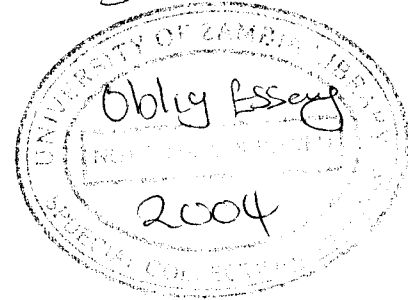


**PERCEPTIONS OF TAX LAWS IN ZAMBIA: A CASE OF
LUSAKA BASED TAX PAYERS**

School of Law



BY

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**SCHOOL OF LAW
UNIVERSITY OF ZAMBIA**

LUSAKA

OCTOBER 2004

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

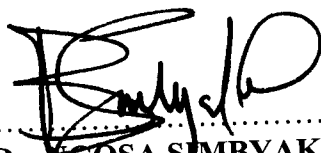
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DATE

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OBLIGATORY ESSAY ON

**PERCEPTIONS OF TAX LAWS IN ZAMBIA:
A CASE OF LUSAKA BASED TAXPAYERS.**

BY

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Submitted to the University of Zambia in partial fulfillment of the requirements of the Bachelor of Laws [LLB] Degree programme.

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DECLARATION

I, Phanwell Himulambo Namangala, do hereby declare that this dissertation is my authentic work and that to the best of my knowledge information and belief, no similar piece of work has previously been produced at the University of Zambia or indeed any other Institution for the award of a Bachelor of Laws degree.

All other works referred to in this dissertation have been duly acknowledged.

Made this^{28th}..... Day of November 2004, by the said Phanwell Himulambe Namangala at Lusaka......

SIGNATURE

DEDICATIONS

With fondest love to my mother Emeliana Macenje Namangala and to my wife Harriet Mutale Namangala. My gratitude also go to Mrs Mildred Moyo for providing secretarial services.

PREFACE

This dissertation is divided into five chapters. The first chapter is mainly introductory and sets the parameters of the dissertation.

The second chapter is a note on the methodology, an outline of the methods used in this research.

The third chapter discuss *modus operandi* of the tax system in Zambia. In discussing operations and procedures of the tax system in Zambia, the chapter brings out the main categories of taxation, which are Direct and Indirect taxation. In addition the administration of the tax system is also outlined. The overriding objective of this chapter is to prepare the reader to appreciate the perceptions of tax payers which are presented in the next chapter. (chapter four)

As alluded to already above, chapter four discusses the reported taxpayers' perceptions of the tax laws and practice in Zambia. The chapter also discusses the factors of the tax system responsible for the way in which taxpayers perceive the tax system in Zambia.

In this regard issues of high tax rates, the complexity of taxation, harsh tax provisions and so on, are raised.

Chapter five, which is the final chapter comprises a summary of the issues addressed by the study. In addition it consists of observations and recommendations aimed at enhancing and improving the tax laws and tax collection practices in Zambia.

On the basis of the findings of the study, key legislative reforms and the establishment of institutions regulating tax laws and practices in Zambia are proposed. In general an intra-disciplinary approach involving labour, commercial and tax laws is espoused in this study. It should be pointed out that the study in tax payers' perceptions of tax laws was

prompted by the country wide upraising against the 2004 budgetary announcement which, interalia, brought about oppressive adjustments to the existing tax laws in the country. It is hoped that this study will stimulates further research in the area of taxation and tax practices in Zambia which has serious implications to the country's political stability and economic development.

LUSAKA, 2004

P. H. NAMANGALA

ACKNOWLEDGEMENT

I wish to express my heartfelt gratitude to the academic staff in the School of Law for all the knowledge and skills I have acquired in the discipline of law. I am particular indebted to Dr. Ngosa Simbyakula for the stimulation and inspiration in taxation law which led me to select this area for research. Special thanks also to Dr. Frederick Ng'andu who has been Dean of the Law School throughout my pursuit of the law degree. He has been so accommodating, flexible and understanding at all times. In this regard he has been a great source of inspiration to me.

I would also like to thank the coordinator of the Directed Research Course, Mr. Mumba Malila for his dedication and diligence in running the course.

My gratitude also go to the staff at Ministry of Finance, Parliament, Supreme court and ZRA for the patience they exhibited in providing me information and reading materials as and when I needed it.

Finally I should acknowledge the material, emotional and moral support I enjoyed from my family during the odyssey of the LLB programme. I can never thank them enough for their tolerance and understanding. The persons singled by names in here are merely a representative group. Many more people assisted in bringing this study to fruition. Thus while some assisted in more direct and tangible ways, others still assisted in indirect, subtle but in equally significant ways. I am grateful to you all. May the good lord continuing to bless you.

TABLE OF CONTENTS

Preface	v
Acknowledgement	vii
Abstract	xiv
CHAPTER ONE : Introduction	1
Scope of the study	
Perception of a tax system	
Canons of good taxation	3
Defining taxation	5
Nature of Taxation	6
History of taxation	7
CHAPTER TWO: methodology	9
Definition and type of methodology	9
Primary Data: Techniques and Form	9
Interviews	10
Criteria for selection	10
Secondary Data: Sources	10
Statutes and Subsidiary legislation	12
Books, Articles, papers	13
Conclusion	14

CHAPTER THREE : Modus operandi of Taxation	15
Introduction	15
Direct Taxation	15
- Income Tax	15
Indirect Taxation	18
- Value Added Tax (VAT)	19
- Customs and Excise Duty	21
Tax Administration issues	21
CHAPTER FOUR : perceptions and problems of taxpayers.....	.
Introduction	24
Overall perception of the tax system	24
Factors of tax resentment	27
- Generally harsh taxation	27
- Complexity of taxation	31
- High tax rates	33
- Multiplicity (proliferation) of taxes	33
- Nebulous utilization of tax revenue	33
- Tax Authorities' awareness and perceptions	39
- Tax authorities' grievances	41
- Tax evasion	41
Summary	45

CHAPTER FIVE: Mitigating tax resentment	46
Introduction	46
Summary	46
Conclusion	49
Recommendations	50
Suggestions for further research	53
Bibliography	58
APPENDICES	61
Research instrument	67
Statistical data	65
Structure of tax administration	69

TABLE OF CASES REFERRED TO

Attorney General –v- London count council (1901), AC 26 @ 35

Australian Mutual Provident Society –v- Chaplain and another (1982)

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Value Added Tax Act, Cap. 331

ABSTRACT

Tax laws have been described as among the most sensitive aspects of a county's legal system [Shirley, et. Al. 1966)] The makers of tax laws perpetually walk a tight rope between putting in place laws that efficiently compel people to relinquish their claims on resources and thus allow government to use them, and avoiding creating undue resentment among tax payers. The philosophy here is that taxpayers' ability to pay taxes should necessarily be perceived as the capacity to pay without undue hardship or unacceptable degree of interference with the objectives that are considered socially important by other members of the community.

Therefore, putting in place a tax system which efficiently strikes this delicate balance is a herculean challenge indeed, yet one worth striving for at all costs because tax laws which are perceived as good or at least tolerable by tax payers are crucial to political stability and economic development of a nation.

For this reason, tax specialists contend that it is vital to constantly assess the effects of existing tax laws on tax payers, as well as taxpayers' subjective views of such laws. In this way, necessary modifications can be made to the laws so as to minimize what adverse effect they might be having on the tax payers.

Tax payers' subjective views and perceptions of tax laws have recently attracted the interest of economist, politicians, political advisers and researchers from various disciplines [Mulenga, M. 2004]. This interest, interalia may have been motivated by the realization that many people find the paying of taxes stressful and indeed a taxing affair. As such taxes have often aroused resentment in many countries, and have sometimes sparked revolt.

The current study examined the subjective effects of tax laws among selected tax entities in Lusaka. In particular, the study aimed at establishing public perceptions of existing tax laws in Zambia, and some of the coping strategies used by taxpayers.

Further, the study investigated the awareness of tax authorities of the existence of harsh tax laws and practices in the country. The study used a randomly selected sample of 90 tax entities involving both natural and artificial persons around Lusaka urban and peri-urban. The main tools of data collection were the questionnaire and desk research.

The findings of the study show that most taxpayers in Zambia perceive the tax system in the country as excessive, unfair, overwhelming and draconian, and as such they resent it. Many taxpayers surveyed felt that the overall scenario in Zambia was quite bad. It was apparent that resentment against existing tax laws in Zambia was quite entrenched. The gap between the rich and the poor was identified as one of the factors that fuel the fire of resentment. Direct tax, especially income tax is the most resented. One of the most interesting findings made by this study was that resentment against tax laws does not discriminate between high and low socio-economic classes. In other words, the survey revealed that both individuals classified as rich, and those classified as poor equally indicated resentment against the tax laws to such an extent that they are unwilling to pay taxes even if this means that government would not be able to improve the services that are important to them. They claimed that the Zambian tax system is inefficient and unfair, and that proper collection and monitoring mechanisms are either non-existent or existent but not applied, and that this creates opportunities for misuse by tax officers. A major concern expressed by the tax entities surveyed was that much as new taxes are introduced almost every other month, and despite regular increase in amounts of money, being paid in tax, there doesn't seem to be any corresponding improvement in public services provided by government. If anything services continue dwindling, as taxes are raised and new taxes introduced.

CHAPTER ONE

GENERAL OVER VIEW OF TAXATION

INTRODUCTION

This chapter will delineate the nature and scope of the study. In addition it will define certain principles and important factors in relation to taxation in its application to Zambia. The factors highlighted are the possible reasons why there is apparent growing resentment against the tax system in the country.

Scope of the study

The study focuses on the topical issue of taxation in Zambia. In particular, it endeavours to highlight suspected taxpayers' grievances against the current tax laws and practices. The study attaches great premium to the operational or pragmatic tax law as opposed from the theoretical and abstract aspect of it. For this reason the study relied so much on the subjective perceptions of the tax system by the people directly affected by its modus operandi: the tax payers, and to some extent the tax authorities.

The background to the study is that there are signs of growing unprecedented countrywide resentment of taxation in Zambia.¹ The most significant such indicator was the countrywide demonstrations against budgetary tax changes early this year. The incidence which threatened to throw the country into anarchy and turmoil was described by an internationally acclaimed tax expert as a tip of the iceberg pointing to a more broad based public dissatisfaction against the Zambian tax system.² Indeed several international financial institutions have insinuated need for a reviewal of the Zambian tax system, and adjust it accordingly before more serious and intractable problems emerge.³ Above all, in Zambia, the efficacy of the legal system rarely gets a pragmatic reviewal. Consequently, needlessly hostile or outdated laws remain undetected in the

¹ The post, Wednesday 25, 2004

² Ibid

³ Simpson (1999)

area of taxation and other branches of law. This study is therefore an effort to respond to this anomalous state of affairs in a pragmatic manner as opposed to theoretical and abstract manner. As Adams (2000, 98) observed, constant review of the practical impacts of tax laws on taxpayers forestalls national catastrophies which result from an overflow of unresolved resentment against tax regime.

The purpose of this study was to bring out taxpayers' subjective views of the tax system in order to establish which specific practices of taxation they find problematic. Such information can form the basis for successful moderation of harsh tax laws in the interest of both the state and the taxpayers. The study was premised on the hypothesis that there is growing resentment against the tax system in Zambia, and that there are identifiable practices of the tax system responsible for this resentment.

The significance of the study is that once facts about sources of tax resentment are established, decisions by policy makers and taxpayers themselves about suitable amendments to the tax laws may be possible. Taxation has important ramifications for social, economic, and political development of a nation.⁴ As such resented tax system affect economic development, and can lead to serious political instability. Therefore resentment against tax laws and practice would have long-term disastrous impact on the nations' economic and political stability if left unchecked.

Public Perception of a Tax System

Public perception of tax system refers to views and attitudes held by tax payers in regard to tax laws. These views and attitudes are a direct products of actual or perceived effects of such tax laws on the tax payers.

According to MC Intyre⁵ public perception can either be positive or negative. Positive entails general public approval of the tax system while negative perception pertains to aversive attitude and general dissatisfaction in regard to the tax laws in this case.

⁴ Simbyakula (1990, 10)

⁵ (2002, P. 36)

It is not always the case that perceptions are uniform. It may be sectoral whereby different sections of society are affected differently by the same tax system. Consequently since perception is a function of the effects of the particular stimuli on each section of society, the different sections of society will tend to hold different perceptions of the same tax laws.

In certain instances however, the perceptions of a particular stimuli cut across cultures and sections of society in the sense that it does not differentiate between different sections of society. Uniformity can pertain to either negative or positive perception.

The significance of people's perception of tax system is that it determines the percentage of compliance to tax laws. Similarly, it can make a difference between economic development and underdevelopment as well as between social and political stability and instability and in extreme cases between war and peace[(Shirley et. al (1966).] In general taxpayers' perceptions reflect their subjective view of a good tax system.

Canons of good taxation

There are economic costs of collecting and administering taxes, and not all taxes have the same costs. A rule of thumb is that the administrative costs of a tax system should not exceed the total value of revenue collected. In practice a good tax system is one which adequately fulfills the function of revenue collection but still leaves taxpayers with sufficient disposable income to live a decent life. Two theories, Adam Smith and Stiglitz's theories, epitomize the characteristics of a good taxation from both the tax authority's perspective as well as the perspective of the taxpayer.

(a) **Adam smith's theories of good taxation.**

Adam smith (1776) coined the following four maxims or properties of good taxation:

- (i) It ought to be certain and not arbitrary. The time payment, manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor, and to every other person.
- (ii) Every tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor to pay it. For example the withholding tax paid on rentals is paid at the time, which is convenient for the contributor.
- (iii) Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state.
- (iv) The subject of every state ought to contribute towards the support of the Government, as nearly as possible in proportion to their respective abilities, that is, in proportion to the revenue which they respectively enjoy under the protection of the state.

(b) **Stiglitz's theory of good taxation**

Stiglitz (1980) also identified the following as canons of good taxation:

- (i) Economic efficiency: The tax should not prevent efficient allocation of resources.
- (ii) Administrative simplicity: The tax should be easy and inexpensive to administer.
- (iv) Flexibility: The tax system should respond easily to changes in economic conditions.
- (v) Transparency: Individuals should be able to ascertain their tax burdens so that burdens can be politically tailored to what society considers desirable.

(vi) Fairness: The tax system should be fair in its treatment of different individuals. Here we have two terms that have evolved over the years. These are horizontal equity which advocate that individuals who are the same in all aspects should be treated equally, and vertical equity which advocates that individuals who are better able to pay higher taxes should bear a heavier tax burden. An exception to this rule is in the case of

benefit taxes where individuals are charged taxes in accordance with the benefits they derive from a public good or service.

We now turn to the substantive issues of taxation.

What is taxation?

Taxation falls under the ambit of public finance. See appendix III. The issue of taxation is a worldwide phenomenon. Governments world over try to raise revenue by imposing taxes on certain items. Black's law dictionary defines taxation as the process of imposing tax.⁶ In this regard, a tax basically is a pecuniary burden laid upon individuals or property to support the government and is a payment exacted by the legislative authorities. In general terms a tax may be classified as any contribution imposed by government upon individuals for the use and service of the state. In the words of a tax court decision,

*a tax is a forced charge, imposition or contribution; it operated In invitum and is no way dependent upon the will or contractual Assent, express or implied, of the person taxed.... the primary Purpose of taxation is to obtain money which the sovereign may Use in the performance of its governmental functions.*⁷

Taxation is one of the instruments that can be used to make economies grow. It is a crucial instrument for development depending on how it is applied.⁸

Taxation has also been defined as a compulsory financial contribution imposed by the Zambian government on the citizenry to raise its revenue. It is levied on the income or property of persons or organizations on the production cost of sales price of goods and services. Taxation therefore is the process of raising Revenue for the central Government

⁶ Black (1968, 82)

⁷ Estate of reimar 12T. C913 (1949)

⁸ Simbyakula

through taxes. For this reason, It is a Central concern of the Zambian government's economic policies.

The Nature of Taxation

As stated above, taxation is a mechanism used by the government to raise revenue. This fact was underscored by the minister of finance in his, 1998 budget address. In that address, he emphasized the importance of revenue collection, stating government's expectations to raise K,178.75 billion in domestic revenues.⁹

Authoritative sources have stated that taxes have three ambitions.¹⁰

- (i) to transfer resources to socially and economically beneficial use;
- (ii) to stabilize the economic (or at least avoid upsetting it); and
- (iii) to redistribute wealth between the rich and the poor.

The transfer of resources has been regarded as essential to enable public investment to compensate for the private sector's allegedly low propensity for saving. Since public expenditure typically represents a smaller proportion of the economy than in developed countries, stress has been laid on elasticity, which is the capacity of taxes to appropriate a rising share of a growing national income.

The importance of taxation in Zambia today cannot be over-emphasized. The Zambia Revenue Authority is underscoring this issue on every fora. Zambia, like most developing countries faces the problem of capital formation. This problem essentially affects the fiscal policies of the country since capital is the key to development.

⁹ Sampa (1998, 12)

¹⁰ Ibid.

The lack of capital which is believed to be as a result of low levels of income and savings, must therefore be offset by the government which must try to raise revenue for economic development, investment and social service. Government can raise such capital through loans and grants, attracting private investment as well as through taxation.

A brief history of taxation

It would seem salutary to reflect briefly on the genesis and evolution of taxation for purpose of appreciating its current structure and form.

It is believed that the earliest taxes were in the Roman Empire. These were customs duties on imports and exports called "Portoria". Taxation in the Roman Empire is said to have been introduced by Caesar Augustus who was regarded as the most brilliant tax strategist of the Roman Empire. During his reign, cities were given the responsibility for collecting taxes. Caesar Augustus also instituted an inheritance tax to provide retirement funds for the military. Many tax regimes of the world, including, Britain, have had to make reference to the inheritance tax in developing their own inheritance taxes.

In Britain, the first tax assessed was during the Roman occupation. When Rome fell, the Saxon kings imposed taxes, referred to as *Dancgold*, on land and property. In Zambia, there was no regular system of money taxation prior to the advent of European occupation. Under the traditional system of taxation, payments were made in kind or service to village chiefs, and were usually limited to what was required for the continuing welfare of the tribe. This traditional system of taxation still thrives in certain areas of the country such as Southern and Luapula provinces where local people show their respect for their chiefs through material contributions. Under traditional system of taxation in Zambia, there were no sanctions at all for non-contribution. There were no enforcement procedures, only moral impulsion, unlike modern taxation where if one doesn't meet their tax obligations, they are visited by the law.¹¹

¹¹ Simbyakula (1990)

With the advent of European imperialism, traditional taxation system disappeared, giving way to conventional taxation. This new taxation system proved to be more elaborate more forceful and even more regular than the traditional system.

After the occupations of Northern Rhodesia by Britain, a new system of taxation emerged in the form of hut tax, head tax, forced labour which became locally known as “Chibalo” and “Musonko”.

In the 1954 during the federation of Rhodesia and Nyasaland, the income tax Act was introduced, and it was largely an imitation of the English tax system.

In 1966, the income tax Act was enacted and formed chapter 668 of the laws of the newly independent Zambia. The source and Residence principles form the jurisdictional basis for taxation in Zambia.¹² This is also illustrated in two main cases of *De Beers consolidated mines ltd -v- Howe* (1985) and in *Rubber Estate ltd -v- Federal commissioner of Taxes* (2000).

The income tax Act has from time to time been amended by parliament to take into account the economic demands of the country at each particular moment. For instance the 2003 Amendment Act introduced a new form of direct taxation known as “presumptive Direct Taxation”. Currently the income Tax Act Forms chapter 323 of the laws of Zambia.

¹² Income Tax Act, section 18, and overseas Trust corporation ltd -v- CIR (2SATC 71)

CHAPTER TWO

METHODOLOGY

Introduction

The chapter discusses the methods used to collect the data. It outlines the steps undertaken by the author in pursuing this research. It necessarily answers questions relating to how the research has been carried out, the sources of information, the specific methodological tools employed to elicit the information and the rationale for the choice of methodology.

Definition and type of methodology

The term 'methodology' has been defined as "a body of methods and rules employed by a science or discipline"¹³. In this study the semantic value represented in the above quotation has been modified. Therefore the operational definition of methodology is that it is the choice and use of particular strategies and tools for data collection and analysis. Once the data was collected it was subjected to legal analysis. This analysis characterizes the entire study.

The data collection and methodologies used in the research primarily constituted interviews as well as independent observation. These formed the substrate of primary data.

Secondary data, on the other hand was sourced from statutes and subsidiary legislation, case law [local and comparable foreign case law], books, articles and papers. In addition, the worldwide web proved to be a very valuable source of data on taxation.

¹³ The longman dictionary of the English Language

Primary data: techniques and form

Interviews

A selected number of natural and artificial legal persons were surveyed. Participants included those in contracts of employment as well as those in contracts for employment. In addition it involved farmers as well. In some cases, participants were interviewed and consulted on more than one occasion. The interview generally took a semi-structured form, and involved the recording of information in note form.

Selection of participants

Since the study involved a wide spread subject which applied to anyone who earns income of one sort or another, no specific criteria was developed in selecting participants. Rather stratified random sampling method was adopted. The following provided the basis of selecting an entity to participate in the study;

1. Contract for employment

An individual qualified to be a participant in this respect if he was self-employed.

The self employed are generally taxed on their income arising from:

- (i) Any profession, vocation or trade
- (ii) Any adventure or concern in the nature of a trade, whether singular or otherwise.
- (iii) Manufacturing
- (iv) Farming.

Another tax implication of self employed individuals is that they are entitled to claim capital allowances on their industrial buildings, plant, implements and so on. The authority on taxation of self employed is *Hall –v- Lorimer* (1988).

The self-employed individuals are required to register for VAT provided their turnover of taxable supply reaches the appropriate limit of K1,000,000 million.

2. **Contract of employment**

In this respect the prospective participant qualified to take part in the study if there was evidence that they were employed. There are a number of tax implications of employed individuals as was stated in *provident society –v- Chaplain and Another (1990)*. But perhaps the major one is the fact that they are subjected to Pay As You Earn (P.A.Y.E). This, interalia, implies that :-

- (i) Tax is due more or less as emoluments are paid. See the case of *cooper – v- Blakiston (1979), STC 347*.
- (ii) Tax is due on any benefit in kind they may receive from their employer.
- (iii) Deductible expenses should be incurred wholly, exclusively and necessarily for purposes of employment.¹⁴ Also see the South African case of *sub-Nigal ltd –v- C.I.R (1990)*.

Another tax implication of employed individuals is that there is no need to account for VAT on emoluments received.

3. **Limited companies**

The status of being a limited company also qualified a legal entity to participate in the survey. For purposes of the income Tax Act, Limited Companies fall under the definition of “person” and they are taxed almost just like natural persons. The rules relating to the deductibility of expenses for Tax purposes are just the same as for businesses that are not incorporated. The claim of capital allowances also cannot be distinguished from that of individuals.

However, there are a few issues that need highlighting.

- (a) Preliminary business expenses: These are expenses incurred on and before the formation of a company. Section 35 of the Income Tax Act allows the deduction of preliminary business expenses in ascertaining the gains or profits of a business for the charge year in which the business

¹⁴ Brown –V-Bullock (1980)

commences, and would have been allowed as deduction in ascertaining the gains or profits of the business after its commencement [*Sub-Nigel ltd –v- CIT (1990)*].

- (b) **Business accounts:** **Section 62 (1)** of the Income Tax Act provides that all companies are required to submit accounts for a 12 months period. Where this is not possible, the Commissioner General may use his discretion to accepted such accounts for the purposes of determining the gains or profits of the business in respect of the charge year which does not add up to 12 months.
- (c) **Employing persons with disabilities:** Where a company/business has employed a person with disability on a full time basis throughout the change year or for a substantial part of the charge year, such a company is allowed a deduction in ascertaining the gains or profits of that company that are subject to tax. The 2002 Amendment Act increased the allowable Deduction for employing a person with disability on full time basis from K240,000 to K500,000 for each person employed.

It should be noted that the deduction is only allowable against income earned from Business.

- (d) **Interest:** The 15% withholding Tax on interest received by a company is not a final tax. Rather, it is subject to further tax and should therefore be included in the assessment. Similarly, the interest is not grouped with other income under the rules of separate taxation. See the case of *Zamcell –v- Zambia Revenue Authority (2000)*.

It is first deducted from the profits and Taxed separately and then the Tax is grouped.

SECONDARY DATA: SOURCES

1. Statutes and subsidiary legislation:

The income Tax Act, Cap. 323, The industrial and Labour Relations Act, Cap 269, the employment act, Cap 268, the companies Act, cap 388, the customs and Excise Act cap. 322 and the value Added Tax Act, cap 331 of the laws of Zambia and the subsidiary legislation made there under have been referred to very extensively in this study.

Parliamentary enactments, being cardinal to the foundations of any legal framework, have been subjected to examination, analysis and close scrutiny. Consequently, we were able to suggest certain legislative reforms impinging on the tax system in Zambia.

2. Judicial precedents

Zambian as well as foreign case law have been referred to in this study. Reported cases were accessed in the law Reports and electronically on CD-ROM. Of course accessing unreported cases required extra effort, and presented a real challenge. The Supreme Court library staff was particularly helpful in this regard. They assisted with copies of the relevant unreported cases.

The creation of the Revenue Appeals Tribunal by Act No. 12 of 1998 has resulted in a significant increase in tax jurisprudence. This Act has imported provisions that applied to the three previous separate Tribunals and fused these provisions into the Revenue Appeals Tribunal. Formerly, these tribunals were constituted under the Value Added Tax Act, cap 331, the customs and Excise Act, cap 322 and the Income Tax Act, cap 323. We had the privilege of accessing the Revenue Appeals Tribunal consolidated Law Reports covering the years 1999 to 2003. The deductions provided very useful insight regarding tax law issues.

BOOKS, ARTICLES, PAPERS

Books by legal authorities and scholars in the law of Taxation provided the required legal principles on the subject of tax law in general. In addition, articles and papers from the

national press and other media were used to assess public opinion and attitude towards the issues covered.

CONCLUSION

The foregoing has been a synoptic outline of how the study was conducted as well as the steps taken to complete this undertaking, the sources of information used in the study, the rationale for the choice of methodology.

CHAPTER THREE

MODUS OPERANDI OF TAXATION

Introduction

This chapter focuses on procedural issues of taxation. In this regard, it will discuss operations of the tax system under the two main heads of direct and indirect tax categories. As a major of the procedure of taxation, the administration of taxation will also be discussed. The whole idea behind taking the trouble to set out procedural facts of taxation in some detail is to place in proper context taxpayers' perceptions of the tax system in Zambia which are discussed in the next chapter.

1. Direct taxes

Direct taxes are levied directly on the income and gains of both individuals and corporations. The direct tax Division of the Zambia Revenue authority administers these taxes, which is by far the largest division of the entire Authority. The main taxes, which fall under this classification, are: Income tax, property transfer tax, mineral royalty tax and so on. For the purpose of this study, we shall only discuss income Tax in detail.

Income tax

Income Tax in Zambia is administered by the income Tax Act. This forms chapter 323 of the laws of Zambia. Income tax is chargeable on the income of persons resident and ordinarily resident in Zambia. See the case of *De Beers consolidated mines Ltd -v- Howe STC (1985)*. It is levied on both individuals as well as legal persons, such as limited companies.¹⁵ Income tax is chargeable on the income of 'persons' only. Therefore a partnership is not a taxable entity for income purpose.

¹⁵ Section 2, cap 323

Basic principles of Income Tax

As far as the Zambia Revenue Authority is concerned, every taxpayer ought to know the following basic principles of taxation.

- (a) under the rules of independent taxation, individual taxpayers, married or single, male or female, are taxed separately on their own income. Thus each individual is separately responsible for making a tax return and for declaring all their income to the Zambia Revenue Authority for income tax assessments.
- (b) At the end of each charge year all taxpayers are required to complete a tax return and submit it to the Zambia Revenue Authority. These returns are, however, not required from non-taxpayers such as children and from those who are fully taxed at source such as employees. Where a taxpayer fails to submit his income tax return to Zambia Revenue Authority, an estimated assessment will be issued under the powers given to the Zambia Revenue authority.¹⁶
- (c.) The third principle of income tax relates to the collection of income tax. There are two main ways of collecting income taxes, namely: Deduction at source or what is commonly referred to as withholding tax system, and the self-assessment system.

Deducting at source entails that where it is possible, the Zambia Revenue Authority will collect income taxes at source. In other words, immediately the income arises, it will be collected, e.g PAYE. This avoids the necessity of collecting the tax subsequently from each individual taxpayer receiving the income.

On the other hand, self-assessment implies that tax liability on income not taxed at source is payable through four quarterly installments.

¹⁶ Section 64, cap 323

- (d) Income tax is charged by reference to the income received in a “charge year”. The charge year is the year ending 31st March.

An illustration is 2003/04, 31st March charge year or simply 2004, 31st March charge year.

- (e) Yet another principle of income tax is that of liability to income tax. Whether or not incomes received by a person in a charge year is liable to income tax in Zambia depends on three factors.¹⁷

These factors are:-

- (i) The source of the income.
 - (ii) The Residence status of the recipient of the income; and
 - (iii) Whether or not the income of the person receiving it has been exempted under second schedule to the income Tax Act, as well as under the provision of section 15 of the Income Tax Act.
- (f) The principle pertaining to source stipulates that tax is to be charged at the appropriate rates as set out in the charging schedule for each charge year on the income received in that charge year: (i) From a source within or deemed to be within the Republic of Zambia (ii) By any individual who is ordinarily resident within the Republic of Zambia by way of interest and dividends from a source outside the Republic of Zambia. If the income is from a Zambian source¹⁸ and it, or the person receiving it has not been exempted, it is liable to income Tax as it was stated in *CIR –V- Lever Brothers*¹⁹

- (d) Another important Income tax principle pertains to residences of the tax entity. The principle stipulates that individuals who live in Zambia or come to Zambia

¹⁷ Income Tax Act, cap 323, par III, section 14.

¹⁸ Income Tax Act, cap 323, section 18

¹⁹ (1960) 9 SATC 363

with the intention of remaining for a period, which will exceed 12 months, should be regarded as residents and ordinary residents from the date of arrival even where, due to unforeseen circumstances they later leave Zambia before the 12 months elapsed. Where an individual is living in Zambia it should be assumed from the outset that he or she is resident and ordinarily resident in Zambia.

With regard to companies, effective from 1st April, 2000, section 4 (3) of the Income Tax Act has been amended. The Amendment introduces a new incorporation rule for determining the residence status of legal persons such as companies and Trusts. A legal person will now be resident in Zambia for tax purposes if:

- (a) The person is incorporated or formed in Zambia.
- (b) The management and control of the person's business or affairs are exercised in Zambia.

Following the 2000 amendment to the income Tax Act, Zambia's residence test hinges on both central management and control and place of incorporation. The 2000 Amendment Act therefore brought Zambia in line with international practice on the determination of company residence.

2. Indirect taxes

Unlike direct taxes, these taxes are not levied directly on the income. Rather they are levied by increasing the cost of goods and services. As such the consumers pay for the cost of goods and services as well as for the tax which is included in that cost. Indirect taxes include duties, value added taxes on cigarettes, liquor and so on. The most distinctive characteristic of indirect taxes is their lack of progressiveness. This means that the amount of indirect tax payable does not depend upon an individual's level of income. Although many taxes fall under the head of indirect tax, only Value Added Tax and duties will be discussed here for purposes of the study.

(i) **Value Added Taxes**

One of the most significant Tax Reform measures in Zambia was in 1995 when the sales Tax was repealed and replaced with a Tax on value Added Known as Value added Tax (VAT). VAT is widely used in the whole world because of its positive attributes. The following are some of the positive attributes associated VAT:

- (a) It is largely invoice based and therefore uniform and uncomplicated.
- (b) Vat has a “self-policing” character, which in turn improves Tax compliance.
- (c) The input credit mechanism gives registered business back much of the Tax they pay on their purchases and expenses used for making taxable supplies and, as a result, largely avoid the “Tax on Tax” which was characteristic of the sales Tax.
- (d) VAT is broad and has brought a significant number of traders into the Tax net.

VAT is administered by the value added Tax Act of 1995 which forms chapter 331 of the laws of Zambia. The Act forms the primary or principal law governing the issues relating to VAT. But there also exists subordinate law passed by the Minister of Finance and National Planning as well as administrative rules made by the commissioner general at the Zambia Revenue Authority.

Every supplier who is carrying on a business in Zambia whose Taxable turnover exceeds the turnover prescribed by the Minister, by statutory order, shall make application to be registered.²⁰ A business for the purposes of VAT is any pursuit that is engaged in trade, whether by manufacture, production, wholesale, retail or the provision of a service. The current turnover limit required for mandatory registration is K100,000.00.

This means that if a trader is going to make taxable supplies in the course of business in any 12 months in excess of K1,000,000.00 million, then the law compels him to register

²⁰ The Value Added Act 331, section 28 (10)

for VAT. Another interpretation is that the trader is required to register for VAT if his taxable supplies are likely to exceed K1,000,000.00 in the course of the 12 months period.

The effective date of registration in the case of a New Business is the date of commencement of trading. In the case of a continuing business, within one month of an application being made or from the date when the application was received by the commissioner general. If the application is not made within one month of the Taxation turnover becoming due, then the effective date is the day following the first period during which the K1,000,000.00 million limit was exceeded.²¹ All legal entities that deal in Taxable supplies can as a matter of fact register for Value Added Tax. In general, businesses are required by law to apply for VAT registration if they deal in Taxable supplies and their turnover exceeds the three threshold limits of K1,000,000.00 million in any 12 months, K25 million in any three consecutive months; or Taxable turnover is expected to exceed either of the above limits in the subsequent 12 or 3 months respectively. Perhaps what is of great interest, to this study with regards to VAT is its mechanism. A simple demonstration of how the VAT system works is as follows:

Manufacturer → Retailer → Customer/Consumer

The manufacturer charges output VAT on his supplies to the retailer. The retailer is able to recover the VAT by charging VAT on his supplies to the consumer who is the final entity in the line of consumption. Since the consumer is not engaged in selling the supplies, but to consume them, he bears all the burden of this type of taxation. Therefore, as taxable supplies move from manufacturer to wholesaler and then to retailer and the ultimate consumer, each trader in this chain pays input tax when he buys and charges output tax when he sells. The ultimate consumer pays the tax when he buys and has no one to pass the tax onto, and so finally bears the burden of the tax. This is a sad but inevitable state of affairs.

²¹ Amendment act No. 2 of 1997

(ii) **Customs and excise duties**

The customs and excise Duties of the Zambia Revenue authority administers the customs and Excise Act Cap, 322 of the laws of Zambia. The customs section is responsible for the collection of customs Duty and the enforcement of imports and Exports controls. The Excise section is responsible for the collection of Excise Duty and enforcement of controls related to excisable products. The section also collects fuel levy on behalf of the National Roads Board.

The customs and Excise Division of the Zambia Revenue Authority is tasked with a number of duties. It collects Revenue on behalf of the central government through customs duty, import VAT, fuel levy, Dumping duty and so on. The Division is also charged with the responsibility to protect local industry against foreign competition. This protection does not only allow the growth of industries in Zambia and provision of employment to local people, but it also makes the country self-sufficient in goods. An issue of particular interest to this study is the general powers given to officers in this division. Under section 9 of the customs and Excise Act, officers are given wide ranging powers to enable them execute their mammoth duties. These powers are susceptible to abuse by officers. As such they need to be checked.

3. **Tax Administration**

Another possible premise of public resentment is the administration of tax. An outline of Tax administration issues will therefore be given here.

The general administration of tax involves parliament, the minister of finance, the ministry of finance and the Zambia Revenue Authority. See Appendix III.

Tax is collected either directly from the taxpayers or through Tax paying Agents who collect tax on behalf of ZRA.

There are several methods available for the collection of Taxes due to the Zambia Revenue Authority. These include the appointment of Tax paying Agents, levying of withholding Taxes, issuance of Tax clearance certificates, payment of provisional or Base Tax for small traders, and so on.

The tax recovery from defaulting taxpayers also offers grounds for possible public resentment. After an initial demand letter has been issued and the payment is still not forthcoming, the following orders may be raised, one after the other; the garnishment order, warrant of distress and charge on land. The commissioner general may write off debts, which have proved to be uncollectible. But no appeal can arise from an action of remission.

The issue of assessments is also of interest to the study. Parts III and IV of the income Tax Act are the principle sections governing charge of tax and deductions which indicate the scope of the assessment, which is the amount by reference to which Tax is charged. The commissioner General's powers to assess are contained in section 63 of the income Tax Act. The provisions of section 63 (1) do not apply to individuals whose income is subject to PAYE, and in cases where Tax payable is less than K20,000.00.

Assessment is carried out according to specific rules. These are contained under section 65.²² under section 65 (1) of the income Tax Act, when an assessment has been made, a notice of assessment must be served on the person assessed. Where a person disputes an assessment made upon him, or her, he may apply to the commission general.²³ This application is known as a notice of objection. It can only be a valid notice of objection if it conforms to laid down conditions. If a person assessed is dissatisfied with the commissioner general's decision concerning his objection to the assessment he may appeal to the tribunal.²⁴ The tribunal will not only address itself in establishing facts of the appeal, but also decide on the point of law.²⁵ If need be, further appeals can be made to the high court and supreme court as provided for in sections A. S. III (1), S.III (11) and S.III(3) of the Income Tax Act.

Conclusion

Having explored the operations of the tax system in Zambia, we are now in position to appreciate taxpayers' views as to how the system is impacting on them. We are also in position to appreciate what resentment taxpayers might express against specific aspects of the tax system, and we are able to suggest necessary resolutions to problems inherent in the form and structure of the tax system.

²² Income Tax Act, cap 323

²³ Section 108

²⁴ Ibid, section 109 (1)

²⁵ Viscount simands –v- Bairstow and Harrison (1998)

CHAPTER FOUR

PERCEPTIONS AND PROBLEMS OF ZAMBIAN TAXPAYERS

Introduction

A total number of 90 tax entities; both natural and legal persons were interviewed for information of how they perceived the tax system. After it was established that the tax system was generally resented against (98% of the taxpayers indicated resentment), the survey concentrated on identifying specific aspects of the tax system that taxpayers found resentful. To put the matter into perspective, tax authorities were also given an opportunity to present their side of the story. All this information which was gleaned from various sources discussed in this chapter and interpreted in the light of relevant statutory provision such as the Income Tax Act, cap 323; the Value Added Tax cap 331 and the customs and Excise Duty act, cap 322 of the laws of Zambia.

General perception of taxation in zambia

This survey revealed that there is general resentment against the tax system in its current form among taxpayers in Lusaka. The basis for this is the response to item 4. In response to this item the majority of the respondents (98%) used negative words to describe the tax system in Zambia. Some of the words that were used by the 98% of the respondents were that the tax system is “cruel” “atrocious” “hostile”, “exploitative”, “impoverishing”, “inhuman” and so on. These words were collectively interpreted to indicate that the taxpayers surveyed perceived the tax laws and practices as being resentful and stressful.

This finding is reinforced by related revelation of the survey that taxpayers are having to resort to a multiplicity of mechanisms to cope with the abrasive effects of the tax system. The widespread use of maladaptive tax coping strategies is a sure indication that the tax system is exerting undue pleasure on the taxpayers.

The prominent coping mechanisms being used by tax payers in Lusaka are, avoidance, tax evasion, generation of extra income and so on. Others, however, indicated that they feel “too confused and helpless” to do anything about the effects of high taxation on them.

The proportion of respondents who said they used tax avoidance, tax evasion as well as those who stated that they are helpless against the situation was significantly higher than that of those who said they were applying themselves to earning extra income so as to make up for the earnings lost through taxation.

Tax avoidance is perfectly legal, it is part of tax planning, and a way of reducing tax burden by using the hand of the law.²⁶ See also the Indian tax case of *Aviana group of Estates –v- state of Madras (1955)* where it was stated that the avoidance of tax is not tax evasion and carries no ignominy with it, for it is sound law and not bad morality. Therefore there is nothing really wrong with taxpayers purporting to avoid tax. Nevertheless widespread tax avoidance as has been reflected in this survey is symptomatic of the tax system overstraining taxpayers, without applying necessary tax relief devices. It was interesting that most of ‘tax avoidance techniques bordered on tax evasion.

Then, of course there is out and out tax evasion, which refers to illegal ways of avoiding tax. This survey shows that this is rampant and involve both natural and artificial tax-paying entities.

Another interesting discovery was that tax resentment does not seem to discriminate between respondent’s classified as belonging to low socio-economic class from those from high socio-economic class. They equally indicated their resentment of tax laws and practice with outrage. In other words, respondents categorized as high in socio-economic terms ventilated as much resentment against the current tax system in Zambia as those classified as belonging to low socio-economic class.

²⁶ Simbyakula (1990)

This finding is consonant with that of a similar survey, which was carried out recently in South Africa which revealed that:

“Affluent taxpayers were equally not willing to pay oppressive taxes even if this meant that the government would not be able to improve the social services”.

A recent case in Russia further confirms that tax resentment and the impulse to beat the tax system levels all social groups alike. In this case a Russian billionaire, Holokosky, owner of an oil company was indicted for tax evasion²⁷

Similarly, world renowned celebrities in the field of music, film, sports and politics have made headlines because of tax evasion.

Sadly even people of very high social standing are not immune from resenting tax when they perceive it to be oppressive. For example government officials, diplomats and even presidents are far from being perfect role models in inspiring ordinary citizens to obey the tax law.²⁸

Taxes can be divided into two categories; direct and indirect taxes. These direct taxes seems to be the most dreaded. 88% of the respondents indicated their resentment against this category of tax. In particular, income tax is resented most by the taxpayers surveyed. Interestingly, this is in harmony with research findings which indicated that “income tax is most resented” in countries where income tax is progressive. In other words, the more money you earn, the more tax burden you are required to carry. It is for this reason that critics have tended to argue that progressive taxes punish hardwork and success.

Although resentment for income tax ranked higher, indirect tax was also complained against. Tax payers interviewed complained of the inconvenience they are facing from this tax on items for mass consumption such as soap and food.

²⁷ BBC World Service (30-10-2004, 10:00 hours bulletin)

²⁸ Economic Association of Zambia, Newsletter Vol. 6 No.7, July, 1998.

They also complained about sales taxes, taxes on liquor and cigarettes and customs duties. Of course these are less visible taxes than direct taxes, but can still pack a disastrous economic punch, especially among the lower socio-economic class. Goshi (2003) came up with similar findings in a study of “impact of indirect tax on less privileged in India”. The study established that indirect tax if not closely monitored can be exploitative and draining on taxpayers in general. Gosh, however, observed that its effects are felt more among those in the lower economic bracket who he believes pay out a larger share of their income in the form of taxes than those in the higher economic bracket. This of course is regressive tax and evidently perpetuates the disparity between the poor and the rich. The gap between the rich and the poor therefore fans the fire of resentment too.

Factors of tax resentment

Having presented the overview of how taxpayers in Lusaka perceive the tax laws and practices in Zambia, we now focus on the specific aspects of taxation which were perceived as “taxing” and “oppressive”

(i) Generally harsh taxation

The case in point here is the Budget 2004 tax changes. The majority of the taxpayers interviewed cited the recent tax changes as the reason for their resentment and frustration with the tax system in Zambia. The survey indicated a 98% resentment of the Budget 2004 tax changes. Indeed the proposed tax changes breached all the principles of a good tax postulated by Adams (176) and Stigitz (1980). Little wonder that it was described as unpragmatic, unreasonable and representative of the general nature of our tax system.

The following is an outline of the budget 2004 tax changes which are espoused in item 2.0 of Budget 2004.

Item 2.1 states that:

“Change Pay As You Earn (PAYE) system by increasing the threshold of exempt income from K1,920,000 to K3,120,000 per annum and introducing a graduated four band-system of 0, 30,35, and 40 percent so as to tax income between K3,000,000 and K11,760,000 per annum at 30 percent, income between K11,760,000 and K60,000,000 at 35 percent and income above K60,000,000 per annum at 40 percent.”

2003/4 income tax year	2004/5 income tax year
First K1,920,000@ 0%	First K3,120,00 @ 0%
Bove K1,920,000 @	K3,120,000 to K11,760,000 @ 30%
	K11,760,000 to K60,000,000 @ 35%
	Above K60,000,000,000 @ 40%

SOURCE: ZRA Manual February, 2004

The rationale given for the infamous Budget 2004 tax change is that:

The PAYE threshold has for sometime been perceived as low and not providing sufficient relief to the low-income earners. This proposal addresses this issue by increasing the PAYE threshold and reintroducing the graduated tax bands. The proposal has thus provided more relief to the majority of workers who are in the low and medium income brackets in order to cushion them against the effects of inflation.

At the same time, in order to compensate for the relief given, there is an increase in tax for the highly paid group

[ZRA, February 2004]

As one can imagine, respondents expressed venomous outrage at this “insensitive” tax change. One respondent put it this way:

*This 40% death sentence slapped on the helpless
Zambians is unrealistic in a country of poverty
levels of over 80% and an imaginable unemployment
levels, It is now a crime to aspire to earn a decent wage
of over K5,000,000.00*

This assertion seems to represent the views of most Zambians. What made matters worse is the fact that government showed no interest in listening to the contrary views of the general public on the subject of tax change. It is for this reason that trade union leaders resolved to “force government to listen to their views on the wage freeze and high taxation” [Hikaumba 2004, Feb, 25]

An analysis of the tax scenario in Zambia at present makes one appreciate the concerns being raised by taxpayers. The situation is quite bad. Clearly, the new tiered tax regime has exasbated the already unpleasant state of affairs. And of course the argument being propagated by government that the majority of the workers will actually be paying less tax this year as compared to before the new tiered tax regime is misleading.

The following illustration highlights how oppressive the tax system is at present in Zambia. A worker takes home his net pay taxed at 40%. He pays 17.5% VAT on all items for home use on all those on which VAT is applicable.

If he buys anything imported, he is paying customs and excise duty. In paying phone bills, he finds there is a fixed charge (rental for the line) plus VAT on his total bill. At ZESCO, he discovers there is a fixed charge and T.V fees.

There is excise tax at 5% and VAT at 17.5% on the whole bill. In refueling the car, he finds the fuel bill has the usual taxes and a road levy. At the bank, the bill has commission

charges, which one, expects but there is a new charge there too - medical levy which is deducted on the little interest one earns over the year.

The new tiered tax regime similarly has serious implications for taxpayers' disposable income. For example, an average person of the 90% who is paying less tax has been taking home only K30,000.00 more this fiscal year. This represents less than 7% take home pay deducted for an average person as his basic has been frozen, on account of the infamous wage freeze.

With inflation running in double figures this represents a backward step for the majority of the workers. In other words they are purchasing less goods and are subjected to more suffering and misery with their families than ever before.

The situation of the so called highly paid employees is even worse. A person earning an average of say K5,000,000.00 has had his take home pay reduced by about K2,000,000.00 and coupled with inflation he also has been back pedalling.

Given that the employer has not increased any one's salary as the economy has also been in reverse since total national disposable income in the hands of all Zambian employees has been less than what it was last fiscal year.

The so called highly paid is consequently unlikely to continue to afford paying all his domestic employees with his reduced disposable income.

An important consequence of the new tiered tax system is that by the statutory instrument number 14 of 2004, farmers and pharmaceutical industry can no longer reclaim value added tax, VAT, on input costs. This means that farmers and the pharmaceutical industry are totally accounting for K96 billion in costs that is being passed on to consumers in 2004.

This provision ought to be withdrawn, as it is detrimental to farming and industry because prices are going up. It is heart warming however to talk of the new Development on this

issue. Franked by dozens of supporters at his Teka Farm in Ndola, the Zambian Republican president Levy Mwanawasa Sc assured the nation on the 3rd of December 2004 that this decision will be reviewed as soon as possible.

Given the present scenario of the tax system, we should not be surprised if the economy goes backwards. The situation of Zambian farmers in relation to new tiered tax regime deserves special reference. Farmers were among tax entities who expressed much resentment against the current tax system in the country. In their submissions to the survey, they represented that the tax system “is particularly dealing a severe blow” on them. One prominent Lusaka based farmer put it this way:

The tax system is clearly offering less and lees to the farming communities while extracting more and more from the moribund farming industry.

The farmer here was referring to the ever increasing tax burden placed on the farmer’s Shoulders without corresponding tax relief mechanism. Farmers in Lusaka and perhaps in the whole country resent it when the government extracts taxes from their already meager earnings.

According to the United Nations Publication “African Recovery (2003), one of the main economic differences between developed and developing countries is that developed countries subsidize farmers while developing countries tax farmers.

A study in South African (2002) reported widespread farmers’ incontinence with the tax system too, which they perceived as oppressive. According to the report, the South African government purported to impose a land tax on farmers. The farmers threatened court action. They argued that the tax would cause bankruptsies among farmers and further unemployment among farm workers.

ii **Complexity of taxation**

The participants in this study cited the complexity of taxation as a serious frustration to them. In other words the respondents were of the view that, for the most part, the tax system is too complicated to be understood by non-tax experts. Authority on the complexity of taxation is in the celebrated tax cases of *Erichsen –v- last (1881)*, and the more recent case of *Ramson –v- Higgs (1974)*.

The complexity of tax law and practices puts taxpayers at the mercy of shrewd and manipulative tax officers who tend to take advantage of taxpayers ignorance to extort money from them.

It shouldn't come, as a surprise to learn that the complexity of the tax system is an issue among Zambian taxpayers. It has been said that it is in the nature of taxation to be complicated. Indeed tax laws tend to be complex and highly technical. In fact it is believed that much non compliance stems from difficulty with the law, and procedures rather than from willful evasion.²⁹

The mind – boggling complexity of the income tax law cost taxpayers a lot of time and money through activities pertaining to compliance. In the United States of America for example, compliance related costs have been estimated at \$100 billion annually, or about 16 percent of the tax collected [Time magazine, 2004, March issue]

In Zambian tax system, many of the difficulties in understanding tax law is rooted “In defining income”. That is, in determining just what is taxable. For example the Zambian Income Tax Act does not attempt to define income. Rather it merely provides an enumerative list which is inclusive in nature of items which are considered income for tax purposes.³⁰

²⁹ Thuronyi (1996, 104)

³⁰ Income Tax Act, section 2.

Further complications came from the myriad rules allowing for various deductions and exemptions.³¹

It should however be pointed out that the complexity of tax system does not only adversely affect taxpayers only. Rather it impacts the tax administration too. For example, unable to understand tax laws fully, a large number of taxpayers make frequent mistakes, which must be corrected by Zambia Revenue Authority at considerable cost.

iii. High taxation rates

Contrary to the view of government, taxpayers in Zambia feel that they have been subjected to astronomical tax rates for a long time. They are of the view that they have carried the tax burden for far too long without corresponding relief. Government seems to be putting undue emphasis on the function of taxation as an instrument for revenue generation. It should be remembered however that taxation has other functions too such as “encouraging economic development”. Similarly relief is important in taxation because it meets the need to reduce poverty as well as ensuring that workers’ rights to a decent living are not infringed.

It would appear that the Zambian government is oblivious to other equally important functions of taxation in their obsession with the function of taxation as a tool for revenue generation. It is for this reason that workers in Zambia rose in a body against increasing pay as you earn early this year.

iv Multiplicity of taxes

This is yet another issue which is causing much resentment and acrimony in regard to the present tax system. Taxpayers say they are overwhelmed by the multiplicity of taxes they are being subjected to. They would like government to check the proliferation of taxes in the country before the situation gets completely out of hand.

³¹ Ibid

When we consider that taxpayers are having to meet basic necessities of life on a fixed wage which is overtaxed in all kinds of ways by the current government through PAYE, VAT, Sales tax, excise tax and many other hidden taxes, we realize how serious the matter of indiscriminate taxation of the citizenry is.

What makes matters worse, as one tax pay stated is that there seems to be no considerations of the burden imposed by other existing taxes as each emerging tax fixes a high rate without taking into account what taxpayers are already enduring. “At least let these different taxes be harmonized with existing taxes so that the aggregate impact on the taxpayers is not too debilitating”, cried out one Lusaka businessman.

The BBC (2004) observed that the issue of too many unchecked taxes is a characteristic feature of most developing countries. One research cited by the BBC found that “in one developing country, there exists 300 local taxes, the administration of which is impossible even with the best of capacities”. This is in harmony with the findings of a similar study in America that in developing countries tax systems are invariably prolific, inefficient and unfair.

(v) Nebulous utilization of tax revenue

One of the most vexed issues among the taxpayers was the question of what government really does with the revenue collected through taxes.

The following verbatim quotation of one taxpayer epitomises this concern:

Every year nearly 85% of our hard-earned wages evaporate in the form of taxes. We don't see where all this money is going. With so many government cutbacks, we 're receiving less services than ever before, yet taxes are getting higher by the month, and the number of taxes are exponentially increasing too.

The question which begs for an answer therefore is “what does the Zambian government really do with all the money they collect since public services keep dwindling, especially with so much current emphasis on the infamous cost sharing measures.

In addressing this important matter, it would seem salutary to present a catalogue of how tax revenue is utilized, at least ought to be utilized under normal circumstances:

(a) **Providing Public Services**

It costs governments massive amounts of money to operate and provide necessary services.

Table 2 of appendix II shows that approximately 88% of the total workforce in Zambia is in the Civil service. This includes teachers, postal workers, hospital personnel, police officers and other government workers. Taxes are needed to pay the salaries of all the workforce in the public sector. Taxes also provide roads, schools, hospitals and help pay bills for such services as garbage collection and postal delivery.

(b) **Supporting and maintaining the military**

The bulk of the money collected in taxation goes to support military services. For this reason, it has been alleged that the demands of the military is one of the major reasons why we pay tax in the first place. As a matter of fact, income tax was first levied on wealthy Britons to finance the war against the French in 1799.

During world war II, however, the British government began requiring the working class to pay its share of income taxes.

Today, oiling a nation's military machinery continues to be a costly affair, even in times of peace. In 2003, the Stockholm International Peace Research Institute estimated world military expenditure to be approximately 798 billion dollars.

(c) **Social Engineering**

As a means of “social engineering”, taxes are used as a tool to encourage or discourage certain forms of behavior. Taxing alcohol, for example, supposedly curbs excessive drinking. In the same vein, heavy taxes are levied on tobacco.

In South Africa, for example, taxes make up from 45 to 50 percent of the cost of a pack of cigarettes.

It must however be pointed out that a government’s motive in promoting such taxes may not always be as altruistic as they would have the general public believe.

A 20th Century notable example of use of tax in social engineering was the American lawmakers’ attempt to curtail the formation of wealth family dynasties by creating an estate tax. Proponents argued that such tax “divert” resources out of familial, aristocratic channels into civic, democratic ones.

Yet another illustration of social engineering is the use of progressive income taxes. The idea is to reduce the infamous gap between the rich and the poor.

Taxes continue to be used to promote various social issues, such as the environment. For example some western countries are implementing environmental tax as a means to reduce air pollutants.

vi **Controversial Provisions**

Yet another factor generating resentment among taxpayers is the presence of controversial as well as contentious provision in some statutes pertaining to taxation. Typical examples are the provisions for ‘Tax Recovery from Defaulting Taxpayers’ and provisions for motor vehicle valuation.

Motor vehicle importation has increasingly become prominent in Zambia. Just like any other goods brought into the country, a number of formalities need to be finalized before and when the motor vehicle is brought into Zambia. These formalities are contained in the Customs and Excise Act, cap 322 of the laws of Zambia. The ZRA through its boarder posts is the implementing agent for the government of the Republic of Zambia. One of the formalities that is resenting tax payers is the motor vehicle valuation. This is increasingly becoming a contentious issue at boarder posts.

The problem arises because taxpayers usually want to under value the goods so that they eventually pay less Tax, while the customs officers' intention and objective is to collect the correct tax. As such there is intransigence between the parties. The tag of war is between what is perceived to be the correct tax by customs officers and what is considered to be the realistic amount of tax by importers. The problem also arises because customs officers have to use their discretion in certain instances to value motor vehicles to determine the equitable transaction value in the country of supply. This applies to second hand vehicles.

Taxpayers also say the provision in the Income Tax Act for "Tax Recovery From defaulting Tax Payers" needs to be reviewed as it is causing them a lot of grief.

Tax due from defaulting taxpayers is collected using one or more of the following:

In the first place, an immediate demand letter is issued. If, however, payment is not forthcoming, the following orders may be raised, one after the other:

- (i) The Garnish order is a recovery of tax through an agent. It is an order from Zambia Revenue Authority directing a third party, especially the tax payer's bankers, to withhold all or part of the money or property belonging to the tax payer and to pay such money directly to the ZRA.

Garnishment has proved to be the most controversial method where bank accounts of many taxpayers have been sequestered by the Zambia Revenue Authority thus provoking uproar among the victims.

- (ii) Warrant of Distress where goods or chattels are removed immediately or later on and then disposed of by public auction. The proceeds are used to pay off the outstanding tax and the costs of the levy.
- (iii) Change on land involves lodging a caveat or charge on the land owned by the taxpayer so that land cannot be sold or transferred without Zambia Revenue authority's consent.

These measures have caused untold misery to taxpayers not only because of inherent harshness in their formulation, but also because they are susceptible to abuse by tax officers, and are susceptible to errors too. It is for this reason that taxpayers are calling for their review.

Another provision which taxpayers perceive to be controversial is section 108 of the income Tax Act, cap 323 of the laws of Zambia. This section provides a well articulated procedure of disputing incorrectly done tax assessment. This application is known as a Notice of objection. If the Notice of objection fulfills the conditions laid down in the said section, it will be considered by the Commissioner General.

In the event of the taxpayer not being satisfied with the decision of the commission General, section 109 (1) provides that the taxpayer can appeal against the Commissioner General's decision, raising both factual and legal premises.³²

Further appeals are provided for in sections (iii)(i), iii(2) and iii(3) to High Court and Supreme court.

The perception of the taxpayers in regard to this well laid down provision for rectifying incorrect assessment of the taxpayer's tax due is that it is mere fine words on paper, it's a

³² Viscount Simands -v- Bairstow and Harrison (1998.)

sham. In practice they argue that the tax officer's assessment is final and binding even if it contains errors. All that the tribunal and Commissioner General will do when they receive an appeal is to look for reasons to sustain the tax officer's decision. This is most frustrating, asserted a visibly irate taxpayer.

Tax Authorities Perceptions and Awareness of Taxpayers' problems

Content analysis of the completed semi-structured interview schedule showed that tax authorities (Table 9 and 10 appendix II) were aware of the problems taxpayers in Zambia were grappling with such as high rates of tax (76.9%), unfairness of the tax system (69.2%), proliferation of taxes (61.5%), complexity and highly technical nature of tax system (89.5%) and so on.

One of the issues which tax administrators unanimously cited as a thorn in the flesh of organizational taxpayers was double taxation. This is one of the inherent demerits of the current system of taxation in Zambia. Double taxation arises because the profit of a company is taxed in the first place. However, after calculation of profit, the net profit which is distributed as dividend is again subjected to further tax. In other words the company income is taxed twice.

This practice, which has remained, unresolved for sometime now is very frustrating to taxpayers concerned and is believed to be responsible for 50% tax evasion.

Therefore it is incumbent upon tax policy makers to forestall this defect in our tax system if normalcy is to be attained in the operations of the Zambian tax system.

Most of the tax administration (84.6%) also did demonstrate appreciable knowledge of political and economical implications of an unpopular tax regime. In addition the majority of tax authorities were able to catalogue most of the possible consequences of public resentment and frustrate against tax laws.

Despite having appreciable knowledge of economic and political ramifications of public resentment against unfair tax regime, the Ministry of finance as well as the Zambia Revenue Authority don't seem to be according the matter the seriousness it deserves in that 66.5% of the respondents were of the view that despite there being measures in place to address anticipated problems of the tax system in Zambia, in practice, not much is happening on the ground. This is yet another example of a redundant legal provision. In other words, this is another illustration of Law of fine words on paper but without practical application.

For example the Zambia Revenue Authority has a programme of mass educational campaigns to ensure that masses are adequately enlightened about taxes and the operations of the tax system. This is hardly put in practice and as a result many a taxpayer are kept in the dark as to the operations of the system much to their detriment.

Sections 32 provides for exemptions and deductions. An income tax is considered a fair tax because of the availability of relief provisions such as exemptions and deductions. An exemption is that amount excluded from tax. For example given that there is a standard exemption of K150,000.00, and that Harriet earns a monthly income of K1,000,000.00, her taxable income would only be her total earnings less that standard exemption (K1,000,000.00 – K150,000.00 = K9,850,000.00). The general formula is:

Taxable income = Gross Income – Exemption.

As a result of exemption, as a tax relief, the taxpayer's disposable income increases. The essence is to ease the tax burden of the taxpayer. Some of the exemptions in Zambia include handicapped exemption, old age exemption, child exemption, married exemption and so on.

Exemptions in any tax jurisdiction reflect what government considers desirable. E.g. in the Zambia society, large family is considered desirable, and so is the extended family.

Exemptions play a very important function in our society. For example, they free from tax the income needed to maintain the minimum standard of living, they help achieve a smooth graduation of average tax rates at the lower end of a scale. In addition exemptions differentiate tax liability according to liability to pay.

Although exemptions are dependant on personal circumstances of taxpayers, and every taxpayer is entitled to them as of right such that authorities cannot exercise discretion to deny a taxpayer an exemption. In practice, however, many taxpayers (84.2%) are suffering denials of exemptions which they legally deserve. Therefore this law is merely on paper. In practice tax authorities are reluctant to entertain tax relief.

An identical situation applies with regards to deductions as was enuciated in the case of *Zamcell -v- ZRA (2000)*. Deductions depend on amount spent by a taxpayer. Just like in exemptions deductions are frequently denied to taxpayers even when they have incurred hardships which impair their ability to meet their tax obligations such as exorbitant medical expenses of which a taxpayer has no control. It should be borne in mind that tax relief such as exemptions and dedications are given to promote achievement of social and economical achievement considered desirable by government. They are a way of using the handle of the law to promote philanthropy. Therefore tax authorities should not be obsessed with revenue generation only, but they should equally be concerned about the welfare of the taxpayer.

It is appreciated that from revenue point of view, tax relief mechanisms have the effect of eroding and narrowing the tax base. Nevertheless, that does not justify derogation of taxpayers' statutory rights.

The Zambian government equally gives relief to those making charitable donations and to couples who have children too. It should also be pointed out that it is incumbent upon the tax payer to notify the tax authorities about his eligibility for exemption or deduction.

Tax administrators grievances

The tax authorities took advantage of their participation in the survey to air some of their frustration with the taxpayer.. Though many issues were raised, prominence will be given here to the issue of tax evasion, which was so dominant.

Tax Evasion

Tax authorities perceived tax evasion in all its manifestations as their greatest headache. They further admitted that this is precipitated and perpetuated by weaknesses in the present tax laws and practices. Among the precipitating factors of tax evasion inherent in the current system, they cited the proliferation of tax units, inadequate tax monitoring mechanisms, tax complexity and so forth.

The problem of multiplicity of tax units has been discussed under the heading of “taxpayers perceptions”. It is interesting that it is perceived as a problem to tax authorities too. While a proliferation of tax units is generally good for tax authorities in that it widens the tax base and therefore increases revenue collection, it exerts unbearable strain on tax administrators, especially given the current situation where the tax administration is operating with a skeleton staff.³³ In any case such proliferation of taxes is extremely hard to manage even with adequate staffing and with the best capacities.

The absence of proper collection and monitoring mechanism in tax administration is a matter of serious concern. It is immaterial whether such mechanisms are non existence or are existence but not applied. The effect is the same. Tax evasion as well as extortion of money by tax officers from unsuspecting taxpayers are promoted.

For example, one tax officer reported that due to lack of proper monitoring mechanisms,

In one peri-urban area of Lusaka, local tax officials impose a manifold of illegal charges ranging from fees for growing bananas to taxes on slaughtering pigs, goats and cows either to top up the local finances or to pad their own pockets.

³³ Mulenga M. (2003, 58)

The complexity of tax has also been blamed for the preponderance in the cases of tax evasion some of which go undetected for years on end. However, we should hasten to add that tax evasion is endemic in most jurisdictions. Therefore even without the issue of complexity, taxpayers will always find their way around the system. This may be attributable to people's natural aversion to paying tax. Many firms for instance legally skirt a large share of their liability, and sometimes all of it through tax breaks and accounting measures.

A case of legal skirting of tax liability may be illustrated as follows:

A Zambian corporation sets up a firm in a foreign tax haven.
It then turns the Zambian corporation into a subsidiary of the foreign
Company. The company, in this case, is spared paying
Zambian taxes which might be as high as 35%, even though
The headquarters may be little more than a filing cabinet and mailbox

[Adopted from Shirley, 1960, P.220]

Further illustration is to be found in the case of *UTAH development -v- F.C of Taxes* (1999), 15A 614103.

An important concern raised by tax authorities is that tax evasion is becoming something of a sport in Zambia. This is especially the case among artificial tax entities such as companies and institutions.

This matter is also of interest in the sense that a study in the United States of America recently revealed that most tax evaders are taking tax evasion as a game. According to the study, only 48% of the respondents between ages of 25 and 29 believed it was wrong not to declare all income. In general, the report doesn't say great things for the ethics and morality of modern society in regard to taxation. Similarly, in Mexico tax evasion has been estimated to be about 35%.

A follow-up survey in Mexico actually observed that the estimation of 35% is very conservative, and that the actual figure should be in the range of 60 to 79 percent.

The submissions of tax administrators to this survey also raised a number of complementary points about the tax system in Zambia. For example they lauded the proliferation of indirect taxes in Zambia in the sense that generally, consumption or indirect taxes are very effective in revenue rising. They observed that what the economy of Zambia in its current moribund state requires is injection of as much revenue as possible if it is to be resuscitated.

Another important credit that tax administrators gave to the current tax system is the aspect of income taxation, and the fact that compliance is achieved by deducting from source, the currently infamous Pay As You Earn which simplifies the administration for Zambia Revenue Authority. Another valuable feature of income tax is progressivity and recognition of the taxpayers personal circumstances.

The schedular tax system in Zambia is yet another feature of taxation in Zambia that tax administrators lauded. This has not always been the case. Actually the tax system has increasingly shifted from global to schedular type. When the economy was good, we had global system.³⁴ Currently the schedular tax system is in place. This means salaries, pensions dividends and so on are taxed separately. Under global system all sources of income would be aggregated and taxed as a unit. This system is extremely cumbersome to tax administrators. On the other hand, the current system, the scheduler system is much easier for tax administration.

The other merit of the current tax system which tax administrators advanced is the fact that the legal duty of collecting tax and remitting taxes has been thrust on to the employer. This entails that, if the employer under-reports, the legal liability is on the employer himself. This is the case even when the employer hires an expert to work out tax due.

³⁴ Simbyakula (1990, 10)

Above all, the majority of tax administrators who participated in the survey stated that the creation of the Zambia Revenue Authority perse by the third republic has greatly enhanced the tax system in Zambia in terms of efficiency and effectiveness.

Zambia Revenue Authority basically collects tax on behalf of government. In addition, it advices government on tax matters. Thus the policy makers get feedback from ZRA.

Generally ZRA advises on feasibility of tax administration policies. The Zambia Revenue Authority officials frequently go out to check to ensure that there is compliance. This is very cardinal in tax collection because the psychology of taxation is such that once people realise that there is effective monitoring mechanism, there will tend to be high compliance.

In any case, the rule of thumb in tax collection is that the cost of collection must never exceed the revenue collected.³⁵

SUMMARY

This chapter has delineated the Zambia taxpayers' perceptions of the tax system in Zambia. The roots of the perceptions were also discussed in detail. These are considered very important because they effectively explain the behavior of taxpayers in all its manifestation. Perceptions held by taxpayers may be real or imagined but they explain a lot of taxpayers' behavior. In fact the behavior of taxpayers is a function of their perception. Therefore, whether taxpayers are going to be compliant or non compliant is determined by their perception of the tax system in the first place. If they have a negative perception of the tax system they will generally be non compliant. If on the other hand they perceive the tax system positively, the percentage of compliance will tend to be higher.

³⁵ Simbyakula (1990, 14)

It has been said that every cloud has a silver lining. Similarly, the tax system in Zambia is not irretrievably bad. It has some positive aspects as well. These were highlighted in the chapter too.

The chapter also pointed that although tax authorities are aware of defects in the tax system, and that there are statutory provisions to mitigate the abrasive effects of taxation, not much is being done in practices to cushion the suffering of Zambian taxpayers.

Finally the chapter also addresses the pertinent issue of taxpayers' concern as to "what government does with all those huge sums of money collected in tax"

CHAPTER FIVE

MITIGATING GROWING RESENTMENT AGAINST THE TAX SYSTEM IN ZAMBIA

Introduction

Being the final chapter of the dissertation, this is intended to summarize the issues that have been analyzed. In addition, the author recommends specific modifications to the current tax system to alleviate or at least tone down the pulsating resentment against the system so as to promote a culture of compliance among tax payers, and subsequently political stability and economic development in the nation. Finally general conclusion remarks are made as well as suggestions for further research on the subject.

Summary

The study examined the perceptions of tax laws and practices held by taxpayers in Lusaka. In this regard, the study considered the various aspects of the Zambian tax system which the taxpayers resent. In addition the study explored the various coping strategies taxpayers are using to compensate for their portion of income lost through paying tax.

Further, the views and position of tax administrators and policy makers with regards to merits and demerits of the tax system in Zambia were also assessed to get a balanced picture of the situation.

Perception of tax in this study was operationally defined as a subjective view of tax system, which determines like or dislike of the system, based on personal experience with the operations of that system.

It will be remembered that the purpose of the study was to identify the major sources of resentment against the tax system in Zambia which could subsequently be used as a basis

for effective modification of tax laws in such a way that they promote revenue collection without infringing tax payers' economic rights. The idea is to put in place a tax system which serves its purpose effectively without subjecting taxpayers to undue economic stress. In other words, a tax system with a human face, and humane mechanisms of compelling people to relinquish their claims on resources for purposes of allowing government to access and use it.

The significance of the study was that once facts about the gravity of problems faced by taxpayers in Zambia are established, decisions by Tax Policy makers and tax administrators about suitable course of action may be possible.

It was generally felt that resentment against tax laws which has serious implications to compliance, economical development and political stability, has remained unchecked despite signs that it might be raging among taxpayers.

The study was guided by three main questions. These were as follows:

- (i) How is the present system of tax perceived in Zambia
- (ii) What aspects of the present tax system, if any, generate resentment among tax payers?
- (iii) If tax payers are economically stressed by the present tax system, how are they compensating for the income lost in tax payment?
- (iv) Are tax authorities aware of taxpayers' problems? If so what interventions are in place?

The reviewed literature, which were mostly based on studies conducted in the west and on the views of western writers indicated that tax systems, in developing countries are usually poorly administered to such an extent that they subject taxpayers to untold misery. Consequently taxes and tax authorities are resented with a vengeance.

It also indicated that a number of aspects of tax law are susceptible to resentment by taxpayers. Among these are the high tax rates, multiplicity of tax units and so on.

Reviewed literature also indicates that taxpayers are known to use various coping strategies against the impact of taxation. Generally the coping strategies which are effectively responses to economic stress from taxation fall into two categories, substitute or income effect strategy. The preponderance of tax coping strategies is in itself an indication that the tax system is stressful to the taxpayers and therefore needs modification to make it more user friendly in respect to taxpayers.

Most of the information was obtained using a semi-structured interview schedule from a randomly selected sample of taxpayers who included both natural and artificial entities. The semi-structured interview schedule was buttressed by desk research as well as collection of information from media sources such as TV, radio, and the internet. Thus both quantitative and qualitative data were collected.

The following were the most important findings of the study?

- (i) The majority of the taxpayers in Lusaka are negatively affected by the present tax laws and practices in Zambia. As a result there is resentment.
- (ii) The taxpayer in Lusaka are having to employ a number of what may be referred to as tax coping strategies to cushion the economic impact of paying high taxes.
- (iii) The coping strategies cited include the following: Overtime work, undertaking backyard business activities, briefcase businesses and keeping more than one jobs.
- (iv) Resentment against present tax laws and practices are premised on:
 - (a) Unfair laws and practices
 - (b) Excessive number of taxes to be paid
 - (c) Unreasonably high tax rates
 - (d) Nebulous utilization of tax revenue
 - (e) Over widened tax base.
 - (f) Complexity of tax laws
- (v) Tax authorities are aware of some defects inherent in the present tax system, but seem to feel helpless to do anything about it.

- (vi) Although there are already certain measures put in place by the tax authorities to educate the masses about tax matters, the taxpayers are of the view that any such measures have stagnated at the embryonic stage. Therefore, they propose that more bold and tangible efforts need to be taken in this direction.

CONCLUSION

The countrywide expression of out rage against increase in PAYE levels in Zambia early this year was described by an internationally acclaimed tax expert as symptomatic of more broad based dissatisfaction with the tax system. In other words he hypothesized that it was simply a tip of an iceberg of wider incontinency with the tax laws in the country.

The findings of this study are in harmony with this proposition. For example the study revealed that there is broad based resentment against some aspects of the present tax system in the country. Consequently the masses are generally negative in their perception of the tax system in its present form.

The item in the questionnaire which sought information whether we would be better off without tax in Zambia revealed that tax payers would not mind paying tax if fairer, realistic and more flexible mechanisms would characterize our tax system. We can therefore conclude that, by and large, people in Lusaka acknowledge the need for taxes and do not mind paying their fair share. However, the famous words attributed to Tiberius Caesar are applicable to the current Zambian situation: "A good Shepard should shear his flock, and not skin it". Unfortunately, going by the findings of this study, the tax system in Zambia is effectively "skinning" the taxpayers rather than "shearing" them with regard to compelling them to relinquishing their claims on financial resources so that government can use it for the public good. It is because of this that taxpayers feel victimized by and resentful with the tax system, which they also find, burdensome.

The overriding conclusion therefore of this study is that taxes are too high, overwhelming unfair and too complicated and technical.. It seems fitting and logical to conclude that it is this perception of tax system in Zambia which perpetuates resentment and other associated negative emotions among taxpayers in the country as was made manifest early in this year.

RECOMMENDATIONS

On the basis of the findings the study makes the following recommendations:

- (i) Since most of the negative feelings and resentment against tax system seems to emanate from the recent incidence of upward adjustment of PAYE, it seems salutary that government facilitates a real debate on the PAYE. Let all the protagonists and antagonist participate in the debate on our tax system and income polices until an amicable solution is reached.
- (ii) On the same subject of the infamous upward adjustment of PAYE as a measure of broadening the tax base, we recommend that government devises other morally acceptable ways to broaden the tax base, and involve more than 4.5 million Zambian's labour force in contributing to the national treasury instead of depending on the overtaxed formal sector employees.
- (iii) There seems to be wanton taxation of virtually every kind of income a citizen endeavours to generate. Indeed some of these taxes have questionable legal basis. To address this recent mischief, legislators need to intervene in questionable and unrealistic taxes perse and tax adjustment, as they did in 2003 in the case of purported tax on desiel.
- (iv) An important incidental finding of this study was the high level of public ignorance on tax related matters. Even people with high social standing were found to be ignorant of even the most basic issues of taxation. In this regard, it is being recommended that tax authorities expand, and invigorate the education campaign on taxation and tax practices.

- (v) The study has also found that marginal tax rate is far too high and has the effect of submerging all the extra income meant to cushion taxpayers' economic hardships. The case in point is the newly introduced Academic Production Unit (APU) in government secondary schools whereby teachers volunteer to teach extra students after their normal working hours in order to earn extra income. In their representation to this survey the teachers lamented that Zambia Revenue Authority has learnt of this initiative, and has since imposed a tax which is so unrealistic in that it almost takes away all the income teachers are earning from this initiative. This has discouraged many teachers from taking APU classes. This is not a good tax regime because it does not incentives taxpayers to go for extra time, for they would rather spend their extra time in leisure. In this regard we recommend that when deciding a marginal tax rate, tax authorities should be mindful that it does not overly go into the increment earnings and defeat the whole purpose of going for overtime.
- (vi) In regard to the issue raised by tax authorities that the huge costs on correcting taxpayer's mistakes so that they are in compliance with tax laws, we make the following recommendations aimed at enhancing compliance among taxpayers and reducing costs incurred by tax authorities:
- (a) Taxpayers need to make deliberate effort to seek good advice. Seeking advice from tax officials is essential because tax can be very complicated, and ignorance of the law is very rarely accepted as a valid excuse for non-compliance. Seeking advice is particularly vital for those whose finances are complicated. Tax officials are often ready and willing to give accurate and simple instructions on tax matters.
 - (b) Taxpayers ought to act promptly when they detect a tax related problem. Many taxpayers end up facing compliance related charges because of procrastination in, for instance, submitting

required information to tax authorities. This can have very heavy consequences in economic terms.

- (c.) Compliance can also be enhanced by a culture of good record keeping. Taxpayers need to keep their financial records up-to-date. In this way, the work they will have to do at tax time will be kept to a minimum. This also puts the individual in good stead in case of auditors showing up.
 - (d) Being honest on the part of taxpayers is very vital for compliance. In most cases taxpayers get in trouble with tax authorities because of dishonesty practices. There is always the temptation to cheat or perhaps to bend the rules a little. However this is not advisable because tax authorities have many ingenious ways of spotting false claims. Moreover, the consequences of being caught cheating can be devastating economically.
 - (e) Tax payers need to be actively involved in their tax obligations. They cannot afford to be indifferent and negligent because even if they hire a tax specialist to prepare tax submissions, if he submits inaccurate information, it is still the taxpayers' responsibility to act in accordance with the relevant provisions of the tax laws and regulations.
- (vii) The study identified various factors that precipitate and perpetuate resentment against tax system such as unrealistically high tax rate and excessive number of taxes. In this regard, we recommend that government and tax authorities take it upon themselves to address these concerns rather than ignore them bearing in mind that resentment against taxes if left unchecked can have disastrous consequences on political stability as well as economical development.
- (viii) With the reintroduction of graduated tax bands it is timely to warn against some problems associated with it. In particular we recommend that tax administrators avoid a situation of creating tax brackets, which are too

close together because this inevitably lead to bracket crips which can frustrate taxpayers further.

SUGGESTIONS FOR FURTHER RESEARCH

This study outlines the following propositions for further research in the area of tax laws and practices of taxation in Zambia.

- (i) From the literature reviewed on the subject of taxation, one gets the impression that most research on taxation is prejudiced in their enquiry on issues of taxation. In other words there is a subtle presumption that the taxpayer is a villain out to impeded the collection of government revenue. On the other hand, the tax officer is portrayed as a noble victim of the “villain’s” Machinations and who must therefore be helped in any way possible to obtain the taxpayers’ cooperation. In other words he is a figure of sympathy. This unfortunate presumption has led most scholars who write on the subject of taxation to vehemently advocate for more empowerment of tax authorities, a tightening of tax laws to make them more stringent against tax defaulters.

This myth has kept many a scholar oblivious and impervious to the vulnerability of the taxpayer. The taxpayer’s rights are equally susceptible to abuse by the tax authority’s unfair and unrealistic tax regimes. Unfortunately people are rarely ready and willing to hear from the taxpayers restrum.

In this view I wish to encourage future researchers on the subject of taxation to consider showing concern for the economical welfare of the taxpayer. For example, how the taxpayer is affected by certain tax legislations and so on. This would help government and tax authorities understand taxpayers’ compliance related behavior better.

- (ii) One of the many incidental findings of the study was that taxpayers are deeply concerned with the way their contributions to the national treasury are being utilized. The undertone in the concern is that tax is being diverted to personal use by government leaders. This belief is responsible for the generation of much resentment against taxation in general. It has further been suggested that this is a factor in most cases of tax evasion.

To clear the air, we wish to suggest a comprehensive longitudinal survey to establish the utilization of money collected in tax for, say, a period of one year.

Our data did not provide sufficient grounds to establish facts on this matter. Such an assessment would require additional enquiry.

- (iii) Thirdly, there is, in my opinion, pressing need to establish the effects of the tax burden on tax payers. In other words is it having income effect or substitute effect? Facts on this issue would be of great value to economic development of Zambia.

- (iv) This study noted, with regret, the overwhelming ignorance of even the most basic tax laws there is among taxpayers. Besides, such ignorance is manifested among very respectable taxpayers. Since this situation must, sooner or later be reversed, there is need for a survey to establish factors that precipitate and perpetuate such ignorance of the tax system.

- (v) Finally we wish to encourage further studies on this subject to find out whether there are any gender differences in perceptions of tax laws and practices. Similarly, information as to whether tax compliance discriminates between sexes would be of great value to tax authorities and government in this day and age of gender equality.

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APPENDICES

**THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW**

L 410: DIRECTED RESEARCH

[SEMI-STRUCTURED INTERVIEW QUESTIONNAIRE]

TITLE: PERCEPTION OF TAX LAWS IN ZAMBIA:
A CASE OF LUSAKA BASED TAXPAYERS

AN OBLIGATORY ESSAY IN PARTIAL FULFILLMENT FOR THE
BACHELORS DEGREE OF LAWS – LLB

BY

P.H NAMANGALA

RESPONDENT'S RESIDENCE:

OCCUPATION:

ORGANISATION/FIRM NAME:

MONTHLY INCOME:

AGE:

SEX:

SECTION A: TAX PAYERS

1. What is tax?
.....
.....
2. What taxes are you currently paying?
.....
.....
3. Briefly explain the application of the taxes that you have identified in item (2)
.....
.....
4. How do you feel about having to pay tax?
.....
5. Comment on the tax system in Zambia as it affects you or/and your organization
.....
.....
6. If tax is constraining you economically, what are you doing about it? In other words how do you make up for income lost through paying tax?
.....
7. Cite as many aspects of the Zambian tax system as possible which you find unpleasant and which you would have repealed.

Against each, indicate your perceived level of unpleasantness as suggested below:
Extremely unpleasant 1
Very unpleasant 2

Fairly unpleasant 3
Unpleasant 4

For example

- (a) "VAT on second hand bombasas"!! 2
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)

8. Use one word or phrase that you believe summarizes your view of tax law and practice in Zambia.

.....
.....
.....

9. In your opinion is there any need for paying tax in Zambia?

(a) No [] (b) Yes []

10. Would we be better off without paying tax?

(a) No [] (b) Yes []

Thank you very much for your participation!

**SECTION B: TAX ADMINISTRATORS AND OFFICERS
(ZRA & MINISTRY OF FINANCE)**

1. What is the essence of tax system?
.....
2. Comment on the tax system in Zambia from an administrative perspective.
.....
3. What problems does the present tax system present to taxpayers in Zambia?
.....
.....
4. What is your administration doing about the problems you've identified in (4)?
.....
.....
5. In one word or short phrase describe the tax laws and tax practices in Zambia?
.....
.....
6. What problems do tax payers generally present to tax authorities?
.....

Thank you very much!!

APPENDIXN II: Statistical data

1. Demographic information.

- Table 1

TABLE 1: RESIDENTIAL AREAS OF TAX PAYERS.

Category of location	Percentage
Low density	37.5%
High Density	62.5%

- Table 2

Table 2: Employment categories of taxpayers.

Category of employment	Percentage
Self-employed	12.5%
Employed	87.5%
= Civil Servants	85.7%
= Non Civil Servants	14.3%

- Table 3

Table 3: Categories of taxpayers on the basis of annual income.

Income	Proportion (%)
$X \leq K3,120,000$ pa	9 (11.25%)
$K3,120,000 \leq x \leq K11,700$ pa	50 (62.5)
$K11,760,000 \leq x \leq K60,000,000$ pa	18 (22.5%)
$K60,000,00 \leq x$ pa	3 (3.75%)

- Table 4

Table 4: Gender Categorization of taxpayers:

GENDER	PROPORTION (%)
Male	47 (58.8%)
Female	33 (41.3%)

2. Substitutive information

- Table 5

Table 5: Taxpayers' description of the tax system.

Category of description	Proportion
Negative descriptions	83 (92.2%)
Positive description	7 (7.8%)

- Table 6

Table 6: Taxpayers' perceived basis for their resentment against tax regime in Zambia.

RESENTMENT FACTORS	PERCENTAGE OF RESPONDENTS
1. High taxes	- 95.71%
2. Excessive number of taxes	- 85.71%
3. Taxation of extra-income	- 92.85%
4. Low wages	- 78.57%
5. Complexity of tax system	- 85.71%
6. Inefficient tax administration	- 57.15%
7. Unproductivity of taxpayers money	- 63.71%
8. Penalty for default too severe	- 75.28%
9. Undemocratic adjustment of taxes	- 64.51%
10. The system of deducting from source	- 75.15%

TABLE 7: Institutional/organization basis of tax resentment

RESENTMENT FACTORS	PERCENTAGE OF RESPONDENTS
- Double taxation	80%
- Severe Penalty for alleged default	80%
- Complicity of tax	86.66%
- Limited exemptions, deductions etc	96.66%

- Table 8

TABLE 8: COPING STRATEGIES BY TAXPAYERS IN LUSAKA

Coping modes	Percentages of respondents
1. Keeping extra job	11.28%
2. Working overtime	10.00%
3. Borrowing money	64.14%
4. Cutting down expenditure	82.57%
5. Tricking tax officers	81.45%
6. Just sit!!	51.42%
7. Begging	57.14%
8. Look for cheaper sources of commodities	71.42%
9. business ventures	8.42%

APPENDIX III: STRUCTURE OF TAX ADMINISTRATION

