments domestically and attract more FDIs it is recommended that the rate should be reduced.

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1.0 Introduction

The Nigerian system is specifically for the generation of revenue for the government and for the development of Nigeria as a country, the federal inland revenue service and its board are empowered to manage the collection of taxes for the federal government, to provide funds, administer tax in Nigeria and enforce such payment and other sundry miscellaneous functions. Nigeria as a nation will to tax for the purpose of generating revenue for running the government and the provision of infrastructure, neither the CITAA nor any Nigerian tax law provides for the definition of the term 'tax' or the phrase 'corporate tax'. For this, different scholars and legal sages made various attempt to define the terms. The famous definition of the term tax is the one enunciated in an Australian case of *Mathews v Chicory Marketing Board*¹ here it was held that 'a tax is a compulsory exaction or collection of money by a government or public authority for public purposes, it is enforceable by law, and is not a payment for services that is rendered.', it can also be said to be a monetary charge imposed by government on persons, entitles, transactions or properties to yield revenue.

In the Australian case, the word has also been identified as "raising money for the purpose of government by means of contributions from individual persons."² Furthermore, Justice Roberts, in the American case of *United State v Butler*³ described it as an exaction for the support of government." Again in *R v Berger*⁴ the Court held that "the primary meaning of taxation is raising money for the purposes of government by means of contribution from individual persons."⁵ from the economic dimension the word could be defined as "any leakage from the circular flow of income; into the public

¹ (1938) 60 CLR 263

² *ibid.*

³ (1946) 2279US1 61.

⁴ (1975) 27. CCC

⁵ *ibid.*

sector, excepting loan transactions and direct payments for publicly produced goods and services up to the cost of producing those goods and services”.⁶ In the Oxford Advanced Learner’s Dictionary⁷, the term is defined to mean “the money you have to pay to the government so that it can pay for public services.”⁸ The Encarta Encyclopedia⁹ defines tax as an amount of money that is levied by a government on its own citizens and same is used to run the government, the country, a state, a county, a government here could mean (ward, district, council area, state, region or even province), or a municipality.¹⁰ Additionally, the Chambers Encyclopedia, highlighted that it is also used to show “a compulsory levy to finance goods and services, provided by a governing body, for the collective satisfaction of wants.”¹¹ Asada¹² equally provides another definition as ‘the legal demand, made by any level of government, of the taxable citizens of the country, to pay a compulsory levy or money on income, goods or services into the coffers (i.e treasury or bank account) of the government, for the benefits of the citizens of that country.’¹³

Adegboyega made contributions in relations to the definition of tax. According to him, tax is referred to as a “a compulsory levy, imposed by the government through its agents, on the income, capital and consumption of its subjects, so as to increase the resources available to the government and enhance effective provision of social amenities to the subjects.”¹⁴

⁶ CM Allan, *Theory of Taxation*, Harmondsworth, Penguin Education, 1970 p.24.

⁷ AS Hornby, *Oxford Advance Learners Dictionary*, Oxford University Press 1995, 5th ed. P.1516

⁸ *ibid.*

⁹ Tax Microsoft Encarta Dictionary, Microsoft Corporation (2009).

¹⁰ *ibid.*

¹¹ Chambers Encyclopedia: New Revised Edition, Budget system (2008), Vol. 13, p. 472

¹² D Asada, *The Administration of Personal Income Tax in Nigeria: Some Problems Area*. < http://wwwujmicrosoft_academy.com> accessed 26 June 2022

¹³ *ibid.*

¹⁴ PA Adagboyega, *Analysis of Taxation Principles for Nigerian Students* (J.A. Adejuwon & Co 1998)

The above definitions are quite helpful. However, they only point out that no universal definition of the word 'tax' is possible. It could only be understood that the basic attribute of a tax is that it is a financial imposition. It is not an optional payment or voluntary donation to the government. It is rather, a kind of an enforced contribution exacted in accordance with the legislative authority for the purposes of achieving some social end. More so, governments are saddled with responsibilities of providing social amenities. Governance and its machineries are equally cost intensive. Thus, as a general rule, tax is the source that is best exploited by government. It is imposed on individuals and companies to finance services that the state is obligated to provide and to meet its goals.¹⁵ In the same vein, corporate tax is defined as a tax levied on corporate profits. This is because corporations are legal entities separate from the owners. They may be taxed as if they are persons. A corporate tax is therefore the equivalent of the income tax for natural persons.¹⁶ It is a tax on the value of the corporation's profits.¹⁷ It is therefore a tax that must be paid by a corporation based on the amount of profit generated where the company is located.¹⁸ To sum up the above, corporate tax could be simply defined as a tax imposed upon the profits of corporations to enable government to obtain the required revenue to finance its activities.

It is appropriate to state that corporate tax is one of the taxes that exist in tax policy. It is on this premise that four principles were set by Adam

¹⁵ OO Adebayo, Taxation of Electronic Commerce: Prospect and Challenges for Nigeria (LL.B) Research Project Submitted in Partial Fulfillment for the Award of the Degree of Bachelor of Laws (LLB), to the Faculty of Law, University of Lagos, Nigeria 2022, p. 17.

¹⁶ Corporation', Financial Dictionary. <www.financialdictionary.com> accessed 3 July, 2020, [http://www.financial-dictionary.com/corporate taxation](http://www.financial-dictionary.com/corporate-taxation).

¹⁷ Corporation, Wikipedia <http://www.wikipedia.org/wiki/corporate_income_tax> accessed 3 July, 2022

¹⁸ Corporation' Investors Words <[http://www.investorwords.com/corporate tax](http://www.investorwords.com/corporate-tax)> accessed 3 July 2020

Smith.¹⁹ According to him, to maintain a good tax policy, there is a need to put the principles of equality, certainty, convenience of payment, and economy in collection into consideration.²⁰

The National Tax Policy (NTP)²¹ provides for the fundamental features on which the Nigerian tax system must be based. Accordingly, any tax that substantially violates these fundamental features should not be part of the tax system of Nigeria. Simplicity is at the forefront of the characteristics. This means that for a tax system to be functional and effective it must be simple, clear and understandable by both the tax payers and the tax administrators. The taxpayers must also trust it.²² On this ground, one of the factors that may attract investors is to simplify the understanding of CITAA and its administration. All stakeholders must understand the legal basis of the imposition of corporate tax. This can only be achieved if the investors are properly educated on the application of the tax laws. Low compliance cost is another characteristic for effective tax system.²³ The economic costs of time required, and the expense which a company may incur during the procedures for compliance should therefore be kept at all times to the absolute minimum. Furthermore, companies should be regarded as clients with the right to be treated respectfully, Low cost of administration is another important principle laid down by the NTP for identification.²⁴

2.0 Historical Background of Corporate Taxation

In Nigeria, the history of taxation of which corporate tax is an integral part, date back to the time old time trading in Nigeria around the 800 A.D and

¹⁹ A Smith, *The Wealth of Nations*, (Edwin Cannan, ed) (The Modern Library 1994), pp 887-890.

²⁰ *ibid*

²¹ FGN, National Tax Policy, Final Draft submitted to the Federal Executive Council 2008 <<http://www.citn.org>> accessed 18 October 2023.

²² *ibid*

²³ *ibid*

²⁴ *ibid*

1400 AD. The traditional leaders in the Northern part of Nigeria, who became famous and economically very strong due to taxes collected by them. Islam introduced various types of religious taxes namely: *Zakat*, *Khumusi*, *Kharaji*, *Kudin Kasa*, *Shukka*, *Jangalia* and etc.²⁵ *Zakat* was religiously imposed for educational and charitable purposes.

In the southern part of the country, there were kingdoms established and headed or led by Obas who had all-encompassing powers like legislative, executive and judicial powers and all those things that come with administration and belongings of modern government even though at a rudimentary stage.²⁶ Taxes such as capitalization, sale, excise and customs duties were well established and imposed on the subjects and citizens. It was the family head that used to receive the capitation from the members of the family and take it to Baale (ward head) that would convey it to the paramount ruler after retaining his share.²⁷ This was paid for maintenance of royalty and government. On market days, every trader had to pay a tax in as much as he traded within the jurisdiction called *Owo – onibode* (i.e. Border fees reminiscent of custom duty). Furthermore, there were some very special levies for special or unexpected occasions.²⁸ In the stateless of societies of the Ibo, Idomas, Tiv, Igalas, Alagos, Madas and Igbira areas, there existed little or no form of organized taxation²⁹ It is clear from this that during the pre-colonial era, taxation was based either on religion or tradition and ethnicity.

²⁵ AA Alhassan, *The Nigerian Observer: An Evaluation of The Relevance of Pioneer Income Tax Relief As An Alternative Investment To Companies In Nigeria 2011* <www.nigerianobservnews.com> accessed 20 march 2022

²⁶ A Sanni, *Revenue Law* (Malthous Press 2011) <www.citnorg> accessed 15 March, 2023

²⁷ *ibid*

²⁸ *ibid*

²⁹ *ibid*

At the beginning of the 20th century the British occupied the whole territory of what is now known as Nigeria. Consequently they established themselves as the new rulers of the country. Nevertheless they were faced with many problems like the problem of financing their colonial government or authority. Some people particularly in the south, resisted the introduction of any form of taxation and super imposition of English system over them. This is because they felt that the tax was meant for the support of an alien authority and that such funds are collected for the benefit of a foreign authority. Subsequently the tax system of the region was mainly indirect to take care of the system and collection³⁰

In 1904 Lord Lugard introduced income tax in the northern protectorate of Nigeria.³¹ This was regarded as the first attempt made by the colonial government to provide comprehensive law of taxation in the northern part of the country. Lugard brought some changes in the tax system in northern part of the Nigeria³² In 1914 the two protectorates, north and south were amalgamated. The changes brought about by Luggard culminated in Native Revenue Ordinance of 1917. The aim of this legislation was to cover the western region of the country.³³ It was known as the Tax (Colony) Ordinance³⁴ It was the first revenue law that imposed personal income tax in the eastern region or part of the country.

In Nigeria, taxation of incorporated companies started in 1939.³⁵ The Company Income Tax Ordinance³⁶ was regarded the first legislation

³⁰ *ibid*

³¹ *Ibid*

³² OA Sermorin, *Tax and the Amalgamation* (Malthous Press 2010)

³³ A Sanni, A. Recent Developments in Company Income Taxation in Nigeria. *Bulletin for International Taxation*, 2011 (Volume 65), No. 1

<www.online2.ibfd.org/collections/bit/html/bit_2011_01_1_ng_1.html> accessed 5 June 2022

³⁴ *ibid*

³⁵ IA Ayua, *The Nigerian Tax Laws* (Spectrum Publishing 1996)

³⁶ No. 4 of 1939.

enacted for in respect of corporate taxation in Nigeria. It introduced the word “person” to the tax legislation for the first time. In 1940, the earlier Native Ordinances of 1917, 1918, 1927 and 1939 were incorporated into the Direct Taxation Ordinance.³⁷ From this, it could be seen that the earlier tax laws did not separate individuals from companies. Therefore, taxable person were taxed as persons and references were made to companies or individuals where the statutes so provided.

In 1943, a draft of Income Tax Bill was then approved and enacted into law as Income Tax Ordinance.³⁸ Consequently the rate of corporate tax was doubled to 25% in 1949 further changes were also introduced in the Nigerian corporate tax. This culminated in raising the corporate tax rate to 45% and granting tax relief to small companies. In 1952, further tax incentives were granted to companies in the form of Aid Pioneer Industries (API). In the same year capital allowance was introduced as a new system. In 1958, the aid to pioneer industries was replaced by more generous tax incentive under the Industrial Development (Income Tax Relief) Ordinance of 1958. The Ordinance clearly aims at simulating industries in Nigeria. The Companies Income Tax Act was for the first time enacted after the Nigerian independence in 1961. Subsequent legislations effected some amendments to the CITA of 1961. In spite of this, the Act remained the sole on corporate taxation until the CITA of 1979 was enacted. In 1990 all the various amendments on companies’ income tax were consolidated and redesigned as Companies Income Tax Act.³⁹ Finance (Miscellaneous Taxation Provision) Decrees (FMTPD) spontaneously amended this.⁴⁰ In 2004 the CITA came to existence. This is followed by an amendment Act known as Companies Income Tax Amendment Act (CITAA).⁴¹ Which

³⁷ *ibid*

³⁸ No.29. Cap.92 of 1943

³⁹ Cap. 60. Laws of the Federation of Nigeria 1990

⁴⁰ No. 3 of 1993; FMTPD No. 30, 31 and 32 of 1996; FMTPD, No. 18 and 19 of 1998 respectively

⁴¹ No. 11, 200

consequently is the present applicable law for the taxation of companies' income in Nigeria.

3.0 Companies Liable to Pay Tax

It is provided under the CITA that tax shall be payable upon the profit of any company, accruing in, derived from, brought into or received in Nigeria.⁴² the persons liable to pay corporate tax are those corporate bodies or companies as defined by the CITA. Thus, the Act defines the term “company” for the purpose of tax as “any company or corporation (other than a corporation sole) established by or under any law in force in Nigeria or elsewhere.”⁴³

In Nigeria, companies are statutorily created and incorporated under the Companies and Allied Matters Act (CAMA). Consequently, any company formed under CAMA is taxable since it is established in Nigeria. In the same vein, any company established under any law in force anywhere (elsewhere) outside Nigeria is equally taxable under the CITA. This follows that under the CITA companies are mainly categorized into two, viz Nigerian and foreign companies.

A Nigerian company is any company or companies registered under our laws and incorporated under the CAMA or any enactment or law replaced by the CAMA.⁴⁴ In other words, any company incorporated in Nigeria is a Nigerian company even if it's all shareholders and by or under any law in force in Nigeria is resident in Nigeria, but it is not necessarily company is its incorporation under the CAMA.⁴⁵ a Nigerian company is not nationals. The company may have non-Nigerians as its major shareholders.⁴⁶ In the as

⁴² S 8(1).

⁴³ S 84(1) CITA CAP C20 2004

⁴⁴ *ibid*

⁴⁵ IO Oni, *Nigerian Companies Income Tax Law & Practice* (Spectrum Books Limited 2008)

⁴⁶ *ibid*.

“any company or corporation (other than corporation sole) established by or under any law in force in any territory or country outside Nigeria.”⁴⁷ Accordingly, a foreign company is a non-resident company. So long as its incorporation is outside the country, it is categorized under the foreign companies. The issue of where it carries on its business activities does not arise. Subsequently, any company established in Ghana, Sudan, South Africa, Egypt, Saudi Arabia, Iran, Russian, China, Canada, United Kingdom, United States of America or any country within the United Nations (UN) falls within the definition of foreign company under the CITAA. However, the definition and categorization of companies for tax purpose under the CITA should be read together in conjunction with the provision of the CAMA in respect of the company. Thus, the CAMA defines the term ‘company’ to mean “a company formed and registered under this AMA) or, as the case may be, formed and registered in Nigeria before and in existence on the commencement of this Act.”⁴⁸

What could be deduced from the above is that all companies established and registered under the CAMA are Nigerian companies. The existence of companies established under any law in force elsewhere in any territory or country outside Nigeria for the sole purpose of carrying out business in Nigeria⁴⁹ is not recognized under the CAMA. The existence and proliferation of foreign companies for the sole purpose of carrying out business in Nigeria is prohibited by the CAMA. Foreign companies must be assimilated as Nigerian company before they will be recognized under the Act.⁵⁰ In other words, CAMA does not recognize the existence of any foreign company carrying out a business in Nigeria even though that it shares with the CITAA the same definition given to the words ‘foreign company’. The only difference between the two Acts is that while the CITA defines the words for tax purpose the CAMA defines it only for the sole

⁴⁷ S 84 (1)

⁴⁸ S 650 (1), CAMA, Cap. C20 Laws of the Federation of Nigeria 2020.

⁴⁹ S 84 (1)

⁵⁰ S 54

purpose of making the companies to comply with the mandatory process for incorporation. Carrying out a business in Nigeria by a foreign company is not allowed under the CAMA unless if it is within the following categories statutorily exempted:

- a. Foreign companies (other than those specified in paragraph d) invited to Nigeria by or with the approval of the Federal Government to execute any specified individual project;
- b. Foreign companies which are in Nigeria for the execution of specific individual loan project on behalf of a donor country or international organization;
- c. Foreign government-owned companies solely in export promotion activities; and
- d. Engineering consultants and technical experts engaged on any individual specialist project under contract with any of the governments in the Federation or any of their agencies or with any other body or person, where such contract has been approved by the Federal Government.⁵¹

It should be noted that holding some or all shares in a Nigerian company by a foreign company does not make it a Nigerian company in all ramifications. But the majority shareholders of a non-resident company may be Nigerian citizens who, individually may be or may not be resident in Nigeria. What determines the status of a company is the law of the country under which it is incorporated or registered.⁵² A foreign company can only carry on business activities in Nigeria through a permanent establishment. But if a Nigerian subsidiary of non-resident company stands as an independent agent it cannot necessarily serve as a permanent part of the foreign company. It will subsequently be held accountable in respect of the tax liability of its parent company for the business activities carried on through it. In other words, a subsidiary company is liable to pay tax in

⁵¹ S 56 (1), CAMA.

⁵² I O Oni (n.46)

respect of its own business activities as well as the commercial activities carried on by a foreign company through it. A foreign company which undertakes a project in Nigeria under an agreement with a Nigerian company or government agency will only be liable to tax in respect to that project. This is irrespective of the method employed in the executing of the project, since it can be done through foreign personnel or direct labour within the country.⁵³In the case of *Offshore International S.A v FBIR*⁵⁴ the company is a foreign company incorporated in Panama with its principal office at Houston in Texas, U.S.A. The plaintiffs entered into various contractual agreements with some Nigerian oil producing companies to carry out certain oil – well drilling and completion in Nigeria for different oil companies namely Shell B.P., Mobil Oil, and Japan Petroleum Company. Under the agreement substantial payments were made to the plaintiff from time to time between 1972 and 1975. The performance of the contracts was sub-contracted by the Plaintiff to its Nigerian subsidiary, International Drilling Company (Nigeria) Limited (IDC). The equipment used by IDC for the performance of the contract was hired from offshore. The FBIR was in charge for the management and administration of companies' income tax. It was of the belief that the plaintiff was liable to tax in respect to the payments received by the company in connection with the contract. It was held that Offshore has entered into contracts to drill oil wells in Nigeria and was liable to pay tax in Nigeria. The fact that Offshore chose to perform part of its own side of the contract by sub-contracting it to its own subsidiary could not remove its liability to tax in Nigeria.⁵⁵

Due to the nature and peculiarity of some companies at national and international level, the CITA made special provisions for their taxation. For instance it has been provided under the Act-

⁵³ *ibid.*

⁵⁴ FRC/L/36/75/1976, FRC Lagos (Unreported)

⁵⁵ *ibid*

Where a company other than a Nigerian company carries on the business of transport by sea or air, and any ship or aircraft owned or chartered by it calls at any port or airport in Nigeria, its profit or loss to be deemed to be derived from Nigeria shall be the full profits or loss arising from the carriage of passengers, mail, livestock or shipped or loaded into an aircraft in Nigeria.⁵⁶

It is clear from the above that shipping and air transport companies are to pay corporate tax from the profits derived as the result of trading or business activities carried on by them in Nigeria. They are only to tax in respect of the profits and money raised as the result of their carriage of passengers or goods in Nigeria. However, any profit arising from trans-shipment or transfer of passengers, mails, livestock or goods brought to Nigeria to another ship or aircraft passing via Nigeria to another destination are all excluded from the taxable income of such foreign companies. This means that any profit gained as the result of the carriage of goods or passengers on transfer is not subject to tax. The revenue accruing to foreign shipping or airline companies as the result transporting of passengers or cargoes picked up in a country is relatively easy to identify. But identification of expenses such as fuelling and maintenance, remuneration of crew members and other administrative or financial expense is very difficult. Consequently, the CITA provides a formula in order to ensure that this category of companies is fairly assessed to tax.⁵⁷

It appears to be the aim of this provision is to generate more revenue from the Department of Customs and Excise Duties of the Nigerian Seaports and Airports. The government cannot properly carry out its duties in providing infrastructure and public amenities like good roads and electric power

⁵⁶ S 12 (1)

⁵⁷ I O Oni (n.46)

supply that can attract investors unless there are enough funds which mainly come from taxation.

Foreign companies engaged in cable undertaking are also liable to corporation tax under the CITA. Thus the Act provides-

*Where a company other than a Nigerian company carries on the business of transmission of messages by cable or by any form of wireless apparatus, it shall be assessable to tax as though it operated ship or aircraft...*⁵⁸

The assessment of the above companies should be in the same manner on which the shipping and airline companies are assessed. The same procedure shall also be followed and the same provisions on the shipping and air transport companies shall be applied *mutatis mutandis* to the computation and calculation of its profits deemed to be derived from Nigeria as though the transmission of messages to places outside passengers, mails, livestock or goods in Nigeria.⁵⁹

It should be noted that Nigerian Telecommunications Limited (NITEL) which is a government company, had previously monopolized the external telecommunication sub sector. Currently there are 38 companies registered for telecommunication service in Nigeria.⁶⁰ Prominent among them are those that provide Global System for Mobile communication (GSM) services e.g. MTN, Airtel, 9mobile, Multilinks, GLO, MTEL, 9mobile etc. Foreign and Nigerian insurance companies are also liable to pay tax under the CITA Normally, these types of companies deal with either life or non-life insurances, and hence the two types are recognized under the CITA.⁶¹ Generally, life assurance companies deal with human beings and group pension. This is because human life is subject to various risks such

⁵⁸ S 13

⁵⁹ Ibid.

⁶⁰ E Herad, *Telecommunication companies in Nigeria* <www.herad.egoong.com> accessed 15 September 2022

⁶¹ CITAA No. 11 2007

as death or disability as the result of natural or accidental causes. Humans are also prone to diseases, the treatment of which may involve huge expenditure. Once human life is lost or a person is permanently or temporarily disabled, there is a loss of income to the household. The family is put to hardship. Sometimes survival itself is at stake for the dependents. Insurance provides security and peace of mind to the individuals who subscribed and pay their premium. The concept of insurance is mainly that the losses of a few are made good by contribution from many others to return affected persons to their original state. It stemmed from the need of man to find a solution for mitigation of losses. It also reflects the nature of man to find a solution collectively. In the case of a foreign life insurance company, whether proprietary or mutual, the Act provides that:

*The profits on which tax may be imposed in an insurance company which is a life insurance company other than a Nigerian company which carries on business through a permanent establishment in Nigeria, shall be the investment income less the management expenses, including commission.*⁶²

It should be noted from the above provision that premiums received are not part of the income to be credited to profit and loss amount. This is because, by law, the premiums belong to the policy holders and should be invested on their behalf. Besides, there is no unexpired risk. Consequently the only income of a life insurance business is therefore the investment income derived from investment of premiums paid by policy holders. These are usually interest and dividends.⁶³ Only the management expenses and commission paid that are deductible under the Act.

On the other hand, the non-life insurance companies' deal with accident cases connected to property owned by a person. This is because it is

⁶² S 14, CITAA.

⁶³ CS Ola, *Income Tax Law in Nigeria (Income Tax Law for Corporate and Unincorporated Bodies in Nigeria* (Heinemanri Educational Books Ltd 1984)

exposed to various negatives or hazards, this are sometimes natural and man-made. Loss or damage to property results in either whole or partial loss in income to the person or entity and may occur at any time. It is through insurance that losses could be mitigated. Insurance in general and non-life insurance contingencies or eventualities. Since this category of companies earn income and gain profits as the result of their business, they are therefore to pay tax under the CITAA. The Act therefore provides that an insurance company other than a life insurance company or a Nigeria company, whose profit accrued in part outside Nigeria, the profits on which tax may be imposed shall be ascertained.⁶⁴

The income of non-life business consist of gross premium, interest and other receivable incomes such as provision of unexpired risk of the previous year brought forward, dividends and interest. Before arriving at the net profit, expenses such as claims paid to the insured, re-insurance premiums, management expenses and provision for unexpired risk for the current year should be deducted. The net profit should be assessed together with depreciation that forms management expenses before deducting capital allowances to arrive at taxable income. The corporate tax rate should them be levied on the income.⁶⁵

4.0 Conclusion and Recommendations

In conclusion, it is evident to say that corporate tax plays a very significant role in investment decisions for companies operating in Nigeria. The corporate tax laws is essential for generating revenue, enabling the government to fulfill its obligations and support investment, unlike the provisions of the Companies and Allied Matters Act (CAMA), the Companies Income Tax (CITA) does not differentiate between Nigerian and foreign companies. Consequently, all profits earned within Nigeria are subject to tax unless exempted by law. This uniformity has direct

⁶⁴ S 14 (1) CITAA

⁶⁵ *ibid*

implications for revenue generation and the government's ability to provide public services and infrastructure that support investment. Furthermore, the lack of statutory definitions for key terms such as income, tax and trade creates ambiguities that can undermine effectiveness tax collection. While corporate tax incentives are intended to enhance investment, the high tax rates including a 30% corporate tax and additional taxes that can raise the effective rate to 40% may deter potential investors, additionally, the practice of taxing companies that incur losses stifles business viability in Nigeria. Some provisions aimed at combating tax evasion may inadvertently encourage non-compliance, further reducing government revenue and hampering investment promotion efforts.

Consequently, this paper recommends as follows:

- i. The government should conduct a comprehensive analysis of the impact of the current corporate tax law on investment behavior, this should include gathering quantitative and qualitative data from businesses and investors to assess how tax regulations influence their investment decisions.
- ii. The government should introduce a system that reforms the corporate tax structure by lowering the tax rate and simplifying compliance procedures. This will make tax regime more attractive to potential investors and enhance overall effectiveness in promoting investment.
- iii. The government establish a periodic review process for corporate tax law to identify and rectify any existing loopholes, this will help maintain a stable and predictable tax environment, encouraging investor's confidence.
- iv. The need for more transparency and efficiency on the part of tax administrators and the system to include improving communication with tax payers, providing better support services and ensuring consistent enforcement of tax laws to build trust among investors.

- v. The government should introduce a targeted-incentives for sectors critical to economic growth such as tax holidays or special investment zones, these measures can specifically attract foreign direct investment and stimulate local entrepreneurial-ship. Mitigating anti-investment sentiments.
- vi. The government should be sincere with incentives released by the government to those whom those incentives are actually meant for because each tax incentive is targeted at promoting certain area of government interest and to promote investment.
- vii. The government should ensure prosecution of any government agency or official that is involved in frustrating the spirit of any incentive idea thereby thwarting investment promotion.