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A Legal Analysis of the Doctrine of Legitimate Expectation in Tax Disputes in Nigeria and Uganda

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Abstract: Tax law has an unenviable reputation for complexity and frequent changes in the law. Investors and individual taxpayers are interested in knowing the tax consequences of their pending and contemplated transactions. Both investors and individual tax payers rely on the representations, past practices and promises of the relevant revenue authorities. Reliance on the representations and promises of the revenue authority affords the taxpayers some legitimate expectation. Using doctrinal method, the article examines the extent to which the doctrine of legitimate expectation of taxpayers are protected in Nigeria and Uganda. It is noted that Uganda has a more robust legal regime for protecting the legitimate expectation of taxpayers than Nigeria. In this regard, it is submitted that Nigeria policymakers should consider adopting Uganda's model and approach to issues relating to the legitimate expectation of tax payers in taxation disputes.

Keywords: legitimate expectation; tax disputes; tax revenue authority; representation; discretion

1. Introductory Remarks

Tax law is inherently complex and subject to frequent changes and these factors exacerbate the problem of legal uncertainty for taxpayers in Nigeria (Chitimira and Animashaun, 2021, pp. 71; Kahima, Rukundo & Makmot, 2021, pp. 10; Bassey, 2020, pp.1-14; Tomlinson, 2020, pp. 8-12; Odhiambo & Olushola, 2018, pp. 67; Edori, Edori & Roberts, 2017, pp. 52-57; Sanni, 2012, pp. 55-65; Ola, 2001, pp. 10; Givati, 2009, pp. 137; Odusola, 2006, pp. 1-42; Pebble, 1993, pp. 94). However, investors must be aware of the tax law framework prior to their investment decisions in order to determine the economic viability of such decisions. Uncertain tax consequences of any investment may deter most investors and taxpayers from carrying out contemplated transactions and investing in a particular country (Kahima, Rukundo & Makmot, 2021, pp. 10-15; Tomlinson, 2020, pp. 8-12; Givati, 2009, pp. 137-138). Moreover, irrespective of the detailed provisions in the tax laws by any nation, there will still be some ambiguous provisions in the tax laws capable of varied interpretations and application (Kahima, Rukundo & Makmot, 2021, pp. 10-15; Scholes, Wolfson, Erickson, Maydew & Shevlin, 2008, pp. 17). Ambiguities in tax law are of the following types. There are ambiguities with regards to the meaning of the words in the statutes, tax laws as it applies to specific transactions, and the type of evidence that the parties must present to establish or reinforce their position (Chitimira & Animashaun, 2021, pp. 67-79; Givati, 2009, pp. 142). Due to the large amount of funds required in some investment, investors usually

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request the tax authority to provide answers or the interpretation of what it considered ambiguous provisions, in order to determine their tax exposure (Diller, Schneider & Sureth, 2015, pp. 1). The importance of certainty and consistency need not be overemphasized in tax law, especially for taxpayers, thus, the tax authorities make representations to taxpayers, in form of rulings, letters, interpretation notes, practice notes, and various forms of communication (Kahima, Rukundo & Makmot, 2021, pp. 3-15; Maluleke, 2011, pp. 11-12). In addition, the taxpayers are not oblivious of the wide discretion and powers granted to the taxing authority by the enabling statutes in Nigeria. For instance, the Federal Inland Revenue Service (Establishment) Act (FIRSE Act) 13 of 2007, gave wide powers to Federal Inland Revenue Service (FIRS). Part of the FIRS' investigative power is to request for tax related information from corporate bodies, government establishments; bank must furnish the FIRS with information concerning new and old customers with deposits in excess of ₦10 million (s 28(1) & (2) of the FIRSE Act). The FIRSE Act also provides that the FIRS has the power to investigate in order to ascertain if any tax law has been violated (s 35(3) of the FIRSE Act). Under this Act, such investigation should be carried out at all reasonable times (s 29(1) of the FIRSE Act). FIRS determine what constitutes reasonable times.

In addition, the discretion of the Nigerian taxing authorities may be exercised in many ways including discretion as to application or non-application of the law to certain persons and discretion as to the interpretation of the law (s 25(1) of the FIRSE Act; Freedman and Vella, 2011, p. 79). This discretion could also be exercised by the Nigerian taxing authorities in the management of the application of legislation and litigation; and on how to operate in cases of ambiguous provisions or grant of wide powers (s 25(1) of the FIRSE Act; s 30(1) of the Companies Income Tax Act, Chapter C 21 LFN 2004 (CITA); Abdulrazaq, 2016, pp. 43-51; *Nigeria Breweries Plc v Lagos State Internal Revenue Board* [1960-2010] 1TLR 26 para E-G). Section 8(1)(t) of the FIRSE Act grants express, extensive and omnibus powers to the FIRS. It is also the prerogative of the FIRS to specify the different types of documents and forms to be completed by the taxpayers for the due administration of the taxing powers granted the FIRS (s 8(2) of FIRSE Act). Specific instances of the discretionary powers granted the FIRS include the following, discretion to assess taxpayers by a reasonable percentage of the profit and not by the actual assessable profit (s 30 (1) of CITA. Others include discretion on which transfer pricing method to adopt (reg. 5 Income Tax (Transfer Pricing) (Regulations) 2 of 2018); and discretion to adjust the date for compliance and submission of tax returns (s 59 of the CITA; s 34 of the Petroleum Profits Tax Act, Chapter P13 LFN 2004). The FIRS also has powers to re-assess or/and raise additional assessment on transactions (s 66 of the CITA), to set aside what it considered artificial and fictitious transactions and to make adjustment as it deemed fit (s 22 of the CITA); and levy tax by distress of goods (ss 33(1) and 86 of the CITA). Nigerian tax laws contain provisions which permit the revenue authority to use its discretion in employing appropriate tools and measures to protect the revenue base from eroding (ss 13(2)(d) and 22 of the CITA). Similarly, the Uganda Revenue Authority (URA) is granted unfettered powers to administer all taxes mentioned in the first schedule to the Uganda Revenue Authority Act Chapter 196 of 1991. The enumerated taxes include taxes levied under the Customs Tariff Act (Chapter 337), East African Customs and Transfer Tax Management Act (Laws of the Community, 1970 Revision, Chapter 27), Excise Tariff Act (Chapter 338). URA also has powers to collect taxes under the Finance Act (Chapter 177), Income Tax Act (Chapter 340) and others (s 3 of the Uganda Revenue Authority Act, 199; s 42 of the Tax Procedures Code Act, 61, 2014, (TPCA). Under section 42 of the TPCA, the Commissioner General ("CG", the Chief Executive Officer of the URA) can issue a notice to be furnished with the financial statement of any taxpayer irrespective of whether or not an issue or dispute of fact has arisen between a taxpayer and the tax office. The CG exercises this afore- mentioned power in order to enable him determine the amount of taxable income of any person and the tax payable on it. Notices issued by the CG must be complied with regardless of the inconvenience, disruption and expense involved to the taxpayer (s 42 of the TPCA). It is pertinent to state that the most significant taxes, duties, imposts and excises are collected by the FIRS and URA in Nigeria and Uganda respectively (First Schedule to the FIRSE Act; Schedule 2 to the Uganda Revenue Authority Act & Schedule 2 to the TPCA).

Due to the complexity of tax laws, the wide powers and discretion granted the tax authorities in Nigeria, taxpayers generally rely on the tax authorities' representations usually in form of Advance Tax Rulings (ATRs), information circulars, guidelines and regulations, outlining compliance rules and procedures. Moreover, taxpayers who relied on the representations of the tax authority in Nigeria do so, often to their detriment. The next question to ask at this juncture is, to what extent can the taxpayers rely on the clear and unambiguous representations of the FIRS? Moreover, there is a presumption that any material obtained from the appropriate officer of a public institution or authority is authentic. By analogy, if a natural or juristic taxpayer approaches the appropriate tax officer for an advance tax ruling, for instance, which was duly issued to such taxpayer and the latter acted on the representation of the revenue authority, and the revenue authority renege on its previous representation, would the taxpayer be forced to bear the burden of an unplanned tax, which would have altered the taxpayer's investment or personal decision had the tax authority given the right representation? The article seeks to answer these and related questions and explore possible lessons that Nigeria could learn from Uganda.

2. Conceptual Analysis

The Nigerian Supreme Court defined "discretion", as the unfettered power or the ability of a person to decide the direction to take or to make decisions without a recourse to a higher authority in relation to a particular case, however, such decision must be conformable with the rule of law (*Akinyemi v Odu'a Investment Co. Ltd* [2012] LPELR – 8270 (SC) 240 para C; see also Hart, 2013, pp. 657-658). Similarly, in *Artra Ind. Nig. Ltd v NBCI* [1998] LPELR-565 (SC); [1998] 4 NWLR [pt. 545] pp. 135, paras B-D; *Sumaila v State* [2012] LPELR-19724 (CA); *Ero & ors v Ero & ors* [2018] LPELR-44154 (CA); *Achie v Ebenighe & Others* [2013] LPELR-21884 (CA). Similarly, ATR or private ruling is defined as an informed opinion issued by a revenue authority sequel to requests from an interested taxpayer, which interprets or establish the position of the revenue authority on the extant tax laws of a particular jurisdiction on a specific transaction or a set of transactions (Kahima, Rukundo & Makmot, 2021, pp. 8; OECD, 2018; Waerzeggers & Hillier, 2016, pp. 1-2). An ATR regime promotes clarity and consistency with regards to how the tax laws apply to taxpayers and the revenue authority (Kahima, Rukundo & Makmot, 2021, pp. 8; Waerzeggers & Hillier, 2016, pp. 1). The FIRS periodically releasescirculars, guidelines, notices and notes explaining and stating the position of the revenue authority on the different subjects concerning law, policy and administration of taxation in Nigeria. An instance of such circular is the FIRS Information Circular 2019/03, "Claim of Tax Treaties Benefits in Nigeria," which gave a detailed explanation of the different aspects of the Nigeria's Double Tax Treaties (DTTs) and the manner by which the Service treats taxpayers who have issues relating to DTTs.

Legitimate expectation is a common law principle, which postulates that public authorities must uphold an established practice or representation which emanates from them to members of the public (Okanga, 2021, pp. 122-123; Filani and Ikefuna, 2021, pp. 1-2; Kumar, 2015, pp. 81-82; Muzafar, 2018, pp. 172-174; Ahmed and Perry, 2014, pp. 61-62; Boymans and Eliantonio, 2013, pp. 715-718; Schonberg, 2000, p. 1; Craig, 1996, p. 290; Craig, 1992, pp. 79-82). The doctrine is rooted in the equitable principle of fairness and it is aimed at ensuring a degree of legal certainty, and to protect corporate and natural persons against unpredictable modification and change in the public bodies' policies (Forsyth, 2009, pp. 446-447; Blissenden, 2002, pp. 446-449; Grech, 2002, pp. 3-5; *Quinot*, 2004, pp. 66-67; Craig, 1996, pp. 290). Legitimate expectation, though not a right, is an expectation of a benefit, remedy or relief which flows from representation, a promise or a consistent practice. The term "established practice" refers to a consistent and predictable conduct of a public body (Thapliyal, 2014, pp. 1).

Legitimate expectation, in summary, is the public law principle which in certain instances, restricts public authorities' ability to act contrary to the expectation of a person or persons expectation, where such expectation is based on an exhibited representation or the established practice of the public body (Daly, 2020, pp. 118-119; Barak-Erez, 2005, pp. 583-584; Thomas, 2000, pp. 1-6; Jowell 2000, pp. 671-678). A regular legitimate expectation relationship consists of three main parties. These parties are: a natural or juristic person; a public authority or institution, such as the FIRS or the URA, who is alleged to have breached the legitimate expectation, which it had hitherto created. The third party is the court, whose role is to decide whether there is a legitimate expectation in the first instance, and if it existed, has it been breached, and was the breach justified (Drabkin-Reiter, 2015, pp. 1).

Within the context of tax law, a legitimate expectation creates a basis that natural or juristic taxpayers can anchor their trust on the patterned tax behaviour and representations of the revenue authority. It states further that the revenue authority should maintain its promise or the established position; if the taxman thus reneges on its earlier representation such as an ATR, the courts may intervene (Daly, 2020, pp. 117; Okoro, 2019, pp. 2). The common sources of legitimate expectation in taxation are ATRs, information circulars, guidelines and regulations issued by the tax authorities. In addition, taxpayers who arranged their affairs based on persistent modes of tax treatment which have assumed the status of an established rule by virtue of consistent application, could invoke legitimate expectation in the court, should the taxing authority depart from its earlier consistent practice (Daly, 2020, pp. 117-118; Okoro, 2019, pp. 1; Kumar, 2015, pp. 1-2). Legitimate expectation is divided into two parts. Legitimate expectation arises either by failure of the tax authority to follow a certain procedure (procedural expectation) or failure to make a certain substantive decision which the tax authority has earlier promised the taxpayer (substantive expectation) (Drabkin-Reiter, 2015, pp. 9; Murcott, 2015, pp. 3134-3145; Ahmed & Perry, 2014, pp. 63; Barak-Erez, 2005, pp. 584-586; Quinot, 2004, pp. 65-85; Craig, 1996, pp. 290). In summary, procedural expectations arise in this context, where the taxpayer is expected to be notified and heard or consulted before a decision is taken. Substantive expectations arise, when there are expectations that, the tax authority will act in accordance with its representation or policy on a matter of substance, which means that the affected taxpayer will be conferred a substantive benefit (Thomas, 2016, pp. 6; Clayton, 2003, pp. 93-100).

3. Origin and Nature of the Doctrine of Legitimate Expectation

Lord Denning introduced the term "legitimate expectation" into the legal lexicon, in *Schmidt v Secretary of State for Home Affairs* [1969] 2 WLR 337 (*Schmidt case*). In the instant case, his lordship affirmed that although the principles of natural justice could not be automatically applied to the claimants who were aliens, nevertheless, the Home Office is under an obligation to avail persons affected by its decision, an opportunity to make representations. The public authority is under an obligation where a person had a "legitimate expectation, of which it would not be fair to deprive him without hearing what he has to say" (*Schmidt case*, para 170E to F). In *Schmidt case* an alien's permit to stay in England was shortened by the home office. The court reasoned that the alien's legitimate expectation to use up the period granted him in his visa cannot be violated without following a fair and reasonable procedure.

Moreover, in *Breen v Amalgamated Engineering Union* [1971] 2 QB 175, the doctrine of legitimate expectation was reemphasized. In this case, the court distinguished between a right and a privilege. The court therefore held that the claimant must be given a fair hearing since an issue of right and not a mere privilege was in contention (see also *Re Westminister CC*, [1986] AC 668; *A.G. of Hong Kong v Ng. Yuen Shieu*, [1983] 2 AC 629). Though the doctrine evolved in England, it has been adopted in many common law jurisdictions including Nigeria, Uganda, India and others (*Chinyere Stitch v AG of the Federation*, [1986] 5 NWLR (pt. 46) 1007; *A.G. of Hong Kong v Ng. Yuen Shieu*, [1983] 2 AC 629; *Navjyoti Co-operative Group Housing Society v Union of India* [1992] 4 SCC 499; *Food Corporation of India* v *Kamdhenu Cattle Feed Industries*, AIR 1993 SC 1601; *State of Kerala v K.G. Madhavan Pillai*, [1988] SCR Supl (3) 94).

Legitimate expectation is an equity doctrine; thus a taxpayer cannot access the benefit of the doctrine automatically. The doctrine is flexible and it is applied by the judges on each case's individual merit. Legitimate expectation is incoherent because, like most equitable remedies there seem to be no cogent rules for its application (Ahmed & Perry, 2014, pp. 84-85; Boymans & Eliantonio, 2013, pp. 715, 718; Schonberg, 2000, p. 1). British, Ugandan and Nigerian courts agreed that there are necessary elements for the invocation of legitimate expectation in a case. These conditions are as follows: first, there must be clear, unqualified and unambiguous representation. Second, the expectation is induced by the representation or promise of the public authority. Third, the representation emanates from an official (or officials) who possesses actual or apparent authority. Lastly, the representation must be addressed to the affected parties or to the class to which the person belongs (*R v Secretary of State for Foreign and Commonwealth Affairs, ex parte Bancoult* [no. 2][2008] UKHL 61; *Borissik Svetlana v Urban Redevelopment Authority* [2009] SGHC154); *Federal Board of Inland Revenue (FBIR)v Halliburton* [2016] 4 NWLR (pt. 1501).

Nigerian courts have adopted the doctrine of legitimate expectations in order to arrest the arbitrary exercise of power by public authorities. Legitimate expectation is the product of the judiciary, despite the fact that the doctrine is also enshrined in Chapter 4 of the Constitution of the Federal Republic of Nigeria, 1999, Cap C23 LFN, 2004 which similarly provides for fundamental human rights and fairness in administrative dealings. Legitimate expectations have been applied to tax cases in Nigeria. The doctrine of legitimate expectation however provides relief should a public authority go back on an earlier promise that it would follow a certain course. If legitimate expectation is successfully invoked by a taxpayer, it can provide a substantive benefit for such taxpayer, in the form of the non-payment of money to tax authority and absolving the taxpayer from payment of penalty (Daly, 2020, pp. 118). Scholars such as Reynold and others posited that there is a need for the courts to protect legitimate expectation, in order to ensure fairness, trust, legal certainty, good administration and the promotion of the rule of law (Reynolds, 2011, pp. 330; Watson, 2010, pp. 633; Daly, 2017, pp. 101; Wade & Forsyth, 2009, pp. 446-448; Romano, 2002, pp. 78; Allan, 1994, pp. 197). The authors suggest that legitimate expectation is of utmost importance with regards to tax matters as this involve pecuniary interests which affects investment and other personal decisions. However, authors such as Fordham posited that for the court to arrive at the conclusion that legitimate expectation has arisen and should be protected in a particular case the following factors are important. First, the applicant must make a full and prior disclosure; second, the revenue authority must make an unqualified and clear representation. Third, communication must be made to the applicant or group to which the applicant belongs; and lastly, detrimental reliance (Fordham, 2001, pp. 262).

4. Applicability of the Doctrine Legitimate Expectation to Tax Disputes in Nigeria

This section of the article analyzes the applicability of the doctrine of legitimate expectation in the resolution of tax disputes in Nigeria, that is, to which extent can taxpayers rely on representations made by the tax authorities or other public officials in organising their tax affairs in Nigeria? In *Chinyere Stitch v AG of the Federation (Stitch case)* [1986] 5 NWLR (pt. 46) 1007, para E; [1986] LPELR-SC.88/1985, the legitimate expectation doctrine was first invoked in revenue matter. The Nigerian Supreme Court held in *Stitch case* that an aggrieved person could seek judicial review if he is deprived of some benefits on which he had legitimate expectation based on past representations by the public body. In the *Stitch case* above, the Nigerian Supreme Court held that the deliberate, negligent and/or malicious refusal of the officials of the Ministry of Commerce to issue import permit to the plaintiff/appellant for a luxurious car for twenty-seven days until import duties were increased from 331/3 percent to 500 percent was an improper exercise of discretion by the revenue officials. The Supreme Court further held that the government should pay the appellant the sum that would fetch her a similar car, as the car in contention was already derelict and the custom duty should remain at the initial rate of 331/3 percent. At this period when the Supreme Court decided the case, the custom duty had been increased further to 800 percent of the car value as against 331/3 percent at the time it was purchased initially. However, in *Shell Petroleum v FBIR* [2011] 4 TLRN 97, the Nigerian Supreme Court maintained a legalistic posture stating that payment of tax is an issue of law, not agreement, compromise or contract, thereby issues such as legitimate expectation is inapplicable. Similarly, the legalistic posture in Shell's case reared its head in *Federal Board of Inland Revenue v Halliburton* [2016] 4 NWLR, (pt. 1501) pp. 53 (*Halliburton case*). In the *Halliburton's case,* the Nigerian Court of Appeal held that notwithstanding the representation contained in FIRS' Circular 9302, FIRS cannot be prevented from resiling from such tax positions previously published in its own circular. In summary, the Court of Appeal held that a public body could renege on its earlier promise or representation, if such representation is against public interest or any extant law. The authors however suggest that the court should have taken a harder stance against the tax authority from reneging on its earlier promises or representations because going back on one's words, or representation destroy the existing trust between the tax authority and the taxpayer, and exposes the taxpayer to loss. In *Saipem Contracting Nigeria Ltd v FIRS* [2014] 15 TLRN 76, Saipem obtained an ATR from the FIRS in respect of a contract to determine whether or not the non-resident party to the contract will be taxable in Nigeria. The FIRS in the ATR assured Saipem that non-resident company which executed the contract outside Nigeria will not be required to pay certain taxes such as value added tax (VAT), withholding tax and other taxes. The FIRS however assessed the non-resident company, Saipem, to these taxes. The Nigeria Court of Appeal held that Saipem cannot rely on the doctrine of legitimate expectation, given that the ATR cannot override the mandatory provisions of the CITA (see also Okanga, 2019, pp. 32-40). It was further stated by the Court of Appeal that Saipem had entered into the contract before obtaining the ATR from the FIRS and as such cannot be said to have relied on the ATR to its detriment. The authors suggest that irrespective of whether the contract has been entered into or not before seeking the ATR, the FIRS should not have been allowed to renege on its own representation.

Conversely, in *Shell Petroleum Development Company Limited v FBIR* [1996] LPELR-3049 (SC), Shell's extra-statutory agreement with the Federal Government of Nigeria to allow it deduct foreign exchange losses and bank commissions was subsequently disallowed by the FBIR. The effect of this agreement is that petroleum profits tax payable by Shell was reduced. The FBIR however assessed Shell to full tax, ignoring the deductions. The Supreme Court of Nigeria upheld the agreement between Shell and the Federal Government. The court stated that although the agreement varied the statutory obligation of Shell, the agreement is not illegal and the FBIR being an agent of the Federal Government is restricted from nullifying an agreement between its principal and a tax payer. In this case, it appears the court upheld the extra-statutory agreement between Shell and the Federal Government, and by so doing, the Supreme Court protected the legitimate expectation of the taxpayer. Similarly, in *Kenya Airways v Federal Inland Revenue Service* (TAT/LZ/CIT/017/ 2015), Kenya Airways, a company engaged in air transport business in Nigeria, had for a period of time been subjected to income tax at the minimum rate of 2% of the sum recoverable in connection with the goods loaded and passengers ferried in its aircraft in Nigeria. In 2015, the FIRS directed all non-resident companies to file their annual tax returns in line with Section 55 of CITA, that is, based on their actual income. Thereafter, the FIRS audited Kenya Airways for 2009-2014 Years of Assessment and raised additional tax assessments and demand notices based on 6% of the airline's turnover. The airline contended that it had habitually paid taxes based on 2% of its turnover. The Tax Appeal Tribunal held that Kenya Airways is entitled under the doctrine of legitimate expectation to expect that additional assessments should be based on a tax rate of 2% of its turnover, based on the practice of the FIRS. The relevance of legitimate expectation doctrine also came to the fore, when the Tax Appeal Tribunal (TAT) in the case of *Federal Inland Revenue Service (FIRS) v New Cross Petroleum Limited* (TAT/LZ/PPT/011/2020) held that New Cross was liable to pay the taxes assessed by the FIRS for 2011 to 2012, even though the Nigerian Investment Promotion Commission (NIPC) had previously granted Pioneer Status Incentive (PSI) to New Cross for 5 years (2008-2012). PSI is an incentive (tax holiday) granted to qualified companies in specific industries or a particular location in Nigeria, whereby the grantee will not be liable to pay tax during the dependency of the grant (s 2-20 of the Industrial Development (Income Tax Relief) Act, Chapter I7 LFN, 2004; s 18 of the Nigerian Export Processing Zones Authority Act, Chapter N107 LFN, 2004). The NIPC had retroactively reduced the PSI earlier granted to New Cross from 5 years to 3 years and communicated this via a letter dated 26th January 2015, thereby withdrawing the PSI for years 2011 and 2012. Consequently, should the FIRS assess the company to tax on the basis of the retrospective reduction issued by NIPC and should the TAT have upheld this assessment? To what extent can a taxpayer rely on representations made by a public authority and to what extent (if any) would the doctrine of legitimate expectation apply in this case? The authors suggest that it appears that Nigerian courts can more easily resolve issues bordering on procedural legitimate expectation. The procedure a public authority ought to follow should be reconsidered to resolve issues of substantive legitimate expectation.

5. Applicability of the Doctrine of Legitimate Expectation Under Ugandan Tax Laws

In Uganda, the Income Tax Act (ITA), Chapter 340, Laws of Uganda, 2000, initially introduced ATR, which provides that a tax payer could request for an ATR with regards to a particular transaction (s 161 of the ITA). There were, however, no provision for ATR in other domestic tax statutes such as the East African Excise Management Act, 1970 and the Excise Tariff Act, Chapter 338 Laws of Uganda, and Stamps Act Chapter 342, Laws of Uganda, being statutes governing excise and stamp duties respectively. However, in 2014 the TPCA repealed the provisions related to ATR in the ITA, thus, section 45 of the TPCA provides that ATR applies to all Ugandan tax laws. Similarly, a practice note may be issued by URA to taxpayers generally. Practice notes are documents which confirm the CG's and by extension the URA's position with regards to how certain provisions in a tax law affect specific transactions (s 44(1) of the TPCA). An issued practice note, like an ATR, is binding on the CG unless it is revoked, however, it is not binding on the taxpayer (ss 44(3) & 45(3) of the TPCA). Practice notes are issued due to frequent ATR's applications on certain provision or sets of provisions in the tax law. However, ATR seems to enjoy a higher status than practice notes, but Ugandan courts are currently treating both as the opinion of the CG which must be respected by him as it creates legitimate expectation for the taxpayer (*Crane Bank v URA* [2012] UGCOMMC 42; Kahima, Rukundo & Makmot, 2021, pp. 30). Moreover, taxpayer seeking an ATR must present a duly signed application to the CG and the ATR may be for a pre- or post-transaction, that is, a duly signed or proposed transaction (s 45(1) of the TCPA). However, it must not be a completed transaction. Thus, in *Birungyi, Barata & Associates v URA*, (2017, UGCOMMC 94), the URA refused to issue an ATR on the ground that the applicant was seeking an ATR for a concluded transaction. Similarly, an applicant must also follow and exhaust due process before resorting to litigation or else his plea of legitimate expectation is futile. In *Gakou and Brothers Enterprises Limited v URA* (TAT No. 29/20 20), the applicant failed to pay the export levy because it claimed that an officer of the respondent whom it cannot identify informed the applicant that his transaction was not taxable. The Tribunal ruled that the applicant cannot rely on the legitimate expectation doctrine because its inability to identify the officer of the URA who gave the advice relied on by the applicant defeated its claims. The case was dismissed, among other things, because the matter was prematurely brought before the Tribunal.

The taxpayer in his application for ATR should make a true and full disclosure of the whole transaction which is relevant to the ruling (s 45(3) of the TPCA) and the transaction must not be hypothetical (s 45(2)(e) of the TPCA; *Legal Brains Trust Limited v Attorney General of Uganda*, EACJ Appeal 4 of 2012, pp. 11-12). An issued ATR must be written, with the following information- the identity of the taxpayer, the applicable tax law, the tax period, the applicable transaction, and if there are assumptions related to the ruling (s 45(7) of the TPCA). Instances under which the URA may reject an application for an ATR is enumerated in the TCPA (s 45(2) of the TPCA).

When there are persistent applications requesting the interpretation of an ambiguous provision, the CG may instruct his officers to circulate an advice clarifying his position on the particular provision. The issued practice note is then published in the Gazette and on the Uganda Revenue Authority's website (s 44(2) of the TPCA). An ATR is binding on the CG with regards to the tax payer to whom the ATR has been issued only (s 45(3) of the TPCA). Therefore, other taxpayers in similar condition, are precluded from benefiting from the ATR issued to another taxpayer. Thus tax law cannot be equally applied as taxpayers in similar circumstances are not treated equally. It may be unjust for one taxpayer to enjoy favourable treatment than other taxpayers because of favourable ATRs. The personal nature of ATR means that it could not be cited as precedent (Kahima, Rukundo & Makmot, 2021, p. 21). However, where the ATR contains a clerical error which is apparent from the record, which is not an error of the law or facts, the CG may, rectify the error, by amending the ATR within three years from the date of issuing that ruling (s 69 of the TPCA). The error may be, of law or fact. If it is an error of law, the law must be ascertainable, definite and apparent from the record (*Al-Shafi Investment group LLC v Ahmed Darwish* [2017] UGHCCD 205). In *Kanyabwera v Tumwebaze* [2005] 2EA 86, p. 92, para 2, the Supreme Court of Uganda defined an error apparent on the record as "an evident error which does not require any extraneous matter to show its incorrectness". Interpretation of the law issued in an ATR is not amenable to rectification. In *Biira Udear Co. Ltd v CG- URA* [2018] UGCOMMC 75, "*Biira case*" , the CG issued an ATR stating that the plaintiff was exempt from VAT for the goods supplied but later reneged and denied the plaintiff a refund on VAT paid. The court held that the CG was *functus officio* with regards to this case, hence incapable of rectifying the ATR. Thus, rectification as a tool in tax matters in Uganda is best suited to correcting clerical and similar errors, and not errors of facts or law (Kahima, Rukundo & Makmot, 2021, p. 23).

Section 45(8) of the TPCA provides that an ATR may be revoked wholly or partly by notice under the hand of the CG properly served on the affected taxpayer. The ATR may be revoked under conditions which may be inferred from the provisions of the TPCA, because the TPCA did not explicitly state such conditions. Such instances are, where the revenue authority erred in interpreting the law or where the applicant made partial disclosure in relation to the transaction. Once an ATR is revoked, the CG may issue an assessment contrary to the revoked ATR (Kahima, Rukundo & Makmot, 2021, pp. 22-23). The TPCA however provides that ATRs are binding on the CG where the applicant has made a honest and full disclosure with regards to the transaction, and the transaction is as described and specified in the application (s 45(3) of the TPCA). Thus, in *Gordon Sentiba v URA* [2010] UGCOMMC 27, Para 31, (*Sentiba's case*) the Supreme Court of Uganda prioritized certainty over legality. In *Sentiba's case* the CG revoked a favourable ATR previously issued to the applicants in spite of the applicants making an honest and full disclosure of the transaction. The court held that once it was evident that the taxpayer did not hide the requisite details involved in the transaction to the Commissioner for Domestic Taxes, the ATR cannot just be revoked. Similarly, the court held that the applicant could avail itself of the legitimate expectation in the Ugandan case of *National Social Security Fund* (*NSSF*) *v URA* (High Court Civil Appeal No. 29 of 2020). The NSSF wrote a letter to URA in this case and received a reply in 2001 to its earlier correspondence stating that interests accrued on members' accounts with NSSF would not be assessed for taxation. Notwithstanding the earlier representation, in 2013 the URA wrote a new letter to NSSF, stating that the URA erred in its earlier claim, and that the said interest was not actually allowable for deduction. The URA therefore advise NSSF to pay tax on its members accrued interest, which was calculated to include taxes for the current and the previous years. NSSF however contended that the 2001 letter is likened to an ATR, which created a legitimate expectation that no tax will be paid by the NSSF on the transaction in question. The Uganda High Court held that the letter was not an ATR as it failed to meet the statutory requirements of an ATR. The court further held that since the appropriate tax officer, albeit, tax authority interpreted the law, the applicant has legitimate expectation that the representation of the URA could be relied upon.

Thus, the 2001 letter is binding upon the persons who received and relied on it, as well as on the revenue authority who wrote the letter. The court in the NSSF's case held that the claimant, by virtue of the 2001 communication from the URA was entitled to favourable judicial review on its legitimate expectation, despite the fact that the communication did not amount to an ATR. The authors therefore suggest that the position of the law in Uganda supports certainty over legality, thus ATR remains binding even when the tax authority misinterpret the law. Similarly, revocation of an ATR or an earlier promise or representation cannot have retrospective effect because it is legally binding on the URA and creates legitimate expectation for the applicant who relied on the representation. In addition, in *Salim Alibhai v URA* [HCMA No 123/2020], the applicants who were majority shareholders in "Company A" sold their entire shares and reinvested the proceed in "Company B" in the same jurisdiction. "Company B" subsequently applied for and obtained an ATR confirming that the applicants were precluded from the payment of capital gains tax on the transaction. The ATR was later revoked and the applicants sued the URA. The court held that the ATR creates a legitimate expectation, which cannot be revoked without giving the applicants an opportunity to present their case. The position of the law in Uganda shows that legitimate expectation is a firmly established doctrine in resolving tax disputes. The decisions of the courts in the cases discussed above showed that tax certainty existed in Uganda with regards to tax disputes where legitimate expectation could be invoked. Thus, investors, corporations and individual taxpayers could, with certainty calculate their tax liability based on the clear and unambiguous representation of the revenue authority.

6. Comparative Analysis of the Doctrine of Legitimate Expectation under the Nigerian and Ugandan Tax Laws

The most significant taxes, duties, imposts and excises are collected by the FIRS and URA in Nigeria and Uganda respectively (First Schedule to the FIRSE Act; Schedule 2 to the Uganda Revenue Authority Act & Schedule 2 to the TPCA). Both the FIRS and the URA are granted enormous discretionary powers in the administration of taxation in the respective jurisdiction, such as the discretion as to application or non-application of the law to certain persons and as to the interpretation of the law (ss 25(1); 28(1) & (2); 29(1); 35(3) of the FIRSE Act; s 30(1) of the CITA; s 3 of the Uganda Revenue Authority Act; s 42 of the TPCA; see also Freedman and Vella, 2011, pp. 79). The powers granted both the FIRS and the URA include issuance of guidelines to taxpayers such as ATR, circulars and others. In Nigeria, the courts extol legality over certainty in tax law while in Uganda, it is vice-versa. The Nigerian courts have consistently maintained that taxpayers are only entitled to relief under the legitimate expectation doctrine if the representations and consistent practice of the tax authority is not against public policy and extant laws such as the FIRSE Act. The essence of the position of Nigerian courts is that even if the FIRS made a mistake and mis-advised the taxpayer, and the latter relied on the FIRS' representation in making its decision, the FIRS is entitled to renege on its earlier promise to the detriment of the taxpayer (*Shell Petroleum. v FBIR* [2011] 4 TLRN 97; *Federal Board of Inland Revenue v Halliburton* [2016] 4 NWLR (pt. 1501), 53).

Under the Ugandan tax law however, certainty prevails over legality. ATR may be for a pre- or post-transaction (s 45(1) of the TCPA). Ugandan tax law is more robust than the Nigerian variant with regards to legitimate expectation. In the Nigerian case of *Saipem Contracting Nigeria Ltd v FIRS,* one of the reasons given by the Nigeria Court of Appeal for disallowing the legitimate expectation claim of the plaintiff/appellant was that Saipem has already concluded the signing of the particular contract before seeking an ATR. In contrast, under the Ugandan law, an ATR may be for a proposed transaction or a transaction entered into already (s 45(1) of the TCPA). Uganda enshrined legitimate expectation into their law by virtue of the TCPA, while in Nigeria, reliance is greatly placed on case law. Thus, the authors suggest that it is precarious for a taxpayer in Nigeria to rely on legitimate expectation except it relates to procedural legitimate expectation.

7. Lessons from Uganda

The Nigerian position with regards to the doctrine of legitimate expectation in tax matters is precarious and unfair to the taxpayer. A taxpayer who relies on the clear and unambiguous representation of the FIRS does so at his own peril because the FIRS could renege at any time, even retroactively and the court will still decide for the FIRS, especially if the court opined that it is against the provisions of any law in Nigeria. We contend that Nigeria should adopt a position akin to the Ugandan model by enacting an Act similar to the TCPA. The enactment of such an Act with similar provisions to the TCPA will, first, make the FIRS takes its own representations, promises and consistent acts more serious, thereby cross-checking before issuing ATR or circulars and guard against negligent or malicious representations. Second, it will provide for a more certain tax regime, whereby taxpayers could decide beforehand the entire cost, including tax liability attached to their decision.

8. Concluding Remarks

The article explored the application of legitimate expectation as a doctrine in resolving tax disputes in Nigeria and Uganda. This was done to understand how taxpayers who have relied on a consistent practice or representation made by the revenue authority or other public authority to their detriment may be protected in Nigeria and Uganda. Moreover, the stated analysis was undertaken to determine whether it is fair for the court to disregard a previously accepted practice or representation or allow a public authority renege on its earlier promise to taxpayers (Filani & Ikefuna, 2021, pp. 13). It was noted that taxpayers in Nigeria have no remedy in law even when the revenue authority or any public body negligently or maliciously makes untrue representation to the taxpayer or when they rely on the representations made by tax authorities. Accordingly, it is recommended that taxpayers must be cautious in relying on the past practice or representations of the Nigeria tax authority. It was also noted that the relevant Ugandan law is very strict with regards to the application of the legitimate expectation doctrine in tax disputes. The Ugandan law stipulates that the URA must stick to its promises, representations and consistent practice once the taxpayer made a full disclosure irrespective of the fact that it may err in applying the law (*Biira case; Sentiba case*). In this regard, Nigeria should consider adopting the Ugandan approach in order to restore the confidence and trust between the taxpayers and the revenue authority. This could enable the Nigerian tax framework to be stable, predictable and fair to tax payers so as to attract investments and sound economic growth in Nigeria.

9. References

Ahmed, F. & Perry, A. (2014). The Coherence of the Doctrine of Legitimate Expectations. *Cambridge Law Journal*, 73(1), pp. 61-85.

Allan, T.R.S. (1994). *Law, Liberty, and Justice: The Legal Foundations of British Constitutionalism.* Oxford: Claredon.

Barak-Erez, D. (2005). The Doctrine of Legitimate Expectations and the Distinction between the Reliance and Expectation Interests. *European Public Law*, 11(4), pp. 583-601.

Bassey, E. (2020). *Review of the Nigerian Tax Policy's Impact on the Finance Act 2019*. Retrieved from SSRN: https://ssrn.com/abstract\3614532.

Blissenden, M. (2002). Procedural Fairness and Non-assessing Decisions of the Federal Commissioner of Taxation. Journal of Australian Taxation, 5(3), pp. 446-484.

Boymans, P. & Eliantonio, M. (2015). Europeanization of Legal Principles? The Influence of the CJEU'S Case Law on the Principle of Legitimate Expectations in the Netherlands and the United Kingdom, *European Public Law,* 19(4) pp. 715-738.

Chitimira, H. & Animashaun, O. (2021). Combating Legal Uncertainty in the Nigerian Tax Avoidance Laws. *Acta Universitatis Danubius. Œconomica,* 17(2), pp. 67-83.

Clayton, R. (2003). Legitimate Expectations, Policy, and the Principle of Consistency. *Cambridge Law Journal*, 62(1), pp. 93-105.

Craig, P. (1992). Legitimate Expectations: A Conceptual Analysis. *Law Quarterly Review,* pp. 79-98.

Craig, P. P. (1996). Substantive Legitimate Expectations in Domestic and Community Law. *Cambridge Law Journal,* 55(2), pp. 289-312.

Daly, P. (2017). A Pluralist Account of Deference and Legitimate Expectations in M Groves & G Weeks, eds. *Legitimate Expectations in the Common Law World.* Oxford: Hart Publishing.

Diller, M.; Kortebusch, P.; Schneider, G. & Sureth, C. (2015). Boon or Bane of Advance Tax Rulings as a Measure to Mitigate Tax Uncertainty and Foster Investment. Arbeitskreis Quantitative Steuerlehre (arqus) *Discussion Paper,* No. 187, Berlin. Retrieved from https://ssrn.com/abstract =2442749, pp.1-52.

Drabkin-Reiter, E. (2015). *The Europeanisation of the Law on Legitimate Expectations Recent Case Law of the English and European Union Courts on the Protection of Legitimate Expectations in Administrative Law.* LL.M. dissertation, the European University Institute Florence. Retrieved from https://cadmus.eui. eu/handle/1814/40324.

Edori, D.S.; Edori, I.S. & Roberts, A.I. (2017). Issues and Challenges Inherent in the Nigerian Tax System. *American Journal of Management Science and Engineering,* 2(4), pp. 52-57.

Filani, Y. & Ikefuna, C. (2021). Applicability of the Doctrine of Legitimate Expectation in Tax Disputes. *Business Day*. Retrieved from www.businessday.ng.

Fordham, M. (2001). Legitimate Expectation II: Comparison and Prediction, *Judicial Rev*., 6(4), pp. 262-270.

Freedman, J. & Vella, J. (2011). HMRC's Management of the U.K. Tax System: The Boundaries of Legitimate Expectation in C Evans, J Freedman & R Krever, eds. *The Delicate Balance: Tax, Discretion and the Rule of Law.* Amsterdam: IBFD.

Givati, Y. (2009). Resolving Legal Uncertainty: The Unfulfilled Promise of Advance Tax Rulings. *Virginia Tax Review*, 29, pp. 137-175.

Grech, P. (2002). Keeping One's Word: The Protection of Legitimate Expectations in Administrative Law. *Id-Dritt Journal*, 18, pp. 3-10. Retrieved from https://www.um.edu.mt/library/oar/handle/1234 56789/65313.

Jowell, J. (2000). Beyond the Rule of Law: Towards Constitutional Judicial Review. *Public Law,* pp. 671-683.

Kahima, S., Rukundo, S. & Makmot, V.P. (2021). Tax Certainty? The Private Rulings Regime in Uganda in Comparative Perspective. *ICTD Working Paper 116*. Brighton: Institute of Development Studies.

Kumar, V. (2015). Doctrine of Legitimate Expectation: Critical Analysis. *Dehradun Law Review*, 7(1), pp. 81-86.

Maluleke, M.J. (2011). A *Critical Analysis of the Doctrine of Legitimate Expectation in the Context of the Advance Tax Ruling System and Tax Assessment Measures by SARS, with Specific Emphasis on Substantive Legitimate Expectation*. LLM Dissertation, University of Pretoria. Retrieved from https:// repository.up.ac.za/bitstream/ handle/2263/27892/dissertation.pdf?sequence=1&isAllowed=y.

Murcott, M. (2015). A Future for the Doctrine of Substantive Legitimate Expectation? The Implications of Kwazulu-Natal Joint Liaison Committee v Mec. for Education, Kwazulu Natal. *PER/ PELJ*, 18(1), pp. 3133-3160.

Muzafar, S. (2018). Doctrine of Legitimate Expectation: A Weapon Against Abuse of Discretion and Tool to Secure Accountability. *International Journal of Creative Research Thoughts,* 6(1), pp. 171-192.

Odhiambo, O. & Olushola, O. (2018). Taxation and Economic Growth in a Resource-Rich Country: The Case of Nigeria. in Jolanta Iwin-Garzyska(ed.), *Taxes and Taxation Trends*. Retrieved from IntechOpen.ttps://doi.org/10.5772/ intechopen.74381.

Odusola, A. (2006). *Tax Policy Reforms in Nigeria January 2006 Research Paper No. 2006/03 Washington: UNU-WIDER.* Retrieved from https://www.academia.edu/35659034/Tax_Policy _Reforms_in_Nigeria.

OECD. (2018). *Glossary of Tax Terms*. Retrieved from http://www.oecd.org/ctp/glossaryoftax terms.htm.

Okanga, O.O. (2019). The Single Contract Basis of International Corporate Taxation: A Review of SAIPEM v FIRS. *The Gravitas Review of Business & Property Law,* 9(4), pp. 31-45.

Okanga, O.O. (2021). Trust and Efficiency in Tax Administration: The Silent Role of Policy-Based Legitimate Expectation in Nigeria. *Journal of Tax Administration,* 6(2), pp. 122 -147.

Okoro, J. (2019). *Holding the Taxman to his Word: The Doctrine of Legitimate Expectation and Tax Administration in Nigeria*. Retrieved from https://ssrn.com/abstract=33223822.

Ola, C. S. (2001). *Income Tax Law and Practice in Nigeria*. Ibadan: Heinemann Educational Books Nig. Limited.

Prebble, J. (1993). Advanced Rulings: A Proposed Procedure, in M. Gammie (ed). *Striking the Balance: Tax Administration, Enforcement and Compliance in the 1990s.* Canberra: The Institute for Fiscal Studies Sixth Residential Conference.

Quinot, G. (2004). Substantive Legitimate Expectations in South African and European Administrative Law. *German Law Journal,* 5(1), pp. 65-85.

Reynolds, P. (2011). *Legitimate Expectations and the Protection of Trust in Public Officials.* Retrieved from https://ssrn.com/abstract=1689518.

Romano, C. (2002). *Advance Tax Rulings and Principles of Law: Towards a European Tax Rulings System?* Vol 4. Amsterdam: IBFD Doctoral Series.

Sanni, A. (2012). Problems of Determining the Applicable Tax Laws in Nigeria: Resolving the Dilemma for FIRS and Taxpayers. *Journal of African Law*, 56(1), pp. 55-67.

Scholes, M. S.; Wolfson, M.A.; Erickson, M.; Maydew, E.L. & Shevlin, T. (2008). *Taxes and Business Strategy: A Planning Approach*. 4th edition. Upper Saddle River, NJ: Pearson Prentice Hall.

Schonberg, S. (2000). *Legitimate Expectations in Administrative Law.* Oxford: Oxford University Press.

Thapliyal, A. (2014). *India: Doctrine of Legitimate Expectation-An Overview.* Retrieved from https://www.mondaq.com/india/constitutional-administrative-law/320664/doctrine-of-legitimate-expectation-overview.

Thomas, R. (2016). *The Protection of Legitimate Expectations in UK Administrative Law*. Retrieved from https://www.researchgate.net/publication/277010634_The_Protection_of_Legitimate_Expectatio ns _in _UK_ Administrative _Law.

Thomas, R. (2020). *Legitimate Expectations and Proportionality in Administrative Law.* London: Hart.

Tomlinson, J. (2020). Do we need a Theory of Legitimate Expectations? *Legal Studies,* 40(2), pp. 286-300.

Wade, H. W. R. & Forsyth, C.F. (2009). *Administrative Law.*New York: Oxford University Press.

Waerzeggers, C. & Hillier, C. (2016). Introducing an Advance Tax Ruling (ATR) Regime: Design Considerations for Achieving Certainty and Transparency. *IMF Tax Law Technical Note,* 1(2), pp. 1-14.

Watson, J. (2010). Clarity and Ambiguity: A New Approach to the Test of Legitimacy in the Law of Legitimate Expectations. *Legal Studies,* 30(4), pp. 633-652.

Case Law

Achie v Ebenighe & ors [2013] LPELR-21884 (CA).

AG. of Hong Kong v Ng. Yuen Shieu [1983] 2 AC 629.

Akinyemi v Odu'a Investment Co. Ltd [2012] LPELR – 8270 (SC)240.

Al-Shafi Investment group LLC v Ahmed Darwish [2017] UGHCCD 205.

Artra Ind. Nig. Ltd v NBCI [1998] LPELR-565 (SC); [1998] 4 NWLR (pt.545) pp. 135.

Biira Udear Co. Ltd. v CG-URA [2018] UGCOMMC 75.

Birungyi, Barata & Associates v URA [2017] UGCOMMC 94.

Borissik Svetlana v Urban Redevelopment Authority [2009] SGHC 154.

Breen v Amalgamated Engineering Union [1971] 2 QB 175.

Chinyere Stitch v AG of the Federation [1986] 5 NWLR (pt. 46) 1007.

Ero & ors v Ero & ors. [2018] LPELR-44154 (CA).

Federal Board of Inland Revenue v Halliburton [2016] 4 NWLR (pt. 1501).

Federal Inland Revenue Service v New Cross Petroleum Limited TAT/LZ/PPT/011/2020.

Food Corporation of India v *Kamdhenu Cattle Feed Industries,* AIR [1993] SC 1601.

Gordon Sentiba v URA [2010] UGCOMMC 27.

Kanyabwera v Tumwebaze [2005] 2 EA 86.

Legal Brains Trust Limited v Attorney General of Uganda, EACJ Appeal 4/2012.

Gakou and Brothers Enterprises Limited v URA TAT No. 29/2020.

National Social Security Fund (*NSSF*) *v URA* High Court Civil Appeal No. 29 of 2020.

Navjyoti Co-operative Group Housing Society v Union of India [1992] 4 SCC 499.

Nigeria Breweries Plc. v Lagos State Internal Revenue Board [1960-2010] 1TLR 26.

R v Secretary of State for Foreign and Commonwealth Affairs, ex parte Bancoult [no. 2][2008] UKHL 61.

Re: Westminister CC [1986] AC 668.

Saipem Contracting Nigeria Ltd v FIRS[2014] 15 TLRN 76.

Salim Alibhai v URA [HCMA] No 123/2020.

Schmidt v Secretary of State for Home Affairs [1969] 2 Ch 149.

Shell Petroleum Development Company Limited v FBIR [1996] LPELR-3049 (SC).

Shell Petroleum v FBIR [2011] 4 TLRN 97.

State of Kerala v K.G. Madhavan Pillai [1988] SCR Supl. (3) 94.

S*umaila v State* [2012] LPELR-19724 (CA).

Legislation

Companies Income Tax Act, Chapter C21 LFN 2004.

Constitution of the Federal Republic of Nigeria, 1999, Chapter C23 LFN, 2004.

Customs Tariff Act, Chapter 337, Laws of Uganda.

East African Customs and Transfer Tax Management Act, Laws of the Community, Revision, Chapter 27 of 1970, Laws of Uganda.

East African Excise Management Act of 1970, Laws of Uganda.

East African Excise Management Act, Laws of the Community, 1970 Revision, Chapter 28, Laws of Uganda.

Excise Tariff Act, Chapter 338, Laws of Uganda.

Federal Inland Revenue Services (Establishment) Act No.13 of 2007.

Finance Act, Chapter 177 of 1989, Laws of Uganda.

Income Tax (Transfer Pricing) Regulations) No. 2 of 2018.

Income Tax Act, Chapter 340, Laws of Uganda.

Industrial Development (Income Tax Relief) Act, Chapter I7 LFN, 2004.

Nigerian Export Processing Zones Authority Act, Chapter N107 LFN, 2004.

Petroleum Profits Tax Act, Chapter P13 LFN 2004.

Stamps Act Chapter 342, Laws of Uganda.

Tax Procedures Code Act, No. 61 of 2014, Laws of Uganda.

The Uganda Revenue Authority Act Chapter 196 of 1991, Laws of Uganda.

Uganda Revenue Authority Act Chapter 196, Laws of Uganda.